

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2435

By Delegate Tully

[Introduced January 11, 2023; Referred to the
Committee on Education then the Judiciary]

1 A BILL to repeal §18-2-33 of the Code of West Virginia, 1931, as amended; and to amend said
 2 code by adding thereto a new article, designated §18-16A-1, §18-16A-2, and §18-16A-3,
 3 and §18-16A-4 all relating to hazing in K-12 education; establishing the West Virginia
 4 Public School Anti-hazing Law; defining terms; prohibiting hazing and providing for
 5 penalties; and providing for legislative authority to promulgate rules required to enforce the
 6 article.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-33. Rules for antihazing.

1 [Repealed].

ARTICLE 16A. ANTIHAZING LAW FOR K-12 EDUCATION.

§18-16A-1. Short title.

1 This article shall be known and may be cited as the West Virginia Public School Anti-
 2 hazing Law.

§18-16A-2. Definitions.

3 As used in this article:

4 (1) "Hazing" means to cause any action or situation which recklessly or intentionally
 5 endangers the mental or physical health or safety of another person or persons or causes another
 6 person or persons to destroy or remove public or private property for the purpose of initiation or
 7 admission into or affiliation with, or as a condition for continued membership in, any organization
 8 the members of which are primarily students, faculty, staff, volunteers, or persons otherwise
 9 closely associated with public schools. The term includes, but is not limited to, acts of a physical
 10 nature, such as whipping, beating, branding, required consumption of any food, liquor, drug, or
 11 other substance, or any other required physical activity which could reasonably be deemed to
 12 adversely affect the physical health and safety of the person or persons so treated, and includes

13 any activity which would subject the person or persons so treated to extreme mental stress, such
 14 as sleep deprivation, forced exclusion from social contact, required conduct which could result in
 15 extreme embarrassment, or any other required activity which could reasonably be deemed to
 16 adversely affect the mental health or dignity of the person or persons so treated, or any willful
 17 destruction or removal of public or private property: *Provided*, That the implied or expressed
 18 consent or willingness of a person or persons to hazing may not be a defense under this section.

19 (2) "School" means any K-12 public school funded by the State of West Virginia and
 20 governed by the State Board of Education.

21 (3) "Organization" means any fraternity, sorority, association, corporation, order, society,
 22 corps, club, sports team, or similar group, or any national or international affiliate thereof, the
 23 membership of which is primarily made up students, staff, faculty, or volunteers of a school and
 24 which activities are funded by school funds or otherwise sponsored and directly affiliated by a
 25 public school.

§18-16A-3. Hazing prohibited.

1 (a) Adoption of policy- Each county school board shall adopt a policy which establishes
 2 that "hazing" either on or off school property, by any student, staff, faculty, group or organization
 3 affiliated with the public school is prohibited.

4 (b) Penalties- Each county school board shall establish penalties for violation of this anti-
 5 hazing law. The penalties shall include, but not be limited to, provisions for:

6 (1) In the case of a person not associated with the public school, the ejection of the violator
 7 from school property;

8 (2) In the case of a student, administrator or staff violator, the individual's suspension,
 9 expulsion or other appropriate disciplinary action; and

10 (3) In the case of an organization affiliated with the public school which authorizes hazing,
 11 rescission of permission for that organization to operate on school property or receive any other
 12 benefit of affiliation with the school.

13 (c) These penalties shall be in addition to any other civil or criminal penalty to which the
14 violation or organization may be subject.

15 (d) The school board shall propose legislative rules to assign responsibility for
16 administering the policy to the superintendent of schools and establish procedures for appealing
17 the action or lack of action of the superintendent. The school board shall clearly set forth the policy
18 and penalties adopted and shall distribute copies of them to all faculty, staff, and students enrolled
19 or employed in the public school.

§18-16A-4. Legislative rules.

1 The State Board of Education shall propose rules for legislative approval in accordance
2 with the provisions of §29A-3-1 et seq. of this code necessary for the administration of this article.

NOTE: The purpose of this bill is to prohibit hazing in K-12 public education and set penalties and procedures for violation of the article.

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