

# **WEST VIRGINIA LEGISLATURE**

## **2026 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4995**

By Delegates Martin, Kump, Willis, Ferrell, Phillips,  
Shamblin, Hornby, Mallow, Brooks, Toney, and  
Mazzocchi

[Introduced in the Committee on Education February  
20, 2026; then the Judiciary]

1 A BILL to amend and reenact §18-20-11 of the Code of West Virginia, 1931, as amended; relating  
 2 video cameras and audio recordings in self-contained classrooms; requiring notice to  
 3 certain parents or guardians of interruption in video camera or audio recording; providing  
 4 that a parent or guardian shall receive a copy of the applicable code section upon the initial  
 5 placement of a video camera or audio recording device; providing that a judge may order  
 6 that custody of a recording be transferred to a parent or guardian until the statute of  
 7 limitations expires; and changing the time period required for review of the recordings.

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

**CHAPTER 18. EDUCATION.**

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

**§18-20-11. Video cameras required in certain special education classrooms; audio recording devices required in restroom of a self-contained classroom.**

1 (a) A local educational agency (LEA) shall ensure placement of video cameras in self-  
 2 contained classrooms and audio recording devices in the restrooms of self-contained classrooms  
 3 as defined in state board policy.

4 (b) As used in this section:

5 (1) "Incident" means a raised suspicion by a teacher, aide, parent, or guardian of a student,  
 6 of bullying, abuse, or neglect of a student or of harm to an employee of a public school by:

7 (A) An employee of a public school or local educational agency (LEA); or

8 (B) Another student;

9 (2) "Self-contained classroom" means a classroom at a public school in which a majority of  
 10 the students in regular attendance are provided special education instruction and as further  
 11 defined in state board policy; and

12 (3) "Special education" means the same as defined in §18-20-1 *et seq.* of this code.

13 (c) (1) A local educational agency (LEA) shall provide a video camera to a public school for

14 each self-contained classroom that is a part of that school which shall be used in every self-  
15 contained classroom.

16 (2) Prior to August 1, 2023, a local educational agency (LEA) shall provide an audio  
17 recording device to a public school to be used in the restroom of each self-contained classroom  
18 that is a part of that school. If the public school is not able to receive the audio recording device by  
19 August 1, 2023, the public school may apply to the state Department of Education for a waiver to  
20 extend that date to August 1, 2024.

21 (3) The principal of the school or other school administrator whom the principal assigns as  
22 a designee shall be the custodian of the video camera and audio recording device, all recordings  
23 generated by the video camera and audio recording device, and access to those recordings  
24 pursuant to this section.

25 (d)(1) Every public school that receives a video camera under this section shall operate  
26 and maintain the video camera in every self-contained classroom that is part of that school.

27 (2) Every public school that receives an audio recording device under this section shall  
28 operate and maintain the audio recording device in every restroom that is a part of a self-contained  
29 classroom that is part of that school: *Provided*, That each restroom of a self-contained classroom  
30 shall have posted on its door a notice that states: "Pursuant to state law, this restroom is equipped  
31 with an audio recording device for the protection of the students."

32 (3) If there is an interruption in the operation of the video camera or audio recording device  
33 for any reason, a written explanation should be submitted to the school principal and the local  
34 educational agency (LEA) board explaining the reason and length for which there was no  
35 recording. The explanation shall be maintained at the local educational agency (LEA) board office  
36 for at least one year. Notice shall also be provided to any parent or guardian whose child was  
37 present at the time of the interruption.

38 (e)(1) A video camera placed in a self-contained classroom shall be capable of:

39 (A) Monitoring all areas of the self-contained classroom, including, without limitation, a

40 room attached to the self-contained classroom and used for other purposes; and

41 (B) Recording audio from all areas of the self-contained classroom, including, without  
42 limitation, a room attached to the self-contained classroom and used for other purposes.

43 (2) A video camera placed in a self-contained classroom shall not monitor a restroom or  
44 any other area in the self-contained classroom where a student changes his or her clothes except,  
45 for incidental monitoring of a minor portion of a restroom or other area where a student changes  
46 his or her clothes because of the layout of the self-contained classroom.

