

School Finance Hot Topics 5.15.17

Upcoming Events – Save the Date

- OSF School Finance Summer Conference – July 16-18, 2019, Fairmont, WV
- Certified List of Personnel Training – August, 1, 2019, Location TBD

Medicaid Update

WVDE Staffing Change

Kelley Johnson has been hired by WVDE in the position of Program Lead, Medicaid Services and School Health. She started with WVDE a few months ago and has taken over the duties previously performed by Terry Riley. Her primary focus is on fee-for-service billing and the RMTS process.

Kelley's email address is kelley.johnson@k12.wv.us and her phone number is 304-558-2696.

MAC Quarterly Claims

As you are aware, PCG and DHHR are working to get caught up on processing MAC claims for quarterly cost reports submitted in prior years. On Monday, April 29th, PCG opened the quarterly cost reports for the quarters listed below for adjustment/completion.

- Apr-Jun 2017
- Jul-Sep 2017
- Oct-Dec 2017

A quarterly cost report had not previously been completed for the July-September quarter for 2017. PCG opened up that quarter so that the cost report could be completed. Due to PCG system limitations, please note that the names on the July – Sept cost report were populated using the prior April through June roster. In order to be in line with our implementation guide which states we are to use the subsequent quarters in the year, county boards had the ability to include costs for individuals, for which a position already existed, who were added in a subsequent quarter.

County boards of education made revisions to the quarterly cost reports for the three quarters listed for the RESA billing services costs. Additionally, some county boards of education were asked to review the information that they had previously reported on their quarterly cost reports regarding direct services contractor payments and made corrections as necessary.

County boards were required to have made all necessary changes for the three quarters by the end of the day on Tuesday, May 14, 2019. If you haven't completed updating the quarterly cost reports for your county, please do so as soon as possible. Meeting the deadline is very important in order for PCG to remain on track to release the CPE forms and complete the other steps in the process so that the

MAC claims for all the quarters listed can be sent to the WVSAO for payment by no later than June 7, 2019. The Apr-Jun claims must be paid by June 30, 2019 in order to be eligible for the federal funding. It is DHHR's intention to process and pay the Jul-Sep and Oct-Dec claims by the end of June as well; however, timing related to getting everything processed through the WVSAO may mean that those two later quarters will be paid after June 30.

The submission timeframe for the CPE forms (to PCG) and Invoices (to DHHR) will be May 30-June 4, 2019. Additional instructions will be emailed at the beginning of the submission window.

Recording Contracted Medicaid Billing Costs on Quarterly Cost Reports

During Winter WVEIS, county boards of education were provided guidance on how to handle contracted Medicaid billing costs from January 2019 moving forward to ensure that the costs can be claimed on the quarterly cost reports and counties may receive MAC reimbursement. That guidance stated, in part, the following:

Even though the individuals performing the Medicaid billing may not be employees of the county board of education, they should be included on the quarterly roster in the Administrative cost pool moving forward. For example, all eight county boards of education who are using EPIC to perform their Medicaid billing would report the Medicaid Billing Specialist employed by EPIC on the roster and then claim the amounts paid to EPIC for those services on the quarterly cost report. In situations where a county board of education is employing an individual to perform Medicaid billing services on behalf of multiple county boards, all county boards served by that individual would include the individual on their rosters and then claim the cost paid to the other county board of education. The county board of education that employs that individual would simply reduce the salary and benefit costs reported on their cost report by the amounts billed to other county boards of education.

Although county boards of education began properly including the contracted individuals on their rosters and they participated in the RMTS process for the January – March 2019 quarter, the individuals did not pull into the Salaried Staff Listing on the Quarterly Cost Report on PCG's website. PCG is aware of this programming issue and they are working to resolve it. Unfortunately, the problem will not be fixed by the May 15, 2019 deadline for submission of the January – March 2019 Quarterly Cost Report.

PCG's guidance at this point is to complete the report to the best of your ability in order to meet the May 15, 2019 deadline. Once the program update has been made to the system, PCG will notify the districts that they will have the ability to have their quarterly reports reopened so that they can add the costs for the Medicaid billing contractors. PCG has assured WVDE that this system update will occur before opening the next quarterly financial reports (in July 2019 for the April-June 2019 quarter), so hopefully this will be a one-time occurrence.

Federal Flood Control Funds

Some county boards of education recently received federal funding through the WV State Auditor's Office for "Flood Control" and had questions regarding any restrictions on the funds. The funds were distributed in accordance with WVC §20-3-18, which states only that the funds sent to the county board of education are to be "expended by the board for the benefit of the public schools of the county." This broad language allows county boards of education to spend the funds on essentially any allowable expenditure that benefits the school system.

§20-3-18. Disposition of flood control, navigation and allied funds from the federal government.

Receipts from the treasurer of the United States, paid to the state or its proper officers pursuant to direction of an act of Congress relating to disposition of funds received on account of the leasing of lands for flood control, navigation and allied purposes, are to be allocated by the State Auditor to each county in accordance with the method of allocation specified by the federal government. Interest or other earnings accrued upon investment of the receipts pending allocation thereof shall be allocated to the recipients of the allocations in proportion to each recipient's allocation of the receipts. The State Auditor shall transfer to the road commission fifty percent of the funds so allocated to each county for the purpose of maintenance of feeder and state local service roads in the area or areas of the county in which the flooded lands are located. Fifty percent of the funds so allocated to any county in which the lands are located are to be paid by the State Auditor to the Board of Education of that county to be expended by the board for the benefit of the public schools of the county.

Public Utility Taxes

The WVSAO maintains a useful website that can assist county boards of education in determining the amount of IRP fees (revenue source code 01121 and 01122) or the timing of public utility taxes paid by the WVSAO for a particular month. A link to the website is below along with some example screen prints. You can easily change the fiscal year and month.

<https://www.wvsao.gov/CountyCollections/PublicUtilities/PUPayout>

Screen Print of Initial Site

WWSAO.gov About the Auditor Employment Opportunities FOIA Request

Public Utilities Payouts

For a detailed description of payments to the counties and municipalities for Public Utilities Taxes and Ad-Valorem fees on Interstate Motor Vehicles registered under a proportional agreement collected by the West Virginia State Auditor's Office, please select a year to begin.

2019 APR

Name	Public Utilities	IRP	Total
Albright	\$ 0.10	\$ 38.46	\$ 38.56
Alderson	\$ 0.30	\$ 187.18	\$ 187.48
Anawalt	\$ 0.10	\$ 104.49	\$ 104.59
Anmoore	\$ 0.10	\$ 620.08	\$ 620.18
Ansted	\$ 0.10	\$ 262.82	\$ 262.92
Athens	\$ 0.10	\$ 68.80	\$ 68.90
Auburn	\$ 0.10	\$ 19.44	\$ 19.54
Bancroft	\$ 0.10	\$ 37.82	\$ 37.92
Barbour County	\$ 1,410.76	\$ 846.27	\$ 2,257.03
Barboursville	\$ 0.15	\$ 3,674.73	\$ 3,674.88
Barrackville	\$ 0.09	\$ 133.97	\$ 134.06
Bath	\$ 0.09	\$ 130.13	\$ 130.22
Bayard	\$ 0.10	\$ 62.61	\$ 62.71
Beckley	\$ 7,482.83	\$ 2,445.48	\$ 9,928.31

If you click on your county's name, you will get a breakdown of the Public Utility Taxes and IRP fees between the various levies within the county.

