

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**Senate Bill 630**

SENATORS MANN, HALL AND SYPOLT, *original sponsors*

[Passes April 8, 2017; in effect from passage]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §18-5F-1, §18-5F-2, §18-5F-3, §18-5F-4, §18-5F-5 and §18-5F-6, all relating  
3 to establishing the Accessibility and Equity in Public Education Enhancement Act; setting  
4 forth legislative findings and purpose; defining terms; allowing a county board or a  
5 multicounty consortium to create a virtual instruction program for one or more schools  
6 serving any composition of grades kindergarten through twelve by adopting a policy  
7 creating the program; allowing the county board or multicounty consortium after adopting  
8 the policy to contract with virtual school providers; delaying participation of eligible  
9 students in grades kindergarten through five until after the program has been in operation  
10 for one full school year; requiring eligible students to be counted in the net enrollment of  
11 the school district for the purposes of calculating and receiving state aid, be subject to the  
12 same state assessment requirements as other students in the school district and receive  
13 a diploma upon completing the same coursework required of regular public school  
14 students in the district; exempting, to a limited extent, certain students, parents and school  
15 districts from certain laws and state board policies that pertain to requiring the student to  
16 be in a school building receiving instruction for any set period of time; providing that a  
17 participating eligible student be considered to be attending a certain school; allowing the  
18 eligible student to participate in any cocurricular and extracurricular activities of the school  
19 under the same participation requirements imposed on traditional students attending the  
20 school; exempting a county board from certain provisions of law or state board rule to the  
21 extent any conflict with the delivery of the program; exempting a county board from certain  
22 online course restrictions; requiring coursework offered through a program be aligned to  
23 certain academic standards; requiring the assessment results of a student be included in  
24 the assessment results of the school and the school district in which the student is  
25 considered to be enrolled for purposes of accountability; and requiring report to the

26 Legislative Oversight Commission on Education Accountability on all aspects of the  
27 program.

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

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new  
2 article, designated §18-5F-1, §18-5F-2, §18-5F-3, §18-5F-4, §18-5F-5 and §18-5F-6, all to read  
3 as follows:

**ARTICLE 5F. ACCESSIBILITY AND EQUITY IN PUBLIC EDUCATION  
ENHANCEMENT ACT.**

**§18-5F-1. Short title.**

1 This article shall be known and may be cited as the Accessibility and Equity in Public  
2 Education Enhancement Act.

**§18-5F-2. Legislative findings; purpose.**

1 (a) The Legislature finds and declares that:

2 (1) County school districts have called for more local control and flexibility to meet the  
3 education needs of their communities;

4 (2) Students, parents and teachers are seeking alternatives to the traditional classroom  
5 delivery of education that better meets the educational needs of students;

6 (3) Public schools should be able to provide a variety of instructional delivery models;

7 (4) The county school districts can enhance education opportunities for students, using  
8 technology;

9 (5) Using technology to deliver instruction can provide flexibility and increase options for  
10 instruction;

11 (6) Giving county school districts the flexibility to create innovative programs will provide  
12 teachers with new instructional opportunities; and

13 (7) This Act is not intended to save money through the reduction of school personnel  
14 positions.

15 (b) The purpose of this article is to enhance access and equity in public education in West  
16 Virginia.

**§18-5F-3. Definitions.**

1 For the purposes of this article, unless a different meaning clearly appears from the  
2 context:

3 (a) “Blended program” means a formal education program in which a student learns:

4 (1) At least in part through online learning, with some element of student control over time,  
5 place, path or pace;

6 (2) At least in part in a supervised setting outside the home; and

7 (3) In such a way that the modalities of each student’s learning path within a course or  
8 subject are connected to provide an integrated learning experience;

9 (b) “Eligible student” means a student eligible for attendance in public schools in a school  
10 district that provides a virtual instruction program, that is a member of a multicounty consortium  
11 providing a virtual instruction program or that does not provide a virtual instruction program and  
12 is not a member of a multicounty consortium but participates through a collaborative agreement  
13 between the school district in which the student is enrolled and a school district or a multicounty  
14 consortium providing a virtual instruction program;

15 (c) “Multicounty consortium” means a written arrangement where two or more county  
16 boards act in concert to establish a virtual school that will serve eligible students; and

17 (d) “Virtual instruction program” means a program implemented by a county board or  
18 multicounty consortium that provides a full-time online or blended program of instruction for  
19 students enrolled in any composition of grades kindergarten through twelve.

**§18-5F-4. County board policy adoption.**

1 (a) A county board or a multicounty consortium may create a virtual instruction program  
2 for one or more schools serving any composition of grades kindergarten through twelve by  
3 adopting a policy creating the program and after adopting the policy may contract with virtual  
4 school providers. When there is a multicounty consortium, each county board in the consortium  
5 shall adopt a policy creating the virtual instruction program. The virtual instruction program may  
6 begin July 1, 2017, or at any point thereafter: *Provided*, That, notwithstanding any other provision  
7 of this article to the contrary, no eligible students in grades kindergarten through five may  
8 participate in a virtual instruction program until after the program has been in operation for one  
9 full school year.

