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**WEST VIRGINIA CODE CHAPTER 18A**  
**ARTICLE 4**

WV Legislature

**§18A-4-1. Definitions.**

For the purpose of this article, salaries shall be defined as: (a) "Basic salaries" which shall mean the salaries paid to teachers with zero years of experience and in accordance with the classification of certification and of training of said teachers; and (b) "advanced salaries" which shall mean the basic salary plus an experience increment based on the allowable years of experience of the respective teachers in accordance with the schedule established herein for the applicable classification of certification and of training of said teachers.

"Classification of certification" means the class or type of certificate issued by the state superintendent under the statutory provisions of this chapter. "Classification of training" means the number of collegiate or graduate hours necessary to meet the requirements stipulated in the definitions set forth in the next paragraph in items (2) to (11), inclusive.

The column heads of the state minimum salary schedule set forth in section two of this article are defined as follows:

(1) "Years of experience" means the number of years the teacher has been employed in the teaching profession, including active work in educational positions other than the public schools, and service in the Armed Forces of the United States if the teacher was under contract to teach at the time of induction. For a registered professional nurse employed by a county board, "years of experience" means the number of years the nurse has been employed as a public school health nurse, including active work in a nursing position related to education, and service in the Armed Forces if the nurse was under contract with the county board at the time of induction. For the purpose of section two of this article, the experience of a teacher or a nurse shall be limited to that allowed under their training classification as found in the minimum salary schedule.

(2) "Fourth class" means all certificates previously identified as: (a) "Certificates secured by examination"; and (b) "other first grade certificates".

(3) "Third class" means all certificates previously identified as: (a) "Standard normal certificates"; and (b) "third class temporary (sixty-four semester hours) certificates".

(4) "Second class" means all certificates previously identified as "second class temporary certificates based upon the required ninety-six hours of college work".

(5) "A.B." means a bachelor's degree, from an accredited institution of higher education, which has been issued to, or for which the requirements for such have been met by, a person who qualifies for or holds a professional certificate or its equivalent. A registered professional nurse with a bachelor's degree, who is licensed by the West Virginia board of examiners for registered professional nurses and employed by a county board, shall be within this classification for payment in accordance with sections two and two-a of this article.

(6) "A.B. plus 15" means a bachelor's degree as defined above plus fifteen hours of graduate work, from an accredited institution of higher education certified to do graduate work, in an approved planned program at the graduate level which requirements have been met by a person who qualifies for or holds a professional certificate or its equivalent.

(7) "M.A." means a master's degree, earned in an institution of higher education approved to do graduate work, which has been issued to, or the requirements for such have been met by, a person who qualifies for or holds a professional certificate or its equivalent.

(8) "M.A. plus 15" means the above-defined master's degree plus fifteen hours of graduate work, earned in an institution of higher education approved to do graduate work, if the person is qualified for or holds a professional certificate or its equivalent.

(9) "M.A. plus 30" means the above-defined master's degree plus thirty graduate hours, earned in an institution approved to do graduate work, if the person is qualified for or holds a professional certificate or its equivalent.

(10) "Doctorate" means a doctor's degree, earned from a university qualified and approved to confer such a degree, which has been issued to or the requirements for such have been met by a person who qualifies for or holds a professional certificate or its equivalent.

For purposes of advanced salary classification, graduate work completed after July 1, 1994, shall be related to the public school program, as prescribed by the state board.

Notwithstanding the requirements set forth in subdivisions (6), (8) and (9) of this section relating to hours of graduate work at an institution certified to do such work, fifteen undergraduate credit hours from a regionally accredited institution of higher education, earned after the effective date of this section, may be utilized for advanced salary classification if such hours are in accordance with: (a) The teacher's current classification of certification and of training; (b) a designated instructional shortage area documented by the employing county superintendent; or (c) an identified teaching deficiency documented through the state approved county personnel evaluation system.

Effective July 1, 1994, the following definition shall be applicable.

(11) "M.A. plus 45" means the above-defined master's degree plus forty-five graduate hours, earned in an institution approved to do graduate work, if the person is qualified for or holds a professional certificate or its equivalent.

**§18A-4-1a. Minimum salary for a registered professional nurse employed by the board, who has less than a bachelor's degree.**

A registered professional nurse, licensed by the West Virginia Board of Examiners for Registered Professional Nurses and employed by a county board of education, who has less than a bachelor's degree, shall receive a salary not less than that provided in sections two [§18A-4-2] and two-a [§18A-4-2a, repealed] of this article and in accordance with the following:

- (a) A registered professional nurse who has completed a two-year nursing program (sixty-four semester hours) shall be paid not less than the salary for a teacher whose classification of training is "third class" as defined in subparagraph (3), section one [§18A-4-1] of this article, such salary to include allowable years of experience, and
- (b) A registered professional nurse who has completed a three-year nursing program (ninety-six hours) shall be paid not less than the salary for a teacher whose classification of training is "second class" as defined in subparagraph (4), section one [§18A-4-1] of this article, such salary to include allowable years of experience.

The salary provided under this section and the additional fixed charge payments required therefor shall be paid outside the public school support plan provided for in article nine-a [§§18-9A-1 et seq.], chapter eighteen of this code.

**§18A-4-2. State minimum salaries for teachers.**

(a) For school year 2024-2025, and continuing thereafter, each teacher shall receive the amount prescribed in the State Minimum Salary Schedule as set forth in this section, specific additional amounts prescribed in this section or article, and any county supplement in effect in a county pursuant to §18A-4-5a of this code during the contract year.

**STATE MINIMUM SALARY SCHEDULE**

| Years<br>Exp | 4th<br>Class | 3rd<br>Class | 2nd<br>Class | A.B.<br>A.B. | A.B.<br>15 | M.A.<br>M.A. | M.A.<br>15 | M.A.<br>30 | M.A.<br>45 | Doctorate |
|--------------|--------------|--------------|--------------|--------------|------------|--------------|------------|------------|------------|-----------|
| 0            | 39,05739     | 39,74640     | 40,01241     | 41,45542     | 42,21643   | 43,98344     | 44,74445   | 45,50546   | 46,266     | 47,301    |
| 1            | 39,38540     | 40,07440     | 41,34041     | 42,97342     | 44,73444   | 46,50245     | 48,26346   | 50,02346   | 51,784     | 47,819    |
| 2            | 39,71440     | 40,40240     | 41,66842     | 42,49243     | 44,25345   | 46,02045     | 48,78146   | 50,54247   | 52,303     | 48,338    |
| 3            | 40,04240     | 41,73040     | 43,09643     | 44,01143     | 46,77145   | 48,53946     | 50,30047   | 52,06047   | 53,821     | 48,856    |
| 4            | 40,61441     | 42,30241     | 43,56843     | 45,77344     | 47,53446   | 49,30247     | 51,06347   | 52,82348   | 54,584     | 49,619    |
| 5            | 40,94241     | 42,63041     | 43,89644     | 45,29245     | 47,05346   | 48,82047     | 50,58148   | 52,34249   | 54,103     | 50,138    |
| 6            | 41,27041     | 42,95842     | 44,22444     | 45,81045     | 47,57147   | 49,33948     | 51,10048   | 52,86049   | 54,621     | 50,656    |
| 7            | 41,59842     | 43,28742     | 44,55245     | 46,32946     | 48,09047   | 49,85748     | 51,61849   | 53,37950   | 55,140     | 51,175    |
| 8            | 41,92642     | 43,61542     | 44,88145     | 46,84746     | 48,60848   | 50,37649     | 52,13749   | 53,89750   | 55,658     | 51,693    |
| 9            | 42,25442     | 43,94343     | 45,20946     | 46,36647     | 48,12748   | 49,89449     | 51,65550   | 53,41651   | 55,177     | 52,212    |
| 10           | 42,58343     | 44,27143     | 45,53746     | 47,88647     | 49,64649   | 51,41450     | 53,17550   | 54,93651   | 56,696     | 52,731    |
| 11           | 42,91143     | 44,59943     | 46,86547     | 48,40448     | 50,16549   | 52,93350     | 54,69351   | 56,45452   | 58,215     | 53,250    |
| 12           | 43,23943     | 44,92744     | 46,19347     | 48,92348     | 50,68350   | 52,45151     | 54,21251   | 56,97352   | 58,733     | 53,768    |
| 13           | 43,56744     | 45,25544     | 46,52148     | 48,44149     | 50,20250   | 52,97051     | 54,73052   | 56,49153   | 58,252     | 54,287    |
| 14           | 43,89544     | 45,58344     | 46,84948     | 49,96049     | 51,72051   | 53,48852     | 55,24953   | 57,01053   | 58,770     | 54,805    |
| 15           | 44,22344     | 45,91145     | 47,17749     | 49,47850     | 51,23952   | 53,00752     | 54,76753   | 56,52854   | 58,289     | 55,324    |
| 16           | 44,55145     | 46,23945     | 47,50549     | 49,99750     | 51,75752   | 53,52553     | 55,28654   | 57,04754   | 58,807     | 55,842    |
| 17           | 44,87945     | 46,56845     | 47,83350     | 49,51551     | 51,27653   | 53,04453     | 54,80554   | 56,56555   | 58,326     | 56,361    |
| 18           | 45,20745     | 46,89646     | 48,16251     | 49,03451     | 51,79553   | 53,56254     | 55,32355   | 57,08455   | 58,845     | 56,880    |
| 19           | 45,53546     | 47,22446     | 48,49051     | 49,55252     | 51,31354   | 53,08154     | 54,84255   | 56,60256   | 58,363     | 57,398    |
| 20           | 45,86346     | 47,55246     | 48,81852     | 49,07152     | 51,83254   | 53,59955     | 55,36056   | 57,12156   | 58,882     | 57,917    |
| 21           | 46,19246     | 47,88047     | 49,14652     | 49,58953     | 51,35055   | 53,11855     | 54,87956   | 56,63957   | 58,400     | 58,435    |
| 22           | 46,52047     | 48,20847     | 49,47453     | 50,10853     | 51,86955   | 53,63656     | 55,39757   | 57,15857   | 58,919     | 58,954    |
| 23           | 46,84847     | 48,53647     | 49,80253     | 50,62754     | 51,38756   | 53,15556     | 54,91657   | 56,67658   | 58,437     | 59,472    |
| 24           | 47,17647     | 48,86448     | 49,13054     | 50,14554     | 51,90656   | 53,67457     | 55,43458   | 57,19558   | 58,956     | 59,991    |
| 25           | 47,50448     | 48,19248     | 49,45854     | 50,66455     | 51,42457   | 53,19257     | 54,95358   | 56,71459   | 58,474     | 60,509    |
| 26           | 47,83248     | 48,52048     | 49,78655     | 50,18255     | 51,94357   | 53,71158     | 55,47159   | 57,23259   | 58,993     | 61,028    |
| 27           | 48,16048     | 48,84849     | 49,11455     | 50,70156     | 51,46158   | 53,22958     | 54,99059   | 56,75160   | 58,511     | 61,546    |
| 28           | 48,48849     | 49,17749     | 49,44256     | 50,21956     | 51,98058   | 53,74859     | 55,50860   | 57,26961   | 58,030     | 62,065    |
| 29           | 48,81649     | 49,50549     | 49,77156     | 50,73857     | 51,49859   | 53,26660     | 54,02760   | 55,78861   | 57,548     | 62,583    |
| 30           | 49,14449     | 49,83350     | 49,09957     | 50,25658     | 51,01759   | 52,78560     | 54,54561   | 56,30662   | 58,067     | 63,102    |
| 31           | 49,47350     | 49,16150     | 49,42757     | 50,77558     | 51,53660   | 53,30361     | 55,06461   | 56,82562   | 58,585     | 63,620    |
| 32           | 49,80150     | 49,48950     | 49,75558     | 50,29359     | 51,05460   | 52,82261     | 54,58362   | 56,34363   | 58,104     | 64,139    |
| 33           | 50,12950     | 49,81751     | 49,08358     | 50,81259     | 51,57361   | 53,34062     | 55,10162   | 56,86263   | 58,623     | 64,658    |
| 34           | 50,45751     | 49,14551     | 49,41159     | 50,33060     | 51,09161   | 52,85962     | 54,62063   | 56,38064   | 58,141     | 65,176    |
| 35           | 50,78551     | 49,47351     | 49,73959     | 50,84960     | 51,61062   | 53,37763     | 55,13863   | 56,89964   | 58,660     | 65,695    |

(b) Six hundred dollars shall be paid annually to each classroom teacher who has at least 20

years of teaching experience. The payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

(c) Effective July 1, 2019, each classroom teacher providing math instruction in the teacher's certified area of study for at least 60 percent of the time the teacher is providing instruction to students shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in subsection (a) of this section: *Provided*, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary schedule shall be paid the additional amount equivalent to three additional years of experience notwithstanding the maximum experience provided on the salary schedule.

(d) Effective July 1, 2019, each classroom teacher certified in special education and employed as a full-time special education teacher, as defined by the State Superintendent, shall be considered to have three additional years of experience only for the purposes of the salary schedule set forth in subsection (a) of this section: *Provided*, That for any classroom teacher who satisfies these requirements and whose years of experience plus the three additional years due to them exceeds the years of experience provided for on the salary schedule shall be paid the additional amount equivalent to three additional years of experience notwithstanding the maximum experience provided on the salary schedule.

(e) In accordance with §18A-4-5 of this code, each teacher shall be paid the supplement amount as applicable for his or her classification of certification or classification of training and years of experience as follows, subject to the provisions of that section:

(1) For "4th Class" at zero years of experience, \$1,781. An additional \$38 shall be paid for each year of experience up to and including 35 years of experience;

(2) For "3rd Class" at zero years of experience, \$1,796. An additional \$67 shall be paid for each year of experience up to and including 35 years of experience;

(3) For "2nd Class" at zero years of experience, \$1,877. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(4) For "A.B." at zero years of experience, \$2,360. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(5) For "A.B. 15" at zero years of experience, \$2,452. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(6) For "M.A." at zero years of experience, \$2,644. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(7) For "M.A. 15" at zero years of experience, \$2,740. An additional \$69 shall be paid for

each year of experience up to and including 35 years of experience;

(8) For "M.A. 30" at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience;

(9) For "M.A. 45" at zero years of experience, \$2,836. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience; and

(10) For "Doctorate" at zero years of experience, \$2,927. An additional \$69 shall be paid for each year of experience up to and including 35 years of experience.

These payments: (i) Shall be in addition to any amounts prescribed in the applicable State Minimum Salary Schedule, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5a of this code; (ii) shall be paid in equal monthly installments; and (iii) shall be considered a part of the state minimum salaries for teachers.

**§18A-4-2a. State minimum salary bonus for classroom teachers with national board certification.**

(a) The Legislature finds and declares that the rigorous standards and processes for certification by the National Board for Professional Teaching Standards (NBPTS) helps to promote the quality of teaching and learning. Therefore, classroom teachers in the public schools of West Virginia should be encouraged to achieve national board certification through a reimbursement of expenses and an additional salary bonus which reflects their additional certification, to be paid in accordance with the provisions of this section.

(b) (1) Three thousand five hundred dollars shall be paid annually to each classroom teacher who holds a valid certificate issued by the National Board of for Professional Teaching Standards for the life of the certification, but in no event more than ten years for any one certification.

(2) Three thousand five hundred dollars shall be paid annually to each classroom teacher who holds a valid renewal certificate issued by the National Board of for Professional Teaching Standards for the life of the renewal certificate, but in no event more than ten years for any one renewal certificate.

(c) The payments:

(1) Shall be in addition to any amounts prescribed in the applicable state minimum salary schedule;

(2) Shall be paid in equal monthly installments; and

(3) Shall be considered a part of the state minimum salaries for teachers.

(d) For initial certification, one half of the certification fee shall be paid for reimbursement once to each teacher who enrolls submits satisfactory evidence to the West Virginia Department of Education of enrollment in the program for the National Board for Professional Teaching Standards certification and as verified by the National Board for Professional Teaching Standards. The remaining one half of the certification fee shall be paid for reimbursement once to each teacher who completes submits satisfactory evidence to the West Virginia Department of Education of completion of the National Board for Professional Teaching Standards certification Completion shall be defined as the completion of ten scorable entries, as verified by the National Board for Professional Teaching Standards. Teachers who achieve National Board for Professional Teaching Standards certification may be reimbursed a maximum of \$600 for expenses actually incurred while obtaining the National Board for Professional Teaching Standards certification.

(e) For renewal certification, each teacher who completes the National Board for Professional Teaching Standards certification renewal process shall be reimbursed for the renewal certification fee. Completion of the certification renewal process means the

submission of satisfactory evidence to the West Virginia Department of Education of the successful renewal of the ten-year certification as verified by the National Board for Professional Teaching Standards.

(f) The state board shall establish selection criteria for the teachers by the legislative rule required pursuant to subsection (h) of this section.

(g) Funding for reimbursement of the initial certification fee and expenses actually incurred while obtaining the National Board for Professional Teaching Standards certifications and funding for reimbursement of the renewal certification fee shall be administered by the state Department of Education from an appropriation established for that purpose by the Legislature. If funds appropriated by the Legislature to accomplish the purposes of this subsection are insufficient, the state department shall prorate the reimbursements for expenses and shall request of the Legislature, at its next regular session, funds sufficient to accomplish the purposes of this subsection, including needed retroactive payments.

(h) The state board shall promulgate legislative rules pursuant to article three-b, chapter twenty-nine-a of this code to implement the provisions of this section.