Example for a county with no excess levy:

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Barbour County

	Public Utilities	IRP Trucks	Total
2018 COUNTY CURRENT EXPENSE	598.63	359.10	957.73
2018 SCHOOL CURRENT	812.13	487.17	1,299.30
Totals	\$1,410.76	\$846.27	\$2,257.03

IRP	Total
38.46	\$ 38.56
187.18	\$ 187.48
104.49	\$ 104.59
620.08	\$ 620.18
262.82	\$ 262.92
68.80	\$ 68.90
19.44	\$ 19.54
37.82	\$ 37.92
846.27	\$ 2,257.03
3,674.73	\$ 3,674.88
133.97	\$ 134.06
130.13	\$ 130.22
62.61	\$ 62.71
548	\$ 9,928.31

Example for a county with an excess levy:

	Public Utilities	IRP Trucks	Total
2018 COUNTY CURRENT EXPENSE	646.02	206.43	852.45
2018 COUNTY EXCESS LEVY - AMBULANCE	146.82	46.92	193.74
2018 COUNTY EXCESS LEVY - FIRE	117.45	37.53	154.98
2018 COUNTY EXCESS LEVY - LIBRARY	13.55	4.33	17.88
2018 COUNTY EXCESS LEVY - SR CITIZEN	13.55	4.33	17.88
2018 SCHOOL CURRENT	876.42	280.06	1,156.48
2018 SCHOOL EXCESS LEVY	1,036.79	331.31	1,368.10
Totals	\$2,850.60	\$910.91	\$3,761.51

SB 345 – Additional State Grant Audit Requirement (Attachment #1)

After the passage of Senate Bill 345, county boards of education and other local governments will be required to have an “engagement, such as an agreed-upon procedures engagement or other attestation engagement, performed and prepared by a certified public accountant to test whether state grants were spent as intended.”

The term state grant means “funding provided by a state spending unit, regardless of the original source of the funds, to a grantee upon application for a specific purpose.” It does not include the following:

- Payments for goods and services purchased by a state spending unit
- Compensation to state employees and public officials
- Reimbursements to state employees and public officials for travel or incidental expenses
- Grants of student aid
- Government transfer payments
- Direct benefits provided under state insurance and welfare programs
- Funds reimbursed to a person for expenditures made for qualified purposes when receipts for the expenditures are required prior to receiving the funds
- Retirement benefits
- Federal pass-through funds that are subject to the Single Audit Act
- Formula distributions to volunteer and part-volunteer fire departments

Grantees that receive one or more state grants in the amount of \$50,000 or more in aggregate in a state's fiscal year shall file with the grantor a report of the disbursement of the state grant funds. An audit that complies with OMB A-133 may be substituted for the required report.

A grantee that receives a state grant in the amount of \$50,000 or less or that is not required to file a report because an audit has been conducted or substituted as described above, shall file with the grantor a sworn statement of expenditures made under the grant.

Additional guidance regarding this new requirement will be provided at the OSF Summer Conference in July.

HB 2854 – Sales Tax Exemptions for Volunteer School Support Groups (Attachment #2)

Currently, West Virginia State Tax Department Publication TSD-312 (and also State Board Policy 1224.1 based on the tax regulations) provides a sales tax exemption for “casual and occasional sales” for Parent-Teacher Associations or similar organizations that meet all of the following criteria:

1. Hold a current business registration certificate
2. Is exempt from federal income taxes under Internal Revenue Code 501(c)(3) or 501(c)(4)
3. Is an organization with no paid employees and whose gross income from fund raisers, less reasonable and necessary expenses to raise such gross income, is donated to the public school.

To qualify as a casual or occasional sale, the fundraiser may last no longer than 84 consecutive hours (three and one half days) and no more than six such fundraisers may occur in any consecutive 12 month period.

The current requirements were changed by HB 2854, which was passed on March 1, 2019 and is effective 90 days from passage. The language from HB 2854 is below:

[§11-15-9g](#). Exemption for sales by schools and volunteer school support groups.

Notwithstanding any other provisions of this code to the contrary, sales of tangible personal property and services by not-for-profit volunteer school support groups for elementary or secondary schools located in this state, which hold fund raisers for their schools that last no more than 14 consecutive days and are held not more than 18 times during any 12-month period, are exempt from the taxes imposed by §11-15-1 et seq. and §11-15A-1 et seq. of this code, if the sole purpose of the sales is to obtain revenue for the functions and activities of an elementary or secondary school located in this state. This exemption applies to such sales without regard to whether the volunteer school support organizations holds, or does not hold, an exemption under §501(c)(3) or §501(c)(4) of the Internal Revenue Code of 1986, as amended.

The sales increased from 84 consecutive hours to 14 consecutive days in duration and the number of sales in a 12 month period increased from 6 to 18. Also, the exemption is now expanded to volunteer school support organizations that may not go through the IRS paperwork to obtain an official 501(c)(3) or 501(c)(4) designation.

SB 632 – School Safety Fund and Video Cameras in Self-Contained Classrooms (Attachment #3)

SB 632 requires the placement of video cameras in self-contained classrooms upon appropriation of funds by the Legislature. It does not require the use of local funds for that purpose. At this time, the amount and timing of any legislative appropriations for the 2019-20 year are still uncertain. HB 2020, the Budget Bill, contains an appropriation of \$3.5 million from surplus funds into the School Safety Fund created by SB 632. Those funds will only be appropriated to the extent there are available surplus funds as of July 31, 2019 for the 2018-19 year. More guidance will be forthcoming once it is known whether funding will be received for the 2019-20 year.

HB 2541 – Exterior Room Numbers (Attachment #4)

HB 2541 requires county boards of education to implement a school safety program by September 1, 2019 that includes various minimum requirements. One of the requirements is that “room numbers be placed on exterior walls or windows of school buildings, so rooms with exterior walls can be identified by law enforcement and first responders from the outside.” Implementation of the provisions of HB 2541 is entirely up to each local county board of education. Beyond a basic recommendation that the room numbers be added with a highly visible color and size to make them readily noticeable as you approach the school, we would encourage each county board of education to work with local law enforcement and first responders to ensure any plan developed by the county will meet their needs in accordance with the intent of the legislation.

Virtual School Enrollment FAQ

See Attachment #5 for a copy of an FAQ document recently distributed to county superintendents regarding full-time/part-time enrollment in the West Virginia Virtual School.

Because students who are enrolled in the West Virginia Virtual School are first enrolled with their home county, they are included in the county’s second month enrollment count and therefore included in the calculation of the county’s state aid funding. In general, the amount of state aid funding per pupil that a county receives exceeds the \$2,200 per year cost for the student to enroll full-time at the West Virginia Virtual School.

Policy 5202 – Professional Business Official Certificate

A Professional Business Official Certificate was added to WVBE Policy 5202 for Chief School Business Officials and Professional Accountants. The new certificate makes those who hold it eligible to apply for advanced salary classifications. Individuals who currently hold a professional authorization may apply to receive the new professional certificate, if eligible, by submitting a **Form 38** and paying the appropriate processing fees online via <https://wveis.k12.wv.us/certpayment/>. In order to have advanced salary classifications recognized on the new professional certificate, applicants must also submit a **Form 12**. The new certificate will last 3 years instead of one year like the current authorization. There was no change to the annual professional development requirements. CSBOs still need 15 hours annually and professional accountants need 6 hours. See relevant excerpt from WVBE Policy 5202 below.

