

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Committee Substitute

for

House Bill 3293

By Delegates Statler, Ellington, Toney, Crouse, and

Clark

[Originating in the Committee on Education; Reported

February 14, 2023]

1 A BILL to amend and reenact §18-20-10 of the Code of West Virginia 1931, as amended, relating
2 generally to identifying and educating exceptional children exhibiting indicators or
3 diagnosed with dyslexia or dyscalculia; and establishing requirements for the state
4 educational agency and local educational agencies to identify and support students with
5 dyslexia and dyscalculia indicators or diagnosis in the public school system.

Be it enacted by the Legislature of West Virginia:

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-10. Dyslexia and dyscalculia defined.

1 (a) The Legislature finds as follows:

2 (1) Reading difficulties are the most common cause of academic failure and
3 underachievement;

4 (2) There are many students who demonstrate significant weaknesses with reading,
5 writing and mathematics that are the root causes influenced by specific learning disabilities,
6 including dyslexia, dyscalculia, and related learning difficulties. Of those who are referred to
7 special education services in public schools, the majority are referred because of problems with
8 language, reading, writing, or a combination of each;

9 (3) Teaching reading effectively, especially to students experiencing difficulty, requires
10 considerable knowledge and skill. Informed and effective classroom instruction, especially in the
11 early grades, can prevent and relieve the severity of language difficulties, and significantly improve
12 literacy development;

13 (4) For those students with specific learning disabilities, including dyslexia and dyscalculia,
14 who need specialized instruction, competent intervention can lessen the impact of the disorder
15 and help the student overcome the most debilitating symptoms;

16 (5) While programs for specific learning disabilities, including dyslexia and dyscalculia, that
17 certify or support teachers, clinicians or specialists differ in their preparation methodologies,
18 teaching approaches and organizational purposes, they should ascribe to a common set of

19 professional standards for the benefit of the students they serve. Compliance with such standards
20 can assure the public that individuals who serve students with specific learning disabilities in
21 public schools are prepared to implement scientifically based and clinically proven practices;

22 ~~(6) The American Psychiatric Association's Diagnostic and Statistical Manual of Mental~~
23 ~~Disorders, Fifth Edition (DSM-5), and the federal Individuals with Disabilities Education and~~
24 ~~Improvement Act of 2004 (IDEA) The International Dyslexia Association (IDA) offers widely-~~
25 adopted and consistent standards to guide the preparation, certification, and professional
26 development for teachers of reading and related literacy skills in classroom, remedial and clinical
27 settings; and

28 (7) The basis of ascribing to common standards to benefit students with specific learning
29 disabilities, including dyslexia and dyscalculia, requires recognizing common characteristics of the
30 disabilities. The Legislature finds that the definitions of dyslexia and dyscalculia prescribed by the
31 American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth
32 Edition, Text Revision (DSM-5-TR) are the appropriate measures for recognizing characteristics of
33 dyslexia and dyscalculia in students.

34 (b) The Legislature recognizes the following regarding dyslexia and dyscalculia:

35 (1) Dyslexia and dyscalculia are conditions that may be considered under the specific
36 learning disability category, and their definitions are consistent with IDEA and state board policy.
37 State board policy provides that "specific learning disability" means a disorder in one or more of
38 the basic psychological processes involved in understanding or in using language, spoken or
39 written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to
40 do mathematical calculations, including conditions such as perceptual disabilities, brain injury,
41 minimal brain dysfunction, dyslexia and developmental aphasia;

42 (2) Dyslexia is an alternative term used to refer to a pattern of learning difficulties
43 characterized by problems with accurate or fluent word recognition, poor decoding, and poor
44 spelling abilities. If dyslexia is used to specify this particular pattern of difficulties, it is important

45 also to specify any additional difficulties that are present, such as difficulties with reading
46 comprehension or math reasoning; and

47 (3) Dyscalculia is an alternative term used to refer to a pattern of learning difficulties
48 characterized by problems processing numerical information, learning arithmetic facts, and
49 performing accurate or fluent calculations. If dyscalculia is used to specify this particular pattern of
50 mathematic difficulties, it is important also to specify any additional difficulties that are present,
51 such as difficulties with math reasoning or word reasoning accuracy.

