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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2005



ENROLLED

House Bill No. 3018

(By Delegates Williams, Stemple, Beach, Poling,
Stevens, Perry and Campbell)



Passed April 9, 2005

In Effect Ninety Days from Passage

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

E N R O L L E D

H. B. 3018

(BY DELEGATES WILLIAMS, STEMPLE, BEACH, POLING,
STEVENS, PERRY AND CAMPBELL)

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h.m.s.*

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[Passed April 8, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §15-1B-24 of the Code of West Virginia, 1931, as amended; and to amend and reenact §18-2-6 of said code, all relating to cooperation of the State Board of Education with the Mountaineer Challenge Academy; mandating a rule for the approval of alternative education programs; diplomas and certificates of proficiency; designation of Academy as special alternative education program; calculation of graduation rate for student attending an approved alternative education program or the Academy; requiring State Board rule to support the operation of the Academy; providing minimum provisions to be included in the rule; application limited to Academy consent; requiring report to Legislative Oversight Commission on Education Accountability; and technical amendments.

Be it enacted by the Legislature of West Virginia:

That §15-1B-24 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that §18-2-6 of said code be amended and reenacted, all to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 1B. NATIONAL GUARD.

§15-1B-24. Mountaineer Challenge Academy.

1 The Mountaineer Challenge Academy, operated by the
2 Adjutant General at Camp Dawson, is hereby acknowledged to
3 be a program of great value in meeting the educational needs of
4 at-risk youth throughout the state. Further, the Mountaineer
5 Challenge Academy is hereby designated as a special alterna-
6 tive education program as is further provided pursuant to
7 section six, article two, chapter eighteen of this code. It is,
8 therefore, the intent of the Legislature that the Mountaineer
9 Challenge Academy should enjoy the full cooperation of the
10 executive agencies of state government in carrying out its
11 program.

12 To this end, the State Board of Education shall, notwith-
13 standing any other provision in this code to the contrary:

14 (1) Include the Mountaineer Challenge Academy in the
15 child nutrition program;

16 (2) Provide the names and mailing addresses of all high
17 school dropouts in the state to the director of the Mountaineer
18 Challenge Academy annually; and

19 (3) Provide for Mountaineer Challenge Academy graduates
20 to participate in the adult basic education program.

21 Further cooperation with the Mountaineer Challenge
22 Academy is encouraged by the Legislature for the purpose of
23 assisting the Mountaineer Challenge Academy to achieve its
24 mission and help prepare young people for productive adult-
25 hood.

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-6. Classification and standardization of schools; standards for degrees and diploma; certificates of proficiency; establishment of alternative education programs.

1 (a) The State Board shall promulgate rules for the accredita-
2 tion, classification and standardization of all schools in the
3 state, except institutions of higher education, and shall deter-
4 mine the minimum standards for the granting of diplomas and
5 certificates of proficiency by those schools. The certificates of
6 proficiency shall include specific information regarding the
7 graduate 's skills, competence and readiness for employment or
8 honors and advanced education and shall be granted, along with
9 the diploma, to every eligible high school graduate. The
10 certificate of proficiency shall include the program of study
11 major completed by the student only for those students who
12 have completed the required major courses, or higher level
13 courses, advanced placement courses, college courses or other
14 more rigorous substitutes related to the major, and the recom-
15 mended electives.

16 (b) An institution of less than collegiate or university status
17 may not grant any diploma or certificate of proficiency on any
18 basis of work or merit below the minimum standards prescribed
19 by the State Board.

20 (c) A charter or other instrument containing the right to
21 issue diplomas or certificates of proficiency may not be granted
22 by the State of West Virginia to any institution or other
23 associations or organizations of less than collegiate or univer-
24 sity status within the state until the condition of granting or
25 issuing such diplomas or other certificates of proficiency has
26 first been approved in writing by the State Board.

27 (d) The State Board shall promulgate a rule for the approval
28 of alternative education programs for disruptive students who
29 are at risk of not succeeding in the traditional school structure.
30 This rule may provide for the waiver of other policies of the
31 State Board, the establishment and delivery of a nontraditional
32 curriculum, the establishment of licensure requirements for
33 alternative education program teachers, and the establishment
34 of performance measures for school accreditation.

