

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2820**

BY DELEGATES CROUSE, STEELE, BURKHAMMER, KIMBLE,

WORRELL, CANNON, DILLON, BUTLER, MAYNOR, LUCAS,

AND PINSON

[Passed March 11, 2023; in effect ninety days from passage.]



1 AN ACT to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended; and to  
2 amend said code by adding thereto a new section, designated §18-2-25e, all relating to  
3 eligibility for participation in extracurricular activities under control of the West Virginia  
4 Secondary Schools Activities Commission; permitting students enrolled in private schools,  
5 the Hope Scholarship Program, microschoools and learning pods access to participate in  
6 extracurricular activities; modifying eligibility requirements for students enrolled in private  
7 schools, home school, the Hope Scholarship Program, microschoools, and learning pods  
8 to participate in extracurricular activities; prohibiting private school student from  
9 participating in public school sport if sport is offered at private school; clarifying students  
10 enrolled in private schools, the Hope Scholarship Program, microschoools and learning  
11 pods are subject to same transfer protocols that apply to member-to-member transfers;  
12 clarifying when students may transfer schools and retain eligibility to participate in  
13 extracurricular activities under control of the West Virginia Secondary Schools Activities  
14 Commission; and requiring the West Virginia Secondary Schools Activities Commission  
15 to promulgate rules, including emergency rules if necessary.

*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  
10 of the students in the public secondary schools in their respective counties to the commission.  
11 The West Virginia Secondary School Activities Commission may exercise the control, supervision,  
12 and regulation of interscholastic athletic events and band activities of secondary schools,  
13 delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities  
14 Commission shall contain a provision for a proper review procedure and review board and be  
15 promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all  
16 instances, be subject to the prior approval of the state board. The West Virginia Secondary School  
17 Activities Commission, may, with the consent of the State Board of Education, incorporate under  
18 the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock  
19 corporation under the provisions of chapter 31 of this code. County boards of education may  
20 expend moneys for and pay dues to the West Virginia Secondary School Activities Commission,  
21 and all moneys paid to the commission, as well as moneys derived from any contest or other  
22 event sponsored by the commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this  
23 code, and the funds of the commission are subject to an annual audit by the State Tax  
24 Commissioner.

25 (c) The West Virginia Secondary School Activities Commission shall promulgate  
26 reasonable rules providing for the control, supervision, and regulation of the interscholastic  
27 athletic events and other extracurricular activities of private and parochial secondary schools as  
28 elect to delegate to the commission control, supervision, and regulation, upon the same terms

29 and conditions, subject to the same rules and requirements and upon the payment of the same  
30 fees and charges as those provided for public secondary schools. Any such private or parochial  
31 secondary school shall receive any monetary or other benefits in the same manner and in the  
32 same proportion as any public secondary school.

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

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

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

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

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

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

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

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

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

**§18-2-25e. Athletic eligibility of transfer students.**

1 (a) The West Virginia Secondary School Activities Commission shall modify its rule, prior  
2 to the 2023-2024 school year, to allow students to transfer schools and retain athletic eligibility at  
3 least one time during a student's four years of secondary school, inclusive of grades nine through  
4 12. The West Virginia Secondary School Activities Commission may promulgate an emergency  
5 rule, if necessary, to modify its rule prior to the 2023-2024 school year.

6 (b) Nothing in this section is intended to limit or restrict a student transferring more than  
7 one time for the following reasons:

8 (1) The West Virginia Secondary School Activities Commission's ability to make eligibility  
9 determinations on a case-by-case basis when warranted by a student's circumstances in  
10 accordance with the West Virginia Secondary School Activities Commission's rules; or

11 (2) For any other reason permitted under the rules of the West Virginia Secondary School  
12 Activities Commission.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

Originated in the House of Delegates.

In effect ninety days from passage.

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*Speaker of the House of Delegates*

.....  
*President of the Senate*

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The within is ..... this the.....  
Day of ....., 2023.

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*Governor*