

# **WEST VIRGINIA LEGISLATURE**

**2023 REGULAR SESSION**

**ENGROSSED**

**Committee Substitute**

**for**

**Committee Substitute**

**for**

**Senate Bill 274**

BY SENATORS GRADY, WOELFEL, QUEEN, ROBERTS,

PLYMALE, NELSON, TAYLOR, DEEDS, OLIVERIO, AND

BARRETT

[Originating in the Committee on Finance; reported on

February 9, 2023]



1 A BILL to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to  
2 amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code;  
3 and to amend and reenact §18-20-10 of said code, all relating to enhancing academic  
4 achievement of students including those with learning disabilities; establishing the Third  
5 Grade Success Act; replacing transformative system of support for early literacy with multi-  
6 tiered system of support for early literacy and numeracy in kindergarten through grade  
7 three; revising findings; defining “science of reading”; revising inclusions in West Virginia  
8 Board of Education rules required to effectuate Third Grade Success Act section; requiring  
9 each county board to adopt high-quality instructional materials; specifying data to be used  
10 to inform the classroom teacher’s recommendation on grade level retention; requiring  
11 county boards of education to provide in-service training for early childhood classroom  
12 assistant teachers, aides, classroom teachers, and in certain instances, interventionists in  
13 grades kindergarten through three; updating deadlines for West Virginia Board of  
14 Education multi-tiered system of support for early literacy and numeracy reports; modifying  
15 provisions pertaining to funding for Third Grade Success Act section; requiring retention  
16 in the third grade in certain circumstances; specifying exceptions to third grade retention  
17 requirement; adding maximum teacher-pupil ratio for pre-kindergarten; adding maximum  
18 early childhood classroom assistant teacher or aide-pupil ratio for kindergarten through  
19 grade three; phasing in early childhood classroom assistant teacher/aide requirement for  
20 grades one through three; allowing county boards to employ an interventionist instead of  
21 an early childhood assistant teacher or aide; removing requirement for survey of districts  
22 on class overcrowding and report to the Legislative Oversight Commission on Education  
23 Accountability a tailored plan for reducing class overcrowding; phasing in increased ratios  
24 of service personnel per 1,000 students for the purpose of determining the basic  
25 foundation allowance for service personnel; revising findings; making recognitions  
26 regarding dyslexia and dyscalculia; and replacing responsibilities of the West Virginia

27 Board of Education pertaining to specific learning disabilities, including dyslexia and  
28 dyscalculia, with duties of the state education agency and the local education agencies,  
29 including the public charter schools.

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

## CHAPTER 18. EDUCATION.

### ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

**§18-2E-10. Third Grade Success Act; transformative multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; pre-service and in-service teacher training; notice to parent or guardian; third grade retention policy with exceptions; interventions continuing in fourth grade for students below proficient.**

1 (a) This section shall be known and may be cited as the Third Grade Success Act.

2 ~~(a)~~ (b) The Legislature finds that:

3 (1) In the early learning years, ensuring that each student masters the content and skills  
4 needed for mastery at the next grade level is critically important for student success;

5 (2) Students who do not demonstrate grade-level proficiency in reading by the end of third  
6 grade become increasingly less likely to succeed at each successive grade level and often drop  
7 out of school prior to graduation;

8 (3) State board policy requires every school to establish a process for ensuring the  
9 developmental and academic progress of all students. This process is to be coordinated by a  
10 school student assistance team that reviews student developmental and academic needs that  
11 have persisted despite being addressed through instruction, multi-tiered system of support for  
12 intervention, and as applicable, supports for personalized learning. Ensuring the developmental  
13 and academic success of all students requires every school to implement, in an equitable manner,

14 programs during and after the instructional day at the appropriate instructional levels that  
15 contribute to the success of students; and

16 (4) To ensure that all students read and perform mathematics proficiently by the end of  
17 third grade, a statewide comprehensive approach to early literacy and numeracy is required. This  
18 approach shall focus on intensive supports during the early learning years which include schools  
19 and engaged communities mobilized to remove barriers, expand opportunities, and assist parents  
20 in fulfilling their roles and responsibilities to serve as full partners in the success of their children.

