

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

West Virginia Association of School Administrators  
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## THE BOWLES RICE EDUCATION LAW GROUP eNewsletter

This education law newsletter is a publication of Bowles Rice LLP, Attorneys at Law 2017



## *E-Newsletter Mailing List*

- E-Newsletter Mailing List
- Send an email to Sarah Plantz:
  - [splantz@bowlesrice.com](mailto: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



## 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- Due to the rapidly changing nature of the law, information in this presentation may become outdated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



**Senate Bill 62**  
**Adjusting requirements for hiring  
school attendance directors**  
*In effect May 15, 2018*

*Highlights p. 1*



- Review job posting forms to reflect that applicants can hold either certification in attendance or professional administrative certificate
- Review hiring practices to ensure that human resources staff are aware of this change



**Senate Bill 244**  
**Specifying conditions for unlawful  
possession of firearm at school  
sponsored activities**  
*In effect June 8, 2018*

*Highlights p. 1*



- Review agreements for the rental or lease of property used for school-sponsored functions to ensure the prohibition of firearms or deadly weapons at the function (e.g. public venues used for athletics, the arts, field trips)
- Review field trip policies to determine if a rental or lease agreement is advisable (e.g. school is renting the movie theater)
- Ensure that appropriate staff members are aware that retired law enforcement officers may possess a firearm or other deadly weapon on school property with few restrictions, one being that it is carried in a concealed manner
- Update student handbooks, if necessary, to inform parents that students may not bring firearms or deadly weapons to school under the educational purpose exception
- ~~Ensure appropriate staff members are aware of this provision~~



**Senate Bill 283**  
**Relating generally to procurement  
by state agencies**  
*In effect June 8, 2018*

*Highlights p. 2*



- Review/revise county policies, if any, to update definition of “construction project”
- Review bid documents, if any, to update definition of “construction project”
- Review/revise county policies, if any, to include new rules for alternates
- Review bid documents, if any, to include new rules for alternates
- Watch for state board of education updates and modifications to policy 8200
- Make policy changes necessitated by new law



**Senate Bill 461**  
**Extending time to file petition for  
motor fuel excise tax refund**  
*In effect June 6, 2018*

*Highlights p. 3*



Ensure that appropriate staff in the transportation and finance departments are aware that the deadline to petition to file for the motor fuel excise tax is now December 31 for purchase of motor fuel made during the previous fiscal year ending June 30

Ensure that your county is, in fact, filing a petition for this refund



**Senate Bill 465**  
**Relating to mandated reporting of  
child abuse and neglect**  
*In effect June 5, 2018*

*Highlights p. 3*



- Provide all current employees an amended written statement setting forth the statute's new requirements
- Update Employee handbooks and/or any county website information
- Consider requiring all employees to sign a form (electronic or paper) acknowledging that they have received and understand the contents of the handbook
- Ensure that the county maintains employee signed forms acknowledging that they have received and understand the reporting requirement
  - This may be accomplished through the handbook acknowledgement for or separately
- Update new hire documents to include the required written statement and employee acknowledgement form
- Consider updating recordkeeping methods from paper to electronic



## Senate Bill 561

Increasing minimum contract price  
requiring execution of bond with  
respect to building or repairing  
school property

*In effect June 3, 2018*

*Highlights p. 5*



- Review/revise county policies, if any, to update change in bond requirement
- Ensure that appropriate staff members are aware of this change in the law



## House Bill 2546

Allowing replacement costs of employer provided property to be deducted from an employee's final paycheck if the property is not returned

*In effect May 15, 2018*

*Highlights p. 5*



- Consider adopting a board policy
- Prepare written agreements, to include mandatory language from the statute, whereby the employee agrees that the failure to return the specified item may result in the replacement cost being recovered from the employee's final wages
- Ensure that finance office personnel understand that employee wages may not be withheld unless the employee has signed the written agreement
- Update employee handbooks and county website information, if any, to inform employees of new law



**House Bill 2655**  
**Defining and establishing the crime**  
**of cyberbullying**  
*In effect June 8, 2018*

*Highlights p. 6*



- Update student handbooks to include new law
- Update employee handbooks to include new law
- Update county website information, if any, to include new law
- Ensure that staff members, SROs and students are aware of this new law



**House Bill 3089**  
**Relating to the adoption of  
instructional resources for use in  
the public schools**  
*In effect June 7, 2018*

*Highlights p. 7*



- Review/revise adoption of instructional resources policies prior to adopting instructional resources for the 2019-2020 school year
  - Policy must include specific requirements from the statute
- Ensure employees and parents understand that computer equipment required for homework is included in “free of charge”
- Update student handbooks
- Annually review the list of vendors approved by the state board
- Annually notify the state board of the instructional resources adopted by the county board



## House Bill 4006

Revising the processes through  
which professional development is  
delivered for those who provide  
public education

*In effect June 8, 2018*

*Highlights p. 9*



- Ensure human resources staff are aware that applicants are ineligible for employment as a principal or assistant principal if they have not yet completed evaluation training
- Review/revise policy manual to remove any language from policies that references the Center for Professional Development (personnel, finance, instruction)
- Revise professional personnel evaluation policies to align with rules to be adopted by the state board before July 1, 2018
- Update employee handbooks and information on county websites, if needed



- Adopt and implement county-level comprehensive system of support for teachers and principals aligned with guidelines to be published before July 1, 2018, by the state board
  - Failure to do so results in ineligibility for state funding
- May revise policies/practices for filling positions of master teacher, mentor, academic coach, etc.
- Prepare for July 1, 2019: Notify professional staff of changes to prerequisites for administrative certification
- Prepare for July 1, 2019: Review/revise evaluation policies to include skills required by the new law