**§18A-4-2b. State minimum salary supplement and educational expense reimbursement for professional personnel with recognized national certification in speech-language pathology, audiology, counseling, school psychology or school nursing.**

(a) (1) The Legislature finds that achieving a nationally recognized professional certification in speech-language pathology or audiology involves a rigorous process of demonstrating both knowledge and skills and results in highly trained and capable employees. Individuals who attain national professional certification by the American Speech-Language-Hearing Association provide needed and essential services to the school students of this state. Individuals should be encouraged to achieve and maintain the national professional certification through reimbursement of expenses and a salary bonus which reflects their additional certification.

(2) The Legislature finds that the rigorous standards and processes for advanced certification by either the National Board of Certified Counselors or the West Virginia Board of Examiners in Counseling helps to promote the quality of counseling in schools. Counselors in the public schools of West Virginia should be encouraged to achieve and maintain the advanced certification through reimbursement of expenses and a salary bonus that reflects their additional certification.

(3) The Legislature finds that achieving a nationally recognized professional certification in school psychology involves a rigorous process of demonstrating competencies in scientific research-based knowledge and skills. School psychologists provide assessment, counseling and consultation to students, teachers, school administrators and parents. Individuals who attain national professional certification by the National Association of School Psychologists provide services to students, families and school systems in this state. School psychologists should be encouraged to achieve and maintain this national professional certification through reimbursement of expenses and a salary bonus which reflects their additional certification.

(4) The Legislature finds that achieving a nationally recognized professional certification in school nursing involves a rigorous process of demonstrating competencies in health care and nursing applications, knowledge and skills. School nurses provide assessment, counseling and consultation to students, teachers, school administrators and parents. School nurses who attain national professional certification by the National Board for Certification of School Nurses provide services to students, families and school systems in this state. School nurses should be encouraged to achieve and maintain this national professional certification through reimbursement of expenses and a salary bonus which reflects their additional certification.

(5) Therefore, the purpose of this section is:

(A) To provide a statewide salary supplement for certain professional personnel employed in the public schools who hold nationally recognized professional certification in speech-

language pathology, audiology, counseling, school psychology or school nursing;

(B) To treat these professional certifications equally;

(C) To encourage others to attain such a certification; and

(D) To help school systems recruit these highly qualified professionals.

(b) In addition to any amounts prescribed in the applicable state minimum salary schedule, any professional personnel who hold national certification or other credential as provided in this section shall be paid an annual salary supplement of \$2,500. The payment is:

(1) To be made in equal monthly installments;

(2) To be considered a part of the state minimum salaries for teachers; and

(3) To continue for the life of the certification, or for ten years for any one certification, whichever first expires.

(c) Professional personnel employed as speech-language pathologists, audiologists, counselors, school psychologists or school nurses are eligible upon enrollment for reimbursement for one-half of the fee for certification in accordance with this section. In addition, these personnel are eligible upon attainment of the certification for reimbursement of the remainder of the application fee plus other expenses actually incurred toward attainment of the certification, not exceeding \$600, upon approval by the Department of Education. Not more than one hundred fifteen speech-language pathologists, audiologists, counselors, school psychologists and school nurses, combined total, are eligible for reimbursement in any one fiscal year.

(d) Notwithstanding subsection (b) of this section, for the school year beginning July 1, 2008, the number of speech-language pathologists, audiologists, counselors, school psychologists and school nurses paid the annual salary supplement provided for in said subsection may not exceed the number of speech-language pathologists, audiologists and counselors eligible to be paid the annual salary supplement under the provisions of this section in effect during the school year beginning July 1, 2007, by more than one hundred fifteen qualified recipients, and the total amount of qualified recipients may not increase thereafter by more than one hundred fifteen in each subsequent fiscal year.

(e) The state board shall promulgate a legislative rule establishing criteria for selection of the individuals eligible for reimbursement and a salary supplement in accordance with this section. The selection criteria shall prioritize the length of time the certification has been held and the years of experience of the holder in determining eligibility.

(f) The state board shall report the rule to the Legislative Oversight Commission on Education Accountability by the January, 2009, legislative interim meeting period and shall report on its progress in developing the rule to the commission during prior interim

meetings as requested.

(g) No provision of this section may be construed to require any appropriation, or any specific level of appropriation, by the Legislature, or payment of any supplement or reimbursement described in this section for which a specific appropriation has not been made.

(h) Notwithstanding any other provision of this section or the provisions of section two-a of this article, professional personnel may not be paid a salary supplement pursuant to the provisions of both said sections.

**§18A-4-2c. Teacher mentoring increment for classroom teachers with national board certification who teach and mentor at persistently low performing schools.**

(a) An additional \$2,000 shall be paid annually to each classroom teacher who:

(1) Holds a valid certificate issued by the National Board for Professional Teaching Standards;

(2) Is employed to teach at a school designated as a persistently low performing school by the West Virginia Department of Education; and

(3) Is also assigned as part of their regular employment, to serve in a mentoring capacity for other teachers at the school.

(b) The additional payment:

(1) Shall be in addition to any amounts prescribed in the applicable state minimum salary schedule;

(2) Shall be paid in equal monthly installments; and

(3) Shall be considered a part of the state minimum salaries for teachers.

(c) For the purposes of this section:

(1) "Persistently low performing school" means a school identified by the department as being among the lowest twenty percent of schools in the state in three-year aggregate mathematics and reading/language arts scores on the statewide summative assessment; and

(2) "Mentoring" means working under the direction of the principal to improve the professional practice knowledge and skills of other teachers employed at the school through on-site embedded professional development and other appropriate school building level approaches. Mentoring includes, but is not limited to, an assigned role in the comprehensive system for teacher induction and professional growth pursuant to section three, article three-c of this chapter, and may include working with other teachers to improve instruction at the school.

(d) A national board certified teacher who becomes eligible for an additional payment under this section remains eligible for five consecutive years of employment at the same school in the same assignment regardless of a subsequent change in the designation of the school as a persistently low performing school. The teacher may become eligible again at the same school if it continues to be persistently low performing or at a different persistently low performing school, but not sooner than five years from the beginning of a previous eligibility.

(e) Nothing in this section permits continued eligibility if the certificate issued by the National Board for Professional Teaching Standards is no longer valid.

(f) Notwithstanding any other provision of this chapter to the contrary, a county may use other funds, including federal and local funds, available to them to increase or provide other incentives for highly qualified teachers to teach at persistently low performing schools.

WV Legislature

**§18A-4-3. State minimum annual salary increments for principals and assistant principals.**

(a) In addition to any salary increments for principals and assistant principals, in effect on January 1, 2008, and paid from local funds, and in addition to the county schedule in effect for teachers, the county board shall pay each principal a principal's salary increment and each assistant principal an assistant principal's salary increment as prescribed by this section from state funds appropriated for the salary increments.

(b) State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with article nine-a, chapter eighteen of this code.

(c) The salary increment in this section for each principal shall be determined by multiplying the basic salary for teachers in accordance with the classification of certification and of training of the principal as prescribed in this article by the appropriate percentage rate prescribed in this section according to the number of teachers supervised.

STATE MINIMUM SALARY INCREMENT

RATES FOR PRINCIPALS

EFFECTIVE UNTIL JULY 1, 2008

No. of Teachers

Supervised Rates

1-7 10.0%

8-14 10.5%

15-24 11.0%

25-38 11.5%

39-57 12.0%

58 and up 12.5%

STATE MINIMUM SALARY INCREMENT

RATES FOR PRINCIPALS

EFFECTIVE ON AND AFTER JULY 1, 2008

No. of Teachers

Supervised Rates

1-7 11.0%

8-14 11.5%

15-24 12.0%

25-38 12.5%

39-57 13.0%

58 and up 13.5%

(d) The salary increment in this section for each assistant principal shall be determined in the same manner as that for principals using the number of teachers supervised by the principal under whose direction the assistant principal works, except that the percentage rate shall be fifty percent of the rate prescribed for the principal.

(e) Salaries for employment beyond the minimum employment term shall be at the same daily rate as the salaries for the minimum employment terms.

(f) For the purpose of determining the number of teachers supervised by a principal, the county board shall use data for the second school month of the prior school term and the number of teachers shall be interpreted to mean the total number of professional educators assigned to each school on a full-time equivalency basis: Provided, That if there is a change in circumstances because of consolidation or catastrophe, the county board shall determine what is a reasonable number of supervised teachers in order to establish the appropriate increment percentage rate.

(g) No county may reduce local funds allocated for salary increments for principals and assistant principals in effect on January 1, 2008, and used in supplementing the state minimum salaries as provided in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making the reduction.

(h) Nothing in this section prevents a county board from providing, in a uniform manner, salary increments greater than those required by this section.

**§18A-4-4. Minimum salary schedule for teachers having specialized training.**

The state Board of Education shall establish the minimum salary schedule for teachers where specialized training may be required for vocational, technical and adult education, and such other permits as may be authorized by said board.

On and after July 1, 1985, any vocational industrial, technical, occupational home economics, or health occupations teacher who is required to hold a vocational certificate and is paid a salary equivalent to the amount prescribed for "A.B. + 15" training classification in the state minimum salary schedule for teachers under section two of this article shall, upon application therefor, receive advanced salary classification and be entitled to increased compensation on and after such date in respect to and based upon additional semester hours, approved by the state Board of Education and completed either prior to or subsequent to such date. All such hours earned must be from a regionally accredited institution of higher education.

The advanced salary classification shall be as follows:

- (1) Those who have earned fifteen such additional semester hours shall receive an amount equal to that prescribed for the "M.A." training classification under section two of this article.
- (2) Those who have earned thirty such additional semester hours shall receive an amount equal to that prescribed for the "M.A. + 15" training classification under section two of this article.
- (3) Those who have earned forty-five such additional semester hours shall receive an amount equal to that prescribed for the "M.A. + 30" training classification under section two of this article.
- (4) Those who have earned sixty such additional semester hours shall receive an amount equal to that prescribed for the "M.A. + 45" training classification under section two of this article.

Any such teacher who has a permanent vocational certificate and who has earned or earns a bachelor's degree prior or subsequent to the issuance of such certificate shall be entitled to receive the amount prescribed for the "M.A. + 30" training classification upon application: Provided, That any such teacher who has a permanent vocational certificate and who has earned or earns fifteen graduate hours prior or subsequent to the issuance of such certificate shall be entitled to receive the amount prescribed for the "M.A. + 45" training classification upon application therefor, such advanced salary to take effect immediately upon qualification therefor: Provided, however, That any vocational teacher receiving the amount prescribed for the "M.A. + 30" training classification under prior enactments of this section who have not been issued a permanent vocational certificate shall not have such salary reduced as a result of this section: Provided further, That any teacher with a

vocational certificate and under contract for the school year 1985-1986 who has earned a bachelor's degree prior to the end of such school year shall be entitled to receive the amount prescribed for the "M.A. + 30" training classification, upon application therefor, for the school year beginning on July 1, 1986, and thereafter.

No teacher holding a valid professional certificate shall incur a salary reduction resulting from assignment out of the teacher's field by the superintendent, with the approval of the county board, under any authorization or regulation of the state board.

WV Legislature

**§18A-4-5. State salary supplement.**

(a) The Legislature recognizes its constitutional responsibility to provide for a thorough and efficient system of education. To carry out this responsibility the Legislature enacted, and continues to update, as necessary, the public school support program as set forth in §18-9A-1, *et seq.* of this code. The public school support program is a non-discriminatory funding mechanism for financing the educational system in this state as it takes into account each county's specific characteristics, and ensures that all counties are provided equitable funding.

(b) The Legislature further finds that the purpose of the public school support program is not to deter counties from growing economically or from using county resources in a manner that best meets their specific educational needs and the desires of their citizens. To that end, counties must have the discretion and flexibility to use local county funds, not otherwise factored into the public school support program, to provide the best education possible to their students, including, but not limited to, providing salary supplements to teachers.

(c) Subject to available state appropriations and the conditions set forth herein, each teacher and school service personnel shall receive a supplement amount as specified in §18A-4-2 and §18A-4-8a of this code, respectively, of this article in addition to the amount from the state minimum salary schedules provided in those sections. State funds for this purpose shall be paid within the West Virginia public school support plan in accordance with §18-9A-1 *et seq.* of this code. The amount allocated for this supplement shall be apportioned between teachers and school service personnel in direct proportion to that amount necessary to support the professional salaries and service personnel salaries statewide under §18-9A-4, §18-9A-5, and §18-9A-8 of this code.

(d) Pursuant to this section, each teacher and service person shall receive from state funds the supplement amount indicated in §18A-4-2(f) and §18A-4-8a(f) of this code, as applicable, reduced by any amount provided by the county as a salary supplement for teachers and school service personnel on January 1, 1984.

(e) The amount received pursuant to this section shall not be decreased as a result of any county supplement increase instituted after January 1, 1984: *Provided*, That any amount received pursuant to this section may be reduced proportionately based upon the amount of funds appropriated for this purpose. No county may reduce any salary supplement that was in effect on January 1, 1984, except as permitted by §18-4-5a and §18-4-5b of this code.

(f) The amendments to this section during the 2019 First Extraordinary Session of the Legislature shall be effective for school years beginning on or after July 1, 2019, and the provisions of this section existing immediately prior to the 2019 First Extraordinary Session of the Legislature remain in effect for school years beginning prior to July 1, 2019.

**§18A-4-5a. County salary supplements for teachers.**

(a) County boards of education in fixing the salaries of teachers shall use at least the state minimum salaries established under the provisions of this article. The board may establish salary schedules which shall be in excess of the state minimums fixed by this article, such county schedules to be uniform throughout the county as to the classification of training, experience, responsibility and other requirements subject to the following:

(1) Counties may fix higher salaries for teachers placed in special instructional assignments, for those assigned to or employed for duties other than regular instructional duties, and for teachers of one-teacher schools;

(2) Counties may provide additional compensation for any teacher assigned duties in addition to the teacher's regular instructional duties wherein such noninstructional duties are not a part of the scheduled hours of the regular school day;

(3) Counties may provide additional compensation for teachers who are assigned and fully certified to teach in a subject area in which the county board finds it has a critical need and shortage of fully certified teachers;

(4) Counties may provide additional compensation or other financial assistance to teachers who teach in schools that are in remote geographical locations or have experienced high rates of turnover in experienced teachers; and

(5) Counties may provide additional compensation to teachers who, in addition to regularly assigned teaching duties, are assigned as a master teacher, mentor, academic coach, or other title whose duties include providing strong school-based support and supervision to assist licensure candidates in a clinical internship, beginning teachers, and other teachers at the school to improve their professional practice as set forth in the county's comprehensive system of support for teacher and leader induction and professional growth provided for in section §18A-3C-3 of this code.

(b) In establishing such local salary schedules authorized in subsection (a) of this section, a county may not reduce local funds allocated for salaries in effect on January 1, 1990, and used in supplementing the state minimum salaries as provided for in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making such reduction.

(c) Counties may provide, in a uniform manner, benefits for teachers which require an appropriation from local funds including, but not limited to, dental, optical, health and income protection insurance, vacation time and retirement plans excluding the State Teachers Retirement System. Nothing herein shall prohibit the maintenance nor result in the reduction of any benefits in effect on January 1, 1984, by any county board of education.

**§18A-4-5b. County salary supplements for school service personnel.**

The county board of education may establish salary schedules which shall be in excess of the state minimums fixed by this article.

These county schedules shall be uniform throughout the county with regard to any training classification, experience, years of employment, responsibility, duties, pupil participation, pupil enrollment, size of buildings, operation of equipment or other requirements. Further, uniformity shall apply to all salaries, rates of pay, benefits, increments or compensation for all persons regularly employed and performing like assignments and duties within the county: Provided, That in establishing such local salary schedules, no county shall reduce local funds allocated for salaries in effect on January 1, 1990, and used in supplementing the state minimum salaries as provided for in this article, unless forced to do so by defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making such reduction.

Counties may provide, in a uniform manner, benefits for service personnel which require an appropriation from local funds including, but not limited to, dental, optical, health and income protection insurance, vacation time and retirement plans excluding the state Teachers Retirement System. Nothing herein shall prohibit the maintenance nor result in the reduction of any benefits in effect on January 1, 1984, by any county board of education.

**§18A-4-5c.**

Repealed.

Acts, 2011 Reg. Sess., Ch. 154.

WV Legislature

**§18A-4-5d.**

Repealed.

Acts, 2011 Reg. Sess., Ch. 154.

WV Legislature

**§18A-4-6. Change in classification.**

Upon the change of the training classification of any teacher, his salary shall be made to comply with requirements of this article and of any county schedule, where such exist, based upon his new classification and allowable years of experience.

WV Legislature

**§18A-4-7. Substitute teachers pay.**

The pay of a substitute teacher shall not be less than eighty percent of the daily rate of the state basic salary paid to teachers: Provided, That any substitute teacher who teaches in excess of ten consecutive instructional days in the same position shall, thereafter, not be paid less than eighty percent of the daily rate of the state advanced salary based upon teaching experience: Provided, however, That any substitute teacher who teaches in excess of thirty days in the same position shall be paid the daily rate of the advanced salary, within that teacher's county.

WV Legislature

**§18A-4-7a. Employment, promotion, and transfer of professional personnel; qualifications.**

(a) A county board of education shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications: Provided, That the county superintendent shall be hired under separate criteria pursuant to §18-4-2 of this code.

(b) In judging qualifications for the filling of vacancies of professional positions of employment, consideration shall be given to each of the following:

(1) Appropriate certification, licensure or both;

(2) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(3) The amount of course work, degree level or both in the relevant field and degree level generally;

(4) Academic achievement;

(5) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(6) Specialized training relevant to performing the duties of the job;

(7) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(8) Seniority;

(9) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(10) In the case of a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(11) In the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties.