52 ~~(c) the state board is responsible for the following:~~

53 ~~(1) Ensuring that all students receive the necessary and appropriate screenings,~~
54 ~~evaluations and early assessments for specific learning disabilities, including dyslexia and~~
55 ~~dyscalculia;~~

56 ~~(2) Ensuring that any Individualized Education Program regarding specific learning~~
57 ~~disabilities, including dyslexia or dyscalculia, which is developed or implemented, is consistent~~
58 ~~with the provisions of this section; and~~

59 ~~(3) Providing ongoing information and education to parents regarding specific learning~~
60 ~~disabilities, including dyslexia and dyscalculia, and the services available to students with such~~
61 ~~disabilities.~~

62 (c) The state board shall create a literacy and numeracy policy that each county shall
63 follow:

64 (1) Develop a list of appropriate screeners, early assessments, and professional
65 development that address and ensure that all students receive the necessary and appropriate
66 screenings, evaluations, and early assessments for specific learning disabilities, including
67 dyslexia and dyscalculia which contain information related to the following:

68 (A) Appropriate literacy and numeracy screening tools for identifying students who are at
69 risk for academic difficulty in reading and/or math, including dyslexia and dyscalculia, and who
70 require tiered intervention;

71 (B) Appropriate diagnostic assessment components that can be used to help identify and
72 diagnose

73 (C) Appropriate evidence-based instruction and intervention strategies for students who
74 are at risk for academic difficulty in reading and/or mathematics, including students who exhibit
75 possible indicators of risk for dyslexia and/or dyscalculia;

76 (D) Appropriate accommodations for students who exhibit possible indicators of risk for, or
77 who have been diagnosed with, dyslexia, dyscalculia, and/or other specific learning disabilities;

78 (E) Connecting a multi-tiered system of support framework to specific learning disability
79 identification; and

80 (F) The use of the terms “dyslexia” and “dyscalculia” in Individualized Education Programs,
81 and in evaluation reports by professionals qualified to render these diagnoses; and

82 (2) Explore options to assist any LEA with acquiring approved literacy and/or numeracy
83 screening tools: *Provided*, That the local educational agency is unable to acquire its own literacy
84 and/or numeracy screening tools that are consistent with state educational agency
85 recommendations.

86 (d) Adopt and make publicly available guidelines for literacy screening and a list of
87 approved literacy screening instruments that efficiently, validly, and reliably assess academic risk
88 in reading for students K-2. These guidelines and screening instruments must be based on
89 contemporary research regarding dyslexia, including IDA recommendations, and should function
90 as adequate predictors of future reading performance.

91 (e) Adopt and make publicly available guidelines for including dyslexia diagnostic
92 evaluation components in comprehensive assessments for special education and related
93 services. These guidelines shall:

94 (1) recommend at least one person on each multidisciplinary evaluation team be
95 knowledgeable about dyslexia and be able to recognize when a dyslexia diagnostic component
96 should be requested in the evaluation process;

97 (2) recommend that a diagnosis of dyslexia be given when the data from the
98 comprehensive evaluation components indicate such a diagnosis is appropriate, (C) include
99 recommendations for how to document a dyslexia diagnosis in an IEP, and (D) include that a
100 Section 504 Plan be considered if a student has a dyslexia diagnosis but does not qualify for
101 special education services.

102 (3) Adopt and make publicly available a list of approved diagnostic assessment
103 components that can be used to help identify and diagnose dyslexia during comprehensive
104 multidisciplinary evaluations.

105 (4) Adopt and make publicly available guidelines and a list of resources for dyslexia
106 intervention practices that are evidence-based, including practices consistent with the Science of
107 Reading and Structured Literacy, that are explicit, direct, sequential, systematic, and multisensory.

108 (5) Adopt and make publicly available a list of recommended accommodations and
109 instructional practices to be used with students who exhibit signs of dyslexia or have been
110 diagnosed with dyslexia. These shall reflect contemporary research and guidelines of the Science
111 of Reading related to dyslexia. These recommendations shall include, but are not limited to,
112 structured literacy approaches that are explicit, direct, sequential, systematic, and multisensory.

113 (6) Adopt and make publicly available a list of available professional development
114 resources that support evidence-based intervention for struggling readers, including the Science
115 of Reading and Structured Literacy. This list shall be made publicly available and include
116 resources endorsed or espoused by technical assistance centers, research organizations, and
117 professional associations that support the Science of Reading and Structured Literacy regarding
118 dyslexia, including the International Dyslexia Association.

119 (7) Develop and make publicly available informational materials related to dyslexia for
120 parents and guardians that include information about the multidisciplinary evaluation process,
121 updated regularly.

