WEST VIRGINIA CODE CHAPTER 18 ARTICLE 31

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§18-31-1. Short title.

This article shall be known as the “Hope Scholarship Act.” The program created by this act shall be known as the “Hope Scholarship Program.”

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§18-31-2. Definitions.

The following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) "Account" or "scholarship" means a Hope Scholarship account, awarded pursuant to this article, to which funds are allocated by the board to the parent or parents of an eligible Hope Scholarship student in order to pay qualifying elementary and secondary education expenses to educate the student pursuant to the requirements and conditions of this article;

(2) "Board" means the Hope Scholarship Board created pursuant to §18-31-3 of this code;

(3) "Curriculum" means a complete course of study for a particular elementary or secondary education content area or grade level including, but not limited to, textbooks; workbooks; student and teacher curriculum kits; activity, learning, or study guides; or any supplemental materials required by the curriculum;

(4) "Education service provider" means a person or organization that receives payments from Hope Scholarship accounts to provide educational goods and services to Hope Scholarship students;

(5) "Eligible recipient" means a child who:

(A) Is a resident of this state; and

(B) Is enrolled full-time and attending a public elementary or secondary school program in this state for at least 45 calendar days during an instructional term at the time of application and until an award letter is issued by the board under §18-31-5(c) of this code, or enrolled full-time in a public elementary or secondary school program in this state for the entire instructional term the previous year, or is eligible at the time of application to enroll in a kindergarten program in this state pursuant to §18-8-1a of this code, except that if on July 1, 2024, the participation rate of the combined number of students in the Hope Scholarship Program and students eligible who have applied to participate in the Hope Scholarship program during the previous school year is less than five percent of net public school enrollment adjusted for state aid purposes for the previous school year, then, effective July 1, 2026, a child is considered to meet the requirements of this paragraph if he or she is enrolled, eligible to be enrolled, or required to be enrolled in a kindergarten program or public elementary or secondary school program in this state at the time of application;

(6) "Hope scholarship funds" means the moneys deposited in a Hope Scholarship student's account in accordance with the requirements of this article:

(7) "Hope scholarship student" means a student who receives a scholarship pursuant to this article;

(8) "Individualized Instructional Program (IIP)" means a customized educational experience

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that takes place either at home or another location. Hope Scholarship students participating in an IIP are not enrolled in a participating school and shall be governed by the requirements of this article, unless otherwise stated, and not any other compulsory school attendance exemption requirements;

(9) "Parent" means a biological parent, legal guardian, custodian, or other person with legal authority to act on behalf of an eligible recipient or Hope Scholarship student;

(10) "Participating school" means any private school that provides education to elementary and/or secondary students and has notified the board of its intention to participate in the program and comply with the program's requirements;

(11) "Resident school district" means the county school district in which the student resides; and

(12) "Treasurer" means the West Virginia State Treasurer.

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§18-31-2a. Educational privileges and programs available to Hope Scholarship students.

(a) Notwithstanding any provision of this code to the contrary, a Hope Scholarship student that pursues an individualized instructional program is exempt from the requirements of compulsory school attendance pursuant to §18-8-1(m) of this code and shall be subject to the requirements of this article unless otherwise stated: *Provided*, That a Hope Scholarship student that pursues an individualized instructional program shall have the same privileges and access to programs that this code makes available to students exempt from compulsory school attendance pursuant to §18-8-1(c) of this code including, but not limited to:

(1) The ability to receive a diploma from the student's secondary educational program administrator according to the requirements of §18-8-12 of this code;

(2) The ability to receive the PROMISE scholarship according to the requirements of §18C-7-1 *et seq*. of this code;

(3) The ability to receive a work permit without prior review by a school administrator pursuant to §21-6-3 of this code; and

(4) The ability to participate in an ACE program according to the requirements in §18-2E-11 of this code.

