WEST VIRGINIA CODE CHAPTER 18A ARTICLE 2

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§18A-2-1. Employment in general.

(a) The employment of professional personnel shall be made by the board only upon nomination and recommendation of the superintendent, subject to the following:

(1) The superintendent shall provide the principal at the school at which the professional educator or paraprofessional employee is to be employed an opportunity to interview all qualified applicants and make recommendations to the county superintendent regarding their employment;

(2) The principal may not recommend for employment an individual who is related to him or her as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister;

(3) Nothing shall prohibit the timely employment of persons to perform necessary duties;

(4) In case the board refuses to employ any or all of the persons nominated, the superintendent shall nominate others and submit the same to the board at such time as the board may direct;

(5) All personnel so nominated and recommended for employment and for subsequent assignment shall meet the certification, licensing, training and other eligibility classifications as may be required by provisions of this chapter and by state board rule. In addition to any other information required, the application for any certification or licensing shall include the applicant's Social Security number.

(b) Professional personnel employed as deputy, associate or assistant superintendents by the board in offices, departments or divisions at locations other than a school and who are directly answerable to the superintendent shall serve at the will and pleasure of the superintendent and may be removed by the superintendent upon approval of the board. Such professional personnel shall retain seniority rights only in the area or areas in which they hold valid certification or licensure.

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§18A-2-1a. Employment of other personnel.

A county board is authorized to employ athletic directors to work in the public schools under the supervision of a school principal and in accordance with the rules of the county board.

(a) The athletic director is responsible for planning, management, operation and evaluation of the athletic program for the school or schools to which he or she is assigned.

(b) The responsibilities of an athletic director may include, but are not limited to the following:

(1) Supervising athletic games;

(2) Overseeing the athletic budget;

(3) Hiring game officials;

(4) Scheduling athletic contests;

(5) Knowing and upholding all county, West Virginia Secondary Schools Activities Commission (WVSSAC) and league rules;

(6) Maintaining proper records as required by West Virginia Secondary Schools Activities Commission (WVSSAC) for school participation;

(7) Scheduling transportation for athletic teams;

(8) Preparing and verifying athletic eligibility lists;

(9) Supervising coaches and, if appropriately certified, observing and evaluating coaches;

(10) Securing all needed personnel for basic athletic event operations;

(11) Procuring and caring for athletic equipment; and

(12) Performing other duties involving athletics as assigned by the principal or as a part of a county job description for athletic directors.

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§18A-2-2. Employment of teachers; contracts; continuing contract status; how terminated; dismissal for lack of need; released time; failure of teacher to perform contract or violation thereof; written notice bonus for teachers and professional personnel.

(a) Before entering upon their duties, all teachers shall execute a contract with their county boards, which shall state the salary to be paid and shall be in the form prescribed by the state superintendent. Each contract shall be signed by the teacher and by the president and secretary of the county board and shall be filed, together with the certificate of the teacher, by the secretary of the office of the county board. When necessary to facilitate the employment of employable professional personnel and prospective and recent graduates of teacher education programs who have not yet attained certification, the contract may be signed upon the condition that the certificate is issued to the employee prior to the beginning of the employment term in which the employee enters upon his or her duties.

(b) Each teacher's contract, under this section, shall be designated as a probationary or continuing contract. A probationary teachers contract shall be for a term of not less than one nor more than three years, one of which shall be for completion of a beginning teacher internship pursuant to the provisions of section two-b, article three of this chapter, if applicable. If, after three years of such employment, the teacher who holds a professional certificate, based on at least a bachelor's degree, has met the qualifications for a bachelors degree and the county board enter into a new contract of employment, it shall be a continuing contract, subject to the following:

(1) Any teacher with less than a bachelor's degree who holds a valid certificate and is employed in a county beyond the three-year probationary period shall be granted continuing contract status upon qualifying for the professional certificate based upon a bachelor's degree, if the teacher becomes reemployed; and

(2) A teacher holding continuing contract status with one county shall be granted continuing contract status with any other county upon completion of one year of acceptable employment if the employment is during the next succeeding school year or immediately following an approved leave of absence extending no more than one year.

(c) The continuing contract of any teacher shall remain in full force and effect except as modified by mutual consent of the school board and the teacher, unless and until terminated, subject to the following:

(1) A continuing contract may not be terminated except:

(A) By a majority vote of the full membership of the county board on or before May 1 of the then current year, after written notice, served upon the teacher, return receipt requested, stating cause or causes and an opportunity to be heard at a meeting of the board prior to the board's action on the termination issue; or

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(B) By written resignation of the teacher on or before May 1 to initiate termination of a continuing contract;

(2) The termination shall take effect at the close of the school year in which the contract is terminated;

(3) The contract may be terminated at any time by mutual consent of the school board and the teacher;

(4) This section does not affect the powers of the school board to suspend or dismiss a principal or teacher pursuant to section eight of this article;

(5) A continuing contract for any teacher holding a certificate valid for more than one year and in full force and effect during the school year 1984-1985 shall remain in full force and effect;

(6) A continuing contract does not operate to prevent a teacher's dismissal based upon the lack of need for the teacher's services pursuant to the provisions of law relating to the allocation to teachers and pupil-teacher ratios. The written notification of teachers being considered for dismissal for lack of need shall be limited to only those teachers whose consideration for dismissal is based upon known or expected circumstances which will require dismissal for lack of need. An employee who was not provided notice and an opportunity for a hearing pursuant to this subsection may not be included on the list. In case of dismissal for lack of need, a dismissed teacher shall be placed upon a preferred list or transferred into an unfilled vacant position in the order of their length of service with that board. A teacher may not be employed by the board until each qualified teacher on the preferred list, in order, has been offered the opportunity for transfer or reemployment in a position for which he or she is qualified, not including a teacher who has accepted a teaching position elsewhere. The reemployment or transfer shall be upon a teacher's preexisting continuing contract and has the same effect as though the contract had been suspended during the time the teacher was not employed. Any transfer pursuant to this subsection is not effective until the following school year and does not prevent the teacher from applying for another position.