21 (c) "Science of reading" means evidence-based reading instruction practices that address  
22 the acquisition of language, phonological and phonemic awareness, phonics and spelling,  
23 fluency, vocabulary, oral language, comprehension, and writing that can be differentiated to meet  
24 the needs of individual students.

25 ~~(b)~~ (d) The state board shall, in accordance with ~~the provisions of article three b, chapter~~  
26 ~~twenty-nine-a §29A-3B-1 et seq.~~ of this code, promulgate legislative rules as necessary to  
27 effectuate the provisions of this section. The rules shall provide for at least the following:

28 (1) Development of a statewide comprehensive, systemic approach to close the reading  
29 and mathematics achievement ~~gap~~ gaps by third grade, which targets school readiness, the  
30 attendance gap, science of reading instruction (phonics, phonemic awareness, vocabulary,  
31 fluency, comprehension, and writing), summer learning loss, the use of screeners and/or  
32 benchmark assessments in English language arts and mathematics for students in grades  
33 kindergarten through three, and a multi-tiered system of support for students exhibiting a  
34 substantial reading or mathematics deficiency; ~~transformative intervention framework for student~~  
35 and learning supports;

36 (2) Ensuring all West Virginia children have access to high-quality early learning  
37 experiences that focus on healthy learners as part of the school readiness model, resulting in  
38 increased populations of children on target for healthy development prior to entering first grade;

39 (3) Closing the attendance gap to certify West Virginia children attend school regularly  
40 and limit chronic absenteeism in the early grades;

41 (4) Providing assistance to county boards with the training and implementation of the  
42 science of reading training for all kindergarten through grade three educators, early childhood  
43 classroom assistant teachers, aides, and any interventionists that a county board may choose to  
44 employ instead of an early childhood classroom assistant teacher or aide pursuant to §18-5-  
45 18a(b) of this code;

46 (5) (4) Assisting county boards in establishing and operating targeted, sustained extended  
47 day and extended year reading and mathematics programs to ensure grade level proficiency and  
48 battle summer learning loss;

49 (6) Establishing an approved list of screeners and/or benchmark assessments in English  
50 language arts and mathematics for students in grades kindergarten through three for the purpose  
51 of identifying students with a significant reading and/or mathematics deficiency. The screener  
52 and/or benchmark assessments shall be given in the first 30 days of the school year and repeated  
53 at mid-year and at the end of the school year to determine student progression in reading and  
54 mathematics in kindergarten through third grade;

55 (7) Establishing an approved list of dyslexia screeners to be administered to students no  
56 less than twice per year in kindergarten through third grade and any time students with identified  
57 deficiencies are not responding to interventions;

58 (8) Any student in kindergarten or grades one through three who exhibits a deficiency in  
59 reading at any time, based upon the screeners and/or benchmark assessments, and/or the  
60 comprehensive statewide student assessment, and any fourth-grade student promoted for good  
61 cause shall receive an individual reading improvement plan no later than 30 days after the  
62 identification of the reading deficiency. The reading improvement plan shall be created by the  
63 teacher, principal, other pertinent school personnel, and the parent(s), and shall describe the  
64 research-based reading intervention services the student will receive to remedy the reading

65 deficit. Each student shall receive intensive reading intervention until the student no longer has a  
66 deficiency in reading. Reading interventions may include evidence-based strategies frequently  
67 used to remediate reading deficiencies and includes, but is not limited to, individual instruction,  
68 small-group instruction, tutoring, mentoring, or the use of technology that targets specific reading  
69 skills and abilities;

70 ~~(5)~~ (9) Maximizing family engagement to result in the development of a culture of literacy and  
71 numeracy, from birth through third grade which shall at least include:

72 (A) Providing parents or guardians with regular updates to inform them of their child's  
73 progress toward proficiency in reading and mathematics;

74 (B) Ensuring parents or guardians are informed of and have access to resources which  
75 they may utilize to improve their child's literacy and numeracy skills;

76 (C) Ensuring the parent or guardian is informed of the importance of their child being able  
77 to demonstrate grade level reading and mathematics skills by the end of the third grade and the  
78 measures that will be employed pursuant to this section to improve the reading and mathematics  
79 skills of children who are not meeting the standards; and