47 (3) An audio recording device shall be placed in the restroom of the self-contained  
48 classroom and notice provided pursuant to §18-20-11(d)(2) of this code.

49 (4) A video camera or audio recording device required by this section is not required to be  
50 in operation during the time in which students are not present in the self-contained classroom.

51 (f) Before a public school initially places a video camera in a self-contained classroom or  
52 an audio recording device in the restroom of a self-contained classroom pursuant to this section,  
53 the local educational agency (LEA) shall provide written notice of the placement, including a  
54 written copy of this section of code, to:

55 (1) The parent or legal guardian of a student who is assigned to the self-contained  
56 classroom: *Provided*, That the parent or guardian be allowed the opportunity to opt out of the  
57 bathroom audio monitoring for their student. An Individual Education Plan or 504 plan shall outline  
58 the opt out and an alternative arrangement for the student or parent needs and requested  
59 accommodation; and

60 (2) The school employee(s) who is assigned to work with one or more students in the self-  
61 contained classroom.

62 (g)(1) Except as provided in subdivision (2) of this subsection, a public school shall retain  
63 video and audio recorded pursuant to this section for at least three months after the date of the  
64 recording, subject to the following:

65 (A) If the minimum three-month period overlaps the summer break occurring between the

66 last day of one instructional term and the first day of the next instructional term, the minimum  
67 three-month period shall be extended by the number of days occurring between the two  
68 instructional terms;

69 (B) For any school-based camera system or audio device recording device that is installed  
70 or replaced after April 1, 2022, the public school shall retain video recorded from a camera or  
71 audio device recording for at least 365 days after the date the video or audio was recorded and no  
72 extension of this time period during the summer break is required.

73 (2) If a person requests to review a recording under subsection (k) or subsection (l) of this  
74 section, the public school shall retain the recording from the date of the request until:

75 (A) The earlier of the person reviewing the recording or 60 days after the person who  
76 requested the video or audio recording was notified by the public school that the video or audio  
77 recording is available; and

78 (B) Any investigation and any administrative or legal proceedings that result from the  
79 recording have been completed, including, without limitation, the exhaustion of all  
80 appeals; Provided, That if the statute of limitations has not expired, the judge may enter an order  
81 transferring custody of the recording to a parent or guardian until 60 days after the expiration of the  
82 statute of limitations.

83 (3) In no event may the recording be deleted or otherwise made unretrievable before the  
84 time period set forth in subdivision (1) of this subsection elapses.

85 (h) This section does not:

86 (1) Waive any immunity from liability of a public local educational agency (LEA) or  
87 employee of a public local educational agency (LEA);

88 (2) Create any liability for a cause of action against a public school or local educational  
89 agency (LEA) or employee of a public school or local educational agency (LEA); or

90 (3) Require the principal or other designated school administrator to review the recording  
91 absent an authorized request pursuant to this code section or suspicion of an incident except as

92 otherwise provided in subsection (j) of this section.

93 (i) A public school or local educational agency (LEA) shall not use video or audio recorded  
94 under this section for:

95 (1) Teacher evaluations; or

96 (2) Any purpose other than the promotion and protection of the health, wellbeing, and  
97 safety of students receiving special education and related services in a self-contained classroom  
98 or restroom of a self-contained classroom.

99 (j) Except as provided under subsections (k) and (l) of this section, a recording made under  
100 this section is confidential and shall not be released or reviewed by anyone except the school  
101 principal, other school administration designee, or local educational agency (LEA) designee if the  
102 school principal or other school administration designee is unable to review the video or audio  
103 recording pursuant to this subsection. The school principal, other school administration designee,  
104 or local educational agency (LEA) designee shall review no less than 15 minutes of the video and  
105 no less than 15 minutes of audio of each self-contained classroom and restroom at the school no  
106 less than every ~~90~~ 30 calendar days. The state board shall include in its rule authorized by this  
107 section requirements for documentation of compliance with the video and audio reviewing  
108 requirements of this subsection.