(b) Notwithstanding any provision of this code to the contrary, a Hope Scholarship student that attends a participating school shall have the same privileges and access to programs available to students exempt from compulsory school attendance pursuant to §18-8-1 of this code by virtue of attendance of a nonpublic school including, but not limited to:

(1) The ability to receive a diploma from the student's school administrator according to the requirements of §18-8-12 of this code;

(2) The ability to receive the PROMISE scholarship according to the requirements of §18C-7-1 et. seq. of this code; and

(3) The ability to participate in an ACE program according to the requirements in §18-2E-11 of this code.

(c) Nothing in this section may be construed as subjecting homeschool students or nonpublic school students not participating in the Hope Scholarship Program to the requirements of this article.

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§18-31-3. West Virginia Hope Scholarship Board; members; terms; compensation; proceedings generally.

(a) The West Virginia Hope Scholarship Program shall be administered by the West Virginia Hope Scholarship Board.

(b) The board shall consist of nine members and include the following:

(1) The State Treasurer, or his or her designee;

(2) The State Auditor, or his or her designee;

(3) The State Attorney General, or his or her designee;

(4) The State Superintendent of Schools, or his or her designee;

(5) The Chancellor of Higher Education, or his or her designee;

(6) The Director of the Herbert Henderson Office of Minority Affairs, or his or her designee; and

(7) Three members appointed by the Governor with the advice and consent of the Senate who are parents of Hope Scholarship students, or for the initial appointments of board members following the effective date of this article, parents who intend to apply for the Hope Scholarship on behalf of eligible recipients, to be appointed as follows:

(A) Only state residents are eligible for appointment to the board;

(B) The parent members shall reside in geographically diverse areas of the state;

(C) For appointments made after July 1, 2024, the parent members shall represent parents of students engaged in a diverse range of educational options, such as microschools or other individualized instruction;

The Governor shall make appointments necessary to satisfy the requirements of subdivision (7) of this section to staggered terms as determined by the Governor. After the initial staggering of terms, appointed parent board members shall serve for three-year terms and are eligible for reappointment at the expiration of their terms; and

(D) If there is a vacancy among appointed members, the vacancy shall be filled by appointment to the unexpired term of a person meeting the requirements of this section by the Governor with the advice and consent of the Senate. Members of the board shall serve until the later of the expiration of the term for which the member was appointed or the appointment of his or her successor.

(c) Members of the board shall serve without compensation. The board may reimburse

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members for all reasonable and necessary expenses, including travel expenses, actually incurred by board members in the conduct of their official duties. Any expense reimbursements shall be made from the West Virginia Hope Scholarship Program Expense Fund at the same rate paid to state employees.

(d) The Treasurer is the chairman and presiding officer of the board. The Treasurer may provide office space and staff to the board upon request of the board.

(e) The State Superintendent of Schools may provide staff to the board, upon request of the board.

(f) A majority of the members of the board constitutes a quorum for the transaction of the business of the board.

(g) Members of the board are subject to the ethical standards and financial disclosure requirements of the West Virginia Governmental Ethics Act in §6B-1-1 *et seq*. of this code.

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§18-31-4. Powers of the board.

The board is authorized to take any action necessary to effectuate the provisions of this article and to successfully administer the Hope Scholarship Program, subject to applicable state and federal law including, but not limited to, the following:

(1) Adopt and amend bylaws;

(2) Execute contracts and other instruments for necessary goods and services, employ necessary personnel and engage the services of private consultants, actuaries, auditors, counsel, managers, trustees, and any other contractor or professional needed for rendering professional and technical assistance and advice: *Provided*, That election of these services is not subject to the provisions of §5A-3-1 *et seq*. of this code;

(3) Implement the program through the use of financial organizations as account depositories and managers;

(4) Develop and impose requirements, policies, procedures, and guidelines to implement and manage the program;

(5) Determine whether an expenditure of Hope Scholarship funds is or was a qualifying expense to educate a Hope Scholarship student pursuant to §18-31-7 of this code. The board may approve or deny expenditures by a majority vote;

