



# 2022 Green Book

***SUMMARY OF PUBLIC EDUCATION BILLS  
ENACTED DURING THE 2022 REGULAR SESSION***



West Virginia DEPARTMENT OF  
EDUCATION



**West Virginia Board of Education**  
**2021-2022**

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West Virginia Department of Education

# FOREWORD

The West Virginia Department of Education (WVDE) is pleased to issue the 2022 Green Book, Summary of Public Education Bills Enacted During the 2022 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 and 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.

We hope that the 2022 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 the WVDE Office of Legal Services at (304) 558-3667.



W. Clayton Burch  
State Superintendent of Schools



# CODE CHANGES

Code	Bill	Code	Bill	Code	Bill
§18-2-12	SB 529	§11-8-16	HB 4353	§61-8F-2	HB 4600
§15-2-5	SB 531	§11-8-17	HB 4353	§61-8F-7	HB 4600
§18-5D-6	HB 3073	§18-9-1	HB 4353	§61-10-15	HB 4642
§18-2-8a	HB 4065	§18-9-2	HB 4353	§18A-4-8	HB 4829
§18-2-40a	HB 4074	§18-9-2a	HB 4353		
§18-9A-4	HB 4110	§18-5-13	HB 4380		
§3-1-31	HB 4353	§61-8F-1	HB 4600		

Legend for this page:

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



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# House Joint Resolution 102: Clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection

*Effective:* To the voters of the state at the next general election to be held in the year 2022

*Code Reference:* None

*WVDE Contact:* Office of Legal Services

*Summary:* This resolution proposes an amendment to the Constitution of the State of West Virginia. The proposed amendment will be on the general election ballot in November 2022 and, if passed, will give the West Virginia Legislature authority to approve, deny, or change any proposed policy or rule set forth by the West Virginia Board of Education.

*Enrolled Resolution:* Enrolled House Joint Resolution 102

BY DELEGATES ESPINOSA, TULLY, G. WARD, MAYNOR, CROUSE, CLARK, LINVILLE, BARNHART, BARRETT, HANNA, AND KIMBLE

Proposing an amendment to the Constitution of the State of West Virginia, amending section 2, article XII thereof, relating to education and the supervision of free schools; clarifying that the policy-making and rule-making authority of the State Board of Education is subject to legislative review, approval, amendment, or rejection; numbering and designating such proposed amendment; and providing a summarized statement of the purpose of such proposed amendment.

Resolved by the Legislature of West Virginia, two thirds of the members elected to each house agreeing thereto:

That the question of ratification or rejection of an amendment to the Constitution of the State of West Virginia be submitted to the voters of the state at the next general election to be held in the year 2022, which proposed amendment is that section 2, article XII thereof, be amended and reenacted to read as follows:

## ARTICLE XII. EDUCATION.

### §2. Supervision of free schools.

Subject to the provisions of this section, the general supervision of the free schools of the State is vested in the West Virginia Board of Education which shall perform the duties prescribed by law. Under its supervisory duties, the West Virginia Board of Education may promulgate rules or policies which shall be submitted to the Legislature for its review and approval, amendment, or rejection, in whole or in part, in the manner prescribed by general law. The board shall consist of nine members to be appointed by the Governor, by and with the advice and consent of the Senate, for overlapping terms of nine years. No more than five members of the board shall belong to the same political party, and in addition to the general qualifications otherwise required by the Constitution, the Legislature may require other specific qualifications for membership on the board. No member of the board may be removed from office by the Governor except for official misconduct, incompetence, neglect of duty, or gross immorality, and then only in the manner prescribed by law for the removal by the Governor of state elective officers.

The West Virginia Board of Education shall, in the manner prescribed by law, select the State Superintendent of Free Schools who shall serve at its will and pleasure. He or she shall be the chief school officer of the state and shall perform the duties prescribed by law.

The State Superintendent of Free Schools shall be a member of the Board of Public Works as provided by subsection B, section fifty-one, article VI of this Constitution.

Resolved further, That in accordance with the provisions of [§3-11-1](#) et seq. of the Code of West Virginia, 1931, as amended, the amendment is hereby numbered "Amendment No. 1" and designated as the "Education Accountability Amendment" and the purpose of the proposed amendment is summarized as follows: "The purpose of this amendment is to clarify that the rules and policies promulgated by the State Board of Education, are subject to legislative review, approval, amendment, or rejection."

The Joint Committee on Enrolled Bills hereby certifies that the foregoing joint resolution is correctly enrolled.

## Senate Bill 246: Requiring newly constructed public schools and public schools with major improvements to have water bottle filling stations

*Effective Date:* Passed March 12, 2022; in effect 90 days from passage

*Code Reference:* Adds: [§18-9G-1](#), [§18-9G-2](#), [§18-9G-3](#)

*WVDE Contact:* Office of School Operations and Finance

*Summary:* The bill requires newly constructed schools and schools undergoing major improvements to include water bottle filling stations. A new construction project is defined as a project in the furtherance of a facilities plan with a cost of greater than \$1,000,000 for the new construction, expansion, or major renovation of the facilities, buildings, and structures used for school purposes. A major improvement is defined as meeting one or more of the following: Increasing the square footage of a school by more than 5,000 square feet or any renovation or upgrade to a school with a cost greater than \$500,000 where plumbing work constitutes more than 20 percent of the project's construction cost. The bill also sets parameters as to where water bottle filling stations should be provided for newly constructed buildings and improvement projects. Finally, the bill requires counties to adopt a policy related to the ability of students to carry water bottles.

*Enrolled Bill:* Enrolled Committee Substitute for Senate Bill 246  
BY SENATORS GRADY, LINDSAY, ROBERTS, PHILLIPS, WOODRUM, AND MARTIN

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated [§18-9G-1](#), [§18-9G-2](#), and [§18-9G-3](#), all relating to imposing water bottle filling station requirements for newly constructed public school buildings and existing public school buildings undergoing a major improvement; purpose; defining terms; requiring State Board of Education rules; setting forth requirements for any water bottle filling station installed in a public school building; and requiring county boards to adopt policies to permit students in schools with water bottle filling stations to carry water bottles.

Be it enacted by the Legislature of West Virginia:

## ARTICLE 9G. WATER BOTTLE FILLING STATIONS.

### §18-9G-1. Purpose.

The purpose of this bill is to support maintaining a child's overall health, such as regulating temperature, transporting nutrients, and preventing disease. Drinking sufficient amounts of water can have many health benefits, such as reduced dental cavities and maintaining a healthy body weight. Studies show when water bottle filling stations are installed in schools, students nearly triple the amount of how much water they drink at lunch time and the likelihood of students in those same schools being at an unhealthy weight is greatly reduced. Additionally, studies have shown that there are more germs found on an average classroom water fountain spigot than a toilet seat or an animal cage. Accordingly, promoting the use of a water bottle filling station reduces the spread of germs and disease.

### §18-9G-2. Definitions.

As used in this section these words have the following meaning:

(1) "Construction project" means a project in the furtherance of a facilities plan with a cost of greater than \$1,000,000 for the new construction, expansion, or major renovation of the facilities, buildings, and structures for school purposes, including:

(A) The acquisition of land for current or future use in connection with the construction project;

(B) New or substantial upgrading of existing equipment, machinery, or furnishings; and

(C) Installation of utilities and other similar items related to making the construction project operational.

(D) "Construction project" does not include such items as books, computers, or equipment used for instructional purposes; fuel supplies; routine utility service fees and routine maintenance costs; ordinary course of business improvements; and other items which are customarily considered to result in a current or ordinary course of business operating charge or a major improvement project.

(2) "Major improvement" means a project meeting one or more of the following:

(A) Increasing the square footage of a school by more than 5,000 square feet; or

(B) Any renovations or upgrades to a school with a cost greater than \$500,000 where plumbing work constitutes more than 20 percent of the project's construction cost.

(3) "Public school" means any school under the general supervision of the West Virginia Board of Education pursuant to section two, article XIII of the Constitution of West Virginia and includes any charter school pursuant to [§18-5G-1](#) et seq. of this code.

(4) "Water bottle filling station" means a station to which the following apply:

(A) The station is designed to fill a bottle with water;

(B) The station dispenses filtered drinking water;

(C) The station may be integrated into a drinking fountain; and

(D) The station shall be touchless for sanitary reasons.

**§18-9G-3.** Plans for new construction and major improvements of public school buildings required to provide sufficient water bottle filling stations.

(a) The state board shall promulgate a rule pursuant to [§29A-3B-1](#) et seq. of this code on or before November 1, 2022, to require newly constructed public school buildings to include the following:

(1) A minimum of one water bottle filling station on each floor and wing of each public school building;

(2) At least one water bottle filling station in all school food service areas;

(3) At least one water bottle filling station near gymnasiums and outdoor learning and activity areas, including playgrounds and athletic facilities; and

(4) A minimum of at least one water bottle filling station per 200 building occupants projected upon completion of the projected construction.

(b) The state board shall promulgate a rule pursuant to [§29A-3B-1](#) et seq. of this code on or before November 1, 2022, to require existing public school buildings undergoing a major improvement to include a minimum of half of the facility's existing water coolers being retrofitted or replaced to provide water bottle filling capability and be made ADA compliant. Pending the availability of a water supply line and sanitary plumbing, the preferred placement of these stations shall be in the following areas:

(1) School food service areas;

(2) Near gymnasiums and outdoor learning and activity areas, including playgrounds and athletic facilities; and

(3) Grouped toilet areas.

(c) Any water bottle filling station installed in a public school building shall:

(1) Dispense filtered, clean drinking water;

(2) Be touchless for sanitary reasons;

(3) Be regularly cleaned to maintain sanitary conditions; and

(4) Be regularly maintained to ensure proper functioning.

(d) County boards shall adopt a policy to permit students in schools with one or more water bottle filling stations to carry water bottles.

## Senate Bill 261: **Requiring video cameras in certain special education classrooms**

<i>Effective Date:</i>	March 12, 2022
<i>Code Reference:</i>	Amends: §18-20-11
<i>WVDE Contact:</i>	Office of Federal Programs and Support and Office of Data Management and Information Systems
<i>Summary:</i>	The bill amends current code pertaining to the requirement of cameras in self-contained special education classrooms. The bill eliminates the requirement for video to be deleted after a specified time and requires that any school-based camera system installed or replaced after April 1, 2022, retain the recorded video for 365 days from the date of the recording. The bill also allows for the principal to designate another school administrator to access recorded videos and requires that the school principal, other school administrator, or county designee view no less than 15 minutes of the video of each self-contained classroom at the school no less than every 90 days. The state board is required to provide documentation to demonstrate compliance of the new requirements. The bill also updates time parameters related to requests to view video recordings and updates language on who shall have access to recordings, including the WV DHHR, law enforcement, judges, and counsel for involved parties.
<i>Enrolled Bill:</i>	Enrolled Committee Substitute or Senate Bill 261  BY SENATORS NELSON, PHILLIPS, RUCKER, ROBERTS, LINDSAY, JEFFRIES, AND GRADY

AN ACT to amend and reenact [§18-20-11](#) of the Code of West Virginia, 1931, as amended, relating to requiring video cameras in certain special education classrooms; allowing school principal to designate another school administrator to be the custodian of the video camera, all recordings of the camera, and access to those recordings; modifying provisions pertaining to the amount of time a video is required to be retained; removing requirement to delete or otherwise make unretrievable after a certain time period; clarifying that the principal or other designated school administration is not required to view the video recording absent an authorized request or suspicion of an incident except as otherwise provided; removing prohibition against allowing regular, continuous, or continual monitoring of video recording; allowing the school principal,

other school administration designee, or in certain instances, a county designee to view a video recording; requiring no less than 15 minutes of the video of each self-contained classroom to be viewed at no less than every 90 days; modifying provisions pertaining to the viewing of a video recording by a law-enforcement officer or the Department of Health and Human Resources; requiring a public school or school district to allow a judge, counsel, or other legal entity to view a video recording in certain instances; requiring certain incidents to be reported pursuant to code section mandating reporting of suspected child abuse and neglect; and providing that cameras in special education classrooms section only applies to cameras installed pursuant to that section.

Be it enacted by the Legislature of West Virginia:

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

§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.

(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 or other school administrator whom the principal assigns as a designee 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) Except as provided in subdivision (2) of this subsection, 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, subject to the following:

(A) If the minimum three-month period overlaps the summer break occurring between the last day of one instructional term and the first day of the next instructional term, the minimum three-month period shall be extended by the number of days occurring between the two instructional terms;

(B) For any school-based camera system that is installed or replaced after April 1, 2022, the public school shall retain video recorded from a camera for at least 365 days after the date the video was recorded and no extension of this time period during the summer break is required.

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

(A) The earlier of the person viewing the recording or 60 days after the person who requested the video was notified by the public school that the video is ready to be viewed; 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.

(3) In no event may the recording be deleted or otherwise made unretrievable before the time period set forth in subdivision (1) of this subsection elapses.

(h) This section does not:

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

(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; or

(3) Require the principal or other designated school administrator to view the video recording absent an authorized request pursuant to this code section or suspicion of an incident except as otherwise provided in subsection (j) of this section.

(i) A public school or school district shall not use video recorded under this section for:

(1) Teacher evaluations; or

(2) Any purpose other than the promotion and protection 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 made under this section is confidential and shall not be released or viewed by anyone except the school principal, other school administration designee, or county designee if the school principal or other school administration designee is unable to view the video pursuant to this subsection. The school principal, other school administration designee, or county designee shall view no less than 15 minutes of the video of each self-contained classroom at the school no less than every 90 days. The state board shall include in its rule authorized by this section requirements for documentation of compliance with the video viewing requirements of this subsection.

(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; or

(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.

(l) Within seven days of receiving a request, a public school or school district shall allow viewing of a video recording by and comply with all subsequent requests for viewing or release of the video recording by:

(1) A law-enforcement officer or employee of the Department of Health and Human Resources, as part of an investigation into an alleged incident that is documented by the video recording and has been reported to the agency: Provided, That if a release of the video recording is requested pursuant to this subdivision, the agency receiving a copy of the video recording shall maintain strict confidentiality of the video and not further release the video without authorization from the public school district through its superintendent; or

(2) A judge, counsel, or other legal entity that is charged with deciding or representing either the school board, students, or employees in any matters related to legal issues arising from an incident: Provided, That the video may only be released pursuant to an appropriate protective order or under seal.

(m) If an incident is discovered while initially viewing camera footage that requires a report to be made under [§49-2-803](#) of this code, that report shall be made by the viewer pursuant to that section within 24 hours of viewing the incident.

(n) 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.

(o) 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.

(p) This section applies solely to cameras installed pursuant to this code section and does not limit the access of a student's parent or legal guardian to a video recording viewable under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §1232g, or any other law.

(q) 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.

(r) (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.

(s) (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.

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

(t) 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.

## Senate Bill 268: **Creating exemption from compulsory school attendance for child who participates in learning pod or microschool**

*Effective Date:* Passed March 12, 2022; in effect 90 days from passage

*Code Reference:* [Adds: §18-8-1](#)

*WVDE Contact:* Office of Legal Services

*Summary:* The bill creates an exemption to compulsory school attendance for a child who participates in a learning pod or microschool. The bill goes on to define a learning pod (a voluntary association of parents) and a microschool (a school that charges tuition) and sets forth parameters related to the requirements of notice of intent and testing requirements (nationally normed test, state assessment, or portfolio) for each. The bill also requires that the county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing instruction and allows for students to attend classes offered by the county. A provision also requires that a learning pod or microschool that serves self-contained special education students comply with the provisions set forth in §18-20-11.

*Enrolled Bill:* Enrolled Committee Substitute for Senate Bill 268  
BY SENATORS GRADY, RUCKER, SMITH, AND ROBERTS

AN ACT to amend and reenact [§18-8-1](#) of the Code of West Virginia, 1931, as amended, relating to creating a new exemption from compulsory school attendance for a child who participates in a learning pod or microschool; defining learning pod and microschool; requiring parent or custodian to present to the county superintendent or county board a notice of intent to participate in the learning pod or microschool; establishing qualifications for person or persons providing instruction; requiring annual academic assessment of the child in one of four specified ways; requiring the results of the annual academic assessment of the child to be submitted to the county superintendent; allowing the results of the annual academic assessment to be submitted as composite results; requiring the county board upon request to notify the parents or legal guardian of the services available to assist in the assessment of the

child's eligibility for special education services; requiring the county superintendent to offer such assistance as may assist the person or persons providing instruction; allowing any child participating in a learning pod or microschool to attend any class offered by the county board under certain conditions; providing that no learning pod or microschool is subject to any other provision of law relating to education other than the law pertaining to placement of video cameras in certain special education classrooms; and clarifying that learning pods and microschools are not the same as homeschooling.

Be it enacted by the Legislature of West Virginia:

## **ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.**

§18-8-1. Compulsory school attendance; exemptions.

(a) Exemption from the requirements of compulsory public school attendance established in §18-8-1a of this code shall be made on behalf of any child for the causes or conditions set forth in this section. Each cause or condition set forth in this section is subject to confirmation by the attendance authority of the county. A child who is exempt from compulsory school attendance under this section is not subject to prosecution under §18-8-2 of this code, nor is such a child a status offender as defined by §49-1-202 of this code.

(b) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of this subsection, relating to instruction in a private, parochial, or other approved school, are met. The instruction shall be in a school approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. In all private, parochial, or other schools approved pursuant to this subsection, it is the duty of the principal or other person in control, upon the request of the county superintendent, to furnish to the county board such information and records as may be required with respect to attendance, instruction, and progress of students enrolled.

(c) A child is exempt from the compulsory school attendance requirement set forth in §18-8-1a of this code if the requirements of either subdivision (1) or subdivision (2) of this subsection, both relating to home instruction, are met.

(1) The instruction shall be in the home of the child or children or at some other place approved by the county board and for a time equal to the instructional term set forth in §18-5-45 of this code. If the request for home instruction is denied by the county board, good and reasonable justification for the denial shall be furnished in writing to the applicant by the county board. The instruction shall be conducted by a person or persons who, in the judgment of the county superintendent and county board, are qualified to give instruction in subjects required to be taught in public elementary schools in the state. The person or persons

providing the instruction, upon request of the county superintendent, shall furnish to the county board information and records as may be required periodically with respect to attendance, instruction, and progress of students receiving the instruction. The state board shall develop guidelines for the home schooling of special education students including alternative assessment measures to assure that satisfactory academic progress is achieved.

(2) The child meets the requirements set forth in this subdivision: Provided, That the county superintendent may, after a showing of probable cause, seek from the circuit court of the county an order denying home instruction of the child. The order may be granted upon a showing of clear and convincing evidence that the child will suffer neglect in his or her education or that there are other compelling reasons to deny home instruction.

(A) Upon commencing home instruction under this section the parent of a child receiving home instruction shall present to the county superintendent or county board a notice of intent to provide home instruction that includes the name, address, and age of any child of compulsory school age to be instructed and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subdivision. The person providing home instruction shall notify the county superintendent upon termination of home instruction for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing home instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: Provided, That if a child is enrolled in a public school, notice of intent to provide home instruction shall be given on or before the date home instruction is to begin.

(B) The person or persons providing home instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(C) Annually, the person or persons providing home instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(i) The child receiving home instruction takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the

required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(ii) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(iii) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(iv) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(D) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing home instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of home schooling. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

(E) The parent or legal guardian shall submit to the county superintendent the results of the academic assessment of the child at grade levels three, five, eight, and 11, as applicable, by June 30 of the year in which the assessment was administered.

(3) This subdivision applies to both home instruction exemptions set forth in subdivisions (1) and (2) of this subsection. The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing home instruction. Any child receiving home instruction may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing home instruction may consider appropriate subject to normal registration and attendance requirements.

(d) A child is exempt from the compulsory school attendance requirement set forth in [§18-8-1a](#) of this code if the requirements of this subsection, relating to physical or mental incapacity, are met. Physical or mental incapacity consists of incapacity for school attendance and the performance of school work. In all cases of prolonged absence from school due to incapacity of the child to attend, the written statement of a licensed physician or authorized school nurse is required. Incapacity shall be narrowly defined and in any case the provisions of this article may not allow for the exclusion of the mentally, physically, emotionally, or behaviorally handicapped child otherwise entitled to a free appropriate education.

(e) A child is exempt from the compulsory school attendance requirement set forth in [§18-8-1a](#) of this code if conditions rendering school attendance impossible or hazardous to the life, health, or safety of the child exist.

(f) A child is exempt from the compulsory school attendance requirement set forth in [§18-8-1a](#) of this code upon regular graduation from a standard senior high school or alternate secondary program completion as determined by the state board.

(g) A child is exempt from the compulsory school attendance requirement set forth in [§18-8-1a](#) of this code if the child is granted a work permit pursuant to the subsection. After due investigation the county superintendent may grant work permits to youths under the termination age designated in [§18-8-1a](#) of this code, subject to state and federal labor laws and regulations. A work permit may not be granted on behalf of any youth who has not completed the eighth grade of school.

(h) A child is exempt from the compulsory school attendance requirement set forth in [§18-8-1a](#) of this code if a serious illness or death in the immediate family of the child has occurred. It is expected that the county attendance director will ascertain the facts in all cases of such absences about which information is inadequate and report the facts to the county superintendent.

(i) A child is exempt from the compulsory school attendance requirement set forth in [§18-8-1a](#) of this code if the requirements of this subsection, relating to destitution in the home, are met. Exemption based on a condition of extreme destitution in the home may be granted only upon the written recommendation of the county attendance director to the county superintendent following careful investigation of the case. A copy of the report confirming the condition and school exemption shall be placed with the county director of public assistance. This enactment contemplates every reasonable effort that may properly be taken on the part of both school and public assistance authorities for the relief of home conditions officially recognized as being so destitute as to deprive children of the privilege of school attendance. Exemption for this cause is not allowed when the destitution is relieved through public or private means.

(j) A child is exempt from the compulsory school attendance requirement set forth in [§18-8-1a](#) of this code if the requirements of this subsection, relating to church ordinances and observances of regular church ordinances, are met. The county board may approve exemption for religious instruction upon written request of the person having legal or actual charge of a child or children. This exemption is subject to the rules prescribed by the county superintendent and approved by the county board.

(k) A child is exempt from the compulsory school attendance requirement set forth in [§18-8-1a](#) of this code if the requirements of this subsection, relating to alternative private, parochial, church, or religious school instruction, are met. Exemption shall be made for any child attending any private school, parochial school, church school, school operated by a religious order, or other nonpublic school which elects to comply with the provisions of [§18-28-1](#) et seq. of this code.

(l) Completion of the eighth grade does not exempt any child under the termination age designated in [§18-8-1a](#) of this code from the compulsory attendance provision of this article.

(m) A child is exempt from the compulsory school attendance requirements set forth in [§18-8-1a](#) of this code if the child is an eligible recipient participating in the Hope Scholarship Program, as provided for in [§18-31-1](#) et seq. of this code and provides a notice of intent to participate in the Hope Scholarship Program to the county superintendent. The county superintendent shall enter the following into the West Virginia Education Information System (WVEIS):

(1) The filing of the notice of intent pursuant to this subsection;

(2) In the case of a Hope Scholarship recipient who chooses an individualized instructional program, annually, the child's test results or determination that a student is making academic progress commensurate with his or her age and ability, as applicable, pursuant to [§18-31-8\(a\)\(4\)](#) of this code; and

(3) In the case of an eligible recipient enrolling in a participating school, annually, the filing of a notice of enrollment pursuant to [§18-31-11\(a\)\(6\)](#) of this code.

(n) A child is exempt from the compulsory school attendance requirement set forth in [§18-8-1a](#) of this code if the child participates in a learning pod or microschool pursuant to this subsection.