(c) When filling of a vacancy pursuant to this section, a county board is entitled to determine the appropriate weight to apply to each of the criterion when assessing an applicant's qualifications: Provided, That if one or more permanently employed instructional personnel

apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion under subsection (b) of this section shall be given equal weight except that the criterion in subdivisions (10) and (11) shall each be double weighted.

(d) For a classroom teaching position, if the principal and faculty senate recommend the same applicant pursuant to subdivisions (10) and (11), subsection (b) of this section, and the superintendent concurs with those recommendations, then the other provisions of subsections (b) and (c) of this section do not apply and the county board shall appoint that applicant notwithstanding any other provision of this code to the contrary.

(e) The state board shall promulgate a rule, including an emergency rule if necessary, in accordance with the provisions of §29A-3B-1 et seq. of this code to implement and interpret the provisions of this section. The rule may provide for a classroom teacher who directly participates in making recommendations pursuant to this section to be compensated at the appropriate daily rate during periods of participation beyond his or her individual contract.

(f) The recommendations of the principal and faculty senate made pursuant to subdivisions (10) and (11), subsection (b) of this section shall be based on a determination as to which applicant is the most highly qualified for the position: Provided, That nothing in this subsection may require principals or faculty senates to assign any amount of weight to any factor in making a recommendation.

(g) With the exception of guidance counselors, the seniority of classroom teachers, as defined in section one, article one of this chapter, shall be determined on the basis of the length of time the employee has been employed as a regular full-time certified and/or licensed professional educator by the county board of education and shall be granted in all areas that the employee is certified, licensed or both.

(h) If two or more employees with the same certification establish an identical seniority date as a result of initial employment as a regular teacher on or after July 1, 2019, the priority between these employees shall be determined by a random selection system established by the employees and approved by the county board. A board shall conduct the random selection within 30 days of the time the employees with the same certification establish an identical seniority date. All employees with an identical seniority date and the same certification shall participate in the random selection. As long as the affected employees hold the identical seniority date within a certification, the initial random selection conducted by the board shall be permanent for the duration of the employment of the employees by the board.

(i) Upon completion of 133 days of employment in any one school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. One hundred thirty-three days or more of said employment shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.

(j) Guidance counselors and all other professional employees, as defined in §18A-1-1 of this code, except classroom teachers, shall gain seniority in their nonteaching area of professional employment on the basis of the length of time the employee has been employed by the county board of education in that area: Provided, That if an employee is certified as a classroom teacher, the employee accrues classroom teaching seniority for the time that employee is employed in another professional area. For the purposes of accruing seniority under this subsection, employment as principal, supervisor or central office administrator, as defined in §18A-1-1 of this code, shall be considered one area of employment.

(k) Employment for a full employment term equals one year of seniority, but an employee may not accrue more than one year of seniority during any given fiscal year. Employment for less than the full employment term shall be prorated.

(l) All decisions on reductions in force shall be based on qualifications as set forth in a county board policy. Furthermore, for the purposes of this subsection and subsections (m) through (t), inclusive, of this section, the word "qualifications" means the qualifications set forth in county board policy and only means qualifications set forth in subsection (b) of this section to the extent those qualifications are set forth in county board policy: Provided, That in defining the word "qualifications" in its policy, the county board:

(1) Shall consider including the following criteria:

(A) Seniority;

(B) Appropriate certification, licensure, or both;

(C) Amount of experience relevant to the position or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area;

(D) The amount of course work, degree level, or both in the relevant field and degree level generally;

(E) Academic achievement;

(F) In the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards;

(G) Specialized training relevant to performing the duties of the job;

(H) Past performance evaluations conducted pursuant to §18A-2-12 and §18A-3C-2 of this code or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession;

(I) Other measures or indicators upon which the relative qualifications of the applicant may fairly be judged;

(J) In the case of transfer or recall to a classroom teaching position, the recommendation of the principal of the school at which the applicant will be performing a majority of his or her duties; and

(K) In the case of transfer or recall to a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to the provisions of §18-5A-5 of this code by the faculty senate of the school at which the employee will be performing a majority of his or her duties;

(2) Shall consider other criteria set forth in subdivision (1) of this subsection to the extent they are included in the county board policy only after considering personnel whose last performance evaluation conducted pursuant to §18A-2-12 or §18A-3C-2 of this code, as applicable, is less than satisfactory; and

(3) May not include salary as one of the criteria in the definition.

(m) Whenever a county board is required to reduce the number of professional personnel in its employment, the selection of the employee to be properly notified and released from employment pursuant to the provisions of section two, article two of this chapter shall be based upon seniority, certification, licensure and performance evaluations. The provisions of this subsection are subject to the following:

(1) In the event of a reduction in force, a county board of education may properly notify and release from employment pursuant to the provisions of section two, article two of this chapter any classroom teacher with unsatisfactory evaluations for the previous two consecutive years regardless of years of service instead of release from employment of less senior classroom teachers with satisfactory performance evaluations;

(2) All persons employed in a certification area to be reduced who are employed under a temporary permit shall be properly notified and released before a fully certified employee in such a position is subject to release;

(3) Notwithstanding any provision of this code to the contrary, for any vacancy in an established, existing or newly created position that, on or before March 1, is known to exist for the ensuing school year, upon recommendation of the superintendent, the board shall appoint the successful applicant from among all qualified applicants. All employees subject to release shall be considered applicants for the positions for which they are qualified and shall be considered before posting such vacancies for application by nonemployees;

(4) An employee subject to release shall be employed in any other professional position where the employee is certified and was previously employed or to any lateral area for which the employee is certified, licensed or both, if the employees seniority is greater than the seniority of any other employee in that area of certification, licensure or both;

(5) If an employee subject to release holds certification, licensure or both in more than one

lateral area and if the employees seniority is greater than the seniority of any other employee in one or more of those areas of certification, licensure or both, the employee subject to release shall be employed in the professional position held by the employee with the least seniority in any of those areas of certification, licensure or both; and

(6) If, prior to August 1 of the year, a reduction in force is approved, the reason for any particular reduction in force no longer exists as determined by the county board in its sole and exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the released employee in writing of his or her right to be restored to his or her position of employment. Within five days of being so notified, the released employee shall notify the board, in writing, of his or her intent to resume his or her position of employment or the right to be restored shall terminate. Notwithstanding any other provision of this subdivision, if there is another employee on the preferred recall list with proper certification and higher seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

(n) For the purpose of this article, all positions which meet the definition of "classroom teacher" as defined in §18A-1-1 of this code shall be lateral positions. For all other professional positions, the county board of education shall adopt a policy by October 31, 1993, and may modify the policy thereafter as necessary, which defines which positions shall be lateral positions. In adopting the policy, the board may give consideration to the rank of each position in terms of title; nature of responsibilities; salary level; and certification, licensure or both; along with the days in the period of employment.

(o) All professional personnel whose lesser qualifications, as determined by county board policy, with the county board is insufficient to allow their retention by the county board during a reduction in workforce shall be placed upon a preferred recall list. As to any professional position opening within the area where they had previously been employed or to any lateral area for which they have certification, licensure or both, the employee shall be recalled on the basis of qualifications if no regular, full-time professional personnel, or those returning from leaves of absence with greater qualifications apply for and accept the position.

(p) The board shall annually notify professional personnel on the preferred list of the job application procedures and any websites used to advertise vacancies. The notice shall be sent by certified mail via the U.S. Postal Service to the last known address of the employee, and it shall be the duty of each professional person to notify the board of continued availability annually of any change in address, or of any change in certification, licensure or both.

(q) Openings in established, existing or newly created positions shall be processed as follows:

(1) Boards shall be required to post and date notices of each opening at least once. At their discretion, boards may post an opening for a position other than classroom teacher more

than once in order to attract more qualified applicants. At their discretion, boards may repost an opening for a classroom teacher after the first posting in order to attract more qualified applicants subject to the following:

(A) Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five working days which may include any website maintained by the county board;

(B) At least one notice shall be posted within 20 working days of the position openings and shall include the job description;

(C) Any special criteria or skills that are required by the position shall be specifically stated in the job description and directly related to the performance of the job;

(D) Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply; and

(E) Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant;

(2) No vacancy may be filled until after the five-day minimum posting period of the most recent posted notice of the vacancy;

(3) If one or more applicants under all the postings for a vacancy meets the qualifications listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board within 30 working days of the end of the first posting period;

(4) A position held by a teacher who is certified, licensed or both, who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years; and

(5) Nothing provided herein may prevent the county board of education from eliminating a position due to lack of need.

(r) Notwithstanding any other provision of the code to the contrary, where the total number of classroom teaching positions in an elementary school does not increase from one school year to the next, but there exists in that school a need to realign the number of teachers in one or more grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels for which they are certified without that position being posted: Provided, That the employee and the county board mutually agree to the reassignment.

(s) Reductions in classroom teaching positions in elementary schools shall be determined pursuant to the considerations set forth in county board policy and processed as follows:

(1) When the total number of classroom teaching positions in an elementary school needs to be reduced, the reduction shall be made on the basis of qualifications with the least qualified

classroom teacher being recommended for transfer; and

(2) When a specified grade level needs to be reduced and the least qualified employee in the school is not in that grade level, the least qualified classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the least qualified classroom teacher in the school without that position being posted: Provided, That the employee is certified, licensed or both and agrees to the reassignment.

(t) Any board failing to comply with the provisions of this article may be compelled to do so by mandamus and shall be liable to any party prevailing against the board for court costs and reasonable attorney fees as determined and established by the court. Further, employees denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactive to the date of the violation and payable entirely from local funds. Further, the board shall be liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

(u) Notwithstanding any other provision of this code to the contrary, upon recommendation of the principal and approval by the classroom teacher and county board, a classroom teacher assigned to the school may at any time be assigned to a new or existing classroom teacher position at the school without the position being posted.

(v) All personnel in a public charter school shall continue to accrue seniority in the same manner that they would accrue seniority if employed in a noncharter public school in the county for the purpose of employment in noncharter public schools.

**§18A-4-7b. Calculation of seniority for professional personnel.**

Notwithstanding any other provision of this code to the contrary, seniority for professional personnel as defined in section one, article one, chapter eighteen-a of this code shall be calculated pursuant to the provisions of section seven-a of this article as well as the following: Provided, That any recalculation of seniority of a professional personnel employee that may be required in order to remain consistent with the provisions contained herein shall be calculated retroactively, but shall not be utilized for the purposes of reversing any decision that has been made or grievance that has been filed prior to the effective date of this section:

(a) A professional employee shall begin to accrue seniority upon commencement of the employee's duties.

(b) An employee shall receive seniority credit for each day the employee is professionally employed regardless of whether the employee receives pay for that day: Provided, That no employee shall receive seniority credit for any day the employee is suspended without pay pursuant to section eight, article two of this chapter: Provided, however, That an employee who is on an approved leave of absence shall accrue seniority during the period of time that the employee is on the approved leave of absence.

(c) Any professional employee whose employment with a county board of education is terminated either voluntarily or through a reduction-in-force shall, upon reemployment with the same Board of Education in a regular full-time position, receive credit for all seniority previously accumulated with the board of Education at the date the employee's employment was terminated.

(d) Any professional employee whose employment has been terminated through reduction in force and whose name is on the preferred recall list shall retain all accumulated seniority for the purpose of seeking reemployment with the county from which he or she was terminated and nothing in this section may be construed to the contrary.

(e) Any professional employee employed for a full employment term but in a part-time position shall receive seniority credit for each day of employment prorated to the proportion of a full employment day the employee is required to work: Provided, That nothing herein allows a regular full-time employee to be credited with less than a full day of seniority credit for each day the employee is employed by the board: Provided, however, That this calculation of seniority for part-time professional personnel is prospective and does not reduce any seniority credit accumulated by any employee prior to the effective date of this section: Provided further, That for the purposes of this section a part-time employee shall be defined as an employee who is employed less than three and one-half hours per day.

**§18A-4-7c. Summer employment of professional educators.**

A county board shall hire professional educators for positions in summer school programs in accordance with section thirty-nine, article five, chapter eighteen of this code or section seven-a of this article, as applicable, except that a professional educator who is regularly employed by the county board on a full-time basis shall be given employment preference over applicants who are not regularly employed by the county board on a full-time basis.

WV Legislature

**§18A-4-8. Employment term and class titles of service personnel; definitions.**

(a) The purpose of this section is to establish an employment term and class titles for service personnel. The employment term for service personnel may not be less than 10 months. A month is defined as 20 employment days. The county board may contract with, all or part of, these service personnel for a longer term.

(b) Service personnel employed on a yearly or 12-month basis may be employed by calendar months. Whenever there is a change in job assignment during the school year, the minimum pay scale and any county supplement are applicable.

(c) Service personnel employed in the same classification for more than the 200-day minimum employment term are paid for additional employment at a daily rate of not less than the daily rate paid for the 200-day minimum employment term.

(d) A service person may not be required to report for work more than five days per week without his or her agreement, and no part of any working day may be accumulated by the employer for future work assignments, unless the employee agrees thereto.

(e) If a service person whose regular work week is scheduled from Monday through Friday agrees to perform any work assignments on a Saturday or Sunday, the service person is paid for at least one-half day of work for each day he or she reports for work. If the service person works more than three and one-half hours on any Saturday or Sunday, he or she is paid for at least a full day of work for each day.

(f) A custodian, aide, maintenance, office, and school lunch service person required to work a daily work schedule that is interrupted is paid additional compensation in accordance with this subsection.

(1) A maintenance person means a person who holds a classification title other than in a custodial, aide, school lunch, office or transportation category as provided in §18A-1-1 of this code.

(2) A service person's schedule is considered to be interrupted if he or she does not work a continuous period in one day. Aides are not regarded as working an interrupted schedule when engaged exclusively in the duties of transporting students;

(3) The additional compensation provided in this subsection:

(A) Is equal to at least one eighth of a service person's total salary as provided by the state minimum pay scale and any county pay supplement; and

(B) Is payable entirely from county board funds.

(g) When there is a change in classification or when a service person meets the requirements of an advanced classification, his or her salary shall be made to comply with

the requirements of this article and any county salary schedule in excess of the minimum requirements of this article, based upon the service person's advanced classification and allowable years of employment.

(h) A service person's contract, as provided in §18A-2-5 of this code, shall state the appropriate monthly salary the employee is to be paid, based on the class title as provided in this article and on any county salary schedule in excess of the minimum requirements of this article.

(i) The column heads of the state minimum pay scale and class titles, set forth in §18A-4-8a of this code, are defined as follows:

"Pay grade" means the monthly salary applicable to class titles of service personnel;

"Years of employment" means the number of years which an employee classified as a service person has been employed by a county board in any position prior to or subsequent to the effective date of this section and includes service in the Armed Forces of the United States, if the employee was employed at the time of his or her induction. For the purpose of §18A-4-8a of this code, years of employment is limited to the number of years shown and allowed under the state minimum pay scale as set forth in §18A-4-8a of this code;

"Class title" means the name of the position or job held by a service person;

"Accountant I" means a person employed to maintain payroll records and reports and perform one or more operations relating to a phase of the total payroll;

"Accountant II" means a person employed to maintain accounting records and to be responsible for the accounting process associated with billing, budgets, purchasing and related operations;

"Accountant III" means a person employed in the county board office to manage and supervise accounts payable, payroll procedures, or both;

"Accounts payable supervisor" means a person employed in the county board office who has primary responsibility for the accounts payable function and who either has completed 12 college hours of accounting courses from an accredited institution of higher education or has at least eight years of experience performing progressively difficult accounting tasks. Responsibilities of this class title may include supervision of other personnel;

"Aide I" means a person selected and trained for a teacher-aide classification such as monitor aide, clerical aide, classroom aide or general aide;

"Aide II" means a service person referred to in the "Aide I" classification who has completed a training program approved by the state board, or who holds a high school diploma or has received a general educational development certificate. Only a person classified in an Aide II class title may be employed as an aide in any special education program;

"Aide III" means a service person referred to in the "Aide I" classification who holds a high school diploma or a general educational development certificate; and

(A) Has completed six semester hours of college credit at an institution of higher education; or

(B) Is employed as an aide in a special education program and has one year's experience as an aide in special education;

"Aide IV" means a service person referred to in the "Aide I" classification who holds a high school diploma or a general educational development certificate; and

(A) Has completed 18 hours of State Board-approved college credit at a regionally accredited institution of higher education, or

(B) Has completed 15 hours of State Board-approved college credit at a regionally accredited institution of higher education; and has successfully completed an in-service training program determined by the state board to be the equivalent of three hours of college credit;

"Aide V (Special Education Assistant Teacher) - Temporary Authorization" means a person who does not possess minimum requirements for the Aide V permanent authorization, but is enrolled in and pursuing requirements as prescribed by the state board of education. No service person shall be entitled to receive the paygrade associated with this classification unless he or she has applied for and been selected to fill a posted position which specifically requires the successful candidate to hold or be enrolled in and pursuing the requirements for the classification. The determination as to whether a position will be posted requiring this classification is solely at the discretion of the county;

"Aide V (Special Education Assistant Teacher)" means a service person referred to in the "Aide I" classification who holds a high school diploma or a general educational development certificate and who has completed the requirements and experience to be prescribed by the state board of education. No service person shall be entitled to receive the paygrade associated with this classification unless he or she has applied for and been selected to fill a posted position which specifically requires the successful candidate to hold or be enrolled in and pursuing the requirements for the classification. The determination as to whether a position will be posted requiring this classification is solely at the discretion of the county;

