WEST VIRGINIA CODE: §18-20-5

§18-20-5. Powers and duties of state superintendent.

(a) The State Superintendent of Schools shall organize, promote, administer and be responsible for:

(1) Providing leadership and support to local educational agencies (LEA) in establishing, organizing and maintaining a continuum of services for students with exceptionalities.

(2) Cooperating with all other public and private agencies engaged in providing medical, mental health, educational, or respite services for students with exceptionalities, and in helping coordinate the services of such agencies.

(3) (A) Preparing the necessary rules, policies, and formulas for distribution of available appropriated funds, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of students with exceptionalities and ensuring the employment, certification and approval of qualified teachers and therapists subject to approval by the State Board of Education: *Provided*, That no state rule, policy or standard under this article or any county board rule, policy or standard governing special education may exceed the requirements of federal law or regulation.

(B) A separate appropriation shall be made to the Department of Education to be disbursed to county boards and public charter schools authorized pursuant to §18-5G-1 *et seq*. of this code to assist them with serving exceptional students with high cost/high acuity exceptional needs that exceed the capacity of the local educational agency (LEA) to provide with funds available. Each local educational agency (LEA) shall apply to the state superintendent to receive this funding in a manner set forth by the state superintendent that assesses and takes into account varying acuity levels of the students with exceptionalities. Any remaining funds at the end of a fiscal year from the appropriation shall be carried over to the next fiscal year. When possible, federal funds shall be disbursed to local educational agencies (LEAs) for this purpose before any of the state appropriation is disbursed. The state board shall promulgate a rule in accordance with the provisions of §29A-3B-1 *et seq*. of this code that implements the provisions of this subdivision relating to disbursing the funds to the local educational agencies (LEAs). The rule at least shall include a definition for “children with high acuity needs”.

(4) Receiving from local educational agencies (LEAs), their applications, annual reports and claims for reimbursement from such moneys as are appropriated by the Legislature, auditing such claims, and preparing vouchers to reimburse said local educational agencies the amounts reimbursable to them.

(5) Assuring that all students with exceptionalities in the state, including students in mental health facilities, residential institutions, private schools receiving public funds and

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correctional facilities as provided in §18-2-13f of this code receive an education in accordance with state and federal laws: *Provided,* That the state superintendent shall also assure that adults in correctional facilities and regional jails receive an education to the extent funds are provided therefor and to the extent that those adult students are still eligible to receive a free appropriate public education (FAPE).

(6) Performing other duties and assuming other responsibilities in connection with this program as needed.

(b) Nothing contained in this section shall be construed to prevent any local education agency (LEA) from establishing and maintaining a full continuum of services for students with exceptionalities out of funds available from local revenue.

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