(1) For the purposes of this subsection:

(A) "Learning pod" means a voluntary association of parents choosing to group their children together to participate in their elementary or secondary academic studies as an alternative to enrolling in a public school, private school, homeschool, or microschool,

including participation in an activity or service provided to the children in exchange for payment; and

(B) "Microschool" means a school initiated by one or more teachers or an entity created to operate a school that charges tuition for the students who enroll and is an alternative to enrolling in a public school, private school, homeschool, or learning pod.

(2) Upon beginning participation in a learning pod or microschool pursuant to this subsection, the parent or legal guardian of the child participating shall present to the county superintendent or county board a notice of intent to participate in a learning pod or microschool that includes the name, address, and age of any child of compulsory school age participating and assurance that the child shall receive instruction in reading, language, mathematics, science, and social studies, and that the child shall be assessed annually in accordance with this subsection. The person providing instruction shall notify the county superintendent upon termination of participation in a learning pod or microschool for a child who is of compulsory attendance age. Upon establishing residence in a new county, the person providing instruction shall notify the previous county superintendent and submit a new notice of intent to the superintendent of the new county of residence: Provided, That if a child is enrolled in a public school, notice of intent to participate in a learning pod or microschool shall be given on or before the date participation is to begin.

(3) The person or persons providing instruction shall submit satisfactory evidence of a high school diploma or equivalent, or a post-secondary degree or certificate from a regionally accredited institution, or from an institution of higher education that has been authorized to confer a post-secondary degree or certificate in West Virginia by the West Virginia Council for Community and Technical College Education or by the West Virginia Higher Education Policy Commission.

(4) Annually, the person or persons providing instruction shall obtain an academic assessment of the child for the previous school year in one of the following ways:

(A) The child participating in a learning pod or microschool takes a nationally normed standardized achievement test published or normed not more than 10 years from the date of administration and administered under the conditions as set forth by the published instructions of the selected test and by a person qualified in accordance with the test's published guidelines in the subjects of reading, language, mathematics, science, and social studies. The child is considered to have made acceptable progress when the mean of the child's test results in the required subject areas for any single year is within or above the fourth stanine or, if below the fourth stanine, shows improvement from the previous year's results;

(B) The child participates in the testing program currently in use in the state's public schools. The test shall be administered to the child at a public school in the county of residence. Determination of acceptable progress shall be based on current guidelines of the state testing program;

(C) A portfolio of samples of the child's work is reviewed by a certified teacher who determines whether the child's academic progress for the year is in accordance with the child's abilities. The teacher shall provide a written narrative about the child's progress in the areas of reading, language, mathematics, science, and social studies and shall note any areas which, in the professional opinion of the reviewer, show need for improvement or remediation. If the narrative indicates that the child's academic progress for the year is in accordance with the child's abilities, the child is considered to have made acceptable progress; or

(D) The child completes an alternative academic assessment of proficiency that is mutually agreed upon by the parent or legal guardian and the county superintendent.

(5) A parent or legal guardian shall maintain copies of each student's Academic Assessment for three years. When the annual assessment fails to show acceptable progress, the person or persons providing instruction shall initiate a remedial program to foster acceptable progress. The county board upon request shall notify the parents or legal guardian of the child, in writing, of the services available to assist in the assessment of the child's eligibility for special education services. Identification of a disability does not preclude the continuation of participation in a learning pod or microschool. In the event that the child does not achieve acceptable progress for a second consecutive year, the person or persons providing instruction shall submit to the county superintendent additional evidence that appropriate instruction is being provided.

(6) The parent, legal guardian, learning pod, or microschool shall submit to the county superintendent the results of the academic assessment of the child with the same frequency prescribed in [§18-8-1\(c\)\(2\)\(E\)](#) of this code: Provided, That instead of the academic assessment results being submitted individually, the learning pod or microschool may submit the school composite results.

(7) The county superintendent or a designee shall offer such assistance, including textbooks, other teaching materials and available resources, all subject to availability, as may assist the person or persons providing instruction. Any child participating in a learning pod or microschool may upon approval of the county board exercise the option to attend any class offered by the county board as the person or persons providing instruction may consider appropriate subject to normal registration and attendance requirements.

(8) No learning pod or microschool which meets the requirements of this subsection is subject to any other provision of law relating to education: Provided, That any learning pod or

microschool which has a student requiring special education instruction must comply with the provisions of [§18-20-11](#) of this code, including, but not limited to, placement of video cameras for the protection of that exceptional student.

(9) Making learning pods and microschools subject to the home instruction provisions and requirements does not make learning pods and microschools the same as homeschooling.

## Senate Bill 529: Encouraging additional computer science education in WV schools

<i>Effective Date:</i>	Passed March 12, 2022; in effect 90 days from passage
<i>Code Reference:</i>	Amends: §18-2-12
<i>WVDE Contact:</i>	Office of Teaching and Learning
<i>Summary:</i>	This bill updates recommendations for computer science standards, specifically including alignment to relevant aspects of the field, computational thinking, block-based programming, text-based programming, network communication, computer architecture, coding, application development, and cyber-security. The bill encourages schools to integrate base level computer science skills into each student's required course work and to make available, in grades six through 12, additional secondary level computer science courses related to the identified standards that will allow interested students to study facets of computer science in preparation for the workforce.
<i>Enrolled Bill:</i>	Enrolled Senate Bill 529 BY SENATORS BLAIR (MR. PRESIDENT) AND BALDWIN (BY REQUEST OF THE EXECUTIVE)

AN ACT to amend and reenact [§18-2-12](#) of the Code of West Virginia, 1931, as amended, relating to computer science education in West Virginia schools; recognizing a need to provide coursework on computational thinking, block-based programming, text-based programming, network communication, computer architecture, coding, application development, digital literacy, and cyber security; requiring the board to update and build upon prior computer science education plans and policy to include additional subject matter; and removing obsolete language.

Be it enacted by the Legislature of West Virginia:

### ARTICLE 2. STATE BOARD OF EDUCATION.

[§18-2-12](#). Computer science courses of instruction; learning standards; state board plan development.

(a) Legislative findings:

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

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

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

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

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

(6) Foundational age-appropriate instruction in the computer science field for all students beginning in elementary school with required and optional advanced computer science instruction for middle school and high school students has become an important component of a well-developed education. Computer science standards should align to relevant aspects of the field such as computational thinking, block-based programming, text-based programming, network communication, computer architecture, coding, application development, and cyber security. Computer science education standards should be established to ensure students have the fundamentals to be successful in a digital-driven world and the advanced knowledge to prepare them for careers in or linked to computer science.

(b) Prior to the 2023 regular legislative session, the state board shall submit a plan to the Legislative Oversight Commission on Education Accountability, that builds upon certain plans which may have been developed and submitted in previous years, to implement and update computer science instruction and learning standards in the public schools. The plan shall include at least the following:

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

(A) Providing relevant course work in the areas of computational thinking, block-based programming, text-based programming, network communication, computer architecture, coding, application development, digital literacy, and cyber security; and

(B) Encouraging schools to integrate base level computer science skills into each student's required course work, and make available, in grades six through 12, additional secondary level computer science courses that will allow interested students to study facets of computer science in more depth and prepare them for entry into the workforce or college; and

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

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

(3) Recommendations for units of instruction or courses in academic and vocational technical settings to include computer programming, network communication, computer architecture, coding, application development, and cyber security, that complement any existing K-12 computer science and IT curricula where they are already established, especially the advanced placement computer science curricula and professional IT certifications; and

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

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

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

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

## Senate Bill 531: **Increasing annual salaries of certain state employees**

<i>Effective Date:</i>	Passed March 10, 2022; to take effect July 01, 2022
<i>Code Reference:</i>	Amends: §15-2-5, §18A-4-2, §18A-4-8A
<i>WVDE Contact:</i>	Internal Operations and Office of School Operations and Finance
<i>Summary:</i>	The bill modifies the state minimum salary schedule for teachers to reflect the proposed raise which was outlined in the budget.
<i>Enrolled Bill:</i>	Enrolled Committee Substitute for Senate Bill 535 BY SENATORS BLAIR (MR. PRESIDENT) AND BALDWIN (BY REQUEST OF THE EXECUTIVE)

AN ACT to amend and reenact [§15-2-5](#) of the Code of West Virginia, 1931, as amended; to amend and reenact [§18A-4-2](#) of said code; and to amend and reenact [§18A-4-8a](#) of said code, all relating to increasing annual salaries of certain employees of the state; increasing the salaries of members of the West Virginia State Police and certain personnel thereof; increasing annual salaries of public school teachers; increasing annual salaries of school service personnel; and providing an effective date for these increases.

Be it enacted by the Legislature of West Virginia:

### CHAPTER 15. PUBLIC SAFETY.

#### ARTICLE 2. WEST VIRGINIA STATE POLICE.

[§15-2-5](#). Career progression system state; salaries; exclusion from wage and hour laws, with supplemental payment; bond; leave time for members called to duty in guard or reserves.

(a) The superintendent shall establish within the West Virginia State Police a system to provide for: (1) The promotion of members to the supervisory ranks of sergeant, first sergeant, second lieutenant, and first lieutenant; (2) the classification of nonsupervisory members within the field operations force to the ranks of trooper, senior trooper, trooper first class, or corporal; and (3) the temporary reclassification of members assigned to administrative duties as administrative support specialist I-VIII. The promotion of individuals in the forensic laboratory shall include the classifications of Evidence Custodians I-IV, Forensic Technicians I-

III, Forensic Scientists I-VI, and Forensic Scientist Supervisors I-IV, based on the Forensic Lab Career Progression System.

(b) The superintendent may propose legislative rules for promulgation in accordance with [§29A-3-1](#) et seq. of this code for the purpose of ensuring consistency, predictability, and independent review of any system developed under the provisions of this section.

(c) The superintendent shall provide to each member a written manual governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation and testing of members for promotion or reclassification and the subsequent placement of any members on a promotional eligibility or reclassification recommendation list. A written manual shall also be provided to individuals within the forensic laboratory governing any system established under the provisions of this section and specific procedures shall be identified for the evaluation of promotion or reclassification of those individuals.

(d) Effective July 1, 2022, members shall receive annual salaries payable at least twice per month as follows:

ANNUAL SALARY SCHEDULE (BASE PAY)

SUPERVISORY AND NONSUPERVISORY RANKS

Cadet During Training	\$48,524
Cadet Trooper After Training	55,784
Trooper Second Year	56,796
Trooper Third Year	57,179
Senior Trooper	57,578
Trooper First Class	58,184
Corporal	58,790
Sergeant	63,091
First Sergeant	65,242
Second Lieutenant	67,392
First Lieutenant	69,543
Captain	71,694
Major	73,844
Lieutenant Colonel	75,995

ANNUAL SALARY SCHEDULE (BASE PAY)

ADMINISTRATION SUPPORT SPECIALIST CLASSIFICATION

I	\$56,796
II	57,578
III	58,184
IV	58,790
V	63,091
VI	65,242
VII	67,392
VIII	69,543

Effective July 1, 2022, designated individuals within the forensic laboratory shall receive annual base salaries payable at least twice per month as follows:

ANNUAL SALARY SCHEDULE (BASE PAY)

EVIDENCE CUSTODIAN

I	\$45,650
II	47,978
III	51,639
IV	54,666

FORENSIC TECHNICIAN

I	\$47,850
II	49,544
III	53,426

FORENSIC SCIENTIST

I	\$55,050
II	57,234
III	59,338
IV	61,737
V	65,263
VI	69,063

FORENSIC SCIENTIST SUPERVISOR

I	\$71,762
II	75,326
III	79,104
IV	83,108

Each member of the West Virginia State Police whose salary is fixed and specified in this annual salary schedule is entitled to the length of service increases set forth in [§15-2-5\(e\)](#) of this code and supplemental pay as provided in [§15-2-5\(g\)](#) of this code.

(e) Each member of the West Virginia State Police whose salary is fixed and specified pursuant to this section shall receive, and is entitled to, an increase in salary over that set forth in [§15-2-5\(d\)](#) of this code for grade in rank, based on length of service, including that service served before and after the effective date of this section with the West Virginia State Police as follows: Beginning on January 1, 2015, and continuing thereafter, at the end of two years of service with the West Virginia State Police, the member shall receive a salary increase of \$500 to be effective during his or her next year of service and a like increase at yearly intervals thereafter, with the increases to be cumulative. The forensic laboratory employees whose salaries are fixed and specified pursuant to this section, shall receive, and are entitled to, an increase in salary over that set forth in [§15-2-5\(d\)](#) of this code, in accordance with [§15-2-7\(h\)](#) of this code.

(f) In applying the salary schedules set forth in this section where salary increases are provided for length of service, members of the West Virginia State Police in service at the time the schedules become effective shall be given credit for prior service and shall be paid the salaries the same length of service entitles them to receive under the provisions of this section.

(g) The Legislature finds and declares that because of the unique duties of members of the West Virginia State Police, it is not appropriate to apply the provisions of state wage and hour laws to them. Accordingly, members of the West Virginia State Police are excluded from the provisions of state wage and hour laws. This express exclusion shall not be construed as any indication that the members were or were not covered by the wage and hour laws prior to this exclusion.

In lieu of any overtime pay they might otherwise have received under the wage and hour laws, and in addition to their salaries and increases for length of service, members who have completed basic training and who are exempt from federal Fair Labor Standards Act guidelines may receive supplemental pay as provided in this section.

The authority of the superintendent to propose a legislative rule or amendment thereto for promulgation in accordance with [§29A-3-1](#) et seq. of this code to establish the number of hours per month which constitute the standard pay period for the members of the West Virginia State Police is hereby continued. The rule shall further establish, on a graduated hourly basis, the criteria for receipt of a portion or all of supplemental payment when hours are worked in excess of the standard pay period. The superintendent shall certify at least twice per month to the West Virginia State Police payroll officer the names of those members who

have worked in excess of the standard pay period and the amount of their entitlement to supplemental payment. The supplemental payment may not exceed \$200 per pay period. The superintendent and civilian employees of the West Virginia State Police are not eligible for any supplemental payments.

(h) Each member of the West Virginia State Police, except the superintendent and civilian employees, shall execute, before entering upon the discharge of his or her duties, a bond with security in the sum of \$5,000 payable to the State of West Virginia, conditioned upon the faithful performance of his or her duties, and the bond shall be approved as to form by the Attorney General and as to sufficiency by the Governor.

(i) In consideration for compensation paid by the West Virginia State Police to its members during those members' participation in the West Virginia State Police Cadet Training Program pursuant to [§30-29-8](#) of this code, the West Virginia State Police may require of its members by written agreement entered into with each of them in advance of such participation in the program that, if a member should voluntarily discontinue employment any time within one year immediately following completion of the training program, he or she shall be obligated to pay to the West Virginia State Police a pro rata portion of such compensation equal to that part of such year which the member has chosen not to remain in the employ of the West Virginia State Police.

(j) Any member of the West Virginia State Police who is called to perform active duty training or inactive duty training in the National Guard or any reserve component of the armed forces of the United States annually shall be granted, upon request, leave time not to exceed 30 calendar days for the purpose of performing the active duty training or inactive duty training and the time granted may not be deducted from any leave accumulated as a member of the West Virginia State Police.

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

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

[§18A-4-2](#). State minimum salaries for teachers.

(a) For school year 2022-2023, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, specific additional amounts prescribed in this section or article, and any county supplement in effect in a county pursuant to [§18A-4-5a](#) of this code during the contract year.

STATE MINIMUM SALARY SCHEDULE

Years Exp.	4th Class	3rd Class	2nd Class	A.B. A.B.	A.B. 15	M.A. M.A.	M.A. 15	M.A. 30	M.A. 45	Doc- torate
0	34,297	34,986	35,252	36,695	37,456	39,223	39,984	40,745	41,506	42,541
1	34,625	35,314	35,580	37,213	37,974	39,742	40,503	41,263	42,024	43,059
2	34,954	35,642	35,908	37,732	38,493	40,260	41,021	41,782	42,543	43,578
3	35,282	35,970	36,236	38,251	39,011	40,779	41,540	42,300	43,061	44,096
4	35,854	36,542	36,808	39,013	39,774	41,542	42,303	43,063	43,824	44,859
5	36,182	36,870	37,136	39,532	40,293	42,060	42,821	43,582	44,343	45,378
6	36,510	37,198	37,464	40,050	40,811	42,579	43,340	44,100	44,861	45,896
7	36,838	37,527	37,792	40,569	41,330	43,097	43,858	44,619	45,380	46,415
8	37,166	37,855	38,121	41,087	41,848	43,616	44,377	45,137	45,898	46,933
9	37,494	38,183	38,449	41,606	42,367	44,134	44,895	45,656	46,417	47,452
10	37,823	38,511	38,777	42,126	42,886	44,654	45,415	46,176	46,936	47,971
11	38,151	38,839	39,105	42,644	43,405	45,173	45,933	46,694	47,455	48,490
12	38,479	39,167	39,433	43,163	43,923	45,691	46,452	47,213	47,973	49,008
13	38,807	39,495	39,761	43,681	44,442	46,210	46,970	47,731	48,492	49,527
14	39,135	39,823	40,089	44,200	44,960	46,728	47,489	48,250	49,010	50,045
15	39,463	40,151	40,417	44,718	45,479	47,247	48,007	48,768	49,529	50,564
16	39,791	40,479	40,745	45,237	45,997	47,765	48,526	49,287	50,047	51,082
17	40,119	40,808	41,073	45,755	46,516	48,284	49,045	49,805	50,566	51,601
18	40,447	41,136	41,402	46,274	47,035	48,802	49,563	50,324	51,085	52,120
19	40,775	41,464	41,730	46,792	47,553	49,321	50,082	50,842	51,603	52,638
20	41,103	41,792	42,058	47,311	48,072	49,839	50,600	51,361	52,122	53,157
21	41,432	42,120	42,386	47,829	48,590	50,358	51,119	51,879	52,640	53,675
22	41,760	42,448	42,714	48,348	49,109	50,876	51,637	52,398	53,159	54,194
23	42,088	42,776	43,042	48,867	49,627	51,395	52,156	52,916	53,677	54,712
24	42,416	43,104	43,370	49,385	50,146	51,914	52,674	53,435	54,196	55,231

25	42,744	43,432	43,698	49,904	50,664	52,432	53,193	53,954	54,714	55,749
26	43,072	43,760	44,026	50,422	51,183	52,951	53,711	54,472	55,233	56,268
27	43,400	44,088	44,354	50,941	51,701	53,469	54,230	54,991	55,751	56,786
28	43,728	44,417	44,682	51,459	52,220	53,988	54,748	55,509	56,270	57,305
29	44,056	44,745	45,011	51,978	52,738	54,506	55,267	56,028	56,788	57,823
30	44,384	45,073	45,339	52,496	53,257	55,025	55,785	56,546	57,307	58,342
31	44,713	45,401	45,667	53,015	53,776	55,543	56,304	57,065	57,825	58,860
32	45,041	45,729	45,995	53,533	54,294	56,062	56,823	57,583	58,344	59,379
33	45,369	46,057	46,323	54,052	54,813	56,580	57,341	58,102	58,863	59,898
34	45,697	46,385	46,651	54,570	55,331	57,099	57,860	58,620	59,381	60,416
35	46,025	46,713	46,979	55,089	55,850	57,617	58,378	59,139	59,900	60,935

(b) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20 years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

(c) Effective July 1, 2019, each classroom teacher providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction to students shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in subsection (b) of this section: Provided, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary schedule shall be paid the additional amount equivalent to three additional years of experience notwithstanding the maximum experience provided on the salary schedule.

(d) Effective July 1, 2019, each classroom teacher certified in special education and employed as a full-time special education teacher, as defined by the State Superintendent, shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in subsection (a) of this section: Provided, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary

schedule shall be paid the additional amount equivalent to three additional years of experience notwithstanding the maximum experience provided on the salary schedule.

(e) In accordance with [§18A-4-5](#) of this code, each teacher shall be paid the supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For “4th Class” at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For “3rd Class” at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For “2nd Class” at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For “A.B.” at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For “A.B. + 15” at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For “M.A.” at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For “M.A. + 15” at zero years of experience, \$2,740. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(8) For “M.A. + 30” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For “M.A. + 45” at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For “Doctorate” at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to [§18A-4-5a](#) of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

[§18A-4-8a](#). Service personnel minimum monthly salaries.

(a) Effective July 1, 2022, the minimum monthly pay for each service employee shall be as follows:

(1) For school year 2022-2023, and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade

Schedule set forth in this subdivision and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade Schedule set forth in this subdivision.

STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE

Years Exp.	PAY GRADE							
	A	B	C	D	E	F	G	H
0	2,007	2,028	2,070	2,123	2,176	2,239	2,271	2,344
1	2,039	2,061	2,102	2,155	2,209	2,272	2,303	2,377
2	2,072	2,093	2,135	2,188	2,241	2,304	2,336	2,409
3	2,104	2,126	2,168	2,221	2,274	2,337	2,369	2,442
4	2,137	2,159	2,200	2,253	2,306	2,370	2,401	2,476
5	2,170	2,191	2,233	2,286	2,339	2,402	2,434	2,508
6	2,202	2,224	2,267	2,319	2,372	2,435	2,467	2,541
7	2,236	2,256	2,299	2,351	2,404	2,468	2,499	2,574
8	2,269	2,289	2,332	2,384	2,437	2,500	2,532	2,606
9	2,301	2,322	2,365	2,418	2,470	2,533	2,564	2,639
10	2,334	2,355	2,397	2,450	2,502	2,567	2,598	2,672
11	2,367	2,388	2,430	2,483	2,535	2,599	2,631	2,704
12	2,399	2,421	2,462	2,516	2,569	2,632	2,663	2,737
13	2,432	2,453	2,495	2,548	2,601	2,664	2,696	2,770
14	2,465	2,486	2,528	2,581	2,634	2,697	2,729	2,802
15	2,497	2,519	2,560	2,613	2,666	2,730	2,761	2,835
16	2,530	2,551	2,593	2,646	2,699	2,762	2,794	2,868
17	2,562	2,584	2,627	2,679	2,732	2,795	2,827	2,901
18	2,595	2,617	2,659	2,711	2,764	2,828	2,859	2,934
19	2,629	2,649	2,692	2,744	2,797	2,860	2,892	2,966
20	2,661	2,682	2,725	2,778	2,830	2,893	2,925	3,000
21	2,694	2,714	2,757	2,810	2,862	2,926	2,957	3,034
22	2,727	2,748	2,790	2,843	2,895	2,959	2,991	3,066
23	2,759	2,781	2,823	2,876	2,929	2,993	3,025	3,100
24	2,792	2,813	2,855	2,908	2,961	3,027	3,058	3,134
25	2,825	2,846	2,888	2,941	2,995	3,059	3,092	3,166
26	2,857	2,879	2,920	2,975	3,029	3,093	3,124	3,200
27	2,890	2,911	2,953	3,007	3,061	3,125	3,158	3,233
28	2,923	2,944	2,987	3,041	3,095	3,159	3,192	3,267
29	2,955	2,978	3,020	3,073	3,128	3,193	3,224	3,301
30	2,989	3,010	3,054	3,107	3,161	3,225	3,258	3,334

31	3,022	3,044	3,088	3,141	3,195	3,259	3,292	3,367
32	3,056	3,077	3,120	3,174	3,227	3,293	3,324	3,401
33	3,090	3,110	3,154	3,208	3,261	3,325	3,358	3,434
34	3,122	3,144	3,188	3,242	3,295	3,359	3,392	3,467
35	3,156	3,178	3,220	3,274	3,327	3,393	3,425	3,501
36	3,190	3,211	3,254	3,308	3,362	3,426	3,459	3,533
37	3,222	3,245	3,288	3,342	3,396	3,460	3,492	3,567
38	3,256	3,277	3,320	3,374	3,428	3,493	3,525	3,601
39	3,290	3,311	3,354	3,408	3,462	3,526	3,559	3,633
40	3,322	3,345	3,387	3,441	3,496	3,560	3,592	3,667

(2) Each service employee shall receive the amount prescribed in the State Minimum Pay Scale Pay Grade in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

CLASS TITLE.....	PAY GRADE
Accountant I .....	D
Accountant II .....	E
Accountant III .....	F
Accounts Payable Supervisor .....	G
Aide I .....	A
Aide II .....	B
Aide III .....	C
Aide IV .....	D
Aide V - Temporary Authorization .....	E
Aide V .....	F
Aide VI - Temporary Authorization .....	E
Aide VI .....	F
Audiovisual Technician .....	C
Auditor .....	G
Autism Mentor .....	F
Braille Specialist .....	E
Bus Operator .....	D
Buyer .....	F
Cabinetmaker .....	G
Cafeteria Manager .....	D
Carpenter I .....	E
Carpenter II .....	F

Chief Mechanic .....	G
Clerk I .....	B
Clerk II .....	C
Computer Operator .....	E
Cook I .....	A
Cook II .....	B
Cook III .....	C
Crew Leader .....	F
Custodian I .....	A
Custodian II .....	B
Custodian III .....	C
Custodian IV .....	D
Director or Coordinator of Services .....	H
Draftsman .....	D
Early Childhood Classroom Assistant Teacher I .....	E
Early Childhood Classroom Assistant Teacher II .....	E
Early Childhood Classroom Assistant Teacher III .....	F
Educational Sign Language Interpreter I .....	F
Educational Sign Language Interpreter II .....	G
Electrician I .....	F
Electrician II .....	G
Electronic Technician I .....	F
Electronic Technician II .....	G
Executive Secretary .....	G
Food Services Supervisor .....	G
Foreman .....	G
General Maintenance .....	C
Glazier .....	D
Graphic Artist .....	D
Groundsman .....	B
Handyman .....	B
Heating and Air Conditioning Mechanic I .....	E
Heating and Air Conditioning Mechanic II .....	G
Heavy Equipment Operator .....	E
Inventory Supervisor .....	D
Key Punch Operator .....	B

Licensed Practical Nurse .....	F
Locksmith .....	G
Lubrication Man .....	C
Machinist .....	F
Mail Clerk .....	D
Maintenance Clerk .....	C
Mason .....	G
Mechanic .....	F
Mechanic Assistant .....	E
Office Equipment Repairman I .....	F
Office Equipment Repairman II .....	G
Painter .....	E
Paraprofessional .....	F
Payroll Supervisor .....	G
Plumber I .....	E
Plumber II .....	G
Printing Operator .....	B
Printing Supervisor .....	D
Programmer .....	H
Roofing/Sheet Metal Mechanic .....	F
Sanitation Plant Operator .....	G
School Bus Supervisor .....	E
Secretary I .....	D
Secretary II .....	E
Secretary III .....	F
Sign Support Specialist .....	E
Supervisor of Maintenance .....	H
Supervisor of Transportation .....	H
Switchboard Operator-Receptionist .....	D
Truck Driver .....	D
Warehouse Clerk .....	C
Watchman .....	B
Welder .....	F
WVEIS Data Entry and Administrative Clerk .....	B

(b) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(c) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds 12 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds 24 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds 36 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds 48 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds 60 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds 72 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds 84 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(8) A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(d) An additional \$40 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds an associate's degree;

(2) A service person who holds a bachelor's degree;

(3) A service person who holds a master's degree;

(4) A service person who holds a doctorate degree.