(6) Review any appeals made pursuant to §18-31-10(b) and §18-31-10(d) of this code;

(7) Establish the method by which moneys in the Hope Scholarship Expense Fund shall be allocated to pay for administrative costs and assess, collect and expend administrative fees, charges, and penalties;

(8) Authorize the assessment, collection, and retention of fees and charges against the amounts paid into and the earnings on the Hope Scholarship funds by a financial institution, investment manager, fund manager, West Virginia Investment Management Board, West Virginia Board of Treasury Investments, or other professional managing or investing the Hope Scholarship funds and accounts;

(9) Invest and reinvest any of the funds and accounts under the board's control with a financial institution, an investment manager, a fund manager, the West Virginia Investment Management Board, West Virginia Board of Treasury Investments, or other professionals investing the funds and accounts: *Provided*, That investments made under this article shall be made in accordance with the provisions of §44-6C-1 *et seq*. of this code;

(10) Solicit and accept gifts, including bequests and other testamentary gifts made by will, trust, or other disposition; grants; loans; aid; and property, real or personal of any nature and from any source, or to participate in any other way in any federal, state, or local governmental programs in carrying out the purposes of this article: *Provided*, That the board

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shall use the property received to effectuate the desires of the donor, and shall convert the property received into cash within 180 days of receipt;

(11) Take any issues relating to Hope Scholarship student participation in established public charter schools to the West Virginia Professional Charter School Board; and

(12) Request such information from the Department of Education and the county boards as is necessary for the completion of the board's responsibilities pursuant to this article.

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§18-31-5. Award of Hope Scholarships.

(a) The Hope Scholarship Program is established to provide the option for a parent to better meet the individual elementary and secondary education needs of his or her eligible child. The program shall be operational no later than July 1, 2022.

(b) The board shall create a standard application form that a parent can submit to establish his or her student's eligibility for the award of Hope Scholarship funds, to be placed in a personal education savings account to be used for qualifying education expenses on behalf of the eligible recipient as provided for in §18-31-7 of this code. Information about scholarship funds and the application process shall be made available on the board's website.

(c) The board shall process, accept, and make available Hope Scholarship applications and awards at any time during the calendar year. The board may update the application as needed. The board shall issue an award letter to eligible recipients within 45 days of receipt of a completed application and all required documentation.

(d) The board shall approve an application for a Hope Scholarship if all of the following circumstances are met:

(1) A parent submits an application for a Hope Scholarship in accordance with the legislative rules promulgated by the board;

(2) A student on whose behalf the parent is applying is an eligible recipient, as provided in §18-31-2(5) of this code;

(3) The parent signs an agreement with the board, promising to do all of the following:

(A) To provide an education for the eligible recipient in at least the subjects of reading, language, mathematics, science, and social studies;

(B) To use the Hope Scholarship funds exclusively for qualifying expenses incurred in providing the student an elementary or secondary education as provided for in §18-31-7 of this code;

(C) To comply with the rules and requirements of the Hope Scholarship Program;

(D) To afford the Hope Scholarship student opportunities for educational enrichment such as organized athletics, art, music, or literature; and

(E) To notify the Hope Scholarship Board immediately and cease use of Hope Scholarship funds upon the student's reenrollment in a public school or when the student graduates from or otherwise successfully completes a secondary school program;

(4) The board confirms with the West Virginia Department of Education that the student satisfies §18-31-2(5) of this code: *Provided*, That if the department does not reply within 30

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days, this criteria is considered satisfied.

(e) All records accepted or maintained by the board containing personally identifying information of a Hope Scholarship student, applicant, or parent are confidential and not a public record subject to release pursuant to the West Virginia Freedom of Information Act, as codified in §29B-1-1 *et seq*. of this code.

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§18-31-6. Funding of Hope Scholarships; program and expense funds.

