

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5671

By Delegate Hornbuckle

[Introduced February 13, 2024; Referred to the
Committee on Education]

1 A BILL to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to
 2 allowing injured athletes to have two extra semesters of high school eligibility if they are
 3 injured and unable to compete.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools and by home-schooled students and participants in the Hope Scholarship Program or in a Microschool or Learning Pod.

1 (a) The county boards of education shall exercise the control, supervision, and regulation
 2 of all interscholastic athletic events, and other extracurricular activities of the students in public
 3 secondary schools, and of those schools of their respective counties. The county board of
 4 education may delegate control, supervision, and regulation of interscholastic athletic events and
 5 band activities to the West Virginia Secondary School Activities Commission.

6 (b) The West Virginia Secondary School Activities Commission is composed of the
 7 principals, or their representatives, of those secondary schools whose county boards of education
 8 have certified in writing to the State Superintendent of Schools that they have elected to delegate
 9 the control, supervision, and regulation of their interscholastic athletic events and band activities of
 10 the students in the public secondary schools in their respective counties to the commission. The
 11 West Virginia Secondary School Activities Commission may exercise the control, supervision, and
 12 regulation of interscholastic athletic events and band activities of secondary schools, delegated to
 13 it pursuant to this section. The rules of the West Virginia Secondary School Activities Commission
 14 shall contain a provision for a proper review procedure and review board and be promulgated in
 15 accordance with the provisions of chapter 29A of this code, but shall, in all instances, be subject to

16 the prior approval of the state board. The West Virginia Secondary School Activities Commission,
17 may, with the consent of the State Board of Education, incorporate under the name of West
18 Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock corporation under
19 the provisions of chapter 31 of this code. County boards of education may expend moneys for and
20 pay dues to the West Virginia Secondary School Activities Commission, and all moneys paid to the
21 commission, as well as moneys derived from any contest or other event sponsored by the
22 commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this code, and the funds of the
23 commission are subject to an annual audit by the State Tax Commissioner.

24 (c) The West Virginia Secondary School Activities Commission shall promulgate
25 reasonable rules providing for the control, supervision, and regulation of the interscholastic
26 athletic events and other extracurricular activities of private and parochial secondary schools as
27 elect to delegate to the commission control, supervision, and regulation, upon the same terms and
28 conditions, subject to the same rules and requirements and upon the payment of the same fees
29 and charges as those provided for public secondary schools. Any such private or parochial
30 secondary school shall receive any monetary or other benefits in the same manner and in the
31 same proportion as any public secondary school.

32 (d) Notwithstanding any other provision of this section, or the commission's rules, the
33 commission shall consider eligible for participation in interscholastic athletic events and other
34 extracurricular activities of secondary schools a student who is receiving home instruction
35 pursuant to §18-8-1(c) of this code, is a participant in the Hope Scholarship Program, pursuant to
36 §18-8-1(m) of this code and as provided for in §18-31-1, *et seq.* of this code, or participates in a
37 microschool or learning pod, pursuant to §18-8-1(n) of this code, and who:

38 (1) Has demonstrated satisfactory evidence of academic progress for each year in
39 compliance with the provisions of that subsection: *Provided*, That the student's average
40 test results are within or above the fourth stanine in all subject areas;

41 (2) Has not reached the age of 19 by August 1 of the current school year;

42 (3) Is an amateur who receives no compensation but participates solely for the
43 educational, physical, mental and social benefits of the activity;

44 (4) Agrees to comply with all disciplinary rules of the West Virginia Secondary School
45 Activities Commission and the county board in which the student lives; and

46 (5) Agrees to obey all rules of the West Virginia Secondary School Activities Commission
47 governing awards, all-star games, parental consents, physical examinations, and vaccinations
48 applicable to all high school athletes.

49 Eligibility is limited to participation in interscholastic athletic events and other
50 extracurricular activities at the public secondary school serving the attendance zone in which the
51 student lives: *Provided*, That students who leave a school during the school year are subject to the
52 same transfer protocols that apply to member-to-member transfers. Reasonable fees may be
53 charged to the student to cover the costs of participation in interscholastic athletic events and
54 other extracurricular activities.

55 (e) Any athlete who sustains an injury that causes them to be unable to participate in 70%
56 or more of the scheduled competitive events for a given season shall be given a "medical red shirt"
57 and granted an extra two semesters of eligibility if:

58 (1) The athlete can provide medically verified evidence that the student was unable to
59 physically participate in 70% or more of the regularly scheduled season, or the athlete suffers from
60 mental illness that results in the student being absent from more than 70% of the school class days
61 during the regularly scheduled season;

62 (2) They have not turned 19 before the beginning of the season in which they will use the
63 extended eligibility; and

64 (3) Meets any and all other standards as described in §18-2-25(g) of this code.

65 (f) County school boards shall promulgate guidelines to establish the academic
66 expectations for any student whose graduation is deferred due to participation in an extra year of
67 eligibility under this section. The instruction for students participating in an extra year of eligibility

68 may include classroom instruction, college credit accrual, work-study, vocational training, or any
69 other method of instruction that the school deems proper to ensure that a student meets the
70 criteria for graduation from high school. Students availing themselves of this section shall have the
71 opportunity, when petitioning the school for the extra year of eligibility, to present non-traditional
72 options for completing the requirements of high school and the county boards of education shall
73 have discretion to approve any alternatives to traditional instruction.

74 (g) Notwithstanding any rule or statute of the West Virginia Secondary School Activities
75 Commission, but in compliance with all age-related standards in this code, if a member school
76 provides evidence documenting a student enrolled in grades nine through twelve who can not
77 participate for the reasons described in this section, that student shall have five consecutive
78 calendar years of athletic eligibility from the date of first entry into the ninth grade as long as they
79 do not turn 19 years of age before the period of additional eligibility begins.

80 ~~(e)~~(h) Students enrolled in a private school shall be eligible to participate in extracurricular
81 activities at the public secondary school serving the attendance zone in which the student lives if
82 the extracurricular activity is not offered at the student's private school: *Provided*, The student
83 meets the requirements of subsection (d)(4) and (d)(5) of this section.

84 ~~(f)~~(i) The West Virginia Secondary School Activities Commission shall recognize
85 preparatory athletic programs, whose participants attend a secondary school in West Virginia for
86 academic instruction, as nonparticipating members of the commission solely for the purpose of
87 competing on the national level: *Provided*, That the preparatory athletic program shall pay the
88 same fees as member schools. Such recognition does not entitle the preparatory athletic program
89 to compete against a member school during the regular season or in any commission state
90 championship events. The commission may promulgate an emergency rule pursuant to
91 subsection (b) of this section, if necessary, to carry out the intent of this subsection.

NOTE: The purpose of this bill is to allow injured athletes to have two extra semesters of high school eligibility if they are injured and unable to compete.

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