(e) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds a bachelor's degree plus 15 college hours;

(2) A service person who holds a master's degree plus 15 college hours;

(3) A service person who holds a master's degree plus 30 college hours;

(4) A service person who holds a master's degree plus 45 college hours; and

(5) A service person who holds a master's degree plus 60 college hours.

(f) Each service person is paid a supplement, as set forth in [§18A-4-5](#) of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to [§18A-4-5b](#) of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person's daily shift of work is performed between the hours of 6:00 p. m. and 5:00 a. m. the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in [§18A-4-8b](#) of this code is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: Provided, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: Provided, however, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel

supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in [§18A-5-8](#) of this code, an aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, "under the direct supervision of a certified professional person" means that certified professional person is present, with and accompanying the aide.

**Senate Bill 535: Providing for revocation of school personnel certification or licensure in certain circumstances**

*Effective Date:* Passed March 9, 2022; in effect 90 days from passage

*Code Reference:* Amends: §18A-3-6

*WVDE Contact:* Office of Legal Services

*Summary:* The bill clarifies additional instances in which the State Superintendent of Schools can automatically suspend or revoke the credentials of a teacher or other certificate holder. With this bill, a teacher’s license now can be automatically suspended if the teacher or other certificate holder is charged or indicted for an offense under W. Va. Code §61-8D-3 (child abuse resulting in or creating a risk of injury) or §61-8D-5 (sexual abuse by a parent, guardian, custodian or person in a position of trust) or comparable statute in any other state; any criminal offense that requires the teacher to register as a sex offender; any criminal offense which has as an element delivery or distribution of a controlled substance; any offense under the provisions of W. Va. Code §61-2-1 (first and second degree murder) or any law of the United States or any other state for an offense which has the same elements; or when a petition has been filed pursuant to W. Va. Code §49-4-601 alleging that the teacher or certificate holder has committed abuse of a child. The bill also addresses reinstatement of a license due to dismissal or acquittal of these charges, and provides for an automatic revocation of a license when a court of competent jurisdiction has adjudicated the teacher or certificate holder as having committed abuse of a child under W. Va. Code §49-4-601 in addition to previously qualifying offenses.

*Enrolled Bill:* Enrolled Committee Substitute for Senate Bill 535

BY SENATORS BLAIR (MR. PRESIDENT) AND BALDWIN  
(BY REQUEST OF THE EXECUTIVE)

AN ACT to amend and reenact [§18A-3-6](#) of the Code of West Virginia, 1931, as amended, relating to revocation of school personnel certification; authorizing the state superintendent to automatically suspend certificates held by a teacher or other certificate holder upon charge or indictment for certain offenses or filing of a petition alleging child abuse; providing for reinstatement of automatically suspended certificate in certain circumstances; extending automatic revocation provisions to certain certificate holders;

clarifying that certain revocation provisions are triggered by guilty plea or conviction; providing for automatic revocation of a certificate upon adjudication by a court of competent jurisdiction that a teacher or certificate holder has committed abuse of a child; and providing for reinstatement of automatically revoked certificate when adjudication of abuse of a child is overturned by the Supreme Court of Appeals of West Virginia.

Be it enacted by the Legislature of West Virginia:

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

[§18A-3-6](#). Grounds for revocation or suspension of certificates; other authorized actions by state superintendent; required reporting by county superintendents; and 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 shall also have the authority to limit certificates, issue letters of admonishment, or enter into consent agreements requiring specific training in order for a teacher to maintain a certificate. 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) The state superintendent may automatically suspend the certificate held by a teacher, as defined by [§18-1-1\(g\)](#) of this code, or any individual holding a certificate granted pursuant to [§18A-3-2a](#) of this code, in any of the following circumstances:

(1) The teacher or certificate holder is charged or indicted for an offense under [§61-8D-3](#) or [§61-8D-5](#) of this code or comparable statute in any other state;

(2) The teacher or certificate holder is charged or indicted with any criminal offense that requires the teacher to register as a sex offender;

(3) The teacher or certificate holder is charged or indicted with any criminal offense which has as an element delivery or distribution of a controlled substance; (4) The teacher or certificate holder is charged or indicted for any offense under the provisions of [§61-2-1](#) of this code or 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](#) of this code; or

(5) A petition has been filed pursuant to [§49-4-601](#) of this code alleging that the teacher or certificate holder has committed abuse of a child.

(c) If any such charge or indictment resulting in suspension pursuant to subsection (b) of this section is dismissed by the court in which it is pending, if the teacher or certificate holder is acquitted of such charge, or if a petition filed pursuant to [§49-4-601](#) and resulting in suspension pursuant to subsection (b) of this section is dismissed by the court in which it is pending, the teacher's or certificate holder's certification shall be reinstated unless otherwise prohibited by law.

(d) The state superintendent shall automatically revoke the certificate held by a teacher, as defined by [§18-1-1\(g\)](#) of this code, or any individual holding a certificate granted pursuant to [§18A-3-2a](#) of this code, in any of the following circumstances:

(1) The teacher or certificate holder pleads guilty to or is convicted under [§61-8D-3](#) or [§61-8D-5](#) of this code or comparable statute in any other state;

(2) The teacher or certificate holder pleads guilty to or is convicted of any criminal offense that requires the teacher to register as a sex offender;

(3) The teacher or certificate holder pleads guilty to or is convicted of any criminal offense which has as an element delivery or distribution of a controlled substance;

(4) The teacher or certificate holder 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](#) of this code; or

(5) A court of competent jurisdiction has adjudicated the teacher or certificate holder as having committed abuse of a child under [§49-4-601](#) of this code.

(e) If any conviction resulting in automatic revocation pursuant to subsection (d) of this section is overturned by any court of this state or the United States, or if such adjudication of abuse of a child pursuant to [§49-4-601](#) of this code and resulting in automatic revocation pursuant to subsection (d) of this section is overturned by the Supreme Court of Appeals of West Virginia, the teacher's or certificate holder's certification shall be reinstated unless otherwise prohibited by law.

(f) A teacher, as defined by [§18-1-1\(g\)](#) of this code, and including any individual holding a certificate 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 certificate 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 certificate shall be revoked under this subsection.

(g) 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.

(h) 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.

(i) 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.

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

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

(l) 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



AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated [§18-5-27](#), relating to requiring each classroom teacher to comply with any request by a parent, custodian, or guardian to inspect any instructional materials and books in the classroom that are available for students to read; requiring, as part of the inspection and upon request of the parent, custodian, or guardian, that the classroom teacher demonstrate how the instructional material relates to the content standards adopted by the State Board of Education; requiring the classroom teacher to include any book or books students will be required to read on a class syllabus; requiring the syllabus to be made available to the parent, custodian, or guardian upon request; allowing any parent, custodian, or guardian to file a complaint with the county superintendent if the classroom teacher fails to comply with this new section, and then with the state superintendent if the complaint is not resolved by the county superintendent within seven days; requiring reports on the number of complaints filed; and defining terms.

Be it enacted by the Legislature of West Virginia:

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

[§18-5-27](#). Parental right to inspect instructional materials; listing books on syllabus; right to file complaint.

(a) Each classroom teacher shall comply with the request of any parent, custodian, or guardian to inspect instructional materials adopted by the county board pursuant to [§18-2A-10](#) of this code, supplementary instructional materials that were not adopted by the county board pursuant to [§18-2A-10](#) of this code, and books in the classroom that are available for students to read, subject to the following:

(1) Only the parent, custodian, or guardian of a child enrolled in the class may make a request pursuant to this section;

(2) The classroom teacher may require that the parent, custodian, or guardian schedule an appointment in order to inspect the instructional materials. If the classroom teacher requires an appointment pursuant to this subdivision, the teacher shall schedule the appointment within 10 business days of the request of the parent, custodian, or guardian; and

(3) As part of the inspection and upon request of the parent, custodian, or guardian, the classroom teacher shall demonstrate how the instructional material relates to the content standards adopted by the state board.

(b) For any class in which reading a book or books will be required, the classroom teacher shall include the book or books on a class syllabus. The classroom teacher shall make

the syllabus available to any parent, custodian, or guardian of a child enrolled in the class upon request.

(c) Any parent, custodian, or guardian may file a complaint with the county superintendent, on a form developed and provided by the county superintendent, if the classroom teacher fails to comply with any provision of this section. If the complaint is not resolved by the county superintendent within seven business days, the parent, custodian, or guardian may file a complaint with the state superintendent or his or her designee. The state superintendent shall make a form available for parents to file a complaint pursuant to this subsection.

(d) By September 1 of each year, each county superintendent shall report to the state superintendent the number of complaints filed with him or her the previous school year. The state superintendent, annually by October 1, shall report to the Legislative Oversight Commission on Education Accountability the number of complaints filed during the previous school year. The report shall include the number of complaints filed statewide and by county.

(e) For purposes of this section, "parent" means a parent who has some allocation of physical custody of the child or who has some share of joint decision-making authority for the child. For purposes of this section, "custodian" means a person who has some allocation of physical custody of the child or who has provided to the school written permission of a parent to have access to the information contemplated by this section. For purposes of this section, "guardian" means a person other than a parent or custodian who, pursuant to a court order, acts in loco parentis for the child.

## House Bill 3073: Relating to the West Virginia Emergency School Food Act

*Effective Date:* Passed March 12, 2022; in effect 90 days from passage

*Code Reference:* Adds: §18-5 D-6

*WVDE Contact:* Office of Federal Programs and Support

*Summary:* The bill permits counties to explore options to support an increase in supplemental food services. Counties may utilize an annual survey to develop an understanding of students' eating patterns during noninstructional days, may collect and compile information regarding the availability of food resources in the county during noninstructional or remote learning days, and may include planning for virtual students. A county may also include a plan to feed students, including virtual students, during noninstructional or remote days in its Crisis Response Plan.

*Enrolled Bill:* Enrolled House Bill 3073

BY DELEGATES WORRELL, LOVEJOY, ROWAN, ROHRBACH, ROWE,  
HANSEN, BROWN, YOUNG, WAMSLEY, HANNA AND KESSINGER

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-5D-6, relating to establishing the West Virginia Emergency School Food Act; providing findings; allowing an annual countywide survey of public school students to determine certain eating patterns and the availability of nutritious food to certain students when schools are closed; allowing the collection and compilation of information regarding the availability of food resources in the county on certain days including a plan that includes virtual school students and distribute the information to all students; allowing a county board to investigate and implement any program that may facilitate this initiative; allowing a county board to provide an annual county wide or a coordinated regional training opportunity for an entity that potentially qualifies as a summer feeding site; allowing a county board to provide its survey, a summary of its activities, and any findings or recommendations the county board has thereto, to the West Virginia Office of Child Nutrition; allowing a public school to include in its crisis response plan an assessment and plan to feed students during certain remote learning days and to public virtual school students; and allowing the West Virginia Office of Child Nutrition to monitor certain activities and share between counties information about innovative and successful program initiatives.

Be it enacted by the Legislature of West Virginia:

## ARTICLE 5D. WEST VIRGINIA FEED TO ACHIEVE ACT.

### §18-5D-6. West Virginia Emergency School Food Act.

(a) The Legislature finds and declares that:

(1) The Feed to Achieve initiative has successfully improved the availability and awareness for the need to provide nutritious food to state students and the Shared Table Initiative has facilitated a spirit of innovation and consciousness in our counties to find alternative ways to feed children in need;

(2) A periodic assessment of the needs for county students and availability of county resources would be helpful in determining what type of resources are available and needed to reduce food insecurity for students when they are not in school;

(3) That expansion of the Shared Table Initiative to include a program to encourage county schools to locate, participate in, and initiate programs to provide meals during summers and non-school-day times when some children may not have access to healthy meals could assist in reducing food insecurity for thousands of children in this state, and therefore, creating a mechanism that is not a directive from the Legislature upon county school boards, but rather an authorization to use school resources to find innovative ways, within the means of the county school systems, to assist the communities they serve, will provide a public benefit.

(b) Any county public school system may conduct an annual countywide survey of public-school students to determine their noninstructional or nontraditional remote learning and virtual school day eating patterns and the availability of nutritious food to them when schools are closed. The West Virginia Office of Child Nutrition may assist and facilitate with this survey to determine the needs for supplemental food services in every county.

(c) Any county board may collect and compile information regarding the availability of food resources in the county during noninstructional or nontraditional remote learning days as well as include a plan that includes virtual school students and distribute this information to all students. These resources may include any public, private, religious group, or charity that will provide food to children with food insecurity.

(d) Any county school board may investigate and implement any program that may facilitate this initiative including, but not limited to, entrepreneurship programs to foster innovation in providing assistance, utilizing participation in programs as a positive discipline option, and creating mentorship programs or other opportunities to participate in the feeding program.

(e) Any county school board may provide an annual countywide or a coordinated regional training opportunity, with assistance from the West Virginia Office of Child Nutrition,

that ensures that any entity that potentially qualifies as a summer feeding site according to the county survey, is afforded the opportunity to receive training on operation of a feeding site.

(f) Any county board may provide its survey, a summary of its activities, and any findings or recommendations the county school board has related thereto, to the West Virginia Office of Child Nutrition at a date determined each year by that office.

(g) Each West Virginia public school may include in its crisis response plan, created pursuant to [§18-9F-9](#), an assessment and plan to feed students during noninstructional or nontraditional remote learning days and public virtual school students that includes emergency situations that may require innovative ways to deliver food to student homes. Community support and resources should be utilized when creating this plan.

(h) The West Virginia Office of Child Nutrition may monitor these activities and share between counties information about innovative and successful program initiatives around the state to promote and facilitate the West Virginia Emergency School Food Act.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

# House Bill 4065: Allowing the Division of Natural Resources to teach hunter's safety courses in school

*Effective Date:* Passed March 9, 2022; in effect 90 days from passage

*Code Reference:* Amends: §18-2-8a

*WVDE Contact:* Office of Teaching and Learning

*Summary:* The bill requires the State Board of Education to establish and implement a program of instruction for hunter safety orientation. The program may be offered by counties either during the regularly scheduled day or, if resources and student interest allow, outside of school hours. The program shall be offered at least once every spring semester in every middle school in the state. County boards of education may elect to offer the course during the fall semester or in any high school; however, the offering is contingent on demand from students and the availability of a certified instructor. County boards of education are permitted to set the total number of students needed to offer a hunter safety orientation class. The program is voluntary for students.

*Enrolled Bill:* Enrolled Committee Substitute for House Bill 4065  
BY DELEGATES BOOTH, SMITH, PHILLIPS, BARNHART, WAMSLEY, WORRELL, HOWELL, DEAN, BRIDGES, SUMMERS, AND PAYNTER

AN ACT to amend and reenact [§18-2-8a](#) of the Code of West Virginia, 1931, as amended, relating to a hunter safety orientation program in public schools; requiring program to be established and implemented; establishing parameters for scheduling; directing the State Board of Education to promulgate a rule for program requirements and implementation; and providing minimum program requirements including parameters for when the program is required to be offered.

Be it enacted by the Legislature of West Virginia:

## ARTICLE 2. STATE BOARD OF EDUCATION.

[§18-2-8a](#). Hunter safety orientation program.

(a) The Legislature finds that:

(1) Firearms and hunting are important parts of West Virginia's history, culture, and economy;

(2) Unfortunately, the use of firearms while hunting or at any other time can be dangerous when the firearms are not handled in a careful and safe manner; and

(3) Therefore, the opportunity of participating in a hunter safety orientation program should be offered to students in certain grades.

(b) The State Board of Education shall establish and implement a program of instruction of hunter safety orientation with appropriate classes and hands-on training. The hunter safety orientation program may be scheduled for the regular hours of the school day, so as to work in conjunction with the regular course schedule, or may be scheduled outside of the regular hours of instruction for the school day, if the resources and student interest allow. To the extent possible, the hunter safety orientation program shall be conducted at school facilities and scheduled so that students attending the program class may also make use of regularly provided student transportation.

(c) The State Board of Education shall, with the advice of the state Superintendent of Schools and the Director of the Division of Natural Resources, promulgate a rule in accordance with the provisions of [§29A-3B-1](#) et seq. of this code for the implementation of a hunter safety orientation program for use in the public schools of this state. The rule shall, at a minimum, include the following provisions:

(1) The hunter safety orientation program shall be offered at least once every spring semester in every middle school of the state. At the option of each county board of education, the hunter safety orientation program may also be offered during the fall semester in any middle school in the state or may be offered in any high school in the state: Provided, That the demand to take the hunter safety orientation program is sufficient and that certified instructors are available. If there is an insufficient number of students at a middle school requesting or registering for the class in a given semester, the school shall not be required to conduct the class that semester. The county board of education shall have the discretion to establish the minimum number of students requesting the safety orientation program class in a semester necessary to provide the class that semester.

(2) The hunter safety orientation program is voluntary to students;

(3) The hunter safety orientation program shall include instruction relating to:

(A) The protection of lives and property against loss or damage as a result of the improper use of firearms; and

(B) The proper use of firearms in hunting, sport competition, and the care and safety of firearms in the home;

(4) The hunter safety orientation program may use materials prepared by any national nonprofit membership organization which has as one of its purposes the training of people in marksmanship and the safe handling and use of firearms; and

(5) The hunter safety orientation program shall be conducted by an instructor employed or certified by the Division of Natural Resources or who has other training necessary to conduct the program as determined by the state board.

(d) The Division of Natural Resources shall issue a certificate of training, required by [§20-2-30a](#) of this code, to any student who completes the hunter safety orientation program.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

## House Bill 4074: Require schools provide eating disorder and self-harm training for teacher and students

*Effective Date:* Passed February 11, 2022; in effect 90 days from passage

*Code Reference:* Adds: §18-2-40a

*WVDE Contact:* Office of Federal Programs and Support

*Summary:* The bill requires all county employees who may come in contact with a student, including full-time, part-time, and volunteers, to complete training to support recognizing self-harm behavior and eating disorders. The training must be completed every three years and can be done virtually or through self-review materials provided by the state board. Further, the bill requires that children in grades five-12 receive information regarding self-harm and eating disorder signs, prevention, and treatment at least once per academic year. The State Board of Education shall promulgate a rule establishing training requirements by September 1, 2022.

*Enrolled Bill:* Enrolled Committee Substitute for House Bill 4074

BY DELEGATES CLARK, HANNA, HOUSEHOLDER, THOMPSON, ESPINOSA, KEATON, HAYNES, MANDT, HARDY, CROUSE, AND PINSON

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section, designated §18-2-40a, all relating to providing education on and prevention of self-harm behavior and eating disorders in public schools; naming the section “Meghan’s Law”; requiring the state board to promulgate a legislative rule to establish training requirements for certain county board employees and volunteers on students’ self-harm behaviors and eating disorders; setting forth criteria for said rule; requiring middle school and high school students at least once per academic school year receive information regarding self-harm and eating disorders signs, prevention and treatment; specifying allowable sources of the information; and allowing the promulgation of state board rules to facilitate student education process and develop resources.

Be it enacted by the Legislature of West Virginia:

### ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-40a. Education on and prevention of self-harm behavior and eating disorders.

(a) This section shall be known and cited as “Meghan’s Law”.

(b) Training of public school employees and volunteers - The state board shall promulgate, by September 1, 2022, a legislative rule pursuant to [§29A-3B-1](#) et seq. of this code, and if necessary may promulgate an emergency rule in accordance with said article, to establish training requirements for all county board employees who might come into contact with a student, including full-time, part-time, and contract employees, as well as any volunteers of a school or school district that might come into contact with a student as such employees and volunteers may be further defined in the rule. The training shall be focused on developing skills, knowledge, and capabilities related to preventing, recognizing, and responding to students’ self-harm behaviors and eating disorders. The rule shall provide for at least the following:

(1) The required training shall include instruction and information to better equip schools and their employees, including how to:

(A) Recognize warning signs of self-harm behaviors and eating disorders that can lead to serious health issues and death;

(B) Support the healthy development of students by learning how to appropriately respond to or refer a student who exhibits warning signs of self-harm or eating disorders; and

(C) Provide consistent and standard protocols for responding to disclosures or discovery of self-harm or an eating disorder;

(2) The rule shall contain provisions to ensure that public school employees complete the required training every three years; and

(3) The rule may provide for this training to be administered virtually or through self-review of materials and resources provided by the state board.

(c) Education of middle school and high school students - Beginning September 1, 2022, children in grades 5-12 shall receive information regarding self-harm and eating disorder signs, prevention, and treatment.

(1) This education shall occur at least once per academic school year.

(2) The information may be obtained from the Bureau for Behavioral Health and Health Facilities, a licensed healthcare provider, or from commercially developed awareness and prevention training programs for the awareness, treatment resources, and prevention of self-harm behavior and eating disorders approved by the state board in consultation with the bureau to assure the accuracy and appropriateness of the information.