(a) There is hereby created in the State Treasury a special revenue fund designated and known as the West Virginia Hope Scholarship Program Fund. The fund shall be administered by the Treasurer and shall consist of funds transferred by the Department of Education in accordance with §18-9A-25 of this code. All interest and other returns derived from the deposit and investment of moneys in the Hope Scholarship Fund shall be credited to the fund. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(b) The amount of Hope Scholarship funds made available to an eligible recipient on a yearly basis shall be equal to 100 percent of the prior year's statewide average net state aid share allotted per pupil based on net enrollment adjusted for state aid purposes, subject to the provisions of subsection (c) of this section: *Provided*, That the amount of the funding to an eligible recipient who is awarded a Hope Scholarship account for less than a full fiscal year shall be prorated based on the portion of the fiscal year the eligible recipient is awarded the Hope Scholarship account. On or prior to the submission of the Department of Education's budget request each year, the board shall notify the Department of Education of the estimated number of Hope Scholarship applications for the fiscal year for purposes of facilitating the necessary transfer of moneys pursuant to §18-9A-25 of this code.

(c) Expenditures from the Hope Scholarship Fund shall be limited to the purposes set forth in this article: *Provided*, That an amount not to exceed five percent of the fund shall be transferred annually to the West Virginia Hope Scholarship Program Expense Fund established in subsection (h) of this section to cover the annual administrative costs of the Hope Scholarship Program. If the number of Hope Scholarship accounts increases significantly after any fiscal year, the Treasurer may request an appropriation by the Legislature to the West Virginia Hope Scholarship Program Expense Fund in an amount equal to the administrative costs associated with the increase in Hope Scholarship accounts.

(d) The first deposit of Hope Scholarship funds into an eligible recipient account shall be subject to the execution of the parental agreement required by §18-31-5 of this code. Upon execution of the required parental agreement, and subject to the provisions of §18-31-9(e) of this code, one half of the total annually required deposit shall be made no later than August 15 of every year into an eligible recipient’s Hope Scholarship account, and one half of the total annually required deposit shall be made no later than January 15 of every year. Any funds remaining in a Hope Scholarship account at the end of the fiscal year may be carried over to the next fiscal year upon successful renewal of the account.

(e) Funds deposited in a student's Hope Scholarship account, other than those funds expended on transportation services pursuant to §18-31-7(11) of this code, do not constitute taxable income to the parent or the Hope Scholarship student.

(f) The board shall continue to make deposits into an eligible recipient's Hope Scholarship

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account in accordance with the provisions of this section unless any of the following conditions have occurred:

(1) A parent of an eligible recipient fails to renew a Hope Scholarship account or withdraws from the Hope Scholarship Program;

(2) The board determines that a student is no longer eligible for a Hope Scholarship;

(3) The board suspends or revokes participation in the Hope Scholarship Program for failure to comply with the requirements of this article;

(4) The Hope Scholarship student successfully completes a secondary education program or does not commence kindergarten-level education in the year that eligibility is based on the student's kindergartener status; or

(5) The Hope Scholarship student reaches 21 years of age.

(g) If any of the conditions in subsection (f) of this section occur, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent fails to adequately address the condition or conditions upon which closure is based or does not respond within 30 calendar days of receipt of notice, the board shall close the account and any remaining moneys shall be returned to the state.

(h)(1) There is hereby created in the State Treasury a special revenue fund designated and known as the West Virginia Hope Scholarship Program Expense Fund. The account shall consist of moneys received pursuant to this section; moneys, if any, transferred from special revenue funds administered by the Treasurer; or any governmental or private grants and any state general fund appropriations, if any, for the Hope Scholarship Program. All interest and other returns derived from the deposit and investment of moneys in the Hope Scholarship Program Expense Fund shall be credited to the fund. Any balance, including accrued interest and other returns, remaining in the fund at the end of each fiscal year shall not revert to the General Revenue Fund but shall remain in the fund and be expended as provided by this section.

