



The

Challenge



September 2003

New Lincoln County lawsuit filed

A long-awaited lawsuit, aimed at stopping the W.Va. Department of Education from consolidating schools in Lincoln County, has been filed.

The suit was filed on Sept. 12, 2003, in the Circuit Court of Kanawha County.

Seven Lincoln County parents, represented by former U.S. Attorney Michael Carey, filed the lawsuit, asking the court to issue an injunction against the State Department of Education, prohibiting any further actions on the implementation of a plan to consolidate the county's four high schools into one.

The lawsuit maintains that Lincoln County school chil-

dren will suffer irreparable harm, if the consolidation plan is allowed to proceed, and that unnecessarily long bus rides will have a devastating effect on the education of Lincoln County students.

The lawsuit presents a challenge against school consolidation as an issue. Prior school consolidation lawsuits have been decided on procedural matters.

The lawsuit arose from a vote of the Lincoln County

Board of Education, earlier this year. The board voted to file the lawsuit itself, but, since it is currently under state control, the board could not authorize the expenditure of any local funds in furtherance of the lawsuit.

Once this was discovered, Lincoln County citizens formed a group called Equal Educational Opportunities and began seeking donations for the funding of the suit.

The group, head-

ed by Lincoln County BOE President Carol Smith and Lincoln County Challenge West Virginia Fellow Thomas Ramey, is still seeking assistance.

This is the second lawsuit filed this year challenging the school closures in Lincoln County. The first is still pending in the same court.

Anyone who wishes to offer assistance can contact Carol Smith at 824-7516 or Thomas Ramey at 855-3930. An account has been opened at a Hamlin bank where donations can be mailed for deposit. The address is Equal Educational Opportunities, City National Bank, 8028 Lynn Avenue, Hamlin, WV 25523.

Challenge WV Annual Fall Conference

"Distance Learning: Bringing Education to Where Our Children Live"

Oct. 10 from 10 a.m. to 4 p.m. at Marshall University Drinko Library

Presentations by Vicki Hobbs of the Rural School and Community Trust and Dr. Stan Maynard and David Johnson of Marshall University

Demonstration of technology in Wayne Co. Schools
Admission Fee \$10 - Lunch included with admission
Contact Linda Martin for more info (304)744-5916

Visit Challenge West Virginia at www.challengewv.org

This 'n that from around the state

- West Virginia Attorney General Darrell McGraw is reportedly considering a lawsuit against the U.S. Department of Education, challenging the unfunded federal mandates contained within the No Child Left Behind Act of 2001. It is estimated that West Virginia will need an additional \$70 million for funding the mandates through the year 2014. State officials, teachers' unions, county officials and others have recently leveled heavy criticism at the federal government over the unfunded mandates. The National Education Association has plans to push for the passage of new legislation they call, "The Great Public Schools for Every Child Act." The proposed legislation consists of 47 amendments to the No Child Left Behind Act.



nurses are reportedly concerned about liability issues for licensees who are employed as school nurses. The proposal currently has the State BOE divided. BOE Member Ron Spencer has voiced strong opposition to the plan. "So, to take a cough drop, a parent has to pay \$80 at 'Quick Care' for a doctor's prescription?" Spencer asked rhetorically. "When parents become aware of this, they're going to say, 'why can't the state board use common sense?'" If the policy is implemented, students will be disciplined as though the OTC medication was a controlled substance. State officials say that approximately one-third of the state's county boards of education already follow the policy.

- The Mingo County Board of Education is seeking \$19 million from the West Virginia School Building Authority to fund a new consolidated high school in the county. The Mingo County Comprehensive Educational Facilities Plan calls for the county to eventually have two new consolidated high schools — one in the northern part of the county and one in the south. If awarded, the grant would fund the first of the two schools and will involve the closures of Williamson High School, Williamson Middle School, Matewan High School, Matewan Middle School and Burch High School.

- Mingo County is also planning an excess levy election for November 22, 2003. The proposed levy will raise at least \$29.1 million over a five-year period, beginning on July 1, 2004.

- Two West Virginia schools have been the first to earn Blue Ribbon Schools status, under the No Child Left Behind Act of 2001. The State Board of Education announced on September 17, 2003, that Steenrod Elementary School in Ohio County and Kenova Elementary School in Wayne County have won the prestigious awards from the U.S. Department of Education.