(d) In the assignment of position or duties of a teacher under a continuing contract, the board may provide for released time of a teacher for any special professional or governmental assignment without jeopardizing the contractual rights of the teacher or any other rights, privileges or benefits under the provisions of this chapter. Released time shall be provided for any professional educator while serving as a member of the Legislature during any duly constituted session of that body and its interim and statutory committees and commissions without jeopardizing his or her contractual rights or any other rights, privileges, benefits or accrual of experience for placement on the state minimum salary schedule in the following school year under the provisions of this chapter, board policy and law.

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(e) A teacher is disqualified to teach in any public school in the state for the duration of the next ensuing school year, if that teacher:

(1) Fails to fulfill his or her contract with the board, unless prevented from doing so by personal illness or other just cause or unless released from his or her contract by the board, or

(2) Violates any lawful provision of his or her contract: *Provided*, That the marriage of a teacher is not considered a failure to fulfill, or violation of, the contract.

The State Department of Education or board may hold all papers and credentials of the teacher on file for a period of one year for the violation and shall report such disqualification status in the National Association of State Directors of Teacher Education and Certification (NASDTEC) database system.

(f) Any classroom teacher, as defined in section one, article one of this chapter, who desires to resign employment with a county board or request a leave of absence, the resignation or leave of absence to become effective on or before July 15 of the same year and after completion of the employment term, may do so at any time during the school year by written notification of the resignation or leave of absence and any notification received by a county board shall automatically extend the teacher's public employee insurance coverage until August 31 of the same year.

(g) (1) A classroom teacher who gives written notice to the county board on or before March 1 of the school year of his or her retirement from employment with the board at the conclusion of the school year shall be paid $500 from the early notification of retirement line item established for the Department of Education for this purpose, subject to appropriation by the Legislature. If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable teachers, the Department of Education shall request a supplemental appropriation in an amount sufficient to compensate all such teachers. Additionally, if funds are still insufficient to compensate all applicable teachers, the priority of payment is for teachers who give written notice the earliest. This payment may not be counted as part of the final average salary for the purpose of calculating retirement.

(2) The position of a classroom teacher providing written notice of retirement pursuant to this subsection may be considered vacant and the county board may immediately post the position as an opening to be filled at the conclusion of the school year. If a teacher has been hired to fill the position of a retiring classroom teacher prior to the start of the next school year, the retiring classroom teacher is disqualified from continuing his or her employment in that position. However, the retiring classroom teacher may be permitted to continue his or her employment in that position and forfeit the early retirement notification payment if, after giving notice of retirement in accordance with this subsection, he or she becomes subject to a significant unforeseen financial hardship, including a hardship caused by the death or illness of an immediate family member or loss of employment of a spouse. Other significant

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unforeseen financial hardships shall be determined by the county superintendent on a case-by-case basis. This subsection does not prohibit a county school board from eliminating the position of a retiring classroom teacher.

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§18A-2-2a. Leaves of absence for teachers and service personnel.

(a) Any teacher who is returning from an approved leave of absence that extended for a period of one year or less shall be reemployed by the county board with the right to be restored to the same assignment of position or duties held prior to the approved leave of absence. Such teacher shall retain all seniority, rights and privileges which had accrued at the time of the approved leave of absence, and shall have all rights and privileges generally accorded teachers at the time of the reemployment.

(b) An employee shall notify the county board at least ten working days prior to beginning a leave of absence. The county board shall approve such leave of absence for any teacher or service personnel who requests an extended leave of absence without pay for any period of time not exceeding one year for the purpose of pregnancy, childbirth or adoptive or infant bonding. An employee shall not be required to use accumulated annual leave or sick leave prior to taking an extended leave of absence.

(c) Such employee who returns from an approved leave of absence for the purpose of pregnancy, childbirth or adoptive or infant bonding which lasted for a period of one year or less than one year shall be reemployed with the right to be restored to the same assignment of position or duties and benefits held prior to the approved leave of absence. Such employee shall retain all rights and privileges generally accorded employees at the time of the reemployment.

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§18A-2-2b. Employment of prospective teachers and other professional personnel for next ensuing school year; and payment of financial incentive for recruitment.

(a) Notwithstanding any other provision of this code to the contrary, the county superintendent, subject to approval of the county board, may employ prospective teachers and other professional personnel each year who will be placed in positions and begin regular employment in the next ensuing school year. The intent of this section is to enable school systems to recruit and employ prospective teachers and other professional personnel during the prime recruiting season for new graduates in positions in which the county board has a critical need. The employment of prospective teachers and other professional personnel is subject to the following:

(1) The county board adopts a policy authorizing the employment of prospective teachers and other professional personnel to address areas of critical need;

(2) The county board posts a notice of the critical need positions in the county in which the county intends to employ the prospective teachers and other professional personnel. The notice is posted in a conspicuous place in each school or on the county board website for at least ten working days prior to making offers of employment to prospective teachers and other professional personnel;

(3) No qualified applicants currently employed by the county are available and willing to fill the critical need position in the next ensuing school year;

(4) The prospective teachers and other professional personnel may only be employed from candidates who will graduate or have graduated from an institution of higher education during the current school year and will commence employment in the next ensuing school year;

(5) When necessary to facilitate the employment of prospective teachers and other professional personnel who have not yet attained certification, the contract may be signed upon the condition that the certificate is issued to the employee prior to the beginning of the employment term in which the employee enters upon his or her duties;

(6) The number of prospective teachers and other professional personnel employed is limited to the number required to fill the critical need positions posted in accordance with subdivision (2) of this subsection;

(7) For the purpose of recruiting teachers and other professional personnel in critical needs areas and to attract teachers and other professional personnel in a critical need areas, the county board may from local funds pay prospective teachers and other professional personnel a one-time financial incentive such as, but not limited to, a signing bonus or moving expenses, after a contract of employment has been signed;

(8) The prospective teachers and other professional personnel are initially employed on a

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reserve list at the county level and placed into a school-specific critical need position if the job has been posted at least once resulting in no qualified applicants; and

(9) Regular employment status for prospective teachers and other professional personnel may be obtained only upon recommendation by the superintendent and approval by the county board following consideration of the qualifications of the candidate in accordance with the applicable provisions of §18A-4-7a of this code;

(b) Nothing in this section prevents a county board from filling a posted vacancy in an established, existing or newly created position at any time in accordance with the other provisions of this chapter.