**House Bill 4145**  
**Increasing the annual salaries of**  
**members of the West Virginia State**  
**Police, public school teachers and**  
**school service personnel**  
*In effect July 1, 2018*

*Highlights p. 13*



- Ensure finance department staff understand and appropriately apply increases in salaries
- Update salary schedules
- Update employee handbooks to include new salary schedules
- Update information on county website, if any



**House Bill 4402**  
**Relating to the prevention of sexual  
abuse of children**  
*In effect June 3, 2018*

*Highlights p. 16*



### Prepare for the 2019-2020 school year

- Watch for state board policy before December 31, 2018
- Prior to 2019-2020 school year, adopt a county policy that aligns with state board policy
- Update employee handbooks and any website information to reflect new requirements
- Prepare for training of all employees (four hours every two years, with a skills renewal every two years thereafter)
  - Training resources should be provided by state board
  - State board to provide certificates of satisfactory completion of the training to the employee and employer



### Prepare for the 2019-2020 school year

- Consider updating to electronic record keeping
- By December 31, 2018, the state board may enact an emergency rule establishing standards for training employees to recognize and respond to suspected abuse and neglect
  - This rule may require immediate action by county boards



**House Bill 4478**  
**Authorizing public schools to  
distribute excess food to students**  
*In effect June 5, 2018*

*Highlights p. 18*



A policy guideline document was provided to counties in May 2018

- Prior to the start of 2018-2019 school year, using the information in the guidance document, develop a written policy or procedure for saving and sharing foods or beverages in schools
- Update student handbooks
- Update information on county websites



## Senate Bill 319

Allowing individuals who completed home schooling be eligible for PROMISE scholarship without equivalent diploma

*In effect July 1, 2018*

*Highlights p. 2*



## Senate Bill 364

Allowing parent or legal guardian of homeschooled child provide signed statement for obtaining permit or license to operate motor vehicle

*In effect May 31, 2018*

*Highlights p. 3*



**Senate Bill 506**

**Deregulating persons who perform  
work on heating, ventilating and  
cooling systems**

*In effect June 7, 2018*

*Highlights p. 4*



**House Bill 2028**

**Relating to the venue for suits and  
other actions against the state**

*In effect June 6, 2018*

*Highlights p. 5*



## House Bill 2799

Prohibiting the superintendent of schools from requiring a physical examination to be included to the application for a minor's work permit

*In effect June 8, 2018*

*Highlights p. 7*



## House Bill 4042

Redefining school zone to facilitate placement of school zone signs

*In effect June 7, 2018*

*Highlights p. 12*



**House Bill 4183**  
**Relating generally to standardized  
testing requirements for nonpublic  
schools**

*In effect June 6, 2018*

*Highlights p. 13*



**House Bill 4187**  
**Business Liability Protection Act**  
*In effect June 8, 2018*

*Highlights p. 14*



**House Bill 4242**

**Clarifying the jurisdictional amount  
for removal of a civil action from  
magistrate court to circuit court**

*In effect May 17, 2018*

*Highlights p. 15*



**House Bill 4336**

**Updating the schedule of controlled  
substances**

*In effect June 7, 2018*

*Highlights p. 16*



**House Bill 4424**

Providing that the Ethics Act applies  
to certain persons providing  
services without pay to state  
elected officials

*In effect June 8, 2018*

*Highlights p. 17*



**House Bill 4473**

Relating to use of state funds for  
advertising to promote a public  
official or government office

*In effect June 5, 2018*

*Highlights p. 17*



## House Bill 4571

Relating to the final day of filing  
announcements of candidates for a  
political office

*In effect June 8, 2018*

*Highlights p. 19*



## Significant Recent Grievance Board Decisions

Handout, pages 20-25



6.

Wilfong v. Randolph County Board  
of Education

Docket No. 2018-0177-RanED  
(January 25, 2018)

*RIF and the half principal/half  
teacher*



Review/revise laterality policy, if any, to  
consider laterality of half administrator/half  
teacher positions



## 12.

**West v. Marshall County Board of  
Education****Docket No. 2017-1536-MarED  
(March 9, 2018)*****Filling multiclassified service  
positions***

Consider a policy or procedure to address how the county will determine which classification category will be given more weight when comparing applicants for a multi-classified position where no applicants are currently employed in the very same multiclassification

- Example: Posting for mechanic/bus operator because county needs a mechanic who can also drive a bus. If no current mechanic/bus operators apply for the position, in selecting the successful applicant the county can determine which component is most important and select the applicant with the most seniority in that classification category.



Ensure that human resources staff understand how to determine which component is most important and how to select the successful applicant in this situation



17.  
Tribbie v. Mason County Board of  
Education  
Docket No. 2018-0548-CONS  
(April 26, 2018)  
*Letters of reprimand*



- Ensure that appropriate human resources and administrative staff understand that a letter of reprimand is a disciplinary action against an employee
  - Prior to issuing a letter of reprimand, an employee is entitled to an informal conference with the supervisor (notice and an opportunity to be heard)
- Consider a policy or procedure to address employee rights throughout the disciplinary process



# 13 Red Flag Legal Issues for School Districts in the 2018-2019 School Year



## Hate speech



# Employee and student off-campus misconduct



# Disciplining students with disabilities



# Religion in the schools



# Weapons



# School closings and consolidations



# Title IX complaints



# Bullying



# Employee discipline



# Employee leave, including FMLA



# Employee and student walkouts and strikes



# Collection and confidentiality of student data



# Take-backs of employee wages or benefits



***Thanks for inviting  
us to join you  
today!***