109 (k) Within seven days of receiving a request, a public school or local educational agency  
110 (LEA) shall allow review of a recording by:

111 (1) A public school or local educational agency (LEA) employee who is involved in an  
112 alleged incident that is documented by the recording and has been reported to the public school or  
113 local educational agency (LEA);

114 (2) A parent or legal guardian of a student who is involved in an alleged incident that is  
115 documented by the recording and has been reported to the public school or local educational  
116 agency (LEA); or

117 (3) An employee of a public school or local educational agency (LEA) as part of an

118 investigation into an alleged incident that is documented by the recording and has been reported  
119 to the public school or local educational agency (LEA).

120 (l) Within seven days of receiving a request, a public school or local educational agency  
121 (LEA) shall allow review of a recording by and comply with all subsequent requests for review or  
122 release of the recording, by:

123 (1) A law-enforcement officer or employee of the Department of Human Services, as part  
124 of an investigation into an alleged incident that is documented by the recording and has been  
125 reported to the agency: *Provided*, That if a release of the recording is requested pursuant to this  
126 subdivision, the agency receiving a copy of the recording shall maintain strict confidentiality of the  
127 recording and not further release the recording without authorization from the public local  
128 educational agency (LEA) through its superintendent; or

129 (2) A judge, counsel, or other legal entity that is charged with deciding or representing  
130 either the school board, students, or employees in any matters related to legal issues arising from  
131 an incident: *Provided*, That the recording may only be released pursuant to an appropriate  
132 protective order or under seal.

133 (m) If an incident is discovered while initially reviewing a recording that requires a report to  
134 be made under §49-2-803 of this code, that report shall be made by the reviewer pursuant to that  
135 section within 24 hours of viewing the incident.

136 (n) When a recording is under review as part of the investigation of an alleged incident, and  
137 the recording reveals a student violating a disciplinary code or rule of the school, which violation is  
138 not related to the alleged incident for which the review is occurring, and which violation is not  
139 already the subject of a disciplinary action against the student, the student is not subject to  
140 disciplinary action by the school for such unrelated violation unless it reveals a separate incident  
141 as described in §18-20-11(b)(1) of this code.

142 (o) It is not a violation of subsection (j) of this section if a contractor or other employee of a  
143 public school or local educational agency (LEA) incidentally reviews a recording under this section

144 if the contractor or employee of a public school or local educational agency (LEA) is performing job  
145 duties related to the:

146 (1) Installation, operation, or maintenance of video or audio equipment; or

147 (2) Retention of video or audio recordings.

148 (p) This section applies solely to cameras and audio recording devices installed pursuant  
149 to this code section and does not limit the access of a student's parent or legal guardian to a  
150 recording reviewable under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.  
151 §1232g, or any other law.

152 (q) A public school or local educational agency (LEA) shall:

153 (1) Take necessary precautions to conceal the identity of a student who appears in a video  
154 recording but is not involved in the alleged incident documented by the video recording for which  
155 the public school allows viewing under subsection (j) of this section, including, without limitation,  
156 blurring the face of the uninvolved student; and

157 (2) Provide procedures to protect the confidentiality of student records contained in a  
158 recording in accordance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C.  
159 §1232g, or any other law.

160 (r) (1) Any aggrieved person may appeal to the State Board of Education an action by a  
161 public school or local educational agency (LEA) that the person believes to be in violation of this  
162 section.

163 (2) The state board shall grant a hearing on an appeal under this subsection within 45 days  
164 of receiving the appeal.

165 (s) (1) A public school or local educational agency (LEA) may use funds distributed from  
166 the Safe Schools Fund created in §18-5-48 of this code or any other available funds to meet the  
167 requirements of this section.

168 (2) A public school or local educational agency (LEA) may accept gifts, grants, or  
169 donations to meet the requirements of this section.

170           (t) The state board may promulgate a rule in accordance with §29A-3B-1 *et seq.* of this  
171 code to clarify the requirements of this section and address any unforeseen issues that might arise  
172 relating to the implementation of the requirements of this section.