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§18A-2-3. Employment of substitute teachers; and employment of retired teachers as substitutes in areas of critical need and shortage.

(a) The county superintendent, subject to approval of the county board, may employ and assign substitute teachers to any of the following duties:

(1) Fill the temporary absence of any teacher or an unexpired school term made vacant by resignation, death, suspension, or dismissal;

(2) Fill a teaching position of a regular teacher on leave of absence; and

(3) Perform the instructional services of any teacher who is authorized by law to be absent from class without loss of pay, providing the absence is approved by the board of education in accordance with the law.

The substitute shall be a duly certified teacher.

(b) Notwithstanding any other provision of this code to the contrary, a substitute teacher who has been assigned as a classroom teacher in the same classroom continuously for more than one half of a grading period and whose assignment remains in effect two weeks prior to the end of the grading period, shall remain in the assignment until the grading period has ended, unless the principal of the school certifies that the regularly employed teacher has communicated with and assisted the substitute with the preparation of lesson plans and monitoring student progress or has been approved to return to work by his or her physician. For the purposes of this section, teacher and substitute teacher, in the singular or plural, mean professional educator as defined in §18A-1-1 of this code.

(c) Persons who are hired as long-term substitute teachers shall be provided information by the county board relating to an IEP plan and 504 plan, detailing their uses and what those long-term substitute teachers should do to implement these plans upon their hiring.

(d) (1) The Legislature hereby finds and declares that due to a shortage of qualified substitute teachers, a compelling state interest exists in expanding the use of retired teachers to provide service as substitute teachers in areas of critical need and shortage. The Legislature further finds that diverse circumstances exist among the counties for the expanded use of retired teachers as substitutes.

(2) For the purposes of this subsection:

(A) "Area of critical need and shortage for substitute teachers" means an area of certification and training in which the number of available substitute teachers in the county who hold certification and training in that area and who are not retired is insufficient to meet the projected need for substitute teachers; and

(B) "Teacher or substitute teacher" includes speech pathologists, school nurses, and school counselors.

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(3) A person receiving retirement benefits under §18-7A-1 *et seq*. of this code or who is entitled to retirement benefits during the fiscal year in which that person retired may accept employment as a critical needs substitute teacher for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled if the following conditions are satisfied:

(A) The county board adopts a policy recommended by the superintendent to address areas of critical need and shortage for substitute teachers;

(B) The policy sets forth the areas of critical need and shortage for substitute teachers in the county in accordance with the definition of "area of critical need and shortage for substitute teachers" set forth in subdivision (2) of this subsection;

(C) The policy provides for the employment of retired teachers as critical needs substitute teachers during the school year on an expanded basis in areas of critical need and shortage for substitute teachers as provided in this subsection;

(D) The policy provides that a retired teacher may be employed as a substitute teacher in an area of critical need and shortage for substitute teachers on an expanded basis as provided in this subsection only when no other teacher who holds certification and training in the area and who is not retired is available and accepts the substitute assignment;

(E) The policy is effective for one school year only and is subject to annual renewal by the county board;

(F) The state board approves the policy and the use of retired teachers as substitute teachers on an expanded basis in areas of critical need and shortage for substitute teachers as provided in this subsection; and

(G) Prior to employment of a retired teacher as a critical needs substitute teacher beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the superintendent of the affected county submits to the state board in a form approved by the Consolidated Public Retirement Board and the state board, an affidavit signed by the superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, the name or names of the person or persons to be employed as a critical needs substitute pursuant to the policy, the critical need and shortage area position filled by each person, the date that the person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement. Upon verification of compliance with this section and the eligibility of the critical needs substitute teacher for employment beyond the post-retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement Board.

(4) Any person who retires and begins work as a critical needs substitute teacher within the same fiscal year in which that person retired shall lose those retirement benefits attributed

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to the annuity reserve, effective from the first day of employment as a retiree critical needs substitute teacher in that fiscal year and ending with the month following the date the retiree ceases to perform service as a critical needs substitute teacher.

(5) Retired teachers employed to perform expanded substitute service pursuant to this subsection are considered day-to-day, temporary, part-time employees. The substitutes are not eligible for additional pension or other benefits paid to regularly employed employees and may not accrue seniority.

(6) A retired teacher is eligible to be employed as a critical needs substitute teacher to fill a vacant position without any loss of retirement benefits attributed to the annuity reserve only if the retired teacher's retirement became effective before the first day of July preceding at least the fiscal year during which he or she is employed as a critical needs substitute teacher.

(7) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the county board shall continue to post the vacant position until it is filled with a regularly employed teacher who is fully certified or permitted for the position: *Provided*, That:

(A) The posting is only required to occur once at the beginning of the year and once mid-year;

(B) This subdivision does not apply when filling a teaching position of a regular teacher on leave of absence; and

(C) This subdivision does not apply when a position is filled with a regularly employed teacher who is fully certified or permitted for the position but the teacher is not available at the time he or she accepts the position.

(8) When a retired teacher is employed as a critical needs substitute to fill a vacant position, the position vacancy shall be posted electronically and easily accessible to prospective employees as determined by the state board: *Provided*, That:

(A) The posting is only required to occur once at the beginning of the year and once mid-year;

(B) This subdivision does not apply when filling a teaching position of a regular teacher on leave of absence; and

(C) This subdivision does not apply when a position is filled with a regularly employed teacher who is fully certified or permitted for the position but the teacher is not available at the time he or she accepts the position.

(9) Until this subsection is expired pursuant to subdivision (10) of this subsection, the state board shall report to the Joint Committee on Government and Finance, prior to February 1 of each year, information indicating the effectiveness of the provisions of this subsection on

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reducing the critical need and shortage of substitute teachers including, but not limited to, the number of retired teachers, by critical need and shortage area position filled and by county, employed beyond the post-retirement employment limit established by the Consolidated Public Retirement Board, the date that each person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement. A copy of the report shall also be provided to the Legislative Oversight Commission on Education Accountability.