WVBE Policy 5202:

10.9. Professional Business Official Certificate may be issued for a professional accountant or a Chief School Business official. It may be granted to an individual employed for a specific assignment who has completed a minimum of a BA through an accredited IHE; the general requirements specified in section §9; the minimum GPA specified in §9.12; and the conditions for issuance specified in §10.9.

10.9.a. Validity Period. The Professional Business Official Certificate shall be valid for a period of three years and shall expire on June 30 of the last year of its validity.

10.9.b. Conditions of Issuance. The applicant for the Professional Business Official Certificate must submit evidence of the following: holds a minimum of a BA including 24 semester hours of coursework in accounting completed with a minimum of 2.5 GPA; and receive the recommendation of the county superintendent verifying that the applicant is the most qualified candidate for the position.

10.9.c. Renewal. The applicant for licensure must provide evidence of satisfying the following: complete 15 clock hours annually of professional learning activities of in-service credit offered or approved by the licensing agency; and receive the recommendation of the county superintendent in the county in which the applicant is or was employed.

10.10. Professional Accountant must meet the licensure requirements in this section and hold a minimum of a BA, including 24 semester hours of coursework in accounting completed with a minimum of a 2.5 GPA; and receive the recommendation of the county superintendent verifying that the applicant is the most qualified candidate for the position.

10.10.a. Renewal. The applicant for licensure must provide evidence of satisfying the following: complete six clock hours of professional learning activities annually of in-service credit offered or approved by the WVDE; and receive the recommendation of the county superintendent in the county in which the applicant is or was employed.

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 345

SENATORS CARMICHAEL (MR. PRESIDENT) AND

PREZIOSO, *original sponsors*

[Passed March 9, 2019; in effect 90 days from
passage]

1 AN ACT to amend and reenact §8-15-8b of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §12-4-14 of said code; to amend said code by adding thereto a new
3 section, designated §12-4-14b; and to amend and reenact §29-3-5f and §29-3-8 of said
4 code, all relating generally to accounting and reporting of state grants, distributions, and
5 studies; authorizing commingling of certain funds; imposing authority, duties, and
6 consequences relating to volunteer and part-volunteer fire companies and departments
7 as to state grants and distributions; imposing authority, duties, and consequences relating
8 to other recipients of state grants; modifying liability for criminal penalties; imposing
9 authority and duties on Legislative Auditor, State Auditor, and State Fire Marshal; clarifying
10 the responsibility for proposing legislative rules; removing requirement for report by State
11 Fire Marshal; and updating outdated language.

Be it enacted by the Legislature of West Virginia:

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 15. FIRE FIGHTING; FIRE COMPANIES AND DEPARTMENTS; CIVIL SERVICE FOR PAID FIRE DEPARTMENTS.

**§8-15-8b. Authorized expenditures of revenues from the Municipal Pensions and
Protection Fund and the Fire Protection Fund; deductions for unauthorized
expenditures; record retention.**

1 (a) Money received from the state for volunteer and part-volunteer fire companies and
2 departments, pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code, may not be
3 commingled with moneys received from any other source, except money received as a grant from
4 the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code. Distributions
5 from the Municipal Pensions and Protection Fund and the Fire Protection Fund allocated to
6 volunteer and part-volunteer fire companies and departments may be expended only for the
7 following:

8 (1) Personal protective equipment, including protective head gear, bunker coats, pants,
9 boots, combination of bunker pants and boots, coats, and gloves;

10 (2) Equipment for compliance with the national fire protection standard or automotive fire
11 apparatus, NFPA-1901;

12 (3) Compliance with insurance service office recommendations relating to fire
13 departments;

14 (4) Rescue equipment, communications equipment, and ambulance equipment: *Provided,*
15 That no moneys received from the Municipal Pensions and Protection Fund or the Fire Protection
16 Fund may be used for equipment for personal vehicles owned or operated by volunteer or part-
17 volunteer fire company or department members;

18 (5) Capital improvements reasonably required for effective and efficient fire protection
19 service and maintenance of the capital improvements;

20 (6) Retirement of debts;

21 (7) Payment of utility bills;

22 (8) Payment of the cost of immunizations, including any laboratory work incident to the
23 immunizations, for firefighters against hepatitis-b and other blood-borne pathogens: *Provided,*
24 That the vaccine shall be purchased through the state immunization program or from the lowest-
25 cost vendor available: *Provided, however,* That volunteer and part-volunteer fire companies and
26 departments shall seek to obtain no-cost administration of the vaccinations through local boards
27 of health: *Provided further,* That in the event any volunteer or part-volunteer fire company or
28 department is unable to obtain no-cost administration of the vaccinations through a local board of
29 health, the company or department shall seek to obtain the lowest cost available for the
30 administration of the vaccinations from a licensed health care provider;

31 (9) Any filing fee required to be paid to the Legislative Auditor's Office under §12-4-14 of
32 this code relating to sworn statements of annual expenditures submitted by volunteer or part-
33 volunteer fire companies or departments that receive state funds or grants;

34 (10) Property/casualty insurance premiums for protection and indemnification against loss
35 or damage or liability;

36 (11) Operating expenses reasonably required in the normal course of providing effective
37 and efficient fire protection service, which include, but are not limited to, gasoline, bank fees,
38 postage, and accounting costs;

39 (12) Dues paid to national, state, and county associations;

40 (13) Workers' compensation premiums;

41 (14) Life insurance premiums to provide a benefit not to exceed \$20,000 for firefighters;
42 and

43 (15) Educational and training supplies and fire prevention promotional materials, not to
44 exceed \$500 per year.

45 (b) If a volunteer or part-volunteer fire company or department spends any amount of
46 money received from the Municipal Pensions and Protection Fund or the Fire Protection Fund for
47 an item, service, or purpose not authorized by this section, that amount, when determined by an
48 official audit, review, or investigation, shall be deducted from future distributions to the volunteer
49 fire company or part-volunteer fire department.

50 (c) If a volunteer or part-volunteer fire company or department purchases goods or
51 services authorized by this section, but then returns the goods or cancels the services for a refund,
52 then any money refunded shall be deposited back into the same, dedicated bank account used
53 for the deposit of distributions from the Municipal Pensions and Protection Fund and the Fire
54 Protection Fund.

55 (d) Each volunteer or part-volunteer fire company and department shall retain, for five
56 calendar years, all invoices, receipts, and payment records for the goods and services paid with
57 money received from the state for volunteer and part-volunteer fire companies and departments,
58 pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code and money received as a grant from
59 the Fire Service Equipment and Training Fund as provided in §29-3-5f of this code.

CHAPTER 12. PUBLIC MONEYS AND SECURITIES.

ARTICLE 4. ACCOUNTS, REPORTS, AND GENERAL PROVISIONS.

§12-4-14. Accountability of grantees receiving state funds or grants; sworn statements by volunteer fire departments; criminal penalties.

1 (a) For the purposes of this section:

2 (1) "Grantor" means a state spending unit awarding a state grant.

3 (2) "Grantee" means any entity receiving a state grant, including a state spending unit,
4 local government, corporation, partnership, association, individual, or other legal entity.

5 (3) "Report" means an engagement, such as an agreed-upon procedures engagement or
6 other attestation engagement, performed and prepared by a certified public accountant to test
7 whether state grants were spent as intended. The term "report" does not mean a full-scope audit
8 or review of the person receiving state funds.

