

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 2820**

By Delegates Crouse, Steele, Burkhammer, Kimble,  
Worrell, Cannon, Dillon, Butler, Maynor, Lucas, and  
Pinson

[Introduced January 19, 2023;  
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 participants in the Hope Scholarship Program, Microschools and Learning Pods  
3 access to athletics; prohibiting private school student from participating in public school  
4 sport offered at private school; making private school students subject to member to  
5 member transfer protocols and Activities Commission waiver application process.

*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, or who is a participant in the Hope Scholarship Program,  
36 pursuant to §18-8-1(m) of this code and as provided for in §18-31-1, et seq. of this code, or 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 one year in  
39 compliance with the provisions of that subsection: *Provided*, That the student's average test  
40 results are within or above the fourth stanine in all subject areas;

41 (2) Is enrolled in at least one virtual instructional course per semester, consistent with the  
42 applicable virtual instruction policy of the county board in which the ~~home-schooled~~ student lives  
43 and the State Board;

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

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

47 (5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School  
48 Activities Commission and the county board in which the ~~home-schooled~~ student lives; and

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

52 Eligibility is limited to participation in interscholastic athletic events and other  
53 extracurricular activities at the public secondary school serving the attendance zone in which the  
54 student lives: *Provided*, That ~~home-schooled~~ students who leave a member school during the  
55 school year are subject to the same transfer protocols that apply to member-to-member transfers:  
56 *Provided*, That students enrolled in a private school shall not be eligible to play on a public school  
57 team if the sport is offered at the private school. Private school students are subject to the same  
58 member to member transfer protocols and West Virginia Secondary School Activities Commission  
59 waiver application process. Reasonable fees may be charged to the student to cover the costs of  
60 participation in interscholastic athletic events and other extracurricular activities.

61 (e) The West Virginia Secondary School Activities Commission shall recognize  
62 preparatory athletic programs, whose participants attend a secondary school in West Virginia for  
63 academic instruction, as nonparticipating members of the commission solely for the purpose of

64 competing on the national level: *Provided*, That the preparatory athletic program shall pay the  
65 same fees as member schools. Such recognition does not entitle the preparatory athletic program  
66 to compete against a member school during the regular season or in any commission state  
67 championship events. The commission may promulgate an emergency rule pursuant to  
68 subsection (b) of this section, if necessary, to carry out the intent of this subsection.

NOTE: The purpose of this bill is to allow participants in the Hope Scholarship Program and in Microschools and Learning Pods to access to athletic programs.

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