

<p><b>PRESTON COUNTY BOARD OF EDUCATION</b>  <b>FILE: 1 – SCHOOL BOARD BYLAWS AND ORGANIZATION</b>  <b>File: 1-23 Endnotes</b></p>	<p><b>Last Reviewed: 8-9-10</b>  <b>Next Review: 7-1-12</b></p>
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**ENDNOTES**

**File: 1 -- School Board Bylaws and Organization**

**West Virginia Constitution:**

**Article XII, Section 1.2** – Places the general supervision of the free schools of the state in the hands of the West Virginia Board of Education.

**Article IV** – Provision for removal of officials for misconduct, incompetence, and other defined reasons.

**West Virginia Codes:**

<b><u>Code</u></b>	<b><u>Topic of the Code</u></b>
§ 3-5-6-----	Election of county board of education members at primary elections.
§ 3-5-7-----	Filing announcements of candidacy.
§ 6-9A-1 thru 6-9A-6--	Open governmental proceedings.
§ 6-9A-3-----	Proceedings to be open; public notice of meetings.
§ 6-9A-5-----	Minutes of board meetings.
§ 6-9A-11-----	Request for advisor opinions from the Ethics Committee.
§ 7-4-1-----	Duties of prosecuting attorney; further duties upon request of attorney general.
§ 7-23-2-----	Flexibility for county commissions, municipalities and county boards of education.
§ 11-8-9-----	Meetings of local levying bodies.
§ 11-8-26-----	Unlawful expenditures by local fiscal body.
§ 11-8-29-----	Personal liability of officials participating in unlawful expenditure.
§ 11-8-30-----	Recovery of unlawful expenditure from participating official by action; costs.
§ 11-8-31a-----	Recovery of attorneys’ fees authorized
§ 11-8-9-----	Meetings of local levying bodies.
§ 11-8-12a-----	Adjourned session of board of education to hear objections to proposed levies.
§ 18-2-1-----	Creation; composition; appointment, qualification, terms and removal of members; offices.
§ 18-2-26-----	Establishment of RESA’s
§ 18-2E-8b-----	Audit of state board policies; legislative oversight commission; required plan of improvement; exemptions from determination of accreditation status.
§ 18-4-10-----	Duties of county superintendent.
§ 18-5-1 thru 18-5-39 --	Supervision and control of county school districts; number, nomination and election of members; general powers and duties.
§ 18-5-1a-----	Eligibility of county board members.
§ 18-5-1b-----	Election; term of office.
§ 18-5-1c-----	County boards of education; training in prevention of child abuse and neglect and child assault; regulations; funding.
§ 18-5-2-----	Filling vacancies.

- § 18-5-3 ----- Oath of members.
- § 18-5-4 ----- Meetings; employment and assignment of teachers; budget hearing; compensation of members; affiliation with state and national associations.
- § 18-5-5 ----- Corporate character and general powers of board; exemption of school property from legal process and taxes.
- § 18-5-6 ----- Validation of titles to land in possession of board.
- § 18-5-7 ----- Sale of property at public auction; rights of grantor of lands in rural communities; oil and gas leases; disposition of proceeds.
- § 18-5-10 ----- Approval by state board of plans and specifications for buildings.
- § 18-5-13 ----- Authority of boards generally.
- § 18-5-14 ----- Policies to promote school board effectiveness.
- § 18-5-25 ----- Duties of superintendent as secretary of board.
- § 18-5-39 ----- Establishment of summer school programs; tuition.
- § 18-5A-2 ----- Local school improvement councils; election.
- § 18-5A-3 ----- Authority of the LSIC to request waivers.
- § 18-5A-5 ----- Public school faculty senates established; election of officers; powers and duties.
- § 18-9-6 ----- Transfer of monies; appointment of treasurer; bonding of treasurer; approval of bank accounts; authority to invest; security for funds invested.
- § 18A-2-12a ----- Minimizing disagreements and misunderstandings between the board and its employees.
- § 29-12-5a ----- Liability insurance for county boards of education, their employees and members the county superintendent of schools, and for employees and officers of the state department of corrections.
- § 29B-1-1 thru 29B-1-7 ----- Freedom of information regarding public records
- § 39A-3-1; §39A-3-2;
- § 39A-3-2 ----- Electronic signatures and electronic postmarks.
- § 55-7-18a ----- Qualified immunity for disclosing adverse job-related employee information.
- § 61-5A-2 ----- Definitions of bribery and corrupt practices.
- § 61-5A-3 ----- Bribery in official and political matters.
- § 61-5A-9 ----- Penalties; disqualification to hold office; statute of limitations for misdemeanor offenses.
- § 61-10-15 ----- Pecuniary interest of county and district officers, teachers and school officials in contracts; exceptions; offering or giving compensation; penalties.

**State Board Policies:**

<b><u>Policy</u></b>	<b><u>Topic of the Policy</u></b>
SBP 2320 -----	Performance Based Accreditation System.
SBP 2445.40 -----	Groupings for Textbook Adoption for Early Childhood Education, Middle Childhood Education, and Adolescent Education
SBP 2510 -----	Assuring Quality of Education: Regulations for Education Programs
SBP 3232 -----	Establishment Procedures and Operating Policies for Multi-county Career and Technical Education Centers
SBP 7211 -----	Appeals Procedure for Citizens

### **Relevant Court Cases:**

**B.O.E. County of Taylor v. B.O.E. County of Marion, 578 S.E.2d 376 (2003)** – A county may unilaterally establish bus stops within another county to provide transportation for students who have received proper authorization from both county school boards to attend school in the county providing the transportation.

**Longwell v. B.O.E of Marshall County, 583 S.E.2d 109 (2003)** –When a county is in need of legal services, it may exercise its own discretion in determining whether to utilize the services of the county prosecuting attorney or to hire its own legal counsel.

**McComas v. Board of Education, 475 S.E.2d 280 (1996)** – All meetings of any governing body must be open to the public. The plaintiff does not have to show intent to violate the code in order to show a violation has occurred. Another important aspect of this case is that it established that a board of education has the authority to close and/or consolidate schools, and the courts may not interfere with the decisions of the board without strong evidence justifying such interference.

**Pell v. Board of Education, 426 S.E.2d 510 (1992)** – Decisions of county boards of education concerning closings and consolidations may be rejected when they fail to comply with statutory provisions and state board regulations.

**Adkins v. Smith, 408 S.E.2d 60 (1991)** – Candidates for the board of education must meet residency requirements at the time they file for candidacy.

**Bowers v. Bowyer, 310 S.E.2d 474 (1989)** – The state superintendent of schools may review a decision by a county board of education on appeal by an employee.

**Ohio Valley Contractors v. Board of Education, 293 S.E.2d 437 (1982)** – Local boards of education do not have state constitutional immunity or common-law governmental immunity from suit.

**Hall v. Pizzino, 263 S.E.2d 886 (1980)** – County superintendents are not merely subject to the control of the board of education, but exercise a multitude of powers and duties independent of the board.

**Pinson v. Varney, 96 S.E.2d 72 (1956)** – Upholds the legislation that calls for the election of board members on the same date as primary elections.

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