(10) The provisions of this subsection shall expire on June 30, 2030.

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§18A-2-4. Commercial driver's license for school personnel; intrastate waiver for bus operators diagnosed with diabetes mellitus requiring insulin; reimbursement of electrician's and commercial driver's license when required, and educational sign language interpreter certification.

(a) If a commercial driver's license is required as a condition of employment for any school employee or qualified applicant who becomes an employee by a county board the cost is paid in full by the county board.

A county board may not require any employee or applicant who becomes an employee of the board to pay the cost of acquiring a commercial driver's license as a condition of employment.

(b) The Division of Motor Vehicles shall accept the West Virginia Department of Education physical and psychomotor test result forms in lieu of the Division of Motor Vehicles vision report form.

(c) A school bus operator who is currently employed by a county board or a school bus operator candidate who is otherwise subject to state board rules governing school bus operators and who is diagnosed with diabetes mellitus requiring insulin is not ineligible for employment as a school bus operator because of the diagnosis if the operator is issued a passenger and school bus endorsement for his or her commercial driver's license through the West Virginia Division of Motor Vehicles, subject to the following:

(1) A copy of the information required to be submitted to the Division of Motor Vehicles and proof of passenger and school bus endorsement is submitted to his or her employer; and

(2) The operator remains in compliance with the stipulations of and grounds for eligibility per Federal Motor Carrier Safety Administration, Division of Motor Vehicles, and state board rules.

(d) If a county board requires of any employee who is employed as an electrician any license renewal when the employee is exempt from renewing the license pursuant to §29-3B-3 of this code, the cost of the license renewal is paid in full by the county board.

(e) The cost of certification renewal and satisfying the requirements of the West Virginia Registry of Interpreters is paid in full by the employer for any service person who is:

(1) Employed as an educational sign language interpreter I or II and is required to complete any testing, training or continuing education in order to renew or maintain certification at that level;

(2) Employed as an educational sign language interpreter I and is required to complete any testing, training or continuing education to advance to an educational sign language interpreter II; or

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(3) Employed as a sign support specialist and is required to complete any testing, training or continuing education in order to advance to an educational sign language interpreter I or II.

(f) For any service person required to hold certification as a condition of employment, any time devoted to acquiring or maintaining the certification, including instructional time and training, constitutes hours of continuing education for purposes of meeting the annual continuing education requirements in state board policy.

(g) Compliance with or failure to comply by a health care provider licensed and authorized pursuant to chapter thirty of this code, with the reporting requirements of the Division of Motor Vehicles regarding the provisions of subsection (c) of this section does not constitute negligence, nor may compliance or noncompliance with the requirements of this section be admissible as evidence of negligence in any civil or criminal action.

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§18A-2-5. Employment of service personnel; limitation.

The board may employ such service personnel, including substitutes, as is deemed necessary for meeting the needs of the county school system: *Provided*, That the board may not employ a number of such personnel whose minimum monthly salary under §18A-4-8a of this code is specified as pay grade "H", which number exceeds the number employed by the board on March 1, 1988.

Effective July 1, 1988, a county board shall not employ for the first time any person who has not obtained a high school diploma or general educational development certificate (GED) or who is not enrolled in an approved adult education course by the date of employment in preparation for obtaining a GED: *Provided*, That such employment is contingent upon continued enrollment or successful completion of the GED program: *Provided, however*, That this paragraph shall not apply to school bus drivers who are 21 years of age or older: *Provided further*, That this paragraph shall not apply to cooks or custodians.

Before entering upon their duties service personnel shall execute with the board a written contract which shall be in the following form:

"COUNTY BOARD OF EDUCATION

SERVICE PERSONNEL CONTRACT OF EMPLOYMENT

THIS (Probationary or Continuing) CONTRACT OF EMPLOYMENT, made and entered into this _____ day of _____, 20 ___, by and between THE BOARD OF EDUCATION OF THE COUNTY OF _____, a corporation, hereinafter called the 'Board,' and (Name and Social Security Number of Employee), of (Mailing Address), hereinafter called the 'Employee.'

WITNESSETH, that whereas, at a lawful meeting of the Board of Education of the County of _____ held at the offices of said Board, in the City of _____, _____ County, West Virginia, on the _____ day of _____, 20____, the Employee was duly hired and appointed for employment as a (Job Classification) at (Place of Assignment) for the school year commencing _____ for the employment term and at the salary and upon the terms hereinafter set out.

NOW, THEREFORE, pursuant to said employment, Board and Employee mutually agree as follows:

(1) The Employee is employed by the Board as a (Job Classification) at (Place of Assignment) for the school year or remaining part thereof commencing _____, 20_____. The period of employment is _____ days at an annual salary of $_____ at the rate of $_____ per month.

(2) The Board hereby certifies that the Employee's employment has been duly approved by the Board and will be a matter of the Board's minute records.

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(3) The services to be performed by the Employee shall be such services as are prescribed for the job classification set out above in paragraph (1) and as defined in §18A-4-8 of this code.

(4) The Employee may be dismissed at any time for immorality, incompetency, cruelty, insubordination, intemperance or willful neglect of duty pursuant to §18A-2-8 of this code.

(5) The Superintendent of the _____ County Board of Education, subject to the approval of the Board, may transfer and assign the Employee in the manner provided by §18A-7-2 of this code.

(6) This contract shall at all times be subject to any and all existing laws, or such laws as may hereafter be lawfully enacted, and such laws shall be a part of this contract.

(7) This contract may be terminated or modified at any time by the mutual consent of the Board and the Employee.

(8) This contract shall be automatically terminated if the Employee is convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state, of any criminal offense that requires the Employee to register as a sex offender, or of any criminal offense which has as an element delivery or distribution of a controlled substance: *Provided*, That if the conviction resulting in automatic revocation pursuant to this section is overturned by any Court of this state or the United States, the Employee's contract shall be reinstated unless otherwise prohibited by law.

(9) This contract shall be signed and returned to the Board at its address of _____ within 30 days after being received by the Employee.