80 (D) The parent or guardian of any student in kindergarten through grade three who exhibits  
81 a deficiency in reading or mathematics at any time during the school year must be notified in  
82 writing no later than 15 days after the identification of the deficiency, and the written notification  
83 must include the following:

84 (i) That the student has been identified as having a deficiency in reading and/or  
85 mathematics;

86 (ii) A description of the proposed research-based reading and/or mathematics  
87 interventions and/or supplemental instructional services and supports that will be provided to the  
88 child to address the identified area(s) of deficiency;

89 (iii) Strategies for the parent or guardian to use at home to help their child succeed in  
90 reading and/or mathematics; and

91 (iv) That if the child's reading deficiency is not corrected by the end of grade three, the  
92 child may not be promoted to grade four unless an exemption is met;

93 ~~(6)~~ (10) Supporting high-quality schools and a workforce prepared to address early literacy  
94 and numeracy by the provision of professional development for administrators, kindergarten, first,  
95 second, and third grade teachers including, but not limited to, the following: identification of  
96 interventions, and implementation of a system of intervention for children not reaching grade level  
97 proficiency

98 (A) The approved benchmark assessment and/or screener tools to ensure teachers have  
99 the knowledge and skill to administer the assessment and/or screener, analyze the data to inform  
100 instruction, and identify students exhibiting substantial deficiencies in reading or mathematics;

101 (B) Comprehensive training on the science of reading and numeracy instruction to ensure  
102 all kindergarten through grade three teachers, early childhood classroom assistant teachers, and  
103 aides, have the knowledge and skill to teach and/or support all students to read and perform  
104 mathematics at grade level. The rules also shall provide that any interventionist a county chooses  
105 to employ instead of an early childhood classroom assistant teacher or aid pursuant to §18-5-  
106 18a(b) receives this comprehensive training;

107 (C) Training and materials to inform classroom teachers of the characteristics of dyslexia  
108 and dyscalculia in students, components of benchmarks and screeners that may indicate dyslexia  
109 or dyscalculia, and strategies for instruction; and

110 (D) Job-embedded, on-site teacher training on evidence-based reading and mathematics  
111 instruction and data-driven decision-making that provides kindergarten through grade three  
112 teachers with immediate feedback for improving instruction;

113 ~~(7)~~ (11) Ensuring the employment of qualified teachers and service personnel in  
114 accordance with the provisions of section thirty-nine, article five of this chapter and section seven-  
115 e, article four, chapter eighteen-a §18-5-39 and §18A-4-7c of this code to provide instruction to  
116 students enrolled in early literacy and numeracy support programs including, but not limited to,

117 ensuring that educator preparation programs prepare candidates seeking licensure for  
118 elementary education with training and instruction to:

119 (A) Include instruction in state-adopted grade-level content standards, foundational  
120 reading and mathematics skills, and how to implement reading instruction using high-quality  
121 instructional materials;

122 (B) Provide effective instruction and intervention for students with reading and math  
123 deficiencies, including students with characteristics of dyslexia or dyscalculia; and

124 (C) Understand and use student data to make instructional decisions;

125 ~~(8)~~ (12) Creating a formula or grant-based program for the distribution of funds  
126 appropriated specifically for the purposes of this section or otherwise available for the support of  
127 a targeted, multi-tiered system of support intervention ~~comprehensive system of support~~ for early  
128 literacy and numeracy;

129 ~~(9)~~ (13) Providing support for transportation and healthy foods for students required to  
130 attend after-school and extended year early literacy and numeracy instructional support programs  
131 and supervision at the school that accommodates the typical work schedules of parents; and

132 ~~(40)~~ (14) Receiving from county boards any applications and annual reports required by  
133 rule of the state board.

134 ~~(e)~~ (e) A student in grades kindergarten through grade three ~~who is recommended by the~~  
135 ~~student assistance team or the student's classroom teacher for additional assistance in one or~~  
136 ~~more of the key standards of English Language Arts including reading, speaking and listening,~~  
137 ~~writing or language may~~ shall be required to attend an extended year early literacy and numeracy  
138 instructional support program as a condition for promotion if:

139 (1) The student has been provided additional academic assistance ~~help~~ through  
140 interventions offered during the school day in school or after-school in early literacy and numeracy  
141 ~~instructional support program~~ and, prior to the end of the school year, the student assistance team

142 or the student's classroom teacher recommends that further additional academic help is needed  
143 for the student to be successful at the next grade level; and

144 (2) The county board has established an ~~early~~ a literacy and numeracy instructional  
145 support program during the extended year for the student's grade level.

