WEST VIRGINIA CODE: §18-5-18A

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

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

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

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

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

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

(1) A full-time interventionist hired pursuant to this subsection and assigned to up to two classrooms satisfies the requirements of subsection (a) of this section for both classrooms: *Provided*, That this subdivision does not apply to kindergarten and first grade classrooms and notwithstanding subdivision (2) of this subsection or any other provision of code to the contrary, any early childhood assistant teacher, aide, paraprofessional, or interventionist assigned to a kindergarten or first grade classroom only satisfies the requirements of subsection (a) of this section if the assignment to that classroom is full-time;

(2) If no full-time interventionist is available, a county board may satisfy the requirements of subsection (a) of this section by employing a part-time interventionist. The part-time interventionist may only be assigned to one classroom for the purposes of satisfying the requirements of subsection (a) of this section; and

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

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

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

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

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

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

(f) The requirement for approval of an exception to exceed the 20 pupils per kindergarten teacher per session limit or the 25 pupils per teacher limit in grades four through six is waived in schools where the schoolwide pupil-teacher ratio is 25 or less in grades four through six: *Provided*, That a teacher shall not have more than three pupils above the teacher/pupil ratio as set forth in this section. Any kindergarten teacher who has more than 20 pupils per session and any classroom teacher of grades four through six who has more than 25 pupils, shall be paid additional compensation based on the affected classroom teacher’s average daily salary divided by 20 for kindergarten teachers, or 25 for teachers of grades four through six, for every day times the number of additional pupils enrolled up to the maximum pupils permitted in the teacher’s classroom. All such additional compensation shall be paid from county funds exclusively.

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

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

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

(i) The state board shall collect from each county board of education information on class

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size and the number of pupils per teacher for all classes in grades seven through 12. The state board shall report such information to the Legislative Oversight Commission on Education Accountability before January 1, of each year.

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