(2) All expenses incurred by the Treasurer or the board in developing and administering the Hope Scholarship Program shall be payable from the West Virginia Hope Scholarship Expense Fund.

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§18-31-6a. Payments.

Nothwithstanding the provisions of §18-31-6(d) of this code to the contrary, beginning July 1, 2026, one quarter of the total annually required deposit into an eligible recipient's Hope Scholarship account shall be made no later than August 15 of every year, one quarter of the total annually required deposit shall be made no later than October 15 of every year, one quarter of the total annually required deposit shall be made no later than January 15 of every year, and one quarter of the total annually required deposit shall be made no later than April 15 of every year.

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§18-31-7. Qualifying expenses for Hope Scholarship accounts.

(a) Parents of a Hope Scholarship student shall agree to use the funds deposited in their student's Hope Scholarship account only for the following qualifying expenses to educate the student:

(1) Ongoing services provided by a public school district pursuant to §18-31-8(f) of this code, including without limitation, individual classes and extracurricular activities and programs: *Provided*, That notwithstanding the provisions of §18-5G-3 of this code, a public charter school may invoice a Hope Scholarship student's account for said services;

(2) Tuition and fees at a participating school;

(3) Tutoring services provided by an individual or a tutoring facility: *Provided*, That such tutoring services are not provided by a member of the Hope Scholarship student's immediate family;

(4) Fees for nationally standardized assessments, advanced placement examinations, any examinations related to college or university admission, and tuition and/or fees for preparatory courses for the aforementioned exams;

(5) Tuition and fees for programs of study or the curriculum of courses that lead to an industry-recognized credential that satisfies a workforce need;

(6) Tuition and fees for nonpublic online learning programs including, but not limited to, online curriculum courses and tutorial programs;

(7) Tuition and fees for alternative education programs;

(8) Fees for after-school or summer education programs;

(9) Educational services and therapies including, but not limited to, occupational, behavioral, physical, speech-language, and audiology therapies;

(10) Curriculum as defined in §18-31-2 of this code;

(11) Instruments or equipment required as part of a music education course or curriculum;

(12) Fees for transportation paid to a fee-for-service transportation provider for the student to travel to and from an education service provider; and

(13) Any other qualifying expenses as approved by the board established pursuant to §18-31-3 of this code: *Provided*, That the board may adopt rules and procedures for Hope Scholarship students who want to continue to receive services provided by a public school or district.

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(b) Hope Scholarship funds may only be used for educational purposes in accordance with subsection (a) of this section. Nothing in this section requires that a Hope Scholarship student be enrolled, full- or part-time, in either a private school or nonpublic online school.

(c) Hope Scholarship funds may not be refunded, rebated, or shared with a parent or student in any manner: *Provided*, That the Hope Scholarship Board shall promulgate legislative rules to ensure that an education service provider with 15 or more students can provide compensation to employees of the provider in the provider's regular course of business, notwithstanding the fact that an employee's child receives services from the education service provider.

(d) The board may adopt procedures for establishing a reimbursement process for any qualifying expenses not available for purchase by a Hope Scholarship parent through the existing online Hope Scholarship Program portal. Any refund or rebate for goods or services purchased with Hope Scholarship funds shall be credited directly to a student's Hope Scholarship account.

(e) Nothing in this section prohibits the parents of a Hope Scholarship student from making payments for the costs of educational goods and services not covered by the funds in their student's Hope Scholarship account. However, personal deposits into a Hope Scholarship account are not permitted.

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§18-31-8. Annual continuation of Hope Scholarship accounts; participation in public school system.

