

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 3035

BY DELEGATES HANSHAW (MR. SPEAKER) AND SKAFF

(BY REQUEST OF THE EXECUTIVE)

[Passed March 11, 2023; in effect ninety days from passage.]

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1 AN ACT to amend and reenact §18-2E-10 of the Code of West Virginia, 1931, as amended; to
2 amend and reenact §18-5-18a of said code; to amend and reenact §18-9A-5 of said code;
3 and to amend and reenact §18-20-10 of said code, all relating to enhancing academic
4 achievement of students including those with learning disabilities; establishing the Third
5 Grade Success Act; replacing transformative system of support for early literacy with multi-
6 tiered system of support for early literacy and numeracy in kindergarten through grade
7 three; revising findings; defining “science of reading”; revising inclusions in West Virginia
8 Board of Education rules required to effectuate Third Grade Success Act section; requiring
9 each county board to adopt high-quality instructional materials; specifying data to be used
10 to inform the classroom teacher’s recommendation on grade level retention; requiring
11 county boards of education to provide in-service training for early childhood classroom
12 assistant teachers, aides, paraprofessionals, classroom teachers, and in certain
13 instances, interventionists in grades kindergarten through three; updating deadlines for
14 West Virginia Board of Education multi-tiered system of support for early literacy and
15 numeracy reports; modifying provisions pertaining to funding for Third Grade Success Act
16 section; requiring retention in the third grade in certain circumstances; specifying
17 exceptions to third grade retention requirement; adding maximum early childhood
18 classroom assistant teacher or aide-pupil ratio for kindergarten; adding maximum early
19 childhood classroom assistant teacher, paraprofessional, or aide-pupil ratio for grades one
20 through three; requiring ratios to be by grade level with flexibility once grade level
21 requirement is met for full implementation by 2026; allowing county boards to employ an
22 interventionist instead of an early childhood assistant teacher, paraprofessional or aide;
23 removing requirement for survey of districts on class overcrowding and report to the
24 Legislative Oversight Commission on Education Accountability a tailored plan for reducing
25 class overcrowding; phasing in increased ratios of service personnel per 1,000 students
26 for the purpose of determining the basic foundation allowance for service personnel;

27 revising findings pertaining to standards to guide the preparation, certification, and
28 professional development for teachers of reading and related literacy skills and
29 appropriate measures for recognizing characteristics of dyslexia and dyscalculia;
30 replacing responsibilities of the West Virginia Board of Education pertaining to specific
31 learning disabilities, including dyslexia and dyscalculia, with duties of the state board and
32 the local education agencies; requiring state board rule to implement section pertaining to
33 dyslexia and dyscalculia; stating minimum inclusions for rule; requiring report of certain
34 information to the Legislative Oversight Commission on Education Accountability.

Be it enacted by the Legislature of West Virginia:

§18-2E-10. Third Grade Success Act; multi-tiered system of support for early literacy and numeracy in kindergarten through grade three; pre-service and in-service teacher training; notice to parent or guardian; third grade retention policy with exceptions; interventions continuing in fourth grade for students below proficient.

- 1 (a) This section shall be known and may be cited as the Third Grade Success Act.
- 2 (b) The Legislature finds that:
- 3 (1) In the early learning years, ensuring that each student masters the content and skills
4 needed for mastery at the next grade level is critically important for student success;
- 5 (2) Students who do not demonstrate grade-level proficiency in reading and mathematics
6 by the end of third grade become increasingly less likely to succeed at each successive grade
7 level and often drop out of school prior to graduation;
- 8 (3) State board policy requires every school to establish a process for ensuring the
9 developmental and academic progress of all students. This process is to be coordinated by a
10 school student assistance team that reviews student developmental and academic needs that
11 have persisted despite being addressed through instruction, multi-tiered system of support for
12 intervention, and as applicable, supports for personalized learning. Ensuring the developmental
13 and academic success of all students requires every school to implement, in an equitable manner,

14 programs during and after the instructional day at the appropriate instructional levels that
15 contribute to the success of students; and

16 (4) To ensure that all students read and perform mathematics proficiently by the end of
17 third grade, a statewide comprehensive approach to early literacy and numeracy is required. This
18 approach shall focus on intensive supports during the early learning years which include schools
19 and engaged communities mobilized to remove barriers, expand opportunities, and assist parents
20 in fulfilling their roles and responsibilities to serve as full partners in the success of their children.

21 (c) "Science of reading" means evidence-based reading instruction practices that address
22 the acquisition of language, phonological and phonemic awareness, phonics and spelling,
23 fluency, vocabulary, oral language, comprehension, and writing that can be differentiated to meet
24 the needs of individual students.