"Aide VI (Behavioral Support Assistant Teacher - Temporary Authorization)" means a person who does not possess minimum requirements for the Aide VI permanent authorization, but is enrolled in and pursuing the requirements as prescribed by the state board of education. No service person shall be entitled to receive the paygrade associated with this classification unless he or she has applied for and been selected to fill a posted position which specifically requires the successful candidate to hold or be enrolled in and pursuing the requirements for the classification. The determination as to whether a position will be posted requiring

this classification is solely at the discretion of the county;

"Aide VI (Behavioral Support Assistant Teacher)" means a person who works with a student or students who have identified behavior difficulties, holds at least an Aide III classification and has completed the requirements and experience to be prescribed by the state board of education. No service person shall be entitled to receive the paygrade associated with this classification unless he or she has applied for and been selected to fill a posted position which specifically requires the successful candidate to hold or be enrolled in and pursuing the requirements for the classification. The determination as to whether a position will be posted requiring this classification is solely at the discretion of the county;

"Audiovisual technician" means a person employed to perform minor maintenance on audiovisual equipment, films, and supplies and who fills requests for equipment;

"Auditor" means a person employed to examine and verify accounts of individual schools and to assist schools and school personnel in maintaining complete and accurate records of their accounts;

"Autism mentor" means a person who works with students having been identified as a person of autism and who meets standards and experience to be determined by the state Board. A person who has held or holds an aide title and becomes employed as an autism mentor shall hold a multiclassification status that includes both aide and autism mentor titles, in accordance with §18A-4-8b of this code;

"Braille specialist" means a person employed to provide braille assistance to students. A service person who has held or holds an aide title and becomes employed as a braille specialist shall hold a multiclassification status that includes both aide and braille specialist title, in accordance with §18A-4-8b of this code;

"Bus operator" means a person employed to operate school buses and other school transportation vehicles as provided by the state board;

"Buyer" means a person employed to review and write specifications, negotiate purchase bids and recommend purchase agreements for materials and services that meet predetermined specifications at the lowest available costs;

"Cabinetmaker" means a person employed to construct cabinets, tables, bookcases and other furniture;

"Cafeteria manager" means a person employed to direct the operation of a food services program in a school, including assigning duties to employees, approving requisitions for supplies and repairs, keeping inventories, inspecting areas to maintain high standards of sanitation, preparing financial reports, and keeping records pertinent to food services of a school;

"Carpenter I" means a person classified as a carpenter's helper;

"Carpenter II" means a person classified as a journeyman carpenter;

"Chief mechanic" means a person employed to be responsible for directing activities which ensure that student transportation or other county board-owned vehicles are properly and safely maintained;

"Clerk I" means a person employed to perform clerical tasks;

"Clerk II" means a person employed to perform general clerical tasks, prepare reports and tabulations, and operate office machines;

"Computer operator" means a qualified person employed to operate computers;

"Cook I" means a person employed as a cook's helper;

"Cook II" means a person employed to interpret menus and to prepare and serve meals in a food service program of a school. This definition includes a service person who has been employed as a "Cook I" for a period of four years;

"Cook III" means a person employed to prepare and serve meals, make reports, prepare requisitions for supplies, order equipment and repairs for a food service program of a school system;

"Crew leader" means a person employed to organize the work for a crew of maintenance employees to carry out assigned projects;

"Custodian I" means a person employed to keep buildings clean and free of refuse;

"Custodian II" means a person employed as a watchman or groundsman;

"Custodian III" means a person employed to keep buildings clean and free of refuse, to operate the heating or cooling systems and to make minor repairs;

"Custodian IV" means a person employed as a head custodian. In addition to providing services as defined in "Custodian III" duties may include supervising other custodian personnel;

"Director or coordinator of services" means an employee of a county board who is assigned to direct a department or division.

(A) Nothing in this subdivision prohibits a professional person or a professional educator from holding this class title: *Provided*, That after July 1, 2024, all persons employed for the first time in a position with this classification title as a director, assistant director, or coordinator of transportation shall possess a commercial driver's license within one year of employment except that this requirement shall not apply to persons who are multiclassified, hold multiple job titles, or provide documentation from a physician that they have a medical

diagnosis that renders them physically unqualified to obtain a commercial driver's license;

(B) Professional personnel holding this class title may not be defined or classified as service personnel unless the professional person held a service personnel title under this section prior to holding the class title of "director or coordinator of services;"

(C) The director or coordinator of services is classified either as a professional person or a service person for state aid formula funding purposes;

(D) Funding for the position of director or coordinator of services is based upon the employment status of the director or coordinator either as a professional person or a service person; and

(E) A person employed under the class title "director or coordinator of services" may not be exclusively assigned to perform the duties ascribed to any other class title as defined in this subsection: *Provided*, That nothing in this paragraph prohibits a person in this position from being multiclassified;

"Draftsman" means a person employed to plan, design, and produce detailed architectural/engineering drawings;

"Early Childhood Classroom Assistant Teacher I" means a person who does not possess minimum requirements for the permanent authorization requirements, but is enrolled in and pursuing requirements;

"Early Childhood Classroom Assistant Teacher II" means a person who has completed the minimum requirements for a state-awarded certificate for early childhood classroom assistant teachers as determined by the state board;

"Early Childhood Classroom Assistant Teacher III" means a person who has completed permanent authorization requirements, as well as additional requirements comparable to current paraprofessional certificate;

"Educational Sign Language Interpreter I" means a person employed to provide communication access across all educational environments to students who are deaf or hard of hearing, and who holds the Initial Paraprofessional Certificate - Educational Interpreter pursuant to state board policy;

"Educational Sign Language Interpreter II" means a person employed to provide communication access across all educational environments to students who are deaf or hard of hearing, and who holds the Permanent Paraprofessional Certificate - Educational Interpreter pursuant to state board policy;

"Electrician I" means a person employed as an electrician helper or one who holds an electrician helper license issued by the State Fire Marshal;

"Electrician II" means a person employed as an electrician journeyman or one who holds a journeyman electrician license issued by the State Fire Marshal;

"Electronic technician I" means a person employed to repair and maintain electronic equipment;

"Electronic technician II" means a person employed at the journeyman level to repair and maintain electronic equipment;

"Executive secretary" means a person employed as secretary to the county school superintendent or as a secretary who is assigned to a position characterized by significant administrative duties;

"Food services supervisor" means a qualified person who is not a professional person or professional educator as defined in §18A-1-1 of this code. The food services supervisor is employed to manage and supervise a county school system's food service program. The duties include preparing in-service training programs for cooks and food service employees, instructing personnel in the areas of quantity cooking with economy and efficiency and keeping aggregate records and reports;

"Foreman" means a skilled person employed to supervise personnel who work in the areas of repair and maintenance of school property and equipment;

"General maintenance" means a person employed as a helper to skilled maintenance employees, and to perform minor repairs to equipment and buildings of a county school system;

"Glazier" means a person employed to replace glass or other materials in windows and doors and to do minor carpentry tasks;

"Graphic artist" means a person employed to prepare graphic illustrations;

"Groundsman" means a person employed to perform duties that relate to the appearance, repair, and general care of school grounds in a county school system. Additional assignments may include the operation of a small heating plant and routine cleaning duties in buildings;

"Handyman" means a person employed to perform routine manual tasks in any operation of the county school system;

"Heating and air conditioning mechanic I" means a person employed to install, repair and maintain heating and air conditioning plants and related electrical equipment;

"Heating and air conditioning mechanic II" means a person employed at the journeyman level to install, repair, and maintain heating and air conditioning plants and related electrical equipment;

"Heavy equipment operator" means a person employed to operate heavy equipment;

"Inventory supervisor" means a person employed to supervise or maintain operations in the receipt, storage, inventory and issuance of materials and supplies;

"Licensed practical nurse" means a nurse, licensed by the West Virginia Board of Examiners for Licensed Practical Nurses, employed to work in a public school under the supervision of a school nurse;

"Locksmith" means a person employed to repair and maintain locks and safes;

"Lubrication man" means a person employed to lubricate and service gasoline or diesel-powered equipment of a county school system;

"Machinist" means a person employed to perform machinist tasks which include the ability to operate a lathe, planer, shaper, threading machine and wheel press. A person holding this class title also should have the ability to work from blueprints and drawings;

"Mail clerk" means a person employed to receive, sort, dispatch, deliver or otherwise handle letters, parcels, and other mail;

"Maintenance clerk" means a person employed to maintain and control a stocking facility to keep adequate tools and supplies on hand for daily withdrawal for all school maintenance crafts;

"Mason" means a person employed to perform tasks connected with brick and block laying and carpentry tasks related to these activities;

"Mechanic" means a person employed to perform skilled duties independently in the maintenance and repair of automobiles, school buses and other mechanical and mobile equipment to use in a county school system;

"Mechanic assistant" means a person employed as a mechanic apprentice and helper;

"Multiclassification" means a person employed to perform tasks that involve the combination of two or more class titles in this section. In these instances, the minimum salary scale is the higher pay grade of the class titles involved;

"Office equipment repairman I" means a person employed as an office equipment repairman apprentice or helper;

"Office equipment repairman II" means a person responsible for servicing and repairing all office machines and equipment. A person holding this class title is responsible for the purchase of parts necessary for the proper operation of a program of continuous maintenance and repair;

"Painter" means a person employed to perform duties painting, finishing and decorating wood, metal and concrete surfaces of buildings, other structures, equipment, machinery and furnishings of a county school system;

"Paraprofessional" means a person certified pursuant to §18A-3-2a of this code to perform duties in a support capacity including, but not limited to, facilitating in the instruction and direct or indirect supervision of students under the direction of a principal, a teacher or another designated professional educator.

(A) A person employed on the effective date of this section in the position of an aide may not be subject to a reduction in force or transferred to create a vacancy for the employment of a paraprofessional;

(B) A person who has held or holds an aide title and becomes employed as a paraprofessional shall hold a multiclassification status that includes both aide and paraprofessional titles in accordance with §18A-4-8b of this code; and

(C) When a service person who holds an aide title becomes certified as a paraprofessional and is required to perform duties that may not be performed by an aide without paraprofessional certification, he or she shall receive the paraprofessional title pay grade;

"Payroll supervisor" means a person employed in the county board office who has primary responsibility for the payroll function and who either has completed 12 college hours of accounting from an accredited institution of higher education or has at least eight years of experience performing progressively difficult accounting tasks. Responsibilities of this class title may include supervision of other personnel;

"Plumber I" means a person employed as an apprentice plumber and helper;

"Plumber II" means a person employed as a journeyman plumber;

"Printing operator" means a person employed to operate duplication equipment, and to cut, collate, staple, bind and shelve materials as required;

"Printing supervisor" means a person employed to supervise the operation of a print shop;

"Programmer" means a person employed to design and prepare programs for computer operation;

"Roofing/sheet metal mechanic" means a person employed to install, repair, fabricate and maintain roofs, gutters, flashing and duct work for heating and ventilation;

"Sanitation plant operator" means a person employed to operate and maintain a water or sewage treatment plant to ensure the safety of the plant's effluent for human consumption or environmental protection;

"School bus supervisor" means a qualified person:

(A) Employed to assist in selecting school bus operators and routing and scheduling school buses, operate a bus when needed, relay instructions to bus operators, plan emergency routing of buses and promote good relationships with parents, students, bus operators and other employees; and

(B) Certified to operate a bus or previously certified to operate a bus;

"Secretary I" means a person employed to transcribe from notes or mechanical equipment, receive callers, perform clerical tasks, prepare reports, and operate office machines;

"Secretary II" means a person employed in any elementary, secondary, kindergarten, nursery, special education, vocational, or any other school as a secretary. The duties may include performing general clerical tasks; transcribing from notes; stenotype, mechanical equipment, or a sound-producing machine; preparing reports; receiving callers and referring them to proper persons; operating office machines; keeping records and handling routine correspondence. Nothing in this subdivision prevents a service person from holding or being elevated to a higher classification;

"Secretary III" means a person assigned to the county board office administrators in charge of various instructional, maintenance, transportation, food services, operations and health departments, federal programs, or departments with particular responsibilities in purchasing and financial control or any person who has served for eight years in a position which meets the definition of "Secretary II" or "Secretary III";

"Sign Support Specialist" means a person employed to provide sign supported speech assistance to students who can access environments through audition. A person who has held or holds an aide title and becomes employed as a sign support specialist shall hold a multiclassification status that includes both aide and sign support specialist titles, in accordance with §18A-4-8b of this code.

"Supervisor of maintenance" means a skilled person who is not a professional person or professional educator as defined in §18A-1-1 of this code. The responsibilities include directing the upkeep of buildings and shops, and issuing instructions to subordinates relating to cleaning, repairs and maintenance of all structures and mechanical and electrical equipment of a county board;

"Supervisor of transportation" means a qualified person employed to direct school transportation activities properly and safely, and to supervise the maintenance and repair of vehicles, buses and other mechanical and mobile equipment used by the county school system. After July 1, 2010, all persons employed for the first time in a position with this classification title or in a multiclassification position that includes this title shall have five years of experience working in the transportation department of a county board. Experience working in the transportation department consists of serving as a bus operator, bus aide,

assistant mechanic, mechanic, chief mechanic or in a clerical position within the transportation department;

"Switchboard operator-receptionist" means a person employed to refer incoming calls, to assume contact with the public, to direct and to give instructions as necessary, to operate switchboard equipment and to provide clerical assistance;

"Truck driver" means a person employed to operate light or heavy duty gasoline and diesel-powered vehicles;

"Warehouse clerk" means a person employed to be responsible for receiving, storing, packing, and shipping goods;

"Watchman" means a person employed to protect school property against damage or theft. Additional assignments may include operation of a small heating plant and routine cleaning duties;

"Welder" means a person employed to provide acetylene or electric welding services for a school system; and

"WVEIS data entry and administrative clerk" means a person employed to work under the direction of a school principal to assist the school counselor or counselors in the performance of administrative duties, to perform data entry tasks on the West Virginia Education Information System, and to perform other administrative duties assigned by the principal.

(j) Notwithstanding any provision in this code to the contrary, and in addition to the compensation provided for service personnel in §18A-4-8a of this code, each service person is entitled to all service personnel employee rights, privileges and benefits provided under this or any other chapter of this code without regard to the employee's hours of employment or the methods or sources of compensation.

(k) A service person whose years of employment exceeds the number of years shown and provided for under the state minimum pay scale set forth in §18A-4-8a of this code may not be paid less than the amount shown for the maximum years of employment shown and provided for in the classification in which he or she is employed.

(l) Each county board shall review each service person's job classification annually and shall reclassify all service persons as required by the job classifications. The state superintendent may withhold state funds appropriated pursuant to this article for salaries for service personnel who are improperly classified by the county boards. Further, the state superintendent shall order a county board to immediately correct any improper classification matter and, with the assistance of the Attorney General, shall take any legal action necessary against any county board to enforce the order.

(m) Without his or her written consent, a service person may not be:

(1) Reclassified by class title; or

(2) Relegated to any condition of employment which would result in a reduction of his or her salary, rate of pay, compensation or benefits earned during the current fiscal year; or for which he or she would qualify by continuing in the same job position and classification held during that fiscal year and subsequent years.

(n) Any county board failing to comply with the provisions of this article may be compelled to do so by mandamus and is liable to any party prevailing against the board for court costs and the prevailing party's reasonable attorney fee, as determined and established by the court.

(o) Notwithstanding any provision of this code to the contrary, a service person who holds a continuing contract in a specific job classification and who is physically unable to perform the job's duties as confirmed by a physician chosen by the employee, shall be given priority status over any employee not holding a continuing contract in filling other service personnel job vacancies if the service person is qualified as provided in §18A-4-8e of this code.

(p) Any person employed in an aide position on the effective date of this section may not be transferred or subject to a reduction in force for the purpose of creating a vacancy for the employment of a licensed practical nurse.

(q) Without the written consent of the service person, a county board may not establish the beginning work station for a bus operator or transportation aide at any site other than a county board-owned facility with available parking. The workday of the bus operator or transportation aide commences at the bus at the designated beginning work station and ends when the employee is able to leave the bus at the designated beginning work station, unless he or she agrees otherwise in writing. The application or acceptance of a posted position may not be construed as the written consent referred to in this subsection.

(r) Itinerant status means a service person who does not have a fixed work site and may be involuntarily reassigned to another work site. A service person is considered to hold itinerant status if he or she has bid upon a position posted as itinerant or has agreed to accept this status. A county board may establish positions with itinerant status only within the aide and autism mentor classification categories and only when the job duties involve exceptional students. A service person with itinerant status may be assigned to a different work site upon written notice 10 days prior to the reassignment without the consent of the employee and without posting the vacancy. A service person with itinerant status may be involuntarily reassigned no more than twice during the school year. At the conclusion of each school year, the county board shall post and fill, pursuant to §18A-4-8b of this code, all positions that have been filled without posting by a service person with itinerant status. A service person who is assigned to a beginning and ending work site and travels at the expense of the county board to other work sites during the daily schedule, is not considered to hold itinerant status.