(10) By signing this contract the Employee accepts employment upon the terms herein set out.

WITNESS the following signatures as of the day, month and year first above written:

_____, (President, _____ County Board of Education) _____, (Secretary, _____ County Board of Education) _____, (Employee)"

The use of this form may not be interpreted to authorize boards to discontinue any employee's contract status with the board or rescind any rights, privileges, or benefits held under contract or otherwise by any employee prior to the effective date of this section.

Each contract of employment shall be designated as a probationary or continuing contract. The employment of service personnel shall be made a matter of minute record. The employee shall return the contract of employment to the county board of education within 30 days after receipt or otherwise he or she shall forfeit his or her right to employment.

Under such regulation and policy as may be established by the county board, service

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personnel selected and trained for teacher-aide classifications, such as monitor aide, clerical aide, classroom aide, and general aide, shall work under the direction of the principal and teachers to whom assigned.

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§18A-2-5a. Authorizing payment for notification of retirement.

Each county board is authorized to pay, entirely from local funds, $500 or less to any service employee, or to any professional employee who is not a classroom teacher, who gives written notice to the county board on or before March 1 of the school year of his or her retirement from employment with the board at the conclusion of the school year.

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§18A-2-6. Continuing contract status for service personnel; termination.

After three years of acceptable employment, each service person who enters into a new contract of employment with the board shall be granted continuing contract status. A service person holding continuing contract status with one county shall be granted continuing contract status with any other county upon completion of one year of acceptable employment if such employment is during the next succeeding school year or immediately following an approved leave of absence which extends no more than one year. The continuing contract of any such employee shall remain in full force and effect except as modified by mutual consent of the school board and the employee, unless and until terminated with written notice, stating cause or causes, to the employee, by a majority vote of the full membership of the board on or before May 1 of the then current year, or by written resignation of the employee on or before that date. The affected employee has the right of a hearing before the board, if requested, before final action is taken by the board upon the termination of such employment.

Those employees who have completed three years of acceptable employment as of the effective date of this legislation shall be granted continuing contract status.

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§18A-2-6a. Released time for service personnel.

In the assignment of position or duties of a service person under a continuing contract, the board may provide for released time of a service person for any special professional or governmental assignment without jeopardizing the contractual rights of such service or any other rights, privileges or benefits under the provisions of this chapter. Released time shall be provided for any service person while serving as a member of the Legislature during any duly constituted session of that body and its interim and statutory committees and commissions without jeopardizing his or her contractual rights or any other rights, privileges, benefits or accrual of experience for placement on the state minimum salary schedule in the following school year under the provisions of this chapter, board policy and law. For the purposes of this section, service person is the singular of service personnel as defined in section one, article one of this chapter.

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§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 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

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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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§18A-2-7a. Statewide job bank.

(a) The state board shall establish and maintain a statewide job bank to assist the recruitment and reemployment of experienced professional, service and extracurricular personnel. The job bank shall consist of the following for each county:

(1) A list of the names, qualifications, and contact information of all professional, service, and extracurricular personnel who have been terminated because of a reduction in force, except personnel who have requested in writing that they not be listed in the job bank;

(2) A list of professional, service and extracurricular positions for which the county is seeking applicants; and

(3) A total compensation statement for each listed position.

(b) Each county board of education shall provide the information listed in subsection (a) of this section to the state board and the information shall be included in the statewide job bank in a prompt manner.

(c) The job bank shall be accessible electronically to each county and to individuals on a read only basis, except that each county shall have the capability of editing information for the county and shall be responsible for maintaining current information on the county lists.

(d) The following terms are defined as follows:

(1) “Direct compensation” means base salary and incentives that are provided regularly and consistently.

(2) “Indirect compensation” means any noncash benefit provided to an employee, including, but not limited to:

(A) Health insurance;

(B) Dental insurance;

(C) Vision insurance;

(D) Life insurance;

(E) Disability income protection;

(F) Retirement benefits;

(G) Employer student loan contributions or other employee assistance programs;

(H) Educational benefits;

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(I) Childcare;

(J) Relocation benefits; and

(K) Vacation leave, sick leave, and any other form of paid time-off.

(3) "Total compensation statement" means a list of direct and indirect compensation provided or offered for a position, including an itemized list of the types of compensation provided or offered and a cumulative total of the value of all compensation provided or offered.

WV Legislature

§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;

(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

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(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.

WV Legislature

§18A-2-8. Suspension and dismissal of school personnel by board; appeal.

(a)(1) Notwithstanding any other provisions of law, a board may suspend or dismiss any person in its employment at any time for: Immorality, incompetency, cruelty, insubordination, intemperance, willful neglect of duty, unsatisfactory performance, a finding of abuse by the Department of Human Services in accordance with §49-1-1 *et seq*. of this code, the conviction of a misdemeanor or a guilty plea or a plea of nolo contendere to a misdemeanor charge that has a rational nexus between the conduct and performance of the employee's job, the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge. Upon the commencement of any fact-finding investigation involving conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, whether being conducted internally, or in cooperation with police or Department of Human Services, the affected employee shall be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils.

(2) Nothing in this section shall be construed as relieving a board or a local educational agency of its duty to conduct an independent investigation and review of an allegation of abuse of a child in the absence of either a finding of abuse by the Department of Human Services in accordance with §49-1-1 *et seq*. of this code or the initiation of proceedings for a felony or misdemeanor charge against the person.

(b) A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation pursuant to §18A-2-12 of this code. The charges shall be stated in writing served upon the employee within two days of presentation of the charges to the board.

(c) The affected employee shall be given an opportunity, within five days of receiving the written notice, to request, in writing, a level three hearing and appeals pursuant to the provisions of §6C-2-1 *et seq*. of this code, except that dismissal for a finding of abuse or the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself a grounds for a grievance proceeding. An employee charged with the commission of a felony, a misdemeanor with a rational nexus between the conduct and performance of the employee's job, or child abuse shall be suspended, placed on administrative leave, or reassigned to duties which do not involve direct interaction with pupils pending final disposition of the charges.