25 (d) The state board shall, in accordance with §29A-3B-1 *et seq.* of this code, promulgate
26 legislative rules as necessary to effectuate the provisions of this section. The rules shall provide
27 for at least the following:

28 (1) Development of a statewide comprehensive, systemic approach to close the reading
29 and mathematics achievement gaps by third grade, which targets school readiness, the
30 attendance gap, science of reading instruction (phonics, phonemic awareness, vocabulary,
31 fluency, comprehension, and writing), summer learning loss, the use of screeners and/or
32 benchmark assessments in English language arts and mathematics for students in grades
33 kindergarten through three, and a multi-tiered system of support for students exhibiting a
34 substantial reading or mathematics deficiency;

35 (2) Ensuring all West Virginia children have access to high-quality early learning
36 experiences that focus on healthy learners as part of the school readiness model, resulting in
37 increased populations of children on target for healthy development prior to entering first grade;

38 (3) Closing the attendance gap to certify West Virginia children attend school regularly
39 and limit chronic absenteeism in the early grades;

40 (4) Providing assistance to county boards with the training and implementation of the
41 science of reading training for all kindergarten through grade three educators, early childhood
42 classroom assistant teachers, aides, paraprofessionals and any interventionists that a county
43 board may choose to employ instead of an early childhood classroom assistant teacher, aides, or
44 paraprofessionals pursuant to §18-5-18a(b) of this code;

45 (5) Assisting county boards in establishing and operating targeted, sustained extended
46 day and extended year reading and mathematics programs to ensure grade level proficiency and
47 battle summer learning loss;

48 (6) Establishing an approved list of screeners and/or benchmark assessments in English
49 language arts and mathematics for students in grades kindergarten through three for the purpose
50 of identifying students with a significant reading and/or mathematics deficiency. The screener
51 and/or benchmark assessments shall be given in the first 30 days of the school year and repeated
52 at mid-year and at the end of the school year to determine student progression in reading and
53 mathematics in kindergarten through third grade;

54 (7) Establishing an approved list of dyslexia screeners to be administered to students no
55 less than twice per year in kindergarten through third grade and any time students with identified
56 deficiencies are not responding to interventions;

57 (8) Any student in kindergarten or grades one through three who exhibits a deficiency in
58 reading at any time, based upon the screeners and/or benchmark assessments, and/or the
59 comprehensive statewide student assessment, and any fourth-grade student promoted for good
60 cause shall receive an individual reading improvement plan no later than 30 days after the
61 identification of the reading deficiency. The reading improvement plan shall be created by the
62 teacher, principal, other pertinent school personnel, and the parent(s) or guardians, and shall
63 describe the research-based reading intervention services the student will receive to remedy the
64 reading deficit. Each student shall receive intensive reading intervention until the student no
65 longer has a deficiency in reading. Reading interventions may include evidence-based strategies

66 frequently used to remediate reading deficiencies and includes, but is not limited to, individual
67 instruction, small-group instruction, tutoring, mentoring, or the use of technology that targets
68 specific reading skills and abilities;

69 (9) Maximizing family engagement to result in the development of a culture of literacy and
70 numeracy, which shall at least include:

71 (A) Providing parents or guardians with regular updates to inform them of their child's
72 progress toward proficiency in reading and mathematics;

73 (B) Ensuring parents or guardians are informed of and have access to resources which
74 they may utilize to improve their child's literacy and numeracy skills;

75 (C) Ensuring the parent or guardian is informed of the importance of their child being able
76 to demonstrate grade level reading and mathematics skills by the end of the third grade and the
77 measures that will be employed pursuant to this section to improve the reading and mathematics
78 skills of children who are not meeting the standards; and

79 (D) The parent or guardian of any student in kindergarten through grade three who exhibits
80 a deficiency in reading or mathematics at any time during the school year must be notified in
81 writing no later than 15 days after the identification of the deficiency, and the written notification
82 must include the following:

83 (i) That the student has been identified as having a deficiency in reading and/or
84 mathematics;

85 (ii) A description of the proposed research-based reading and/or mathematics
86 interventions and/or supplemental instructional services and supports that will be provided to the
87 child to address the identified area(s) of deficiency;

88 (iii) Strategies for the parent or guardian to use at home to help their child succeed in
89 reading and/or mathematics; and

90 (iv) That if the child's reading or mathematics deficiency is not corrected by the end of
91 grade three, the child may not be promoted to grade four unless an exemption is met;