(a) Notwithstanding any changes in eligibility, effective January 1, 2025, a Hope Scholarship student may continue participation in the program from school year to school year without reapplying for the program until one of the conditions set forth in §18-31-6(f) occurs: *Provided*, That the board shall verify with the Department of Education the following information by July 1 of every year:

(1) A list of all active Hope Scholarship accounts;

(2) The resident school district of each Hope Scholarship student;

(3) For a Hope Scholarship student who chooses to attend a participating school, annual confirmation of his or her continued attendance at a nonpublic school that complies with all requirements that other nonpublic school students must comply with; and

(4) For a Hope Scholarship student who chooses an individualized instructional program:

(A) (i) He or she has annually taken a nationally normed standardized achievement test of academic achievement in the subject areas of reading, language, and mathematics, and when available for the student's grade-level, science and social studies;

(ii) The mean of the child's overall test results in the subject areas tested for any single year is within or above the fourth stanine or, if below the fourth stanine, show improvement from the previous year's results; and

(iii) The mean of the child's overall test results are reported to the county superintendent; or

(B) (i) A certified teacher conducts a review of the student's academic work annually;

(ii) The certified teacher determines that the student is making academic progress commensurate with his or her age and ability; and

(iii) The certified teacher's determination is reported to the county superintendent.

(b) As a condition of continued participation in the Hope Scholarship Program from one school year to the next, a parent must annually meet the following requirements, according to the deadlines and procedures established by the Board:

(1) The parent must submit proof of the student’s continued West Virginia residency;

(2) The parent must execute the parent agreement with the Board described in §18-31-5(d)(3) of this code ahead of each school year; and

(3) The parent must report to the county superintendent of the student’s county of residence

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that the student has complied with all attendance and academic requirements in accordance with subsection (a) of this section for the most recent school year.

(c) Each county superintendent shall submit the test results and determinations reported to him or her pursuant to subsection (a) of this section to the board and the Department of Education each year on or before June 15.

(d) If a parent fails to meet the annual conditions for continued participation in the Hope Scholarship Program described in subsection (b) of this section, the board shall notify the parent that the eligible recipient's account will be closed in 45 calendar days. If a parent declines continued participation in the program or does not respond within 30 calendar days of receipt of notice, the board shall close the account and any remaining moneys shall be returned to the state.

(e) If an eligible recipient decides to return to the Hope Scholarship Program after failing to meet the conditions for continued participation described in subsection (b) of this section, they must reapply.

(f) The board, in consultation with the Department of Education, may adopt rules and policies for Hope Scholarship students who want to continue to receive services provided by a public school or district, including individual classes and extracurricular programs, in combination with an individualized instructional program. The board, in consultation with the Department of Education, shall ensure that any public school or school district providing such services receives the appropriate pro rata share of a student's Hope Scholarship funds based on the percentage of total instruction provided to the student by the public school or school district. County boards and charter school governing boards shall charge tuition to Hope Scholarship students who enroll for services in a public school within the county or in a public charter school. Hope Scholarship students who enroll for services part-time in public school shall not be included in net enrollment for state aid funding purposes under §18-9A-2 of this code. Nothing in this subsection prohibits a Hope Scholarship student from using the funds deposited in his or her account on both services provided by a public school or district and other qualifying expenses as provided for in §18-31-7 of this code.

(g) The board, in consultation with the Department of Education, may adopt rules and policies to provide the least disruptive process for Hope Scholarship students who desire to stop receiving Hope Scholarship payments and return full-time to a public school.

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§18-31-9. Administration of Hope Scholarship accounts.

(a) In addition to the duties, obligations, and authority stated in this section and in other parts of this article, the board has the following duties, obligations, and authority with respect to the administration of Hope Scholarship accounts:

(1) To maintain an updated list of participating schools and shall ensure that the list is publicly available through various sources, including the internet;

(2) To provide parents with a written explanation of the allowable uses of Hope Scholarship funds, the responsibilities of parents, the duties of the board and the role of any private financial management firms or other private organizations that the board may contract with to administer the Hope Scholarship Program or any aspect of the program; and

(3) To ensure that parents of students with a disability receive notice that participation in the Hope Scholarship Program is a parental placement under 20 U.S.C. § 1412 of the Individuals with Disabilities Education Act (IDEA) along with an explanation of the rights that parentally placed students possess under (IDEA) and any applicable state laws and regulations.

