

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Committee Substitute

for

Senate Bill 645

BY SENATORS KARNES, MAYNARD, PHILLIPS, AND

HAMILTON

[Originating in the Committee on Education; reported

on February 28, 2022]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
2 designated §18-20A-1, §18-20A-2, §18-20A-3, §18-20A-4, §18-20A-5, §18-20A-6, §18-
3 20A-7, §18-20A-8, §18-20A-9, and §18-20A-10, all relating to regulating schools for
4 students with disabilities; defining terms; limiting application of new article; requiring State
5 Board of Education rules for the management and operation of schools for students with
6 disabilities; prohibiting the opening, operating, or conducting of any school for students
7 with disabilities without a license to operate the school issued by the State Superintendent
8 of Schools; allowing the state superintendent or his or her authorized agents to make
9 unannounced inspections of each school for students with disabilities; requiring
10 application for a license to be filed with the state superintendent; requiring each school to
11 submit and maintain a guaranty instrument payable to the State of West Virginia and
12 conditioned to protect the contractual rights of students and other contracting parties;
13 requiring each school to acquire appropriate insurance; providing that neither the state,
14 state board, or state superintendent shall incur any liability from the actions or inactions of
15 a licensed school or any of its employees; allowing a school for students with disabilities
16 to offer education programs serving only the disability categories specifically indicated on
17 its license; allowing state superintendent to establish fees and the methods for collecting
18 such fees for schools as he or she deems necessary to carry out the provisions of the new
19 article; allowing the state superintendent to refuse to issue or renew a license or allowing
20 the state superintendent to revoke or suspend the license of any school for a violation of
21 any provision of this new article or any rule of the state board promulgated pursuant
22 thereto; providing that any person who opens, operates, or conducts any school for
23 students with disabilities without a license is guilty of a misdemeanor and subject to fine
24 and confinement; and requiring the state superintendent to maintain a list of schools for
25 students with disabilities holding valid licenses that must be available to the public.

Be it enacted by the Legislature of West Virginia:

ARTICLE 20A. SCHOOLS FOR STUDENTS WITH DISABILITIES.

§18-20A-1. Definitions.

1 As used in this chapter unless the context requires a different meaning:

2 “Person” means any individual, group of individuals, partnership, association, business
3 trust, corporation, or other business entity.

4 “School for students with disabilities” or “school” or “schools” means a privately owned
5 and operated full-time preschool or school, no matter how titled, maintained or conducting classes
6 for the purpose of offering instruction for a consideration, profit, or tuition solely to persons
7 determined to have autism, intellectual disability, multiple disabilities, an emotional disturbance,
8 or a traumatic brain injury.

§18-20A-2. Application.

9 This article shall only apply to schools for students with disabilities as defined in §18-20A-
10 1 of this code.

§18-20A-3. Rules.

11 The state board shall promulgate rules pursuant to §29A-3B-1 et seq. of this code for the
12 management and operation of schools for students with disabilities. The rules may include
13 standards for programs offered by the schools. The state board shall authorize the state
14 superintendent to issue licenses to operate schools.

§18-20A-4. Licenses generally.

15 (a) No person shall open, operate, or conduct any school for students with disabilities in
16 this state without a license to operate the school issued by the state superintendent. A license
17 shall be issued for a school if it is in compliance with the rules of the state board promulgated
18 pursuant to this article, any fee for such license has been paid, and its facilities are approved by
19 the state superintendent after an inspection by the state superintendent or his or her authorized
20 agents. No such license shall be transferable. The license shall be prominently displayed on the
21 premises of the school in a place open for inspection by any interested person during the hours
22 of the school.

25 of operation.

26 (b) The state superintendent or his or her authorized agents may make unannounced
27 inspections of each school for students with disabilities each year.

28 **§18-20A-5. Application for license; information required; student guaranty provisions;**
29 **insurance requirement; disclaimer of liability.**

30 (a) To obtain a license to operate a school, an application, certified as true and correct,
31 shall be filed with the state superintendent on forms prepared and furnished by him or her setting
32 forth information deemed necessary by the state superintendent.

33 (b) Each school shall submit and maintain a guaranty instrument payable to the State of
34 West Virginia and conditioned to protect the contractual rights of students and other contracting
35 parties. The amount of the bond shall be established in the state board's rules. The minimum
36 guaranty instrument for any school shall be \$1,000. The word "students" as used in this subsection
37 means all enrolled students.

38 (c) Each school shall acquire appropriate insurance that includes the types of coverage
39 and the amount of coverage prescribed by state board rule.

40 (d) Neither the state, state board, or state superintendent shall incur any liability from the
41 actions or inactions of a school licensed pursuant to this article or any of its employees.

42 **§18-20A-6. License restricted to specific disability categories; supplementary application.**

43 A school may offer education programs serving the disability categories specifically
44 indicated on its license only. A supplementary application for additional programs of instruction or
45 disability categories may be submitted in such form as the state superintendent may prescribe.

46 **§18-20A-7. Fees.**

47 The state superintendent may establish fees and the methods for collecting such fees for
48 schools as he or she deems necessary to carry out the provisions of this article. All fees shall be
49 nonrefundable.

50 **18-20A-8. Denial, revocation, or suspension of license; grounds; summary suspension**

51 **under certain circumstances; penalty.**

52 The state superintendent may refuse to issue or renew a license, or may revoke or
53 suspend the license issued pursuant to this article, of any school for a violation of any provision
54 of this article or any rule of the state board promulgated pursuant to this article.

55 **§18-20A-9. Violations.**

56 Any person who opens, operates, or conducts any school without a license required by
57 this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined up to
58 \$100, or be confined in jail for not more than six months, or both fined and confined. Each day
59 such person permits the school to be open and operate without such a license shall constitute a
60 separate offense.

61 **§18-20A-10. List of schools holding valid licenses.**

62 The state superintendent shall maintain a list of schools holding valid licenses under the
63 provisions of this article that shall be available for the information of the public.