

# WEST VIRGINIA CODE: §18-5B-12

**§18-5B-12. School system collaborative innovation zone; requirements to qualify; application for designation; required plans for innovation zones; plan approval; waiver of statutes, policies, rules or interpretations; progress reviews and annual reports; teacher vacancies, job postings and approval.**

(a) The Legislature makes the following findings and expressions of legislative intent:

(1) The Legislature created a performance-based accreditation system in 1988 and has amended these provisions several times, significantly in 1998 to set forth a process for improving education consisting of four elements: (i) High quality education standards; (ii) an assessment of the performance and progress of schools and school systems in achieving these standards with a primary focus on student learning; (iii) holding schools and school systems accountable for performance and progress to provide assurances that a thorough and efficient education is being provided; and (iv) a process for targeting resources strategically to improve teaching and learning. These provisions include a process for the state board to declare a state of emergency and intervene in the operation of a school system when its educational program does not meet the standards and it fails to implement an improvement plan or meet the plan's deadlines and improve within a reasonable time. Since the inception of these provisions, the state board has declared a state of emergency in nine county school systems and intervened, including delegating decision-making authority to the state superintendent or his or her designee for system operations. Of these nine school systems, three improved sufficiently over a period of time for the state of emergency to be rescinded, the longest of which took ten years and six months. Of the six systems remaining under state board intervention, although most are fairly recent, one school system has been under state intervention for more than ten years and its improvement is progressing slowly;

(2) School systems do not exist in a vacuum and external circumstances and events can have a significant impact on them and the students they serve, as well as on the system's capacity to deliver the thorough and efficient education to which those students are entitled. For example, the McDowell County school system which in the 1950's at its height of employment in coal production had a total population of about 100,000 residents, faced much different challenges than it does today with that county's total population now at 22,113 based on the 2010 census. This school system has lost nearly 70 percent of its enrollment in the past 30 years, declining from 11,715 students in 1981-82 to 3,535 in 2011-12. Along with the steep decline in the historical bedrock of employment in the county in the coal industry and the large number of middle class workers and services it supported, including housing, utilities and medical care, the county's rugged mountainous topography contributes to its vulnerability to natural disasters such as the devastating floods in 2001 and 2002 that swept away many homes and much of the infrastructure along the creek beds throughout the county. This topography also significantly limits the amount of land suitable

for development and transportation networks, and makes planning for future economic development alternatives difficult. The social and economic byproducts of these external circumstances and events leave a school system with many atypical challenges for addressing the needs of its students and making the improvements in performance and progress needed to assure a thorough and efficient education;

(3) Among the findings, intent and purposes of this article are that: (i) Allowing exceptions from certain statutes, policies, rules and interpretations through the creation of innovation zones will enable greater local control over the important educational factors that impact student achievement and the delivery of educational services to improve student learning; and (ii) innovation zones will provide greater flexibility and local control to meet the needs of a diverse population of students. In addition, among the findings of the Local Solution Dropout Prevention and Recovery Innovation Zone Act as set forth in section eleven of this article are findings that when educators, parents, elected officials, business leaders, faith-based leaders, human service personnel, judicial personnel and civic leaders collectively work together they are often able to find innovative solutions to address school and community problems. Since the creation of this article, forty-five innovation zone projects have been approved by the state board, nine of which were Dropout Prevention and Recovery Innovation Zone projects. Twenty-seven policy waivers and five statutory waivers have been granted to enable implementation of these projects. In one county, an innovation zone project was expanded to all of the remaining schools in the county when the schools used the Local School Improvement Council waiver process to request and receive a statutory waiver to implement a comprehensive new teacher induction process countywide. Collectively, these projects illustrate how local schools, and in some cases school systems, have increased their capacity by using the innovation zone process to collaboratively plan and implement a variety of changes to increase student engagement, develop more flexible schedules, enhance student and teacher ownership of the learning process and increase student achievement;

(4) Choosing one county school system under a declared state of emergency due to nonapproval status to designate as an innovation zone would allow the testing of innovations that could be replicated in other school systems facing similar circumstances across the state, nation and world;

(5) Numerous studies have shown an association between a young person's health status and his or her ability to succeed in educational settings;

(6) McDowell County is unique and should be given the first opportunity to use innovative solutions to improve its education system when the totality of the circumstances set forth in this subsection are considered. Other facts specifically applicable to McDowell County include the following:

