

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

**Introduced**

### **House Bill 4368**

By Delegates D. Smith, Hillenbrand, Ridenour,

Sheedy, Watt, Marple, Ellington, and Heckert

[Introduced January 15, 2026; referred to the

Committee on Education]

1 A BILL amend and reenact §18-5-16 of the Code of West Virginia, 1931, as amended; and to  
2 amend the code by adding a new article, designated §18-2L-1, §18-2L-2, §18-2L-3, §18-  
3 §18-2L-4, §18-2L-5, §18-2L-6, §18-2L-7 and §18-2L-8, relating to military connected students  
4 access to education; providing definitions, clarifying advance enrollment; providing student  
5 rights; and creating teacher and student support.

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

**ARTICLE 2L. MILITARY CONNECTED STUDENTS.**

**§18-2L-1. Definitions.**

1 The term "military-connected student" means a student who is an unemancipated person  
2 whose parent or guardian is: (1) a current, reserve, or former member of the United States Army,  
3 United States Navy, United States Marine Corps, United States Coast Guard, United States  
4 Space Force, Army Nurse Corps, Navy Nurse Corps, United States Air Force, Air National Guard  
5 or Army National Guard; or (2) a member of a military or reserve force under clause (ci) who was  
6 killed in the line of duty.

**§18-2L-2. Advance enrollment.**

1 For the purposes of this article, a military-connected student who is the dependent of either  
2 a person in the active military service of the United States, or in a full-time status during active  
3 service with a force of the West Virginia National Guard, whose parent or guardian is being  
4 relocated to the state under military orders and is transferred to or is pending transfer to a military  
5 installation within the state, is a resident for the purposes of enrollment by the receiving public  
6 school. The county board of education shall permit military-connected students to enroll  
7 preliminarily by remote registration without charge and shall not require the parent or guardian of  
8 the military-connected student or the student to physically appear at a location within the county to  
9 register the student, if the parent or guardian presents evidence of military orders that a parent or  
10 guardian will be stationed in this state during the current or following school year. The parent or  
11 guardian may use an address within the county of residence where the military-connected student

12 is to be enrolled, the address of a temporary on-base billeting facility, a purchased or leased home  
13 or apartment, or federal government or public-private venture off-base military housing. Proof of  
14 required residency may not be required at the time of the remote registration but shall be required  
15 within 10 days of the student's attendance, unless the attendance occurs within the unit count  
16 window, where proof of residency shall be provided prior to the close of unit count.

**§18-2L-3. Equal rights to educational opportunities.**

1 Notwithstanding any other provision of law, military-connected students shall have  
2 equitable access to academic courses and programs, and to extracurricular activities, athletic, and  
3 social programs.

**§18-2L-4. Enrollment timing.**

1 To avoid undue delays for transferring military children with disabilities in receiving  
2 comparable special education services or accommodations, each local education agency shall  
3 promptly coordinate with a military-connected student's parents and previous school district upon  
4 that student's application for enrollment pursuant to this article.

**§18-2L-5. Military parent student support.**

1 If a parent or guardian of a military-connected student is called or ordered to active duty by  
2 the federal government under the provisions of 10 U.S.C. relating to armed forces, or 32 U.S.C.  
3 relating to the National Guard, the parent or guardian may notify the local education agency of the  
4 activation to active duty and request additional supports for the student under this section. Upon  
5 receiving notification from the parent or guardian of activation, the local education agency shall  
6 provide the student with access to licensed counseling services, and information regarding  
7 existing federal and state military support services and any other service, agency, or resource  
8 necessary to support or provide assistance to the student.

**§18-2L-6. Military teacher student support.**

1 A local education agency shall notify a classroom teacher of the enrollment of a military-  
2 connected student in any class taught by the teacher. The purpose of the notification is to provide

3 the teacher with the opportunity to monitor a military-connected student's level of academic  
4 engagement and to provide additional academic support to the student as needed. At the request  
5 of a parent or guardian, the school district may not notify a classroom teacher of the enrollment of  
6 the military-connected student pursuant to this section.

**§18-2L-7. National Guard and Reserve parent student support.**

1 Notwithstanding any other provision of law, a military-connected student who is a child of a  
2 member of the National Guard and Reserve shall be afforded the same rights as a student of an  
3 active-duty military family under §18-10F-2 of this code, known as the Interstate Compact on  
4 Educational Opportunity for Military Children Act, if a parent is required to move to perform the  
5 parent's responsibilities in the service of the National Guard or Reserve resulting in the student  
6 having to transfer from a public school in one state to a public school in another state. Nothing in  
7 this section may be construed to amend the Interstate Compact on Educational Opportunity for  
8 Military Children under Article §18-10F-2 of this code. This section shall only apply to an action  
9 taken or to be taken by an entity located in this state that affects the rights of a military-connected  
10 student.