122 (f) The LEA shall:

123 (1) Develop a system for parents and guardians to annually receive digital and print
124 informational materials related to dyslexia.

125 (2) Screen every K-2 student three times per year using a literacy screening instrument or
126 instruments approved by WVDE.

127 (3) Ensure at least one educator at each school is trained to administer, score, and
128 interpret the data from the literacy screening instrument or instruments, and to recognize signs of
129 dyslexia.

130 (4) Notify parents of the results of these literacy screeners while emphasizing that not all
131 students who perform poorly on these screening instruments have dyslexia. Also, not all students
132 with dyslexia will perform poorly on the screeners.

133 (5) Provide evidence-based reading intervention to students who exhibit academic risk in
134 future reading performance, including indicators of dyslexia.

135 (6) Conduct comprehensive assessments to determine eligibility for special education
136 services when a child does not respond or only minimally responds to intervention strategies
137 and/or when there is a suspected disability of dyslexia. If a determination is made through the
138 evaluation process that a student needs assessed for dyslexia, provide assessment and diagnosis
139 as necessary per WVDE guidelines.

140 (7) Employ appropriate accommodations and instructional practices recommended by the
141 WVDE based upon the students' needs. When those needs are related to dyslexia, these
142 accommodations and instructional techniques or strategies must also meet the WVDE-approved
143 guidelines for dyslexia accommodations and instructional practices.

144 (8) Require all elementary educators, special educators, reading interventionists or
145 specialists, and other personnel determined appropriate by the LEA to receive professional
146 development on the possible signs of dyslexia and the related classroom accommodations and
147 instructional practices approved by the WVDE.

148 (9) Administer a literacy screening instrument or instruments to students in grades 3-5 who
149 transfer from an LEA where literacy screening instruments were not administered. If the literacy
150 screening instrument indicates a deficit in reading, the school will provide intervention according to
151 current policy. If a student does not respond or only minimally responds to intervention, a referral
152 for multidisciplinary evaluation shall be made.

153 (10) If a student is reading substantially below grade level according to formal and/or
154 informal assessments, including benchmark assessments, and has never been evaluated for
155 special education, a request may be made by a school, parent, or teacher for the administration of
156 an age- or grade-appropriate WVDE-approved literacy screening instrument or instruments.
157 These points of data may be used to either start intervention and progress monitoring per WVDE
158 guidance, or make a referral for a special education evaluation.

159 (11) Acknowledge in the literacy and numeracy policy that each LEA may have one
160 certified Literacy and Numeracy Specialist in each LEA, or another appropriate professional
161 designated by relevant LEA leadership, to be appropriately trained, or be seeking appropriate
162 training, in intervention, accommodations, and instructional strategies for students with dyslexia
163 or a related disorder. The trained individual(s) shall serve as an advisor and trainer for dyslexia
164 and related disorders for the LEA. The reading specialist(s) or other designated professional(s)
165 shall have an understanding of the definition of dyslexia and a working knowledge of:

166 (A) techniques to help a student on the continuum of skills with dyslexia;

167 (B) dyslexia characteristics that may manifest at different ages and levels;

168 (C) the basic foundation of the keys to reading, including multisensory, explicit, systematic,
169 and structured literacy instruction and;

170 (D) appropriate interventions, accommodations, and assistive technology supports for
171 students with dyslexia.

172 (E) Require all appropriate personnel, as determined by the LEA, to annually receive
173 professional development relating to the possible indicators for dyslexia and dyscalculia,

174 accommodations and modifications in the classroom environment, proper instructional practices
175 for educating students who exhibit possible indicators of risk for, or who have been, diagnosed
176 with dyslexia, dyscalculia, and/or other specific learning disabilities. LEA's may create more than
177 one module to satisfy the requirements of this subdivision.

178 (12) Legislative Oversight Commission on Education Accountability:

179 (A) The final draft of the literacy and numeracy policy as created by the state board shall be
180 presented to LOCEA July 2023.

181 (13) Report Information Requirements:

182 A. Disaggregated data concerning literacy and numeracy patterns statewide;

183 B. Statewide interventions implemented;

184 C. Statewide professional development plan; and

185 D. Progress monitoring regarding K-2 screening and 3-8 formative assessments to be
186 presented after data is collected for the beginning, middle, and end of the year.

NOTE: The purpose of this bill is to establish requirements for the state educational agency and local educational agencies to support students in the public school system who exhibit indicators of risk for, or who have been diagnosed with, dyslexia and dyscalculia.

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