

# WEST VIRGINIA CODE: §18-5-53

## §18-5-53. Contracting with private security as a school safety officer.

(a) Purpose. — County boards of education, public charter schools, and private or religious schools may contract with a private security guard firm licensed pursuant to the provisions of §30-18-1 *et seq.* of this code to provide the services of a school safety officer as set forth in §18-5-52 of this code.

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

"Contract" means an agreement between a county board and a private security provider.

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

"School safety officer" has the same meaning as that term is defined in §15-2D-3 of this code.

"Security guard firm" has the same meaning as that term is defined in §30-18-1 of this code.

(c) Authority. — Notwithstanding the provisions of §61-7-11a or any applicable rule, an employee of a private security guard firm who has contracted with a county school board, public charter schools, or private or religious school may carry weapons upon meeting all the requirements of this section. An employee of a private security guard firm contracting with a county board, public charter school, or private or religious school is not law enforcement and has no authority to arrest. They are to provide services as a school safety officer as set forth in §18-5-52 of this code.

(d) Requirements for participation. — Prior to entering into a contract with a county board, public charter school, or private or religious school, a private security guard firm shall be licensed pursuant to the provisions of §30-18-1 *et seq.* of this code and is current in any obligation, including taxes, to the State of West Virginia. The county board, public charter school, or private or religious school shall require an applicant to provide proof that any employee of the private security guard firm intended to be used as a school safety officer:

- (1) Is a citizen of the United States and the State of West Virginia;
- (2) Has received a high school diploma or a high school equivalency diploma;
- (3) Has met and passed all the requirements for a concealed carry permit as set forth in §61-7-4;
- (4) Has completed and passed all the following training courses and/or examinations:

(A) The Law Enforcement Professional Standards program. The cost of this program is to be paid by the independent contractor;

(B) A fitness for duty examination which shall include a physical examination, vision examination, psychiatric examination, and a pre-employment drug screen within one year of beginning a contract with a county board, public charter school, or a private or religious school and upon initiating a new contract following the expiration of all contract extension options. The cost of these each shall be paid by the private security guard firm;

(C) A firearm and less than lethal use of force course. To maintain firearm proficiency, the independent contractor shall complete yearly training in firearm and less than lethal use of force course; and

(D) Training on crisis de-escalation techniques, disaster and emergency response, bomb threats, performing their duties in the presence of students with disabilities including, but not limited to, students with autism spectrum disorders, and cardiopulmonary resuscitation; and

(6) Any other requirements imposed by the county board, public charter school, or private or religious school which may include, but are not limited to, a pre-employment written examination and a pre-employment polygraph exam. A county board, public charter school, or private or religious school may also require a private security guard firm to carry appropriate liability insurance at his or her expense.

(e) Exclusions from participation. — Any of the following shall preclude an employee of private security guard firm from participation as a school safety officer:

(1) There is credible evidence of illegal drug use by the employee of the private security guard firm in the preceding five-year period; or

(3) A disqualifying criminal offense. These shall include, but are not limited to:

(A) Domestic violence as set forth in §61-2-28;

(B) Driving under the influence as set forth in §17C-5-2;

(C) Child abuse as set forth in §61-8D-1 *et seq.*;

(D) Unlawful manufacture, delivery, or possession with intent to deliver any controlled substance as set forth in §60A-4-1 *et seq.*; and

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

(f) Insurance coverage. —

A county board, public school, or private or religious school contracting for the services of a private security guard firm shall maintain adequate insurance for liability, property loss, and the personal injury of students and other personnel to the extent permitted by the Board of Risk and Insurance Management pursuant to §29-12-5a in addition to any appropriate liability insurance coverage required by subdivision (d)(6) of this section.

(g) Miscellaneous. —

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

(2) Nothing in this section entitles any employee of a private security guard firm for participation in the public employee insurance plan, workers' compensation, additional state retirement credited to employment as a West Virginia Guardian, or any other state-sponsored or -offered state benefit plan.

(4) Notwithstanding any other provision of this code or federal law to the contrary, nothing in this section shall be construed to create an employer-and-employee relationship between a county school board, public charter school, or a private or public school.