WEST VIRGINIA CODE CHAPTER 18 ARTICLE 5E

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§18-5E-1. Purpose.

The purpose of this act is to encourage and incentivize public schools to improve overall student outcomes through the implementation of key innovational priorities for improving education in the following areas:

(1) Science, technology, engineering and math (STEM);

(2) Community school partnership;

(3) Entrepreneurship;

(4) Career pathways; and

(5) The arts.

This act provides a mechanism for public schools designated by the state board as Innovation in Education schools to redesign their curriculum, instructional delivery and instructional strategies, to enhance student engagement, to develop meaningful community partnerships and to operate under greater flexibility to increase student achievement.

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§18-5E-2. Innovation in Education school defined.

(a) An Innovation in Education school is a public school in this state that applies to and is designated by the state board in accordance with this article as an Innovation in Education School with a principal focus in one of the following areas:

(1) Science, technology, engineering and math (STEM);

(2) Community school partnership;

(3) Entrepreneurship;

(4) Career pathways; and

(5) The arts.

(b) Nothing in this article prohibits an Innovation in Education school from incorporating more than one of the attributes of STEM education, community school partnerships, entrepreneurship, career pathways or the arts into its program design, notwithstanding the primary designation under which it applies or is subsequently designated.

(c) An Innovation in Education school:

(1) Shall provide a program of public education that includes one or more of the grade levels prekindergarten to grade twelve, including any associated post-secondary dual credit, advanced placement and industry or workforce credential programs;

(2) Shall design its educational program to meet or exceed the student performance standards required under section five, article two-e of this chapter and is subject to all student assessment, accreditation and federal accountability requirements applicable to other public schools in this state. However, nothing shall prohibit an Innovation in Education school from establishing additional student assessment measures or implementing competency-based course completion strategies that go beyond state requirements;

(3) Shall operate according to an Innovation in Education plan developed by the school's principal and faculty with input from its local school improvement council, the county board, the county superintendent and, if the school is a high school, the students of the school;

(4) Shall, if designated by the state board as an Innovation in Education Demonstration School, host visits and tours of its facility and programs to provide information and an opportunity to observe any successful innovations which may be replicated in other schools. The school may require the payment of a fee to off-set the cost of hosting such visits and tours; and

(5) May solicit and accept gifts, donations or grants for school purposes from public or private sources in any manner that is available to a local school district and expend or use

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such gifts, donations or grants in accordance with the conditions prescribed by the donor except that a gift, donation or grant may not be accepted if subject to a condition that is contrary to any provision of law or term of the school's Innovation in Education plan. Any monies received by an Innovation in Education school from any source remaining in the school's accounts at the end of a fiscal year shall remain in its accounts for use during subsequent fiscal years.

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§18-5E-3. Application for Innovation in Education school designation; application review and approval; state board rule.

(a) The state board may designate a school as a STEM, community school partnership, entrepreneurship, career pathways or the arts Innovation in Education school in accordance with this article and shall promulgate a rule, including an emergency rule if necessary, in accordance with article three-b, chapter twenty-nine-a of this code to implement the provisions of this article. The rule shall include at least the following:

(1) A process for a school to apply for designation as an Innovation in Education school in STEM, community school partnership, entrepreneurship, career pathways or the arts;

(2) Clear and concise application evaluation factors in rubric form, including standards for the state board to review and make a determination of whether to designate an applicant as an Innovation in Education school;

(3) The manner, time and process for application submission;

(4) The form and necessary contents of the application, including but not limited to, the following:

(A) The proposed mission and vision of the school as it pertains to becoming an Innovation in Education school, including identification of the designation it seeks to obtain as a primary focus on which may include: (i) Science, technology, engineering and math (STEM); (ii) community school partnership; (iii) entrepreneurship; (iv) career pathways; or (v) the arts;

(B) An executive summary;

(C) The school's proposed academic program, including a description of the school's instructional design, learning environment, class structure, curriculum overview, teaching methods, research basis and other elements required in the school's Innovation in Education plan pursuant to section four of this article;

(D) A clear articulation of the areas of autonomy and flexibility in curriculum, budget, school schedule and calendar, professional development, and staffing policies and procedures which would require a waiver of policy or code; and

(E) The school's Innovation in Education plan; and

(7) Following the initial evaluation of Innovation in Education schools as provided in section six of this article, the process by which the state board will periodically review the performance and student success of Innovation in Education schools, reaffirm or reconsider the designation of a school, and identify exemplary schools to serve as demonstration sites.