(s) Any service person holding a classification title on June 30, 2013, that is removed from

the classification schedule pursuant to amendment and reenactment of this section in the year 2013, has his or her employment contract revised as follows:

(1) Any service person holding the Braille or Sign Language Specialist classification title has that classification title renamed on his or her employment contract as either Braille Specialist or Sign Support Specialist. This action does not result in a loss or reduction of salary or supplement by any employee. Any seniority earned in the Braille or Sign Language Specialist classification prior to July 1, 2013, continues to be credited as seniority earned in the Braille Specialist or Sign Support Specialist classification;

(2) Any service person holding the Paraprofessional classification title and holding the Initial Paraprofessional Certificate - Educational Interpreter has the title Educational Sign Language Interpreter I added to his or her employment contract. This action does not result in a loss or reduction of salary or supplement by any employee. Any seniority earned in the Paraprofessional classification prior to July 1, 2013, continues to be credited as seniority earned in the Educational Sign Language Interpreter I classification; and

(3) Any service person holding the Paraprofessional classification title and holding the Permanent Paraprofessional Certificate - Educational Interpreter has the title Educational Sign Language Interpreter II added to his or her employment contract. This action does not result in a loss or reduction of salary or supplement by any employee. Any seniority earned in the Paraprofessional classification prior to July 1, 2013, continues to be credited as seniority earned in the Educational Sign Language Interpreter II classification;

(t) Any person employed as an aide in a kindergarten program who is eligible for full retirement benefits before the first day of the instructional term in the 2020-2021 school year, may not be subject to a reduction in force or transferred to create a vacancy for the employment of a less senior Early Childhood Classroom Assistant Teacher;

(u) A person who has held or holds an aide title and becomes employed as an Early Childhood Classroom Assistant Teacher shall hold a multiclassification status that includes aide and/or paraprofessional titles in accordance with §18A-4-8b of this code.

**§18A-4-8a. Service personnel minimum monthly salaries.**

(a) Effective July 1, 2024, the minimum monthly pay for each service employee shall be as follows:

(1) For school year 2024-2025 and continuing thereafter, the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule set forth in this subdivision and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade Schedule set forth in this subdivision.

**STATE MINIMUM PAY SCALE PAY GRADE SCHEDULE****Years PAY GRADE**

| <b>Exp.</b> | <b>A</b> | <b>B</b> | <b>C</b> | <b>D</b> | <b>E</b> | <b>F</b> | <b>G</b> | <b>H</b> |
|-------------|----------|----------|----------|----------|----------|----------|----------|----------|
| 0           | 2,377    | 2,398    | 2,440    | 2,493    | 2,546    | 2,609    | 2,641    | 2,714    |
| 1           | 2,409    | 2,431    | 2,472    | 2,525    | 2,579    | 2,642    | 2,673    | 2,747    |
| 2           | 2,442    | 2,463    | 2,505    | 2,558    | 2,611    | 2,674    | 2,706    | 2,779    |
| 3           | 2,474    | 2,496    | 2,538    | 2,591    | 2,644    | 2,707    | 2,739    | 2,812    |
| 4           | 2,507    | 2,529    | 2,570    | 2,623    | 2,676    | 2,740    | 2,771    | 2,846    |
| 5           | 2,540    | 2,561    | 2,603    | 2,656    | 2,709    | 2,772    | 2,804    | 2,878    |
| 6           | 2,572    | 2,594    | 2,637    | 2,689    | 2,742    | 2,805    | 2,837    | 2,911    |
| 7           | 2,606    | 2,626    | 2,669    | 2,721    | 2,774    | 2,838    | 2,869    | 2,944    |
| 8           | 2,639    | 2,659    | 2,702    | 2,754    | 2,807    | 2,870    | 2,902    | 2,976    |
| 9           | 2,671    | 2,692    | 2,735    | 2,788    | 2,840    | 2,903    | 2,934    | 3,009    |
| 10          | 2,704    | 2,725    | 2,767    | 2,820    | 2,872    | 2,937    | 2,968    | 3,042    |
| 11          | 2,737    | 2,758    | 2,800    | 2,853    | 2,905    | 2,969    | 3,001    | 3,074    |
| 12          | 2,769    | 2,791    | 2,832    | 2,886    | 2,939    | 3,002    | 3,033    | 3,107    |
| 13          | 2,802    | 2,823    | 2,865    | 2,918    | 2,971    | 3,034    | 3,066    | 3,140    |
| 14          | 2,835    | 2,856    | 2,898    | 2,951    | 3,004    | 3,067    | 3,099    | 3,172    |
| 15          | 2,867    | 2,889    | 2,930    | 2,983    | 3,036    | 3,100    | 3,131    | 3,205    |
| 16          | 2,900    | 2,921    | 2,963    | 3,016    | 3,069    | 3,132    | 3,164    | 3,238    |
| 17          | 2,932    | 2,954    | 2,997    | 3,049    | 3,102    | 3,165    | 3,197    | 3,271    |
| 18          | 2,965    | 2,987    | 3,029    | 3,081    | 3,134    | 3,198    | 3,229    | 3,304    |
| 19          | 2,999    | 3,019    | 3,062    | 3,114    | 3,167    | 3,230    | 3,262    | 3,336    |
| 20          | 3,031    | 3,052    | 3,095    | 3,148    | 3,200    | 3,263    | 3,295    | 3,370    |
| 21          | 3,064    | 3,084    | 3,127    | 3,180    | 3,232    | 3,296    | 3,327    | 3,404    |
| 22          | 3,097    | 3,118    | 3,160    | 3,213    | 3,265    | 3,329    | 3,361    | 3,436    |
| 23          | 3,129    | 3,151    | 3,193    | 3,246    | 3,299    | 3,363    | 3,395    | 3,470    |
| 24          | 3,162    | 3,183    | 3,225    | 3,278    | 3,331    | 3,397    | 3,428    | 3,504    |
| 25          | 3,195    | 3,216    | 3,258    | 3,311    | 3,365    | 3,429    | 3,462    | 3,536    |
| 26          | 3,227    | 3,249    | 3,290    | 3,345    | 3,399    | 3,463    | 3,494    | 3,570    |
| 27          | 3,260    | 3,281    | 3,323    | 3,377    | 3,431    | 3,495    | 3,528    | 3,603    |
| 28          | 3,293    | 3,314    | 3,357    | 3,411    | 3,465    | 3,529    | 3,562    | 3,637    |
| 29          | 3,325    | 3,348    | 3,390    | 3,443    | 3,498    | 3,563    | 3,594    | 3,671    |
| 30          | 3,359    | 3,380    | 3,424    | 3,477    | 3,531    | 3,595    | 3,628    | 3,704    |
| 31          | 3,392    | 3,414    | 3,458    | 3,511    | 3,565    | 3,629    | 3,662    | 3,737    |

|    |       |       |       |       |       |       |       |       |
|----|-------|-------|-------|-------|-------|-------|-------|-------|
| 32 | 3,426 | 3,447 | 3,490 | 3,544 | 3,597 | 3,663 | 3,694 | 3,771 |
| 33 | 3,460 | 3,480 | 3,524 | 3,578 | 3,631 | 3,695 | 3,728 | 3,804 |
| 34 | 3,492 | 3,514 | 3,558 | 3,612 | 3,665 | 3,729 | 3,762 | 3,837 |
| 35 | 3,526 | 3,548 | 3,590 | 3,644 | 3,697 | 3,763 | 3,795 | 3,871 |
| 36 | 3,560 | 3,581 | 3,624 | 3,678 | 3,732 | 3,796 | 3,829 | 3,903 |
| 37 | 3,592 | 3,615 | 3,658 | 3,712 | 3,766 | 3,830 | 3,862 | 3,937 |
| 38 | 3,626 | 3,647 | 3,690 | 3,744 | 3,798 | 3,863 | 3,895 | 3,971 |
| 39 | 3,660 | 3,681 | 3,724 | 3,778 | 3,832 | 3,896 | 3,929 | 4,003 |
| 40 | 3,692 | 3,715 | 3,757 | 3,811 | 3,866 | 3,930 | 3,962 | 4,037 |

(2) Each service employee shall receive the amount prescribed in the State Minimum Pay Scale Pay Grade in accordance with the provisions of this subsection according to their class title and pay grade as set forth in this subdivision:

| <b>CLASS TITLE</b>                | <b>PAY GRADE</b> |
|-----------------------------------|------------------|
| Accountant I                      | D                |
| Accountant II                     | E                |
| Accountant III                    | F                |
| Accounts Payable Supervisor       | G                |
| Aide I                            | A                |
| Aide II                           | B                |
| Aide III                          | C                |
| Aide IV                           | D                |
| Aide V - Temporary Authorization  | E                |
| Aide V                            | F                |
| Aide VI - Temporary Authorization | E                |
| Aide VI                           | F                |
| Audiovisual Technician            | C                |
| Auditor                           | G                |
| Autism Mentor                     | F                |
| Braille Specialist                | E                |
| Bus Operator                      | D                |
| Buyer                             | F                |
| Cabinetmaker                      | G                |
| Cafeteria Manager                 | D                |
| Carpenter I                       | E                |
| Carpenter II                      | F                |
| Chief Mechanic                    | G                |
| Clerk I                           | B                |
| Clerk II                          | C                |
| Computer Operator                 | E                |
| Cook I                            | A                |
| Cook II                           | B                |
| Cook III                          | C                |
| Crew Leader                       | F                |
| Custodian I                       | A                |

|   |   |
|---|---|
| Custodian II                                    | B |
| Custodian III                                   | C |
| Custodian IV                                    | D |
| Director or Coordinator of Services             | H |
| Draftsman                                       | D |
| Early Childhood Classroom Assistant Teacher I   | E |
| Early Childhood Classroom Assistant Teacher II  | E |
| Early Childhood Classroom Assistant Teacher III | F |
| Educational Sign Language Interpreter I         | F |
| Educational Sign Language Interpreter II        | G |
| Electrician I                                   | F |
| Electrician II                                  | G |
| Electronic Technician I                         | F |
| Electronic Technician II                        | G |
| Executive Secretary                             | G |
| Food Services Supervisor                        | G |
| Foreman   | G |
| General Maintenance                             | C |
| Glazier   | D |
| Graphic Artist                                  | D |
| Groundsman                                      | B |
| Handyman  | B |
| Heating and Air Conditioning Mechanic I         | E |
| Heating and Air Conditioning Mechanic II        | G |
| Heavy Equipment Operator                        | E |
| Inventory Supervisor                            | D |
| Key Punch Operator                              | B |
| Licensed Practical Nurse                        | F |
| Locksmith                                       | G |
| Lubrication Man                                 | C |
| Machinist                                       | F |
| Mail Clerk                                      | D |
| Maintenance Clerk                               | C |
| Mason   | G |
| Mechanic  | F |
| Mechanic Assistant                              | E |
| Office Equipment Repairman I                    | F |
| Office Equipment Repairman II                   | G |
| Painter   | E |
| Paraprofessional                                | F |
| Payroll Supervisor                              | G |

|  |   |
|--|---|
| Plumber I                                    | E |
| Plumber II                                   | G |
| Printing Operator                            | B |
| Printing Supervisor                          | D |
| Programmer                                   | H |
| Roofing/Sheet Metal Mechanic                 | F |
| Sanitation Plant Operator                    | G |
| School Bus Supervisor                        | E |
| Secretary I                                  | D |
| Secretary II                                 | E |
| Secretary III                                | F |
| Sign Support Specialist                      | E |
| Supervisor of Maintenance                    | H |
| Supervisor of Transportation                 | H |
| Switchboard Operator-<br>Receptionist        | D |
| Truck Driver                                 | D |
| Warehouse Clerk                              | C |
| Watchman                                     | B |
| Welder                                       | F |
| WVEIS Data Entry and<br>Administrative Clerk | B |

(b) An additional \$12 per month is added to the minimum monthly pay of each service person who holds a high school diploma or its equivalent.

(c) An additional \$11 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds 12 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(2) A service person who holds 24 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(3) A service person who holds 36 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(4) A service person who holds 48 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(5) A service employee who holds 60 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(6) A service person who holds 72 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(7) A service person who holds 84 college hours or comparable credit obtained in a trade or

vocational school as approved by the state board;

(8) A service person who holds 96 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(9) A service person who holds 108 college hours or comparable credit obtained in a trade or vocational school as approved by the state board;

(10) A service person who holds 120 college hours or comparable credit obtained in a trade or vocational school as approved by the state board.

(d) An additional \$40 per month also is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds an associate's degree;

(2) A service person who holds a bachelor's degree;

(3) A service person who holds a master's degree;

(4) A service person who holds a doctorate degree.

(e) An additional \$11 per month is added to the minimum monthly pay of each service person for each of the following:

(1) A service person who holds a bachelor's degree plus 15 college hours;

(2) A service person who holds a master's degree plus 15 college hours;

(3) A service person who holds a master's degree plus 30 college hours;

(4) A service person who holds a master's degree plus 45 college hours; and

(5) A service person who holds a master's degree plus 60 college hours.

(f) Each service person is paid a supplement, as set forth in §18A-4-5 of this code, of \$164 per month, subject to the provisions of that section. These payments: (i) Are in addition to any amounts prescribed in the applicable State Minimum Pay Scale Pay Grade, any specific additional amounts prescribed in this section and article and any county supplement in effect in a county pursuant to §18A-4-5b of this code; (ii) are paid in equal monthly installments; and (iii) are considered a part of the state minimum salaries for service personnel.

(g) When any part of a school service person's daily shift of work is performed between the hours of 6:00 p. m. and 5:00 a. m. the following day, the employee is paid no less than an additional \$10 per month and one half of the pay is paid with local funds.

(h) Any service person required to work on any legal school holiday is paid at a rate one and one-half times the person's usual hourly rate.

(i) Any full-time service personnel required to work in excess of their normal working day during any week which contains a school holiday for which they are paid is paid for the additional hours or fraction of the additional hours at a rate of one and one-half times their usual hourly rate and paid entirely from county board funds.

(j) A service person may not have his or her daily work schedule changed during the school year without the employee's written consent and the person's required daily work hours may not be changed to prevent the payment of time and one-half wages or the employment of another employee.

(k) The minimum hourly rate of pay for extra duty assignments as defined in §18A-4-8b of this code is no less than one seventh of the person's daily total salary for each hour the person is involved in performing the assignment and paid entirely from local funds: Provided, That an alternative minimum hourly rate of pay for performing extra duty assignments within a particular category of employment may be used if the alternate hourly rate of pay is approved both by the county board and by the affirmative vote of a two-thirds majority of the regular full-time persons within that classification category of employment within that county: Provided, however, That the vote is by secret ballot if requested by a service person within that classification category within that county. The salary for any fraction of an hour the employee is involved in performing the assignment is prorated accordingly. When performing extra duty assignments, persons who are regularly employed on a one-half day salary basis shall receive the same hourly extra duty assignment pay computed as though the person were employed on a full-day salary basis.

(l) The minimum pay for any service personnel engaged in the removal of asbestos material or related duties required for asbestos removal is their regular total daily rate of pay and no less than an additional \$3 per hour or no less than \$5 per hour for service personnel supervising asbestos removal responsibilities for each hour these employees are involved in asbestos-related duties. Related duties required for asbestos removal include, but are not limited to, travel, preparation of the work site, removal of asbestos, decontamination of the work site, placing and removal of equipment and removal of structures from the site. If any member of an asbestos crew is engaged in asbestos-related duties outside of the employee's regular employment county, the daily rate of pay is no less than the minimum amount as established in the employee's regular employment county for asbestos removal and an additional \$30 per each day the employee is engaged in asbestos removal and related duties. The additional pay for asbestos removal and related duties shall be payable entirely from county funds. Before service personnel may be used in the removal of asbestos material or related duties, they shall have completed a federal Environmental Protection Act-approved training program and be licensed. The employer shall provide all necessary protective equipment and maintain all records required by the Environmental Protection Act.

(m) For the purpose of qualifying for additional pay as provided in §18A-5-8 of this code, an

aide is considered to be exercising the authority of a supervisory aide and control over pupils if the aide is required to supervise, control, direct, monitor, escort, or render service to a child or children when not under the direct supervision of a certified professional person within the classroom, library, hallway, lunchroom, gymnasium, school building, school grounds, or wherever supervision is required. For purposes of this section, "under the direct supervision of a certified professional person" means that certified professional person is present, with and accompanying the aide.

WV Legislature

**§18A-4-8b. Seniority rights for school service personnel.**

(a) A county board shall make decisions affecting promotions and the filling of any service personnel positions of employment or jobs occurring throughout the school year that are to be performed by service personnel as provided in section eight of this article, on the basis of seniority, qualifications and evaluation of past service.

(b) Qualifications means the applicant holds a classification title in his or her category of employment as provided in this section and is given first opportunity for promotion and filling vacancies. Other employees then shall be considered and shall qualify by meeting the definition of the job title that relates to the promotion or vacancy, as defined in section eight of this article. If requested by the employee, the county board shall show valid cause why a service person with the most seniority is not promoted or employed in the position for which he or she applies. Qualified applicants shall be considered in the following order:

- (1) Regularly employed service personnel who hold a classification title within the classification category of the vacancy;
- (2) Service personnel who have held a classification title within the classification category of the vacancy whose employment has been discontinued in accordance with this section;
- (3) Regularly employed service personnel who do not hold a classification title within the classification category of vacancy;
- (4) Service personnel who have not held a classification title within the classification category of the vacancy and whose employment has been discontinued in accordance with this section;
- (5) Substitute service personnel who hold a classification title within the classification category of the vacancy;
- (6) Substitute service personnel who do not hold a classification title within the classification category of the vacancy; and
- (7) New service personnel.

(c) The county board may not prohibit a service person from retaining or continuing his or her employment in any positions or jobs held prior to the effective date of this section and thereafter.

(d) A promotion means any change in employment that the service person considers to improve his or her working circumstance within the classification category of employment.

(1) A promotion includes a transfer to another classification category or place of employment if the position is not filled by an employee who holds a title within that classification category of employment.