(A) The McDowell County school system has been under a continuous declared state of emergency by the state board due to nonapproval status longer than any other county that is currently under a declared state of emergency;

(B) The McDowell County school system is engaged in a public-private partnership to begin addressing challenges both within the school system and in the community at large; and

(C) McDowell County has a chronic shortage of good roads, public transportation, housing, Internet bandwidth, recreation centers and health clinics;

(7) This section is intended as an additional tool for an eligible school system in collaboration with community and business partners to plan and implement new approaches to improve the performance and progress of the students, schools and system to achieve full approval at the earliest possible date. It is further the intent of the Legislature that the process for an eligible school system to apply for exceptions under this section should allow multiple opportunities to apply for additional exceptions as the system moves forward with its partners toward fulfillment of its improvement goals; and

(8) In accordance with the intent of this section as an additional tool for planning and implementing new approaches to improve the performance and progress of the students, schools and school system to achieve full approval at the earliest possible date, the state board shall rescind the state of emergency and nonapproval status of a school system designated as a school system collaborative innovation zone as soon as the requisite conditions are met as provided in section five, article two-e of this chapter, notwithstanding the designation. If a school system that has been designated as a school system collaborative innovation zone is subsequently issued a school system approval status that would make it ineligible for the designation, the designation shall remain in effect as provided in this section.

(b) The state board is authorized to choose one county school system currently under a declared state of emergency by the state board due to nonapproval status to participate in a program to test the effectiveness of allowing such county school systems to be considered school system collaborative innovation zones. Due to the reasons set forth in subsection (a) of this section, the McDowell County Board of Education shall be provided the first opportunity to submit a school system collaborative innovation zone application under this article. If the McDowell County Board of Education has not submitted an application by April 1, 2013 or less than fifty percent cast ballots in an election to approve a school system collaborative innovation zone plan, the state board may accept applications from other county boards under a declared state of emergency by the state board due to nonapproval status.

(c) The Legislature finds that an emergency exists and, therefore, no later than April 16, 2012, the state board shall promulgate an emergency rule in accordance with section ten, article three-b, chapter twenty-nine-a of this code, to implement the provisions of this section. The state board also shall promulgate a legislative rule, in accordance with article three-b, chapter twenty-nine-a of this code, to implement this section. Both rules shall include, but not be limited to, the following provisions:

(1) The manner, time and process for the submission of a school system collaborative

innovation zone application;

(2) The contents of the application, which must include a general description of the innovations the county school district seeks to institute;

(3) Factors to be considered by the state board when evaluating an application, which shall include, but are not limited to, the following factors:

(A) Support from teachers, staff, parents, students, the county board of education, the local school improvement council and school business partners; and

(B) The potential for an applicant to be successful in raising student achievement as a school system collaborative innovation zone; and

(4) Standards for the state board to review applications for designation as a school system collaborative innovation zone and to make determinations on the designation of a school system collaborative innovation zone.

(d) The state board shall review school system collaborative innovation zone applications in accordance with the standards adopted by the board and shall determine whether to designate the applicant as a school system collaborative innovation zone. The state board shall notify an applicant of the board's determination within thirty days of receipt of the application.

(e) Prior to designation by the state board as a school system collaborative innovation zone, county school systems submitting applications shall develop school system collaborative innovation zone plans. The school system collaborative innovation zone plan may include, but is not limited to, the following proposals:

(1) Allowing increased collaborative site-based decision-making powers over the budgeting for and spending on programs and services for students;

(2) Allowing increased collaborative site-based decision-making powers over teacher recruitment;

(3) Allowing a collaborative process which ensures accountability and transparency to all stakeholders;

(4) Allowing a collaborative process which provides input and demonstrative buy-in from education personnel regarding appropriate professional development, supports, resources and working conditions.

(5) Allowing a collaborative site-based process to reduce certain requirements to allow staff to meet the school's mission;

(6) Allowing, through a collaborative site-based process, flexibility to the alternative teacher

certification provided in section one-a, article three, chapter eighteen-a of this code;

(7) Utilizing virtual school courses aligned with the Southern Regional Education Board's Standards for Quality Online Courses; and

(8) Other innovation zone plans approved under the provisions of this article and being implemented in other schools and school systems throughout the state.