146 ~~(d)~~ (f) County boards shall provide high-quality educational facilities, equipment, and  
147 services to support ~~early~~ literacy and numeracy instructional support programs established  
148 pursuant to this section. Extended year programs may be provided at a central location for  
149 kindergarten through third graders who qualify for the program.

150 (g) Each county board shall adopt high-quality instructional materials grounded in  
151 scientifically-based reading research and aligned to state standards to be used as the core  
152 curriculum. The instructional materials shall not include practices that are aligned with the Three-  
153 Cueing Systems Model of teaching reading.

154 ~~(e)~~ (h) This section may not be construed to prohibit a classroom teacher from  
155 recommending the grade level retention of a student in any of the grades kindergarten through  
156 grade three based upon the student's lack of mastery of the subject matter and preparation for  
157 the subject matter at the next grade level. Benchmark and/or screener data shall be used to inform  
158 the classroom teacher's recommendation.

159 ~~(f)~~ (i) This section may not be construed to affect the individualized education plans of  
160 exceptional students.

161 ~~(g)~~ (j) This section may not be construed to limit the authority of the county board to  
162 establish an extended year program in accordance with ~~section thirty nine, article five of this~~  
163 ~~chapter~~ §18-5-39 of this code. County boards may not charge tuition for enrollment in early literacy  
164 and numeracy instructional support programs established pursuant to this section.

165 ~~(h)~~ (k) Each county board shall ~~prepare to~~ implement the provisions of this section and the  
166 provisions of the state board rule required by subsection (b) of this section. ~~The preparations shall~~  
167 ~~at least include planning, ensuring~~ The county board shall establish a process for ensuring the

168 developmental and academic progress of all students through the auspices of student assistance  
169 teams as currently required by state board policy and ~~performing~~ perform a needs assessment to  
170 determine the potential capacity requirements for the multi-tiered system of support for early  
171 learners. Each county board also shall provide in-service training:

172 (1) For kindergarten through grade three early childhood classroom assistant teachers,  
173 and aides, specifically related to literacy, numeracy, and their responsibilities and appropriate  
174 measures for exercising authority and control over students. The county board shall also provide  
175 this training to any interventionists it chooses to employ instead of an early childhood classroom  
176 assistant teacher or aide pursuant to §18-5-18a(b) of this code; and

177 (2) For classroom teachers in grades kindergarten through three to help the classroom  
178 teachers gain a strong understanding of how to best utilize the early childhood classroom  
179 assistant teachers, aides, or interventionists during classroom instruction and during other periods  
180 of the day.

181 ~~(i) (l)~~ (l) The state board shall provide a report describing the proposed implementation of the  
182 ~~transformative~~ multi-tiered system of support for early literacy and numeracy to the Legislative  
183 Oversight Commission on Education Accountability on or before ~~July 1, 2014~~ July 1, 2023.

184 ~~(j) (m)~~ (m) The state board shall provide a comprehensive report regarding the status of the  
185 ~~transformative~~ multi-tiered system of support for literacy and numeracy to the Legislative  
186 Oversight Commission on Education Accountability, the Joint Committee on Government and  
187 Finance, and the Governor on or before November 1, 2014 November 1, 2023, and annually on  
188 or before November 1 ~~on~~ of each year thereafter. The report shall address, at a minimum, the  
189 progress of the program throughout the state, its effect on student achievement, and the sources  
190 of the funding both available to and used by the program.

