# WEST VIRGINIA CODE: §18-5-50

**§18-5-50. West Virginia Tutoring Program.**

(a) *Purpose.* — County boards of education may contract with an independent contractor who is a retired teacher to provide tutoring services as that term is defined in this section. The purpose of the contract is to provide additional support to students who necessitate additional one-on-one instruction in the core subjects of reading and math. Any county board of education may contract with as many independent contractors as the county school board considers necessary.

(b) *Definitions*. — For purposes of this section the following words have the following meanings:

"Contract" means an agreement between a county board of education and an independent contractor relating to the procurement of tutoring services;

"County school board" means the same as that term is used in §18-5-1 *et seq*. of this code;

"Independent contractor" means the same as that term is used in §21-5I-4 of this code;

"Tutoring services" means academic support provided by an expert teacher who has a deep knowledge or defined expertise in a particular subject or set of subjects;

"Tutor" means an independent contractor who is a retired teacher that provides tutoring services in the area of reading or math; and

"Retired teacher" means the same as that term is used in §18A-2-3 of this code.

(c) *Requirements for participation*. — Prior to entering into a contract with a tutor, the county school board shall require an applicant to provide proof that he or she:

(1) Is a citizen of the United States;

(2) Has retired from his or her employment as a teacher;

(3) Meets any other requirements imposed by the county school board that apply to current teachers, which may include, but are not limited to, a background check or training; and

(4) Carries appropriate liability insurance at his or her expense: *Provided,* That the imposition of this requirement is at the discretion of the county school board.

(d) *Exclusions from participation*. — Any of the following disqualifying criminal offenses shall preclude a county board from engaging the services of a tutor:

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(1) Any sex offense;

(2) Crimes against persons, which include, but are not limited to, manslaughter, murder, child abuse, domestic violence, stalking, kidnapping, or aggravated assault or battery;

(3) Unlawful manufacture, delivery, or possession with intent to deliver any controlled substance; and

(4) Any other misdemeanor or felony conviction deemed exclusionary for contracting with the independent contractor by the county school board.

(e) *Liability.* — A county school board may not be held civilly liable or be criminally prosecuted for any action of an independent contractor tutor acting within the scope of the duties for which their services were contracted unless the county school board can be shown to be grossly negligent or committed willful misconduct.

(f) *Miscellaneous.* —

(1) In contracting for the services set forth in this section, county school boards may not be subject to purchasing requirements set forth in in §5A-3-1 *et seq.* of this code.

(2) Nothing in this section requires a county board of education to contract with a tutor pursuant to this section. Participation by a county board of education is voluntary and subject to the availability of county funds. Any county board of education that opts to participate shall do so at its own expense. The provisions of this section place no obligation for the state to appropriate moneys for the purposes set forth in this section.

(3) An independent contractor tutor is not eligible for participation in the public employee insurance plan, workers' compensation, additional state retirement credited to employment as a West Virginia tutor, or any other state-sponsored or offered state benefit plan.

(4) Participation in the West Virginia Tutoring Program shall not affect the retired teacher's retirement benefits in any manner.

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