WEST VIRGINIA CODE: §18A-2-7B

§18A-2-7b. Limitations on voluntary transfer of school employees to posted vacant position after twentieth day prior to beginning of instructional term.

(a) The Legislature finds that it is not in the best interest of the students particularly in the elementary grades to have multiple teachers for any one grade level or course during the instructional term. Therefore, it is the intent of the Legislature that the filling of positions through transfers of personnel from one professional position to another after the twentieth day prior to the beginning of the instructional term should be kept to a minimum in accordance with the following:

(1) After the twentieth day prior to the beginning of the instructional term, no person employed and assigned to a professional position may transfer to another professional position in the county during that instructional term unless the person holding that position does not have valid certification;

(2) The person may apply for any posted, vacant positions with the successful applicant assuming the position at the beginning of the next instructional term;

(3) Professional personnel who have been on an approved leave of absence may fill these vacancies upon their return from the approved leave of absence; and

(4) The county board, upon recommendation of the superintendent may fill a position before the next instructional term when it is determined to be in the best interest of the students.

(b) The Legislature finds that it is not in the best interest of students with autism or with an exceptionality whose IEP requires one-on-one services, or students in the early childhood years, to have multiple teachers, mentors, aides, paraprofessionals, interpreters or any combination thereof during the instructional term. Therefore, it is the intent of the Legislature that after the twentieth day prior to the beginning of the instructional term, filling positions through transfers of personnel from one position to another be kept to a minimum for autism mentors and aides who work with students with autism and for paraprofessionals, interpreters, early childhood classroom assistant teachers and aides who work with students with exceptionalities whose IEPs require one-on-one services, in accordance with the following:

(1) After the twentieth day prior to the beginning of the instructional term, a service person may not transfer to another position in the county during that instructional term, unless he or she does not have valid certification, if the service person is employed and assigned as an autism mentor or aide who works with students with autism, or as a paraprofessional, interpreter, early childhood classroom assistant teacher, or aide who works with a student with an exceptionality whose IEP requires one-on-one services;

WV Legislature

(2) The aide, autism mentor, paraprofessional, interpreter or early childhood classroom assistant teacher may apply for any posted, vacant position with the successful applicant assuming the position at the beginning of the next instructional term; and

(3) The county board, upon recommendation of the superintendent, may fill a position before the beginning of the next instructional term when it is determined to be in the best interest of the students.

(c) Except as provided in subsection (b) of this section, after the twentieth day prior to the beginning of the instructional term, a service person may transfer to another position of employment one time only during any one half of the instructional term, unless otherwise mutually agreed upon by the service person and the county superintendent, or the superintendent's designee, subject to county board approval. During the first year of employment as a service person, a service person may not transfer to another position of employment during the first one half of the instructional term unless mutually agreed upon by the service person and county superintendent, subject to county board approval, except as follows:

(1) Upon return from an approved leave of absence, a service person may fill a vacant position for which he or she is qualified or holds valid certification;

(2) A service person may apply for a posted, vacant position at any time. The successful applicant for the position may not assume the position until the beginning of the next one half of the instructional term; and

(3) Extracurricular assignments for school bus operators pursuant to section sixteen, article four of this chapter are exempt from the requirements of this subsection.

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