

WEST VIRGINIA LEGISLATURE
EIGHTY-FIRST LEGISLATURE
REGULAR SESSION, 2014



ENROLLED

Senate Bill No. 209

(BY SENATORS BEACH, MILLER, COOKMAN, WALTERS
AND FITZSIMMONS)

[PASSED MARCH 6, 2014; IN EFFECT FROM PASSAGE.]

FILED

2014 MAR 28 A 10: 22

**OFFICE WEST VIRGINIA
SECRETARY OF STATE**

SB209

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[Passed March 6, 2014; in effect from passage.]

AN ACT to amend and reenact §18-20-1 of the Code of West Virginia, 1931, as amended, relating to special programs and services for exceptional children; requiring county boards to allow student with disabilities whose individualized education plan provides for a modified diploma to participate in graduation ceremony with same grade classmates; permitting continued special education services; and prohibiting county boards from denying continuing special education services to the student due to participation in graduation ceremony.

Be it enacted by the Legislature of West Virginia:

That §18-20-1 of the Code of West Virginia, 1931, 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; modified diploma graduation.

SS 0:1 A 80 (a) In accordance with the following provisions, county
2 boards of education throughout the state shall establish and
AVC 3 maintain for all exceptional children between five and
STATE 4 twenty-one years of age special educational programs,
5 including, but not limited to, special schools or classes,
6 regular classroom programs, home-teaching or visiting-
7 teacher services for any type or classification as the state
8 board shall approve. Special educational programs shall
9 continue to be provided to those children who are at least
10 twenty-one years of age and enrolled in the above-mentioned
11 special education program prior to September 1, 1991, until
12 they reach twenty-three years of age. Provisions shall be
13 made for educating exceptional children (including the
14 handicapped and the gifted) who differ from the average or
15 normal in physical, mental or emotional characteristics, or in
16 communicative or intellectual deviation characteristics, or in
17 both communicative and intellectual deviation characteristics,
18 to the extent that they cannot be educated safely or profitably
19 in the regular classes of the public schools or to the extent
20 that they need special educational provisions within the
21 regular classroom in order to educate them in accordance
22 with their capacities, limitations and needs: *Provided*, That
23 for the school year beginning on July 1, 1990, provisions
24 shall be made for educating exceptional children, including
25 the handicapped, the gifted in grades one through eight, the
26 pupils enrolled on July 1, 1989, in the gifted program in
27 grades nine through twelve and the exceptional gifted in
28 grades nine through twelve. The term "exceptional gifted"
29 means those students in grades nine through twelve identified
30 as gifted and at least one of the following: Behavior disorder,
31 specific learning disabilities, psychological adjustment
32 disorder, underachieving or economically disadvantaged.
33 Exceptional gifted children shall be referred for identification
34 pursuant to recommendation by a school psychologist, school
35 counselor, principal, teacher, parent or by self-referral, at
36 which time the placement process, including development of

37 an individualized education program, and attendant due-
38 process rights, shall commence. Exceptional gifted children,
39 for purposes of calculating adjusted enrollment pursuant to
40 section two, article nine-a of this chapter, shall not exceed
41 one percent of net enrollment in grades nine through twelve.
42 Nothing herein shall be construed to limit the number of
43 students identified as exceptional gifted and who receive
44 appropriate services. Each county board of education is
45 mandated to provide gifted education to its students
46 according to guidelines promulgated by the state board and
47 consistent with the provisions of this chapter. Upon the
48 recommendation of a principal, counselor, teacher and parent,
49 a student who does not meet the gifted eligibility criteria may
50 participate in any school program deemed appropriate for the
51 student provided that classroom space is available. In
52 addition, county boards of education may establish and
53 maintain other educational services for exceptional children
54 as the State Superintendent of Schools may approve.

55 (b) County boards of education shall establish and
56 maintain these special educational programs, including, but
57 not limited to, special schools classes, regular class programs,
58 home-teaching and visiting-teacher services. The special
59 education programs shall include home-teaching or
60 visiting-teacher services for children who are homebound due
61 to injury or who for any other reason as certified by a
62 licensed physician are homebound for a period that has lasted
63 or will last more than three weeks. The state board shall
64 adopt rules to advance and accomplish this program and to
65 assure that all exceptional children in the state, including
66 children in mental health facilities, residential institutions and
67 private schools, will receive an education in accordance with
68 the mandates of state and federal laws: *Provided*, That
69 commencing with the school year beginning on July 1, 1991,
70 all exceptional children in the state in foster care and

71 correctional facilities will receive an education in accordance
72 with the mandates of state and federal laws.

73 (c) Each county board of education shall adopt a policy
74 that allows a student with disabilities whose individualized
75 education program provides for a modified diploma to
76 participate in the graduation ceremony of his or her same
77 grade classmates if requested in writing by his or her parent
78 or legal guardian. The county board shall also permit the
79 student to continue receiving his or her special education
80 services after the graduation ceremony. The county board
81 may not terminate, deny or declare the student ineligible for
82 post-graduation ceremony special education services due to
83 his or her participation in the graduation ceremony.

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

[Signature]
.....
Member ~~Chairman~~ Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

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.....
President of the Senate

[Signature]
.....
Speaker of the House of Delegates

OFFICE WEST VIRGINIA
SECRETARY OF STATE

2014 MAR 28 A 10:22

FILED

The within *is appended* this
the *28th* Day of *March*, 2014.

[Signature]
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 27 2014

Time 3:00 p