9 (4) "State grant" means funding provided by a state spending unit, regardless of the
10 original source of the funds, to a grantee upon application for a specific purpose. The term "state
11 grant" does not include: (A) Payments for goods and services purchased by a state spending unit;
12 (B) compensation to state employees and public officials; (C) reimbursements to state employees
13 and public officials for travel or incidental expenses; (D) grants of student aid; (E) government
14 transfer payments; (F) direct benefits provided under state insurance and welfare programs; (G)
15 funds reimbursed to a person for expenditures made for qualified purposes when receipts for the
16 expenditures are required prior to receiving the funds; (H) retirement benefits; and (I) federal pass-
17 through funds that are subject to the federal Single Audit Act Amendments of 1996, 31 U.S.C. §
18 7501, *et seq.* The term "state grant" does not include formula distributions to volunteer and part-
19 volunteer fire departments and fire companies made pursuant to §33-3-14d, §33-3-33, §33-12C-
20 7 of this code and does not include money received from the Fire Service Equipment and Training
21 Fund as provided in §29-3-5f of this code.

22 (b) (1) Any grantee who receives one or more state grants in the amount of \$50,000 or
23 more in the aggregate in a state's fiscal year shall file with the grantor a report of the disbursement
24 of the state grant funds. When the grantor causes an audit, by an independent certified public
25 accountant, to be conducted of the grant funds, the audit is performed using generally accepted
26 government auditing standards, and a copy of the audit is available for public inspection, no report
27 is required to be filed under this section. An audit performed that complies with Office of
28 Management and Budget circular A-133, and submitted within the period provided in this section
29 may be substituted for the report.

30 (2) Any grantee who receives a state grant in an amount less than \$50,000 or who is not
31 required to file a report because an audit has been conducted or substituted as provided by
32 subdivision (1) of this subsection shall file with the grantor a sworn statement of expenditures
33 made under the grant.

34 (3) Reports and sworn statements of expenditures required by this subsection shall be
35 filed within two years of the end of the grantee's fiscal year in which the disbursement of state
36 grant funds by the grantor was made. The report shall be made by an independent certified public
37 accountant at the cost of the grantee. State grant funds may be used to pay for the report if the
38 applicable grant provisions allow. The scope of the report is limited to showing that the state grant
39 funds were spent for the purposes intended when the grant was made.

40 (c)(1) Any grantee failing to file a required report or sworn statement of expenditures within
41 the two-year period provided in subdivision (3), subsection (b) of this section for state grant funds
42 is barred from subsequently receiving state grants until the grantee has filed the report or sworn
43 statement of expenditures and is otherwise in compliance with the provisions of this section.

44 (2) Any grantor of a state grant shall report any grantee failing to file a required report or
45 sworn statement of expenditures within the required period provided in this section to the
46 Legislative Auditor for purposes of debarment from receiving state grants.

47 (d) (1) The state agency administering the state grant shall notify the grantee of the
48 reporting requirements set forth in this section.

49 (2) All grantors awarding state grants shall, prior to awarding a state grant, take reasonable
50 actions to verify that the grantee is not barred from receiving state grants pursuant to this section.
51 The verification process shall, at a minimum, include:

52 (A) A requirement that the grantee seeking the state grant provide a sworn statement from
53 an authorized representative that the grantee has filed all reports and sworn statements of
54 expenditures for state grants received as required under this section; and

55 (B) Confirmation from the Legislative Auditor by the grantor that the grantee has not been
56 identified as one who has failed to file a report or sworn statement of expenditures under this
57 section. Confirmation may be accomplished by accessing the computerized database provided in
58 subsection (e) of this section.

59 (3) If any report or sworn statement of expenditures submitted pursuant to the
60 requirements of this section provides evidence of a reportable condition or violation, the grantor
61 shall provide a copy of the report or sworn statement of expenditures to the Legislative Auditor
62 within 30 days of receipt by the grantor.

63 (4) The grantor shall maintain copies of reports and sworn statements of expenditures
64 required by this section and make the reports or sworn statements of expenditures available for
65 public inspection, as well as for use in audits and performance reviews of the grantor.

66 (5) The Secretary of the Department of Administration has authority to promulgate
67 procedural and interpretive rules and propose legislative rules for promulgation in accordance
68 with the provisions of §29A-3-1 *et seq.* of this code to assist in implementing the provisions of this
69 section.

70 (e)(1) Any state agency administering a state grant shall, in the manner designated by the
71 Legislative Auditor, notify the Legislative Auditor of the maximum amount of funds to be disbursed,
72 the identity of the grantee authorized to receive the funds, the grantee's fiscal year and federal

73 employer identification number, and the purpose and nature of the state grant within 30 days of
74 making the state grant or authorizing the disbursement of the funds, whichever is later.

75 (2) The State Treasurer shall provide the Legislative Auditor the information concerning
76 formula distributions to volunteer and part-volunteer fire departments, made pursuant to §33-3-
77 14d, §33-3-33, and §33-12C-7 of this code, the Legislative Auditor requests, and in the manner
78 designated by the Legislative Auditor.

79 (3) The Legislative Auditor shall maintain a list identifying grantees who have failed to file
80 reports and sworn statements required by this section. The list may be in the form of a
81 computerized database that may be accessed by state agencies over the Internet.

82 (f) An audit of state grant funds may be authorized at any time by the Joint Committee on
83 Government and Finance to be conducted by the Legislative Auditor at no cost to the grantee.

84 (g) Any report submitted pursuant to the provisions of this section may be filed
85 electronically in accordance with the provisions of §39A-1-1 *et seq.* of this code.

86 (h) Any grantee who files a fraudulent sworn statement of expenditures under subsection
87 (b) of the section, a fraudulent sworn statement under subsection (d) of this section, or a
88 fraudulent report under this section is guilty of a felony and, upon conviction thereof, shall be fined
89 not less than \$1,000 nor more than \$5,000 or imprisoned in a state correctional facility for not less
90 than one year nor more than five years, or both fined and imprisoned.

**§12-4-14b. Accountability of volunteer and part-volunteer fire companies or departments
receiving state funds for equipment and training; review or audit of expenditures;
withholding of state funds for delinquency or misuse; notifications.**

1 (a) *Definitions.* — For the purposes of this section:

2 “Equipment and training grant” means a grant of money to a volunteer fire company or a
3 part-volunteer fire department from the Fire Service Equipment and Training Fund created in
4 §29-3-5f of this code;

5 “Formula distribution” means a distribution of money to volunteer and part-volunteer fire
6 companies or departments made pursuant to §33-3-14d, §33-3-33, and §33-12C-7 of this code;
7 and

8 “State funds account” means a bank account established by a volunteer or part-volunteer
9 fire company or department and maintained for the exclusive use and accounting of money from
10 formula distributions and equipment and training grants.

11 (b) *Filing required documentation.* — Every volunteer and part-volunteer fire company or
12 department seeking to receive formula distributions or an equipment and training grant shall file
13 copies of bank statements and check images from the company’s or department’s state funds
14 account for the previous calendar year with the Legislative Auditor on or before February 1 of
15 each year.

