

What Public School Leaders Ought to Know About Recent Legislation and Related Legal Developments

RESA 7 Administrators Conference
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Bowles Rice Education Law Group



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Top Ranked in Education Law



Our Agenda This Morning

- Some school law resources to help you keep up-to-date all year long
- Education law highlights of the recent regular session of the legislature
- A word about the Monongalia County "RESA" case
- Significant recent court and grievance decisions

A Word About This Presentation

- We speak in general terms today. The specific facts of each situation can make a difference in the legal principles that apply
- This presentation must not be treated as legal advice about any specific situation
- Due to the rapidly changing nature of the law, information in this presentation may become outdated
- When in doubt, don't act or rely upon the information contained in this presentation without seeking legal advice



Some School Law Resources To Help You Keep Up-to-Date All Year Long



“School Laws of West Virginia”

- Beware! The latest edition and its CD-ROM/electronic version are already out of date!
- Current versions of the statutes are available at the West Virginia Legislature's website

E-Updates & Alerts



THE BOWLES RICE EDUCATION LAW GROUP
eNewsletter

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E-Newsletter Mailing List

- E-Newsletter Mailing List
- Send an email to Sarah Plantz:
 - splantz@bowlesrice.com
- Tell Sarah:
 - Who you are
 - Your position in public education
 - Your school board's name
 - That you want to receive the E-Newsletter

*Highlights of 2015 State
Legislation Affecting Public
Education*

Handout, p. 1



What DIDN'T Make It

- S. B. 19: Specifying minimum early childhood education program instruction days *Vetoed*
- H. B. 2160: WV Schools for the Deaf and Blind eligible for School Building Authority funding *Vetoed*
- H. B. 2187: Encouraging public officials to display the national motto on all public property and public buildings *Vetoed*

What DIDN'T Make It

- H. B. 2674: Making home schooled students eligible for a PROMISE scholarship without taking the GED test *Vetoed*
- H. B. 2793: Relating to exemptions from mandatory school attendance *Vetoed*
- H B 2840: Providing an alternative plan to make up lost days of instruction *Vetoed*

What DIDN'T Make It

- S. B. 14: Creating Public Charter Schools Act of 2015 *Never enacted*
- H. B. 2934: Repealing the common core standards *Never enacted*
- H. B. 2717: Relating to hiring of public school employees *Never enacted*

Categories of New Laws

- A. Professional and Service Personnel
- B. Compensation and Benefits
- C. Instruction
- D. Student rights & services
- E. Safe schools
- F. Attendance
- G. Facilities

A. Professional & Service Personnel

House Bill 2702

*Redefining Service Personnel
Class Titles of Early Childhood
Classroom Assistant Teacher*

Handout, p. 18

House Bill 2139

Employment of Retired Teachers as Substitutes in Areas of Critical Need and Shortage for Substitutes

Handout, p. 10

House Bill 2005

Alternative Programs for the Education of Teachers

Handout, p. 8

B. Compensation and Benefits

House Bill 2381

*Providing a Teacher Mentoring
Increment for Classroom Teachers
with National Board Certification
who Teach and Mentor at Certain
Schools*

Handout, p. 13

C. Instruction

Senate Bill 7

*Requiring CPR and Care for
Conscious Choking Instruction
in Public Schools*

Handout, p. 1

House Bill 2535

*Suicide Prevention Training,
“Jamie’s Law”*

Handout, p. 14

House Bill 2377

*Authorizing State Board of
Education to Approve Certain
Alternatives With Respect to
Instructional Time*

Handout, p. 12

House Bill 2598

*Ensuring That Teachers of
Students With Disabilities Receive
Complete Information About the
School’s Plan for Accommodating
the Child’s Disabilities*