(2) Each class title listed in section eight of this article is considered a separate classification category of employment for service personnel, except for those class titles having Roman numeral designations, which are considered a single classification of employment:

(A) The cafeteria manager class title is included in the same classification category as cooks;

(B) The executive secretary class title is included in the same classification category as secretaries;

(C) Paraprofessional, autism mentor, early classroom assistant teacher and braille or sign support specialist class titles are included in the same classification category as aides; and

(D) The mechanic assistant and chief mechanic class titles are included in the same classification category as mechanics.

(3) The assignment of an aide to a particular position within a school is based on seniority within the aide classification category if the aide is qualified for the position.

(4) Assignment of a custodian to work shifts in a school or work site is based on seniority within the custodian classification category.

(e) For purposes of determining seniority under this section a service persons seniority begins on the date that he or she enters into the assigned duties.

(f) Extra-duty assignments. --

(1) For the purpose of this section, "extra-duty assignment" means an irregular job that occurs periodically or occasionally such as, but not limited to, field trips, athletic events, proms, banquets and band festival trips.

(2) Notwithstanding any other provisions of this chapter to the contrary, decisions affecting service personnel with respect to extra-duty assignments are made in the following manner:

(A) A service person with the greatest length of service time in a particular category of employment is given priority in accepting extra duty assignments, followed by other fellow employees on a rotating basis according to the length of their service time until all employees have had an opportunity to perform similar assignments. The cycle then is repeated.

(B) An alternative procedure for making extra-duty assignments within a particular classification category of employment may be used if the alternative procedure is approved both by the county board and by an affirmative vote of two-thirds of the employees within that classification category of employment.

(g) County boards shall post and date notices of all job vacancies of existing or newly created positions in conspicuous places for all school service personnel to observe for at least five

working days.

(1) Posting locations include any website maintained by or available for the use of the county board.

(2) Notice of a job vacancy shall include the job description, the period of employment, the work site, the starting and ending time of the daily shift, the amount of pay and any benefits and other information that is helpful to prospective applicants to understand the particulars of the job. The notice of a job vacancy in the aide classification categories shall include the program or primary assignment of the position. Job postings for vacancies made pursuant to this section shall be written to ensure that the largest possible pool of qualified applicants may apply. Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant.

(3) All vacancies in existing or newly created positions shall be filled within twenty working days from the closing date of the job posting for the position.

(4) The county board shall notify the successful applicant as soon as possible after the county board makes a hiring decision regarding the posted position.

(h) All decisions by county boards concerning reduction in work force of service personnel shall be made on the basis of seniority, as provided in this section.

(i) The seniority of a service person is determined on the basis of the length of time the employee has been employed by the county board within a particular job classification. For the purpose of establishing seniority for a preferred recall list as provided in this section, a service person who has been employed in one or more classifications retains the seniority accrued in each previous classification.

(j) If a county board is required to reduce the number of service personnel within a particular job classification, the following conditions apply:

(1) The employee with the least amount of seniority within that classification or grades of classification is properly released and employed in a different grade of that classification if there is a job vacancy;

(2) If there is no job vacancy for employment within that classification or grades of classification, the service person is employed in any other job classification which he or she previously held with the county board if there is a vacancy and retains any seniority accrued in the job classification or grade of classification.

(k) After a reduction in force or transfer is approved, but prior to August 1, a county board in its sole and exclusive judgment may determine that the reason for any particular reduction in force or transfer no longer exists.

(1) If the board makes this determination, it shall rescind the reduction in force or transfer

and notify the affected employee in writing of the right to be restored to his or her former position of employment.

(2) The affected employee shall notify the county board of his or her intent to return to the former position of employment within five days of being notified or lose the right to be restored to the former position.

(3) The county board may not rescind the reduction in force of an employee until all service personnel with more seniority in the classification category on the preferred recall list have been offered the opportunity for recall to regular employment as provided in this section.

(4) If there are insufficient vacant positions to permit reemployment of all more senior employees on the preferred recall list within the classification category of the service person who was subject to reduction in force, the position of the released service person shall be posted and filled in accordance with this section.

(l) If two or more service persons accumulate identical seniority, the priority is determined by a random selection system established by the employees and approved by the county board.

(m) All service personnel whose seniority with the county board is insufficient to allow their retention by the county board during a reduction in work force are placed upon a preferred recall list and shall be recalled to employment by the county board on the basis of seniority.

(n) A service person placed upon the preferred recall list shall be recalled to any position openings by the county board within the classification(s) where he or she had previously been employed, to any lateral position for which the service person is qualified or to a lateral area for which a service person has certification and/or licensure.

(o) A service person on the preferred recall list does not forfeit the right to recall by the county board if compelling reasons require him or her to refuse an offer of reemployment by the county board.

(p) The county board shall notify all service personnel on the preferred recall list of all position openings that exist from time to time. The notification shall be sent annually, with written receipt notification documented by the superintendent, and shall list instructions to access job postings on any website maintained by or available for the use of the county board.

(q) A position opening may be filled by the county board, whether temporary or permanent, until all service personnel on the preferred recall list have been properly notified of existing vacancies and have been given an opportunity to accept reemployment.

(r) A service person released from employment for lack of need as provided in sections six and eight-a, article two of this chapter is accorded preferred recall status on July 1 of the succeeding school year if he or she has not been reemployed as a regular employee.

(s) A county board failing to comply with the provisions of this article may be compelled to do so by mandamus and is liable to any party prevailing against the board for court costs and the prevailing party's reasonable attorney fee, as determined and established by the court.

(1) A service person denied promotion or employment in violation of this section shall be awarded the job, pay and any applicable benefits retroactively to the date of the violation and shall be paid entirely from local funds.

(2) The county board is liable to any party prevailing against the board for any court reporter costs including copies of transcripts.

**§18A-4-8c. Seniority rights for personnel employed by multicounty vocational centers.**

Professional and service personnel employed by a multicounty vocational center shall establish seniority on the basis of the length of time the employee has been employed by the multicounty vocational center, except that any professional or service personnel whose employment with the multicounty vocational center was immediately preceded by employment with one of the county boards participating in the operation of the center or whose employment contract was with one of the county boards participating in the operation of the center (1) shall retain any seniority accrued during employment by said county board; (2) shall accrue seniority as a regular employee with said county board during employment with the center; (3) shall attain continuing contract status with both the county and the center if the sum of the years employed by the county and the center equals the statutory number required for continuing contract status; and (4) shall retain and continue to accrue county and center seniority in the event of reemployment by said participating county as a result of direct transfer from the center or recall from the preferred list.

Reductions in work force in the center or employment by the center or county board shall be made in accordance with the provisions of sections seven-a and eight-b of this article: Provided, That only years of employment within the multicounty vocational center shall be considered for purposes of reduction in force within the center.

The seniority conferred herein shall apply retroactively to all affected professional and service personnel, but the rights incidental thereto shall commence as of the effective date of this section.

**§18A-4-8d. Consolidation of services and seniority rights for administrative personnel.**

Where two or more counties join together to share the services of central office administrative personnel, any employee whose services are no longer needed by virtue of such sharing may have his or her contract terminated for lack of need, as provided in sections two and six, article two of this chapter, notwithstanding any provision of this code to the contrary. Any employee whose contract is so terminated shall be afforded all rights pursuant to section eight-b of this article.

**§18A-4-8e. Competency testing for service personnel; and recertification testing for bus operators.**

(a) The state board shall develop and make available competency tests for all of the classification titles defined in section eight of this article and listed in section eight-a of this article for service personnel. The board shall review and, if needed, update the competency tests at least every five years. Each classification title defined and listed is considered a separate classification category of employment for service personnel and has a separate competency test, except for those class titles having Roman numeral designations, which are considered a single classification of employment and have a single competency test.

(1) The cafeteria manager class title is included in the same classification category as cooks and has the same competency test.

(2) The executive secretary class title is included in the same classification category as secretaries and has the same competency test.

(3) The classification titles of chief mechanic, mechanic and assistant mechanic are included in one classification title and have the same competency test.

(b) The purpose of these tests is to provide county boards a uniform means of determining whether school service personnel who do not hold a classification title in a particular category of employment meet the definition of the classification title in another category of employment as defined in section eight of this article. Competency tests may not be used to evaluate employees who hold the classification title in the category of their employment.

(c) The competency test consists of an objective written or performance test, or both. Applicants may take the written test orally if requested. Oral tests are recorded mechanically and kept on file. The oral test is administered by persons who do not know the applicant personally.

(1) The performance test for all classifications and categories other than bus operator is administered by an employee of the county board or an employee of a multicounty vocational school that serves the county at a location designated by the superintendent and approved by the board. The location may be a vocational school that serves the county.

(2) A standard passing score is established by the state Department of Education for each test and is used by county boards.

(3) The subject matter of each competency test is commensurate with the requirements of the definitions of the classification titles as provided in section eight of this article. The subject matter of each competency test is designed in such a manner that achieving a passing grade does not require knowledge and skill in excess of the requirements of the definitions of the classification titles. Achieving a passing score conclusively demonstrates the qualification of an applicant for a classification title.

(4) Once an employee passes the competency test of a classification title, the applicant is fully qualified to fill vacancies in that classification category of employment as provided in section eight-b of this article and may not be required to take the competency test again.

(d) An applicant who fails to achieve a passing score is given other opportunities to pass the competency test when applying for another vacancy within the classification category.

(e) Competency tests are administered to applicants in a uniform manner under uniform testing conditions. County boards are responsible for scheduling competency tests, notifying applicants of the date and time of the test. County boards may not use a competency test other than the test authorized by this section.

(f) When scheduling of the competency test conflicts with the work schedule of a school employee who has applied for a vacancy, the employee is excused from work to take the competency test without loss of pay. (g) Competency tests are used to determine the qualification of new applicants seeking initial employment in a particular classification title as either a regular or substitute employee.

(h) Notwithstanding any provisions in this code to the contrary, once an employee holds or has held a classification title in a category of employment, that employee is considered qualified for the classification title even though that employee no longer holds that classification.

(i) The requirements of this section do not alter the definitions of class titles as provided in section eight of this article or the procedure and requirements of section eight-b of this article.

(j) Notwithstanding any other provision of this code to the contrary and notwithstanding any rules of the school board concerning school bus operator certification, the certification test for school bus operators shall be required as follows, and school bus operators may not be required to take the certification test more frequently:

(1) For substitute school bus operators and for school bus operators with regular employee status but on a probationary contract, the certification test shall be administered annually;

(2) For school bus operators with regular employee status and continuing contract status, the certification test shall be administered triennially; and

(3) For substitute school bus operators who are retired from a county board and who at the time of retirement had ten years of experience as a regular full-time bus operator, the certification test shall be administered triennially.

(4) School bus operator certificate. —

(A) A school bus operator certificate may be issued to a person who has attained the age of twenty-one, completed the required training set forth in state board rule, and met the

physical requirements and other criteria to operate a school bus set forth in state board rule.

(B) The state superintendent may, after ten days" notice and upon proper evidence, revoke the certificate of any bus operator for any of the following causes:

(i) Intemperance, untruthfulness, cruelty or immorality;

(ii) Conviction of or guilty plea or plea of no contest to a felony charge;

(iii) Conviction of or guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student;

(iv) Just and sufficient cause for revocation as specified by state board rule; and

(v) Using fraudulent, unapproved or insufficient credit to obtain the certificates.

(vi) Of the causes for certificate revocation listed in this paragraph (B), the following causes constitute grounds for revocation only if there is a rational nexus between the conduct of the bus operator and the performance of the job:

(I) Intemperance, untruthfulness, cruelty or immorality;

(II) Just and sufficient cause for revocation as specified by state board rule; and

(III) Using fraudulent, unapproved or insufficient credit to obtain the certificate.

(C) The certificate shall be automatically revoked if the bus operator 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 bus operator to register as a sex offender, or of any criminal offense which has as an element the distribution of a controlled substance: Provided, That should the conviction resulting in automatic revocation pursuant to this section be overturned by any Court of this state or the United States, the bus operator's certificate shall be reinstated unless otherwise prohibited by law.

(D) The state superintendent shall designate a review panel to conduct hearings on certificate revocations or denials and make recommendations for action by the state superintendent. The state board, after consultation with employee organizations representing school service personnel, shall promulgate a rule to establish the review panel membership and composition, method of appointment, governing principles and meeting schedule.

(E) It is the duty of any county superintendent who knows of any acts on the part of a bus operator for which a certificate may be revoked in accordance with this section to report the same, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent's judgment may be proper.

(F) If a certificate has been granted through an error, oversight or misinformation, the state superintendent may recall the certificate and make such corrections as will conform to the requirements of law and state board rules.

(5) The state board shall promulgate, in accordance with article three-b, chapter twenty-nine-a of this code, revised rules in compliance with this subsection.

WV Legislature

**§18A-4-8f. Seniority rights, school consolidation.**

(a) Notwithstanding any provision of this article to the contrary, when a majority of the classroom teachers or school service personnel, who vote to do so, in accordance with procedures established in this section, and who are employed by a county board, the board shall give priority to classroom teachers or school service personnel in any school or schools to be closed as a result of a consolidation or merger when filling positions in the new school created by consolidation or newly created positions in existing schools as a result of the merger.

(b) Each year a consolidation or merger is proposed, prior to the implementation of that plan, the superintendent shall cause to be prepared and distributed to all faculty Senates and to all schools or other work sites a ballot on which teachers and service personnel may indicate whether or not they desire those affected by school closings to be given priority status in filling new positions. A secret ballot election shall be conducted:

(1) In each faculty Senate for classroom teachers. The faculty Senate chair shall convey the results of the election to the superintendent; and

(2) At each school or work site for school service personnel. The service personnel supervisor at each school or work site shall convey the results of the election to the superintendent.

(c) The superintendent shall tabulate and post all results prior to the notice requirements for reduction in force and transfer as outlined in sections two and seven, article two of this chapter. The total number of votes shall be tabulated separately for classroom teachers and for service personnel. The provisions of this section also shall be implemented separately as follows:

(1) For classroom teachers only if a majority of the total number of teachers who cast a ballot vote to do so; and

(2) For school service personnel only if a majority of the total number of service personnel who cast a ballot vote to do so.

(d) If a majority approves, the teachers or school service personnel in the school or schools to be closed have priority in filling new positions in the new or merged schools for which the teachers are certified or for which the school service personnel are qualified and meet the standards set forth in the job posting on the basis of seniority within the county. A teacher or school service person may receive priority for filling a position at a school affected by a merger or consolidation only for the position being created by the influx of students from a consolidated or merged school into the school receiving students from their closed school or grade level.

(1) The most senior teacher from the closed school or schools shall be placed first, the

second most senior shall be placed next and so on until all the newly created positions are filled, or until all the teachers in the closed school or schools who wish to transfer into the newly created positions are placed.

(2) The most senior service person from the closed school or schools has priority in filling any position within his or her classification category. The second most senior service person from the closed school or schools then has priority in filling remaining vacancies and so on until all available positions are filled.

(3) If there are fewer new positions in the newly created school or merged school than there are classroom teachers or school service personnel from the school or schools to be closed, the teachers or school service personnel who were not placed in the new positions retain the same rights as all other teachers or service personnel with regard to seniority, transfer and reduction in force.

(4) This section does not grant any employee additional rights or protections with regard to reduction in force.

(e) For the purposes of this section only:

(1) A consolidation means that one or more schools are closed, or one or more grade levels are removed from one or more schools, and the students who previously attended the closed schools or grade levels are assigned to a new school.

(2) A merger means that one or more schools are closed or one or more grade levels are removed from one or more schools and the students who previously attended the closed schools or grade levels are assigned to another existing school.

(f) The provisions of this section do not apply to positions that are filled by a county board prior to the effective date of this section, as reenacted during the regular session of the Legislature, two thousand seven.

**§18A-4-8g. Determination of seniority for service personnel.**

(a) Seniority accumulation for a regular school service person:

(1) Begins on the date the employee enters upon regular employment duties pursuant to a contract as provided in section five, article two of this chapter;

(2) Continues until the service person's employment as a regular employee is severed with the county board; and

(3) Does not cease to accumulate when the county board has authorized an absence whether without pay or due to illness or other reason over which the employee has no control.

(b) Seniority accumulation for a substitute service person:

(1) Begins on the date the employee enters upon the duties of a substitute as provided in section fifteen of this article, after executing with the county board a contract of employment as provided in section five, article two of this chapter; and

(2) Continues until the employee enters into the duties of a regular employment contract as provided in section five, article two of this chapter; or employment as a substitute service person with the county board is severed.

(c) Seniority of a regular or substitute service person does not continue to accumulate under the following conditions:

(1) When a service person is willfully absent from employment duties because of a concerted work stoppage or strike; or

(2) When a service person is suspended without pay.

(d) For all purposes including the filling of vacancies and reduction in force, seniority shall be accumulated within particular classification categories of employment as those classification categories are referred to in section eight-e of this article.

(e) When implementing a reduction in force, the service person with the least seniority within a particular classification category shall be properly released and placed on the preferred recall list. The particular classification title held by a service person within the classification category may not be considered when implementing a reduction in force.

(f) On or before September 1, and January 15, of each school year, county boards shall post at each county school or working station the current seniority list or lists of each service personnel classification. Each list shall contain the name of each regularly employed school service person employed in each classification and the date that each employee began performing his or her assigned duties in each classification. Current seniority lists of substitute school service personnel shall be available to employees upon request at the

county board office.

(g) The seniority of a service person who transfers out of a class title or classification category of employment and subsequently returns to that class title or classification category of employment is calculated as follows:

(1) The county board shall establish the number of calendar days between the date the service person left the class title or category of employment in question and the date of return to the class title or classification category of employment.