191 ~~(k) (n)~~ (n) ~~The provisions of this section are subject to the availability of funds from legislative~~  
192 ~~appropriation or other sources specifically designated for the purposes of this section. If a county~~  
193 ~~board determines that adequate funds are not available for full implementation of a transformative~~

194 ~~system of support for early literacy in the county, the county board may implement its program in~~  
195 ~~phases by first establishing early literacy instructional support programs in the early readiness~~  
196 ~~grades (Kindergarten), then the primary grades (Grades 1-2), and then establishing an early~~  
197 ~~literacy instructional support program for the third grade once Legislative appropriations to the~~  
198 ~~State Board of Education – State Department of Education Elementary Literacy and Numeracy~~  
199 ~~Program shall be used for the implementation of the provisions of this section along with other~~  
200 ~~funds available for providing a high-quality education.~~

201 (f) (o) Effective for the school year beginning July 1, 2026, and thereafter, a public school  
202 student who generally demonstrates a minimal understanding of, and ability to apply, grade level  
203 English language arts knowledge, skills, and abilities, or both, as indicated on the West Virginia  
204 General Summative Assessment relative to the West Virginia College and Career Readiness  
205 Standards at the end of third grade, shall upon the recommendation of the teacher and the student  
206 assistance team, be retained in the third grade for the ensuing school year subject to the following  
207 exceptions:

208 (1) A student with disabilities whose Individual Education Plan indicates participation in  
209 the statewide alternate summative assessment;

210 (2) A student identified as an English language learner who has had less than three years  
211 instruction in English as a second language;

212 (3) A student with disabilities who participates in the statewide summative assessment,  
213 has an Individual Education Plan or Section 504 plan that reflects that the student has received  
214 intensive intervention for more than two years and still demonstrates a deficiency or who was  
215 previously retained in any of the grades kindergarten through grade three;

216 (4) A student who is in the process of a special education referral or evaluation for  
217 placement in special education, has been diagnosed as having a significant impairment, including  
218 dyslexia or dyscalculia, or is a child with a disability if the student’s individualized education

219 program team and the student's parent or guardian agree that promotion is appropriate based on  
220 the student's Individualized Education Plan;

221 (5) A student who has received intensive intervention for two or more years, still  
222 demonstrates a deficiency, and who was previously retained in any of the grades kindergarten  
223 through grade three for a total of two years: *Provided*, That the student shall continue to receive  
224 intensive intervention in grade four;

225 (6) A student who demonstrates an acceptable level of performance on an alternative  
226 standardized assessment approved by the state board;

227 (7) A student who attends an extended year learning program following the third grade  
228 and has attained proficiency; and

229 (8) A student whose parent or guardian has requested a good cause exemption within the  
230 time period established by the county board and the superintendent, or his or her designee,  
231 determines that the good cause exemption is in the best interests of the child: *Provided*, That a  
232 good cause exemption may not prohibit the grade level retention of a student by a classroom  
233 teacher based upon the student's lack of mastery of the subject matter and preparation for the  
234 subject matter at the next grade level.

## **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

### **§18-5-18a. Maximum teacher-pupil ratio.**

1 (a) County boards of education shall provide sufficient personnel, equipment, and facilities  
2 as will ensure that each ~~first through sixth grade~~ classroom, or classrooms having two or more  
3 grades that include one or more of the ~~first~~ kindergarten through sixth grades shall not have more  
4 ~~than 25 pupils for each teacher of the grade or grades and shall not have more than 20 pupils for~~  
5 ~~each kindergarten teacher per session~~ as follows, unless the state superintendent has excepted  
6 a specific classroom upon application therefor by a county board as provided in this section:

7 (1) For kindergarten, not more than 20 pupils for each teacher and one early childhood  
8 classroom assistant teacher or aide in classrooms with more than 10 pupils;

9           (2) For first, second, and third grades, not more than 25 pupils for each teacher and one  
10 early childhood classroom assistant teacher or aide in classrooms with more than 12 pupils:  
11 Provided, That the early childhood classroom assistant teacher/aide requirement for classrooms  
12 with more than 12 pupils shall not be effective until July 1, 2023, for first grade classrooms; July  
13 1, 2024, for second grade classrooms; and July 1, 2025, for third grade classrooms; and

14           (3) For grades four, five, and six, not more than 25 pupils for each teacher.

15           (b) County boards may satisfy the requirements of subsection (a) of this section by  
16 employing a full-time interventionist instead of an early childhood assistant teacher or aide,  
17 subject to the following:

18           (1) If no full-time interventionist is available, a county board may satisfy the requirements  
19 of subsection (a) of this section by employing a part-time interventionist; and

20           (2) County boards are not required to employ an interventionist even if there are an  
21 insufficient number of early childhood assistant teachers and aides available to fill all the positions  
22 required by subsection (a) of this section.

