WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1978

ENROLLED
Committee Substitute for
SENATE BILL NO. 390

(By Mr. Nelson)

PASSED March 11, 1978
In Effect ninety days from Passage
AN ACT to amend and reenact sections one, four, five and six, article twenty, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to education of exceptional children; clarifying the responsibility of the state board of education and state superintendent of schools; prohibiting exclusion of educationally handicapped children from school; and expanding the composition of and duties of the advisory council for education of exceptional children.

Be it enacted by the Legislature of West Virginia:

That sections one, four, five and six, article twenty, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, to read as follows:

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-1. Establishment of special programs and teaching services for exceptional children.

1 In accordance with the following provisions, county boards of education throughout the state shall establish and maintain for all exceptional children between five and twenty-three years of age special educational programs, including but not limited to special schools, classes, regular classroom programs, home-teaching or visiting-teacher services for such type or classification as the state board of education shall approve. Provisions shall be made for educating such exceptional children (including the handicapped and the gifted) who differ from
the average or normal in physical, mental or emotional
characteristics, or in communicative or intellectual devia-
tion characteristics, or in both communicative and in-
tellectual deviation characteristics, to the extent that
they cannot be educated safely or profitably in the regular
classes of the public schools or to the extent that they
need special educational provisions within the regular
classroom in order to educate them in accordance with
their capacities, limitations and needs. In addition,
county boards of education may establish and
maintain other educational services for exceptional
children as the state superintendent of schools may
approve.
By the school year beginning on the first day of July,
one thousand nine hundred seventy-four, county boards
of education shall establish and maintain these special
educational programs, including but not limited to special
schools, classes, regular class programs, home-teaching
and visiting-teacher services. The state board of educa-
tion shall adopt rules and regulations to advance and
accomplish this program and to assure that all excep-
tional children in the state, including children in mental
health facilities, residential institutions, and private
schools will receive an education in accordance with the
mandates of state and federal laws.
Nothing in this section shall be construed to prevent
county boards of education from providing special edu-
cational programs, including but not limited to special
schools, classes, regular class programs, home-teaching
or visiting-teacher services for such exceptional children
who are three years of age or older.
§18-20-4. Examination and report by medical or other special-
ists.
Each child prior to enrolling in a special education
program shall be examined by an appropriate medical
specialist, psychologist, or educational specialist (reading
specialist, speech and language clinician, or other spe-
cialists as required by the state board of education for
specific areas of exceptionality) who shall report to the
county superintendent of schools. The specialists' report
shall carry recommendation for eligibility and placement
in regular school or in the special education facility,
indicate the nature and extent of disability, and advise
with reference to treatment and prosthesis for alleviating
the child's disability.
No educationally exceptional child shall be excluded
from attending public or other suitable schools.

§18-20-5. Powers and duties of state superintendent.
The state superintendent of schools shall have power
to organize, promote and administer this program under
his present organization and be responsible for:
(1) Stimulating and assisting county boards of edu-
cation in establishing, organizing and maintaining special
schools, classes, regular class programs, home-teaching
and visiting-teacher services.
(2) Cooperating with all other public and private
agencies engaged in relieving, caring for, curing, edu-
cating and rehabilitating exceptional children, and in
helping coordinate the services of such agencies.
(3) Preparing the necessary rules, regulations, formula
for distribution of available appropriated funds, report-
ing forms and procedures necessary to define minimum
standards in providing suitable facilities for education of
exceptional children, ensuring the employment, certifi-
cation and approval of qualified teachers and therapists
subject to approval by the state board of education.
(4) Receiving from county boards of education their
applications, annual reports, and claims for reimburse-
ment from such moneys as are appropriated by the
Legislature, auditing such claims and preparing vouchers
to reimburse said counties the amounts reimbursable
to them.
(5) Assuring that all exceptional children in the state,
including children in mental health facilities, residential
institutions and private schools, receive an education in
accordance with state and federal laws.
(6) Performing such other duties and assuming such
other responsibilities in connection with this program as
may be needed.
(7) Nothing herein contained shall be construed to
prevent any county board of education from establish-
§18-20-6. Advisory council for the education of exceptional children.

1. There shall be an advisory council for the education of exceptional children which shall advise and consult with the state board of education on matters pertinent thereto. The advisory council shall be composed of twelve members appointed by the state superintendent of free schools, four of which shall be parents of exceptional children utilizing or eligible for the services of the special educational programs established hereunder. Other members of the advisory council shall include at least one handicapped individual, teacher of exceptional children, state education official, local education official, and an administrator of programs for exceptional children. No more than two officers and employees of the state may be eligible for appointment to the advisory council. Members shall be appointed for terms of three years except for initial terms which may be for one, two or three years. Each year the terms of office of one third of the advisory council shall expire. The members of the advisory council shall be citizens and residents of this state, who by reason of their training, education or experience are qualified to carry out the functions of the advisory council under this article.

2. The first term of office for the newly appointed members shall begin the thirtieth day of June, one thousand nine hundred seventy-eight. At its first meeting, to be held the second Wednesday in July, one thousand nine hundred seventy-eight, the advisory council shall elect a chairman from among its members, who shall preside over its meetings until the second Wednesday in July of the next year. Thereafter, the advisory council shall elect a chairman on the second Wednesday in May of each year. All members shall be eligible for reappointment. A member shall, unless sooner removed, continue to serve until his term expires and his successor has been appointed and has qualified. A vacancy caused by the death,
resignation or removal of a member prior to the expiration of his term shall be filled only for the remainder of such term.

For the purpose of carrying out its functions under this article, six members of the advisory council shall constitute a quorum. The advisory council shall meet at least four times each year at least two of which shall be held at a building in the state capitol complex and at a time designated by the chairman. Additional meetings may be held when called by the chairman or when requested by six members of the advisory council.

The time and place of all meetings and agenda items must be publicly announced and available to the public upon request at least ten days prior to the meeting, and meetings must be open to the public. Official minutes must be kept of all council meetings and shall be made available to the public upon request.

Members of the council shall not receive any compensation for their services on the council, but shall be reimbursed any actual expenses incurred by them in carrying out their duties from funds appropriated to the department of education.

The council shall:
(a) Consult with the state board of education concerning and comment publicly upon any rules and regulations formulated by such board regarding the education of handicapped children;
(b) Consult with and advise the state board and superintendent and the Legislature concerning any problems presented to the council including unmet needs within the state in the education of handicapped children;
(c) Hold public meetings at such times and places as the advisory council deems appropriate;
(d) Periodically review and comment publicly upon the state plan for special programs and make any recommendations it may have concerning changes it may deem proper. By the first day of July of each year, the advisory council shall submit an annual report of its activities and suggestions to the state board of education and the superintendent, and shall make such report available to the public.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

James L. Davis
Chairman Senate Committee

Claude L. Chestnut Jr.
Chairman House Committee

Originated in the Senate.

To take effect ninety days from passage.

J. C. Lilly, Jr.
Clerk of the Senate

W. H. Bleicken, Jr.
Clerk of the House of Delegates

W. T. Keathley, Jr.
President of the Senate

Donald L. Zopp
Speaker House of Delegates

The within is approved this the 30th day of May, 1978.

John F.发放
Governor