(b) The state board may provide for the West Virginia Department of Education to independently assess applicants based on the evaluation factors rubric and provide the state

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board with this assessment. The state board shall consider the evaluation factors in rubric form in making any Innovation in Education school designation determination. In making a designation determination, the state board shall:

(1) Grant a designation only to applicants who have demonstrated competence in each element of the evaluation factors and who have demonstrated their capacity to operate an Innovation in Education school that will increase student achievement;

(2) Base determinations on documented evidence collected through the application review process;

(3) If appropriate, include in a designation determination reasonable conditions that the applicant must meet before commencing operation under the designation, including resubmission of the application;

(4) Decline weak or inadequate applications and clearly state its reasons for denial;

(5) Make and announce all designations of Innovation in Education schools in a meeting open to the public and clearly state in a resolution the reasons for the decisions. A copy of the resolution shall be submitted to Legislative Oversight Commission on Education Accountability; and

(6) Convey its determination on an application in writing to the applicant.

(c) An Innovation in Education school may not commence or continue operations without a signed operational agreement as provided in section five of this article between the county board and the school principal.

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§18-5E-4. Innovation in Education Plan; required contents; measurable annual performance goals; uses.

The Innovation in Education Plan for a STEM, community school partnership, entrepreneurship, career pathways or the arts Innovation in Education school shall include each of the following:

(1) A description of how the school will address the overall climate and culture of the school as a high performing learning environment in which every child may succeed to the best of his or her ability, including but not limited to measurable annual goals to:

(A) Increase overall student achievement;

(B) Address dropout prevention; and

(C) Transform school culture;

(2) A curriculum plan that includes a detailed description of the curriculum and related programs for the proposed school and how the curriculum is expected to improve school performance and student achievement;

(3) Measurable annual performance goals to assess the school's performance and student success across multiple measures and that will serve as the basis evaluating the Innovation in Education school, including but not limited to, goals relating to the following:

(A) Student attendance;

(B) Student safety and discipline;

(C) Student promotion and graduation and dropout rates;

(D) Student performance on the state-wide summative assessment and other assessment required by the state board;

(E) Progress in areas of academic underperformance;

(F) Progress among subgroups of students, including, but not limited to, low-income students and students receiving special education;

(G) With respect to high school, postsecondary readiness, including the percentage of graduates submitting applications to postsecondary institutions, and postsecondary enrollment or employment; and

(H) Parent and community engagement; and

(4) A budget plan that includes a detailed description of how funds will be used in the proposed school to support school performance and student achievement that is or may be

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different than how funds are used in other public schools in the district;

(5) A school schedule plan that includes a detailed description of the ways the program or calendar of the proposed school may be enhanced or expanded;

(6) A staffing plan and professional development plan that includes a detailed description of how the school may provide professional development to its administrators, teachers and other staff;

(7) A policies and procedures plan that includes:

(A) A detailed description of the unique operational policies and procedures to be used by the school seeking designation and how the procedures will support school performance and student achievement; and

(B) Any exemptions to rule, policy or statute the school is seeking: Provided, That a school may not request an exemption nor may an exemption be granted from any assessment program required by the state board or any provision of law or policy required by the Every Student Succeeds Act of 2015 or other federal law;

(8) The school's plan, if any, for using additional internal and external metrics of the performance agreed to by the school and the county board to measure the school's performance and student success;

(9) Opportunities and expectations for parent involvement; and

(8) Any other information the state board requires.

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§18-5E-5. Operational agreement between Innovation in Education school and county board.