23           ~~(b)~~ (c) County school boards may not maintain a greater number of classrooms having  
24 two or more grades that include one or more of the grade levels referred to in this section than  
25 were in existence in said county as of January 1, 1983.

26           ~~(e)~~ (d) The state superintendent is authorized, consistent with sound educational policy,  
27 to:

28           (1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher  
29 in a classroom for the purposes of instruction in physical education; and

30           (2) Permit more than 20 pupils per teacher in a specific kindergarten classroom and 25  
31 pupils per teacher in a specific classroom in grades four through six during a school year in the  
32 event of extraordinary circumstances as determined by the state superintendent after application  
33 by a county board of education.

34           ~~(d)~~ (e) The state board shall establish guidelines for the exceptions authorized in this  
35 section, but in no event shall the superintendent except classrooms having more than three pupils  
36 above the pupil-teacher ratio as set forth in this section.

37           ~~(e)~~ (f) The requirement for approval of an exception to exceed the 20 pupils per  
38 kindergarten teacher per session limit or the 25 pupils per teacher limit in grades ~~one~~ four through  
39 six is waived in schools where the schoolwide pupil-teacher ratio is 25 or less in grades ~~one~~ four  
40 through six: *Provided*, That a teacher shall not have more than three pupils above the  
41 teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than 20  
42 pupils per session and any classroom teacher of grades ~~one~~ four through six who has more than  
43 25 pupils, shall be paid additional compensation based on the affected classroom teacher's  
44 average daily salary divided by 20 for kindergarten teachers, or 25 for teachers of grades ~~one~~  
45 four through six, for every day times the number of additional pupils enrolled up to the maximum  
46 pupils permitted in the teacher's classroom. All such additional compensation shall be paid from  
47 county funds exclusively.

48           Notwithstanding any other provision of this section to the contrary, commencing with the  
49 school year beginning on ~~July 1, 1994~~ July 1, 1996, a teacher in grades one, two, or three, or  
50 classrooms having two or more such grade levels, ~~shall not have more than two pupils above the~~  
51 ~~teacher/pupil ratio as set forth in this section:~~ *Provided*, That commencing with the school year  
52 ~~beginning on July 1, 1995, such teacher shall not have more than one pupil above the~~  
53 ~~teacher/pupil ratio as set forth in this section:~~ *Provided, however*, That commencing with the  
54 school year beginning on ~~July 1, 1996~~, such teacher shall not have any pupils above the  
55 teacher/pupil ratio as set forth in this section.

56           ~~(f)~~ (g) No provision of this section is intended to limit the number of pupils per teacher in a  
57 classroom for the purpose of instruction in choral, band, or orchestra music.

58           ~~(g)~~ (h) Each school principal shall assign students equitably among the classroom  
59 teachers, taking into consideration reasonable differences due to subject areas and/or grade  
60 levels.

61           ~~(h)~~ (i) The state board shall collect from each county board of education information on  
62 class size and the number of pupils per teacher for all classes in grades seven through 12. The  
63 state board shall report such information to the Legislative Oversight Commission on Education  
64 Accountability before January 1, of each year.

65           ~~(i) The West Virginia Department of Education shall survey districts to determine those~~  
66 ~~grade levels, content areas, and geographic locations where class overcrowding is impeding~~  
67 ~~student achievement and report to the Legislature by July 1, 2020 a tailored plan for reducing~~  
68 ~~class overcrowding in such areas.~~

69           ~~The study shall include, but is not limited to, an examination of the following issues:~~

70           ~~(1) The effect on student learning of limits on the number of pupils per teacher in a~~  
71 ~~classroom in elementary classes and in a middle and high school format in which students have~~  
72 ~~different teachers for different subject matter instruction;~~

73           ~~(2) The effect on the equity among teachers in a middle school in which the number of~~  
74 ~~pupils per teacher in a classroom is limited for some teachers and not for others, including the~~  
75 ~~additional pay for certain teachers in whose classrooms the limits are exceeded; and~~

76           ~~(3) The effect limits on the number of pupils per teacher in a classroom have on the ability~~  
77 ~~of school systems to offer elective courses in secondary school~~