16 (c) *Reviews and audits.* — The Legislative Auditor is authorized to conduct regular reviews
17 or audits of deposits and expenditures from formula distribution and equipment and training grant
18 funds by volunteer and part-volunteer fire companies or departments. The Legislative Auditor may
19 assign an employee or employees to perform audits or reviews at his or her direction. The State
20 Treasurer shall provide the Legislative Auditor information, in the manner designated by the
21 Legislative Auditor, concerning formula distributions and equipment and training grants paid to
22 volunteer or part-volunteer fire companies and departments. The volunteer or part-volunteer fire
23 company or department shall cooperate with the Legislative Auditor, the Legislative Auditor’s
24 employees, and the State Auditor in performing their duties under the laws of this state.

25 (d) *State Auditor.* — Whenever the State Auditor performs an audit of a volunteer or part-
26 volunteer fire company or department for any purpose, the Auditor shall also conduct an audit of
27 other state funds received by the company or department pursuant to §33-3-14d, §33-3-33, and
28 §33-12C-7 of this code. The Auditor shall send a copy of the audit to the Legislative Auditor. The
29 Legislative Auditor may accept an audit performed by the Auditor in lieu of performing an audit
30 under this section.

31 (e) *Withholding of funds.* —The Treasurer is authorized to withhold payment of a formula
32 distribution or an equipment and training grant from a volunteer or part-volunteer fire company or
33 department, when properly notified by the Legislative Auditor pursuant to this section, of any of
34 the following conditions:

35 (1) Failure to file, in a timely manner, copies of bank statements and check images with
36 the Legislative Auditor;

37 (2) Failure to cooperate with a review or audit conducted by the Legislative Auditor;

38 (3) Misapplication of state funds; or

39 (4) Failure to file a report or a sworn statement of expenditures as required by §12-4-14
40 of this code for a state grant other than an equipment and training grant.

41 (f) *Delinquency in filing.* — If, after February 1, a volunteer or part-volunteer fire company
42 or department has failed to file the required bank statements and check images with the
43 Legislative Auditor, the Legislative Auditor shall notify the delinquent company or department at
44 two separate times in writing of the delinquency and of possible forfeiture of its Fire Service
45 Equipment and Training Fund distribution for the year. If the required bank statements and check
46 images are not filed with the Legislative Auditor by March 31, unless the time period is extended
47 by the Legislative Auditor, the Legislative Auditor shall then notify the Treasurer who shall withhold
48 payment of any amount that would otherwise be distributed to the company or department. Prior
49 to each subsequent quarterly disbursement of funds by the Treasurer, the Legislative Auditor shall
50 notify each delinquent company or department twice per each quarter in which the company or
51 department is delinquent. The Legislative Auditor may choose the method or methods of
52 notification most likely to be received by the delinquent company or department.

53 (g) *Noncooperation.* — If, in the course of an audit or review by the Legislative Auditor, a
54 volunteer or part-volunteer fire company or department fails to provide documentation of its
55 accounts and expenditures in response to a request of the Legislative Auditor, the Legislative
56 Auditor shall notify the State Treasurer who shall withhold payment of any amount that would

57 otherwise be distributed to the company or department under the provisions of §33-3-14d, §33-
58 3-33, and §33-12C-7 of this code until the Legislative Auditor informs the State Treasurer that the
59 company or department has cooperated with the review or audit.

60 (h) *Reporting of other grants.* — Nothing in this section alters the duties and
61 responsibilities of a volunteer or part-volunteer fire company or department imposed under §12-
62 4-14 of this code if that company or department has received funds from any state grant program
63 other than from the Fire Service Equipment and Training Fund. If the Legislative Auditor is notified
64 by a grantor that a volunteer or part-volunteer fire company or department has failed to file a
65 report or a sworn statement of expenditures for a state grant it received, the Legislative Auditor
66 shall notify the State Treasurer who shall withhold further distributions to the company or
67 department in the manner provided in this section.

68 (i) *Escrow and forfeiture of moneys withheld.* — The Volunteer Fire Department Audit
69 Account previously created in the Treasury is hereby continued. When the State Treasurer
70 receives notice to withhold the distribution of money to a volunteer or part-volunteer fire company
71 or department pursuant to this section, the Treasurer shall instead deposit the amounts withheld
72 into the Volunteer Fire Department Audit Account. If the Treasurer receives notice that the
73 volunteer or part-volunteer fire company or department has come into compliance in less than
74 one year from the date of deposit into this special revenue account, then the Treasurer shall
75 release and distribute the withheld amounts to the company or department, except that any
76 interest that has accrued thereon shall be credited to the general revenue of the state. If, after
77 one year from payment of the amount withheld into the special revenue account, the Legislative
78 Auditor informs the State Treasurer of continued noncooperation by the company or department,
79 the delinquent company or department forfeits the amounts withheld and the State Treasurer shall
80 pay the amounts withheld into Fire Service Equipment and Training Fund created in §29-3-5f of
81 this code.

82 (j) *Misuse of state money.* — If the Legislative Auditor determines that a volunteer or part-
83 volunteer fire company or department has used formula distribution money for purposes not
84 authorized by §8-15-8b of this code or has used equipment and training grant money for purposes
85 not authorized by the grant program, the Legislative Auditor shall give a written notice of
86 noncompliance to the company or department. If a volunteer or part-volunteer fire company or
87 department disagrees or disputes the finding, the company or department may contest the finding
88 by submitting a written objection to the Legislative Auditor within five working days of receipt of
89 the Legislative Auditor’s finding. The department or company shall then have 60 days from the
90 date of the Legislative Auditor’s finding to provide documentation to substantiate that the
91 expenditures were made for authorized purposes. If the volunteer or part-volunteer fire company
92 or department does not dispute the findings of the Legislative Auditor or if the company or
93 department is not able to substantiate an authorized purpose for the expenditure, the Legislative
94 Auditor shall notify the Treasurer of the amount of misapplied money and the Treasurer shall
95 deduct that amount from future distributions to that company or department until the full amount
96 of unauthorized expenditure is offset.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 3. FIRE PREVENTION AND CONTROL ACT.

§29-3-5f. Fire Service Equipment and Training Fund; creation of fire service equipment and training grant; reports of ineligibility to State Fire Marshal.

1 (a) There is hereby created in the Treasury a special revenue fund to be known as the
2 Fire Service Equipment and Training Fund. Expenditures from the fund by the State Fire Marshal
3 are authorized from collections. The fund may only be used for the purpose of providing grants to
4 equip volunteer and part-volunteer fire companies and departments and their members, and to
5 train volunteer and part-volunteer firefighters. Any balance remaining in the fund at the end of any

6 fiscal year does not revert to the General Revenue Fund, but remains in the Special Revenue
7 Fund.

8 (b) The State Fire Marshal shall establish a grant program for equipment and training for
9 volunteer and part-volunteer fire companies and departments. Such grant program shall be open
10 to all volunteer and part-volunteer fire companies and departments. In making grants pursuant to
11 this section, the State Fire Marshal shall consider:

12 (1) The number of emergency and nonemergency calls responded to by the company or
13 department;

14 (2) The activities and responses of the company or department;

15 (3) The revenues received by the company or department from federal, state, county,
16 municipal, local, and other sources; and

17 (4) The company's or department's assets, expenditures, and other liabilities, including
18 whether the fire company or department has availed itself of available statewide contracts.

19 (c) The State Fire Marshal shall propose legislative rules for promulgation in accordance
20 with §29A-3-1 *et seq.* of this code to implement the grant program established pursuant to this
21 section.

