

1 **ENROLLED**

2 **H. B. 2861**

3
4 (By Delegates Pasdon, M. Poling, Barill, Marshall,
5 Frich and Fleischauer)

6 [Passed April 13, 2013; in effect July 1, 2013.]
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10 AN ACT to amend and reenact §18-2-6 of the Code of West Virginia,
11 1931, as amended, relating to dual enrollment of at-risk
12 student in public school and alternative program that meets
13 certain conditions; making legislative findings; requiring
14 approval of alternative programs by the state board of
15 education; authorizing county superintendent to approve dual
16 enrollment; providing conditions under which dual enrollment
17 may be approved; eliminating required annual report on
18 cooperation with challenge academy; and making technical
19 changes.

20 *Be it enacted by the Legislature of West Virginia:*

21 That §18-2-6 of the Code of West Virginia, 1931, as amended,
22 be amended and reenacted to read as follows:

23 **ARTICLE 2. STATE BOARD OF EDUCATION.**

24 **§18-2-6. Classification and standardization of schools; standards**

1 **for degrees and diplomas; certificates of proficiency;**
2 **establishment of alternative education programs.**

3 (a) The state board shall promulgate rules for the
4 accreditation, classification and standardization of all schools in
5 the state, except institutions of higher education, and shall
6 determine the minimum standards for granting diplomas and
7 certificates of proficiency by those schools.

8 (1) The certificates of proficiency shall include specific
9 information regarding the graduate's skills, competence and
10 readiness for employment or honors and advanced education and shall
11 be granted, along with the diploma, to every eligible high school
12 graduate.

13 (2) The certificate of proficiency shall include the program
14 of study major completed by the student only for those students who
15 have completed the required major courses, or higher level courses,
16 advanced placement courses, college courses or other more rigorous
17 substitutes related to the major, and the recommended electives.

18 (b) An institution of less than collegiate or university
19 status may not grant any diploma or certificate of proficiency on
20 any basis of work or merit below the minimum standards prescribed
21 by the state board.

22 (c) A charter or other instrument containing the right to
23 issue diplomas or certificates of proficiency may not be granted by
24 the State of West Virginia to any institution or other associations

1 or organizations of less than collegiate or university status
2 within the state until the condition of granting or issuing the
3 diplomas or other certificates of proficiency has first been
4 approved in writing by the state board.

5 (d) The state board shall promulgate a rule for the approval
6 of alternative education programs for disruptive students who are
7 at risk of not succeeding in the traditional school structure.

8 (1) This rule may provide for the waiver of other policies of
9 the state board, the establishment and delivery of a nontraditional
10 curriculum, the establishment of licensure requirements for
11 alternative education program teachers, and the establishment of
12 performance measures for school accreditation.

13 (2) This rule shall provide uniform definitions of disruptive
14 student behavior and uniform standards for the placement of
15 students in alternative settings or providing other interventions
16 including referrals to local juvenile courts to correct student
17 behavior so that they can return to a regular classroom without
18 engaging in further disruptive behavior.

19 (e) The state board shall establish up to five pilot projects
20 at the elementary or middle school levels, or both, that employ
21 alternative schools or other placements for disruptive students to
22 learn appropriate behaviors so they can return to the regular
23 classroom without further disrupting the learning environment. The
24 state board shall report to the Legislative Oversight Commission on

1 Education Accountability by December 1, 2010, on its progress in
2 establishing the pilot projects and by December 1 in each year
3 after that for the duration of the pilot projects on the effect of
4 the projects on maintaining student discipline.

5 (f) If a student attends an approved alternative education
6 program or the Mountaineer Challenge Academy, which is designated
7 as a special alternative education program pursuant to section
8 twenty-four, article one-b, chapter fifteen of this code, and the
9 student graduates or passes the General Equivalency Development
10 (GED) Tests within five years of beginning ninth grade, that
11 student shall be considered graduated for the purposes of
12 calculating the high school graduation rate used for school
13 accreditation and school system approval, subject to the following:

14 (1) The student shall be considered graduated only to the
15 extent that this is not in conflict with any provision of federal
16 law relating to graduation rates;

17 (2) If the state board determines that this is in conflict
18 with a provision of federal law relating to graduation rates, the
19 state board shall request a waiver from the United States
20 Department of Education; and

21 (3) If the waiver is granted, notwithstanding the provisions
22 of subdivision (1) of this subsection, the student graduating or
23 passing the General Educational Development (GED) Tests within five
24 years shall be considered graduated.