An Innovation in Education school designated by the state board may not commence or continue operations without a signed operational agreement between the county board and the school principal which sets forth at least the following:

(1) Any conditions which must be met before the Innovation in Education school may begin full operations. If necessary, the full implementation of an Innovation in Education school may be postponed for up to one school year following its initial designation to enable all conditions necessary for full operation to be met;

(2) Any material term of the school's Innovation in Education Plan concerning curriculum, budget, school schedule, calendar, staffing, professional development and policies and procedures to be adhered to by both the county board and the school;

(3) An agreed-upon process for amending or refining the school's Innovation in Education Plan to improve the school's performance and student success, including but not limited to, the request for additional waivers of rules, policies, interpretations and statutes through the local school improvement council process;

(4) The annual performance targets set by the county board and the school to assess and evaluate the school's progress in achieving its annual measureable goals as set forth in its Innovation in Education Plan, including any additional internal and external metrics of performance agreed to by the school and the county board to measure the school's performance and student success. The annual performance targets may be refined or amended by mutual agreement of the county board and the school after the school has been fully operational for one year and has collected baseline performance data;

(5) The process and criteria that the county board will use to annually monitor and evaluate the overall performance and student success of the school, including a process to conduct annual site visits;

(6) Any information needed by the county board from the school for the purposes of accountability and reporting by the school on the implementation of its mission as an Innovation in Education school;

(7) The process the county board will use to notify the school of any deficiencies and the process by which the school may submit an improvement plan; and

(8) In the event that an Innovation in Education school's performance appears unsatisfactory, specific provisions addressing the parameters under which the county board may promptly notify the school in writing of perceived problems and provide reasonable opportunity for the school to remedy the problems, or if not remedied, may intervene or recommend to the state board that it place the school's designation on probationary status,

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require a remedial action plan and potentially revoke the designation. At a minimum, these parameters shall include the circumstances of poor fiscal management and a lack of academic progress.

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§18-5E-6. Evaluation of Innovation in Education designated schools.

(a) During its third full year of operation the county superintendent shall issue a performance report on the Innovation in Education school. The performance report shall summarize the school's performance record to date based on the data collected under school's Innovation in Education Plan and operational agreement and shall provide notice of any weaknesses or concerns perceived by the superintendent concerning the school that may jeopardize its designation if not timely rectified. The school and the superintendent shall mutually agree to a reasonable time period for the school to respond to the performance report and submit any corrections to the report.

(b) After its fourth full year of operation, and periodically thereafter as may be provided by the state board, the Innovation in Education school shall be evaluated by the county superintendent. The county superintendent shall submit the evaluation to the county board and the state board. The evaluation shall determine whether the school has met the annual goals outlined in its Innovation in Education Plan and operational agreement and assess the implementation of the Innovation in Education plan at the school.

(c) The county superintendent may recommend to the county board and state board in the evaluation:

(1) To amend or suspend one or more components of the Innovation in Education Plan and operational agreement if the county superintendent determines an amendment or suspension is necessary to improve the performance and student success of the school;

(2) To amend or suspend one or more components of the Innovation in Education Plan and operational agreement if the county superintendent determines an amendment or suspension is necessary because of subsequent changes in the district that affect one or more components of such Innovation in Education Plan;

(3) To support continued operation of the Innovation in Education school in accordance with its Innovation in Education Plan and operational agreement; or

(4) To recommend to the state board that the school be designated as an Innovation in Education demonstration school based on its exemplary performance and student success.

(d) Based on the county superintendent's evaluation and a data analysis conducted by the West Virginia Department of Education the state board may:

(1) Amend or recommend an amendment to one or more components of the school's Innovation in Education Plan and operational agreement;

(2) Suspend one or more components of the school's Innovation in Education Plan and operational agreement;

(3) Affirm continuation of the Innovation in Education school under its current Innovation in

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Education Plan and operational agreement; or

(4) If it is determined that the school has substantially failed to meet the goals outlined in its Innovation in Education Plan and operational agreement, terminate the Innovation in Education designation of the school.

(e) An amendment, suspension or termination may not take place before the completion of the school year.

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§18-5E-7. Innovation in education fund.

There is hereby created in the State Treasury a special revenue fund to be known as the "Innovation in Education Fund." The fund shall consist of all moneys received from whatever source to further the purpose of this article. The fund shall be administered by the state board solely for the purposes of this article, including providing grants and other financial assistance to innovation in education designated schools to implement and carry out such schools innovation in education plans. Any moneys remaining in the fund at the close of a fiscal year shall be carried forward for use in the next fiscal year. Fund balances shall be invested with the state's consolidated investment fund and any and all interest earnings on these investments shall be used solely for the purposes that moneys deposited in the fund may be used pursuant to this article.

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§18-5E-8. Innovation in Education/Mastery-Based schools; legislative findings, purpose and intent; definitions; applicability of other provisions; state board duties for implementation; student credentials upon transfer and matriculation.