(d) A county board of education has the duty and authority to provide a safe and secure environment in which students may learn and prosper; therefore, it may take necessary steps to suspend or dismiss any person in its employment at any time should the health, safety, or welfare of students be jeopardized or the learning environment of other students has been impacted. A county board shall complete an investigation of an employee that involves evidence that the employee may have engaged in conduct that jeopardizes the health, safety, or welfare of students despite the employee's resignation from employment prior to completion of the investigation.

WV Legislature

(e) It shall be the duty of any school principal to report any employee conduct alleged to jeopardize the health, safety, or welfare of students or the learning environment of other students, to the county superintendent within 24 hours of the allegation. Nothing in this subsection supersedes §49-2-803 of this code or the provisions therein regarding mandated reporting of child abuse and neglect.

(f) It shall be the duty of any county superintendent to report any employee suspended or dismissed, or resigned during the course of an investigation of the employee's alleged misconduct, in accordance with this section, including the rationale for the suspension or dismissal, to the state superintendent within seven business days of the suspension, dismissal, or resignation. The state superintendent shall maintain a database of all individuals suspended or dismissed for jeopardizing the health, safety, or welfare of students, or for impacting the learning environment of other students. The database shall also include the rationale for the suspension or dismissal. The database shall be confidential and shall only be accessible to county human resource directors, county superintendents, and the state superintendent of schools.

(g) Notwithstanding any other provisions of law, a suspended employee may not be barred from attending public events on school property while serving the suspension, nor may a suspended employee who has a dependent child, grandchild, foster child, or other family member be barred from entering the school to exercise normal functions of a parent or guardian while suspended: *Provided*, That the suspended employ’s presence does not jeopardize the health, safety, or welfare of students, employees, or visitors; impact the learning environment or the school-sponsored activity; prejudice an investigation or disciplinary proceedings involving the employee; violate an order of a court or any law; or threaten damage to property.

WV Legislature

§18A-2-8a. Notice to probationary personnel of rehiring or nonrehiring; hearing.

The superintendent at a meeting of the board on or before May 1 of each year shall provide in writing to the board a list of all probationary teachers that he or she recommends to be rehired for the next ensuing school year. The board shall act upon the superintendent's recommendations at that meeting in accordance with section one of this article. The board at this same meeting shall also act upon the retention of other probationary employees as provided in sections two and five of this article. Any such probationary teacher or other probationary employee who is not rehired by the board at that meeting shall be notified in writing, by certified mail, return receipt requested, to such persons' last known addresses within ten days following said board meeting, of their not having been rehired or not having been recommended for rehiring.

Any probationary teacher who receives notice that he or she has not been recommended for rehiring or other probationary employee who has not been reemployed may within ten days after receiving the written notice request a statement of the reasons for not having been rehired and may request a hearing before the board. The hearing shall be held at the next regularly scheduled board of education meeting or a special meeting of the board called within thirty days of the request for hearing. At the hearing, the reasons for the nonrehiring must be shown.

WV Legislature

§18A-2-9. Duties and responsibilities of school principals; assistant principals.

(a) Upon the recommendation of the county superintendent of schools, the county board of education shall employ and assign, through written contract, public school principals who shall be the principal instructional leader of the school and shall supervise the management and the operation of the school or schools to which they are assigned to improve student performance and progress. The principals shall hold valid administrative certificates appropriate for their assignments.

(b)(1) Beginning on July 1, 1994, the prerequisites for issuance of an administrative certificate for principals shall include that the person has successfully completed at least six credit hours of approved course work in public school management techniques at an accredited institution of higher education and has successfully completed education and training in evaluation skills approved by the state board.

(2) Beginning on July 1, 2019, the prerequisites for issuance of an administrative certificate for principals shall include that the person has successfully completed at least six credit hours of approved course work in public school instructional leadership and management techniques at an accredited institution of higher education, including, but not limited to, the standards for high quality schools, the school accreditation process and strategic planning for continuous improvement.

(3) Beginning on July 1, 2026, the prerequisites for issuance of an administrative certificate for principals for elementary schools shall be satisfied by teaching at the elementary school level for a minimum of 15 years: *Provided*, That the applicant successfully completes a year-long program developed and administered by the West Virginia Department of Education to ensure the candidate demonstrates competence in the core elements of school administration, including, but not limited to, instructional leadership, school finance, personnel management, student discipline, and school law.

(4) Beginning on July 1, 2026, the prerequisites for issuance of an administrative certificate for principals for middle schools shall be satisfied by teaching at the middle school level for a minimum of 15 years: *Provided*, That the applicant successfully completes a year-long program developed and administered by the West Virginia Department of Education to ensure the candidate demonstrates competence in the core elements of school administration, including, but not limited to, instructional leadership, school finance, personnel management, student discipline, and school law.

(5) Beginning on July 1, 2026, the prerequisites for issuance of an administrative certificate for principals for high schools shall be satisfied by teaching at the high school level for a minimum of 15 years: *Provided*, That the applicant successfully completes a year-long program developed and administered by the West Virginia Department of Education to ensure the candidate demonstrates competence in the core elements of school administration, including but not limited to, instructional leadership, school finance, personnel management, student discipline, and school law.

WV Legislature

(c) Prior to employment as a principal or assistant principal, or in another administrative position the duties of which require conducting personnel performance evaluations, the principal, assistant or administrator shall successfully complete education and training in evaluation skills approved by the state board.

(d) Under the supervision of the superintendent and in accordance with the rules and regulations of the county board of education, the principal:

(1) Shall assume administrative and instructional leadership responsibility for the planning, management, operation, and evaluation of the total educational program of the school or schools to which he or she is assigned;

(2) May submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the school or schools under said principal's control. The recommendations shall be submitted in writing as prescribed by the superintendent; and

(3) Shall perform such other duties as may be assigned by the superintendent pursuant to the rules and regulations of the county board of education.

(e) Upon recommendation of the county superintendent of schools, the county board of education shall, when needed, employ and assign, through written contract, assistant principals who shall work under the direction of the school principal. Such assistant principals shall hold valid administrative certificates appropriate for their assignments.