**§18-2L-8. Placement stability.**

1 For purposes of continuity of educational choice, a student who enrolls pursuant to this  
2 section may remain at the school until the student completes the highest grade level at the school.

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

**§18-5-16. Student transfers; definitions; appeals; calculating net enrollment; fees for transfer.**

1 (a) Establishment of attendance zones within counties. — The county board may establish  
2 attendance zones within the county to designate the schools within its district that resident  
3 students typically attend: *Provided*, That a county board may permit any eligible elementary,  
4 middle or high school resident student to apply for enrollment in any school with grade level  
5 capacity and existing programs and services currently outside any established attendance zone in

6 which the student resides. Upon the written request of any parent or guardian, or person legally  
7 responsible for any resident student, the superintendent may grant a resident student's transfer  
8 request from one school or program to another within the county ~~so as~~ long as grade level capacity  
9 and the program and services exist at the time of the request. Counties with a critical need  
10 shortage policy may further review the request to determine if appropriate staffing is available in  
11 the requested grade, program, service, or content area. A superintendent may not transfer a  
12 resident student from one school to another within the county for reasons affecting the best  
13 interests of the schools without the consent of the student's parent or legal guardian. Any  
14 aggrieved person may appeal a transfer or denial of transfer by the county superintendent to the  
15 county board. When making enrollment decisions, a county superintendent or county board may  
16 not distinguish between students on the basis of residential or potential disability status. A county  
17 superintendent or county board may determine if appropriate staff, resources, services and  
18 programs are in place to meet the disability needs of the student at the requested school. A county  
19 decision of the county board may be appealed to the state superintendent of schools, whose  
20 decision shall be final.

21 (b) Definitions. — For the purposes of this section, unless a different meaning clearly  
22 appears from the context:

23 (1) "Nonresident student" means a student who resides in this state and who is enrolled in  
24 or is seeking enrollment in a county school district other than the county school district in which the  
25 student resides.

26 (2) "Open enrollment" means a policy adopted and implemented by a county board to allow  
27 nonresident students to enroll in any school within the district. Open enrollment is distinct from a  
28 mutual agreement of two county boards regarding mass transfer of students, as contemplated in  
29 §18-5-13(f)(1)(C) of this code.

30 (c) Enrollment policies for nonresident students. — County boards shall establish and  
31 implement an open enrollment policy for nonresident students without charging tuition and without

32 obtaining approval from the board of the county in which a student resides and transfers. This  
33 policy shall clearly establish an open enrollment process and enrollment application period for  
34 nonresident students to enroll in any school within the district. The process for enrollment  
35 application shall be clearly publicized to parents and the general public, including dates and  
36 timelines, and shall be made available on the board's website. As part of the open enrollment  
37 policy, county boards shall also establish a process for nonresident students to enroll in any school  
38 within the district on a case-by-case basis at any time during the academic year so long as all other  
39 requirements are met including that the student has not previously transferred within the same  
40 school year. The open enrollment policy shall not discriminate against nonresident students on the  
41 basis of their residential address or any potential disability status. Enrollment policies are subject  
42 to the following:

- 43 (1) A county board may give enrollment preference to:
  - 44 (A) Siblings of students already enrolled through the open enrollment policy;
  - 45 (B) Secondary students who have completed 10th grade and, due to family relocation,  
46 become nonresident students, but express the desire to remain in a specific school to complete  
47 their education;
  - 48 (C) Students who are children, grandchildren, or legal wards of employees;
  - 49 (D) Students whose legal residences, though geographically within another county, are  
50 more proximate to a school within the receiving county, whether calculated by miles or  
51 transportation time;
  - 52 (E) Students who reside in a portion of a county where topography, impassable roads, long  
53 bus rides, or other conditions prevent the practicable transportation of the student to a school  
54 within the county, and a school within a contiguous county is more easily accessible; and
  - 55 (F) Military connected students who are the dependents of an active service member of the  
56 United States Military, the West Virginia National Guard, or a Reserve Component of the United  
57 States Military.

58           (F) (G) The county board to which the student wishes to be transferred may not refuse a  
59 transfer by virtue of the student transferring from a private, parochial, church, or religious school  
60 holding an exemption approved pursuant to §18-8-1(k) of this code: *Provided*, That nothing in this  
61 paragraph ~~shall~~ may be construed to allow a county board to give an enrollment preference to a  
62 student transferring from a private, parochial, church, or religious school holding an exemption  
63 approved pursuant to §18-8-1(k) of this code;

64           (2) A county shall comply with all enrollment requirements for children who are in foster  
65 care or who meet the definition of unaccompanied youth prescribed in the McKinney-Vento  
66 Homeless Assistance Act (42 U.S.C. § 11434a(6)).