(f) Prior to submitting a school system collaborative innovation zone plan to the state board:

(1) The school system in collaboration with its public-private partnership shall conduct public town hall meetings in at least two schools in the county for the purpose of soliciting input from those in attendance on the challenges affecting the quality of education in the county and the potential strategies and priorities for addressing them. The two meetings shall occur within ten days of each other;

(2) Within fifteen days after the last town hall meeting, the county superintendent shall hold a meeting for the purpose of reviewing the input gathered at the public town hall meetings and developing the school system collaborative innovation zone plan. The meeting shall include the principals employed within the county, the chairs of the faculty senates of each school in the county, employee organization representatives, a school service person from each work site, parents and other stakeholders;

(3) Within fifteen days after the meeting to develop the school system collaborative innovation zone plan, the county superintendent shall hold a meeting of all regularly employed school employees for the purpose of educating those employees about the plan and for the purpose of providing the employees an opportunity to examine and discuss the school system collaborative innovation zone plan; and

(4) At the meeting required by subdivision (3) of this section, the county superintendent shall direct that a vote of all regularly employed school employees in the county be conducted to determine the level of school employee support for the school system collaborative innovation zone plan. The vote shall be completed within fifteen days after the meeting required by subdivision (3) of this subsection. The vote shall be by secret ballot administered by the panels created in subsection (c), section six of this article for each school and shall be administered in accordance with that subsection. For the vote to be valid, ballots must be cast by at least fifty percent of all regularly employed school employees in the county. The plan may not be submitted to the state board and the state board may not designate the school system as a school system collaborative innovation zone unless at least two-thirds of the employees voting vote to submit the plan.

(g) Approval of a school system collaborative innovation zone plan pursuant to this section is at the sole discretion of the state board. Any approval requirement not contained within this section does not apply.

(h) The plan is intended to serve as the basis for the innovation zone activities of the school system and to provide a vision for the school improvement goals it will work to accomplish in collaboration with its school and community partners. The plan is not intended as a limit on the normal school improvement activities that all school systems are expected to pursue, nor is the plan intended as a restriction on the ability of the school system or its schools to pursue other innovative strategies in accordance with the other provisions of this article, specifically the designation as a Local Solution Dropout Prevention and Recovery Innovation Zone in accordance with section eleven of this article.

(i) The designation as a school system collaborative innovation zone authorizes the school system to submit requests as provided in subsection (j) of this section to the state board for exceptions to statutes, policies, rules and interpretations that are required to permit implementation by the school system of the innovative strategies contemplated in its school system collaborative innovation zone plan. The designation shall be for a period of five years, during which the school system may submit multiple individual requests for exceptions to permit implementation of different strategies contemplated in the plan as the strategies are developed. Each request for an exception shall be submitted and may be approved by the state board in accordance with subsection (j) of this section.

(j) (1) A school system designated as a school system collaborative innovation zone may request an exception to a statute, policy, rule or interpretation by submitting an application to the state board that contains the following information:

(A) A description of the program or initiative the school system intends to implement as an innovative strategy to improve student achievement if the request is approved by the state board;

(B) An explanation of the specific exception to a statute, policy, rule or interpretation, in the singular or plural, that the school system has identified as prohibiting or constraining the implementation of the program or initiative and why the exception is necessary;

(C) An explanation of how the program or initiative furthers the activities contemplated in the school system collaborative innovation zone plan;

(D) A certification by the county superintendent that the request for an exception was approved by a vote of the eligible employees in accordance with the process for voting as set forth in section six of this article, except that notwithstanding subsection (d) of said section six, at least two-thirds of the eligible employees voting must vote to request the exception for it to be approved for submission to the state board: Provided, That for the vote to be valid, ballots must be cast by at least fifty percent of the eligible employees; and

(E) Any other information the state board requires as set forth in its rule pursuant to subsection (c) of this section.

(2) The state board shall review the request in accordance with the standards adopted by the

board in its rule and shall determine whether to approve or disapprove the request. The approval or disapproval of a request is at the sole discretion of the state board. Any approval requirement not contained within this section does not apply.

(3) Except as provided in subdivision (5) of this subsection, the state board shall approve or disapprove the request within thirty days of receipt, subject to the following:

(A) No exceptions to state board policies, rules or interpretations are granted unless the state board approves the request at least conditionally pursuant to subdivisions (2) and (5) of this subsection; and

(B) If the request is disapproved, the state board shall communicate its reasons for the disapproval to the school system and shall make recommendations for improving the request. The school system may amend and resubmit the request.