10 (b) The policy adopted by the county board pursuant to this section shall govern the virtual  
11 instruction program offered by the county board or multicounty consortium.

12 (c) The policy shall be consistent with this article and may offer eligible students in grades  
13 kindergarten through twelve an online pathway for earning a high school diploma and, at a  
14 minimum, shall include the following:

15 (1) The scope, instructional model and capacity for the virtual education program;

16 (2) Assessment protocol and specific requirements for monitoring performance that are  
17 consistent with section five, article two-e of this chapter;

18 (3) A plan for monitoring students receiving virtual instruction in accordance with pacing  
19 and completion of the required virtual coursework: *Provided*, That, if virtual instruction occurs in  
20 a public school classroom then a teacher, professional personnel, professional educator or  
21 paraprofessional employed by that county must be present to monitor;

22 (4) Qualifications of faculty, which at a minimum shall include a teaching certificate issued  
23 pursuant to article three, chapter eighteen-a of this code and state board rules; and

24 (5) A requirement that any virtual school provider contracted with comply with state and  
25 federal privacy laws.

**§18-5F-5. Compliance with existing state law.**

1 (a) An eligible student enrolled in a virtual instruction program shall:

2 (1) Be counted in the net enrollment of the school district in which the student resides for  
3 the purposes of calculating and receiving state aid;

4 (2) Be subject to the same state assessment requirements as other students in the school  
5 district; and

6 (3) Receive a diploma from the school district, upon completing the same coursework  
7 required of regular public school students in the district.

8 (b) An eligible student participating in a virtual instruction program, to the extent the  
9 program as delineated in the county board policy allows or requires instruction to occur outside  
10 of a school building, is not required to comply with compulsory school attendance requirements  
11 set forth in article eight of this code or any other provision of law or state board rule relating to  
12 attendance.

13 (c) Neither the school district, the eligible student nor the parents of the student  
14 participating in a virtual instruction program, to the extent the program as delineated in the county  
15 board policy allows or requires instruction to occur outside of a school building, may incur any  
16 penalty or be held accountable for the absence of the student from the school building.

17 (d) For an eligible student participating in a virtual instruction program, neither the school  
18 district nor the student, to the extent the program as delineated in the county board policy is a  
19 learn at your own pace program, is required to comply with the instructional term requirement set  
20 forth in section forty-five, article five of this chapter or any other law or state board rule requiring  
21 a student to be receiving instruction for any set time.

22 (e) An eligible student participating in a virtual instruction program shall be considered to  
23 be attending the school in the attendance district created by the county board pursuant to section  
24 sixteen, article five of this chapter that the eligible student resides in unless otherwise transferred  
25 to another school pursuant to that section or any other provision of this code. The eligible student

26 may participate in any cocurricular and extracurricular activities of that school, but is subject to  
27 the same participation requirements imposed on a traditional student attending the school.

28 (f) A county board is exempt from any provision of law or state board rule that applies to  
29 the traditional delivery of instruction such as requirements relating to the physical presence of a  
30 student, student monitoring and security, the maximum teacher-pupil ratio set forth in section  
31 eighteen-a, article five of this chapter, instructional time requirements and physical education  
32 requirements to the extent any of the foregoing conflict with the delivery of the virtual instruction  
33 program.

34 (g) The virtual instruction program is not subject to online course restrictions imposed by  
35 the state board, state superintendent or the West Virginia Department of Education.

36 (h) Coursework offered through a virtual instruction program shall be aligned to the  
37 appropriate academic standards as required by state law and state board rule.

38 (i) The assessment results of a student shall be included in the assessment results of the  
39 school and the school district in which the student is considered enrolled pursuant to this section  
40 for purposes of accountability.

**§18-5F-6. Report to Legislative Oversight Commission on Education Accountability.**

1 At the end of the first year any virtual instruction program is implemented pursuant to this  
2 article, the West Virginia Department of Education, after consulting with the county board or  
3 boards implementing the program, shall report to the Legislative Oversight Commission on  
4 Education Accountability on all aspects of the program. The report, at least, shall include the  
5 grade levels of the students the program was offered to; the number of students who enrolled in  
6 the program; the number of students who were enrolled in the program full-time and number who  
7 participated in a blended program; the number of students who were homeschooled, enrolled in  
8 a private school and enrolled in a public school immediately preceding enrollment in the virtual  
9 instruction program; and how the students performed academically as compared with students in  
10 a traditional classroom setting.

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 from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the.....  
Day of ....., 2017.

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*Governor*