67           (3) The county board for the county educating the nonresident student may provide an  
68 adequate means of transportation to nonresident students when students have complied with the  
69 procedure for obtaining authorization to attend school outside their county of residence, subject to  
70 the following:

71           (A) County boards of education are not required to uniformly provide nonresident student  
72 transportation, and may consider whether a nonresident student meets the eligibility criteria for  
73 free or reduced price lunch and milk established within the Richard B. Russell National School  
74 Lunch Act (42 U.S.C. § 1758); and

75           (B) The county board for the county educating the nonresident student shall provide  
76 transportation to and from the school of attendance, or to and from an agreed pickup point on a  
77 regular transportation route, or for the total miles traveled each day for the nonresident student to  
78 reach the school of enrollment if the nonresident student is a student with disabilities and has an  
79 individualized education program that specifies that transportation is necessary for fulfillment of  
80 the program.

81           (4) An application may only be denied by a county board of education due to lack of grade  
82 level capacity, lack of programs or services due to areas identified in the county board critical need  
83 policy, or the commission of Level 3 or Level 4 inappropriate behavior as defined by West Virginia

84 Board of Education Policy 4373 in the last year. The denial shall be in writing, sent to the parent or  
85 guardian of the nonresident student and the West Virginia Department of Education within three  
86 business days of the decision, and include the reason and explanation for the denial and  
87 information on appealing the denial of the application. If a nonresident student fails to fill out or  
88 submit an open enrollment application correctly, a county board shall provide an explanation of  
89 ways in which the application may be corrected and submitted for necessary approval.

90 (d) Appeal. — The State Board of Education shall establish a process whereby a parent or  
91 guardian of a student may appeal to the State Superintendent the refusal of a county board to  
92 accept the transfer of the student. If during the appeal process, the State Superintendent  
93 discovers that the education and the welfare of the student could be enhanced, the State  
94 Superintendent may direct that the student may be permitted to attend a school in the receiving  
95 county.

96 (e) Net enrollment. — For purposes of net enrollment as defined in §18-9A-2 of this code,  
97 whenever a student is transferred on a full-time basis from one school district to another district  
98 pursuant to the provisions of this section, the county to which the student is transferred shall  
99 include the student in its net enrollment, subject to the following:

100 (1) If a student transfers after the second month of any school year, the county to which the  
101 student transferred may issue, in the following fiscal year, an invoice to the county from which the  
102 student transferred for the amount, determined on a pro rata basis, that the county now  
103 responsible for educating the student otherwise would have received under the state basic  
104 foundation program established in §18-9A-1 *et seq.* of this code had such student been included in  
105 the county's prior year's net enrollment;

106 (2) If a student in grades kindergarten through 12 transfers after the second month of any  
107 school year, the county to which the student transferred may issue, in the following fiscal year, an  
108 invoice to the county from which the student transferred for the amount the county now  
109 responsible for educating the student otherwise would have received under aid to exceptional

110 students had such student been included in the county's prior year's child count enrollment;

111 (3) If a student in prekindergarten transfers after the child count of exceptional students is

112 certified for any school year, the county to which the student transferred may issue, in the following

113 fiscal year, an invoice to the county from which the student transferred for the amount the county

114 now responsible for educating the student otherwise would have received under aid to exceptional

115 students had such student been included in the county's prior year's child count enrollment; and

116 (4) The county from which the student transferred shall reimburse the county to which the

117 student transferred for the amount of the invoice.

118 (f) Transfers between states. — Transfer of students from this state to another state shall

119 be upon such terms, including payment of tuition, as shall be mutually agreed upon by the board of

120 the receiving county and the authorities of the school or district from which the transfer is made.

121 (g) No parent, guardian, or person acting as parent or guardian is required to pay for the

122 transfer of a student or for the tuition of the student after the transfer when the transfer is carried

123 out under the terms of this section.

124 (h) Nothing in this section supersedes the eligibility requirements for participation in extra-

125 curricular activities established by the Secondary School Activities Commission.

126 (i) Each county board shall report annually to the State Department of Education the

127 number of resident and nonresident student transfers approved by the county board for the

128 preceding school calendar year, as well as the number of resident and nonresident student

129 transfer applications denied and the reasons for those denials. On or before June 30 of each year,

130 the State Department of Education shall compile the information from the county boards and

131 report the information to the Legislative Oversight Commission on Education Accountability.

132 Information regarding the annual number of resident and nonresident student transfer approvals

133 and denials shall also be made available on each county board's website.

NOTE: The purpose of this bill is to provide military connected students access to education

and relates to advance enrollment, rights of those students, and teacher and student support.

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