## **ARTICLE 9A. PUBLIC SCHOOL SUPPORT.**

### **§18-9A-5. Foundation allowance for service personnel.**

1           (a) The basic foundation allowance to the county for service personnel shall be the amount  
2 of money required to pay the annual state minimum salaries in accordance with the provisions of  
3 article four, chapter eighteen a §18A-4-1 et seq. of this code to such service personnel employed,  
4 subject to the following:

5 (1) A county shall receive an allowance for state aid eligible service personnel positions  
6 per 1,000 students in net enrollment, as follows:

7 (A) For each high-density county, ~~forty three and ninety seven one hundredths 43.97~~  
8 service personnel per 1,000 students in net enrollment: Provided, That this ratio of service  
9 personnel per 1,000 students in net enrollment shall increase to 47.39 beginning July 1, 2023;  
10 50.65 beginning July 1, 2024; and 53.79 beginning July 1, 2025;

11 (B) For each medium-density county, ~~forty four and fifty three one hundredths 44.53~~  
12 service personnel per 1,000 students in net enrollment: Provided, That this ratio of service  
13 personnel per 1,000 students in net enrollment shall increase to 47.95 beginning July 1, 2023;  
14 51.21 beginning July 1, 2024; and 54.35 beginning July 1, 2025;

15 (C) For each low-density county, ~~forty five and one tenth 45.10~~ service personnel per  
16 1,000 students in net enrollment: Provided, That this ratio of service personnel per 1,000 students  
17 in net enrollment shall increase to 48.52 beginning July 1, 2023; 51.78 beginning July 1, 2024;  
18 and 54.92 beginning July 1, 2025;

19 (D) For each sparse-density county, ~~forty five and sixty eight one hundredths 45.68~~  
20 service personnel per 1,000 students in net enrollment: Provided, That this ratio of service  
21 personnel per 1,000 students in net enrollment shall increase to 49.10 beginning July 1, 2023;  
22 52.36 beginning July 1, 2024; and 55.50 beginning July 1, 2025; and

23 (E) For any service personnel positions, or fraction thereof, determined for a county  
24 pursuant to subdivision (1) of this subsection that exceed the number employed, the county's  
25 allowance for these positions shall be determined using the average state funded minimum salary  
26 of service personnel for the county;

27 (2) The number of and the allowance for personnel paid in part by state and county funds  
28 shall be prorated; and

29 (3) Where two or more counties join together in support of a vocational or comprehensive  
30 high school or any other program or service, the service personnel for the school or program may

31 be prorated among the participating counties on the basis of each one's enrollment therein and  
32 that the personnel shall be considered within the above-stated limit.

## **ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

### **§18-20-10. Dyslexia and dyscalculia defined; responsibilities of the state educational and local educational agencies.**

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~~ in literacy and numeracy that are ~~the root causes of~~ influenced by specific  
6 learning disabilities, including dyslexia, dyscalculia, and related learning difficulties. Of those who  
7 are referred to special education services in public schools, the majority are referred because of  
8 ~~problems with~~ weaknesses in the areas of 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  
12 improve literacy development;

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

17 (5) While programs for specific learning disabilities, including dyslexia and dyscalculia,  
18 that certify or support teachers, clinicians, or specialists, differ in their preparation methodologies,  
19 teaching approaches, and organizational purposes, they should ascribe to a common set of  
20 professional standards for the benefit of the students they serve. Compliance with ~~such~~ consistent  
21 standards can assure the public that individuals who serve students with specific learning

22 disabilities in public schools are prepared to implement ~~scientifically~~ evidence-based and clinically  
23 proven practices;

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

30 (7) Effective literacy instruction:

31 (A) Is consistent with the science of reading;

32 (B) Emphasizes the areas of phonemic awareness, phonics, fluency, vocabulary,  
33 comprehension, and writing; and,

34 (C) Incorporates elements of written language, including spelling, handwriting, and written  
35 expression;

36 (8) Problems with a student's acquisition of literacy skills are best addressed using  
37 interventions based on approaches consistent with the science of reading, including, but not  
38 limited to, structured literacy; and

39 ~~(7)~~ (9) The basis of ascribing to common standards to benefit students with specific  
40 learning disabilities, including dyslexia and dyscalculia, requires recognizing common  
41 characteristics of the disabilities. The Legislature finds that the definitions of dyslexia and  
42 dyscalculia prescribed by ~~IDEA~~ ~~and~~ the American Psychiatric Association's Diagnostic and  
43 Statistical Manual of Mental Disorders, Fifth Edition, Text Revision (DSM-5-TR) ~~DSM-5~~ are the  
44 appropriate ~~measure~~ measures for recognizing characteristics of dyslexia and dyscalculia in  
45 students.