(f) The assignment of principals and assistant principals by each county board of education is subject to the following:

(1) A certificated principal shall be assigned to each school;

(2) A principal may not be assigned more than two schools;

(3) No additional schools may be assigned to the principal of a school where enrollment exceeds 400 students;

(4) A principal assigned to more than one school may not be assigned any teaching duties except on a temporary emergency basis;

(5) A principal shall be assigned full-time at each school whose net enrollment equals or exceeds 170 students and may not be assigned any teaching duties except on a temporary emergency basis;

(6) A principal assigned on a full-time basis to a school whose net enrollment is more than 75 students but less than 170 students shall have a minimum of 20 hours per week for non-teaching duties;

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(7) A principal assigned on a full-time basis to a school with 75 students or less shall have a minimum of 10 hours per week for non-teaching duties;

(8) Nothing in this section prohibits a county board of education from assigning a full-time principal to a school with a net enrollment of less than 170 students; and

(9) The State Board of Education may not deny a county board of education the right to place a principal in a school with less than 170 students.

WV Legislature

§18A-2-10. Physical examinations as condition of employment.

In case a medical or physical examination of any school board employee or qualified applicant who becomes an employee of the board for any school position is required by a Board of Education or by any administrator, department or agency of government which has authority to require such examination, the cost shall be paid in full by the employer.

It shall be unlawful for any Board of Education to require any employee or applicant who becomes an employee of the board to pay the cost of any medical or physical examination as a condition of employment.

The provisions of this section shall be effective from January 1, 1975.

WV Legislature

§18A-2-11. Employee's right to attorney's fees and costs.

If an employee shall appeal to a circuit court an adverse decision of either a county board of education or of a hearing examiner rendered in a grievance or other proceeding pursuant to provisions of chapters eighteen and eighteen-a of this code and such person shall substantially prevail, the adverse party or parties shall be liable to such employee, upon final judgment or order, for court costs, and for reasonable attorney's fees, to be set by the court, for representing such employee in all administrative hearings and before the circuit court and the Supreme Court of Appeals, and shall be further liable to such employee for any court reporter's costs incurred during any such administrative hearings or court proceedings: Provided, That in no event shall such attorney's fees be awarded in excess of a total of $1,000 for the administrative hearings and circuit court proceedings nor an additional $1,000 for supreme court proceedings: Provided, however, That the requirements of this section shall not be construed to limit the school employee's right to recover reasonable attorney's fees in a mandamus proceeding brought under section eight, article four, chapter eighteen-a of this code.

WV Legislature

§18A-2-12. Performance evaluations of school personnel; professional personnel evaluation process; restrictions on requirements on lesson plans and record keeping by classroom teachers.

(a) The state board shall adopt a written system for the evaluation of the employment performance of personnel, which system shall be applied uniformly by county boards in the evaluation of the employment performance of personnel employed by the board.

(b) The system adopted by the state board for evaluating the employment performance of professional personnel shall be in accordance with the provisions of this section.

(c) For purposes of this section, "professional personnel", "professional", or "professionals", means professional personnel and other professional employees, as defined in §18A-1-1 of this code but does not include classroom teachers, principals, and assistant principals subject to the evaluation processes established pursuant to §18A-3C-2 of this code.

(d) The performance evaluation system shall contain, but not be limited to, the following information:

(1) The professional personnel positions to be evaluated;

(2) The frequency and duration of the evaluations, which shall be of such frequency and duration as to insure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn, but at least annually;

(3) The evaluation shall serve the following purposes:

(A) Serve as a basis for the improvement of the performance of the personnel in their assigned duties;

(B) Provide an indicator of satisfactory performance for individual professionals;

(C) Serve as documentation for a dismissal on the grounds of unsatisfactory performance; and

(D) Serve as a basis for programs to increase the professional growth and development of professional personnel;

(4) The standards for satisfactory performance for professional personnel and the criteria to be used to determine whether the performance of each professional meets those standards and other criteria for evaluation for each professional position evaluated. Professional personnel, as appropriate, shall demonstrate competency in the knowledge and implementation of the technology standards adopted by the state board. If a professional fails to demonstrate competency in the knowledge and implementation of these standards, he or she will be subject to an improvement plan to correct the deficiencies; and

WV Legislature

(5) Provisions for a written improvement plan, which shall be specific as to what improvements, if any, are needed in the performance of the professional and shall clearly set forth recommendations for improvements, including recommendations for additional education and training during the professional's recertification or license renewal process.

(e) A professional whose performance is considered to be unsatisfactory shall be given notice of deficiencies. A remediation plan to correct deficiencies shall be developed by the employing county board and the professional. The professional shall be given a reasonable period of time for remediation of the deficiencies and shall receive a statement of the resources and assistance available for the purposes of correcting the deficiencies.

(f) No person may evaluate professional personnel for the purposes of this section or professional educator for the purposes of §18A-3C-2 of this code unless the person has an administrative certificate issued by the state superintendent and has successfully completed education and training in evaluation skills approved by the state board, which will enable the person to make fair, professional, and credible evaluations of the personnel whom the person is responsible for evaluating.

(g) Any professional whose performance evaluation includes a written improvement plan shall be given an opportunity to improve his or her performance through the implementation of the plan. If the next performance evaluation shows that the professional is now performing satisfactorily, no further action may be taken concerning the original performance evaluation. If the evaluation shows that the professional is still not performing satisfactorily, the evaluator either shall make additional recommendations for improvement or may recommend the dismissal of the professional in accordance with the provisions of §18A-2-8 of this code.

(h) This subsection applies to all classroom teachers irrespective of the process under which they are evaluated.

(1) Lesson plans are intended to serve as a daily guide for teachers and substitutes for the orderly presentation of the curriculum. Lesson plans may not be used as a substitute for observations by an administrator in the performance evaluation process. A classroom teacher, as defined in §18A-1-1 of this code, may not be required to post his or her lesson plans on the Internet or otherwise make them available to students and parents or to include in his or her lesson plans any of the following:

(A) Teach and reteach strategies;

(B) Write to learn activities;

(C) Cultural diversity;

(D) Color coding; or

(E) Any other similar items which are not required to serve as a guide to the teacher or

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substitute for daily instruction;

(2) The Legislature finds that classroom teachers must be free of unnecessary paperwork so that they can focus their time on instruction. Therefore, classroom teachers may not be required to keep records or logs of routine contacts with parents or guardians;

(3) Nothing in this subsection may be construed to prohibit classroom teachers from voluntarily posting material on the Internet; and

(4) Nothing in §18A-3C-1 et seq. of this code may be construed to negate the provisions of this subsection.