92 (10) Supporting high-quality schools and a workforce prepared to address early literacy
93 and numeracy by the provision of professional development for administrators, kindergarten, first,
94 second, and third grade teachers including, but not limited to, the following:

95 (A) The approved benchmark assessment and/or screener tools to ensure teachers have
96 the knowledge and skill to administer the assessment and/or screener, analyze the data to inform
97 instruction, and identify students exhibiting substantial deficiencies in reading or mathematics;

98 (B) Comprehensive training on the science of reading and numeracy instruction to ensure
99 all kindergarten through grade three teachers, early childhood classroom assistant teachers,
100 aides and paraprofessionals, have the knowledge and skill to teach and/or support all students to
101 read and perform mathematics at grade level. The rules also shall provide that any interventionist
102 a county chooses to employ instead of an early childhood classroom assistant teacher, aides or
103 paraprofessionals pursuant to §18-5-18a(b) receives this comprehensive training;

104 (C) Training and materials to inform classroom teachers of the characteristics of dyslexia
105 and dyscalculia in students, components of benchmarks and screeners that may indicate dyslexia
106 or dyscalculia, and strategies for instruction; and

107 (D) Job-embedded, on-site teacher training on evidence-based reading and mathematics
108 instruction and data-driven decision-making that provides kindergarten through grade three
109 teachers with immediate feedback for improving instruction;

110 (11) Ensuring the employment of qualified teachers and service personnel in accordance
111 with §18-5-39 and §18A-4-7c of this code to provide instruction to students enrolled in early
112 literacy and numeracy support programs including, but not limited to, ensuring that educator
113 preparation programs prepare candidates seeking licensure for elementary education with
114 training and instruction to:

115 (A) Include instruction in state-adopted grade-level content standards, foundational
116 reading and mathematics skills, and how to implement reading instruction using high-quality
117 instructional materials;

118 (B) Provide effective instruction and intervention for students with reading and math
119 deficiencies, including students with characteristics of dyslexia or dyscalculia; and

120 (C) Understand and use student data to make instructional decisions;

121 (12) Creating a formula or grant-based program for the distribution of funds appropriated
122 specifically for the purposes of this section or otherwise available for the support of a targeted,
123 multi-tiered system of support intervention for early literacy and numeracy;

124 (13) Providing support for transportation and healthy foods for students required to attend
125 after-school and extended year early literacy and numeracy instructional support programs and
126 supervision at the school that accommodates the typical work schedules of parents; and

127 (14) Receiving from county boards any applications and annual reports required by rule
128 of the state board.

129 (e) A student in grades kindergarten through grade three shall be required to attend an
130 extended year early literacy and numeracy instructional support program as a condition for
131 promotion if:

132 (1) The student has been provided additional academic assistance through interventions
133 offered during the school day or after-school in early literacy and numeracy and, prior to the end
134 of the school year, the student assistance team or the student's classroom teacher recommends
135 that further additional academic help is needed for the student to be successful at the next grade
136 level; and

137 (2) The county board has established a literacy and numeracy instructional support
138 program during the extended year for the student's grade level.

139 (f) County boards shall provide high-quality educational facilities, equipment, and services
140 to support literacy and numeracy instructional support programs established pursuant to this
141 section. Extended year programs may be provided at a central location for kindergarten through
142 third graders who qualify for the program.

143 (g) Each county board shall adopt high-quality instructional materials grounded in
144 scientifically-based reading research and aligned to state standards to be used as the core
145 curriculum. The instructional materials shall not include practices that are aligned with the Three-
146 Cueing Systems Model of teaching reading.

147 (h) This section may not be construed to prohibit a classroom teacher from recommending
148 the grade level retention of a student in any of the grades kindergarten through grade three based
149 upon the student's lack of mastery of the subject matter and preparation for the subject matter at
150 the next grade level. Benchmark and/or screener data shall be used to inform the classroom
151 teacher's recommendation.

152 (i) This section may not be construed to affect the individualized education plans of
153 exceptional students.

154 (j) This section may not be construed to limit the authority of the county board to establish
155 an extended year program in accordance with §18-5-39 of this code. County boards may not
156 charge tuition for enrollment in early literacy and numeracy instructional support programs
157 established pursuant to this section.

