

WEST VIRGINIA CODE: §18-20-1

§18-20-1. Establishment of special programs and teaching services for exceptional children; modified diploma graduation.

(a) In accordance with the following provisions, county boards of education throughout the state shall establish and maintain for all exceptional children between five and twenty-one years of age special educational programs, including, but not limited to, special schools or classes, regular classroom programs, home-teaching or visiting-teacher services for any type or classification as the state board shall approve. Special educational programs shall continue to be provided to those children who are at least twenty-one years of age and enrolled in the above-mentioned special education program prior to September 1, 1991, until they reach twenty-three years of age. Provisions shall be made for educating exceptional children (including the handicapped and the gifted) who differ from the average or normal in physical, mental or emotional characteristics, or in communicative or intellectual deviation characteristics, or in both communicative and intellectual deviation characteristics, to the extent that they cannot be educated safely or profitably in the regular classes of the public schools or to the extent that they need special educational provisions within the regular classroom in order to educate them in accordance with their capacities, limitations and needs: Provided, That for the school year beginning on July 1, 1990, provisions shall be made for educating exceptional children, including the handicapped, the gifted in grades one through eight, the pupils enrolled on July 1, 1989, in the gifted program in grades nine through twelve and the exceptional gifted in grades nine through twelve. The term "exceptional gifted" means those students in grades nine through twelve identified as gifted and at least one of the following: Behavior disorder, specific learning disabilities, psychological adjustment disorder, underachieving or economically disadvantaged. Exceptional gifted children shall be referred for identification pursuant to recommendation by a school psychologist, school counselor, principal, teacher, parent or by self-referral, at which time the placement process, including development of an individualized education program, and attendant due-process rights, shall commence. Exceptional gifted children, for purposes of calculating adjusted enrollment pursuant to section two, article nine-a of this chapter, shall not exceed one percent of net enrollment in grades nine through twelve. Nothing herein shall be construed to limit the number of students identified as exceptional gifted and who receive appropriate services. Each county board of education is mandated to provide gifted education to its students according to guidelines promulgated by the state board and consistent with the provisions of this chapter. Upon the recommendation of a principal, counselor, teacher and parent, a student who does not meet the gifted eligibility criteria may participate in any school program deemed appropriate for the student provided that classroom space is available. In addition, county boards of education may establish and maintain other educational services for exceptional children as the State Superintendent of Schools may approve.

(b) County boards of education shall establish and maintain these special educational

programs, including, but not limited to, special schools classes, regular class programs, home-teaching and visiting-teacher services. The special education programs shall include home-teaching or visiting-teacher services for children who are homebound due to injury or who for any other reason as certified by a licensed physician are homebound for a period that has lasted or will last more than three weeks. The state board shall adopt rules to advance and accomplish this program and to assure that all exceptional children in the state, including children in mental health facilities, residential institutions and private schools, will receive an education in accordance with the mandates of state and federal laws: Provided, That commencing with the school year beginning on July 1, 1991, all exceptional children in the state in foster care and correctional facilities will receive an education in accordance with the mandates of state and federal laws.

(c) Each county board of education shall adopt a policy that allows a student with disabilities whose individualized education program provides for a modified diploma to participate in the graduation ceremony of his or her same grade classmates if requested in writing by his or her parent or legal guardian. The county board shall also permit the student to continue receiving his or her special education services after the graduation ceremony. The county board may not terminate, deny or declare the student ineligible for post-graduation ceremony special education services due to his or her participation in the graduation ceremony.