

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Introduced

House Bill 4384

BY DELEGATES BUTLER, GEARHEART, WAXMAN,
SUMMERS, MILLER, PERRY, MCGEEHAN, HAMRICK,
KURCABA, WAGNER AND CADLE

[Introduced February 3, 2016; Referred
to the Committee on Education.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §18-2E-3h, relating to permitting students to opt out of taking certain academic
 3 assessments; prohibiting adverse academic or disciplinary actions from being taken
 4 against a student for opting out of an assessment; prohibiting state colleges and
 5 universities from denying admission due to refusing to take an assessment; prohibiting
 6 nonparticipation in an assessment to be included when calculating a participation rate;
 7 allowing a general parental refusal to participate in standardized testing to apply to all
 8 standardized testing; and defining a term.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §18-2E-3h, to read as follows:

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-3h. Standardized assessments; definition; parental refusal; adverse action prohibited.

1 (a) For purposes of this section “standardized assessment” means any testing or
 2 assessment tool that is utilized for purposes of measuring the aggregate performance of more
 3 than one student or measuring the performance of a school or group of schools or is not part of
 4 the normal course curriculum.

5 (b) A parent or legal guardian’s refusal to permit his or her child to participate in all or part
 6 of any standardized assessment must be honored by the school and district in which the child is
 7 enrolled and may not be the basis for any discipline or adverse treatment of the student including,
 8 but not limited to, course grades, admission to any course, promotion, exclusion for awards,
 9 honors, scholarships or graduation.

10 (c) Where a standardized assessment is administered to a student, its results may not be
 11 used as a factor in any decision adversely affecting the student, including, but not limited to, denial
 12 of graduation, denial of promotion to a higher grade level, denial of course credit, denial of

13 admittance to a course, denial of nomination for awards, honors or admission to The Governor's
14 Honors Academy or The Governor's Schools, or denial of a Promise Scholarship or other
15 scholarships.

16 (d) Notwithstanding any provision of this code to the contrary, no West Virginia college or
17 university may consider the fact that a student did not participate in one or more standardized
18 assessments administered by the school, county board, district, state or federal government as a
19 factor in whether to grant admission to that student.

20 (e) Notwithstanding any provision of this code to the contrary, where a parent or legal
21 guardian has refused to permit his or her child to participate in all or part of any standardized
22 assessment such student shall not be included in calculating the participation rate of the
23 standardized assessment given.

24 (f). A parent or legal guardian may refuse the standardized assessment by submitting such
25 refusal to the school in which the child is enrolled in writing at any time during the school year.
26 Where the refusal is not specific as to what standardized assessment it is intended to apply, it
27 shall apply to any and all standardized testing unless and until said refusal is withdrawn by the
28 parent or legal guardian in writing.

29 (g) This bill is to become effective upon passage.

NOTE: The purpose of this bill is to recognize the parental or legal guardianship authority to direct their children's education, including the right to refuse certain academic assessments of their children. The bill prohibits adverse academic or disciplinary action from being taken against a student his or her parent's or guardian's refusal of certain assessments. The bill prohibits state colleges and universities from denying admission due to refusing to take an assessment. The bill prohibits nonparticipation in an assessment to be included when calculating a participation rate. The bill allows a general parental refusal to participate in standardized testing to apply to all standardized testing. The bill defines a term.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.