(4) Upon approval of the request by the state board, all of the exceptions to state board policies, rules and interpretations that were requested are granted; and

(5) If a request, or a part thereof, may not be implemented unless an exception to a statute is granted by an Act of the Legislature, the state board may approve the request, or the part thereof, only upon the condition that the Legislature acts to grant the exception. If the state board approves a request on that condition, the state board shall submit the request for an exception to a statute, along with supporting reasons, to the Legislative Oversight Commission of Education Accountability. The commission shall review the request and make a recommendation to the Legislature regarding the exception requested.

(k) A school system collaborative innovation zone may not request an exception nor may an exception be granted from any of the following:

(A) A required statewide assessment program administered by the West Virginia Department of Education;

(B) Any provision of law or policy required by the No Child Left Behind Act of 2001, Public Law No. 107-110 or other federal law; and

(C) Sections two and seven, article two, chapter eighteen-a of this code and sections seven-a, seven-b, eight and eight-b, article four, chapter eighteen-a of this code, except that a school system collaborative innovation zone may make a job posting for a teacher vacancy in accordance with the procedures and the approval by a vote of the teachers as provided in section eight of this article.

(l) A county board designated as a school system collaborative innovation zone pursuant to this section that has an approved innovation zone plan may revise its plan and resubmit its plan to the state board for approval after conducting the vote pursuant to subdivision (4), subsection (f) of this section and complying with all other applicable plan requirements set forth in this section except for holding the public town hall meetings required by subdivision

(1), subsection (f) of this section.

(m) The designation of a county school system as a school system collaborative innovation zone shall be for a period of five years. The state board, upon request of the school system, may extend the designation for an additional two years if the school system has outstanding items in its school system collaborative innovation zone plan that it still wants to pursue and only for the purpose of pursuing those outstanding items. The expiration of the designation does not negate any exceptions to statutes, policies, rules or interpretations granted to the school system, unless and until specifically revoked, repealed or modified by the state board or by the Legislature, as applicable.

(n) The state board or its designated committee shall perform annual performance reviews and provide annual reports in accordance with section seven of this article.

(o) A county school system whose plan has been approved may make a job posting for a teacher vacancy in accordance with the procedures and approval provided by section eight of this article.

(p) For any county that is designated as a school system collaborative innovation zone under the provisions of this section and to the extent the following provisions are applicable:

(1) The county commission of the designated county shall collaborate with the Office of Coalfield Community Development in including any land and infrastructure needs in the land use master plan provided for in section nine, article two-a, chapter five-b of this code. These needs may include, but are not limited to, advancement of public education, economic development, highway development, recreational amenities and housing development;

(2) An area health organization, such as Tug River Health Association, Inc., is authorized to work with the county board to address the health, wellness and fitness needs of students, parents, school personnel and all others in the county. Tug River Health Association may partner with the Robert C. Byrd Center for Rural Health and the Marshall University Medical School in addressing these needs. In addressing the health, wellness and fitness needs, the following should be considered:

(A) New evaluations of school-aged children are needed to reassess their health status and direct further interventions;

(B) Prior to developing new assessment tools and initiating programs, a comprehensive inventory of prior assessment tools and programs is needed to determine their strengths and weaknesses. This can direct further studies and interventions;

(C) New assessment tools should include objective markers of disease as well as subjective opinions of individual health status and barriers to health;

(D) Objective and subjective data should be linked at individual and disease-specific levels;

(E) Disease-specific data may be used to address common barriers to health as perceived by a specific population and tailor interventions to these specific populations;

(F) The effectiveness of interventions should be assessed using the same health status markers used to develop the intervention;

(G) Interventions should use available technology that allows individuals to track measures of health and provide assistance in making informed decisions about their health;

(H) Assessments and interventions should be developed and implemented using community-based participatory research models; and

(I) Assessments and interventions should be multidisciplinary, collaborative efforts with existing organizations and programs; and

(3) Area institutions of higher education, such as Concord University and the June Harless Center at Marshall University, are authorized to work with the county board on innovative strategies to address challenges facing the school system and community, including, but not limited to, the areas of critical need and shortage in the teaching force, educator professional development and improving the college-going rate. In addressing the areas of critical need shortage in the teaching force, consideration should be given to the implementation of an intensively supervised and mentored teacher-in-residence program for prospective teachers during their senior year in lieu of student teaching.