35 (e) If a student attends an approved alternative education
36 program or the Mountaineer Challenge Academy, which is
37 designated as a special alternative education program pursuant
38 to section twenty-four, article one-b, chapter fifteen of this
39 code, and the student graduates or passes the General Equiva-
40 lency Development (GED) tests within five years of beginning
41 ninth grade, that student shall be considered graduated for the
42 purposes of calculating the high school graduation rate used for
43 school accreditation and school system approval, subject to the
44 following:

45 (1) The student shall only be considered graduated to the
46 extent that this is not in conflict with any provision of federal
47 law relating to graduation rates;

48 (2) If the State Board determines that this is in conflict with
49 a provision of federal law relating to graduation rates, the State
50 Board shall request a waiver from the United States Department
51 of Education; and

52 (3) If the waiver is granted, notwithstanding the provisions
53 of subdivision (1) of this subsection, the student graduating or
54 passing the General Educational Development (GED) tests
55 within five years shall be considered graduated.

56 (f) The State Board shall promulgate a rule to support the
57 operation of the National Guard Youth Challenge Program
58 operated by the Adjutant General and known as the "Mountain-

59 eer Challenge Academy" which is designated as a special
60 alternative education program pursuant to section twenty-four,
61 article one-b, chapter fifteen of this code, for students who are
62 at risk of not succeeding in the traditional school structure. The
63 rule shall set forth policies and procedures applicable only to
64 the Mountaineer Challenge Academy that provide for, but are
65 not limited to, the following:

66 (1) Implementation of provisions set forth in section
67 twenty-four, article one-b, chapter fifteen of this code;

68 (2) Precedence of the policies and procedures designated by
69 the National Guard Bureau for the operation of the Mountaineer
70 Challenge Academy special alternative education program;

71 (3) Consideration of a student participating in the Moun-
72 taineer Challenge Academy special alternative education
73 program at full enrollment status in the referring county for the
74 purposes of funding and calculating attendance and graduation
75 rates, subject to the following:

76 (A) The student shall only be considered at full enrollment
77 status for the purposes of calculating attendance and graduation
78 rates to the extent that this is not in conflict with any provision
79 of federal law relating to attendance or graduation rates;

80 (B) If the State Board determines that this is in conflict with
81 a provision of federal law relating to attendance or graduation
82 rates, the State Board shall request a waiver from the United
83 States Department of Education;

84 (C) If the waiver is granted, notwithstanding the provisions
85 of paragraph (A) of this subdivision, the student shall be
86 considered at full enrollment status in the referring county for
87 the purposes of calculating attendance and graduation rates; and

88 (D) Consideration of the student at full enrollment status in
89 the referring county is for the purposes of funding and calculat-
90 ing attendance and graduation rates only. For any other purpose,
91 a student participating in the Academy is considered withdrawn
92 from the public school system.

93 (4) Articulation of the knowledge, skills and competencies
94 gained through alternative education so that students who return
95 to regular education may proceed toward attainment or attain
96 the standards for graduation without duplication; and

97 (5) Consideration of eligibility to take the General Educa-
98 tional Development (GED) Tests by qualifying within the
99 extraordinary circumstances provisions established by State
100 Board rule of a student participating in the Mountaineer
101 Challenge Academy special alternative education program who
102 does not meet any other criteria for eligibility.

103 (g) Nothing in this section or the rules promulgated
104 hereunder compels the Mountaineer Challenge Academy to be
105 operated as a special alternative education program or to be
106 subject to any other laws governing the public schools except
107 by its consent.

108 (h) The State Board shall report to the Legislative Oversight
109 Commission on Education Accountability on or before the first
110 day of January of each year on its efforts to cooperate with and
111 support the Mountaineer Challenge Academy pursuant to this
112 section and section twenty-four, article one-b, chapter fifteen of
113 this code.

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

C. Randy White
Chairman Senate Committee

H. Richard Bray
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

David E. Holmes
Clerk of the Senate

George M. Paul
Clerk of the House of Delegates

Earl Ray Tomblin
President of the Senate

Robert D. S. [Signature]
Speaker of the House of Delegates

The within *is appended* this the *Ind*
day of *May*, 2005.

[Signature]
Governor

PRESENTED TO THE
GOVERNOR

APR 26 2005

Time 4:35 pm