- The West Virginia Board of Education is considering a policy, which would prohibit the use of over-the-counter medications in public schools, without a physician's prescription. The plan calls for banning any type of OTC drug, including Tylenol, Advil or Hall's Cough Drops. The proposal originated with the W.Va. Board of Examiners for Registered Nurses. The board has threatened to revoke nursing licenses for those nurses who give students OTC medications without a physician's order. The

- Another policy under consideration by the State BOE would formalize standards for annual performance evaluations for county superintendents of schools. The policy would require each county BOE to submit, for state approval, a written policy on the process the county BOE plans to use in the evaluations. The county policies must require written goals and policy objectives for the superintendents to follow. The goals are to be "mutually agreeable" to the county board and the superintendent. Under the proposed policy, all county BOE members will be required to receive special training in evaluating superintendents.

- The Raleigh County Board of Education has formed two committees to work on proposals for a new excess levy and a facilities bond levy. The BOE plans to hold elections for both levies, but no dates have been set.

- According to newly-released figures from the West Virginia Division of Motor Vehicles, 570 high school students had their drivers' licenses suspended in 2002 for missing too much school. County boards of education are required to notify the DMV of each student age 16 years or older, who misses 10 consecutive days of school, unexcused, or 15 unexcused days total. The number of suspensions last year was significantly lower than those in previous years. In 2001 there were 791 such suspensions. In 2000 the number was 733 and in 1999 there were 856 such suspensions.

- U.S. Senator Robert C. Byrd (D-WV) has been awarded the William H. Natcher Distinguished Service Award by the Committee for Education Funding, in recognition of his efforts to improve funding for education.

The Challenge

The Challenge is published monthly by Challenge West Virginia, a statewide organization, committed to maintaining and improving small community schools.

Challenge West Virginia's goal is to reform education in the Mountain State so that citizens have a voice in policy decisions and every child has the opportunity to receive a first-class education and the promise of a bright future.



Challenge West Virginia

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We Support Small Schools!

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WVDMV reports 205 school bus crashes in 2002

According to recently released statistics from the West Virginia Division of Motor Vehicles, there were 205 school bus crashes in West Virginia during the 2002 calendar year.

The number of passengers of involved buses was 717. Of the 717 passengers, none were

killed, 10 received injuries which required them to be carried from the scene, 56 sustained minor injuries and 651 were uninjured.

A total of 193 (26.9 %) of the passengers were under the age of 14.

One pedestrian was involved in a school bus accident in

2002. The injuries received by the pedestrian were fatal.

No less than 124 (60.19%) of the crashes occurred on rural state or county routes.

One crash occurred on an Interstate, 50 crashes were on U.S. routes and 28 occurred on city streets.

No figures are

readily available for accurate comparison to previous years due to changes in statistical collection practices.

Research has shown that school consolidation leads to increased travel times and distances for students and results in increased chances for traffic accidents.

SBA takes part in economic development grant case

The West Virginia Supreme Court of Appeals has granted permission for the West Virginia School Building Authority to participate in lawsuits challenging the Constitutionality of \$200 million in "economic development" grants, which, if approved by the court, will be distributed from the proceeds of a bond sale by the W.Va. Economic Development Grant Committee.

On September 22, the SBA filed its motion for permission to file an amicus curiae (or "friend of the court") brief on the issues in the case. The SBA's motion was

granted on September 25.

The SBA argued that it should be allowed to participate because the lawsuits challenge the manner in which it receives up to \$20 million per year for school construction funding in West Virginia.

The lawsuits challenge the funding scheme for repayment of the bonds. Under the current scheme, the bonds are sold to investors and the proceeds are then distributed. The organizations that receive funding do not have to pay the money back to the State. Instead, the principal and interest

on the bonds will be repaid from the State's share of revenue from "Limited Video Lottery." The "Limited Video Lottery" revenue comes from the "video poker" machines found throughout the State.

The \$20 million per year in "pay as you go" school construction funding also comes from video lottery proceeds.

Two of the three lawsuits argue that the West Virginia Constitution does not authorize "video lottery." Those plaintiff's maintain that, when West Virginia voters authorized a statewide

lottery in the 1980s, they did not contemplate the legalization of gambling to the point of allowing the video poker machines.

The third lawsuit, filed by several groups that will receive grant money, argues that the scheme is Constitutional.

Instead of being represented by an assistant State Attorney General, the SBA has engaged the Charleston law firm of Neely & Hunter to provide its counsel. Former Supreme Court of Appeals Justice Richard Neely is a partner in the firm. Roger D. Hunter is the SBA's attorney.