22 (d) The Legislative Auditor shall notify the State Fire Marshal of any volunteer or part-
23 volunteer fire company or department that is ineligible to receive grant funds due to the company's
24 or department's failure to file required bank statements or financial reports or failure to comply
25 with an audit or review by the Legislative Auditor. A volunteer or part-volunteer fire company or
26 department reported by the Legislative Auditor shall be ineligible to receive funds under this
27 section until the Legislative Auditor notifies the State Fire Marshal that the company or department
28 has come into compliance.

§29-3-8. Comprehensive report by State Fire Marshal.

1 On or before July 1, 2019, the State Fire Marshal shall study, prepare, and submit a report
2 to the Joint Committee on Government and Finance regarding reciprocity of firefighter and fire

- 3 officer certification with other states. Such report shall include recommendations regarding ways
- 4 to increase availability of reciprocal certification, including any necessary changes to state code
- 5 or regulation necessary to facilitate additional reciprocity.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, Senate Committee

.....
Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2019.

.....
Governor

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2854

BY DELEGATE HOUSEHOLDER

(BY REQUEST OF THE STATE TAX DIVISION)

[Passed March 1, 2019; in effect ninety days from
passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §11-15-9q, relating to exempting sales by not-for-profit volunteer school
3 support organizations for the purpose of raising funds for their schools from the consumers
4 sales and service tax and use tax; specifying time limitations for fundraisers; specifying
5 that the exemption applies without regard to whether the organization holds, or does not
6 hold, an exemption under §501(c)(3) or §501(c)(4) of the Internal Revenue Code.

Be it enacted by the Legislature of West Virginia:

ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.

§11-15-9q. Exemption for sales by schools and volunteer school support groups.

1 Notwithstanding any other provisions of this code to the contrary, sales of tangible
2 personal property and services by not-for-profit volunteer school support groups for elementary
3 or secondary schools located in this state, which hold fund raisers for their schools that last no
4 more than 14 consecutive days and are held not more than 18 times during any 12-month period,
5 are exempt from the taxes imposed by §11-15-1 *et seq.* and §11-15A-1 *et seq.* of this code, if the
6 sole purpose of the sales is to obtain revenue for the functions and activities of an elementary or
7 secondary school located in this state. This exemption applies to such sales without regard to
8 whether the volunteer school support organizations holds, or does not hold, an exemption under
9 §501(c)(3) or §501(c)(4) of the Internal Revenue Code of 1986, as amended.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2019.

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Governor

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

Enrolled

Committee Substitute

for

Committee Substitute

for

Senate Bill 632

SENATORS MAYNARD, AZINGER, BLAIR, BOSO, CLINE,
ROBERTS, RUCKER, SMITH, SYPOLT, TARR, TRUMP, AND

JEFFRIES, *original sponsors*

[Passed March 9, 2019; to take effect July 1, 2019]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §18-5-48; to amend said code by adding thereto a new section, designated
3 §18-20-11; and to amend and reenact §18A-2-8 of said code, all relating to improving
4 student safety; requiring safety and security measures of each school facility be upgraded
5 when necessary to ensure, to the best of the county board's ability, the safety of students;
6 creating Safe Schools Fund and providing for distribution of funds subject to appropriation;
7 requiring video cameras capable of audio recording in certain public special education
8 classrooms upon appropriation of funds; designating principal as the custodian; requiring
9 written explanation if there is an interruption in the operation of the video camera; setting
10 forth required capabilities of the video camera; prohibited monitoring in certain areas;
11 allowing video camera to not be in operation when students not present; providing for
12 notice of placement; setting forth video retention and access requirements; providing that
13 immunity from liability not waived and liability not created; providing limitations on use of
14 video; providing for protection of confidentiality and identity of students not involved in
15 incident; allowing appeals to state board; permitting funding from Safe School Fund and
16 gifts, grants, or donations; authorizing state board rule; adding to justifications for which a
17 school employee may be suspended or dismissed; providing duty and authority to provide
18 safe and secure environment; requiring reports on suspensions and dismissals of
19 employees and database maintained by state superintendent of individuals suspended or
20 dismissed for certain reasons.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-48. Safety and security measures for school facilities; Safe Schools Fund created.

1 (a) Each county board of education and multicounty vocational center shall annually
2 assess the safety and security of each of the school facilities within its boundaries. Safety and
3 security measures of each facility shall be upgraded when necessary to ensure, to the best of the
4 county board's ability, the safety of the students within each facility. Each county board of
5 education shall report annually the safety and security measures it has put in place, including
6 upgrades thereto, to the State Department of Education. Annually, the State Department of
7 Education shall compile the information from the county boards of education, and report the
8 information to the Legislative Oversight Commission on Education Accountability.

9 (b) As used in this section, "safety and security measures" means action taken by a county
10 board of education or multicounty vocational center that improves the security of a school facility
11 and the safety of the students within such facility, including, but not limited to, hiring a school
12 resource officer, installing weapon detection systems, upgrading facility doors or windows, etc.

13 (c) There is hereby created in the State Treasury a special revenue fund to be known as
14 the Safe Schools Fund. The fund shall consist of all moneys received from legislative
15 appropriations and other sources to further the purpose of this section: *Provided*, That annually,
16 the West Virginia Department of Education shall request an appropriation based on the requests
17 of the county boards of education. Subject to legislative appropriation, the funds appropriated
18 annually to the School Safety Fund shall be distributed to the county boards of education and
19 multicounty vocational centers, with the funding amount per school determined by dividing the
20 total annual appropriation by the total number of public schools throughout the state. All moneys
21 distributed from this fund shall be used to support the purpose and intent of this section and all
22 moneys must be spent to support the school for which the funding was derived: *Provided*,
23 *however*, That moneys distributed from this fund also may be used for the purposes of §18-20-11
24 of this code, relating to video cameras in certain special education classrooms. Any moneys
25 remaining in the fund at the close of the fiscal year shall be carried forward for use in the next
26 fiscal year. Fund balances shall be invested with the state's Consolidated Investment Fund and

27 any and all interest shall be used solely for the purposes that moneys deposited in the fund may
28 be used pursuant to this article.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

1 **§18-20-11. Video cameras required in certain special education classrooms.**

2 (a) Upon appropriation of funds by the Legislature, a county board of education shall
3 ensure placement of video cameras in self-contained classrooms 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 child,
6 of bullying, abuse, or neglect of a child or of harm to an employee of a public school by:

7 (A) An employee of a public school or school district; or

8 (B) Another student;

9 (2) "Self-contained classroom" means a classroom at a public school in which a majority
10 of 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) A county board of education shall provide a video camera to a public school for each
14 self-contained classroom that is a part of that school which shall be used in every self-contained
15 classroom. The principal of the school shall be the custodian of the video camera, all recordings
16 generated by the video camera, and access to those recordings pursuant to this section.

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

19 (2) If there is an interruption in the operation of the video camera for any reason, a written
20 explanation should be submitted to the school principal and the county board explaining the
21 reason and length for which there was no recording. The explanation shall be maintained at the
22 county board office for at least one year.

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

24 (A) Monitoring all areas of the self-contained classroom, including, without limitation, a
25 room attached to the self-contained classroom and used for other purposes; and

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

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

32 (3) A video camera placed in a self-contained classroom is not required to be in operation
33 during the time in which students are not present in the self-contained classroom.

34 (f) Before a public school initially places a video camera in a self-contained classroom
35 pursuant to this section, the public school shall provide written notice of the placement to:

36 (1) The parent or legal guardian of a student who is assigned to the self-contained
37 classroom;

38 (2) The county board; and

39 (3) The school employee(s) who is assigned to work with one or more students in the self-
40 contained classroom.