(3) To facilitate this process and develop resources, the state board may promulgate a legislative rule pursuant to [§29A-3B-1](#) et seq. of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

## House Bill 4110: Relating to staffing levels at multi-county vocational centers

<i>Effective Date:</i>	Passed March 11, 2022; in effect 90 days from passage
<i>Code Reference:</i>	Amends: §18-9-A-4
<i>WVDE Contact:</i>	Office of Technical and Adult Education and Office of School Operations and Finance
<i>Summary:</i>	The bill prevents county boards of education who serve as fiscal agents for a multi-county vocational center (MCVC) from being penalized for not meeting the minimum professional instructional ratio set forth in W. Va. Code §18-9A-4 if the penalty is caused by staffing levels of the MCVC.
<i>Enrolled Bill:</i>	Enrolled House Bill 4110 BY DELEGATES TONEY, HANSHAW (MR. SPEAKER), PAYNTER, DEAN, FERRELL, STATLER, COOPER, ELLINGTON AND BOOTH

AN ACT to amend and reenact [§18-9A-4](#) of the Code of West Virginia, 1931, as amended, relating to public school support, foundation allowance for professional educators; and providing that a county board of education serving as the fiscal agent for a multi-county vocational center may not be penalized if the county's failure to meet the applicable minimum ratio is due to the staffing levels at the multi-county vocational center.

Be it enacted by the Legislature of West Virginia:

### ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

[§18-9A-4](#). Foundation allowance for professional educators.

(a) The basic foundation allowance to the county for professional educators is the amount of money required to pay the state minimum salaries, in accordance with [§18A-4-1](#) et seq. of this code, subject to the following:

(1) In making this computation a county shall receive an allowance for state aid eligible professional educator positions to each one thousand students in net enrollment as follows:

(A) For each high-density county, seventy-two and three tenths professional educators per each one thousand students in net enrollment;

(B) For each medium-density county, seventy-two and forty-five one hundredths professional educators per each one thousand students in net enrollment;

(C) For each low-density county, seventy-two and six tenths professional educators per each one thousand students in net enrollment;

(D) For each sparse-density county, seventy-two and seventy-five one hundredths professional educators per each one thousand students in net enrollment; and

(E) For any professional educator positions, or fraction thereof, determined for a county pursuant to paragraphs (A), (B), (C) and (D) of this subdivision that exceed the number employed, the county's allowance for these positions shall be determined using the average state funded salary of professional educators for the county;

(2) The number of and the allowance for personnel paid in part by state and county funds shall be prorated; and

(3) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional educators for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.

(b) Each county board shall establish and maintain a minimum ratio of professional instructional personnel per state aid funded professional educators as follows:

(1) For each high-density county, the minimum ratio of professional instructional personnel per state aid funded professional educators, or the number employed, whichever is less, is ninety-one and twenty-nine one hundredths percent;

(2) For each medium-density county, the minimum ratio of professional instructional personnel per state aid funded professional educators, or the number employed, whichever is less, is ninety-one and twenty-four one hundredths percent;

(3) For each low-density county, the minimum ratio of professional instructional personnel per state aid funded professional educators, or the number employed, whichever is less, is ninety-one and eighteen one hundredths percent;

(4) For each sparse-density county, the minimum ratio of professional instructional personnel per state aid funded professional educators, or the number employed, whichever is less, is ninety-one and seven one hundredths percent; and

(5) Where two or more counties join together in support of a vocational or comprehensive high school or any other program or service, the professional instructional personnel for the school or program may be prorated among the participating counties on the basis of each one's enrollment therein and the personnel shall be considered within the above-stated limit.

(c) Any county board which does not establish and maintain the applicable minimum ratio required in subsection (b) of this section shall suffer a pro rata reduction in the allowance for professional educators under this section: Provided, That a county may not be

penalized if it has increases in enrollment during that school year: Provided, however, That a county board of education serving as the fiscal agent for a multi-county vocational center may not be penalized if the county's failure to meet the applicable minimum ratio is due to the staffing levels at the multi-county vocational center.

(d) A county may not increase the number of administrative personnel employed as either professional educators or pay grade "H" service personnel above the number which were employed, or for which positions were posted, on June 30, 1990, and, therefore, county boards shall whenever possible utilize classroom teachers for curriculum administrative positions through the use of modified or extended contracts.

## House Bill 4353: Relating to On Cycle Elections — Voter Turnout Act

*Effective Date:* Passed March 12, 2022; in effect 90 days from passage

*Code Reference:* Amends: §3-1-31, §11-8-16, §11-8-17

Repeals: §18-9-1, §18-9-2, §18-9-2a

*WVDE Contact:* Office of Legal Services

*Summary:* The bill repeals W. Va. Code §18-9-1, §18-9-2, and §18-9-2a. In doing so, the ability of levying bodies to hold special elections to provide a particular county board additional levies beyond the regular current levy was abolished. These elections for additional levies must now coincide with a regularly scheduled primary or general election. The bill allows county boards of education to enter an order authorizing a special election, for levies expiring after July 1, 2022 for the purpose of presenting to the voters the question of synchronizing the renewal of the levy with a future regularly scheduled primary or general election.

*Enrolled Bill:* Enrolled Committee Substitute for House Bill 4353  
BY DELEGATES SMITH, SUMMERS, MALLOW, ELLINGTON, STEELE, HARDY, PHILLIPS, SYPOLT, HOWELL, FAST, AND MARTIN

*\*Portions of House Bill 4353 were omitted as they did not relate directly to education. The included changes reflect those which have a direct impact on education.*

*The full text of House Bill 4353 can be found here:*

[https://www.wvlegislature.gov/Bill\\_Status/bills\\_text.cfm?billdoc=HB4353%20SUB%20ENR.htm&yr=2022&sesstype=RS&i=4353](https://www.wvlegislature.gov/Bill_Status/bills_text.cfm?billdoc=HB4353%20SUB%20ENR.htm&yr=2022&sesstype=RS&i=4353).

AN ACT to repeal [§18-9-1](#), [§18-9-2](#), and [§18-9-2a](#) of the Code of West Virginia, 1931, as amended; to amend and reenact [§3-1-30](#) and [§3-1-31](#) of said code; to amend and reenact [§3-2-19](#) of said code; to amend and reenact [§7-1-1a](#) of said code; to amend and reenact [§7-4-1](#) of said code; to amend and reenact [§7-14B-21](#) of said code; to amend and reenact [§7-17-12](#) of said code; to amend and reenact [§7-20-7](#) and [§7-20-12](#) of said code; to amend and reenact [§8-1-2](#) of said code; to amend and reenact [§8-2-5](#) of said code; to amend and reenact [§8-3-6](#) of said code; to amend and reenact [§8-4-7](#), [§8-4-8](#), and [§8-4-10](#) of said code; to amend and reenact [§8-5-5](#) of said code; to amend and reenact [§8A-7-](#)

[7](#), [§8A-7-8a](#), and [§8A-7-13](#) of said code; to amend and reenact [§11-8-16](#), and [§11-8-17](#) of said code; to amend and reenact [§13-1-7](#), and [§13-1-11](#) of said code; to amend and reenact [§15-2-13](#) of said code; to amend and reenact [§16-12-1](#) of said code; to amend and reenact [§20-5K-3](#) of said code; to amend and reenact [§22-15A-18](#) of said code; to amend and reenact [§22C-4A-2](#), and [§22C-4A-3](#) of said code; to amend and reenact [§22C-6-3](#) of said code; to amend and reenact [§47-20-26](#) of said code; to amend and reenact [§47-21-24](#) of said code; and to amend and reenact [§60-5-1](#), [§60-5-3](#), and [§60-5-4](#) of said code, all relating to synchronizing certain local elections with regular statewide primary or general elections; eliminating requirement that board of education serve as the governing body responsible for appointing election officials for certain special elections; authorizing poll clerks to work and be compensated for both full and half days worked during an election; authorizing local municipal elections to be held concurrently with a regularly scheduled statewide primary or general election; removing requirement to maintain separate municipal precinct books upon request of municipality; requiring question of reforming, altering, or modifying a county commission or council to be placed on primary or general election ballot; requiring question of civil service coverage for county correctional officers to be placed on primary or general election ballot; requiring certain questions regarding county fire service ordinances or fire fees to be placed on primary or general election ballot; requiring certain questions regarding county taxes and fees to be placed on primary or general election ballot; requiring certain questions regarding countywide service fees to be placed on primary or general election ballot; updating references to county commissions; requiring certain questions regarding incorporation of new municipality to be placed on primary or general election ballot; providing for proposed municipal charter to be placed on ballot concurrent with primary or general election; providing for division of incorporated territory into temporary precincts for purpose of holding election; providing for municipal election date established by charter to be concurrent with primary or general election; providing for municipal election date established by charter to be within 25 days of primary or general election; authorizing municipality without previously adopted municipal charter to establish municipal election day concurrent with primary or general election by ordinance and providing requirements therefor; providing for extension or reduction in terms of office; authorizing agreement between municipality and county regarding certain concurrent election matters; providing for shared administrative costs of municipality and county commission holding elections concurrently with primary or general election; requiring certain questions regarding zoning ordinances to be placed on primary or general election

ballot; requiring certain questions regarding additional levies to be placed on primary or general election ballot; authorizing one-time special levy elections on certain questions regarding levy renewal; requiring certain questions regarding levy renewal to be placed on primary or general election ballot; requiring certain questions regarding issuance of certain bonds to be placed on primary or general election ballot; clarifying limitations on members of State Police with respect to participation in elections; requiring certain questions regarding organization and establishment of proposed sanitary district to be placed on primary or general election ballot; repealing certain provisions regarding school levies and elections for same; repealing certain provisions regarding certain elections authorized for school purposes; requiring certain questions regarding commercial infectious medical waste management facility siting to be placed on primary or general election ballot; requiring certain questions regarding county comprehensive recycling programs for solid waste to be placed on primary or general election ballot; requiring certain questions regarding certain solid waste facilities to be placed on primary or general election ballot; requiring certain questions regarding certain hazardous waste facilities to be placed on primary or general election ballot; requiring certain questions regarding charitable bingo to be placed on primary or general election ballot; requiring certain questions regarding charitable raffles to be placed on primary or general election ballot; requiring certain questions regarding sale of alcoholic liquors within the county to be placed on primary or general election ballot; and authorizing certain ballot questions rejected at primary election to be again submitted to the voters at the next succeeding general election.

Be it enacted by the Legislature of West Virginia:

## CHAPTER 11. TAXATION.

### ARTICLE 8. LEVIES.

[§11-8-16](#). What order for election to increase levies to show; vote required; amount and continuation of additional levy; issuance of bonds.

A local levying body may provide for an election to increase the levies by entering on its record of proceedings an order setting forth:

- (1) The purpose for which additional funds are needed;
- (2) The amount for each purpose;
- (3) The total amount needed;
- (4) The separate and aggregate assessed valuation of each class of taxable property within its jurisdiction;

- (5) The proposed additional rate of levy in cents on each class of property;
- (6) The proposed number of years, not to exceed five, to which the additional levy applies;
- (7) The fact that the local levying body shall or shall not issue bonds, as provided by this section, upon approval of the proposed increased levy.

The local levying body shall submit to the voters within their political subdivision the question of the additional levy at either a regularly scheduled primary or general election in accordance with the requirements of [§3-1-31](#) of this code. If at least 60 percent of the voters cast their ballots in favor of the additional levy, the county commission or municipality may impose the additional levy. If at least a majority of voters cast their ballot in favor of the additional levy, the county board of education may impose the additional levy: Provided, That any additional levy adopted by the voters, including any additional levy adopted prior to the effective date of this section, shall be the actual number of cents per each \$100 of value set forth in the ballot provision, which number shall not exceed the maximum amounts prescribed in this section, regardless of the rate of regular levy then or currently in effect, unless such rate of additional special levy is reduced in accordance with the provisions of [§11-8-6g](#) of this code or otherwise changed in accordance with the applicable ballot provisions. For county commissions, this levy shall not exceed a rate greater than seven and fifteen hundredths cents for each \$100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties. For municipalities, this levy shall not exceed a rate greater than six and twenty-five hundredths cents for each \$100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties. For county boards of education, this levy shall not exceed a rate greater than twenty-two and ninety-five hundredths cents for each \$100 of value for Class I properties, and for Class II properties a rate greater than twice the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate for Class II properties.

Levies authorized by this section shall not continue for more than five years without resubmission to the voters.

Upon approval of an increased levy as provided by this section, a local levying body may immediately issue bonds in an amount not exceeding the amount of the increased levy plus the total interest thereon, but the term of the bonds shall not extend beyond the period of the increased levy.

Insofar as they might concern the issuance of bonds as provided in this section, the provisions of [§13-1-3](#) and [§13-1-4](#) of this code shall not apply.

In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

§11-8-17. Special levy elections; notices; conduct of election; supplies; canvass of returns; form of ballot.

(a) The local levying body shall publish a notice, calling the election, as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 et seq. of this code, and the publication area for such publication shall be the territory in which the election is held. Such notice shall be so published within 14 consecutive days next preceding the election.

(b) All the provisions of the law concerning general elections shall apply so far as they are practicable: Provided, That notwithstanding any provision of this code to the contrary, in the case of a levy which expires at a time after July 1, 2022, and which shall not be up for renewal at the next regularly scheduled primary or general election thereafter, the local levying body shall by ordinance choose to hold the election to renew that levy either at the next regularly scheduled primary or general election in accordance with §3-1-31 of this code: Provided, however, That notwithstanding any other provision of this code, a local levying body may enter an order authorizing a special election prior to the expiration of the existing or expiring levy for the purpose of presenting to the voters the question of synchronizing the renewal of an existing or expiring levy with a future regularly scheduled primary or general election, which question shall pass upon adoption by a majority of participating voters.

(c) The question on the special levy shall be placed on the ballot in accordance with the ballot placement order prescribed by §3-5-13a(a) of this code. The question heading shall be entitled: "Special Levy Election" and the question shall be significantly in the following form: "Special election to authorize additional levies for the year(s) \_\_\_\_\_ and for the purpose of \_\_\_\_\_ according to the order of the \_\_\_\_\_ entered on the \_\_\_\_\_ day of \_\_\_\_\_."

The additional levy shall be on Class I property \_\_\_\_\_ cents; on Class II property \_\_\_\_\_ cents; on Class III property (if any) \_\_\_\_\_ cents; on Class IV property (if any) \_\_\_\_\_ cents.

(d) In the event that a majority of the votes cast upon a question submitted pursuant to this section at any primary election be against the question, the question may again be submitted to the voters at the next succeeding general election.

## CHAPTER 18. EDUCATION.

### ARTICLE 9. SCHOOL FINANCES.

[§18-9-1](#). School levies; when levy election necessary; special election.

[Repealed.]

[§18-9-2](#). Elections under this chapter; procedure.

[Repealed.]

[§18-9-2a](#). Levies.

[Repealed.]

## House Bill 4380: Relating to transportation of athletic teams

*Effective Date:* Passed March 9, 2022; in effect from passage

*Code Reference:* Amends: §18-5-13

*WVDE Contact:* Office of School Operations and Finance

*Summary:* The bill amends current code to clarify how students can be transported to school-sponsored activities. A county may provide for service and professional employees to be certified to drive county board owned vehicles that have a seating capacity of fewer than ten passengers including the driver. These vehicles may be used to transport students to school-sponsored activities but may not be used to transport students between school and home. No more than two of these vehicles may be used for any school-sponsored activity. The bill also requires a bus to be used if transporting nineteen or more passengers for extracurricular activities. Nothing in the bill prohibits a parent, guardian, or other adult approved in writing by the parent or guardian from transporting students in a privately-owned vehicle.

*Enrolled Bill:* Enrolled Committee Substitute for House Bill 4380

BY DELEGATES BARRETT, ELLINGTON, STATLER, KESSINGER,  
REYNOLDS, DEAN, MAYNOR, CLARK, AND ESPINOSA

AN ACT to amend and reenact [§18-5-13](#) of the Code of West Virginia, 1931, as amended, relating to the transportation of students and passengers; allowing service employees to be certified to drive certain county board-owned vehicles that professional employees currently can be certified to drive to transport students for school-sponsored activities; requiring the vehicles to be insured; providing that 10 passenger limit of the vehicles includes the driver; increasing the number of these vehicles which may be used for any school-sponsored activity; allowing students to be transported to a school-sponsored activity in a county-owned or leased vehicle that does not meet school bus or public transit ratings if the seating capacity of the vehicle is less than 10 passengers including the driver; allowing a guardian or other adult approved in writing by the parent or guardian to transport students in a privately owned vehicle; removing limit on the number of students that can be transported in a privately owned vehicle by a parent,

guardian, or other adult approved in writing by the parent or guardian; and clarifying that busses shall be used to transport nineteen or more passengers.

Be it enacted by the Legislature of West Virginia:

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

##### §18-5-13. Authority of boards generally.

Subject to the provisions of this chapter and the rules of the state board, each county board may:

(a) Control and manage all of the schools and school interests for all school activities and upon all school property owned or leased by the county, including:

(1) Requiring schools to keep records regarding funds connected with the school or school interests, including all receipts and disbursements of all funds collected or received by:

(A) Any principal, teacher, student or other person in connection with the schools and school interests;

(B) Any program, activity or other endeavor of any nature operated or conducted by or in the name of the school; and

(C) Any organization or body directly connected with the school;

(2) Allowing schools to expend funds for student, parent, teacher and community recognition programs. A school may use only funds it generates through a fund-raising or donation-soliciting activity. Prior to commencing the activity, the school shall:

(A) Publicize the activity as intended for this purpose; and

(B) Designate for this purpose the funds generated;

(3) Auditing the records and conserving the funds, including securing surety bonds by expending board moneys. The funds described in this subsection are quasipublic funds, which means the moneys were received for the benefit of the school system as a result of curricular or noncurricular activities;

(b) Establish:

(1) Schools, from preschool through high school;

(2) Vocational schools; and

(3) Schools and programs for post-high school instruction, subject to approval of the state board;

(c) Close any school:

(1) Which is unnecessary and assign the students to other schools. The closing shall occur pursuant to official action of the county board. Except in emergency situations when the timing and manner of notification are subject to approval by the state superintendent, the county board shall notify the affected teachers and service personnel of the county board

action not later than the first Monday in April. The board shall provide notice in the same manner as set forth in section four of this article; or

(2) Pursuant to subsection (e) of this section;

(d) Consolidate schools;

(e) Close any elementary school whose average daily attendance falls below twenty students for two consecutive months. The county board may assign the students to other schools in the district or to schools in adjoining districts. If the teachers in the closed school are not transferred or reassigned to other schools, they shall receive one month's salary;

(f) Provide transportation according to rules established by the county board, as follows:

(1) To provide at public expense adequate means of transportation:

(A) For all children of school age who live more than two-miles distance from school by the nearest available road;

(B) For school children participating in county board-approved curricular and extracurricular activities;

(C) Across county lines for students transferred from one district to another by mutual agreement of both county boards. The agreement shall be recorded in the meeting minutes of each participating county board and is subject to subsection (h) of this section; and

(D) Within available revenues, for students within two-miles distance of the school; and

(2) To provide transportation for participants in projects operated, financed, sponsored or approved by the Bureau of Senior Services. This transportation shall be provided at no cost to the county board. All costs and expenses incident in any way to this transportation shall be borne by the bureau or the local or county affiliate of the bureau;

(3) Any school bus owned by the county board may be operated only by a bus operator regularly employed by the county board, except as provided in subsection (g) of this section;

(4) Notwithstanding any other provision of this code to the contrary and pursuant to rules established by the state board, the county board may provide for professional or service employees to be certified to drive county board-owned and insured vehicles that have a seating capacity of fewer than ten passengers including the driver. These employees may use the vehicles to transport students for school-sponsored activities, but may not use the vehicles to transport students between school and home. Not more than two of these vehicles may be used for any school-sponsored activity;

(5) Notwithstanding any other provision of this code to the contrary, students may be transported to a school-sponsored activity in a county-owned or leased vehicle that does not meet school bus or public transit ratings if the seating capacity of the vehicle is less than 10 passengers including the driver. This section does not prohibit a parent, guardian, or other

adult approved in writing by the parent or guardian from transporting students in a privately-owned vehicle;

(6) Students may be transported to a school-sponsored activity in a vehicle that has a seating capacity of sixteen or more passengers which is not owned and operated by the county board only as follows:

(A) The state board shall promulgate a rule to establish requirements for:

(i) Automobile insurance coverage;

(ii) Vehicle safety specifications;

(iii) School bus or public transit ratings; and

(iv) Driver training, certification and criminal history record check; and

(B) The vehicle owner shall provide to the county board proof that the vehicle and driver satisfy the requirements of the state board rule; and

(7) Buses shall be used to transport nineteen or more passengers for extracurricular activities as provided in this section only when the insurance coverage required by this section is in effect;

(g) Lease school buses pursuant to rules established by the county board.

(1) Leased buses may be operated only by bus operators regularly employed by the county board, except that these buses may be operated by bus operators regularly employed by another county board in this state if bus operators from the owning county are unavailable.

(2) The lessee shall bear all costs and expenses incurred by, or incidental to the use of, the bus.

(3) The county board may lease buses to:

(A) Public and private nonprofit organizations and private corporations to transport school-age children for camps or educational activities;

(B) Any college, university or officially recognized campus organization for transporting students, faculty and staff to and from the college or university. Only college and university students, faculty and staff may be transported pursuant to this paragraph. The lease shall include provisions for:

(i) Compensation for bus operators;

(ii) Consideration for insurance coverage, repairs and other costs of service; and

(iii) Any rules concerning student behavior;

(C) Public and private nonprofit organizations, including education employee organizations, for transportation associated with fairs, festivals and other educational and cultural events. The county board may charge fees in addition to those charges otherwise required by this subsection;

(h) To provide at public expense for insurance coverage against negligence of the drivers of school buses, trucks or other vehicles operated by the county board. Any contractual agreement for transportation of students shall require the vehicle owner to maintain insurance coverage against negligence in an amount specified by the county board;

(i) Provide for the full cost or any portion thereof for group plan insurance benefits not provided or available under the West Virginia Public Employees Insurance Act. Any of these benefits shall be provided:

(1) Solely from county board funds; and

(2) For all regular full-time employees of the county board;

(j) Employ teacher aides; to provide in-service training for the aides pursuant to rules established by the state board; and, prior to assignment, to provide a four-clock-hour program of training for a service person assigned duties as a teacher aide in an exceptional children program. The four-clock-hour program shall consist of training in areas specifically related to the education of exceptional children;

(k) Establish and operate a self-supporting dormitory for:

(1) Students attending a high school or participating in a post high school program; and

(2) Persons employed to teach in the high school or post high school program;

(l) At the county board's discretion, employ, contract with or otherwise engage legal counsel in lieu of using the services of the prosecuting attorney to advise, attend to, bring, prosecute or defend, as the case may be, any matters, actions, suits and proceedings in which the county board is interested;

(m) Provide appropriate uniforms for school service personnel;

(n) Provide at public expense for payment of traveling expenses incurred by any person invited to appear to be interviewed concerning possible employment by the county board, subject to rules established by the county board;

(o) Allow designated employees to use publicly provided carriage to travel from their residences to their workplace and return. The use:

(1) Is subject to the supervision of the county board; and

(2) Shall be directly connected with, required by and essential to the performance of the employee's duties and responsibilities;

(p) Provide at public expense adequate public liability insurance, including professional liability insurance, for county board employees;

(q) (1) Enter into cooperative agreements with one or more county boards or educational services cooperative to provide improvements to the instructional needs of each district. The cooperative agreements may be used to employ specialists in a field of academic study or for support functions or services for the field.