158 (k) Each county board shall implement the provisions of this section and the provisions of
159 the state board rule required by subsection (b) of this section. The county board shall establish a
160 process for ensuring the developmental and academic progress of all students through the
161 auspices of student assistance teams as currently required by state board policy and perform a
162 needs assessment to determine the potential capacity requirements for the multi-tiered system of
163 support for early learners. Each county board also shall provide in-service training:

164 (1) For kindergarten through grade three early childhood classroom assistant teachers,
165 aides and paraprofessionals, specifically related to literacy, numeracy, and their responsibilities
166 and appropriate measures for exercising authority and control over students. The county board
167 shall also provide this training to any interventionists it chooses to employ instead of an early

168 childhood classroom assistant teacher, aide or professional pursuant to §18-5-18a(b) of this code;
169 and

170 (2) For classroom teachers in grades kindergarten through three to help the classroom
171 teachers gain a strong understanding of how to best utilize the early childhood classroom
172 assistant teachers, aides, paraprofessionals or interventionists during classroom instruction and
173 during other periods of the day.

174 (l) The state board shall provide a report describing the proposed implementation of the
175 multi-tiered system of support for early literacy and numeracy to the Legislative Oversight
176 Commission on Education Accountability on or before July 1, 2023.

177 (m) The state board shall provide a comprehensive report regarding the status of the multi-
178 tiered system of support for literacy and numeracy to the Legislative Oversight Commission on
179 Education Accountability, the Joint Committee on Government and Finance, and the Governor on
180 or before November 1, 2023, and annually on or before November 1 of each year thereafter. The
181 report shall address, at a minimum, the progress of the program throughout the state, its effect
182 on student achievement, and the sources of the funding both available to and used by the
183 program.

184 (n) Legislative appropriations to the State Board of Education – State Department of
185 Education Elementary Literacy and Numeracy Program shall be used for the implementation of
186 the provisions of this section along with other funds available for providing a high-quality
187 education.

188 (o) Effective for the school year beginning July 1, 2026, and thereafter, a public school
189 student who generally demonstrates a minimal understanding of, and ability to apply, grade level
190 English language arts or mathematics knowledge, skills, and abilities, or both, as indicated on the
191 West Virginia General Summative Assessment relative to the West Virginia College and Career
192 Readiness Standards at the end of third grade, shall upon the recommendation of the teacher

193 and the student assistance team, be retained in the third grade for the ensuing school year subject
194 to the following exceptions:

195 (1) A student with disabilities whose Individual Education Plan indicates participation in
196 the statewide alternate summative assessment;

197 (2) A student identified as an English language learner who has had less than three years
198 instruction in English as a second language;

199 (3) A student with disabilities who participates in the statewide summative assessment,
200 has an Individual Education Plan or Section 504 plan that reflects that the student has received
201 intensive intervention for more than two years and still demonstrates a deficiency or who was
202 previously retained in any of the grades kindergarten through grade three;

203 (4) A student who is in the process of a special education referral or evaluation for
204 placement in special education, has been diagnosed as having a significant impairment, including
205 dyslexia or dyscalculia, or is a child with a disability if the student's individualized education
206 program team and the student's parent or guardian agree that promotion is appropriate based on
207 the student's Individualized Education Plan;

208 (5) A student who has received intensive intervention for two or more years, still
209 demonstrates a deficiency, and who was previously retained in any of the grades kindergarten
210 through grade three for a total of two years: *Provided*, That the student shall continue to receive
211 intensive intervention in grade four;

212 (6) A student who demonstrates an acceptable level of performance on an alternative
213 standardized assessment approved by the state board;

214 (7) A student who attends an extended year learning program following the third grade
215 and has attained proficiency; and

216 (8) A student whose parent or guardian has requested a good cause exemption within the
217 time period established by the county board and the superintendent, or his or her designee,
218 determines that the good cause exemption is in the best interests of the child: *Provided*, That a

219 good cause exemption may not prohibit the grade level retention of a student by a classroom
220 teacher based upon the student's lack of mastery of the subject matter and preparation for the
221 subject matter at the next grade level.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-18a. Maximum teacher-pupil ratio.

1 (a) County boards of education shall provide sufficient personnel, equipment, and facilities
2 as will ensure that each classroom, or classrooms having two or more grades that include one or
3 more of the kindergarten through sixth grades shall not have more pupils for each teacher as
4 follows, unless the state superintendent has excepted a specific classroom upon application
5 therefor by a county board as provided in this section:

6 (1) For kindergarten, not more than 20 pupils for each teacher and one early childhood
7 classroom assistant teacher or aide in classrooms with more than 10 pupils;

