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# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



## ENROLLED

SENATE BILL NO. 237

(By Senator JACKSON, ET AL)



PASSED MARCH 2, 1995

In Effect from Passage

**ENROLLED**

**Senate Bill No. 237**

(BY SENATORS JACKSON, MILLER, BLATNIK, GRUBB,  
SCHOONOVER, OLIVERIO, PLYMALE AND HELMICK)

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[Passed March 2, 1995; in effect from passage.]

AN ACT to amend and reenact section five, article five-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact sections one-c, three and five, article twenty of said chapter, all relating to extending the deadlines for plans for inclusion; and the requirements as to the assistance, training and information to be provided to the affected classroom teacher.

*Be it enacted by the Legislature of West Virginia:*

That section five, article five-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as

amended, be amended and reenacted; and that sections one-c, three and five, article twenty of said chapter be amended and reenacted, all to read as follows:

**ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

**§18-5A-5. Public school faculty senates established; election of officers; powers and duties.**

1 (a) There is established at every public school in this  
2 state a faculty senate which shall be comprised of all  
3 permanent, full-time professional educators employed at  
4 the school who shall all be voting members. Professional  
5 educators as used in this section means professional  
6 educators as defined in chapter eighteen-a of this code.  
7 A quorum of more than one half of the voting members  
8 of the faculty shall be present at any meeting of the  
9 faculty senate at which official business is conducted.  
10 Prior to the beginning of the instructional term each  
11 year, but within the employment term, the principal  
12 shall convene a meeting of the faculty senate to elect a  
13 chair, vice chair and secretary and discuss matters  
14 relevant to the beginning of the school year. The vice  
15 chair shall preside at meetings when the chair is absent.  
16 Meetings of the faculty senate shall be held on a regular  
17 basis as determined by a schedule approved by the  
18 faculty senate and amended from time to time if needed.  
19 Emergency meetings may be held at the call of the chair  
20 or a majority of the voting members by petition submit-  
21 ted to the chair and vice chair. An agenda of matters to  
22 be considered at a scheduled meeting of the faculty  
23 senate shall be available to the members at least two  
24 employment days prior to the meeting, and in the case of  
25 emergency meetings, as soon as possible prior to the  
26 meeting. The chair of the faculty senate may appoint  
27 such committees as may be desirable to study and submit  
28 recommendations to the full faculty senate, but the acts  
29 of the faculty senate shall be voted upon by the full body.

30 (b) In addition to any other powers and duties con-  
31 ferred by law, or authorized by policies adopted by the  
32 state or county board of education or bylaws which may

33 be adopted by the faculty senate not inconsistent with  
34 law, the powers and duties listed in this subsection are  
35 specifically reserved for the faculty senate. The intent of  
36 these provisions is neither to restrict nor to require the  
37 activities of every faculty senate to the enumerated items  
38 except as otherwise stated. Each faculty senate shall  
39 organize its activities as it deems most effective and  
40 efficient based on school size, departmental structure  
41 and other relevant factors.

42 (1) Each faculty senate shall control funds allocated to  
43 the school from legislative appropriations pursuant to  
44 section nine, article nine-a of this chapter. From such  
45 funds, each classroom teacher and librarian shall be  
46 allotted fifty dollars for expenditure during the instruc-  
47 tional year for academic materials, supplies or equip-  
48 ment which in the judgment of the teacher or librarian  
49 will assist him or her in providing instruction in his or  
50 her assigned academic subjects, or shall be returned to  
51 the faculty senate: *Provided*, That nothing contained  
52 herein shall prohibit such funds from being used for  
53 programs and materials that, in the opinion of the  
54 teacher, enhance student behavior, increase academic  
55 achievement, improve self-esteem and address the  
56 problems of students at-risk. The remainder of funds  
57 shall be expended for academic materials, supplies or  
58 equipment in accordance with a budget approved by the  
59 faculty senate. Notwithstanding any other provisions of  
60 the law to the contrary, funds not expended in one school  
61 year shall be available for expenditure in the next school  
62 year: *Provided, however*, That the amount of county  
63 funds budgeted in a fiscal year, shall not be reduced  
64 throughout the year as a result of the faculty appropria-  
65 tions in the same fiscal year for such materials, supplies  
66 and equipment. Accounts shall be maintained of the  
67 allocations and expenditures of such funds for the  
68 purpose of financial audit. Academic materials, supplies  
69 or equipment shall be interpreted broadly, but shall not  
70 include materials, supplies or equipment which will be  
71 used in or connected with interscholastic athletic events.

72 (2) A faculty senate may establish a process for faculty  
73 members to interview new prospective professional  
74 educators and paraprofessional employees at the school  
75 and submit recommendations regarding employment to  
76 the principal, who may also make independent recom-  
77 mendations, for submission to the county superintendent:  
78 *Provided*, That such process must permit the timely  
79 employment of persons to perform necessary duties.

80 (3) A faculty senate may nominate teachers for recogni-  
81 tion as outstanding teachers under state and local  
82 teacher recognition programs and other personnel at the  
83 school, including parents, for recognition under other  
84 appropriate recognition programs and may establish  
85 such programs for operation at the school.

86 (4) A faculty senate may submit recommendations to  
87 the principal regarding the assignment scheduling of  
88 secretaries, clerks, aides and paraprofessionals at the  
89 school.

90 (5) A faculty senate may submit recommendations to  
91 the principal regarding establishment of the master  
92 curriculum schedule for the next ensuing school year.

93 (6) A faculty senate may establish a process for the  
94 review and comment on sabbatical leave requests  
95 submitted by employees at the school pursuant to section  
96 eleven, article two of this chapter.

97 (7) Each faculty senate shall elect three faculty repre-  
98 sentatives to the local school improvement council  
99 established pursuant to section two of this article.

100 (8) Each faculty senate may nominate a member for  
101 election to the county staff development council pur-  
102 suant to section eight, article three, chapter eighteen-a  
103 of this code.

104 (9) Each faculty senate shall have an opportunity to  
105 make recommendations on the selection of faculty to  
106 serve as mentors for beginning teachers under beginning  
107 teacher internship programs at the school.

108 (10) A faculty senate may solicit, accept and expend  
109 any grants, gifts, bequests, donations and any other  
110 funds made available to the faculty senate: *Provided*,  
111 That the faculty senate shall select a member who shall  
112 have the duty of maintaining a record of all funds  
113 received and expended by the faculty senate, which  
114 record shall be kept in the school office and shall be  
115 subject to normal auditing procedures.

116 (11) On or after the first day of January, one thousand  
117 nine hundred ninety-two, any faculty senate may review  
118 the evaluation procedure as conducted in their school to  
119 ascertain whether such evaluations were conducted in  
120 accordance with the written system required pursuant to  
121 section twelve, article two, chapter eighteen-a of this  
122 code and the general intent of this Legislature regarding  
123 meaningful performance evaluations of school personnel.  
124 If a majority of members of the faculty senate determine  
125 that such evaluations were not so conducted, they shall  
126 submit a report in writing to the state board of educa-  
127 tion: *Provided*, That nothing herein shall create any new  
128 right of access to or review of any individual's evalua-  
129 tions.

130 (12) Each faculty senate shall be provided by its local  
131 board of education at least a two-hour per month block  
132 of noninstructional time within the school day: *Pro-*  
133 *vided*, That any such designated day shall constitute a  
134 full instructional day. This time may be utilized and  
135 determined at the local school level and shall include,  
136 but not be limited to, faculty senate meetings.

137 (13) Each faculty senate shall develop a strategic plan  
138 to manage the integration of special needs students into  
139 the regular classroom at their respective schools and  
140 submit said strategic plan to the superintendent of the  
141 county board of education by the thirtieth day of June,  
142 one thousand nine hundred ninety-five, and periodically  
143 thereafter pursuant to guidelines developed by the state  
144 department of education. Each faculty senate shall  
145 encourage the participation of local school improvement

146 councils, parents and the community at large in the  
147 development of the strategic plan for each school.

148 Each strategic plan developed by the faculty senate  
149 shall include at least: (A) A mission statement; (B) goals;  
150 (C) needs; (D) objectives and activities to implement  
151 plans relating to each goal; (E) work in progress to  
152 implement the strategic plan; (F) guidelines for the  
153 placement of additional staff into integrated classrooms  
154 to meet the needs of exceptional needs students without  
155 diminishing the services rendered to the other students  
156 in integrated classrooms; (G) guidelines for implement-  
157 ation of collaborative planning and instruction; and (H)  
158 training for all regular classroom teachers who serve  
159 students with exceptional needs in integrated class-  
160 rooms.

**ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.**

**§18-20-1c. Integrated classrooms serving students with  
exceptional needs; and requirements as to the  
assistance, training and information to be  
provided to the affected classroom teacher.**

1 The regular classroom teacher shall be entitled to the  
2 following when placing a student with exceptional needs  
3 into an integrated classroom when the student's indi-  
4 vidualized education program requires an adjustment in  
5 either the curriculum, instruction or service to be  
6 provided by the regular classroom teacher:

7 (1) Training provided pursuant to the integrated  
8 classroom program and additional individualized  
9 training, pursuant to the rules developed by the state  
10 board of education, if requested by the regular classroom  
11 teacher to prepare the teacher to meet the exceptional  
12 needs of individual students. Whenever possible, such  
13 training shall be provided prior to such placement.  
14 Where prior training is not possible, such training shall  
15 be commenced no later than ten days following the  
16 placement of said student into the regular classroom.  
17 Unavoidable delays in the provision of training shall not  
18 result in the exclusion of a special needs student from

19 any class in the event said training cannot be provided in  
20 said ten days;

21 (2) A signed copy of the individualized education  
22 program for the special education student prior to the  
23 placement of the student into the regular classroom. The  
24 receiving and referring teachers shall participate in the  
25 development of that student's individualized education  
26 program and shall also sign the individualized education  
27 program as developed. In all cases the teacher shall  
28 receive a copy of the individualized education program  
29 for the special education student prior to or at the time  
30 of the placement of the student into the regular class-  
31 room. Any teacher disagreeing with the individualized  
32 education program committee's recommendation shall  
33 file a written explanation outlining his or her disagree-  
34 ment or recommendation;

35 (3) Participation by referring teachers in all eligibility  
36 committees and participation by referring and receiving  
37 teachers in all individualized education program com-  
38 mittees which involve possible placement of an excep-  
39 tional student in an integrated classroom;

40 (4) Opportunity to reconvene the committee respon-  
41 sible for the individualized education program of the  
42 student with special needs assigned to the regular  
43 classroom teacher. The meeting shall include all persons  
44 involved in a student's individualized education program  
45 and shall be held within twenty-one days of the time the  
46 request is made;

47 (5) Assistance from persons trained or certified to deal  
48 with a student's exceptional needs whenever such  
49 assistance is part of the student's individualized educa-  
50 tion program as necessary to promote accomplishment of  
51 the program's goals and objectives: *Provided*, That aides  
52 in the area of special education cannot be reassigned to  
53 more than one school without the employee's consent.

### **§18-20-3. County reports.**

1 Each county shall, after having received from the



2 faculty senates in its schools the strategic plans man-  
3 dated by subsection (13), section five, article five-a of  
4 this chapter, develop a county strategic plan to manage  
5 the integration of special needs students into the regular  
6 classroom and submit said strategic plan to the state  
7 superintendent of schools prior to the first day of Octo-  
8 ber, one thousand nine hundred ninety-five.

9 Counties maintaining special schools, classes, regular  
10 class programs, integrated classroom strategic plans and  
11 training related to integrated education, basic and  
12 specialized health care procedures including the admin-  
13 istration of medications, home-teaching or visiting  
14 services and receiving or requesting reimbursement from  
15 state appropriated funds shall file with the state super-  
16 intendent of schools on forms supplied by his office,  
17 applications, annual reports and such other reports as he  
18 may require.

**§18-20-5. Powers and duties of state superintendent.**

1 The state superintendent of schools shall organize,  
2 promote, administer and be responsible for:

3 (1) Stimulating and assisting county boards of educa-  
4 tion in establishing, organizing and maintaining special  
5 schools, classes, regular class programs, home-teaching  
6 and visiting-teacher services.

7 (2) Cooperating with all other public and private  
8 agencies engaged in relieving, caring for, curing, educat-  
9 ing and rehabilitating exceptional children, and in  
10 helping coordinate the services of such agencies.

11 (3) Preparing the necessary rules, regulations, formula  
12 for distribution of available appropriated funds, report-  
13 ing forms and procedures necessary to define minimum  
14 standards in providing suitable facilities for education of  
15 exceptional children and ensuring the employment,  
16 certification and approval of qualified teachers and  
17 therapists subject to approval by the state board of  
18 education.

19 (4) Receiving from county boards of education their  
20 applications, annual reports and claims for reimburse-  
21 ment from such moneys as are appropriated by the  
22 Legislature, auditing such claims and preparing vou-  
23 chers to reimburse said counties the amounts reimburs-  
24 able to them.

25 (5) Assuring that all exceptional children in the state,  
26 including children in mental health facilities, residential  
27 institutions, private schools and correctional facilities as  
28 provided in section thirteen-f, article two of this chapter  
29 receive an education in accordance with state and  
30 federal laws: *Provided*, That the state superintendent  
31 shall also assure that adults in correctional facilities and  
32 regional jails shall receive an education to the extent  
33 funds are provided therefor.

34 (6) Performing such other duties and assuming such  
35 other responsibilities in connection with this program as  
36 may be needed.

37 (7) Receive the county plan for integrated classroom  
38 submitted by the county boards of education and submit  
39 a state plan, approved by the state board of education, to  
40 the legislative oversight commission on education  
41 accountability no later than the first day of December,  
42 one thousand nine hundred ninety-five.

43 Nothing herein contained shall be construed to prevent  
44 any county board of education from establishing and  
45 maintaining special schools, classes, regular class  
46 programs, home-teaching or visiting-teacher services out  
47 of funds available from local revenue.

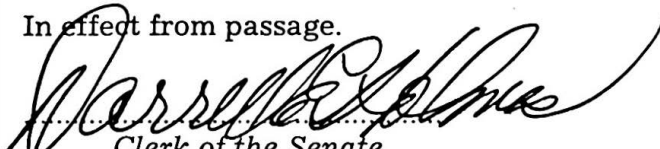
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
.....  
Chairman Senate Committee

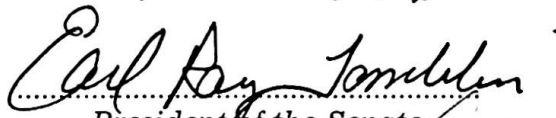
  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

  
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Clerk of the Senate

  
.....  
Clerk of the House of Delegates

  
.....  
President of the Senate

  
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Speaker House of Delegates

The within is approved this the 10th .....

day of March ....., 1995.

  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date 3/7/95

Time 9:20