(2) Enter into cooperative agreements with one or more county boards to facilitate coordination and cooperation in areas of service to reduce administrative and/or operational costs, including the consolidation of administrative, coordinating, and other county level functions into shared functions to promote the efficient administration and operation of the public school systems including, but not limited to:

- (A) Purchasing;
- (B) Operation of specialized programs for exceptional children;
- (C) Employment of any school personnel as defined in section one, article one, chapter eighteen-a of this code;
- (D) Professional development;
- (E) Technology including, but not limited to WVEIS; and
- (F) Billing for school-based Medicaid services in schools throughout the state.

Each such cooperative agreement shall be in writing and agreed to by each county board participating in the cooperative agreement. Each cooperative agreement that is an employment agreement may be entered into on a case-by-case basis. Notwithstanding the geographic quadrants as provided in section thirteen-b of this article, school systems may enter into cooperative agreements with any school system in the state.

(3) Enter into a cooperative agreement with other county boards to establish educational services cooperatives as provided in section thirteen-c of this article.

(r) Provide information about vocational and higher education opportunities to exceptional students. The county board shall provide in writing to the students and their parents or guardians information relating to programs of vocational education and to programs available at state institutions of higher education. The information may include sources of available funding, including grants, mentorships and loans for students who wish to attend classes at institutions of higher education;

(s) Enter into agreements with other county boards for the transfer and receipt of any funds determined to be fair when students are permitted or required to attend school in a district other than the district of their residence. These agreements are subject to the approval of the state board; and

(t) Enter into job-sharing arrangements, as defined in section one, article one, chapter eighteen-a of this code, with its employees, subject to the following provisions:

(1) A job-sharing arrangement shall meet all the requirements relating to posting, qualifications and seniority, as provided in article four, chapter eighteen-a of this code;

(2) Notwithstanding any contrary provision of this code or legislative rule and specifically article sixteen, chapter five of this code, a county board that enters into a job-sharing arrangement:

(A) Shall provide insurance coverage to the one employee mutually agreed upon by the employees participating in that arrangement; and

(B) May not provide insurance benefits of any type to more than one of the job-sharing employees, including any group plan available under the State Public Employees Insurance Act;

(3) Each job-sharing agreement shall be in writing on a form prescribed and furnished by the county board. The agreement shall designate specifically one employee only who is entitled to the insurance coverage. Any employee who is not designated is not eligible for state public employees insurance coverage regardless of the number of hours he or she works;

(4) All employees involved in the job-sharing agreement shall meet the requirements of subdivision (3), section two, article sixteen, chapter five of this code; and

(5) When entering into a job-sharing agreement, the county board and the participating employees shall consider issues such as retirement benefits, termination of the job-sharing agreement and any other issue the parties consider appropriate. Any provision in the agreement relating to retirement benefits may not cause any cost to be incurred by the retirement system that is more than the cost that would be incurred if a single employee were filling the position; and

(u) Under rules it establishes for each child, expend an amount not to exceed the proportion of all school funds of the district that each child would be entitled to receive if all the funds were distributed equally among all the children of school age in the district upon a per capita basis.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

## House Bill 4420: To modify definitions of school bus operators

<i>Effective Date:</i>	Passed March 8, 2022; in effect 90 days from passage
<i>Code Reference:</i>	Amends: §18A-2-4
<i>WVDE Contact:</i>	Office of School Operations and Finance
<i>Summary:</i>	The bill clarifies that school bus operator candidates who are diagnosed with diabetes mellitus are eligible for employment provided that they meet all requirements of the Federal Motor Carrier Safety Administration, WV Division of Motor Vehicles, and West Virginia Board of Education rules.
<i>Enrolled Bill:</i>	Enrolled Committee Substitute for House Bill 4420 BY DELEGATES TONEY, ROHRBACH, ROWAN, PAYNTER, AND DEAN

AN ACT to amend and reenact [§18A-2-4](#) of the Code of West Virginia, 1931, as amended, relating to eligibility requirements of school bus operators diagnosed with diabetes mellitus requiring insulin; providing that the eligibility requirements are also applicable to a school bus operator candidate; clarifying that the operator must also be issued a school bus endorsement for his or her commercial driver's license; and specifying that the school bus operator must remain in compliance with the eligibility stipulations and grounds as per applicable state and federal rules.

Be it enacted by the Legislature of West Virginia:

### ARTICLE 2. SCHOOL PERSONNEL.

[§18A-2-4](#). Commercial driver's license for school personnel; intrastate waiver for bus operators diagnosed with diabetes mellitus requiring insulin; reimbursement of electrician's and commercial driver's license when required, and educational sign language interpreter certification.

(a) If a commercial driver's license is required as a condition of employment for any school employee or qualified applicant who becomes an employee by a county board the cost is paid in full by the county board.

A county board may not require any employee or applicant who becomes an employee of the board to pay the cost of acquiring a commercial driver's license as a condition of employment.

(b) The Division of Motor Vehicles shall accept the West Virginia Department of Education physical and psychomotor test result forms in lieu of the Division of Motor Vehicles vision report form.

(c) A school bus operator who is currently employed by a county board or a school bus operator candidate who is otherwise subject to state board rules governing school bus operators and who is diagnosed with diabetes mellitus requiring insulin is not ineligible for employment as a school bus operator because of the diagnosis if the operator is issued a passenger and school bus endorsement for his or her commercial driver's license through the West Virginia Division of Motor Vehicles, subject to the following:

(1) A copy of the information required to be submitted to the Division of Motor Vehicles and proof of passenger and school bus endorsement is submitted to his or her employer; and

(2) The operator remains in compliance with the stipulations of and grounds for eligibility per Federal Motor Carrier Safety Administration, Division of Motor Vehicles, and state board rules.

(d) If a county board requires of any employee who is employed as an electrician any license renewal when the employee is exempt from renewing the license pursuant to [§29-3B-3](#) of this code, the cost of the license renewal is paid in full by the county board.

(e) The cost of certification renewal and satisfying the requirements of the West Virginia Registry of Interpreters is paid in full by the employer for any service person who is:

(1) Employed as an educational sign language interpreter I or II and is required to complete any testing, training or continuing education in order to renew or maintain certification at that level;

(2) Employed as an educational sign language interpreter I and is required to complete any testing, training or continuing education to advance to an educational sign language interpreter II; or

(3) Employed as a sign support specialist and is required to complete any testing, training or continuing education in order to advance to an educational sign language interpreter I or II.

(f) For any service person required to hold certification as a condition of employment, any time devoted to acquiring or maintaining the certification, including instructional time and training, constitutes hours of continuing education for purposes of meeting the annual continuing education requirements in state board policy.

(g) Compliance with or failure to comply by a health care provider licensed and authorized pursuant to chapter thirty of this code, with the reporting requirements of the Division of Motor Vehicles regarding the provisions of subsection (c) of this section does not

constitute negligence, nor may compliance or noncompliance with the requirements of this section be admissible as evidence of negligence in any civil or criminal action.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

## House Bill 4466: Relating to School Building Authority's review of school bond applications

<i>Effective Date:</i>	Passed March 11, 2022; in effect 90 days from passage
<i>Code Reference:</i>	Amends: §18-9D-15
<i>WVDE Contact:</i>	Office of School Operations and Finance
<i>Summary:</i>	The bill requires a county board of education to have prior consultation with the executive director of the West Virginia School Building Authority (SBA) and initial approval from the SBA board when it plans to include SBA funding as part of a capital improvement bond levy proposed to the voters of a county. This planning process does not obligate the SBA board to fund the project, but establishes a system for early communication among the staff and boards of the county and the SBA. Grants of financial assistance are contingent upon passage of the bond levy and final approval by the SBA board. The bill also provides a county board with four years to finalize the project funding, with the SBA having the authority to grant an extension in extenuating circumstances.
<i>Enrolled Bill:</i>	Enrolled Committee Substitute for House Bill 4466 BY DELEGATES BARNHART, MARTIN, FERRELL, G. WARD, WAMSLEY, STATLER, J. KELLY, ANDERSON, ELLINGTON, SMITH, AND CLARK

AN ACT to amend and reenact [§18-9D-15](#) of the Code of West Virginia, 1931, as amended, relating to seeking contribution of School Building Authority funds to support a local capital improvement bond finance plan; providing for application to the School Building Authority; requiring initial approval prior to conducting bond levy election; requiring conditional language in materials referencing School Building Authority; limiting use of financial assistance provided; establishing time limit for project completion; allowing extension to the time limit in extenuating circumstances; exempting new provisions from applying to any proposed capital improvement bond levy scheduled to be submitted to the voters on or before December 31, 2022; and deleting obsolete provisions.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 9D. SCHOOL BUILDING AUTHORITY.**

§18-9D-15. Legislative intent; allocation of money among categories of projects; lease-purchase options; limitation on time period for expenditure of project allocation; county maintenance budget requirements; project disbursements over period of years; preference for multicounty arrangements; submission of project designs; set-aside to encourage local participation; local bond levies.

(a) It is the intent of the Legislature to empower the School Building Authority to facilitate and provide state funds and to administer all federal funds provided for the construction and major improvement of school facilities so as to meet the educational needs of the people of this state in an efficient and economical manner. The authority shall make funding determinations in accordance with the provisions of this article and shall assess existing school facilities and each facility's school major improvement plan in relation to the needs of the individual student, the general school population, the communities served by the facilities and facility needs statewide.

(b) An amount that is not more than 10 percent of the sum of moneys that are determined by the authority to be available for distribution during the then current fiscal year from:

(1) The issuance of revenue bonds for which moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

(2) Moneys paid into the School Construction Fund pursuant to §18-9D-6 of this code; and

(3) Any other moneys received by the authority, except moneys paid into the School Major Improvement Fund pursuant to §18-9D-6 of this code and moneys deposited into the School Access Safety Fund pursuant to §18-9F-5 of this code, may be allocated and may be expended by the authority for projects authorized in accordance with §18-9D-16 of this code that service the educational community statewide or, upon application by the state board, for educational programs that are under the jurisdiction of the state board. In addition, upon application by the state board or the administrative council of an area vocational educational center established pursuant to §18-2B-1 et seq. of this code, the authority may allocate and expend under this subsection moneys for school major improvement projects authorized in accordance with §18-9D-16 of this code proposed by the state board or an administrative council for school facilities under the direct supervision of the state board or an administrative council, respectively. Furthermore, upon application by a county board, the authority may allocate and expend under this subsection moneys for school major improvement projects for vocational programs at comprehensive high schools, vocational programs at comprehensive middle schools, vocational schools cooperating with community

and technical college programs, or any combination of the three. Each county board is encouraged to cooperate with community and technical colleges in the use of existing or development of new vocational technical facilities. All projects eligible for funds from this subsection shall be submitted directly to the authority which shall be solely responsible for the project's evaluation, subject to the following:

(A) Any project funded by the authority shall be in accordance with a comprehensive educational facility plan which must be approved by the state board and the authority. The authority may not expend any moneys for a school major improvement project proposed by the state board or the administrative council of an area vocational educational center unless the state board or an administrative council has submitted a 10-year facilities plan; and

(B) The authority shall, before allocating any moneys to the state board or the administrative council of an area vocational educational center for a school improvement project, consider all other funding sources available for the project.

(c) An amount that is not more than two percent of the moneys that are determined by the authority to be available for distribution during the current fiscal year from:

(1) The issuance of revenue bonds for which moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

(2) Moneys paid into the School Construction Fund pursuant to [§18-9D-6](#) of this code; and

(3) Any other moneys received by the authority, except moneys deposited into the School Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to [§18-9F-5](#) of this code, shall be set aside by the authority as an emergency fund to be distributed in accordance with the guidelines adopted by the authority.

(d) An amount that is not more than five percent of the moneys that are determined by the authority to be available for distribution during the current fiscal year from:

(1) The issuance of revenue bonds for which moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

(2) Moneys paid into the School Construction Fund pursuant to [§18-9D-6](#) of this code; and

(3) Any other moneys received by the authority, except moneys deposited into the School Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to [§18-9F-5](#) of this code, may be reserved by the authority for multiuse vocational-technical education facilities projects that may include post-secondary programs as a first priority use. The authority may allocate and expend under this subsection moneys for any purposes authorized in this article on multiuse vocational-technical education facilities projects, including equipment and equipment updates at the facilities, authorized in

accordance with [§18-9D-16](#) of this code. If the projects approved under this subsection do not require the full amount of moneys reserved, moneys above the amount required may be allocated and expended in accordance with other provisions of this article. A county board, the state board, an administrative council, or the joint administrative board of a vocational-technical education facility which includes post-secondary programs may propose projects for facilities or equipment, or both, which are under the direct supervision of the respective body: Provided, That the authority shall, before allocating any moneys for a project under this subsection, consider all other funding sources available for the project.

(e) The remaining moneys determined by the authority to be available for distribution during the then current fiscal year from:

(1) The issuance of revenue bonds for which moneys in the School Building Debt Service Fund or the Excess Lottery School Building Debt Service Fund are pledged as security;

(2) Moneys paid into the School Construction Fund pursuant to [§18-9D-6](#) of this code; and

(3) Any other moneys received by the authority, except moneys deposited into the School Major Improvement Fund and moneys deposited into the School Access Safety Fund pursuant to [§18-9F-5](#) of this code, shall be allocated and expended on the basis of need and efficient use of resources for projects funded in accordance with [§18-9D-16](#) of this code.

(f) If a county board proposes to finance a project that is authorized in accordance with [§18-9D-16](#) of this code through a lease with an option to purchase leased premises upon the expiration of the total lease period pursuant to an investment contract, the authority may not allocate moneys to the county board in connection with the project: Provided, That the authority may transfer moneys to the state board which, with the authority, shall lend the amount transferred to the county board to be used only for a one-time payment due at the beginning of the lease term, made for the purpose of reducing annual lease payments under the investment contract, subject to the following conditions:

(1) The loan shall be secured in the manner required by the authority, in consultation with the state board, and shall be repaid in a period and bear interest at a rate as determined by the state board and the authority and shall have any terms and conditions that are required by the authority, all of which shall be set forth in a loan agreement among the authority, the state board and the county board;

(2) The loan agreement shall provide for the state board and the authority to defer the payment of principal and interest upon any loan made to the county board during the term of the investment contract, and annual renewals of the investment contract, among the state board, the authority, the county board and a lessor, subject to the following:

(A) If county board which has received a loan from the authority for a one-time payment at the beginning of the lease term does not renew the lease annually until performance of the investment contract in its entirety is completed, the county board is in default and the principal of the loan, together with all unpaid interest accrued to the date of the default, shall, at the option of the authority, in consultation with the state board, become due and payable immediately or subject to renegotiation among the state board, the authority and the county board;

(B) If a county board renews the lease annually through the performance of the investment contract in its entirety, the county board shall exercise its option to purchase the leased premises;

(C) The failure of the county board to make a scheduled payment pursuant to the investment contract constitutes an event of default under the loan agreement;

(D) Upon a default by a county board, the principal of the loan, together with all unpaid interest accrued to the date of the default, shall, at the option of the authority, in consultation with the state board, become due and payable immediately or subject to renegotiation among the state board, the authority and the county board; and

(E) If the loan becomes due and payable immediately, the authority, in consultation with the state board, shall use all means available under the loan agreement and law to collect the outstanding principal balance of the loan, together with all unpaid interest accrued to the date of payment of the outstanding principal balance; and

(3) The loan agreement shall provide for the state board and the authority to forgive all principal and interest of the loan upon the county board purchasing the leased premises pursuant to the investment contract and performance of the investment contract in its entirety.

(g) To encourage county boards to proceed promptly with facilities planning and to prepare for the expenditure of any state moneys derived from the sources described in this section, any county board or other entity to whom moneys are allocated by the authority that fails to expend the money within three years of the allocation shall forfeit the allocation and thereafter is ineligible for further allocations pursuant to this section until it is ready to expend funds in accordance with an approved facilities plan: Provided, That the authority may authorize an extension beyond the three-year forfeiture period not to exceed an additional two years. Any amount forfeited shall be added to the total funds available in the School Construction Fund of the authority for future allocation and distribution. Funds may not be distributed for any project under this article unless the responsible entity has a facilities plan approved by the state board and the School Building Authority and is prepared to commence expenditure of the funds during the fiscal year in which the moneys are distributed.

(h) The remaining moneys that are determined by the authority to be available for distribution during the then current fiscal year from moneys paid into the School Major Improvement Fund pursuant to [§18-9D-6](#) of this code shall be allocated and distributed on the basis of need and efficient use of resources for projects authorized in accordance with [§18-9D-16](#) of this code, subject to the following:

(1) The moneys may not be distributed for any project under this section unless the responsible entity has a facilities plan approved by the state board and the authority and is to commence expenditures of the funds during the fiscal year in which the moneys are distributed;

(2) Any moneys allocated to a project and not distributed for that project shall be deposited in an account to the credit of the project, the principal amount to remain to the credit of and available to the project for a period of two years; and

(3) Any moneys which are unexpended after a two-year period shall be redistributed on the basis of need from the School Major Improvement Fund in that fiscal year.

(i) Local matching funds may not be required under the provisions of this section. However, this article does not negate the responsibilities of the county boards to maintain school facilities. Therefore, as a prerequisite for eligibility to receive an allocation of school major improvement funds from the authority, a county board shall provide annual school facility maintenance expenditure data to the authority which shall be jointly reviewed by the authority and the state Department of Education Office of School Facilities and Transportation to assist the authority in its determination of the most meritorious projects to be funded through the School Major Improvement Fund. The state board shall promulgate rules relating to county boards' school facility maintenance budgets, including items which shall be included in these budgets.

(j)(1) Any county board may use moneys provided by the authority under this article in conjunction with local funds derived from bonding, special levy, or other sources.

(2) A county board may apply to the authority for funding under this article as a part of the county's bond finance plan for a proposed capital improvement bond levy to be submitted to the voters of that county. The county board shall first submit a request for the funding to the executive director of the authority prior to the county board's proposed bond levy election. After initial consultation with the executive director, the county board shall prepare a written outline of the bond finance plan, the capital improvements to be made with levy funds, and the amount and timing of funding requested from the authority. The county board shall then present its request at a meeting of the members of the authority.

Grants of financial assistance that have received initial approval under this section are contingent upon passage of the bond levy and final approval by the School Building Authority

of the county's bond finance plan. Any materials produced by the county or its county board that refer to the authority shall include a statement of this contingency and terms. Notwithstanding any other provision of this subsection, financial assistance to be provided by the authority may only be used to pay costs of capital improvements and may not be pledged as security for or repayment of any bonds issued by the county board.

Upon passage of bond levy, the county board shall have four years to finalize the project: Provided, That the authority may grant an extension to the four years in extenuating circumstances.

The provisions of this subsection do not apply to any proposed capital improvement bond levy that is scheduled to be submitted to the voters on or before December 31, 2022.

(3) Distribution to a county board, or to the state board or the administrative council of an area vocational educational center pursuant to subsection (b) of this section, may be in a lump sum or in accordance with a schedule of payments adopted by the authority pursuant to guidelines adopted by the authority.

(k) Funds in the School Construction Fund shall first be transferred and expended as follows:

(1) Any funds deposited in the School Construction Fund shall be expended first in accordance with an appropriation by the Legislature.

(2) To the extent that funds are available in the School Construction Fund in excess of that amount appropriated in any fiscal year, the excess funds may be expended for projects authorized in accordance with [§18-9D-16](#) of this code.

(l) It is the intent of the Legislature to encourage county boards to explore and consider arrangements with other counties that may facilitate the highest and best use of all available funds, which may result in improved transportation arrangements for students, or which otherwise may create efficiencies for county boards and the students. In order to address the intent of the Legislature contained in this subsection, the authority shall grant preference to those projects which involve multicounty arrangements as the authority shall determine reasonable and proper.

(m) County boards shall submit all designs for construction of new school buildings to the School Building Authority for review and approval prior to preparation of final bid documents. A vendor who has been debarred pursuant to [§5A-3-33b](#) through [§5A-3-33f](#) of this code may not bid on or be awarded a contract under this section.

(n) The authority may elect to disburse funds for approved construction projects over a period of more than one year subject to the following:

(1) The authority may not approve the funding of a school construction project over a period of more than three years;

(2) The authority may not approve the use of more than 50 percent of the revenue available for distribution in any given fiscal year for projects that are to be funded over a period of more than one year; and

(3) In order to encourage local participation in funding school construction projects, the authority may set aside limited funding, not to exceed \$500,000, in reserve for one additional year to provide a county the opportunity to complete financial planning for a project prior to the allocation of construction funds. Any funding shall be on a reserve basis and converted to a part of the construction grant only after all project budget funds have been secured and all county commitments have been fulfilled. Failure of the county to solidify the project budget and meet its obligations to the state within 18 months of the date the funding is set aside by the authority will result in expiration of the reserve and the funds shall be reallocated by the authority in the succeeding funding cycle.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

## House Bill 4489: Require counties to post open positions on statewide job bank

<i>Effective Date:</i>	Passed March 8, 2022; in effect 90 days from passage
<i>Code Reference:</i>	Amends: §18A-2-7a
<i>WVDE Contact:</i>	Office of Legal Services and Human Resources
<i>Summary:</i>	The bill requires the West Virginia Board of Education to establish and maintain a statewide job bank for both service and professional employees. Each county board of education shall be responsible for providing the required information for the job bank.
<i>Enrolled Bill:</i>	Enrolled Committee Substitute for House Bill 4489 BY DELEGATES LINVILLE, HORNBUCKLE, AND LOVEJOY

AN ACT to amend and reenact [§18A-2-7a](#) of the Code of West Virginia, 1931, as amended, relating to including service and extracurricular personnel positions in the statewide job bank required to be established by the State Board of Education; and requiring county boards of education report certain information to the statewide job bank.

Be it enacted by the Legislature of West Virginia:

### ARTICLE 2. SCHOOL PERSONNEL.

#### [§18A-2-7a](#). Statewide job bank.

(a) The state board shall establish and maintain a statewide job bank to assist the recruitment and reemployment of experienced professional, service and extracurricular personnel. The job bank shall consist of the following for each county:

(1) A list of the names, qualifications, and contact information of all professional, service, and extracurricular personnel who have been terminated because of a reduction in force, except personnel who have requested in writing that they not be listed in the job bank;

(2) A list of professional, service and extracurricular positions for which the county is seeking applicants; and

(3) A total compensation statement for each listed position.

(b) Each county board of education shall provide the information listed in subsection (a) of this section to the state board and the information shall be included in the statewide job bank in a prompt manner.

(c) The job bank shall be accessible electronically to each county and to individuals on a read only basis, except that each county shall have the capability of editing information for the county and shall be responsible for maintaining current information on the county lists.

(d) The following terms are defined as follows:

(1) "Direct compensation" means base salary and incentives that are provided regularly and consistently.

(2) "Indirect compensation" means any noncash benefit provided to an employee, including, but not limited to:

- (A) Health insurance;
- (B) Dental insurance;
- (C) Vision insurance;
- (D) Life insurance;
- (E) Disability income protection;
- (F) Retirement benefits;
- (G) Employer student loan contributions or other employee assistance programs;
- (H) Educational benefits;
- (I) Childcare;
- (J) Relocation benefits; and
- (K) Vacation leave, sick leave, and any other form of paid time-off.