8 (2) For first, second, and third grades, not more than 25 pupils for each teacher and one
9 early childhood classroom assistant teacher, aide or paraprofessional in classrooms with more
10 than 12 pupils: *Provided*, That the early childhood classroom assistant
11 teacher/aide/paraprofessional requirement for classrooms with more than 12 pupils shall be
12 effective beginning the 2023-2024 school year, for first grade classrooms; shall be effective
13 beginning the 2024-2025 school year, for second grade classrooms; and shall be effective
14 beginning the 2025-2026 school year, for third grade classrooms: *Provided however*, That if all
15 grade level classrooms are already being served by an early childhood classroom assistant
16 teacher/aide/paraprofessional by the school year required, the county board has the discretion to
17 add the assistant teachers/ aides/paraprofessionals in first, second and third grade classrooms
18 of the greatest need beginning July 1, 2023 and completing full implementation by July 1, 2026;
19 and

20 (3) For grades four, five, and six, not more than 25 pupils for each teacher.

21 (b) County boards may satisfy the requirements of subsection (a) of this section by
22 employing a full-time interventionist instead of an early childhood assistant teacher, aide or
23 paraprofessional, subject to the following:

24 (1) If no full-time interventionist is available, a county board may satisfy the requirements
25 of subsection (a) of this section by employing a part-time interventionist; and

26 (2) County boards are not required to employ an interventionist even if there are an
27 insufficient number of early childhood assistant teachers, aides and paraprofessionals available
28 to fill all the positions required by subsection (a) of this section.

29 (c) County school boards may not maintain a greater number of classrooms having two or
30 more grades that include one or more of the grade levels referred to in this section than were in
31 existence in said county as of January 1, 1983.

32 (d) The state superintendent is authorized, consistent with sound educational policy, to:

33 (1) Permit on a statewide basis, in grades four through six, more than 25 pupils per teacher
34 in a classroom for the purposes of instruction in physical education; and

35 (2) Permit more than 20 pupils per teacher in a specific kindergarten classroom and 25
36 pupils per teacher in a specific classroom in grades four through six during a school year in the
37 event of extraordinary circumstances as determined by the state superintendent after application
38 by a county board of education.

39 (e) The state board shall establish guidelines for the exceptions authorized in this section,
40 but in no event shall the superintendent except classrooms having more than three pupils above
41 the pupil-teacher ratio as set forth in this section.

42 (f) The requirement for approval of an exception to exceed the 20 pupils per kindergarten
43 teacher per session limit or the 25 pupils per teacher limit in grades four through six is waived in
44 schools where the schoolwide pupil-teacher ratio is 25 or less in grades four through six: *Provided,*
45 That a teacher shall not have more than three pupils above the teacher/pupil ratio as set forth in
46 this section. Any kindergarten teacher who has more than 20 pupils per session and any

47 classroom teacher of grades four through six who has more than 25 pupils, shall be paid additional
48 compensation based on the affected classroom teacher's average daily salary divided by 20 for
49 kindergarten teachers, or 25 for teachers of grades four through six, for every day times the
50 number of additional pupils enrolled up to the maximum pupils permitted in the teacher's
51 classroom. All such additional compensation shall be paid from county funds exclusively.

52 Notwithstanding any other provision of this section to the contrary, commencing with the
53 school year beginning on July 1, 1996, a teacher in grades one, two, or three, or classrooms
54 having two or more such grade levels, shall not have any pupils above the teacher/pupil ratio as
55 set forth in this section.

56 (g) No provision of this section is intended to limit the number of pupils per teacher in a
57 classroom for the purpose of instruction in choral, band, or orchestra music.

58 (h) Each school principal shall assign students equitably among the classroom teachers,
59 taking into consideration reasonable differences due to subject areas and/or grade levels.

60 (i) The state board shall collect from each county board of education information on class
61 size and the number of pupils per teacher for all classes in grades seven through 12. The state
62 board shall report such information to the Legislative Oversight Commission on Education
63 Accountability before January 1, of each year.

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-5. Foundation allowance for service personnel.

1 (a) The basic foundation allowance to the county for service personnel shall be the amount
2 of money required to pay the annual state minimum salaries in accordance with the provisions of
3 §18A-4-1 *et seq.* of this code to such service personnel employed, subject to the following:

4 (1) A county shall receive an allowance for state aid eligible service personnel positions
5 per 1,000 students in net enrollment, as follows:

6 (A) For each high-density county, 43.97 service personnel per 1,000 students in net
7 enrollment: *Provided*, That this ratio of service personnel per 1,000 students in net enrollment

8 shall increase to 47.39 beginning July 1, 2023; 50.65 beginning July 1, 2024; and 53.79 beginning
9 July 1, 2025;