(a) The Legislature finds that when instruction is delivered to a class of students at a uniform pace, some students accumulate knowledge and skill deficits as they progress through the curriculum which, particularly in the STEM areas, limit their ability to be successful at higher levels. This traditional time-based system of education pushes students forward at the end of the allotted time period even if they have not mastered the content fully. For too many students, these accumulated deficits result in required remediation prior to undertaking collegiate level coursework or at least some gaps in the preparation of recent high school graduates for the demands of the workplace. Concurrently, this time-based system limits the educational progress of students who do master the content more quickly by not permitting them to move on to more challenging material, elective subjects, or dual credit and advanced placement courses that they have already demonstrated their readiness to undertake.

The Legislature finds further that new approaches to educational delivery that simultaneously address these challenges are being implemented in some innovative schools and school systems. These approaches use an instructional delivery model where students progress as they master the content, rather than when they receive at least the minimum passing grade at the end of a set time period. These approaches, typically referred to as mastery-based, proficiency-based or competency-based education, empower students who demonstrate content mastery to progress more quickly to higher levels and, consequently, allow additional attention to be given to meeting the needs of those who have not yet mastered the content. Because the shift to such models often requires fundamental changes in scheduling, assessment, grading, the award of credits and diplomas and other aspects of traditional schooling, implementation requires an intentional approach that engages multiple stakeholders in developing and executing a long-term plan. The statutes and policies designed to regulate the traditional time-based system may also create real or perceived barriers to a mastery-based approach. For these reasons, several states have established pilot programs specific to implementing these new approaches that provide developmental assistance, additional support and regulatory waivers when necessary for the pilot schools to make the transition.

(b) The purpose of this section is to create a separate category under this act, entitled Innovation in Education/Mastery-Based, for schools interested in undertaking the transition to mastery-based education. It is the intent of this section to establish a multistep process that assists these schools to develop a broader awareness and understanding of mastery-based education prior to application, assess the capacity and readiness of schools to proceed, allow several options for implementation or for opting-out of the application process, and create an network incubator process for continuing the support of schools designated as Innovation in Education/Mastery-Based schools following full application and grant award.

(c) For purposes of this section:

"Incubator process" means a process where schools that are willing and ready to begin implementing a mastery-based model of education form a network of not more than 20 mastery-based education schools. The schools in this network will receive support for, including, but not limited to, program development, professional development, stakeholder education, establishing mastery assessment, coaching and on-going technical assistance. The incubator process will enable schools within the network to share information on their progress and setbacks, collaborate on innovative approaches, and provide data on student progress and best practices for the continued implementation of mastery-based education.

"Mastery-based education" means an education system designed to improve educational outcomes by advancing student mastery of content knowledge and skills through the following core principles:

(A) Student advancement upon mastery of a concept or skill;

(B) Competencies that include explicit, measurable, and transferable learning objectives that empower a student;

(C) Assessment that is meaningful and provides a positive learning experience for a student;

(D) Timely, differentiated support based on a student's individual learning needs;

(E) Learning outcomes that emphasize competencies that include application and creation of knowledge along with the development of important skills and dispositions;

(F) Incorporating partnerships with post-secondary institutions and members of industry; and

(d) Other provisions of this article related to schools designated as Innovation in Education schools also apply to Innovation in Education/Mastery-Based schools unless otherwise specifically provided by this section, including, but not limited to, the following:

(1) Innovation in Education/Mastery-Based schools are not limited to the implementation of key innovational priorities in the five areas, i.e., STEM, community school partnership, entrepreneurship, career pathways, and the arts, listed in §18-5E-1 of this code. References in this article to these areas relative to Innovation in Education application, designation, plan and evaluation for the purposes of this section means Innovation in Education/Mastery-Based and are applicable to Innovation in Education/Mastery-Based schools except as otherwise provided in this section: Provided, That nothing in this subdivision prohibits an Innovation in Education/Mastery-Based school from including an emphasis in one or more of the five listed areas in their mastery-based plan, nor prohibits a school previously designated as an Innovation in Education school from transitioning to mastery-based education under this section;

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(2) The application, application review and state board rule pursuant to §18-5E-3 of this code for implementing Innovation in Education schools shall be modified to accommodate the multistep process for Innovation in Education/Mastery-Based schools consistent with the provisions of this section; and

(3) Legislative appropriations made for Innovation in Education/Mastery-Based schools shall be deposited in the Innovation in Education Fund created in §18-5E-7 of this code and may be used solely for the purposes of Innovation in Education/Mastery-Based schools consistent with this section.