(3) "Total compensation statement" means a list of direct and indirect compensation provided or offered for a position, including an itemized list of the types of compensation provided or offered and a cumulative total of the value of all compensation provided or offered.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

## House Bill 4535: Repeal section relating to school attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle

<i>Effective Date:</i>	Passed March 11, 2022; in effect 90 days from passage
<i>Code Reference:</i>	Amends: <a href="#">§17B-2-3A</a> , §17B-3-6, §18-8-11
<i>WVDE Contact:</i>	Office of Support and Accountability
<i>Summary:</i>	This bill repeals certain provisions pertaining to driver's license eligibility tied to school enrollment. The bill now specifies that when a student aged 15 to 17 withdraws from school or does not maintain satisfactory academic progress, the attendance director or chief administrator shall notify the Division of Motor Vehicles within five days. These students will be eligible for a driver's license, but the license will be restricted.
<i>Enrolled Bill:</i>	Enrolled Committee Substitute for House Bill 4535 BY DELEGATE SUMMERS, FOSTER, PAYNTER, THOMPSON, HONAKER AND CROUSE

AN ACT to amend and reenact [§17B-2-3a](#) of the Code of West Virginia, 1931, as amended; to amend and reenact [§17B-3-6](#) of said code; and to amend and reenact [§18-8-11](#) of said code, all relating to motor vehicle licensing; modifying requirements for a graduated driver's license; granting Division of Motor Vehicles authority to restrict and revoke a driver's license for certain reasons; allowing any person whose driver's license is suspended, restricted, or revoked after hearing with the Commissioner of the Division of Motor Vehicles to seek judicial review; removing requirement to deny a license or instruction permit to any person under 18 who does not meet one of certain academic related requirements; removing provisions pertaining to the provision of a driver's eligibility certificate; and replacing suspension of license with requiring restriction of license to driving for work or medical purposes or educational or religious pursuits whenever a student at least 15 but less than 17 years of age withdraws from school or fails to maintain satisfactory academic progress.

Be it enacted by the Legislature of West Virginia:

## CHAPTER 17B. MOTOR VEHICLE DRIVER'S LICENSE.

### ARTICLE 2. ISSUANCE OF LICENSE, EXPIRATION, AND RENEWAL.

[§17B-2-3a](#). Graduated driver's license.

(a) A person under the age of 18 may not operate a motor vehicle unless he or she has obtained a graduated driver's license in accordance with the three-level graduated driver's license system described in the following provisions.

(b) Any person under the age of 21, regardless of class or level of licensure, who operates a motor vehicle with any measurable alcohol in his or her system is subject to [§17C-5-2](#) and [§17C-5A-2](#) of this code. Any person under the age of 17, regardless of class or licensure level, is subject to the mandatory school attendance and satisfactory academic progress provisions of [§18-8-11](#) of this code: Provided, That a person may otherwise be eligible for a restricted license or instruction permit pursuant to [§18-8-11](#).

(c) Level one instruction permit. - An applicant who is 15 years or older meeting all other requirements prescribed in this code may be issued a level one instruction permit.

(1) Eligibility. - The division may not issue a level one instruction permit unless the applicant:

(A) Presents a completed application, as prescribed by [§17B-2-6](#) of this code, which is accompanied by a writing, duly acknowledged, consenting to the issuance of the graduated driver's license, and executed by a parent or guardian entitled to custody of the applicant;

(B) Presents a certified copy of a birth certificate issued by a state or other governmental entity responsible for vital records unexpired, or a valid passport issued by the United States government evidencing that the applicant meets the minimum age requirement and is of verifiable identity;

(C) Passes the vision and written knowledge examination and completes the driving under the influence awareness program, as prescribed in [§17B-2-7](#) of this code; and

(D) Pays a fee of \$7.50, which permits the applicant one attempt at the written knowledge test. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) Terms and conditions of instruction permit. - A level one instruction permit issued under this section is valid until 30 days after the date the applicant attains the age of 18 and is not renewable: Provided, That for an applicant who is an active member of any branch of the United States military, a level one instruction permit issued under the provisions of this section is valid until 180 days after the date the applicant attains the age of 18. However, any permit holder who allows his or her permit to expire prior to successfully passing the road

skills portion of the driver examination, and who has not committed any offense which requires the suspension, revocation, or cancellation of the instruction permit, may reapply for a new instruction permit under [§17B-2-6](#) of this code. The division shall immediately revoke the permit upon receipt of a second conviction for a moving violation of traffic regulations and laws of the road or violation of the terms and conditions of a level one instruction permit, which convictions have become final unless a greater penalty is required by this section or any other provision of this code. Any person whose instruction permit has been revoked is disqualified from retesting for a period of 90 days. However, after the expiration of 90 days, the person may retest if otherwise eligible. A holder of a level one instruction permit who is under the age of 18 years may not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level one instruction permit may only operate a motor vehicle under the following conditions:

(A) The permit holder is under the direct supervision of a licensed driver, 21 years of age or older, or a driver's education or driving school instructor who is acting in an official capacity as an instructor, who is fully alert and unimpaired, and the only other occupant of the front seat. The vehicle may be operated with no more than two additional passengers, unless the passengers are family members;

(B) The permit holder is operating the vehicle between the hours of 5 a.m. and 10 p.m.;

(C) All occupants use safety belts in accordance with [§17C-15-49](#) of this code;

(D) The permit holder is operating the vehicle without any measurable blood alcohol content, in accordance with [§17C-5-2\(h\)](#) of this code; and

(E) The permit holder maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with [§18-8-11](#) of this code: Provided, That a person may otherwise be eligible for a restricted license or instruction permit pursuant to [§18-8-11](#).

(d) Level two intermediate driver's license. - An applicant 16 years of age or older, meeting all other requirements of this code, may be issued a level two intermediate driver's license.

(1) Eligibility. - The division may not issue a level two intermediate driver's license unless the applicant:

(A) Presents a completed application as prescribed in [§17B-2-6](#) of this code;

(B) Has held the level one instruction permit conviction-free for the 180 days immediately preceding the date of application for a level two intermediate license;

(C) Has completed either a driver's education course approved by the State Department of Education or 50 hours of behind-the-wheel driving experience, including a minimum of 10 hours of night time driving, certified by a parent or legal guardian or other responsible adult over the age of 21 as indicated on the form prescribed by the division: Provided, That nothing in this paragraph may be construed to require any school or any county board of education to provide any particular number of driver's education courses or to provide driver's education training to any student;

(D) Passes the road skills examination as prescribed by [§17B-2-7](#) of this code; and

(F) Pays a fee of \$7.50 for one attempt. The Division of Motor Vehicles may adjust this fee every five years on September 1, based on the U.S. Department of Labor, Bureau of Labor Statistics most current Consumer Price Index: Provided, That an increase in the fee may not exceed 10 percent of the total fee amount in a single year.

(2) Terms and conditions of a level two intermediate driver's license. - A level two intermediate driver's license issued under the provisions of this section expires 30 days after the applicant attains the age of 18, or until the licensee qualifies for a level three full Class E license, whichever comes first. A holder of a level two intermediate driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. In addition to all other provisions of this code for which a driver's license may be restricted, suspended, revoked, or canceled, the holder of a level two intermediate driver's license may only operate a motor vehicle under the following conditions:

(A) The licensee operates a vehicle unsupervised between the hours of 5 a.m. and 10 p.m.;

(B) The licensee operates a vehicle only under the direct supervision of a licensed driver, age 21 years or older, between the hours of 10 p.m. and 5 a.m. except when the licensee is going to or returning from:

(i) Lawful employment;

(ii) A school-sanctioned activity;

(iii) A religious event; or

(iv) An emergency situation that requires the licensee to operate a motor vehicle to prevent bodily injury or death of another;

(C) All occupants of the vehicle use safety belts in accordance with [§17C-15-49](#) of this code;

(D) For the first six months after issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying any passengers less than 20 years old, unless these passengers are family members of the licensee; for the second six months after

issuance of a level two intermediate driver's license, the licensee may not operate a motor vehicle carrying more than one passenger less than 20 years old, unless these passengers are family members of the licensee;

(E) The licensee operates a vehicle without any measurable blood alcohol content in accordance with [§17C-5-2\(h\)](#) of this code;

(F) The licensee maintains current school enrollment and is making satisfactory academic progress or otherwise shows compliance with [§18-8-11](#) of this code: Provided, That a person may otherwise be eligible for a restricted license or instruction permit pursuant to [§18-8-11](#).

(G) Upon the first conviction for a moving traffic violation or a violation of [§17B-2-3a\(d\)\(2\)](#) of this code of the terms and conditions of a level two intermediate driver's license, the licensee shall enroll in an approved driver improvement program unless a greater penalty is required by this section or by any other provision of this code; and

At the discretion of the commissioner, completion of an approved driver improvement program may be used to negate the effect of a minor traffic violation as defined by the commissioner against the one year conviction-free driving criteria for early eligibility for a level three driver's license and may also negate the effect of one minor traffic violation for purposes of avoiding a second conviction under [§17B-2-3a\(d\)\(2\)\(G\)](#) of this code; and

(H) Upon the second conviction for a moving traffic violation or a violation of the terms and conditions of the level two intermediate driver's license, the Division of Motor Vehicles shall revoke or suspend the licensee's privilege to operate a motor vehicle for the applicable statutory period or until the licensee's 18th birthday, whichever is longer, unless a greater penalty is required by this section or any other provision of this code. Any person whose driver's license has been revoked as a level two intermediate driver, upon reaching the age of 18 years and if otherwise eligible, may reapply for an instruction permit, then a driver's license in accordance with [§17B-2-5](#), [§17B-2-6](#) and [§17B-2-7](#) of this code.

(e) Level three, full Class E license. - The level three license is valid until 30 days after the date the licensee attains his or her 21st birthday. A holder of a level three driver's license who is under the age of 18 years shall not use a wireless communication device while operating a motor vehicle, unless the use of the wireless communication device is for contacting a 9-1-1 system. Unless otherwise provided in this section or any other section of this code, the holder of a level three full Class E license is subject to the same terms and conditions as the holder of a regular Class E driver's license.

A level two intermediate licensee whose privilege to operate a motor vehicle has not been suspended, revoked, or otherwise canceled and who meets all other requirements of the

code may be issued a level three full Class E license without further examination or road skills testing if the licensee:

- (1) Has reached the age of 17 years;
- (2) Presents a completed application as prescribed by [§17B-2-6](#) of this code;
- (3) Has held the level two intermediate license conviction free for the 12-month period immediately preceding the date of the application;
- (4) Has completed any driver improvement program required under [§17B-2-3a\(d\)\(2\)\(G\)](#) of this code; and
- (5) Pays a fee of \$2.50 for each year the license is valid. An additional fee of 50 cents shall be collected to be deposited in the Combined Voter Registration and Driver's Licensing Fund established in [§3-2-12](#) of this code.

(f) A person violating the provisions of the terms and conditions of a level one instruction permit, level two intermediate driver's license, or level three license is guilty of a misdemeanor and, upon conviction thereof, shall for the first offense be fined \$25; for a second offense be fined \$50; and for a third or subsequent offense be fined \$75.

### **ARTICLE 3. CANCELLATION, SUSPENSION, OR REVOCATION OF LICENSES.**

[§17B-3-6](#). Authority of division to suspend, restrict, or revoke license; hearing.

(a) The division is hereby authorized to suspend, restrict, or revoke the driver's license of any person without preliminary hearing upon a showing by its records or other sufficient evidence that the licensee:

- (1) Has committed an offense for which mandatory revocation of a driver's license is required upon conviction;
- (2) Has by reckless or unlawful operation of a motor vehicle, caused or contributed to an accident resulting in the death or personal injury of another or property damage;
- (3) Has been convicted with such frequency of serious offenses against traffic regulations governing the movement of vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;
- (4) Is an habitually reckless or negligent driver of a motor vehicle;
- (5) Is incompetent to drive a motor vehicle;
- (6) Has committed an offense in another state which if committed in this state would be a ground for suspension or revocation;
- (7) Has failed to pay or has defaulted on a plan for the payment of all costs, fines, forfeitures, or penalties imposed by a magistrate court or municipal court within 90 days, as required by [§50-3-2a](#) of this code or [§8-10-2a](#) of this code;

(8) Has failed to appear or otherwise respond before a magistrate court or municipal court when charged with a motor vehicle violation as defined in section three-a of this article;

(9) Is under the age of 17 and has withdrawn either voluntarily or involuntarily due to misconduct from a secondary school or has failed to maintain satisfactory academic progress, as provided in [§18-8-11](#) of this code; or

(10) Has failed to pay overdue child support or comply with subpoenas or warrants relating to paternity or child support proceedings, if a circuit court has ordered the suspension of the license as provided in [§48A-5A-1](#) et seq. of this code and the Child Support Enforcement Division has forwarded to the division a copy of the court order suspending the license, or has forwarded its certification that the licensee has failed to comply with a new or modified order that stayed the suspension and provided for the payment of current support and any arrearage due.

(b) The driver's license of any person having his or her license suspended shall be reinstated if:

(1) The license was suspended under the provisions of subdivision (7), subsection (a) of this section and the payment of costs, fines, forfeitures, or penalties imposed by the applicable court has been made;

(2) The license was suspended under the provisions of subdivision (8), subsection (a) of this section and the person having his or her license suspended has appeared in court and has prevailed against the motor vehicle violations charged; or

(3) The license was suspended under the provisions of subdivision (10), subsection (a) of this section and the division has received a court order restoring the license or a certification by the Child Support Enforcement Division that the licensee is complying with the original support order or a new or modified order that provides for the payment of current support and any arrearage due.

(c) Any reinstatement of a license under subdivision (1), (2) or (3), subsection (b) of this section shall be subject to a reinstatement fee designated in section nine of this article.

(d) Upon suspending, or restricting the driver's license of any person as hereinbefore in this section authorized, the division shall immediately notify the licensee in writing, sent by certified mail, return receipt requested, to the address given by the licensee in applying for license, and upon his or her request shall afford him or her an opportunity for a hearing as early as practical within not to exceed 20 days after receipt of such request in the county wherein the licensee resides unless the division and the licensee agree that such hearing may be held in some other county. Upon such hearing the commissioner or his or her duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination

of the licensee. Upon such hearing the division shall either rescind its order of suspension, or restriction or, good cause appearing therefor, may extend the suspension, or restriction of such license or revoke such license. The provisions of this subsection providing for notice and hearing are not applicable to a suspension under subdivision (10), subsection (a) of this section. Any person whose driver's license is suspended, restricted, or revoked after hearing with the commissioner may seek judicial review of the final order or decision in accordance with [§29A-5-4](#) of this code.

(e) Notwithstanding the provisions of legislative rule 91 CSR 5, the division may, upon completion of an approved defensive driving course, deduct three points from a licensee's point accumulation provided the licensee has not reached 14 points. If a licensee has been notified of a pending 30-day driver's license suspension based on the accumulation of 12 or 13 points, the licensee may submit proof of completion of an approved defensive driving course to deduct three points and rescind the pending license suspension: Provided, That the licensee submits proof of prior completion of the course and payment of the reinstatement fee in accordance with section nine, article three of this chapter to the division prior to the effective date of the suspension.

## CHAPTER 18. EDUCATION.

### ARTICLE 18. COMPULSORY SCHOOL ATTENDANCE.

[§18-8-11](#). School attendance and satisfactory academic progress as conditions of licensing for privilege of operation of motor vehicle.

(a) Whenever a student at least 15 but less than 17 years of age, except as provided in subsection (e) of this section, withdraws from school, the attendance director or chief administrator shall notify the Division of Motor Vehicles of the student's withdrawal no later than five days from the date of the withdrawal. Within five days of receipt of the notice, the Division of Motor Vehicles shall send notice to the student that the student's instruction permit or license to operate a motor vehicle will be restricted to driving for work or medical purposes or educational or religious pursuits under the provisions of [§17B-3-6](#) of this code on the 30th day following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official concerning whether the student's withdrawal from school was due to a circumstance or circumstances beyond the control of the student. If restricted, the division

may not reinstate an instruction permit or license until the student returns to school and shows satisfactory academic progress or until the student attains 17 years of age.

(b) Whenever a student at least 15 but less than 17 years of age is enrolled in a secondary school and fails to maintain satisfactory academic progress, the attendance director or chief administrator shall follow the procedures set out in subsection (a) of this section to notify the Division of Motor Vehicles. Within five days of receipt of the notice, the Division of Motor Vehicles shall send notice to the student that the student's instruction permit or license will be restricted to driving for work or medical purposes or educational or religious pursuits under the provisions of [§17B-3-6](#) of this code on the 30th day following the date the notice was sent unless documentation of compliance with the provisions of this section is received by the Division of Motor Vehicles before that time. The notice shall also advise the student that he or she is entitled to a hearing before the county superintendent of schools or his or her designee or before the appropriate private school official concerning whether the student's failure to make satisfactory academic progress was due to a circumstance or circumstances beyond the control of the student. Once the restriction is ordered, the division may not reinstate an instruction permit or license until the student shows satisfactory academic progress or until the student attains 17 years of age.

(c) Upon written request of a student, within 10 days of receipt of a notice of restriction as provided by this section, the Division of Motor Vehicles shall afford the student the opportunity for an administrative hearing. The scope of the hearing shall be limited to determining if there is a question of improper identity, incorrect age, or some other clerical error.

(d) For the purposes of this section:

(1) "Withdrawal" is defined as more than 10 consecutive or 15 total days unexcused absences during a school year, or suspension pursuant to [§18A-5-1a\(a\)](#) and [§18A-5-1a\(b\)](#) of this code.

(2) "Satisfactory academic progress" means the attaining and maintaining of grades sufficient to allow for graduation and course work in an amount sufficient to allow graduation in five years or by age 19, whichever is earlier.

(3) "Circumstances outside the control of the student" shall include, but not be limited to, medical reasons, familial responsibilities, and the necessity of supporting oneself or another.

(4) Suspension or expulsion from school or imprisonment in a jail or a West Virginia correctional facility is not a circumstance beyond the control of the student.

(e) Whenever the withdrawal from school of the student, the student's failure to enroll in a course leading to or to obtain a GED or high school diploma, or the student's failure to

make satisfactory academic progress is due to a circumstance or circumstances beyond the control of the student, or the withdrawal from school is for the purpose of transfer to another school as confirmed in writing by the student's parent or guardian, no notice shall be sent to the Division of Motor Vehicles to restrict the student's motor vehicle operator's license and if the student is applying for a license, the attendance director or chief administrator shall provide the student with documentation to present to the Division of Motor Vehicles to excuse the student from the provisions of this section. The school district superintendent (or the appropriate school official of any private secondary school) with the assistance of the county attendance director and any other staff or school personnel shall be the sole judge of whether any of the grounds for restriction of a license as provided by this section are due to a circumstance or circumstances beyond the control of the student.

(f) The state board shall promulgate rules necessary for uniform implementation of this section among the counties and as may otherwise be necessary for the implementation of this section. The rule may not include attainment by a student of any certain grade point average as a measure of satisfactory progress toward graduation.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

**House Bill 4562: Relating generally to the suspension and dismissal of school personnel by board and the appeals process**

*Effective Date:* Passed March 9, 2022; in effect 90 days from passage

*Code Reference:* Amends: §18A-2-8

*WVDE Contact:* Office of Legal Services

*Summary:* The bill requires that upon the commencement of a fact-finding investigation related to conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, an employee be placed on suspension, administrative leave, or assigned to duties which do not involve direct interaction with pupils pending final disposition of the charges. The bill also sets forth a requirement for a school principal to notify the county superintendent within 24 hours of such a complaint. This reporting requirement does not supersede W. Va. Code §49-2-803 regarding mandated reporting of child abuse and neglect.

*Enrolled Bill:* Enrolled Committee Substitute for House Bill 4562  
BY DELEGATES KESSINGER, BURKHAMMER, MAYNOR, KEATON, AND PINSON

AN ACT to amend and reenact [§18A-2-8](#) of the Code of West Virginia, 1931, as amended, relating generally to the suspension and dismissal of school personnel by board and the appeals process; requiring upon commencement of any fact-finding investigation involving conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, the affected employee to be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils; requiring 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 to be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils pending final disposition; and making it the duty of any school principal to report any employee conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, to the county superintendent within 24 hours.

Be it enacted by the Legislature of West Virginia:

## 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. Upon the commencement of any fact-finding investigation involving conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, whether being conducted internally, or in cooperation with police or Department of Health and Human Resources, the affected employee shall be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils.

(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 shall be suspended, placed on administrative leave, or 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, or 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 school principal to report any employee conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, to the county superintendent within 24 hours of the allegation. Nothing in this subsection supersedes [§49-2-803](#) of this code or the provisions therein regarding mandated reporting of child abuse and neglect.

(f) It shall be the duty of any county superintendent to report any employee suspended or dismissed, or resigned during the course of an investigation of the employee's alleged misconduct, in accordance with this section, including the rationale for the suspension or dismissal, to the state superintendent within seven business days of the suspension, dismissal, or resignation. The state superintendent shall maintain a database of all individuals suspended or dismissed for jeopardizing the health, safety, or 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 of schools.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

## House Bill 4571: **Modifying foundation allowance to account for transportation by electric powered buses**

<i>Effective Date:</i>	Passed March 12, 2022; in effect July 1, 2022
<i>Code Reference:</i>	Amends: §18-9A-7
<i>WVDE Contact:</i>	Office of School Operations and Finance
<i>Summary:</i>	The bill adds electric-powered buses to the definition of alternative fueled buses. This will allow county boards of education to receive ten percent additional funding within the Public-School Support Plan (PSSP) for the portion of its bus fleet powered by electricity. This bill also provides for an additional five percent increase in PSSP funding for the portion of a county board of education's bus fleet that is manufactured within the State of West Virginia.
<i>Enrolled Bill:</i>	Enrolled Committee Substitute for House Bill 4571 BY DELEGATES HAMRICK, HANSHAW (MR. SPEAKER), TONEY, ELLINGTON, STATLER, PACK, SMITH AND MAYNOR

AN ACT to amend and reenact [§18-9A-7](#) of the Code of West Virginia, 1931, as amended, relating to increasing the foundation allowance for transportation cost for the portion of the county's school bus system that is fully powered by electricity that is stored in an onboard rechargeable battery or other storage device and for the portion of its school bus system that is manufactured within the state of West Virginia.

Be it enacted by the Legislature of West Virginia:

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

[§18-9A-7](#). Foundation allowance for transportation cost.

(a) The allowance in the foundation school program for each county for transportation is the sum of the following computations:

(1) A percentage of the transportation costs incurred by the county for maintenance, operation and related costs exclusive of all salaries, including the costs incurred for contracted transportation services and public utility transportation, as follows:

- (A) For each high-density county, 87.5 percent;
- (B) For each medium-density county, 90 percent;
- (C) For each low-density county, 92.5 percent;
- (D) For each sparse-density county, 95 percent;

(E) For any county for the transportation cost for maintenance, operation and related costs, exclusive of all salaries, for transporting students to and from classes at a multicounty vocational center, the percentage provided in paragraphs (A) through (D) of this subdivision as applicable for the county plus an additional 10 percent; and

(F) For any county for that portion of its school bus system that uses as an alternative fuel compressed natural gas, propane, or is fully powered by electricity that is stored in an onboard rechargeable battery or other storage device, the percentage provided in paragraphs (A) through (D) of this subdivision as applicable for the county plus an additional 10 percent, as well as an additional 5% for the portion of its school bus system that is manufactured within the state of West Virginia: Provided, That any county using an alternative fuel and qualifying for the additional allowance under this subdivision shall submit a plan regarding the intended future use of alternatively fueled school buses;

(2) The total cost, within each county, of insurance premiums on buses, buildings and equipment used in transportation;

(3) An amount equal to 8.33 percent of the current replacement value of the bus fleet within each county as determined by the state board. The amount shall only be used for the replacement of buses except as provided in subdivision (4) of this subsection. Buses purchased after July 1, 1999, that are driven 180,000 miles, regardless of year model, are subject to the replacement value of 8.33 percent as determined by the state board. In addition, in any school year in which its net enrollment increases when compared to the net enrollment the year immediately preceding, a school district may apply to the state superintendent for funding for an additional bus or buses. The state superintendent shall make a decision regarding each application based upon an analysis of the individual school district's net enrollment history and transportation needs: Provided, That the superintendent may not consider any application which fails to document that the county has applied for federal funding for additional buses. If the state superintendent finds that a need exists, a request for funding shall be included in the budget request submitted by the state board for the upcoming fiscal year;

(4) Notwithstanding the restriction on the use of funds for the replacement of buses pursuant to subdivision (3) of this subsection, up to \$200,000 of these funds in any school year may be used by a county for school facility and equipment repair, maintenance and improvement or replacement or other current expense priorities if a request by the county superintendent listing the amount, the intended use of the funds and the serviceability of the bus fleet is approved by the state superintendent. Before approving the request, the state superintendent shall verify the serviceability of the county's bus fleet based upon the state school bus inspection defect rate of the county over the two prior years; and

(5) Aid in lieu of transportation equal to the state average amount per pupil for each pupil receiving the aid within each county.