41 (g)(1) A public school shall retain video recorded from a camera placed under this section
42 for at least three months after the date the video was recorded after which the recording shall be
43 deleted or otherwise made unretrievable.

44 (2) If a person requests to view a recording under subsection (k) of this section, the public
45 school shall retain the recording from the date of the request until:

46 (A)(i) Except as provided in §18-20-11(g)(2)(A)(ii) of this code, the person views the
47 recording;

48 (ii) A person who requests to view a recording shall make himself or herself available for
49 viewing the recording within 30 days after being notified by the public school that the person's
50 request has been granted; and

51 (B) Any investigation and any administrative or legal proceedings that result from the
52 recording have been completed, including, without limitation, the exhaustion of all appeals.

53 (h) This section does not:

54 (1) Waive any immunity from liability of a public school district or employee of a public
55 school district; or

56 (2) Create any liability for a cause of action against a public school or school district or
57 employee of a public school or school district.

58 (i) A public school or school district shall not:

59 (1) Allow regular, continuous, or continual monitoring of video recorded under this section;
60 or

61 (2) Use video recorded under this section for:

62 (A) Teacher evaluations; or

63 (B) Any purpose other than the promotion of the health, well-being, and safety of students
64 receiving special education and related services in a self-contained classroom.

65 (j) Except as provided under subsections (k) and (l) of this section, a video recording of a
66 student made under this section is confidential and shall not be released or viewed.

67 (k) Within seven days of receiving a request, a public school or school district shall allow
68 viewing of a video recording by:

69 (1) A public school or school district employee who is involved in an alleged incident that
70 is documented by the video recording and has been reported to the public school or school district;

71 (2) A parent or legal guardian of a student who is involved in an alleged incident that is
72 documented by the video recording and has been reported to the public school or school district;

73 (3) An employee of a public school or school district as part of an investigation into an
74 alleged incident that is documented by the video recording and has been reported to the public
75 school or school district;

76 (4) A law-enforcement officer as part of an investigation into an alleged incident that is
77 documented by the video recording and has been reported to the law-enforcement agency; or

78 (5) The Department of Health and Human Resources as part of a child abuse and neglect
79 investigation: *Provided*, That any access provided to the Department of Health and Human
80 Resources pursuant to this subdivision shall comply with the Family Educational Rights and
81 Privacy Act of 1974, 20 U.S.C. § 1232g.

82 (l) When a video is under review as part of the investigation of an alleged incident, and
83 the video reveals a student violating a disciplinary code or rule of the school, which violation is
84 not related to the alleged incident for which the review is occurring, and which violation is not
85 already the subject of a disciplinary action against the student, the student is not subject to
86 disciplinary action by the school for such unrelated violation unless it reveals a separate incident
87 as described in §18-20-11(b)(1) of this code.

88 (m) It is not a violation of subsection (j) of this section if a contractor or other employee of
89 a public school or school district incidentally views a video recording under this section if the
90 contractor or employee of a public school or school district is performing job duties related to the:

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

92 (2) Retention of video recordings.

93 (n) This section does not limit the access of a student's parent or legal guardian to a video
94 recording regarding the student under the Family Educational Rights and Privacy Act of 1974, 20
95 U.S.C. § 1232g, or any other law.

96 (o) A public school or school district shall:

97 (1) Take necessary precautions to conceal the identity of a student who appears in a video
98 recording but is not involved in the alleged incident documented by the video recording for which

99 the public school allows viewing under subsection (j) of this section, including, without limitation,
100 blurring the face of the uninvolved student; and

101 (2) Provide procedures to protect the confidentiality of student records contained in a video
102 recording in accordance with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. §
103 1232g, or any other law.

104 (p)(1) Any aggrieved person may appeal to the State Board of Education an action by a
105 public school or school district that the person believes to be in violation of this section.

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

108 (q)(1) A public school or school district may use funds distributed from the Safe Schools
109 Fund created in §18-5-48 of this code to meet the requirements of this section.

110 (2) A public school or school district may accept gifts, grants, or donations to meet the
111 requirements of this section.

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

CHAPTER 18A. SCHOOL PERSONNEL.

ARTICLE 2. SCHOOL PERSONNEL.

§18A-2-8. Suspension and dismissal of school personnel by board; appeal.

1 (a) Notwithstanding any other provisions of law, a board may suspend or dismiss any
2 person in its employment at any time for: Immorality, incompetency, cruelty, insubordination,
3 intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the
4 Department of Health and Human Resources in accordance with §49-1-1 *et seq.* of this code, the
5 conviction of a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor
6 charge that has a rational nexus between the conduct and performance of the employee's job,
7 the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.

8 (b) A charge of unsatisfactory performance shall not be made except as the result of an
9 employee performance evaluation pursuant to §18A-2-12 of this code. The charges shall be
10 stated in writing served upon the employee within two days of presentation of the charges to the
11 board.

12 (c) The affected employee shall be given an opportunity, within five days of receiving the
13 written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions
14 of §6C-2-1 *et seq.* of this code, except that dismissal for a finding of abuse or the conviction of a
15 felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a
16 grievance proceeding. An employee charged with the commission of a felony, a misdemeanor
17 with a rational nexus between the conduct and performance of the employee's job, or child abuse
18 may be reassigned to duties which do not involve direct interaction with pupils pending final
19 disposition of the charges.

20 (d) A county board of education has the duty and authority to provide a safe and secure
21 environment in which students may learn and prosper; therefore, it may take necessary steps to
22 suspend or dismiss any person in its employment at any time should the health, safety, and
23 welfare of students be jeopardized or the learning environment of other students has been
24 impacted.

25 (e) It shall be the duty of any county superintendent to report any employee suspended or
26 dismissed in accordance with this section, including the rationale for the suspension or dismissal,
27 to the state superintendent. The state superintendent shall maintain a database of all individuals
28 suspended or dismissed for jeopardizing the health, safety, and welfare of students, or for
29 impacting the learning environment of other students. The database shall also include the
30 rationale for the suspension or dismissal. The database shall be confidential and shall only be
31 accessible to county human resource directors, county superintendents, and the state
32 superintendent.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

To take effect July 1, 2019.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

The within this the.....
Day of, 2019.

.....
Governor

WEST VIRGINIA LEGISLATURE

2019 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2541

BY DELEGATES R. THOMPSON, EVANS, LOVEJOY, DOYLE,
HORNBUCKLE, HICKS, DEAN, PAYNTER, ZUKOFF AND
PYLES

[Passed March 8, 2019; in effect ninety days from
passage.]

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §18-9F-10, relating to requiring certain safety measures be taken at public
3 schools.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9F. SCHOOL ACCESS SAFETY ACT.

§18-9F-10. School safety requirements.

1 In addition to any other requirement contained in this article or the Crisis Response Plan
2 required by §18-9F-9 of this code, each county board of education shall implement a school safety
3 program before September 1, 2019, that at a minimum, requires:

4 (1) Room numbers to be placed on exterior walls or windows of school buildings, so rooms
5 with exterior walls can be identified by law enforcement and first responders from the outside;

6 (2) Providing updated floor plans of the school to first responders and local law
7 enforcement by September 1 of each school year;

8 (3) First aid training for all school personnel and students each school year; and

9 (4) Active shooter training for all school personnel and students at the beginning of each
10 school year.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

.....
Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2019.