Handout, p. 15

D. Student Rights & Services

Senate Bill 243

*School Nutrition Standards
During State of Emergency or
Preparedness*

Handout, p. 2

Senate Bill 287

*Providing Posthumous High
School Diplomas*

Handout, p. 3

Senate Bill 447

*Allowing Issuance of Diploma
by Public, Private or Home
School Administrator*

Handout, p. 6

House Bill 2797

*Changing the Term "Mentally
Retarded" to "Intellectually
Disabled," and Changing the Term
"Handicapped" to "Disabled"*

Handout, p. 20

E. Safe Schools

House Bill 2200

*Revising, Rearranging,
Consolidating and Recodifying the
Laws of the State of West Virginia
Relating to Child Welfare*

Handout, p. 12

House Bill 2939

*Requirements for Mandatory
Reporting of Sexual Offenses
on School Premises Involving
Students*

Handout, p. 20

House Bill 2502

*Possessing Deadly Weapons
on School Buses or on the
Premises of Education
Facilities*

Handout, p. 14

House Bill 2025

*Prohibiting Certain Sex
Offenders From Loitering
Within One Thousand Feet of
a School or Child Care Facility*

Handout, p. 9

House Bill 2648

*Allowing Authorize Entities to
Maintain a Stock of
Epinephrine Auto-Injectors to
be Used for Emergency*

Handout, p. 17

Senate Bill 286

*Compulsory Immunization of
Students; Exemptions*

Handout, p. 2

House Bill 2669

Tuberculosis Testing

[not in the handout]

F. Attendance

House Bill 2550

Increasing the Number of Unexcused Absences of a Student Before Action may be Taken Against the Parent

Handout, p. 15

G. Facilities

Senate Bill 238

*Limiting Certain County Board
of Education Liability Arising
from Unorganized Recreation*

Handout, p. 2

Resolutions

Handout, p. 21



The Resolutions

- SCR 10: Constitution month
- HCR 151: Athletic trainer licensure

Recent Decisions of the West Virginia Supreme Court of Appeals

Handout, p. 24



2.

Glaspell v. Taylor County Board of Education

Teacher-pupil classroom ratios

Handout, p. 24

8.

State ex rel the WVSSAC v.
Hummel

Judicial Review

Handout, p. 25

*The Monongalia County
Board of Education "RESA"
Case*

Handout, p. 27



- Summary judgment granted/denied
- Stay issued without opposition
- Appeal to be made to the West Virginia Supreme Court of Appeals
- Possible consequences

Recent Decisions of the Grievance Board

Handout, p. 28



1. West v. Marshall County
(reclassification)
2. Hilton v. Wood County
(willful neglect of duty)
3. Bailey v. McDowell County
(disciplinary reprimands)
12. Linville v. Lincoln County
(executive secretary class title)

14. Mullins v. Mason County
(work schedule conflicts)
17. Lancaster v. Ritchie County
(Code of Conduct conversions)
21. Lemasters v. Jackson County
(extra pay for teacher bus duty?)
25. Banks v. Mason County
(time to file a grievance)
28. Thomas v. Logan County
(principal's authority)

- 31. Skaggs v. Ritchie County
(schedule changes)
- 45. Robinette v. Boone County
(suspicion-based drug testing)
- 53. Raines v. Kanawha County
(offering extra-duty overtime)
- 54. Layne v. Kanawha County
(drug tests; right to representation)

Ten Red flag legal issues for school administrators in 2015-2016



1. Addressing suspicions of employee substance abuse

2. The employee disciplinary process, including letters of reprimand and contract actions

3. Student suspension procedure

4. Limitations on student expulsions

5. The establishment and free exercise of religion

6. Harassment and bullying, including on-line acts

7. Addressing suspicions of employee sexual misconduct with students

8. Reporting abuse,
neglect and student-to-
student sexual contact

9. Following the State
Board's school
accounting procedures
to the letter of the law

10. The headline
issues: The
Confederate flag,
transsexual students,
partisan politics on
school premises

*Thank you for taking time to
improve your understanding of
the school laws*

*And thank you for all you do to improve
student achievement in West Virginia's
schools*


