WEST VIRGINIA CODE: §18-20-1

§18-20-1. Establishment of special programs and teaching services for students with exceptionalities.

(a) In accordance with the following provisions, local educational agencies (LEAs), including all county boards of education, schools and facilities under the supervision of the State board, and public charter schools acting as their own local educational agency (LEA) throughout the state shall establish and maintain special education services for all exceptional school-age students between five and twenty-one years of age, including, but not limited to, services provided in general education classrooms, co-teaching classrooms, special education resource classes, self-contained classes, homebound services, and other placements determined appropriate to meet the unique needs of students with disabilities as determined by Individualized Education Program (IEP) teams. Special education programs must be provided to students until the end of the school year in which they reach the age of 21 years or until the student earns a regular high school diploma, whichever occurs first. Provisions shall be made for educating exceptional students (including students with disabilities and students identified as gifted or exceptionally gifted who differ from their non-disabled peers to the extent that they need specially designed instruction in order to access the curriculum and receive a free appropriate public education. The term "gifted" means exceptional intellectual abilities and potential for achievement that requires specially designed instruction and/or services beyond those normally provided in the general classroom instruction. The term "exceptional gifted" means those students in grades nine through twelve meeting the criteria for gifted with at least one of the additional criteria as identified in State Board Policy 2419. Exceptional gifted students shall be referred for identification pursuant to state board policy. Each local education agency (LEA) 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. In addition, county boards of education may establish and maintain other educational services for exceptional students as the State Superintendent of Schools may approve.

(b) Each local educational agency (LEA) shall establish and maintain special educational programs which include services outside the school environment for students 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 students in the state, including students in mental health facilities, residential institutions, foster care, correctional facilities, and private schools, will receive an education in accordance with the mandates of state and federal laws.

(c) Each local educational agency (LEA) shall adopt a policy that allows a student with disabilities, whose individualized education program provides for an alternate diploma to participate in the graduation ceremony with their same-grade classmates if requested in

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writing by their parent or legal guardian, or the student who is subject to this request if the student is of the age of majority. The local educational agency (LEA) shall also permit the student to continue receiving special education services after the graduation ceremony until the end of the school year in which the student reaches the age of 21 years. The local educational agency (LEA) may not terminate, deny, or declare the student ineligible for post-graduation ceremony special education services due to their participation in the graduation ceremony.

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