(b) The total state share for this purpose is the sum of the county shares: Provided, That a county may not receive an allowance which is greater than one-third above the computed state average allowance per transportation mile multiplied by the total transportation mileage in the county exclusive of the allowance for the purchase of additional buses.

(c) One half of one percent of the transportation allowance distributed to each county is for the purpose of trips related to academic classroom curriculum and not related to any extracurricular activity. Any remaining funds credited to a county for the purpose of trips related to academic classroom curriculum during the fiscal year shall be carried over for use in the same manner the next fiscal year and shall be separate and apart from, and in addition to, the appropriation for the next fiscal year. The state board may request a county to document the use of funds for trips related to academic classroom curriculum if the board determines that it is necessary.

**House Bill 4600: Making it a felony for a “Person in a Position of Trust” to assault, batter, or verbally abuse a child, or neglect to report abuse they witness**

*Effective Date:* Passed March 12, 2022; in effect July 1, 2022

*Code Reference:* **Repeals: §61-8D-5a**  
Adds: §61-8F-1, §61-8F-2, §61-8F-3, §61-8F-4, §61-8F-5, §61-8F6, §61-8F-7

*WVDE Contact:* Office of Legal Services

*Summary:* The bill sets forth criminal penalties for mistreatment (including verbal abuse), battery, and assault of a child with a disability. The bill also requires the West Virginia Department of Education to partner with the Secretary of Health and Human Resources, on or before January 1, 2023, to 1) create and implement an eight-hour education program for individuals working with students with disabilities that covers legal duties, behavioral characteristics with different disabling conditions, symptoms of disabling conditions, and appropriate interventions necessary to support a child in a particular setting, and 2) investigate the availability and implementation cost of a program that would allow parents and guardians to remotely view classrooms and other areas where disabled children are being taught, housed, or cared for and provide copies of the findings and proposals to the President of the Senate and the Speaker of the House of Delegates prior to the first day of the 2023 Regular Session of the Legislature.

*Enrolled Bill:* Enrolled Committee Substitute for House Bill 4600  
BY DELEGATES MAZZOCCHI, ELLINGTON, KIMBLE, BRIDGES, MAYNOR, KESSINGER, TONEY, FERRELL, LONGANACRE, HOLSTEIN, AND CAPITO

AN ACT to repeal [§61-8D-5a](#) of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto a new article, designated [§61-8F-1](#), [§61-8F-2](#), [§61-8F-3](#), [§61-8F-4](#), [§61-8F-5](#), [§61-8F-6](#), and [§61-8F-7](#), all relating to maltreatment of disabled children by persons in a position of trust to them; defining terms; creating misdemeanor and felony offenses and penalties for certain non-physical and physical acts against disabled children; creating criminal penalty for persons in a position of trust in relation to a disabled child failing to report abuse as a mandatory reporter; creating criminal offenses for obstructing or discriminating against a mandatory reporter of

abuse; directing the Secretary of the Department of Health and Human Resources and the West Virginia Department of Education to create a mandatory program for people working with disabled children and to study the viability and implementation of putting in place a system that allows parents and guardians the ability to view their children remotely; directing educational programs specific to crimes against disabled children for prosecutors and law enforcement; establishing dates for compliance; requiring the state department of education to establish a database of persons under active investigation for child abuse required to be reported to by county boards of education; and establishing effective dates.

Be it enacted by the Legislature of West Virginia:

## CHAPTER 61. CRIMES AND THEIR PUNISHMENT.

### ARTICLE 8D. CHILD ABUSE.

[§61-8D-5a](#). Verbal abuse of noncommunicative child; penalties.

[Repealed.]

### ARTICLE 8F. SPECIAL PROTECTIONS FOR DISABLED CHILDREN ACT of 2022.

This article shall be known as Trenton, Andrew, Adri, Owen and Emma’s law

[§61-8F-1](#). Findings.

The Legislature finds that disabled persons and particularly disabled children are often more vulnerable and in greater need of protection than the nondisabled. Concomitant with greater vulnerability is the enhanced risk of injury and intimidation, particularly when the child is noncommunicative.

Based upon these facts, the Legislature has determined that it is appropriate that enhanced protections be put in place statutorily to provide a framework of protections to improve disabled children’s education and, quality of life as well as ease the concerns of their loved-ones and caregivers.

[§61-8F-2](#) Definitions.

As used in this article:

(1) “Disabled child” means a child with any physical, intellectual, developmental, communication, or psychological disability or impairment. A disability includes , but is not limited to one that:

(A) Limits the child’s ability to recognize abuse, unlawful activity, or his or her rights to safety and protection, or that makes the child rely on others to recognize that he or she is being abused;

- (B) Limits the child's ability to recognize unlawful sexual abuse or misconduct;
  - (C) Causes the child to be dependent on others to assist with any activity of daily living or personal care;
  - (D) Limits the child's ability to formulate or execute a response to abuse, to verbally or physically defend himself or herself, or to physically escape from an abusive environment; or
  - (E) Limits the child's ability to disclose abuse.
- (2) "Noncommunicative child" means a child who, due to physical or developmental disabilities, is unable to functionally articulate verbally, in writing, or through a recognized sign language,
- (3) "Person in a position of trust in relation to a disabled child" means any adult who is acting in the place of a parent and charged with any of a parent's rights, duties, or responsibilities concerning a disabled child or someone with supervisory responsibility for a disabled child's welfare, or any person who by virtue of their occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of a disabled child,
- (4) "Repeatedly" means on two or more occasions,
- (5) "Supervisory responsibility" means any situation where an adult has direct supervisory decision-making, oversight, instructive, academic, evaluative, or advisory responsibilities regarding the child. Supervisory responsibility may occur in a residence, in or out of a school setting, institutional setting, and in curricular, co-curricular, or extra-curricular settings.

**§61-8F-3. Maltreatment of a disabled child; penalties.**

- (a) Any person in a position of trust in relation to a disabled child, who has supervisory responsibility over a disabled child, and who repeatedly engages in conduct, verbal or otherwise toward the child in an insulting, demeaning, or threatening manner, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500, nor more than \$2,500, or confined in jail not more than one year, or both fined and confined.
- (b) The conduct prohibited by this section includes, but is not limited to, behavior of any type intended to humiliate, intimidate, shame, degrade, or cause emotional distress.
- (c) Each instance of the conduct prohibited by subsection (a) of this section shall constitute a separate and distinct offense whether directed at one disabled child or multiple disabled children.

**§61-8F-4 Battery and assault of a disabled child.**

(a) Any person in a position of trust to a disabled child, with supervisory responsibility over the child who unlawfully and intentionally makes physical contact of an insulting and provoking nature to the person of the disabled child or unlawfully causes physical harm to the disabled child is guilty of a felony, and upon conviction thereof, shall be fined not more than \$1,000 and imprisoned in a state correctional facility for not less than one nor more than five years, or both fined and imprisoned.

(b) Any person in a position of trust in relation to a disabled child, with supervisory responsibility over the child who unlawfully attempts to commit a violent injury to the person of the disabled child or unlawfully commits an act that places the disabled child in reasonable apprehension of immediately receiving a violent injury is guilty of a felony and upon conviction thereof shall be fined not more than \$500 or imprisoned not less than one nor more than three years, or both fined and imprisoned.

**§61-8F-5** Failure to report; obstruction; retaliation; penalties.

(a) Any person in a position of trust in relation to a disabled child who is subject to the mandatory reporting requirements in [§49-2-803](#) of this code who fails to make a required report regarding a disabled child is guilty of a misdemeanor, and upon conviction shall be confined in jail for not more than one year.

(b) Any person who willfully impedes or obstructs or attempts to impede or obstruct a person in a position of trust in regard to a disabled child from making a report required by [§49-2-803](#) of this code regarding a disabled child is guilty of a felony, and upon conviction thereof be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one nor more than three years, or both fined and imprisoned.

(c) Any person who discriminates or retaliates against a person in a position of trust in relation to a disabled child for making a report pursuant to [§49-2-803](#) of this code regarding a disabled child is guilty of a felony and, upon conviction, shall be fined not more than \$5,000 or imprisoned in a state correctional facility for not less than one year nor more than three years or both fined and imprisoned or both fined and imprisoned.

**§61-8F-6** Specific directives to enhance the safety of disabled children.

(a) The West Virginia Department of Education in collaboration with the Secretary of Health and Human Resources shall:

(1) On or before January 1, 2023, develop, produce, and disseminate an eight-hour education program for people employed in or to be employed in the care, housing, and education of disabled children as well as their supervisory personnel and administrators. The program shall include, but not be limited to, the legal duties of persons so employed, the

behavioral characteristics associated with different disabling conditions, symptoms of disabling conditions and appropriate interventions necessary to support a child in a particular setting. Successful completion of the program shall be mandatory for state, county, and municipal employees engaged in the care, housing, and education of disabled children as well as their supervisory personnel and administrators on and after July 1, 2023; and

(2) On or before January 1, 2023, investigate the availability and implementation cost of a program for public schools and government operated programs for disabled children which allows parents, guardians, and custodians to remotely view classrooms and other areas where disabled children are taught, housed, or cared for and provide copies of the findings and proposals to the President of the Senate and the Speaker of the House of Delegates prior to the first day of the 2023 Regular Session of the Legislature.

(3) To the extent practicable the program shall consider and include input from family members and caregiving of disabled children.

(b) On or before January 1, 2023, the West Virginia Prosecuting Attorney's Institute in collaboration with the Law Enforcement Professional Standards subcommittee on the Governor's Committee on Crime Delinquency and Correction shall develop a three-hour mandatory educational program for prosecuting attorneys and law enforcement officers that offers education:

(1) As to the provisions of this article; and

(2) In the investigation and prosecution of crimes against disabled children.

(3) To the extent practicable the program shall consider and include input from family members and caregiving of disabled children.

(c) The State Board of Education shall create a database which identifies school employees who are under active investigation for misconduct towards children into which county boards of education shall report and review when considering employing a person with previous experience in the education system.

**§61-8F-7. Effective dates.**

(a) This section and the provisions of [§61-8F-1](#), [§61-8F-2](#), and [§61-8F-6](#) of this article shall be effective from passage.

(b) The provisions of [§61-8F-3](#), [§61-8F-4](#), and [§61-8F-5](#) shall be effective July 1, 2022.

**House Bill 4642:      Relating to pecuniary interests of county and district officers, teachers and school officials in contracts**

*Effective Date:* Passed March 12, 2022; in effect 90 days from passage

*Code Reference:* Amends: §61-10-15

*WVDE Contact:* Office of Legal Services and Internal Operations

*Summary:* The bill clarifies that it is not a violation of W. Va. Code §61-10-15 for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal, or teacher of public schools or any member of any other county or district board or any county or district officer to have a pecuniary interest in a contract where he or she may have any voice, influence, or control in the award or letting of the contract if: (1) It is not a contract for services; (2) The contract has been put out for competitive bid, and the contract is awarded based on lowest cost; (3) If the party to the contract is in a voting or other decision-making position as to the contract, he or she recuses himself or herself from voting or decision-making; and (4) The party to the contract has previously obtained a written advisory opinion from the West Virginia Ethics Commission permitting the employee to have a pecuniary interest in the contract.

*Enrolled Bill:* Enrolled Committee Substitute for House Bill 4642  
BY DELEGATE STEELE

AN ACT to amend and reenact [§61-10-15](#) of the Code of West Virginia, 1931, as amended, relating to pecuniary interest of county employees in contracts where the employee has a voice, influence, or control; making an exception to criminal violation to have a pecuniary interest in a contract where certain criteria are met.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 10. CRIMES AGAINST PUBLIC POLICY.**

[§61-10-15](#). Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.

(a) It is unlawful for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal or teacher of public schools or any member of any other county or district board or any county or district officer to

be or become pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in the furnishing of any supplies in the contract for or the awarding or letting of a contract if, as a member, officer, secretary, supervisor, superintendent, principal or teacher, he or she may have any voice, influence or control: Provided, That nothing in this section prevents or makes unlawful the employment of the spouse of a member, officer, secretary, supervisor, superintendent, principal or teacher as a principal or teacher or auxiliary or service employee in the public schools of any county or prevents or makes unlawful the employment by any joint county and circuit clerk of his or her spouse.

(b) Any person who violates the provisions of subsection (a) of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$50 nor more than \$500 or confined in jail not more than one year, or both fined and confined.

(c) Any person convicted of violating the provisions of subsection (a) of this section shall also be removed from his or her office and the certificate or certificates of any teacher, principal, supervisor, or superintendent so convicted shall, upon conviction thereof, be immediately revoked: Provided, That no person may be removed from office and no certificate may be revoked for a violation of the provisions of this section unless the person has first been convicted of the violation.

(d) Any person, firm or corporation that offers or gives any compensation or thing of value or who forebears to perform an act to any of the persons named in subsection (a) of this section or to or for any other person with the intent to secure the influence, support or vote of the person for any contract, service, award or other matter as to which any county or school district becomes or may become the paymaster is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than \$500 nor more than \$2,500 and the person or any member of the firm or, if it is a corporation, any agent or officer of the corporation offering or giving any compensation or other thing of value may, in addition to a fine, be confined in jail for a period not to exceed one year.

(e) The provisions of subsection (a) of this section do not apply to any person who is a salaried employee of a vendor or supplier under a contract subject to the provisions of said subsection if the employee, his or her spouse or child:

- (1) Is not a party to the contract;
- (2) Is not an owner, a shareholder, a director, or an officer of a private entity under the contract;
- (3) Receives no commission, bonus or other direct remuneration or thing of value by virtue of the contract;
- (4) Does not participate in the deliberations or awarding of the contract; and

(5) Does not approve or otherwise authorize the payment for any services performed or supplies furnished under the contract.

(f) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a bank within the county serving or under consideration to serve as a depository of funds for the county or Board of Education, as the case may be, if the person does not participate in the deliberations or any ultimate determination of the depository of the funds.

(g) The provisions of subsection (a) of this section do not apply to any person who has a pecuniary interest in a public utility which is subject to regulation by the Public Service Commission of this state.

(h) Where the provisions of subsection (a) of this section would result in the loss of a quorum in a public body or agency, in excessive cost, undue hardship or other substantial interference with the operation of a governmental body or agency, the affected governmental body or agency may make written application to the West Virginia Ethics Commission pursuant to subsection (d), section five, article two, chapter six-b of this code for an exemption from subsection (a) of this section.

(i) The provisions of this section do not apply to publications in newspapers required by law to be made.

(j) No school employee or school official subject to the provisions of subsection (a) of this section has an interest in the sale, proceeds or profits in any book or other thing used or to be used in the free school system of this state, as proscribed in section nine, article XII of the Constitution of West Virginia, if they qualify for the exceptions set forth in subsection (e), (f),(g) or (h) of this section.

(k) The provisions of subsection (a) of this section do not prevent or make unlawful the employment of the spouse of any member of a county commission as a licensed health care provider at government-owned hospitals or other government agencies who provide health care services: Provided, That the member of a county commission whose spouse is employed or to be employed may not:

(1) Serve on the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed;

(2) Vote on the appointment of members to the board for the government-owned hospital or other government agency who provides health care services where his or her spouse is employed or to be employed; or

(3) Seek to influence the hiring or promotion of his or her spouse by the government-owned hospital or other government agency who provides health care services.

(l) The provisions of subsection (a) of this section do not make unlawful the employment of a spouse of any elected county official by that county official: Provided, That the elected county official may not:

(1) Directly supervise the spouse employee; or

(2) Set the salary of the spouse employee: Provided, That the provisions of this subsection shall only apply to spouse employees who were neither married to nor engaged to the elected county official at the time of their initial hiring.

(m) The provisions of subsection (a) of this section do not prohibit reimbursement of a member of a development authority established under [§7-12-1](#) et seq. of this code for:

(1) His or her necessary expenditures in connection with the performance of his or her general duties as such member, as permitted by [§7-12-5\(a\)](#) of this code; or

(2) His or her reasonable and necessary expenses, including but not limited to compensation, in connection with his or her performance of other duties as assigned by the authority in connection with the June 2016 flooding event in West Virginia, if such duties and such reimbursement is first approved by a vote of the authority, with the member to be reimbursed being recused from voting upon the question, as permitted by [§7-12-5\(a\)](#) of this code.

(n) It is not a violation of subsection (a) of this section for any member of a county commission, district school officer, secretary of a Board of Education, supervisor or superintendent, principal, or teacher of public schools or any member of any other county or district board or any county or district officer to have a pecuniary interest in a contract where he or she may have any voice, influence, or control in the award or letting of the contract if:

(1) It is not a contract for services;

(2) The contract has been put out for competitive bid, and the contract is awarded based on lowest cost;

(3) If the party to the contract is in a voting or other decision-making position as to the contract, he or she recuses himself or herself from voting or decision-making; and

(4) The party to the contract has previously obtained a written advisory opinion from the West Virginia Ethics Commission permitting the employee to have a pecuniary interest in the contract.

## House Bill 4829: **Modifying definitions of certain school cafeteria personnel**

<i>Effective Date:</i>	Passed March 11, 2022; in effect 90 days from passage
<i>Code Reference:</i>	Amends: §18A-4-8
<i>WVDE Contact:</i>	Office of Legal Services
<i>Summary:</i>	The bill amends the definition of a cafeteria manager and cook III. Revised responsibilities of the cafeteria manager include monitoring freezers and temperatures on equipment, communicating with the food service supervisor or food service director and requires that an appropriate time will be set aside, each day, for ordering/emailing and paperwork as needed. The bill provides that a cook III will assist the cafeteria manager, interpret menus, and will act as the cafeteria manager if the cafeteria manager is absent.
<i>Enrolled Bill:</i>	Enrolled House Bill 4829 BY DELEGATES TONEY, DOYLE, HORST, CLARK, HORNBUCKLE, WALKER, BRIDGES, EVANS, GRIFFITH, THOMPSON, AND FERRELL

AN ACT to amend and reenact [§18A-4-8](#) of the Code of West Virginia, 1931, as amended, relating to modifying the definitions of certain school cafeteria personnel.

Be it enacted by the Legislature of West Virginia:

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

[§18A-4-8](#). Employment term and class titles of service personnel; definitions.

(a) The purpose of this section is to establish an employment term and class titles for service personnel. The employment term for service personnel may not be less than 10 months. A month is defined as 20 employment days. The county board may contract with all or part of these service personnel for a longer term.

(b) Service personnel employed on a yearly or 12-month basis may be employed by calendar months. Whenever there is a change in job assignment during the school year, the minimum pay scale and any county supplement are applicable.

(c) Service personnel employed in the same classification for more than the 200-day minimum employment term are paid for additional employment at a daily rate of not less than the daily rate paid for the 200-day minimum employment term.

(d) A service person may not be required to report for work more than five days per week without his or her agreement, and no part of any working day may be accumulated by the employer for future work assignments, unless the employee agrees thereto.

(e) If a service person whose regular work week is scheduled from Monday through Friday agrees to perform any work assignments on a Saturday or Sunday, the service person is paid for at least one-half day of work for each day he or she reports for work. If the service person works more than three and one-half hours on any Saturday or Sunday, he or she is paid for at least a full day of work for each day.

(f) A custodian, aide, maintenance, office and school lunch service person required to work a daily work schedule that is interrupted is paid additional compensation in accordance with this subsection.

(1) A maintenance person means a person who holds a classification title other than in a custodial, aide, school lunch, office or transportation category as provided in [§18A-1-1](#) of this code.

(2) A service person's schedule is considered to be interrupted if he or she does not work a continuous period in one day. Aides are not regarded as working an interrupted schedule when engaged exclusively in the duties of transporting students;

(3) The additional compensation provided in this subsection:

(A) Is equal to at least one eighth of a service person's total salary as provided by the state minimum pay scale and any county pay supplement; and

(B) Is payable entirely from county board funds.

(g) When there is a change in classification or when a service person meets the requirements of an advanced classification, his or her salary shall be made to comply with the requirements of this article and any county salary schedule in excess of the minimum requirements of this article, based upon the service person's advanced classification and allowable years of employment.

(h) A service person's contract, as provided in [§18A-2-5](#) of this code, shall state the appropriate monthly salary the employee is to be paid, based on the class title as provided in this article and on any county salary schedule in excess of the minimum requirements of this article.