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

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

54 (2) Dyslexia is an alternative term used to refer to a pattern of learning difficulties  
55 characterized by problems with accurate or fluent word recognition, poor decoding, and poor  
56 spelling abilities. If dyslexia is used to specify this particular pattern of difficulties, it is important  
57 also to specify any additional difficulties that are present, such as difficulties with reading  
58 comprehension or math reasoning; and

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

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

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

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

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

74 (c) The state educational agency shall:

75 (1) Develop guidance addressing specific learning disabilities, including dyslexia and  
76 dyscalculia, which contains information related to the following:

77 (A) Appropriate literacy and numeracy screening tools for identifying students who are at  
78 risk for academic difficulty in reading and/or mathematics, including dyslexia and dyscalculia, and  
79 who require tiered intervention;

80 (B) Appropriate diagnostic assessment components that can be used to help identify and  
81 diagnose dyslexia, dyscalculia, and/or other specific learning disabilities;

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

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

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

89 (F) The use of the terms "dyslexia" and "dyscalculia" in Individualized Education  
90 Programs, and in evaluation reports by professionals qualified to render these diagnoses; and

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

95 (d) Each local educational agency, including public charter schools, shall:

96 (1) Develop and implement a system or method for parents and guardians to receive or  
97 access information related to dyslexia and dyscalculia, at least annually;

98 (2) Ensure that the universal literacy and numeracy screening tools and/or benchmark  
99 assessments used within the local educational agency's multi-tiered system of support adequately  
100 detect risk status for academic difficulty in reading and/or mathematics, including potential  
101 indicators for dyslexia and dyscalculia;

102 (3) Ensure appropriate local school personnel are adequately trained to administer, score,  
103 and interpret the literacy and numeracy screening tools and/or benchmark assessments;

104 (4) Provide targeted and/or intensive evidence-based interventions through a multi-tiered  
105 system of support framework for any student identified by the screening tools and/or benchmark  
106 assessments as being at risk for academic difficulty in reading and/or mathematics, including  
107 dyslexia and/or dyscalculia;

108 (5) Collect data at reasonable intervals to determine whether students receiving evidence-  
109 based intervention are making sufficient growth to remediate issues identified during screening;

110 (6) Request consent for and conduct a comprehensive multidisciplinary evaluation to  
111 determine eligibility for special education services when a student does not respond or minimally  
112 responds to intervention strategies and/or when there is a suspected disability of dyslexia or  
113 dyscalculia. If the evaluation team determines that a student should be assessed for dyslexia  
114 and/or dyscalculia, provide assessment and diagnosis as appropriate by a qualified professional;

115 (7) Provide each student identified as having dyslexia and/or dyscalculia, and who meets  
116 the eligibility requirements for special education and related services as a student with a specific  
117 learning disability, appropriate intervention strategies and accommodations consistent with state  
118 educational agency guidance through the student's Individualized Education Program;

119 (8) Consider providing reasonable and appropriate accommodations through a Section  
120 504 plan for eligible students with a diagnosis of dyslexia, dyscalculia, or another specific learning  
121 disability, but who do not otherwise qualify for special education and related services; and

122           (9) Require all personnel determined appropriate by the local educational agency to  
123 annually receive professional development relating to the possible indicators of risk for dyslexia  
124 and dyscalculia, and related classroom accommodations and instructional practices for educating  
125 students who exhibit possible indicators of risk for, or who have been diagnosed with, dyslexia,  
126 dyscalculia, and/or other specific learning disabilities. The duration of this professional  
127 development shall not be less than 60 minutes. Local educational agencies and/or the state  
128 educational agency may create one or more modules to satisfy the requirements of this  
129 subdivision.