

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Committee Substitute

for

Senate Bill 1020

BY SENATORS OLIVERIO AND BARNHART

[Reported February 24, 2026, from the Committee on
Education]

1 A BILL to amend and reenact §18-8-4 of the Code of West Virginia, 1931, as amended, relating
2 to compulsory school attendance; including up to five educational leave days within the
3 definition of "excused absence"; requiring the child or parent, guardian, or custodian of the
4 child to submit a note from the parent, guardian, or custodian within three days after the
5 child returns to school explaining what the day or days were used for; requiring state board
6 rule defining what qualifies as educational leave; allowing certain school personnel to
7 refuse to count a day as an educational leave day if the explanation in the note of what
8 the day was used for does not qualify under the state board rule; and excluding student
9 excused absences due to participation in 4-H, FFA, and certain other student organization
10 activities from the 10-day limit that currently applies to that type of excused absence plus
11 excused absences due to county- or school-approved curricular or extra-curricular
12 activities and college visits.

Be it enacted by the Legislature of West Virginia:

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

§18-8-4. Duties of attendance director and assistant directors; complaints, warrants, and hearings.

1 (a) For the purposes of this article, the following definitions apply:
2 (1) "Excused absence" means:
3 (A) A medical or dental appointment with written excuse from physician or dentist;
4 (B) Personal illness or injury of the student accompanied by a timely written excuse from
5 the student's parent, guardian, or custodian: *Provided*, That the total absences under this section
6 combined with absences permitted under ~~paragraph (C) of this subdivision~~ §18-8-4(a)(1)(C) of
7 this code do not exceed more than 10 per school year unless supported by a physician's note:
8 *Provided, however*, That a medically documented chronic health condition or disability that
9 adversely impacts in-person attendance approved by a county school board or the principal is not
10 subject to this limitation, and that absences of students with disabilities shall be in accordance

11 with the Individuals with Disabilities Education Improvement Act of 2004 and the federal and state
12 regulations adopted in compliance therewith;

13 (C) Personal illness or injury of the student's parent, guardian, custodian, or family
14 member: *Provided*, That the excuse must provide a reasonable explanation for why the student's
15 absence was necessary and caused by the illness or injury in the family, and the total absences
16 under this section in combination with ~~paragraph (B) of this subdivision~~ §18-8-4(a)(1)(B) of this
17 code may not exceed more than 10 excuses per school year;

18 (D) Death in the family;

19 (E) School-approved or county-approved curricular or extra-curricular activities;

20 (F) A judicial obligation or court appearance involving the student;

21 (G) A military requirement for students enlisted or enlisting in the military;

22 (H) Up to five college visits; ~~and~~

23 (I) A student in any West Virginia Department of Education recognized and sanctioned
24 student organization to enhance student enrichment and success, including, but not limited to,
25 SkillsUSA, Future Business Leaders of America (FBLA), Health Occupations Students of America
26 (HOSA), the Common Ground Partnership, or 4-H or FFA-sanctioned activity or program, subject
27 to the following:

28 (i) A student who participates in an activity or program sanctioned in ~~paragraph (I) of this~~
29 ~~subdivision~~ §18-8-4(a)(1)(I) of this code shall be credited as present by the school in which the
30 student is enrolled in the same manner as a student participating in an educational field trip. A
31 school principal, or the principal's designee, shall not count a student absent for participating in
32 an activity or program sanctioned in ~~paragraph (I) of this subdivision~~ §18-8-4(a)(1)(I) of this code.

33 (ii) An agent of a sanctioned organization set forth in ~~paragraph (I) of this subdivision~~ §18-
34 8-4(a)(1)(I) of this code shall provide documentation as proof of a student's participation in an
35 activity or program sanctioned in ~~paragraph (I) of this subdivision~~ §18-8-4(a)(1)(I) of this code.

36 (iii) A student shall make up any schoolwork missed while the student was participating in
37 an activity or program sanctioned by ~~paragraph (I) of this subdivision~~ §18-8-4(a)(1)(I) of this code
38 and shall not have the student's class grades adversely affected for lack of attendance or
39 participation due to the student's participation in an activity or program sanctioned in ~~paragraph~~
40 ~~(I) of this subdivision~~ §18-8-4(a)(1)(I) of this code.

41 (iv) A school principal, or the principal's designee, shall not credit a student who
42 participates in an activity or program sanctioned in ~~paragraph (I) of this subdivision~~ §18-8-
43 4(a)(1)(I) of this code as present if the student's participation in the activity or program sanctioned
44 in ~~paragraph (I) of this subdivision~~ §18-8-4(a)(1)(I) of this code occurs during any period of time
45 for which the student has been suspended, expelled, or assigned to an alternative school or
46 alternative program under this chapter and the student's suspension, expulsion, or assignment to
47 an alternative school or alternative program would preclude the student from participating in an
48 educational field trip.

49 (J) Up to five educational leave days, subject to the following:

50 (i) The child or parent, guardian, or custodian of the child submits a note from the parent,
51 guardian, or custodian within three days after the child returns to school explaining what the day
52 or days were used for;

53 (ii) The state board shall promulgate a legislative rule pursuant to §29A-3B-1 et seq. to
54 define what qualifies as educational leave days for the purposes of this paragraph; and

55 (iii) The principal, the principal's designee, the county attendance director, or his or her
56 assistants may refuse to count a day as an educational leave day if the explanation in the note of
57 what the day was used for does not qualify as an educational leave day under the legislative rule
58 promulgated by the state board.

59 (K) The total amount of excused absences under ~~paragraphs (E), (H), and (I)~~ §18-8-
60 4(a)(1)(E) of this code and §18-8-4(a)(1)(H) of this code of this subdivision may not exceed more
61 than 10 per school year.