(i) The column heads of the state minimum pay scale and class titles, set forth in [§18A-4-8a](#) of this code, are defined as follows:

(1) "Pay grade" means the monthly salary applicable to class titles of service personnel;

(2) "Years of employment" means the number of years which an employee classified as a service person has been employed by a county board in any position prior to or subsequent to the effective date of this section and includes service in the armed forces of the United

States, if the employee was employed at the time of his or her induction. For the purpose of [§18A-4-8a](#) of this code, years of employment is limited to the number of years shown and allowed under the state minimum pay scale as set forth in [§18A-4-8a](#) of this code;

(3) "Class title" means the name of the position or job held by a service person;

(4) "Accountant I" means a person employed to maintain payroll records and reports and perform one or more operations relating to a phase of the total payroll;

(5) "Accountant II" means a person employed to maintain accounting records and to be responsible for the accounting process associated with billing, budgets, purchasing and related operations;

(6) "Accountant III" means a person employed in the county board office to manage and supervise accounts payable, payroll procedures, or both;

(7) "Accounts payable supervisor" means a person employed in the county board office who has primary responsibility for the accounts payable function and who either has completed 12 college hours of accounting courses from an accredited institution of higher education or has at least eight years of experience performing progressively difficult accounting tasks. Responsibilities of this class title may include supervision of other personnel;

(8) "Aide I" means a person selected and trained for a teacher-aide classification such as monitor aide, clerical aide, classroom aide or general aide;

(9) "Aide II" means a service person referred to in the "Aide I" classification who has completed a training program approved by the state board, or who holds a high school diploma or has received a general educational development certificate. Only a person classified in an Aide II class title may be employed as an aide in any special education program;

(10) "Aide III" means a service person referred to in the "Aide I" classification who holds a high school diploma or a general educational development certificate; and

(A) Has completed six semester hours of college credit at an institution of higher education; or

(B) Is employed as an aide in a special education program and has one year's experience as an aide in special education;

(11) "Aide IV" means a service person referred to in the "Aide I" classification who holds a high school diploma or a general educational development certificate; and

(A) Has completed 18 hours of State Board-approved college credit at a regionally accredited institution of higher education, or

(B) Has completed 15 hours of State Board-approved college credit at a regionally accredited institution of higher education; and has successfully completed an in-service

training program determined by the State Board to be the equivalent of three hours of college credit;

(12) "Audiovisual technician" means a person employed to perform minor maintenance on audiovisual equipment, films, and supplies and who fills requests for equipment;

(13) "Auditor" means a person employed to examine and verify accounts of individual schools and to assist schools and school personnel in maintaining complete and accurate records of their accounts;

(14) "Autism mentor" means a person who works with autistic students and who meets standards and experience to be determined by the State Board. A person who has held or holds an aide title and becomes employed as an autism mentor shall hold a multiclassification status that includes both aide and autism mentor titles, in accordance with [§18A-4-8b](#) of this code;

(15) "Braille specialist" means a person employed to provide braille assistance to students. A service person who has held or holds an aide title and becomes employed as a braille specialist shall hold a multiclassification status that includes both aide and braille specialist title, in accordance with [§18A-4-8b](#) of this code;

(16) "Bus operator" means a person employed to operate school buses and other school transportation vehicles as provided by the State Board;

(17) "Buyer" means a person employed to review and write specifications, negotiate purchase bids and recommend purchase agreements for materials and services that meet predetermined specifications at the lowest available costs;

(18) "Cabinetmaker" means a person employed to construct cabinets, tables, bookcases and other furniture;

(19) "Cafeteria manager" means a person referred to in the Cook III classification who is employed to direct the operation of a food services program in a school, including assigning duties to employees, approving requisitions for supplies and repairs, keeping inventories, inspecting areas to maintain high standards of sanitation, monitoring freezers and temperatures on equipment, communicating with the food service supervisor or food service director, preparing financial reports, keeping records pertinent to food services of a school and maintaining that an appropriate time per day will be for ordering/emailing and paper work as needed;

(20) "Carpenter I" means a person classified as a carpenter's helper;

(21) "Carpenter II" means a person classified as a journeyman carpenter;

(22) "Chief mechanic" means a person employed to be responsible for directing activities which ensure that student transportation or other county board-owned vehicles are properly and safely maintained;

- (23) "Clerk I" means a person employed to perform clerical tasks;
- (24) "Clerk II" means a person employed to perform general clerical tasks, prepare reports and tabulations, and operate office machines;
- (25) "Computer operator" means a qualified person employed to operate computers;
- (26) "Cook I" means a person employed as a cook's helper;
- (27) "Cook II" means a person employed to prepare and serve meals in a food service program of a school. This definition includes a service person who has been employed as a "Cook I" for a period of four years;
- (28) "Cook III" means a person employed to assist the cafeteria manager, interpret menus and to prepare and serve meals, make reports, prepare requisitions for supplies, order equipment and repairs for a food service program of a school system, and act as the cafeteria manager if that employee is absent;
- (29) "Crew leader" means a person employed to organize the work for a crew of maintenance employees to carry out assigned projects;
- (30) "Custodian I" means a person employed to keep buildings clean and free of refuse;
- (31) "Custodian II" means a person employed as a watchman or groundsman;
- (32) "Custodian III" means a person employed to keep buildings clean and free of refuse, to operate the heating or cooling systems and to make minor repairs;
- (33) "Custodian IV" means a person employed as a head custodian. In addition to providing services as defined in "Custodian III" duties may include supervising other custodian personnel;
- (34) "Director or coordinator of services" means an employee of a county board who is assigned to direct a department or division.
- (A) Nothing in this subdivision prohibits a professional person or a professional educator from holding this class title;
- (B) Professional personnel holding this class title may not be defined or classified as service personnel unless the professional person held a service personnel title under this section prior to holding the class title of "director or coordinator of services;"
- (C) The director or coordinator of services is classified either as a professional person or a service person for state aid formula funding purposes;
- (D) Funding for the position of director or coordinator of services is based upon the employment status of the director or coordinator either as a professional person or a service person; and
- (E) A person employed under the class title "director or coordinator of services" may not be exclusively assigned to perform the duties ascribed to any other class title as defined

in this subsection: Provided, That nothing in this paragraph prohibits a person in this position from being multi-classified;

(35) “Draftsman” means a person employed to plan, design and produce detailed architectural/engineering drawings;

(36) “Early childhood classroom assistant teacher I” means a person who does not possess minimum requirements for the permanent authorization requirements, but is enrolled in and pursuing requirements;

(37) “Early childhood classroom assistant teacher II” means a person who has completed the minimum requirements for a state-awarded certificate for early childhood classroom assistant teachers as determined by the State Board;

(38) “Early childhood classroom assistant teacher III” means a person who has completed permanent authorization requirements, as well as additional requirements comparable to current paraprofessional certificate;

(39) “Educational sign language interpreter I” means a person employed to provide communication access across all educational environments to students who are deaf or hard of hearing, and who holds the Initial Paraprofessional Certificate - Educational Interpreter pursuant to State Board policy;

(40) “Educational sign language interpreter II” means a person employed to provide communication access across all educational environments to students who are deaf or hard of hearing, and who holds the Permanent Paraprofessional Certificate - Educational Interpreter pursuant to State Board policy;

(41) “Electrician I” means a person employed as an apprentice electrician helper or one who holds an electrician helper license issued by the State Fire Marshal;

(42) “Electrician II” means a person employed as an electrician journeyman or one who holds a journeyman electrician license issued by the State Fire Marshal;

(43) “Electronic technician I” means a person employed at the apprentice level to repair and maintain electronic equipment;

(44) “Electronic technician II” means a person employed at the journeyman level to repair and maintain electronic equipment;

(45) “Executive secretary” means a person employed as secretary to the county school superintendent or as a secretary who is assigned to a position characterized by significant administrative duties;

(46) “Food services supervisor” means a qualified person who is not a professional person or professional educator as defined in [§18A-1-1](#) of this code. The food services supervisor is employed to manage and supervise a county school system’s food service program. The duties include preparing in-service training programs for cooks and food service

employees, instructing personnel in the areas of quantity cooking with economy and efficiency and keeping aggregate records and reports;

(47) "Foreman" means a skilled person employed to supervise personnel who work in the areas of repair and maintenance of school property and equipment;

(48) "General maintenance" means a person employed as a helper to skilled maintenance employees, and to perform minor repairs to equipment and buildings of a county school system;

(49) "Glazier" means a person employed to replace glass or other materials in windows and doors and to do minor carpentry tasks;

(50) "Graphic artist" means a person employed to prepare graphic illustrations;

(51) "Groundsman" means a person employed to perform duties that relate to the appearance, repair and general care of school grounds in a county school system. Additional assignments may include the operation of a small heating plant and routine cleaning duties in buildings;

(52) "Handyman" means a person employed to perform routine manual tasks in any operation of the county school system;

(53) "Heating and air conditioning mechanic I" means a person employed at the apprentice level to install, repair and maintain heating and air conditioning plants and related electrical equipment;

(54) "Heating and air conditioning mechanic II" means a person employed at the journeyman level to install, repair and maintain heating and air conditioning plants and related electrical equipment;

(55) "Heavy equipment operator" means a person employed to operate heavy equipment;

(56) "Inventory supervisor" means a person employed to supervise or maintain operations in the receipt, storage, inventory and issuance of materials and supplies;

(57) "Key punch operator" means a qualified person employed to operate key punch machines or verifying machines;

(58) "Licensed practical nurse" means a nurse, licensed by the West Virginia Board of Examiners for Licensed Practical Nurses, employed to work in a public school under the supervision of a school nurse;

(59) "Locksmith" means a person employed to repair and maintain locks and safes;

(60) "Lubrication man" means a person employed to lubricate and service gasoline or diesel-powered equipment of a county school system;

(61) "Machinist" means a person employed to perform machinist tasks which include the ability to operate a lathe, planer, shaper, threading machine and wheel press. A person holding this class title also should have the ability to work from blueprints and drawings;

(62) "Mail clerk" means a person employed to receive, sort, dispatch, deliver or otherwise handle letters, parcels and other mail;

(63) "Maintenance clerk" means a person employed to maintain and control a stocking facility to keep adequate tools and supplies on hand for daily withdrawal for all school maintenance crafts;

(64) "Mason" means a person employed to perform tasks connected with brick and block laying and carpentry tasks related to these activities;

(65) "Mechanic" means a person employed to perform skilled duties independently in the maintenance and repair of automobiles, school buses and other mechanical and mobile equipment to use in a county school system;

(66) "Mechanic assistant" means a person employed as a mechanic apprentice and helper;

(67) "Multiclassification" means a person employed to perform tasks that involve the combination of two or more class titles in this section. In these instances the minimum salary scale is the higher pay grade of the class titles involved;

(68) "Office equipment repairman I" means a person employed as an office equipment repairman apprentice or helper;

(69) "Office equipment repairman II" means a person responsible for servicing and repairing all office machines and equipment. A person holding this class title is responsible for the purchase of parts necessary for the proper operation of a program of continuous maintenance and repair;

(70) "Painter" means a person employed to perform duties painting, finishing and decorating wood, metal and concrete surfaces of buildings, other structures, equipment, machinery and furnishings of a county school system;

(71) "Paraprofessional" means a person certified pursuant to [§18A-3-2a](#) of this code to perform duties in a support capacity including, but not limited to, facilitating in the instruction and direct or indirect supervision of students under the direction of a principal, a teacher or another designated professional educator.

(A) A person employed on the effective date of this section in the position of an aide may not be subject to a reduction in force or transferred to create a vacancy for the employment of a paraprofessional;

(B) A person who has held or holds an aide title and becomes employed as a paraprofessional shall hold a multiclassification status that includes both aide and paraprofessional titles in accordance with [§18A-4-8b](#) of this code; and

(C) When a service person who holds an aide title becomes certified as a paraprofessional and is required to perform duties that may not be performed by an aide without paraprofessional certification, he or she shall receive the paraprofessional title pay grade;

(72) "Payroll supervisor" means a person employed in the county board office who has primary responsibility for the payroll function and who either has completed 12 college hours of accounting from an accredited institution of higher education or has at least eight years of experience performing progressively difficult accounting tasks. Responsibilities of this class title may include supervision of other personnel;

(73) "Plumber I" means a person employed as an apprentice plumber and helper;

(74) "Plumber II" means a person employed as a journeyman plumber;

(75) "Printing operator" means a person employed to operate duplication equipment, and to cut, collate, staple, bind and shelve materials as required;

(76) "Printing supervisor" means a person employed to supervise the operation of a print shop;

(77) "Programmer" means a person employed to design and prepare programs for computer operation;

(78) "Roofing/sheet metal mechanic" means a person employed to install, repair, fabricate and maintain roofs, gutters, flashing and duct work for heating and ventilation;

(79) "Sanitation plant operator" means a person employed to operate and maintain a water or sewage treatment plant to ensure the safety of the plant's effluent for human consumption or environmental protection;

(80) "School bus supervisor" means a qualified person:

(A) Employed to assist in selecting school bus operators and routing and scheduling school buses, operate a bus when needed, relay instructions to bus operators, plan emergency routing of buses and promote good relationships with parents, students, bus operators and other employees; and

(B) Certified to operate a bus or previously certified to operate a bus;

(81) "Secretary I" means a person employed to transcribe from notes or mechanical equipment, receive callers, perform clerical tasks, prepare reports and operate office machines;

(82) "Secretary II" means a person employed in any elementary, secondary, kindergarten, nursery, special education, vocational, or any other school as a secretary. The

duties may include performing general clerical tasks; transcribing from notes; stenotype, mechanical equipment or a sound-producing machine; preparing reports; receiving callers and referring them to proper persons; operating office machines; keeping records and handling routine correspondence. Nothing in this subdivision prevents a service person from holding or being elevated to a higher classification;

(83) "Secretary III" means a person assigned to the county board office administrators in charge of various instructional, maintenance, transportation, food services, operations and health departments, federal programs or departments with particular responsibilities in purchasing and financial control or any person who has served for eight years in a position which meets the definition of "Secretary II" or "Secretary III";

(84) "Sign support specialist" means a person employed to provide sign supported speech assistance to students who are able to access environments through audition. A person who has held or holds an aide title and becomes employed as a sign support specialist shall hold a multiclassification status that includes both aide and sign support specialist titles, in accordance with [§18A-4-8b](#) of this code.

(85) "Supervisor of maintenance" means a skilled person who is not a professional person or professional educator as defined in [§18A-1-1](#) of this code. The responsibilities include directing the upkeep of buildings and shops, and issuing instructions to subordinates relating to cleaning, repairs and maintenance of all structures and mechanical and electrical equipment of a county board;

(86) "Supervisor of transportation" means a qualified person employed to direct school transportation activities properly and safely, and to supervise the maintenance and repair of vehicles, buses and other mechanical and mobile equipment used by the county school system. After July 1, 2010, all persons employed for the first time in a position with this classification title or in a multiclassification position that includes this title shall have five years of experience working in the transportation department of a county board. Experience working in the transportation department consists of serving as a bus operator, bus aide, assistant mechanic, mechanic, chief mechanic or in a clerical position within the transportation department;

(87) "Switchboard operator-receptionist" means a person employed to refer incoming calls, to assume contact with the public, to direct and to give instructions as necessary, to operate switchboard equipment and to provide clerical assistance;

(88) "Truck driver" means a person employed to operate light or heavy duty gasoline and diesel-powered vehicles;

(89) "Warehouse clerk" means a person employed to be responsible for receiving, storing, packing and shipping goods;

(90) "Watchman" means a person employed to protect school property against damage or theft. Additional assignments may include operation of a small heating plant and routine cleaning duties;

(91) "Welder" means a person employed to provide acetylene or electric welding services for a school system; and

(92) "WVEIS data entry and administrative clerk" means a person employed to work under the direction of a school principal to assist the school counselor or counselors in the performance of administrative duties, to perform data entry tasks on the West Virginia Education Information System, and to perform other administrative duties assigned by the principal.

(j) Notwithstanding any provision in this code to the contrary, and in addition to the compensation provided for service personnel in [§18A-4-8a](#) of this code, each service person is entitled to all service personnel employee rights, privileges and benefits provided under this or any other chapter of this code without regard to the employee's hours of employment or the methods or sources of compensation.

(k) A service person whose years of employment exceeds the number of years shown and provided for under the state minimum pay scale set forth in [§18A-4-8a](#) of this code may not be paid less than the amount shown for the maximum years of employment shown and provided for in the classification in which he or she is employed.

(l) Each county board shall review each service person's job classification annually and shall reclassify all service persons as required by the job classifications. The state superintendent may withhold state funds appropriated pursuant to this article for salaries for service personnel who are improperly classified by the county boards. Further, the state superintendent shall order a county board to correct immediately any improper classification matter and, with the assistance of the Attorney General, shall take any legal action necessary against any county board to enforce the order.

(m) Without his or her written consent, a service person may not be:

(1) Reclassified by class title; or

(2) Relegated to any condition of employment which would result in a reduction of his or her salary, rate of pay, compensation or benefits earned during the current fiscal year; or for which he or she would qualify by continuing in the same job position and classification held during that fiscal year and subsequent years.

(n) Any county board failing to comply with the provisions of this article may be compelled to do so by mandamus and is liable to any party prevailing against the board for court costs and the prevailing party's reasonable attorney fee, as determined and established by the court.

(o) Notwithstanding any provision of this code to the contrary, a service person who holds a continuing contract in a specific job classification and who is physically unable to perform the job's duties as confirmed by a physician chosen by the employee, shall be given priority status over any employee not holding a continuing contract in filling other service personnel job vacancies if the service person is qualified as provided in [§18A-4-8e](#) of this code.

(p) Any person employed in an aide position on the effective date of this section may not be transferred or subject to a reduction in force for the purpose of creating a vacancy for the employment of a licensed practical nurse.

(q) Without the written consent of the service person, a county board may not establish the beginning work station for a bus operator or transportation aide at any site other than a county board-owned facility with available parking. The workday of the bus operator or transportation aide commences at the bus at the designated beginning work station and ends when the employee is able to leave the bus at the designated beginning work station, unless he or she agrees otherwise in writing. The application or acceptance of a posted position may not be construed as the written consent referred to in this subsection.

(r) Itinerant status means a service person who does not have a fixed work site and may be involuntarily reassigned to another work site. A service person is considered to hold itinerant status if he or she has bid upon a position posted as itinerant or has agreed to accept this status. A county board may establish positions with itinerant status only within the aide and autism mentor classification categories and only when the job duties involve exceptional students. A service person with itinerant status may be assigned to a different work site upon written notice 10 days prior to the reassignment without the consent of the employee and without posting the vacancy. A service person with itinerant status may be involuntarily reassigned no more than twice during the school year. At the conclusion of each school year, the county board shall post and fill, pursuant to [§18A-4-8b](#) of this code, all positions that have been filled without posting by a service person with itinerant status. A service person who is assigned to a beginning and ending work site and travels at the expense of the county board to other work sites during the daily schedule, is not considered to hold itinerant status.

(s) Any service person holding a classification title on June 30, 2013, that is removed from the classification schedule pursuant to amendment and reenactment of this section in the year 2013, has his or her employment contract revised as follows:

(1) Any service person holding the braille or sign language specialist classification title has that classification title renamed on his or her employment contract as either braille specialist or sign support specialist. This action does not result in a loss or reduction of salary

or supplement by any employee. Any seniority earned in the braille or sign language specialist classification prior to July 1, 2013, continues to be credited as seniority earned in the braille specialist or sign support specialist classification;

(2) Any service person holding the paraprofessional classification title and holding the initial paraprofessional certificate - educational interpreter has the title educational sign language interpreter I added to his or her employment contract. This action does not result in a loss or reduction of salary or supplement by any employee. Any seniority earned in the paraprofessional classification prior to July 1, 2013, continues to be credited as seniority earned in the educational sign language interpreter I classification; and

(3) Any service person holding the paraprofessional classification title and holding the permanent paraprofessional certificate - educational interpreter has the title educational sign language interpreter II added to his or her employment contract. This action does not result in a loss or reduction of salary or supplement by any employee. Any seniority earned in the paraprofessional classification prior to July 1, 2013, continues to be credited as seniority earned in the educational sign language interpreter II classification;

(t) Any person employed as an aide in a kindergarten program who is eligible for full retirement benefits before the first day of the instructional term in the 2020-2021 school year, may not be subject to a reduction in force or transferred to create a vacancy for the employment of a less senior early childhood classroom assistant teacher;

(u) A person who has held or holds an aide title and becomes employed as an early childhood classroom assistant teacher shall hold a multiclassification status that includes aide and/or paraprofessional titles in accordance with [§18A-4-8b](#) of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

**Senate Bill 2009:      Establishing alternative educational opportunities for elective course credit**

*Effective Date:*                      Passed April 25, 2022; in effect 90 days from passage

*Code Reference:*                      Amends: §18-2-7F

*WVDE Contact:*                      Office of Legal Services

*Summary:*                              The bill requires the West Virginia Board of Education to establish a program which allows students to earn elective credits through extended learning opportunities. Extended learning opportunities must be approved by the West Virginia Department of Education and provisions are set forth related to program approval, denial, and evaluation. County Board of Education are required to adopt an extended learning opportunity policy and assign an individual to coordinate all efforts.

*Enrolled Bill:*                              Enrolled Senate Bill 2009  
BY SENATORS BLAIR AND BALDWIN

AN ACT to amend and reenact §18-2-7f of the Code of West Virginia, 1931, as amended, relating to establishing alternative educational opportunities for elective course credit; requiring the state board to establish, develop, and maintain a program whereby students can earn elective course credit for extended learning opportunities that take place outside of the traditional classroom setting; specifying minimum entities eligible to provide extended learning opportunity programs; requiring individuals or entities seeking certification as an eligible extended learning opportunity program to successfully complete an application process; imposing requirements on extended learning opportunity providers pertaining to compliance with applicable federal and state health and safety laws and regulations, compliance with standards and safeguards provided by the West Virginia Board of Education, background checks for key personnel or instructional staff, and proof of insurance; addressing the denial of a program application; providing for monitoring, evaluation, and inspection of approved programs; allowing extension of approval or disqualification for violation of state law or state board policies; allowing appeal of disqualification; requiring the county boards of education to adopt an alternative educational opportunities policy that facilitates implementation and participation; requiring parental or legal guardian approval for participation of student under 18 years of age; allowing students transferring schools to request acceptance of elective course credits awarded for program completion; addressing transportation to and from an approved program; allowing auditing of approved programs at any time and disqualification for not meeting certain provisions; and requiring report to the Legislative Oversight Commission on Education Accountability with respect to the implementation of extended learning opportunity programs.

Be it enacted by the Legislature of West Virginia:

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

§18-2-7f. 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) Program established. — The State Board of Education shall establish, develop, and maintain a program whereby students can earn elective course credit for extended learning opportunities that take place outside of the traditional classroom setting. In accordance with the requirements of this section, the State Board of Education shall permit any high school student to receive up to six elective course credits towards graduation for participating and completing any approved extended learning opportunity program.

(c) Eligibility of extended learning opportunity programs. — Entities eligible to provide extended learning opportunity programs within a county shall be broadly defined and shall include, but are not limited to, the following:

- (1) Nonprofit organizations;
- (2) Businesses with established locations in the state;
- (3) Trade associations;
- (4) Parents of students involved in programs that may otherwise qualify as an alternative educational program;
- (5) Teachers involved in programs outside of the traditional classroom; and
- (6) School personnel involved in programs outside of the traditional classroom.

In order to be certified as an eligible extended learning opportunity program, an individual or entity shall successfully complete an application process as established by the State Board of Education pursuant to the requirements of this section.

(d) Application process. — An extended learning opportunity program shall qualify for elective course credit if it has been approved by the State Board of Education. Individuals or entities seeking program accreditation shall complete an application form promulgated by the board, which shall include the following application criteria:

- (1) A general explanation of the program's qualifications and benefits;
- (2) An outline of the overall program, including its goals, competencies, and expected student outcomes;
- (3) An outline of specific instructional activities, materials, and learning environments;
- (4) Written content standards and objectives;
- (5) A description of the facilities, if any, utilized by the program; and
- (6) An explanation of how the program intends to monitor student progress and

complete assessment and grading for participating students.

The State Board of Education shall consider a completed extended learning opportunity program application within 45 days of receipt. An approved extended learning opportunity provider shall comply with all applicable federal and state health and safety laws and regulations, as well as any standards and safeguards as provided by the State Board of Education. Background checks are required for all key personnel or instructional staff of an extended learning opportunity provider, and a program shall provide its background check policy to participating families. A participating program shall also have proof of insurance.

(e) Program denial. — If an extended learning opportunity program application is denied, the State Board of Education shall provide a detailed explanation of the reasons for the denial as well as an explanation of ways in which the program may improve its application in order to obtain a more favorable review by the board. Denial of an extended learning opportunity program application may not prohibit a provider from submitting another application aimed at addressing the concerns or improvements originally suggested by the board.

(f) Program evaluation. — An approved extended learning opportunity program shall be monitored and evaluated at the end of its first year by the State Board of Education, which may consider in its evaluation input from any participating school's principal or guidance counselors. If an extended learning opportunity program continues to meet the requirements of this section, its approval may be extended by the board for a period of five years.

Thereafter, the extended learning opportunity program shall be inspected and monitored on an annual basis. The State Board of Education may evaluate an approved program at any time and may disqualify an approved program if the provider has violated the requirements of state law or State Board of Education policies. An extended learning opportunity program may appeal any disqualification to the circuit court of Kanawha County or to the circuit court of the county in which the program is administered.

(g) Program implementation and participation. — Approved extended learning opportunity programs shall be implemented and coordinated at the local school level. The county boards of education shall adopt an alternative educational opportunities policy that facilitates implementation and participation in accordance with this section. The policy shall:

- (1) Provide for a designee within each school that shall have primary responsibility for ensuring implementation and coordination of the extended learning opportunity policy; and
- (2) Provide for a student seeking elective course credit in an accredited extended learning opportunity program to work with his or her designated advisor or guidance counselor towards participation in the program.

Students under the age of 18 shall have approval from a parent or legal guardian to

participate in an extended learning opportunity program.

(h) Student credit transfer. — Students transferring from other schools may request acceptance of elective course credits awarded for completed extended learning opportunity programs. If the transferring student has completed a program previously approved by the State Board of Education, the credits shall be accepted and applied toward the student's transcript. Completion of nonapproved extended learning opportunity programs shall be evaluated in accordance with a county board of education's adopted policy on alternative educational opportunities for purposes of awarding credit.

(i) Transportation. — Because extending learning opportunity programs take place outside of the traditional classroom, transportation to and from an approved program is the responsibility of a student and his or her parent or legal guardian: Provided, That a local school district may provide transportation at its discretion.

(j) Auditing of approved programs. — The State Board of Education may audit approved extended learning opportunity programs at any time. If the audit results in findings that an approved program is not meeting the provisions of this section, then the board may disqualify the program immediately.

(k) The Department of Education shall prepare a report with respect to the implementation of extended learning opportunity programs in accordance with the provisions of this section to the Legislative Oversight Commission on Education Accountability no later than December 31, 2022.





W. Clayton Burch  
West Virginia Superintendent of Schools