10 (B) For each medium-density county, 44.53 service personnel per 1,000 students in net
11 enrollment: *Provided*, That this ratio of service personnel per 1,000 students in net enrollment
12 shall increase to 47.95 beginning July 1, 2023; 51.21 beginning July 1, 2024; and 54.35 beginning
13 July 1, 2025;

14 (C) For each low-density county, 45.10 service personnel per 1,000 students in net
15 enrollment: *Provided*, That this ratio of service personnel per 1,000 students in net enrollment
16 shall increase to 48.52 beginning July 1, 2023; 51.78 beginning July 1, 2024; and 54.92 beginning
17 July 1, 2025;

18 (D) For each sparse-density county, 45.68 service personnel per 1,000 students in net
19 enrollment: *Provided*, That this ratio of service personnel per 1,000 students in net enrollment
20 shall increase to 49.10 beginning July 1, 2023; 52.36 beginning July 1, 2024; and 55.50 beginning
21 July 1, 2025; and

22 (E) For any service personnel positions, or fraction thereof, determined for a county
23 pursuant to subdivision (1) of this subsection that exceed the number employed, the county's
24 allowance for these positions shall be determined using the average state funded minimum salary
25 of service personnel for the county;

26 (2) The number of and the allowance for personnel paid in part by state and county funds
27 shall be prorated; and

28 (3) Where two or more counties join together in support of a vocational or comprehensive
29 high school or any other program or service, the service personnel for the school or program may
30 be prorated among the participating counties on the basis of each one's enrollment therein and
31 that the personnel shall be considered within the above-stated limit.

ARTICLE 20. EDUCATION OF EXCEPTIONAL CHILDREN.

§18-20-10. Dyslexia and dyscalculia defined.

1 (a) The Legislature finds as follows:

2 (1) Reading difficulties are the most common cause of academic failure and
3 underachievement;

4 (2) There are many students who demonstrate significant weaknesses with reading,
5 writing and mathematics that are influenced by specific learning disabilities, including dyslexia,
6 dyscalculia, and related learning difficulties. Of those who are referred to special education
7 services in public schools, the majority are referred because of problems with language, reading,
8 writing, or a combination of each;

9 (3) Teaching reading effectively, especially to students experiencing difficulty, requires
10 considerable knowledge and skill. Informed and effective classroom instruction, especially in the
11 early grades, can prevent and relieve the severity of language difficulties, and significantly
12 improve literacy development;

13 (4) For those students with specific learning disabilities, including dyslexia and dyscalculia,
14 who need specialized instruction, competent intervention can lessen the impact of the disorder
15 and help the student overcome the most debilitating symptoms;

16 (5) While programs for specific learning disabilities, including dyslexia and dyscalculia,
17 that certify or support teachers, clinicians or specialists differ in their preparation methodologies,
18 teaching approaches and organizational purposes, they should ascribe to a common set of
19 professional standards for the benefit of the students they serve. Compliance with such standards
20 can assure the public that individuals who serve students with specific learning disabilities in
21 public schools are prepared to implement scientifically based and clinically proven practices;

22 (6) The International Dyslexia Association (IDA) offers widely-adopted and consistent
23 standards to guide the preparation, certification, and professional development for teachers of
24 reading and related literacy skills in classroom, remedial and clinical settings; and

25 (7) The basis of ascribing to common standards to benefit students with specific learning
26 disabilities, including dyslexia and dyscalculia, requires recognizing common characteristics of

27 the disabilities. The Legislature finds that the definitions of dyslexia and dyscalculia prescribed by
28 the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders,
29 Fifth Edition, Text Revision (DSM-5-TR) are the appropriate measures for recognizing
30 characteristics of dyslexia and dyscalculia in students.

31 (b) The Legislature recognizes the following regarding dyslexia and dyscalculia:

32 (1) Dyslexia and dyscalculia are conditions that may be considered under the specific
33 learning disability category, and their definitions are consistent with IDEA and state board policy.
34 State board policy provides that "specific learning disability" means a disorder in one or more of
35 the basic psychological processes involved in understanding or in using language, spoken or
36 written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or
37 to do mathematical calculations, including conditions such as perceptual disabilities, brain injury,
38 minimal brain dysfunction, dyslexia and developmental aphasia;

39 (2) Dyslexia is an alternative term used to refer to a pattern of learning difficulties
40 characterized by problems with accurate or fluent word recognition, poor decoding, and poor
41 spelling abilities. If dyslexia is used to specify this particular pattern of difficulties, it is important
42 also to specify any additional difficulties that are present, such as difficulties with reading
43 comprehension or math reasoning; and

44 (3) Dyscalculia is an alternative term used to refer to a pattern of learning difficulties
45 characterized by problems processing numerical information, learning arithmetic facts, and
46 performing accurate or fluent calculations. If dyscalculia is used to specify this particular pattern
47 of mathematic difficulties, it is important also to specify any additional difficulties that are present,
48 such as difficulties with math reasoning or word reasoning accuracy.

