WEST VIRGINIA CODE: §18A-2-7

§18A-2-7. Assignment, transfer, promotion, demotion, suspension and recommendation of dismissal of school personnel by superintendent; preliminary notice of transfer; hearing on the transfer; proof required.

(a) The superintendent, subject only to approval of the board, may assign, transfer, promote, demote or suspend school personnel and recommend their dismissal pursuant to provisions of this chapter. However, an employee shall be notified in writing by the superintendent on or before April 1 if he or she is being considered for transfer or to be transferred. Only those employees whose consideration for transfer or intended transfer is based upon known or expected circumstances which will require the transfer of employees shall be considered for transfer or intended for transfer and the notification shall be limited to only those employees. Any teacher or employee who desires to protest the proposed transfer may request in writing a statement of the reasons for the proposed transfer. The statement of reasons shall be delivered to the teacher or employee within ten days of the receipt of the request. Within 10 days of the receipt of the statement of the reasons, the teacher or employee may make written demand upon the superintendent for a hearing on the proposed transfer before the county board. The hearing on the proposed transfer shall be held on or before May 1. At the hearing, the reasons for the proposed transfer must be shown.

(b) The superintendent at a meeting of the board on or before May 1 shall furnish in writing to the board a list of teachers and other employees to be considered for transfer and subsequent assignment for the next ensuing school year. An employee who was not provided notice and an opportunity for a hearing pursuant to subsection (a) of this section may not be included on the list. All other teachers and employees not so listed shall be considered as reassigned to the positions or jobs held at the time of this meeting. The list of those recommended for transfer shall be included in the minute record of the meeting and all those so listed shall be notified in writing and shall be delivered within 10 days following the board meeting, with written receipt notification documented by the superintendent, and shall state that the person is being recommended for transfer and subsequent assignment and the reasons therefor.

(c) The superintendent's authority to suspend school personnel shall be temporary only pending a hearing upon charges filed by the superintendent with the county board and the period of suspension may not exceed 30 days unless extended by order of the board.

(d) The provisions of this section respecting hearing upon notice of transfer are not applicable in emergency situations where a school building becomes damaged or destroyed through an unforeseeable act and which act necessitates a transfer of the school personnel because of the aforementioned condition of the building.

(e) Notwithstanding this section or any provision of this code, when actual student enrollment in a grade level or program, unforeseen on or before May 1 of the preceding

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school year, permits the assignment of fewer teachers or service personnel to or within a school under any pupil-teacher ratio, class size or caseload standard established in §18-5-18A of this code or any policy of the state board, the superintendent, with board approval, may reassign the surplus personnel to another school or to another grade level or program within the school if needed there to comply with any such pupil-teacher ratio, class size or caseload standard.

(1) Before any reassignment may occur pursuant to this subsection, notice shall be provided to the employee and the employee shall be provided an opportunity to appear before the county board to state the reasons for his or her objections, if any, prior to the board voting on the reassignment.

(2) Except as otherwise provided in subdivision (1) of this subsection, the reassignment may be made without following the notice and hearing provisions of this section, and at any time during the school year when the conditions of this subsection are met: *Provided*, That the reassignment may not occur after the last day of the second school month unless student population shifts have resulted in a teacher or service personnel being without any instructional responsibilities or work assignments: *Provided further*, That no transfer shall be made based on arbitrary, capricious, or retaliatory reasons. Any teacher who believes that his/her transfer violated these provisions may file a grievance pursuant to the West Virginia Public Employees Grievance Procedure set forth in § 6C-2-1 *et seq*. of this code.

(3) A professional employee reassigned under this subsection shall be the least senior of the surplus professional personnel who holds certification or licensure to perform the duties at the other school or at the grade level or program within the school.

(4) A service employee reassigned under this subsection shall be the least senior of the surplus personnel who holds the same classification or multiclassification needed to perform the duties at the other school or at the grade level or program within the same school.

(5) No school employee's annual contract term, compensation or benefits shall be changed as a result of a reassignment under this subsection.

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