62 ~~(K)~~ (L) Nothing in this section shall interfere with the Every Student Succeeds Act (2015),
63 which does not differentiate between excused and unexcused absences.

64 (2) "Meaningful contact" means two-way communication by the school administrator or
65 other school designee and the student's parent, guardian, or custodian to discuss the student's
66 attendance record in an effort to prevent subsequent truancy or other legal proceedings relating
67 to compulsory school attendance, and to minimize additional absences. Methods of meaningful
68 contact include, but are not limited to, phone calls, video conferencing, home visits, and the use
69 of digital platforms.

70 (3) "System of Support Plan" (SOS Plan) refers to a plan to be developed by the State
71 Board of Education designed to encourage students to attend school. It shall, at a minimum,
72 require county attendance directors, principals, or other school designees to make periodic
73 contact with the parent, guardian, or custodian of a student subject to compulsory school
74 attendance to ascertain the reason or reasons for the student's absence or absences and what
75 measures the school may employ to assist the student in attending school and not incurring
76 additional absences. It shall also impart upon the student's parents, guardians, and custodians
77 the importance of the student's attendance and the seriousness of failing to do so.

78 (4) "Unexcused absence" means any absence not specifically included in the definition of
79 "excused absence".

80 (b) The county attendance director and his or her assistants shall diligently promote
81 regular school attendance. The director and assistants shall:

82 (1) Ascertain the reasons for unexcused absences from school of students of compulsory
83 school age; and students who remain enrolled beyond the compulsory school age;

84 (2) Ensure the implementation of the SOS Plan as developed by the state board, including
85 encouraging the attendance of students and imparting upon the parents, guardians, and
86 custodians the ~~important~~ importance of attendance and the seriousness of failing to do so.

87 (c) All documentation relating to absences shall be provided to the school no later than
88 three instructional days after the first day the student returns to school. In the event
89 documentation is not provided to the school within three instructional days after the first day the
90 student returns to school, the absences are unexcused.

91 (d) In the case of three total unexcused absences of a student during a school year, the
92 attendance director, his or her assistant, or the principal shall make meaningful contact with the
93 parent, guardian, or custodian of the student to ascertain the reasons for the unexcused absences
94 and what measures the school may employ to assist the student in attending and not incurring
95 any additional unexcused absences.

96 (e) In the case of five total unexcused absences, the attendance director, his or her
97 assistant or the principal shall again make meaningful contact with the parent, guardian, or
98 custodian of the student to ascertain the reasons for the unexcused absences and what measures
99 the school may employ to assist the student in attending school and not incurring any additional
100 unexcused absences.

101 (f) In the case of 10 total unexcused absences of a student during a school year, the
102 attendance director or assistant may make a complaint against the parent, guardian, or custodian
103 before a magistrate of the county. If it appears from the complaint that there is probable cause to
104 believe that an offense has been committed and that the accused has committed it, a summons
105 or a warrant for the arrest of the accused shall issue to any officer authorized by law to serve the
106 summons or to arrest persons charged with offenses against the state. More than one parent,
107 guardian, or custodian may be charged in a complaint. Initial service of a summons or warrant
108 issued pursuant to the provisions of this section shall be attempted within 10 calendar days of
109 receipt of the summons or warrant and subsequent attempts at service shall continue until the
110 summons or warrant is executed or until the end of the school term during which the complaint is
111 made, whichever is later.

112 (g) The magistrate court clerk, or the clerk of the circuit court performing the duties of the
113 magistrate court as authorized in §50-1-8 of this code, shall assign the case to a magistrate within
114 10 days of execution of the summons or warrant. The hearing shall be held within 20 days of the
115 assignment to the magistrate, subject to lawful continuance. The magistrate shall provide to the
116 accused at least 10 days' advance notice of the date, time, and place of the hearing.

117 (h) When any doubt exists as to the age of a student absent from school, the attendance
118 director and his or her assistants may require a properly attested birth certificate or an affidavit
119 from the parent, guardian, or custodian of the student stating the age of the student. In the
120 performance of his or her duties, the county attendance director and his or her assistants have
121 authority to take without warrant any student absent from school in violation of the provisions of
122 this article and to place the student in the school in which he or she is or should be enrolled.

123 (i) The county attendance director and his or her assistants shall devote as much time as
124 is required to the duties of attendance director in accordance with this section during the
125 instructional term and at any other times as the duties of an attendance director are required. All
126 attendance directors and assistants hired for more than 200 days may be assigned other duties
127 determined by the superintendent during the period in excess of 200 days. The county attendance
128 director is responsible under direction of the county superintendent for efficiently administering
129 school attendance in the county.

130 (j) In addition to those duties directly relating to the administration of attendance, the
131 county attendance director and his or her assistant directors also shall perform the following
132 duties:

133 (1) Assist in directing the taking of the school census to see that it is taken at the time and
134 in the manner provided by law;

135 (2) Confer with principals and teachers on the comparison of the school census and
136 enrollment for the detection of possible non-enrollees;

137 (3) Cooperate with existing state and federal agencies charged with enforcing child labor
138 laws;

139 (4) Promote attendance in the county by compiling data for schools and by furnishing
140 suggestions and recommendations for publication through school bulletins and the press, or in
141 any manner directed by the county superintendent;

142 (5) Participate in school teachers' conferences with parents and students;

143 (6) Assist in any other ways directed by the county superintendent for improving school
144 attendance;

145 (7) Make home visits of students who have excessive unexcused absences, as provided
146 in ~~subsection (a) of this section~~ §18-8-4(a) of this code, or if requested by the chief administrator,
147 principal, or assistant principal; and

148 (8) Serve as the liaison for homeless children and youth.