

# **WEST VIRGINIA LEGISLATURE**

**2018 REGULAR SESSION**

**ENROLLED**

## **House Bill 4183**

BY DELEGATES ESPINOSA, R. ROMINE, UPSON, HIGGINBOTHAM,

ROHRBACH, KELLY, COOPER, WESTFALL AND DEAN

[Passed March 8, 2018; in effect ninety days from passage.]



1 AN ACT to amend and reenact §18-28-3 of the Code of West Virginia, 1931, as amended, relating  
2 generally to testing requirements for nonpublic schools; requiring a nationally normed  
3 standardized achievement test be administered at the same grade levels and in the same  
4 subject areas as required in the public schools; requiring test to be published or normed  
5 within the last ten years; requiring the student participation rate on the standardized  
6 achievement test be the same as that required in the public schools; removing exemption  
7 for nonpublic schools that exclusively teach special education students or students with  
8 learning disabilities from provisions pertaining to accountability for the school's composite  
9 test results falling below the 40<sup>th</sup> percentile; requiring for those schools assessment to be  
10 made of students at the same grade levels and in the same subject areas as required in  
11 the public schools; allowing testing in additional subject areas or grade levels at sole  
12 discretion of school; and conforming provisions pertaining to accountability for a school's  
13 composite test results falling below the 40<sup>th</sup> percentile.

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

**ARTICLE 28. PRIVATE, PAROCHIAL OR CHURCH SCHOOLS, OR SCHOOLS OF A  
RELIGIOUS ORDER.**

**§18-28-3. Standardized testing requirements.**

1 (a) Each private, parochial or church school or school of a religious order or other  
2 nonpublic school electing to operate under this statute in lieu of the approval requirements set  
3 forth as part of §18-8-1(b) of this code, shall administer during each school year a nationally  
4 normed standardized achievement test which test shall be selected by the chief administrative  
5 officer of each school. The test shall be administered to students at the same grade levels and in  
6 the same subject areas as required in the public schools of the state for administration of the  
7 state-wide summative assessment. The selected test shall be published or normed within the last  
8 ten years and shall be administered under standardized conditions as set forth by the published

9 instructions of the selected test. The student participation rate on the standardized achievement  
10 test must be the same as that required in the public schools for a school's composite score to be  
11 considered valid.

12 (b) Notwithstanding subsection (a) of this section, any private, parochial, church school,  
13 school of a religious order or other nonpublic school that exclusively teaches special education  
14 students or children with learning disabilities shall academically assess students by one or more  
15 of the following methods: (1) A standardized group achievement test; (2) a standardized individual  
16 achievement test; (3) a written narrative of an evaluation of a portfolio of samples of a child's work;  
17 (4) an alternative academic assessment of the child's proficiency as mutually agreed by the  
18 county superintendent, parent(s) or legal guardian(s) and the school. The assessment shall be  
19 made of students at the same grade levels and in the same subject areas as required in the public  
20 schools of the state for administration of the state-wide summative assessment,

21 (c) Nothing in this section prohibits a private parochial, church school, school of a religious  
22 order or other nonpublic school from administering standardized achievement tests in additional  
23 subject areas or at additional grade levels as they may choose at their sole discretion.

24 (d) Each child's testing or assessment results and the school composite results shall be  
25 made available to the child's parents or legal guardians. Upon request of a duly authorized  
26 representative of the West Virginia Department of Education, the school's composite results shall  
27 be furnished by the school or by a parents organization composed of the parents or guardians of  
28 children enrolled in said school to the State Superintendent of Schools.

29 (e) Each school to which this article applies shall:

30 (1) Establish curriculum objectives, the attainment of which will enable students to develop  
31 the potential for becoming literate citizens.

32 (2) Provide an instructional program that will make possible the acquisition of  
33 competencies necessary to become a literate citizen.

34           (f) If the school's composite test results for any single year fall below the fortieth percentile  
35 on the selected standardized achievement test or a comparable level established by the state  
36 board for assessment methods authorized pursuant to subsection (b) of this section, the school  
37 shall initiate a remedial program to foster achievement above that level. If after two consecutive  
38 calendar years school composite test results are not above the fortieth percentile or comparable  
39 level, attendance at the school no longer satisfies the compulsory school attendance requirement  
40 of §18-8-1(k) of this code, until the percentile standards herein set forth are met.



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

.....  
*Chairman, House Committee*

.....  
*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

.....  
*Clerk of the House of Delegates*

.....  
*Clerk of the Senate*

.....  
*Speaker of the House of Delegates*

.....  
*President of the Senate*

\_\_\_\_\_

The within ..... this the.....  
day of ....., 2018.

.....  
*Governor*