

E N R O L L E D

H. B. 2861

(BY DELEGATE(S) PASDON, M. POLING, BARILL, MARSHALL,
FRICH AND FLEISCHAUER)

[Passed April 13, 2013; in effect July 1, 2013.]

AN ACT to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating to dual enrollment of at-risk student in public school and alternative program that meets certain conditions; making legislative findings; requiring approval of alternative programs by the state board of education; authorizing county superintendent to approve dual enrollment; providing conditions under which dual enrollment may be approved; eliminating required annual report on cooperation with challenge academy; and making technical changes.

Be it enacted by the Legislature of West Virginia:

That §18-2-6 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 2. STATE BOARD OF EDUCATION.

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

1 (a) The state board shall promulgate rules for the
2 accreditation, classification and standardization of all schools in
3 the state, except institutions of higher education, and shall
4 determine the minimum standards for granting diplomas and
5 certificates of proficiency by those schools.

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

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

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

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

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

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

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

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

53 (f) If a student attends an approved alternative education
54 program or the Mountaineer Challenge Academy, which is
55 designated as a special alternative education program pursuant
56 to section twenty-four, article one-b, chapter fifteen of this code,
57 and the student graduates or passes the General Equivalency
58 Development (GED) Tests within five years of beginning ninth
59 grade, that student shall be considered graduated for the
60 purposes of calculating the high school graduation rate used for

61 school accreditation and school system approval, subject to the
62 following:

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

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

70 (3) If the waiver is granted, notwithstanding the provisions
71 of subdivision (1) of this subsection, the student graduating or
72 passing the General Educational Development (GED) Tests
73 within five years shall be considered graduated.

74 (g) The state board shall promulgate a rule to support the
75 operation of the National Guard Youth Challenge Program
76 operated by the Adjutant General and known as the
77 "Mountaineer Challenge Academy" which is designated as a
78 special alternative education program pursuant to section
79 twenty-four, article one-b, chapter fifteen of this code, for
80 students who are at risk of not succeeding in the traditional
81 school structure. The rule shall set forth policies and procedures
82 applicable only to the Mountaineer Challenge Academy that
83 provide for, but are not limited to, the following:

84 (1) Implementation of provisions set forth in section
85 twenty-four, article one-b, chapter fifteen of this code;

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

89 (3) Consideration of a student participating in the
90 Mountaineer Challenge Academy special alternative education
91 program at full enrollment status in the referring county for the

92 purposes of funding and calculating attendance and graduation
93 rates, subject to the following:

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

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

102 (C) If the waiver is granted, notwithstanding the provisions
103 of paragraph (A) of this subdivision, the student shall be
104 considered at full enrollment status in the referring county for
105 the purposes of calculating attendance and graduation rates; and

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

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

115 (5) Consideration of eligibility to take the General
116 Educational Development (GED) Tests by qualifying within the
117 extraordinary circumstances provisions established by state
118 board rule for a student participating in the Mountaineer
119 Challenge Academy special alternative education program who
120 does not meet any other criteria for eligibility.

121 (h) Nothing in this section or the rules promulgated under
122 this section compels the Mountaineer Challenge Academy to be

123 operated as a special alternative education program or to be
124 subject to any other laws governing the public schools except by
125 its consent.

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

128 (1) Defeated and discouraged learners:

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

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

136 (C) These problems may be accompanied by such behavior
137 patterns as poor attendance, inattentiveness, negative attitudes
138 and acting out in class. These patterns are both symptoms of and
139 added catalysts for students to become increasingly defeated and
140 discouraged learners;

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

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

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

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

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

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

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

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

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

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

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

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

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

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

In effect July 1, 2013.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2013.

Governor