(e) The state board shall perform the following activities for implementing the Innovation in Schools/Mastery-Based program:

(1) Establish an advisory committee including, but not limited to, public school professional educators, representatives of community and technical colleges, colleges and universities, employers and organizations advocating for education on behalf of employers, parents and Department of Education staff and others who may possess knowledge of mastery-based education. The advisory committee shall advise and assist the state board in carrying out the activities under this section, including, but not limited to, building a broader awareness and understanding of mastery-based models of education, identifying potential roadblocks and potential solutions to implementing mastery-based models of education, recognizing student mastery upon matriculation or transfer, establishing evaluative criteria to assess the readiness of schools to undertake the transition to mastery-based education, reviewing applications of schools interested in implementing mastery-based education and making recommendations to the state board and developing an incubator process for supporting the network of schools willing and ready to begin the transition to a mastery-based education model;

(2) Promote a broader awareness and understanding in mastery-based education among teachers, administrators, parents, students, business leaders and policymakers;

(3) Develop and publish an application designed specifically for schools interested in initial consideration for becoming an Innovation in Education/Mastery-Based school. The application for initial consideration is separate from the application for Innovation in Education designation pursuant to §18-5E-3 of this code and may not require an Innovation in Education plan pursuant to §18-5E-4 of this code. In addition, the application process shall:

(A) Include the evaluative criteria that will be used to assess the readiness of schools to undertake the transition to mastery-based education. Within the evaluative criteria, the state board may include an intent to select any proportion of schools of diverse demographic character and programmatic levels for participation in the initial network of mastery-based education schools; and

(B) Be open to all schools including those currently designated as Innovation in Education

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schools who are interested in adding mastery-based education to their existing plan;

(4) Establish a process, which may include an on-site visit to schools which apply for initial consideration for becoming an Innovation in Education/Mastery-Based school to assess the readiness of applicants to undertake the transition to mastery-based education. This process shall be used to assist in identifying and recommending to the state board an initial network of not more than 20 schools who are ready to undertake the transition to mastery-based education.

(5) Establish a process to deepen the understanding of mastery-based education of the schools selected for the initial network of schools. The process may include, but is not limited to, visits to schools that have implemented an education system that incorporates the core principals of mastery-based education as defined in this section.

(6) For schools selected for the initial network who elect to proceed with the implementation of a mastery-based model of education, provide technical assistance to prepare an Innovation in Education/Mastery-Based plan and operational agreement with their county board as provided in §18-5E-4 and §18-5E-5 of this code. Schools in the initial network may:

(A) Opt-out of further participation prior to submission of an Innovation in Education/Mastery-Based plan and agreement;

(B) Apply for an Innovation in Education/Mastery-Based grant for the transition to a mastery-based education model within a limited subject area or areas across multiple grade levels, such as, but not limited to, mathematics or STEM related academic and technical programs of study; or

(C) Apply for an Innovation in Education/Mastery-Based grant for the transition to a school-wide mastery-based education model or other configurations as may be determined practicable by the state board.

(7) In addition to any applicable measures of success required for an Innovation in Education plan pursuant to §18-5E-4 of this code, an Innovation in Education/Mastery-Based plan shall include a subset of uniform measures of success in improving education outcomes by advancing student mastery of the content knowledge and skills.

(8) Implement an incubator process to support the network of schools that are awarded Innovation in Education/Mastery-Based education grants pursuant to this article.

(f) In addition to any grant or other financial assistance awarded to a school designated as an Innovation in Education/Mastery-Based school in accordance with this section, the school shall participate in the incubator process established under this section.

(g) A student enrolled at a school that establishes mastery-based education who then transfers to another school within the county or in any other county in this state that does not have a mastery-based education program, may not be penalized by being required to

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repeat course work covering content that the student has successfully mastered or by any other penalty related to the student's previous attendance in the mastery-based education program.

(h) An institution of higher education in this state shall recognize and accept credentials and diplomas awarded to students indicating a level of content mastery gained, in whole or in part, through mastery-based education on equal footing as a traditional high school transcript and diploma.

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