(2) This number of days shall be added to the service person's initial seniority date to establish a new beginning seniority date within the class title or classification category.

(3) The service person then shall be considered as having held uninterrupted service within the class title or classification category from the newly established seniority date.

The seniority of an employee who has had a break in the accumulation of seniority as a result of being willfully absent from employment duties because of a concerted work stoppage or strike shall be calculated in the same manner.

(h) Beginning on July 1, 2007, a substitute school service person shall acquire regular employment status, but not regular employee job bidding rights or regular seniority, if the employee receives a position pursuant to the leave of absence or suspension provisions of subdivisions (2) and (5), subsection (a), section fifteen of this article.

(1) A substitute service person shall accumulate substitute employee seniority while holding a position acquired pursuant to subsections (2) and (5).

(2) Upon termination of the regular service person's leave of absence or suspension, the substitute service person shall return to the status previously held.

(3) County boards are not prohibited from providing any benefits of regular employment for substitute service personnel, but the benefits may not include regular service personnel employee status or seniority.

(i) If two or more service personnel accumulate identical seniority, the priority shall be determined by a random selection system established by the service personnel and approved by the county board.

(1) A board shall conduct the random selection within thirty days of the time the service personnel establish an identical seniority date. All service personnel with an identical seniority date within the same class title or classification category shall participate in the random selection.

(2) As long as the affected employees hold identical seniority within the same classification category, the initial random selection conducted by the board shall be permanent for the

duration of the employment within the same classification category of the employees by the board. This random selection priority applies to the filling of vacancies and to the reduction in force of school service personnel.

(3) If any other service person subsequently acquires seniority identical to the employees involved in the original random selection, a second random selection shall be held within thirty days to determine the seniority ranking of the new employee within the group.

(A) The priority between the employees who participated in the original random selection remains the same.

(B) The second random selection is performed by placing numbered pieces of paper equal to the number of employees with identical seniority in a container. Any service person who was not involved in the original random selection shall draw a number from the container which will determine his or her seniority within the group as a whole.

(C) This process will be repeated if any additional service person subsequently acquires identical seniority.

(D) The same process shall be used if any additional service person is subsequently discovered to have the same seniority as the original group of employees but who did not participate in the original random selection due to oversight or mistake.

(j) Service personnel who are employed in a classification category of employment at the time when a vacancy is posted in the same classification category of employment shall be given first opportunity to fill the vacancy.

(k) Seniority acquired as a substitute service person and as a regular service person shall be calculated separately and may not be combined for any purpose. Seniority acquired within different classification categories shall be calculated separately. If a school service employee applies for a position outside of the classification category he or she currently holds, and if the vacancy is not filled by an applicant within the classification category of the vacancy, the applicant shall combine all regular employment seniority acquired for the purpose of bidding on the position.

(l) A school service person who holds a multiclassification title accrues seniority in each classification category of employment that the employee holds and is considered an employee of each classification category contained within his or her multiclassification title. A multiclassified service person is subject to reduction in force in any category of employment contained within his or her multiclassification title, based upon the seniority accumulated within that category of employment. If a multiclassified service person is subject to a reduction in force in one classification category, the service person retains employment in any of the other classification categories that he or she holds within his or her multiclassification title. In that case, the county board shall delete the appropriate classification title or classification category from the contract of the multiclassified

employee.

(m) When applying to fill a vacancy outside the classification categories held by a multiclassified service person, seniority acquired simultaneously in different classification categories is calculated as if accrued in one classification category only.

(n) The seniority conferred in this section applies retroactively to all affected school service personnel, but the rights incidental to the seniority commence as of the effective date of this section.

WV Legislature

**§18A-4-8h. Limitation on number of school service personnel positions to be held by an employee.**

(a) Upon the effective date of this section, no school service personnel shall be permitted to become employed in more than one regular full-day position, nor more than two one-half day positions at the same time: *Provided*, That nothing herein shall be construed to prohibit a school service personnel from holding an extracurricular assignment or assignments, as provided in section sixteen of this article, or summer positions, as provided in section thirty-nine, article five, chapter eighteen of this code, nor from performing extra-duty assignments, as provided in section eight-b of this article, in addition to his or her regular position.

(b) Due to the shortages of substitutes in service personnel positions, a service personnel may substitute on a day-to-day basis in a position outside of their regular full-time position: *Provided*, That a service personnel may not substitute in another position if:

(a) A qualified substitute is available to fill the shift;

(b) The shift interferes with their regular duties and or responsibilities; and

(c) The service personnel assuming the shift is not properly certified and trained for that position.

**§18A-4-8i. Seniority rights for professional educators and school service personnel in cases of intercounty transfer arrangements.**

Notwithstanding any other provisions of this code to the contrary, if students are required to attend school in a county other than the county of their residence as a result of an intercounty transfer arrangement, then the following terms, rules and procedures shall apply:

(a) For the purposes of this section, the following terms have the following meanings:

- (1) "Intercounty transfer arrangement" means those cases in which students are required to attend school in a county other than the county of their residence;
- (2) "Receiving county" means the county, other than the county of residence, where students are required to attend school; and
- (3) "Sending county" means the county of residence of students involved in intercounty transfer arrangements.

(b) The state board shall determine the number of professional educator and school service personnel positions to be created in facilities receiving students or in any facility affected by an intercounty transfer arrangement. The state board shall prepare a certified list of positions and shall provide the list to both the sending and receiving counties involved in the intercounty transfer arrangement.

(c) The state board shall prepare a certified list containing the names and seniority of the professional educators and service personnel in the sending county whose employment has been terminated as a result of an intercounty transfer arrangement. Those eligible to appear on the certified list shall be limited to the following classifications of employees:

- (1) Those persons whose positions were eliminated as a direct result of an intercounty transfer arrangement and: (i) Who choose not to exercise their right to displace another employee with lesser seniority; or (ii) whose seniority is insufficient to allow them to displace other employees; and
- (2) Those persons, as determined by the state board, who would have retained a position with the sending county if the intercounty transfer arrangement had not occurred.

(d) The receiving county may not fill any position on the list of positions created pursuant to the provisions of subsection (b) of this section until the receiving county has received the list of employees created pursuant to the provisions of subsection (c) of this section. When the receiving county has been provided copies of both the certified list of positions and the certified list of employees, the receiving county shall begin filling the vacancies by selecting employees from the certified list. In filling these positions, the receiving county shall comply with all provisions of law relevant to the filling of professional educator or service personnel vacancies.

(e) For the remainder of the school year immediately following the effective date of an intercounty transfer arrangement, but in no case less than six months, the receiving county may fill positions on the certified list of positions only by selecting employees from the certified list of employees.

(f) For the purposes of this section only, professional educators and service personnel whose names appear on the certified list of employees created pursuant to the provisions of subsection (c) of this section and who are hired by the county board of the receiving county shall accrue seniority in both the sending and the receiving counties during the time in which they continue to be employed by the county board of the receiving county.

(g) The state board shall promulgate legislative rules to implement the provisions of this section pursuant to the provisions of article three-b, chapter twenty-nine-a of this code. The rules shall be filed with the office of the Secretary of State no later than October 1, 1997.

**§18A-4-9. Payment of teachers and other employees; withholdings.**

Teachers and all other employees whose salaries or wages are payable out of the school current fund shall be paid for their services by orders duly signed by the president and secretary of the board in accordance with the following provisions:

- (1) Notwithstanding any other provisions of this chapter and §18-1-1 *et seq.* of this code, the number of pays to be made during the school year to the various classes of employees shall be determined by the board: *Provided*, That the sum of such pays for any employee does not exceed the equivalent of an annual salary based upon 12 calendar months.
- (2) In the event a teacher or other employee is not paid the full salary or wage earned in the fiscal year in which the work is performed, the unpaid amount may be paid during July and August of the following fiscal year.
- (3) Adjustments for time loss due to absence may be made in the next paycheck following such time loss.
- (4) The county board may withhold the pay of any teacher or employee until he or she has made the reports required by the board or the state superintendent.
- (5) Accompanying the pay of each employee shall be an accounting of gross earnings, all withholdings, and the dollar value of all benefits provided by the state on behalf of the employee.
- (6) No deductions or assignments of earnings shall be allowed for union, labor organization, or club dues or fees from the compensation of teachers and other employees covered by this section.

**§18A-4-10. Personal leave for illness and other causes; leave banks; substitutes.**

## (a) Personal Leave.

(1) At the beginning of the employment term, any full-time employee of a county board is entitled annually to at least one and one-half days personal leave for each employment month or major fraction thereof in the employee's employment term. Unused leave shall be accumulative without limitation and is transferable within the state. A change in job assignment during the school year does not affect the employee's rights or benefits.

(2) A regular full-time employee who is absent from assigned duties due to accident, sickness, death in the immediate family, or life-threatening illness of the employee's spouse, parents or child, or other cause authorized or approved by the board, shall be paid the full salary from his or her regular budgeted salary appropriation during the period which the employee is absent, but not to exceed the total amount of leave to which the employee is entitled.

(3) Each employee is permitted to use four days of leave annually without regard to the cause for the absence: *Provided*, That effective July 1, 2023, each employee is permitted to use five days of leave annually without regard to the cause for the absence. Personal leave without cause may not be used on consecutive work days unless authorized or approved by the employee's principal or immediate supervisor, as appropriate, or the employee may provide 14 days notice. For non-consecutive days, the employee shall give notice of leave without cause to the principal or immediate supervisor at least 24 hours in advance, except that in the case of sudden and unexpected circumstances, notice shall be given as soon as reasonably practicable. The principal or immediate supervisor may deny use of the day if, at the time notice is given, either 15 percent of the employees or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, have previously given notice of their intention to use that day for leave. Personal leave may not be used in connection with a concerted work stoppage or strike. Where the cause for leave originated prior to the beginning of the employment term, the employee shall be paid for time lost after the start of the employment term. If an employee uses personal leave which the employee has not yet accumulated on a monthly basis and subsequently leaves the employment, the employee is required to reimburse the board for the salary or wages paid for the unaccumulated leave.

(4) The State Board shall maintain a rule to restrict the payment of personal leave benefits and the charging of personal leave time used to an employee receiving a workers' compensation benefit from a claim filed against and billed to the county board by which the person is employed. If an employee is awarded this benefit, the employee shall receive personal leave compensation only to the extent the compensation is required, when added to the workers' compensation benefit, to equal the amount of compensation regularly paid the employee. If personal leave compensation equal to the employee's regular pay is paid prior to the award of the workers' compensation benefit, the amount which, when added to the benefit, is in excess of the employee's regular pay shall be deducted from the employee's

subsequent pay. The employee's accrued personal leave days shall be charged only for such days as equal the amount of personal leave compensation required to compensate the employee at the employee's regular rate of pay.

(5) The county board may establish reasonable rules for reporting and verification of absences for cause. If any error in reporting absences occurs, the county board may make necessary salary adjustments:

(A) In the next pay after the employee has returned to duty; or

(B) In the final pay if the absence occurs during the last month of the employment term.

(b) Leave Banks.

(1) Each county board shall establish a personal leave bank that is available to all school personnel. The board may establish joint or separate banks for professional personnel and school service personnel. Each employee may contribute up to two days of personal leave per school year. An employee may not be coerced or compelled to contribute to a personal leave bank.

(2) The personal leave bank shall be established and operated pursuant to a rule adopted by the county board. The rule:

(A) May limit the maximum number of days used by an employee;

(B) Shall limit the use of leave bank days to an active employee with fewer than five days accumulated personal leave who is absent from work due to accident or illness of the employee; and

(C) Shall prohibit the use of days to:

(i) Qualify for or add to service for any retirement system administered by the State; or

(ii) Extend insurance coverage pursuant to §5-16-13 of this code.

(D) Shall require that each personal leave day contributed:

(i) Is deducted from the number of personal leave days to which the donor employee is entitled by this section;

(ii) Is not deducted from the personal leave days without cause to which a donor employee is entitled if sufficient general personal leave days are otherwise available to the donor employee;

(iii) Is credited to the receiving employee as one full personal leave day;

(iv) May not be credited for more or less than a full day by calculating the value of the leave

according to the hourly wage of each employee; and

(v) May be used only for an absence due to the purpose for which the leave was transferred. Any transferred days remaining when the catastrophic medical emergency ends revert back to the leave bank.

(3) The administration, subject to county board approval, may use its discretion as to the need for a substitute where limited absence may prevail, when an allowable absence does not:

(i) Directly affect the instruction of the students; or

(ii) Require a substitute employee because of the nature of the work and the duration of the cause for the absence.

(4) If funds in any fiscal year, including transfers, are insufficient to pay the full cost of substitutes for meeting the provisions of this section, the remainder shall be paid on or before the August 31 from the budget of the next fiscal year.

(5) A county board may supplement the leave provisions in any manner it considers advisable in accordance with applicable rules of the State Board and the provisions of this chapter and chapter 18 of this code.

(c) Effective July 1, 2019, a classroom teacher who has not utilized more than four days of personal leave during the 200-day employment term shall receive a bonus of \$500 at the end of the school year. If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable classroom teachers, the Department of Education shall request a supplemental appropriation in an amount sufficient to compensate all eligible classroom teachers. This bonus may not be counted as part of the final average salary for the purpose of calculating retirement.

**§18A-4-10a. Bonus for unused days of personal leave.**

County boards of education are authorized to pay to their employees or to defined groups thereof, for the purpose of reducing absenteeism, a bonus at the end of an employment term for each unused day of personal leave accumulated by the employee during that employment term.

WV Legislature

**§18A-4-10b.**

Repealed.

Acts, 2014 Reg. Sess., Ch. 47.

WV Legislature

**§18A-4-10c. Personal leave banks for care givers.**

(a) For the purposes of this section:

(1) "Care giver" means any employee of a county board who:

(A) Is a spouse, child or parent of any employee who meets the following qualifications:

(i) He or she is an employee of the same county board of education as the care giver; and

(ii) He or she currently is eligible to receive benefits from the personal leave bank established in section ten of this article; or

(B) Is a parent of a dependent child who is suffering from a catastrophic illness or injury;

(2) "Catastrophic illness or injury" means a medical or physical condition that incapacitates a family member of the care giver and results in the care giver being required to take time off from work as defined by the rules of the board to care for the family member.

(b) A county board of education may establish a personal leave bank for care givers which is separate from any personal leave bank as defined in section ten of this article. The personal leave bank shall be operated pursuant to rules adopted by the county board which shall include, but not be limited to, the following:

(1) An employee may contribute no more than two days of personal leave per school year;

(2) The bank shall be established either jointly or separately for both professional personnel and school service personnel and shall be available to all school personnel;

(3) The rules may limit the maximum number of days used by a care giver;

(4) Where the care giver is caring for an absent employee as defined in paragraph (A), subdivision (1), subsection (a) of this section, the rules shall require that leave bank days be used only by a care giver who is absent from work during the same time period as the absent employee for whom care is being provided; and

(5) The rules shall require that the care giver is an active employee with less than five days accumulated personal leave.

(c) The use of these days by the care giver for the extension of insurance coverage pursuant to section twelve, article sixteen, chapter five of this code is prohibited.

(d) Contributions shall reduce, to the extent of the contribution, the number of personal leave days to which a contributing employee is entitled by section ten of this article: Provided, That the employee's contribution may not reduce the number of entitled personal leave days without cause.

(e) No employee may be compelled to contribute to a personal leave bank.

WV Legislature

**§18A-4-10d. Use of personal leave days by surviving spouse in certain circumstances.**

(a) For the purposes of this section, the following terms have the following meanings:

(1) "Surviving spouse" means an employee of a county board whose spouse was also employed by the same county board at the time of his or her death; and

(2) "Deceased spouse" means a person who, at the time of his or her death, was employed by the same Board of Education as his or her spouse.

(b) Beginning January 1, 1999, a county board of education may credit a surviving spouse with any or all personal leave days to which the deceased spouse was entitled at the time of the death of the deceased spouse.

(c) The provisions of this section only shall apply if all the following conditions are met:

(1) Both spouses were employed by the same county board of education at the time of the death of the deceased spouse;

(2) The deceased spouse had unused personal leave days which he or she was entitled to use;

(3) The surviving spouse is an active employee with less than five days accumulated personal leave;

(4) The death of the deceased spouse was by accident;

(5) It is determined by the county board, on evidence provided by a licensed physician, that the surviving spouse is physically disabled to work at the position held by the surviving spouse; and

(6) It is determined by the county board that the cause of the disability to the surviving spouse arose from the same accident that resulted in the death of the deceased spouse.

(d) The county board periodically shall review the status of the surviving spouse and, upon a determination of the county board that the surviving spouse is able to work at his or her assigned position, any personal leave days credited to the surviving spouse pursuant to the terms of this section shall be extinguished.

(e) Personal leave days credited to the surviving spouse pursuant to this section may be used only for the purposes of this section and may not be used for any other purpose, including, but not limited to, the enhancement of retirement or health insurance benefits.

**§18A-4-10f. Leave donation program.**

(a) Definitions.

For the purposes of this section and section ten of this article, the following words have the meanings specified unless the context clearly indicates a different meaning:

(1) "Catastrophic medical emergency" means a medical or physical condition that:

(A) Incapacitates an employee or an immediate family member for whom the employee will provide care;

(B) Is likely to require the prolonged absence of the employee from duty; and

(C) Will result in a substantial loss of income to the employee because the employee:

(i) Has exhausted all accrued personal leave; and

(ii) Is not eligible to receive personal leave or has exhausted personal leave available from a leave bank established pursuant to this article;

(2) "Employee" means a professional educator or school service person who is employed by a county board and entitled to accrue personal leave as a benefit of employment;

(3) "Donor employee" means a professional educator or school service person employed by a county board who voluntarily contributes personal leave to another designated employee; and

(4) "Receiving employee" means a professional educator or school service person employed by a county board who receives donated personal leave from another employee.