1 (g) The state board shall promulgate a rule to support the
2 operation of the National Guard Youth Challenge Program operated by
3 the Adjutant General and known as the "Mountaineer Challenge
4 Academy" which is designated as a special alternative education
5 program pursuant to section twenty-four, article one-b, chapter
6 fifteen of this code, for students who are at risk of not
7 succeeding in the traditional school structure. The rule shall set
8 forth policies and procedures applicable only to the Mountaineer
9 Challenge Academy that provide for, but are not limited to, the
10 following:

11 (1) Implementation of provisions set forth in section
12 twenty-four, article one-b, chapter fifteen of this code;

13 (2) Precedence of the policies and procedures designated by
14 the National Guard Bureau for the operation of the Mountaineer
15 Challenge Academy special alternative education program;

16 (3) Consideration of a student participating in the
17 Mountaineer Challenge Academy special alternative education program
18 at full enrollment status in the referring county for the purposes
19 of funding and calculating attendance and graduation rates, subject
20 to the following:

21 (A) The student shall be considered at full enrollment status
22 only for the purposes of calculating attendance and graduation
23 rates to the extent that this is not in conflict with any provision
24 of federal law relating to attendance or graduation rates;

1 (B) If the state board determines that this is in conflict
2 with a provision of federal law relating to attendance or
3 graduation rates, the state board shall request a waiver from the
4 United States Department of Education;

5 (C) If the waiver is granted, notwithstanding the provisions
6 of paragraph (A) of this subdivision, the student shall be
7 considered at full enrollment status in the referring county for
8 the purposes of calculating attendance and graduation rates; and

9 (D) Consideration of the student at full enrollment status in
10 the referring county is for the purposes of funding and calculating
11 attendance and graduation rates only. For any other purpose, a
12 student participating in the academy is considered withdrawn from
13 the public school system;

14 (4) Articulation of the knowledge, skills and competencies
15 gained through alternative education so that students who return to
16 regular education may proceed toward attainment or may attain the
17 standards for graduation without duplication; and

18 (5) Consideration of eligibility to take the General
19 Educational Development (GED) Tests by qualifying within the
20 extraordinary circumstances provisions established by state board
21 rule for a student participating in the Mountaineer Challenge
22 Academy special alternative education program who does not meet any
23 other criteria for eligibility.

24 (h) Nothing in this section or the rules promulgated under

1 this section compels the Mountaineer Challenge Academy to be
2 operated as a special alternative education program or to be
3 subject to any other laws governing the public schools except by
4 its consent.

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6 (i) The Legislature makes the following findings regarding
7 students at-risk:

8 (1) Defeated and discouraged learners:

9 (A) Any child who is unlikely to graduate on schedule with
10 both the skills and self esteem necessary to exercise meaningful
11 options in the areas of work, leisure, culture, civic affairs and
12 personal relationships may be defined as being an at-risk student;

13 (B) Problems associated with students at-risk often begin for
14 them in the early grades as they gradually fall further behind in
15 the essential skills of reading, writing and math;

16 (C) These problems may be accompanied by such behavior
17 patterns as poor attendance, inattentiveness, negative attitudes
18 and acting out in class. These patterns are both symptoms of and
19 added catalysts for students to become increasingly defeated and
20 discouraged learners;

21 (D) By the middle grades, students with growing skill
22 deficits, usually know they are behind other students and have good
23 reason to feel discouraged. A growing lack of self confidence and
24 self worth, limited optimism for the future, avoidance of school

1 and adults and a dimming view of the relationship between effort
2 and achievement are among the characteristics of defeated and
3 discouraged learners;

4 (E) Public schools are expected to address the needs of all
5 students, minimizing the likelihood that they will become at-risk
6 and giving additional attention to those who do; however, the
7 circumstances involved with a child becoming at-risk often are
8 complex and may include influences both within and outside of the
9 school environment; and

10 (F) In fragile homes, a child who is at-risk and is becoming
11 a discouraged and defeated learner often lacks adequate support and
12 may develop peer relationships that further exacerbate the
13 difficulty of reengaging him or her in learning, school and
14 responsible social behavior.

15 (2) The Legislature further finds that the public schools
16 should not be deterred from seeking and assisting with enrollment
17 of students in an alternative program that helps remedy the
18 discouragement, lessens skill deficits and facilitates a successful
19 return to public school.

20 (A) For this purpose, subject to approval of the county
21 superintendent, a student enrolled in the public schools of the
22 county may continue to be enrolled while also enrolled in an
23 alternative program subject to the following conditions:

24 (1) The alternative program is approved by the state board;

1 (2) The student meets the general description of an at-risk
2 student and exhibits behaviors and characteristics associated with
3 a discouraged and defeated learner;

4 (3) The alternative program complies with all requests of the
5 county superintendent for information on the educational program
6 and progress of the student;

7 (4) The alternative program includes a family involvement
8 component in its program. This component shall include, but is not
9 limited to, providing for student and parent participation in
10 activities that help address the challenging issues that have
11 hindered the student's engagement and progress in learning;

12 (5) The alternative program includes an on site boarding
13 option for students;

14 (6) The alternative program provides an individualized
15 education program for students that is designed to prepare them for
16 a successful transition back into the public schools; and

17 (7) The parents or legal guardian of the student make
18 application for enrollment of the student in the alternative
19 program, agree to the terms and conditions for enrollment, and
20 enroll the student in the program.