.....
Governor

FREQUENTLY ASKED QUESTIONS

about Full-Time/Part-Time Enrollment in the West Virginia Virtual School



Q. How do I register my child for full-time virtual school?

West Virginia State Code requires all full-time/part time virtual school students to first register with your local school system. The local school system will then register the student for virtual courses with the West Virginia Virtual School (WVVS).

Q. How much does it cost?

By registering with the local school system, there is no tuition fee to the parent/guardian of the child. The local school system will receive funding to provide virtual learning. Fees for the local school system are explained below.

A full-time virtual school student is identified as one who plans to obtain a high-school diploma by taking all online courses for at least a semester. The cost for a full-time student is \$2,200 for an entire school year or \$1,100 for a semester. The number of courses a student can take in a year is unlimited but should – although not required – be a minimum of six credits to ensure the student graduates with their cohort.

A part-time virtual school student is identified as one who takes half of their courses online while taking the other half via a public or private school or in a homeschool environment. This number will vary based on the local schedule (for example, a student who attends a technical center during the morning and takes all other courses online may only need three courses online while a student who wants to play sports must take four courses.) The cost for a part-time virtual student is \$1100 for an entire school year. (NOTE: students who attend a brick and mortar school and need a virtual course due to a scheduling conflict or to take a course not available in their local school are still permitted to take two virtual courses at a time with no charge to the student/school as long as the school doesn't have more than 10 students in a particular course. Schools are allotted 10 positions in each course to meet the need of brick and mortar students.)

Q. Who supplies the teacher?

For courses offered through the WV Learns platform, instruction is provided by a West Virginia certified teacher who has taught or is currently teaching in a West Virginia school. On the rare occasion when instruction must be provided by an outside course provider, the course provider will provide a certified teacher.

Q. Who proctors the exams?

Each school is responsible for providing a facilitator for virtual students. It is the responsibility of the local school facilitator to proctor exams or appoint a designee to proctor in their absence. Exams cannot be proctored by parents.

Q. Who supplies computer/laptop?

This will vary from county to county. Please check with your local school system to determine.

Q. Who pays for the internet?

This is also a local decision. In most cases, the local school board will require the parent to be responsible for internet service. This can include doing coursework at the local library or other institution which provides free internet service. However, counties may provide hot spots for virtual students or alternative services for those who do not have access to the internet.

Q. Will brick and mortar teachers lose their jobs?

This is not a trend we are seeing. In fact, the opposite seems to be happening. Since schools are now experiencing an increase in enrollment because of virtual opportunities, local school systems are receiving more Full-Time Equivalent (FTE) funds which enable them to retain more positions. In addition, schools are hiring staff to act as facilitators in the virtual program. The WVVS also continues to contract with more individuals for teaching services.

Q. Will there be no students attending the traditional method of schooling? Will everyone want to go virtual and no one come to traditional school?

This is a fear, but counties are reporting only about 3% of students switch from the traditional school setting to the virtual school setting. Counties also report many of these students would have otherwise withdrawn from school so dropout rates have decreased.

Q. What are the benefits of full-time virtual school?

Flexibility is one of the biggest benefits of virtual learning. Courses are available 24-7 via the internet. You can access the courses from home, from the beach, in a hospital or even the local coffee shop. You can work on the courses at 6 a.m., 2 p.m. or midnight. All you need is a digital device and internet service.

Virtual learning also allows student to work at their own pace. If a student tends to learn faster than other students or if a student needs more time than other students, the student is not bound to a particular time frame in the school day which is followed by all students.

Virtual learning allows students who face issues that would otherwise cause them to become a high school dropout (such as family illness, personal illness, financial struggles, anxiety, birth of a child, etc.) the opportunity to receive a high school diploma.

Q. Can a virtual student participate in extra-curricular activities?

Yes. Because the student is registered as a student with the local school, the student is now eligible to attend the prom, participate in the science club, play sports (see “Can a student participate in WVSSAC sanctioned sports?”) and even be nominated to the homecoming court.

Q. How can parents monitor their students’ progress?

Parents can register for an auditor’s account to see daily progress. Students can also login and show the parent everything in the course.

Q. Can students with an IEP or 504 participate?

Yes. It is the responsibility of the local school system to work with the online teacher to ensure modifications are made which meet the IEP or 504 plan.

Q. How do students communicate with their teacher?

Every student registered in a public school system will receive an email account which will be used to communicate with the teacher. Students who require NCAA approval must participate in scheduled phone calls with their teacher. Some teachers will also use other means of technology to communicate with their students such as instant messenger, online webinar systems or virtual classroom tools.

Q. Can a student participate in WVSSAC sanctioned sports?

Yes – but a student must meet eligibility requirements established by the WVSSAC. These requirements can be found at <http://www.wvssac.org/>.

Q. Can a student receive a high school diploma?

Yes. If the student fulfills all the requirements as outlined in WV State Board Policy 2510 and any additional local graduation requirements, a diploma will be issued by the local high school.

Q. Can I customize my child’s education?

Yes. A counselor should meet with the student to establish a personalized education plan when entering the program.

Q. Can I change a course if I do not like it?

Students are given a grace period for schedule changes. This timeframe varies from county to county but will be no later than 28 days.

Q. What support is available to ensure my child's success?

Instructors with the West Virginia Virtual School will do everything possible to help ensure a child's success. In addition, the local school system will often provide support through after-school programs, special education services, counseling and other extra help programs available in a brick and mortar setting.

Q. Is there an option to attend virtual school part time?

Yes, but please check with your local school to see local requirements regarding part-time virtual school.

Q. How are the courses delivered?

Courses are delivered through a learning management system.

Q. Who develops courses?

Courses are either leased from a course provider or developed by a West Virginia teacher and approved by a team of West Virginia teachers.

Q. How many hours a week does my student need to work on coursework?

This will vary from student to student and from school to school. Students should plan to dedicate the same amount of time to a course that they do in a face-to-face setting. If the local school is on a block schedule and students spend 1.5 hours in each class daily, the student should aim to spend approximately 7.5 hours in a class per week. If the student attends a school with a 7-period day schedule, students should plan to spend approximately 5 hours in a class per week.

Q. What options does my child have if they are not successful in the virtual program?

This will vary from county to county. Please check with your local school system for options.

Q. Is the virtual student required to have the same immunizations as students in a brick and mortar setting?

There is nothing in WV State Code that allows any student to be exempt from school eligibility requirements, including immunizations.

Q. How does my virtual student obtain their Proof of Enrollment for their Driver's License? Can they lose their license while in the virtual program for not earning enough credits?

Proof of enrollment will be provided by the local school system and should follow the same rules and regulations as face-to-face courses.

Q. Are the virtual classes “easier” than the traditional face to face?

This question cannot be answered with a yes or no. Each student learns differently. Some students will find working alone in an online platform with no distractions an “easier” way to learn. Other students find it harder because there is no face-to-face teacher giving exact instructions on what to do every minute of the class. The content is the same content taught in a brick and mortar school. It will also depend on how well the student is prepared academically to advance to the next level.

Q. How often does the student have to come to the school or designated location?

The West Virginia Virtual School requires students to report to a location designated by the school for proctored exams. These exams are typically unit or semester exams. The local school system can require additional visits (for example – required math tutoring for students who are struggling, orientations, yearly reviews, etc.). Students must also report to the school for required state testing.

Q. Are virtual students exempt from state required testing?

No. Students must participate in those exams required by state law.