(b) The board may contract with private organizations to administer the Hope Scholarship Program. This includes, but is not limited to, private financial management firms to manage Hope Scholarship accounts.

(c) The board shall implement, or contract with a private organization to implement, a commercially viable, cost effective, and parent-friendly system for payment for services from Hope Scholarship accounts to participating schools or education service providers, including, but not limited to, the use of debit cards or other electronic or online fund transfers: *Provided*, That a Hope Scholarship account may not be reduced for debit card or electronic payment fees.

(d) The board shall also seek to implement a commercially viable, cost-effective, and parent-friendly system for publicly rating, reviewing, and sharing information about participating schools and education service providers, ideally as part of the same system that facilitates the electronic or online funds transfers so as to create a one-stop-shop for parents and Hope Scholarship students.

(e) If an education service provider requires partial payment of tuition or fees prior to the start of the academic year to reserve space for a Hope Scholarship student admitted to the education service provider, such partial payment may be paid prior to the start of the school year in which the Hope Scholarship is awarded, and deducted in an equitable manner from subsequent Hope Scholarship deposits to ensure adequate funds remain available throughout the school year; but if a Hope Scholarship student decides not to use the education service provider, the partial reservation payment must be returned to the board by such education service provider and credited to the student's Hope Scholarship account.

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(f) The board may accept gifts and grants from any source to cover administrative costs, to inform the public about the Hope Scholarship Program, or to provide additional funding for Hope Scholarship Accounts.

(g) The board may propose legislative rules for legislative approval pursuant to §29A-3-1 *et seq*. of this code, including emergency rules, if necessary, to meet timelines set forth in this article, that are not inconsistent with this article and that are necessary for the administration of this article, including:

(1) Establishing or contracting for the establishment of a fraud reporting system;

(2) Policies that require a surety bond for education service providers receiving more than $100,000 in Hope Scholarship funds;

(3) Procedures for refunding payments from education service providers back to Hope Scholarship accounts; and

(4) Procedures for entering into reciprocal agreements with other state education savings account agencies or entities, whether public or private, to recognize and allow education service providers approved in other states to receive payments from Hope Scholarship accounts under this article.

(h) The rules or policies adopted by the board should avoid excessive bureaucracy and overly prescriptive mandates and instead shall focus on encouraging participation in the program and encouraging education service providers to provide parents and Hope Scholarship students with a broad array of educational options.

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§18-31-10. Auditing of Hope Scholarship Program; suspension of accounts and providers.

(a) The board may propose legislative rules for approval pursuant to §29A-3-1 *et seq*. of this code for the auditing of individual Hope Scholarship accounts and shall conduct or contract for the random auditing of individual Hope Scholarship accounts as needed to ensure compliance with the requirements of this article and rules promulgated pursuant to this article.

(b) As part of the auditing process, the board may remove a parent or eligible recipient from the Hope Scholarship Program and close a Hope Scholarship account for failure to comply with the terms of the parental agreement required by §18-31-5 of this code, failure to comply with the applicable laws, failure of the student to remain eligible, or intentional and fraudulent misuse of Hope Scholarship funds: *Provided*, That the board shall create procedures to ensure that a fair process exists to determine the removal of a parent or eligible recipient from the Hope Scholarship Program and a parent or Hope Scholarship student may appeal the decision to make the student ineligible for funds to the board.

(c) The board may propose legislative rules for approval pursuant to §29A-3-1 *et seq*. of this code for the auditing of education service providers and shall conduct or contract for the random auditing of individual providers as needed to ensure compliance with the requirements of this article and rules promulgated pursuant to this article.