49 (c) The state board shall:

50 (1) Develop a list of appropriate screeners, early assessments, and professional
51 development that address and ensure that all students receive the necessary and appropriate

52 screenings, evaluations, and early assessments for specific learning disabilities, including
53 dyslexia and dyscalculia which contain information related to the following:

54 (A) Appropriate literacy and numeracy screening tools for identifying students who are at
55 risk for academic difficulty in reading and/or math, including dyslexia and dyscalculia, and who
56 require tiered intervention;

57 (B) Appropriate diagnostic assessment components that can be used to help identify and
58 diagnose;

59 (C) Appropriate evidence-based instruction and intervention strategies for students who
60 are at risk for academic difficulty in reading and/or mathematics, including students who exhibit
61 possible indicators of risk for dyslexia and/or dyscalculia;

62 (D) Appropriate accommodations for students who exhibit possible indicators of risk for,
63 or who have been diagnosed with, dyslexia, dyscalculia, and/or other specific learning disabilities;

64 (E) Connecting a multi-tiered system of support framework to specific learning disability
65 identification; and

66 (F) The use of the terms “dyslexia” and “dyscalculia” in Individualized Education Programs,
67 and in evaluation reports by professionals qualified to render these diagnoses; and

68 (2) Explore options to assist any LEA with acquiring approved literacy and/or numeracy
69 screening tools: *Provided*, That the local educational agency is unable to acquire its own literacy
70 and/or numeracy screening tools that are consistent with state educational agency
71 recommendations;

72 (3) Adopt and make publicly available guidelines for including dyslexia diagnostic
73 evaluation components in comprehensive assessments for special education and related
74 services. These guidelines shall:

75 (A) Recommend at least one person on each multidisciplinary evaluation team be
76 knowledgeable about dyslexia and be able to recognize when a dyslexia diagnostic component
77 should be requested in the evaluation process;

78 (B) Recommend that a diagnosis of dyslexia be given when the data from the
79 comprehensive evaluation components indicate such a diagnosis is appropriate;

80 (C) Include recommendations for how to document a dyslexia diagnosis in an IEP; and

81 (D) Include that a Section 504 Plan be considered if a student has a dyslexia diagnosis
82 but does not qualify for special education services;

83 (4) Adopt and make publicly available a list of approved diagnostic assessment
84 components that can be used to help identify and diagnose dyslexia during comprehensive
85 multidisciplinary evaluations;

86 (5) Adopt and make publicly available guidelines and a list of resources for dyslexia
87 intervention practices that are evidence-based, including practices consistent with the Science of
88 Reading and Structured Literacy, that are explicit, direct, sequential, systematic, and
89 multisensory;

90 (6) Adopt and make publicly available a list of recommended accommodations and
91 instructional practices to be used with students who exhibit signs of dyslexia or have been
92 diagnosed with dyslexia. These shall reflect contemporary research and guidelines of the Science
93 of Reading related to dyslexia. These recommendations shall include, but are not limited to,
94 structured literacy approaches that are explicit, direct, sequential, systematic, and multisensory;

95 (7) Adopt and make publicly available a list of available professional development
96 resources that support evidence-based intervention for struggling readers, including the Science
97 of Reading and Structured Literacy. This list shall be made publicly available and include
98 resources endorsed or espoused by technical assistance centers, research organizations, and
99 professional associations that support the Science of Reading and Structured Literacy regarding
100 dyslexia, including the International Dyslexia Association; and

101 (8) Develop and make publicly available informational materials related to dyslexia for
102 parents and guardians that include information about the multidisciplinary evaluation process,
103 updated regularly.

