WEST VIRGINIA CODE: §18-2-5

§18-2-5. Powers and duties generally; specific powers and duties for alternatives that improve student learning.

(a) Subject to and in conformity with the Constitution and laws of this state, the State Board of Education shall exercise general supervision of the public schools of the state, and shall promulgate rules in accordance with the provisions of article three-b, chapter twenty-nine-a of this code for carrying into effect the laws and policies of the state relating to education. The rules shall relate to the following:

(1) Standards for performance and measures of accountability;

(2) Physical welfare of students;

(3) Education of all children of school age;

(4) School attendance;

(5) Evening and continuation or part-time day schools;

(6) School extension work;

(7) Classification of schools;

(8) Issuing certificates based upon credentials;

(9) Distribution and care of instructional resources by county boards;

(10) General powers and duties of county boards, teachers, principals, supervisors and superintendents; and

(11) Such other matters pertaining to the public schools of the state as the state board considers necessary and expedient.

(b) The state board, in exercising its constitutional responsibility for the general supervision of public schools, must do so as provided by general law. Included within the general law is the process for improving education which has been recognized by the court as the method chosen by the Legislature to measure whether a thorough and efficient education is being provided. The court further recognized that the resulting student learning is the ultimate measure of a thorough education and that it must be achieved in an efficient manner. To achieve this result, the state board must have reasonable discretion to balance the local autonomy and flexibility needed by schools to deliver a thorough and efficient education with the letter of the laws as enacted for school operations.

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(c) The purpose of this subsection is to authorize the state board to approve alternatives to the letter of the laws enacted for school operations in the areas enumerated in this subsection. The state board may approve such alternatives as proposed by a county board or school if, in the sole judgment of the state board, the alternatives meet the spirit and intent of the applicable statutes and are intended solely to optimize student learning.

(1) The Legislature finds that alternatives are warranted and may be approved by the state board on a case-by-case basis when a county board submits to the state board a comprehensive plan for optimizing student learning that:

(A) Achieves the spirit and intent of the laws for an instructional term that provide the instructional time necessary for students to meet or exceed the high quality standards for student performance adopted by the state board;

(B) Ensures sufficient time within the instructional term to promote the improvement of instruction and instructional practices;

(C) Incorporates a school calendar approved in accordance with the approval process required by section forty-five, article five of this chapter;

(D) Allows for school-level determination of alternatives affecting time within the school day that preserve the spirit and intent of providing teachers with: (i) Sufficient planning time to develop engaging, differentiated instruction for all students in all classes, which includes at least forty minutes in length for the elementary level and as required by section fourteen, article four, chapter eighteen-a of this code for the secondary level; and (ii) Collaborative time for teachers to undertake and sustain instructional improvement. This determination may be made only in the form of a school policy that is part of the school's strategic improvement plan and is approved by a vote of the faculty senate; and

(E) Has the sole purpose of improving student learning and that improvement is evident within a reasonable period.

(2) The Legislature makes the following findings for consideration by the state board with respect to optimizing student learning:

(A) Maximizing learning time is a critical factor needed to improve student learning and requires multiple strategies and policies that support great teaching and learning;

(B) Learning time is that portion of instructional time in the school day during which a student is paying attention and receiving instruction that is appropriately leveled, and learning is taking place. Learning time must not be assumed to be the time that a student is seated at a desk, but may be achieved through a variety of methods that actively engage students in learning;

(C) A student's time engaged in learning is maximized when the student is allowed to progress and acquire competency at a pace which challenges his or her interest and intellect

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while receiving guidance and assistance when needed. Instructional strategies to help personalize student learning in this manner are frequently assisted by technology;

(D) Providing teachers with the resources and support needed to engage students in meaningful, appropriately leveled learning for as much time as is possible during the school day may be as important as facilities, equipment and staff development for maximizing learning time and improving student learning;

(E) Successful schools are distinguishable from unsuccessful schools by the frequency and extent to which teachers discuss professional practices, collectively design materials and inform and critique one another;

(F) Even successful schools must be self-renewing systems and learning organizations marked by deliberate effort to identify helpful knowledge and spread its use within the organization;

(G) Unless teachers are collectively involved in planning and implementing school improvement, it is unlikely to be sustained; and

(H) Given sufficient control over their own programs and supportive district leadership and policies, schools themselves may best be suited to determine the variety of methods through which time during the school day is allocated for teachers to plan individually and collectively to maximize learning time. Examples of methods used by successful schools include, but are not limited to, scheduling, using special subject teachers and guest presenters, dedicating time set aside for staff development, implementing alternative staff utilization patterns, providing opportunities for administrators to teach, and utilizing accrued instructional time.

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