WV Legislature

§18A-2-12a. Statement of policy and practice for the county boards and school personnel to minimize possible disagreement and misunderstanding.

(a) The Legislature makes the following findings:

(1) The effective and efficient operation of the public schools depends upon the development of harmonious and cooperative relationships between county boards and school personnel;

(2) Each group has a fundamental role to perform in the educational program and each has certain separate, distinct and clearly defined areas of responsibility as provided in chapters eighteen and eighteen-a of this code; and

(3) There are instances, particularly involving questions of wages, salaries and conditions of work, that are subject to disagreement and misunderstanding between county boards and school personnel and may not be so clearly set forth.

(b) The purpose of this section is to establish a statement of policy and practice for the county boards and school personnel, as follows, in order to minimize possible disagreement and misunderstanding:

(1) County boards, subject to the provisions of this chapter, chapter eighteen of this code and the policies and rules of the state board, are responsible for the management of the schools within their respective counties. The powers and responsibilities of county boards in setting policy and in providing management are broad, but not absolute;

(2) The school personnel shares the responsibility for putting into effect the policies and practices approved by the county board that employs them and the school personnel also have certain rights and responsibilities as provided in statute, and in their contracts;

(3) School personnel are entitled to meet together, form associations and work in concert to improve their circumstances and the circumstances of the schools;

(4) County boards and school personnel can most effectively discharge their total responsibilities to the public and to each other by establishing clear and open lines of communication. School personnel should be encouraged to make suggestions, proposals and recommendations through appropriate channels to the county board. Decisions of the county board concerning the suggestions, proposals and recommendations should be communicated to the school personnel clearly and openly;

(5) Official meetings of county boards are public meetings. School personnel are free to attend the meetings without fear of reprisal and should be encouraged to attend;

(6) All school personnel are entitled to know how well they are fulfilling their responsibilities and should be offered the opportunity of open and honest evaluations of their performance on a regular basis and in accordance with the provisions of section twelve of this article. All school personnel are entitled to opportunities to improve their job performance prior to the

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termination or transfer of their services. Decisions concerning the promotion, demotion, transfer or termination of employment of school personnel, other than those for lack of need or governed by specific statutory provisions unrelated to performance, should be based upon the evaluations, and not upon factors extraneous thereto. All school personnel are entitled to due process in matters affecting their employment, transfer, demotion or promotion; and

(7) All official and enforceable personnel policies of a county board must be written and made available to its employees.

WV Legislature

§18A-2-13. Recommended guidelines for full-day and half-day cooks.

The following guidelines are optional guidelines that county boards may use when scheduling full-day and half-day cooks:

Number of Number of Average Number of

Meals Cooks Meals Served Per

Cook's Hours Worked

1-90 1 12.00

91-135 1.5 12.00

136-180 2 12.00

181-225 2.5 12.00

226-270 3 12.00

271-315 3.5 12.00

316-360 4 12.00

361-405 4.5 12.00

406-450 5 12.00

451-495 5.5 12.00

496-540 6 12.00

541-585 6.5 12.00

586-630 7 12.00

631-675 7.5 12.00

676-720 8 12.00

721-765 8.5 12.00

766-810 9 12.00

811-855 9.5 12.00

856-900 10 12.00

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A meal prepared for a school lunch shall be established as a whole meal. Other meals shall be equal to three fourths of a school lunch meal.

WV Legislature

§18A-2-14. Mileage reimbursement for school personnel.

A county board shall reimburse any school personnel for each mile traveled when the employee is required to use a personal motor vehicle in the course of employment. The county board shall reimburse at the same rate for all employees in that county. The rate of reimbursement shall be at least the lesser of, and not more than the greater of, the federal standard mileage rate and the rate authorized by the travel management rule of the Department of Administration.

WV Legislature

§18A-2-15. County option recruitment and training programs for prospective school bus operators.

(a) The legislature finds that recruiting and retaining bus operators, including substitute bus operators, is a substantial challenge for county boards of education. Accordingly, county boards of education are hereby permitted to establish locally funded recruitment and training programs for prospective bus operators in accordance with this section.

(b) County board funded recruitment and training programs for prospective bus operators are subject to the following:

(1) The program is submitted to the West Virginia Department of Education and is approved;

(2) The program may only be utilized if the county board is unable to maintain an adequate number of bus operators or substitute bus operators in its pool or is experiencing a shortage in adequately staffing its school transportation system;

(3) The program includes requirements for program participants to submit to and pass pursuant to §18A-4-8e(j)(4) of this code, a background check, and submit to and pass pursuant to W. Va. §126CSR92, the West Virginia School Bus Transportation Policy and Procedures Manual (Policy 4336), a drug screen;

(4) The program specifies the amount of any stipend to be paid to program participants or any reimbursement of participant costs or other benefit upon successful completion, if any, and any penalties for failure to complete the program, if any;

(5) The program specifies any obligation on participants who successfully complete the program to apply or become employed by the county board as a bus operator or substitute bus operator for a period of time, if any, and any penalty for failure to comply with any post program completion requirements, if any;

(6) The county board posts bus operator training program position openings on the county board web site and may advertise them in other media, including any appropriate qualifications;

(c) A bus operator recruitment and training program approved by the Department of Education must ensure that all of the requirements to become classified as a bus operator are met for successful program completion.

(d) Completion of a county board bus operator recruitment and training program does not entitle a participant to employment as a bus operator or substitute bus operator for the county board providing the program. The person may attain regular employment status only upon successful application in accordance with this article for an open bus operator or substitute bus operator position with the county.

(e) A person completing a bus operator recruitment training program in accordance with

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this section does not accrue seniority for time spent in the training program.

WV Legislature