(d) If the board determines that an education service provider has intentionally and substantially misused Hope Scholarship funds, the board may bar the education service provider from continuing to receive payments. The board shall create procedures to ensure that a fair process exists to determine whether an education service provider may be barred from receiving payment from Hope Scholarship accounts and an education service provider may appeal a decision to bar it from receiving payments to the board. If the board bars an education service provider from receiving payments from Hope Scholarship accounts, it shall notify parents and students of its decision as quickly as possible.

(e) If the board obtains evidence of potential fraudulent use of Hope Scholarship funds, it may refer suspected cases to the State Auditor for purposes of investigation, collection, and potential criminal investigation.

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§18-31-11. Requirements for and rights of education service providers.

(a) To be eligible to accept payments from a Hope Scholarship account, an education service provider shall:

(1) Submit notice to the board that they wish to participate in the Hope Scholarship Program;

(2) Provide participating parents with a receipt for all qualifying educational expenses for the Hope Scholarship student;

(3) Agree not to refund, rebate, or share Hope Scholarship funds with parents or students in any manner, except that funds may be remitted or refunded to a Hope Scholarship account in accordance with §18-31-7(c) of this code;

(4) Certify that it will not discriminate on any basis prohibited by 42 U.S.C. 1981;

(5) Submit any employee or other person who will have contact with Hope Scholarship students receiving services from the provider to a criminal background check and certify that said background check does not indicate conviction of a felony involving violence to the person and that the employee or other person is not on a federal or state sex offender registry; and

(6) In the case of a participating school, provide notice of each Hope Scholarship student's enrollment annually to the county superintendent of any student for which a student's tuition is being paid through the Hope Scholarship Program.

(b) This article does not limit the independence or autonomy of an education service provider or make the actions of an education service provider the actions of the state government.

(c) Education service providers shall be given maximum freedom to provide for the educational needs of Hope Scholarship students without governmental control.

(d) A participating school or education service provider is not required to alter its creed, practices, admission policy, hiring policy or curriculum in order to accept eligible recipients whose parents pay tuition or fees from a Hope Scholarship account pursuant to this article: *Provided*, That an education service provider is prohibited from requiring a student or family to pay tuition, costs, or fees above or in addition to the provider's regular tuition or fee schedule based in whole or in part upon a student or family member's participation in the Hope Scholarship Program.

(e) This article does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of education service providers beyond those necessary to enforce the requirements of the program.

WV Legislature

§18-31-12. Responsibilities of resident school districts.

The resident school district or school district in which a Hope Scholarship student was last enrolled, as applicable, shall provide an education service provider that has enrolled the student with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. § 1232g).

WV Legislature

§18-31-13. Legal proceedings; severability.

(a) No liability arises on the part of the board or the state or of any county school district based on the award or use of a Hope Scholarship awarded pursuant to this article.

(b) It is the intention of the Legislature in the enactment of this article that if any part of this article is challenged in court as violating either the state or federal constitution, the parents of eligible Hope Scholarship students should be deemed to have standing to be parties to such litigation, and should be permitted by the court to intervene if they are not already parties to such litigation.

(c) If any provision of this article or the application of any such provision of this article to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of this article or the application of its provisions to persons or circumstances other than those to which it is held invalid is not affected thereby.

WV Legislature

§18-31-14. Reporting.

(a) The board shall provide a comprehensive report on the status of the Hope Scholarship Program to the Legislative Oversight Commission on Education Accountability on or before December 31, 2026, and annually on or before December 31 of each year thereafter, addressing the progress of the program throughout the state. As part of the annual report, the board, in collaboration with the state and county boards of education, shall survey participating Hope Scholarship families to determine:

(1) The types of educational services chosen by Hope Scholarship students;

(2) Demographic and geographic data of participating students;

(3) Number of students participating with special needs;

(4) For Hope Scholarship students who withdrew from a public school, the stated reason for withdrawing;

(5) County superintendent and board compliance with Hope Scholarship reporting requirements; and

(6) Parent satisfaction with the Hope Scholarship Program.

(b) The board shall use only aggregate, nonidentifying evaluation data when compiling any such public reports.

WV Legislature