

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

Senate Bill 601

By Senators Rucker, Deeds, and Roberts

[Introduced February 10, 2023; referred
to the Committee on School Choice]

1 A BILL to amend and reenact §18-2-25 of the Code of West Virginia, 1931, as amended, relating to
 2 allowing Hope Scholarship private school students; individualized instructional students;
 3 microschoo1 students; and learning pod students to participate in public interscholastic
 4 athletic events and other extracurricular activities of public secondary schools.

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 certain nonpublic school students.**

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), completing an individualized instructional program pursuant to §18-8-1(m)
36 of this code, or attending a microschool or learning pod pursuant to §18-8-1(n) of this code and
37 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) ~~(2)~~ Has not reached the age of 19 by August 1 of the current school year;

45 (4) ~~(3)~~ Is an amateur who receives no compensation but participates solely for the
46 educational, physical, mental and social benefits of the activity;

47 (5) ~~(4)~~ 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) ~~(5)~~ Agrees to obey all rules of the West Virginia Secondary School Activities
50 Commission governing awards, all-star games, parental consents, physical examinations, and
51 vaccinations applicable to all high school athletes.

52 (e) 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, private school students, microschool,
55 learning pod, or individualized instructional program students participating in interscholastic
56 athletic events and other extracurricular activities of secondary schools pursuant to this section
57 who leave a member school during the school year are subject to the same transfer protocols that
58 apply to member-to-member transfers. Reasonable fees may be charged to the student to cover
59 the costs of participation in interscholastic athletic events and other extracurricular activities.

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

NOTE: The purpose of this bill is to allow Hope Scholarship private school students, individualized instructional students, microschool students, and learning pod students to participate in public interscholastic athletic events and other extracurricular activities of public secondary schools.

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