

**WEST VIRGINIA LEGISLATURE** FILED

**2016 REGULAR SESSION**

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SECRETARY OF STATE

**Enrolled**

**Senate Bill 459**

BY SENATORS COLE (MR. PRESIDENT) AND KESSLER

(BY REQUEST OF THE EXECUTIVE)

[Passed March 10, 2016; in effect 90 days from passage]

SB 459

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## **Senate Bill 459**

BY SENATORS COLE (MR. PRESIDENT) AND KESSLER

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1 AN ACT to amend and reenact §18-2-6 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring promulgation of a rule to provide for payment of tuition by county boards of  
3 education to Mountaineer Challenge Academy for students graduating with a high school  
4 diploma from Mountaineer Challenge Academy.

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

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

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

**§18-2-6. Classification and standardization of schools; standards for degrees and  
diplomas; certificates of proficiency; establishment of alternative education  
programs.**

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

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

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

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

15 (c) A charter or other instrument containing the right to issue diplomas or certificates of  
16 proficiency may not be granted by the State of West Virginia to any institution or other associations  
17 or organizations of less than collegiate or university status within the state until the condition of  
18 granting or issuing the diplomas or other certificates of proficiency has first been approved in  
19 writing by the state board.

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

23 (1) This rule may provide for the waiver of other policies of the state board, the  
24 establishment and delivery of a nontraditional curriculum, the establishment of licensure  
25 requirements for alternative education program teachers, and the establishment of performance  
26 measures for school accreditation.

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

31 (e) The state board shall establish up to five pilot projects at the elementary or middle  
32 school levels, or both, that employ alternative schools or other placements for disruptive students  
33 to learn appropriate behaviors so they can return to the regular classroom without further  
34 disrupting the learning environment. The state board shall report to the Legislative Oversight  
35 Commission on Education Accountability by December 1, 2010, on its progress in establishing  
36 the pilot projects and by December 1 in each year after that for the duration of the pilot projects  
37 on the effect of the projects on maintaining student discipline.

38 (f) If a student attends an approved alternative education program or the Mountaineer  
39 Challenge Academy, which is designated as a special alternative education program pursuant to  
40 section twenty-four, article one-b, chapter fifteen of this code, and the student graduates or

41 passes the General Equivalency Development (GED) Tests within five years of beginning ninth  
42 grade, that student shall be considered graduated for the purposes of calculating the high school  
43 graduation rate used for school accreditation and school system approval, subject to the following:

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

46 (2) If the state board determines that this is in conflict with a provision of federal law relating  
47 to graduation rates, the state board shall request a waiver from the United States department of  
48 education; and

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

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

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

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

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

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

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

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

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

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

81 (5) Consideration of eligibility to take the General Educational Development (GED) Tests  
82 by qualifying within the extraordinary circumstances provisions established by state board rule for  
83 a student participating in the Mountaineer Challenge Academy special alternative education  
84 program who does not meet any other criteria for eligibility; and

85 (6) Payment of tuition by a county board to the Mountaineer Challenge Academy for each  
86 student graduating from the academy with a high school diploma that resides in that county  
87 board's school district. For purposes of this subdivision, "tuition" means an amount equal to  
88 seventy-five percent of the amount allotted per pupil under the school aid formula.

89 (h) Nothing in this section or the rules promulgated under this section compels the  
90 Mountaineer Challenge Academy to be operated as a special alternative education program or to  
91 be subject to any other laws governing the public schools except by its consent.

92 (i) The Legislature makes the following findings regarding students at risk:

93 (1) *Defeated and discouraged learners.* —

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

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

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

102 (D) By the middle grades, students with growing skill deficits usually know they are behind  
103 other students and have good reason to feel discouraged. A growing lack of self confidence and  
104 self worth, limited optimism for the future, avoidance of school and adults and a dimming view of  
105 the relationship between effort and achievement are among the characteristics of defeated and  
106 discouraged learners;

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

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

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

117 For this purpose, subject to approval of the county superintendent, a student enrolled in  
118 the public schools of the county may continue to be enrolled while also enrolled in an alternative  
119 program subject to the following conditions:

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

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

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

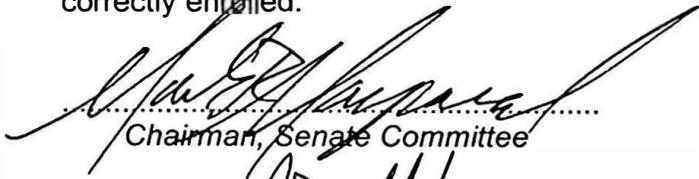
125 (4) The alternative program includes a family involvement component in its program. This  
126 component shall include, but is not limited to, providing for student and parent participation in  
127 activities that help address the challenging issues that have hindered the student's engagement  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

129 (5) The alternative program includes an on-site boarding option for students;

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

132 (7) The parents or legal guardian of the student make application for enrollment of the  
133 student in the alternative program, agree to the terms and conditions for enrollment, and enroll  
134 the student in the program.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman, Senate Committee

  
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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
.....  
President of the Senate

  
.....  
Speaker of the House of Delegates

The within *is* approved ..... this the *23<sup>rd</sup>* .....  
Day of *March* ....., 2016.

  
.....  
Governor

PRESENTED TO THE GOVERNOR

MAR 23 2015

Time 10:52 am