(b) Leave donation program.

(1) In addition to any personal leave bank established pursuant to this article, a county board shall establish a leave donation program pursuant to which a donor employee may transfer accrued personal leave to the personal leave account of another designated employee.

(2) A county board:

(A) May not limit the number of personal leave days a donor employee may transfer to a receiving employee who is his or her spouse;

(B) May not limit the total number of personal leave days a receiving employee receives; and

(C) May limit the number of days a donor employee transfers to a receiving employee who is not his or her spouse.

(c) Rule.

(1) The county board shall adopt a rule to implement the program.

(2) The rule shall set forth at least the following conditions:

(A) The donor employee voluntarily agrees to the leave transfer;

(B) The donor employee selects the employee designated to receive the personal leave transferred; and

(C) The receiving employee requires additional personal leave because of a catastrophic medical emergency;

(D) The donated leave may not be used to:

(i) Qualify for or add to service for any retirement system administered by the state; or

(ii) Extend insurance coverage pursuant to section thirteen, article sixteen, chapter five of this code;

(E) Each personal leave day contributed:

(i) Shall be deducted from the number of personal leave days to which the donor employee is entitled by section ten of this article;

(ii) Shall not be deducted from the number of personal leave days without cause to which the donor employee is entitled if sufficient general personal leave days are otherwise available to the donor employee;

(iii) Shall be credited to the receiving employee as one full personal leave day;

(iv) May not be credited for more or less than a full day by calculating the value of the leave according to the hourly wage of each employee; and

(v) May be used only for an absence due to the purpose for which the leave was transferred. Any transferred days remaining when the catastrophic medical emergency ends revert back to the donor employee; and

(F) An employee may not be coerced or compelled to contribute to a leave donation program.

**§18A-4-11. Group insurance.**

Whenever a majority of the full-time instructional and administrative employees of a county or state Board of Education, or a majority of the full-time nonteaching employees of such board shall indicate in writing to the board of Education that it has adopted a group plan or plans of insurance for life, health and accident, hospitalization or surgery insurance, or death benefit plan on a group basis, and such majority has selected a licensed insurance company or companies duly licensed to do business in this state to write or provide for any one or more of such group insurance, or death benefit coverages, the board shall make proper periodical premium deductions from the regular salary of any such employee as specified in a written assignment furnished it by each such employee subscribing thereto, and pay the aggregate of such salary deductions over to the insurance company or companies or voluntary association so selected. Only those companies whose plan or plans receive the majority vote shall have the privilege of such deductions.

**§18A-4-12. Tax deferred investments for teachers and other employees.**

For the purpose of this section, when an employee shall have attained the age of eighteen years the said employee may be eligible to participate in the defined group plans.

A county board of education, the Teachers' Retirement Board and the West Virginia Board of Education and their agencies may provide by written agreement between any such board or agency and any teacher or other employee to reduce the cash salary payable to such teacher or other employee, and, in consideration thereof, to pay an amount equal to the amount of such reduction as premiums on an annuity contract or payments on a custodial account or other investment owned by such teacher or other employee, which annuity contract, custodial account or other investment is in such form and upon such terms as will qualify the payments thereon for tax deferment under the United States Internal Revenue Code. The amount of such reduction shall not exceed the amount excludable from income under the United States Internal Revenue Code, and amendments and successor provisions thereto, and shall be considered a part of the teacher's or employee's salary for all purposes other than federal and state income tax.

The purchase of such tax deferred investment for a teacher or other employee by a Board of Education, the Teachers' Retirement Board and the West Virginia Board of Education and their agencies shall impose no liability nor responsibility whatsoever on said boards or members thereof except to show that the payments have been remitted for the purposes for which deducted.

**§18A-4-13. Compliance with this article.**

Any board failing to comply with the provisions of this article may be compelled to do so by mandamus.

WV Legislature

**§18A-4-14. Duty-free lunch and daily planning period for certain employees.**

(a) Notwithstanding section seven, article two of this chapter, every teacher who is employed for a period of time more than one half the class periods of the regular school day and every service person whose employment is for a period of more than three and one-half hours per day and whose pay is at least the amount indicated in the state minimum pay scale as set forth in section eight-a of this article shall be provided a daily lunch recess of not less than thirty consecutive minutes, and the employee shall not be assigned any responsibilities during this recess. The recess shall be included in the number of hours worked, and no county shall increase the number of hours to be worked by an employee as a result of the employee being granted a recess under this section.

(b) Every teacher who is regularly employed for a period of time more than one half the class periods of the regular school day shall be provided at least one planning period within each school day to be used to complete necessary preparations for the instruction of pupils. No teacher may be assigned any responsibilities during this period, and no county shall increase the number of hours to be worked by a teacher as a result of such teacher being granted a planning period subsequent to the adoption of this section (March 13, 1982). Educators shall receive uninterrupted time for planning periods each day. Administrators may not require a teacher to use the planning period time allotted to complete duties beyond instructional planning, including, but not limited to, administrative tasks and meetings.

The duration of the planning period shall be in accordance with the following:

(1) For grades where the majority of the student instruction is delivered by only one teacher, the planning period shall be no less than forty minutes; and

(2) For grades where students take separate courses during at least four separate periods of instruction, most usually delivered by different teachers for each subject, the planning period shall be the length of the usual class period taught by the teacher, but no less than forty minutes. Principals, and assistant principals, where applicable, shall cooperate in carrying out the provisions of this subsection, including, but not limited to, assuming control of the class period or supervision of students during the time the teacher is engaged in the planning period. Substitute teachers may also be utilized to assist with classroom responsibilities under this subsection: Provided, That any substitute teacher who is employed to teach a minimum of two consecutive days in the same position shall be granted a planning period pursuant to this section.

(c) Nothing in this section prevents any teacher from exchanging his or her lunch recess or a planning period or any service person from exchanging his or her lunch recess for any compensation or benefit mutually agreed upon by the employee and the county superintendent or his or her agent: Provided, That a teacher and the superintendent or his or her agent may not agree to terms which are different from those available to any other teacher granted rights under this section within the individual school or to terms which in any way discriminate among those teachers within the individual school, and a service

person granted rights under this section and the superintendent or his or her agent may not agree to terms which are different from those available to any other service personnel within the same classification category granted rights under this section within the individual school or to terms which in any way discriminate among those service personnel within the same classification category within the individual school.

WV Legislature

**§18A-4-14a.**

Repealed.

Acts, 2014 Reg. Sess., Ch. 47.

WV Legislature

**§18A-4-15. Employment of service personnel substitutes.**

(a) The county board shall employ and the county superintendent, subject to the approval of the county board, shall assign substitute service personnel on the basis of seniority to perform any of the following duties:

(1) To fill the temporary absence of another service employee;

(2) To fill the position of a regular service person as follows:

(A) If the regular service person requests a leave of absence from the county board in writing and is granted the leave in writing by the county board; or

(B) If the regular service person is on workers' compensation and absent.

(C) If an absence pursuant to paragraph (A) or (B) of this subdivision is to extend beyond thirty working days, the county board shall post the position of the absent employee under the procedures set forth in section eight-b of this article. If a substitute service person is employed to fill the position of the absent employee and is employed in the position for twenty or more working days, the substitute service person:

(i) Acquires regular employment status with the exception of regular employee job bidding rights;

(ii) Does not accrue regular seniority; and

(iii) Is accorded all other rights, privileges and benefits pertaining to the position until the regular employee returns to the position or ceases to be employed by the county board;

(D) If a regular or substitute employee fills a vacancy that is related in any manner to a leave of absence or the absence of an employee on workers' compensation as provided in this section, upon termination of the absence the employee shall be returned to his or her original position or status;

(E) A service person may not be:

(i) Required to request or to take a leave of absence; or

(ii) Deprived of any right or privilege of regular employment status for refusal to request or failure to take a leave of absence;

(3) To perform the service of a service person who is authorized to be absent from duties without loss of pay;

(4) To temporarily fill a vacancy in a permanent position caused by severance of employment by the resignation, transfer, retirement, permanent disability, dismissal pursuant to section

eight, article two of this chapter, or death of the regular service person who had been assigned to the position. Within twenty working days from the commencement of the vacancy, the county board shall fill the vacancy under the procedures set forth in section eight-b of this article and section five, article two of this chapter. The person hired to fill the vacancy shall have and be accorded all rights, privileges and benefits pertaining to the position;

(5) To fill the vacancy created by a regular employee's suspension.

(A) If the suspension is for more than thirty working days, the county board shall post the position of the suspended employee under the procedures set forth in section eight-b of this article.

(B) If a substitute service person is employed to fill the suspended employee's position, the substitute service person:

(i) Acquires regular employment status with the exception of regular employee job-bidding rights;

(ii) Does not accrue regular seniority; and

(iii) Is accorded all other rights, privileges and benefits pertaining to the position until the termination by the county board becomes final or the suspended employee is returned to employment.

(C) If the suspended employee is not returned to his or her job, the county board shall fill the vacancy under the procedures set forth in section eight-b of this article and section five, article two of this chapter; and

(6) To fill temporarily a vacancy in a newly created position prior to employing a service person on a regular basis pursuant to section eight-b of this article.

(b) Service personnel substitutes shall be assigned in the following manner:

(1) The substitute with the greatest length of service time in the vacant category of employment has priority in accepting the assignment throughout the period of the regular service person's absence or until the vacancy is filled on a regular basis pursuant to section eight-b of this article. Length of service time is calculated from the date a substitute service person begins assigned duties as a substitute in a particular category of employment.

(2) All service personnel substitutes are employed on a rotating basis according to their lengths of service time until each substitute has had an opportunity to perform similar assignments.

(3) Any regular service person employed in the same building or working station and the same classification category of employment as the absent employee shall be given the first

opportunity to fill the position of the absent employee on a rotating and seniority basis. In such case the regular service person's position is filled by a substitute service person. A regular service person assigned to fill the position of an absent employee has the opportunity to hold that position throughout the absence. For the purpose of this section only, all regularly employed school bus operators are considered to be employed within the same building or working station.

(c) The county board shall return a regular school service person to the same position held prior to any approved leave of absence or period of recovery from injury or illness. The school service person:

(1) Retains all rights, privileges and benefits which had accrued at the time of the absence or accrued under any other provision of law during the absence; and

(2) Has all rights, privileges and benefits generally accorded school service personnel at the time of return to work.

(d) The salary of a substitute service person is determined:

(1) Based upon his or her years of employment as defined in section eight of this article;

(2) As provided in the state minimum pay scale set forth in section eight-a of this article; and

(3) In accordance with the salary schedule of persons regularly employed in the same position in the county in which he or she is employed.

(e) A substitute service person shall execute a written contract with the county board pursuant to section five, article two of this chapter, prior to beginning assigned duties.

(f) The following method shall be used to establish a fair, equitable and uniform system for assigning service personnel substitutes to their duties for the first time:

(1) The initial order of assigning newly-employed substitutes is determined by a random selection system established by the affected substitute employees and approved by the county board; and

(2) The initial order is effective only until the substitute service personnel have begun their duties for the first time.

(g) A substitute service person who has worked thirty days for a school system has all rights pertaining to suspension, dismissal and contract renewal as are granted to regular service personnel in sections six, seven, eight and eight-a, article two of this chapter.

**§18A-4-15a. Employment of retired bus operators as substitutes in areas of critical need and shortage.**

(a) The Legislature hereby finds and declares that due to a shortage of qualified substitute bus operators a compelling state interest exists in expanding the use of retired bus operators to provide service as substitute bus operators in an area of critical need and shortage.

(b) The Legislature further finds and declares that this shortage is significant and overarching, and in order to comply with §18-5-13(f)(1) of this code, this need supersedes any preclusion of modification of rights codified in §18-7A-28e of this code.

(1) For the purposes of this subsection, “area of critical need and shortage for substitute bus operators” means that the number of available qualified substitute bus operators in the county who are not retired and are available and willing to accept substitute bus operator assignments is insufficient to meet the projected need for qualified substitute bus operators.

(2) 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 need substitute bus operator for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled, subject to satisfaction of the following conditions:

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

(B) The superintendent of the county board submits the policy to the State Board of Education for approval in the first year of its utilization. After initial approval by the State Board of Education, the county board must annually renew the policy at the local level and provide confirmation to the State Board of Education of its intent to utilize the policy in the subsequent year;

(C) The policy sets forth the critical need and shortage for substitute bus operators in the county in accordance with the definition of area of critical need and shortage for substitute bus operators as provided in subdivision (1) of this subsection;

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

(E) The policy provides that a retired bus operator may be employed as a substitute bus operator in an area of critical need and shortage for substitute bus operators on an expanded basis as provided in this subsection only when no other qualified bus operator who is not retired is available and accepts the substitute assignment; and

(F) Prior to employment of a retired bus operator as a critical need substitute bus operator 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 bus operators as substitutes to address its critical need and shortage, the name or names of the person or persons to be employed as a critical need substitute pursuant to the policy, 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 need substitute bus operator for employment beyond the post-retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement Board.

(3) Any person who retires and begins work as a critical need substitute bus operator within the same fiscal year in which that person retired shall lose those retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retiree critical need substitute bus operator in that fiscal year and ending with the month following the date the retiree ceases to perform service as a critical need substitute bus operator.

(4) Retired bus operators 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.

(5) A retired bus operator is eligible to be employed as a critical need substitute bus operator to fill a vacant position without any loss of retirement benefits attributed to the annuity reserve only if the retired bus operator'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 need substitute bus operator.

(6) When a retired bus operator is employed as a critical need substitute to fill a vacant position, the county board shall continue to post the vacant position until it is filled with a regularly employed bus operator who is fully qualified 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 bus operator position of a regular bus operator on leave of absence; and

(C) This subdivision does not apply when a position is filled with a certified bus operator but the bus operator is not available at the time the bus operator accepts the position.

(7) When a retired bus operator is employed as a critical need 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 bus operator position of a regular bus operator on leave of absence; and

(C) This subdivision does not apply when a position is filled with a certified bus operator but the bus operator is not available at the time the bus operator accepts the position.

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

**§18A-4-16. Extracurricular assignments.**

(1) The assignment of teachers and service personnel to extracurricular assignments shall be made only by mutual agreement of the employee and the superintendent, or designated representative, subject to board approval. Extracurricular duties shall mean, but not be limited to, any activities that occur at times other than regularly scheduled working hours, which include the instructing, coaching, chaperoning, escorting, providing support services or caring for the needs of students, and which occur on a regularly scheduled basis: *Provided*, That all school service personnel assignments shall be considered extracurricular assignments, except such assignments as are considered either regular positions, as provided by section eight of this article, or extra-duty assignments, as provided by section eight-b of this article.

(2) The employee and the superintendent, or a designated representative, subject to board approval, shall mutually agree upon the maximum number of hours of extracurricular assignment in each school year for each extracurricular assignment.

(3) The terms and conditions of the agreement between the employee and the board shall be in writing and signed by both parties.

(4) An employee's contract of employment shall be separate from the extracurricular assignment agreement provided for in this section and shall not be conditioned upon the employee's acceptance or continuance of any extracurricular assignment proposed by the superintendent, a designated representative, or the board.

(5) The board shall fill extracurricular school service personnel assignments and vacancies in accordance with section eight-b of this article: *Provided*, That an alternative procedure for making extracurricular school service personnel assignments within a particular classification category of employment may be utilized if the alternative procedure is approved both by the county board and by an affirmative vote of two thirds of the employees within that classification category of employment.

(6) An employee who was employed in any service personnel extracurricular assignment during the previous school year shall have the option of retaining the assignment if it continues to exist in any succeeding school year. A county board of education may terminate any school service personnel extracurricular assignment for lack of need pursuant to section seven, article two of this chapter. If an extracurricular contract has been terminated and is reestablished in any succeeding school year, it shall be offered to the employee who held the assignment at the time of its termination. If the employee declines the assignment, the extracurricular assignment shall be posted and filled pursuant to section eight-b of this article.

(7) Effective with the retirement of an employee on or after July 1, 2021, any extracurricular contract of the employee shall terminate when an employee retires. Nothing prohibits a retired employee from applying for and, if they are the successful applicant, becoming

employed in an extracurricular assignment or other position with the county board consistent with the rules for the employment of retirees established by the consolidated public retirement board.

WV Legislature

**§18A-4-17. Health and other facility employee salaries.**

(a) The minimum salary scale for professional personnel and service personnel employed by the state Department of Education to provide education and support services to residents of state Department of Human Services' facilities, corrections facilities providing services to juvenile and youthful offenders, in the West Virginia schools for the deaf and the blind and in public community and technical colleges providing middle college services is the same as set forth in sections two, three and eight-a of this article. Additionally, those personnel shall receive the equivalent of salary supplements paid to professional and service personnel employed by the county board in the county wherein each facility is located, as set forth in sections five-a and five-b of this article. Professional personnel and service personnel in these facilities who earn advanced classification of training after the effective date of this section shall be paid the advanced salary from the date the classification of training is earned. The professional personnel shall be certified, licensed or trained, and shall meet other eligibility classifications as may be required by the provisions of this chapter and by state board regulations for comparable instructional personnel who are employed by county boards. The professional personnel shall be paid at the equivalent rate of pay of teachers as set forth in section two of this article, but outside the public support plan, plus the equivalent of the salary supplement paid to teachers employed by the county board in the county in which each facility is located, as set forth in section five-a of this article.

(b) