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)

[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.

(a) There is established at every public school in this state a faculty senate which shall be comprised of all permanent, full-time professional educators employed at the school who shall all be voting members. Professional educators as used in this section means professional educators as defined in chapter eighteen-a of this code. A quorum of more than one half of the voting members of the faculty shall be present at any meeting of the faculty senate at which official business is conducted. Prior to the beginning of the instructional term each year, but within the employment term, the principal shall convene a meeting of the faculty senate to elect a chair, vice chair and secretary and discuss matters relevant to the beginning of the school year. The vice chair shall preside at meetings when the chair is absent. Meetings of the faculty senate shall be held on a regular basis as determined by a schedule approved by the faculty senate and amended from time to time if needed. Emergency meetings may be held at the call of the chair or a majority of the voting members by petition submitted to the chair and vice chair. An agenda of matters to be considered at a scheduled meeting of the faculty senate shall be available to the members at least two employment days prior to the meeting, and in the case of emergency meetings, as soon as possible prior to the meeting. The chair of the faculty senate may appoint such committees as may be desirable to study and submit recommendations to the full faculty senate, but the acts of the faculty senate shall be voted upon by the full body.

(b) In addition to any other powers and duties conferred by law, or authorized by policies adopted by the state or county board of education or bylaws which may
be adopted by the faculty senate not inconsistent with law, the powers and duties listed in this subsection are specifically reserved for the faculty senate. The intent of these provisions is neither to restrict nor to require the activities of every faculty senate to the enumerated items except as otherwise stated. Each faculty senate shall organize its activities as it deems most effective and efficient based on school size, departmental structure and other relevant factors.

(1) Each faculty senate shall control funds allocated to the school from legislative appropriations pursuant to section nine, article nine-a of this chapter. From such funds, each classroom teacher and librarian shall be allotted fifty dollars for expenditure during the instructional year for academic materials, supplies or equipment which in the judgment of the teacher or librarian will assist him or her in providing instruction in his or her assigned academic subjects, or shall be returned to the faculty senate: Provided, That nothing contained herein shall prohibit such funds from being used for programs and materials that, in the opinion of the teacher, enhance student behavior, increase academic achievement, improve self-esteem and address the problems of students at-risk. The remainder of funds shall be expended for academic materials, supplies or equipment in accordance with a budget approved by the faculty senate. Notwithstanding any other provisions of the law to the contrary, funds not expended in one school year shall be available for expenditure in the next school year: Provided, however, That the amount of county funds budgeted in a fiscal year, shall not be reduced throughout the year as a result of the faculty appropriations in the same fiscal year for such materials, supplies and equipment. Accounts shall be maintained of the allocations and expenditures of such funds for the purpose of financial audit. Academic materials, supplies or equipment shall be interpreted broadly, but shall not include materials, supplies or equipment which will be used in or connected with interscholastic athletic events.
(2) A faculty senate may establish a process for faculty members to interview new prospective professional educators and paraprofessional employees at the school and submit recommendations regarding employment to the principal, who may also make independent recommendations, for submission to the county superintendent: Provided, That such process must permit the timely employment of persons to perform necessary duties.

(3) A faculty senate may nominate teachers for recognition as outstanding teachers under state and local teacher recognition programs and other personnel at the school, including parents, for recognition under other appropriate recognition programs and may establish such programs for operation at the school.

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

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

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

(7) Each faculty senate shall elect three faculty representatives to the local school improvement council established pursuant to section two of this article.

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

(9) Each faculty senate shall have an opportunity to make recommendations on the selection of faculty to serve as mentors for beginning teachers under beginning teacher internship programs at the school.
(10) A faculty senate may solicit, accept and expend any grants, gifts, bequests, donations and any other funds made available to the faculty senate: *Provided,*

That the faculty senate shall select a member who shall have the duty of maintaining a record of all funds received and expended by the faculty senate, which record shall be kept in the school office and shall be subject to normal auditing procedures.

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

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

(13) Each faculty senate shall develop a strategic plan to manage the integration of special needs students into the regular classroom at their respective schools and submit said strategic plan to the superintendent of the county board of education by the thirtieth day of June, one thousand nine hundred ninety-five, and periodically thereafter pursuant to guidelines developed by the state department of education. Each faculty senate shall encourage the participation of local school improvement
councils, parents and the community at large in the development of the strategic plan for each school.

Each strategic plan developed by the faculty senate shall include at least: (A) A mission statement; (B) goals; (C) needs; (D) objectives and activities to implement plans relating to each goal; (E) work in progress to implement the strategic plan; (F) guidelines for the placement of additional staff into integrated classrooms to meet the needs of exceptional needs students without diminishing the services rendered to the other students in integrated classrooms; (G) guidelines for implementation of collaborative planning and instruction; and (H) training for all regular classroom teachers who serve students with exceptional needs in integrated classrooms.

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.

The regular classroom teacher shall be entitled to the following when placing a student with exceptional needs into an integrated classroom when the student’s individualized education program requires an adjustment in either the curriculum, instruction or service to be provided by the regular classroom teacher:

(1) Training provided pursuant to the integrated classroom program and additional individualized training, pursuant to the rules developed by the state board of education, if requested by the regular classroom teacher to prepare the teacher to meet the exceptional needs of individual students. Whenever possible, such training shall be provided prior to such placement. Where prior training is not possible, such training shall be commenced no later than ten days following the placement of said student into the regular classroom. Unavoidable delays in the provision of training shall not result in the exclusion of a special needs student from
any class in the event said training cannot be provided in said ten days;

(2) A signed copy of the individualized education program for the special education student prior to the placement of the student into the regular classroom. The receiving and referring teachers shall participate in the development of that student's individualized education program and shall also sign the individualized education program as developed. In all cases the teacher shall receive a copy of the individualized education program for the special education student prior to or at the time of the placement of the student into the regular classroom. Any teacher disagreeing with the individualized education program committee's recommendation shall file a written explanation outlining his or her disagreement or recommendation;

(3) Participation by referring teachers in all eligibility committees and participation by referring and receiving teachers in all individualized education program committees which involve possible placement of an exceptional student in an integrated classroom;

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

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

§18-20-3. County reports.

Each county shall, after having received from the
faculties in its schools the strategic plans mandated by subsection (13), section five, article five-a of this chapter, develop a county strategic plan to manage the integration of special needs students into the regular classroom and submit said strategic plan to the state superintendent of schools prior to the first day of October, one thousand nine hundred ninety-five.

Counties maintaining special schools, classes, regular class programs, integrated classroom strategic plans and training related to integrated education, basic and specialized health care procedures including the administration of medications, home-teaching or visiting services and receiving or requesting reimbursement from state appropriated funds shall file with the state superintendent of schools on forms supplied by his office, applications, annual reports and such other reports as he may require.

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

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

(1) Stimulating and assisting county boards of education 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, educating 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, reporting forms and procedures necessary to define minimum standards in providing suitable facilities for education of exceptional children and ensuring the employment, certification 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 reimbursement 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, private schools and correctional facilities as provided in section thirteen-f, article two of this chapter receive an education in accordance with state and federal laws: Provided, That the state superintendent shall also assure that adults in correctional facilities and regional jails shall receive an education to the extent funds are provided therefor.

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

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

Nothing herein contained shall be construed to prevent any county board of education from establishing and maintaining special schools, classes, regular class programs, home-teaching or visiting-teacher services out 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.

The within is approved this the 10th day of , 1995.

Governor