104 (d) The local education agency shall:

105 (1) Develop a system for parents and guardians to annually receive digital and print
106 informational materials related to dyslexia;

107 (2) Ensure at least one educator at each school is trained to administer, score, and
108 interpret the data from the literacy screening instrument or instruments, and to recognize signs of
109 dyslexia;

110 (3) Notify parents of the results of these literacy screeners while emphasizing that not all
111 students who perform poorly on these screening instruments have dyslexia. Also, not all students
112 with dyslexia will perform poorly on the screeners;

113 (4) Provide evidence-based reading intervention to students who exhibit academic risk in
114 future reading performance, including indicators of dyslexia;

115 (5) Conduct comprehensive assessments to determine eligibility for special education
116 services when a child does not respond or only minimally responds to intervention strategies
117 and/or when there is a suspected disability of dyslexia. If a determination is made through the
118 evaluation process that a student needs assessed for dyslexia, provide assessment and
119 diagnosis as necessary per West Virginia Department of Education guidelines;

120 (6) Employ appropriate accommodations and instructional practices recommended by the
121 West Virginia Department of Education based upon the students' needs. When those needs are
122 related to dyslexia, these accommodations and instructional techniques or strategies shall also
123 meet the West Virginia Department of Education-approved guidelines for dyslexia
124 accommodations and instructional practices;

125 (7) Require all elementary educators, special educators, reading interventionists or
126 specialists, and other personnel determined appropriate by the local education agency to receive
127 professional development on the possible signs of dyslexia and the related classroom
128 accommodations and instructional practices approved by the West Virginia Department of
129 Education;

130 (8) Administer a literacy screening instrument or instruments to students in grades 3-5
131 who transfer from a local education agency where literacy screening instruments were not
132 administered. If the literacy screening instrument indicates a deficit in reading, the school will
133 provide intervention according to current policy. If a student does not respond or only minimally
134 responds to intervention, a referral for multidisciplinary evaluation shall be made; and

135 (9) Require all appropriate personnel, as determined by the local education agency, to
136 annually receive professional development relating to the possible indicators for dyslexia and
137 dyscalculia, accommodations and modifications in the classroom environment, proper
138 instructional practices for educating students who exhibit possible indicators of risk for, or who
139 have been, diagnosed with dyslexia, dyscalculia, and/or other specific learning disabilities. Local
140 education agencies may create more than one module to satisfy the requirements of this
141 subdivision.

142 (e) The state board shall promulgate a rule pursuant to §29A-3B-1 *et seq.* of this code to
143 implement this section. In addition to other provisions to implement this section, the rule shall at
144 least include the following:

145 (1) If a student is reading substantially below grade level according to formal and/or
146 informal assessments, including benchmark assessments, and has never been evaluated for
147 special education, a request may be made by a school, parent, or teacher for the administration
148 of an age- or grade-appropriate West Virginia Department of Education-approved literacy
149 screening instrument or instruments. These points of data may be used to either start intervention
150 and progress monitoring per West Virginia Department of Education guidance, or make a referral
151 for a special education evaluation;

152 (2) Acknowledgement that each local education agency may have one certified Literacy
153 and Numeracy Specialist in each local education agency, or another appropriate professional
154 designated by relevant local education agency leadership, to be appropriately trained, or be
155 seeking appropriate training, in intervention, accommodations, and instructional strategies for

156 students with dyslexia or a related disorder. The trained individual(s) shall serve as an advisor
157 and trainer for dyslexia and related disorders for the local education agency. The reading
158 specialist(s) or other designated professional(s) shall have an understanding of the definition of
159 dyslexia and a working knowledge of:

160 (A) Techniques to help a student on the continuum of skills with dyslexia;

161 (B) Dyslexia characteristics that may manifest at different ages and levels;

162 (C) The basic foundation of the keys to reading, including multisensory, explicit,
163 systematic, and structured literacy instruction; and

164 (D) Appropriate interventions, accommodations, and assistive technology supports for
165 students with dyslexia.

166 (f) *Legislative Oversight Commission on Education Accountability (LOCEA)*:

167 (1) The final draft of the state board's literacy and numeracy rule shall be submitted to the
168 Legislative Oversight Commission on Education Accountability (LOCEA) by August 1, 2023.

169 (2) The following shall be submitted to the Legislative Oversight Commission on Education
170 Accountability (LOCEA) annually:

171 (A) Disaggregated data concerning literacy and numeracy patterns statewide;

172 (B) Statewide interventions implemented; and

173 (C) The statewide professional development plan.

174 (3) Progress monitoring regarding K-2 screening and 3-8 formative assessments shall be
175 presented to the Legislative Oversight Commission on Education Accountability (LOCEA) after
176 data is collected for the beginning, middle, and end of the school year.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

Steve Harmon

.....
Clerk of the House of Delegates

Joe Lamm
.....
Clerk of the Senate

FILED
2023 MAR 21 P 12:12
OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

Originated in the House of Delegates.

In effect ninety days from passage.

Rep. Hanshaw

.....
Speaker of the House of Delegates

C. P. B...
.....
President of the Senate

The within is *approved* this the *21st*
Day of *March*, 2023.

James Justice
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 20 2023

Time 3:23 pm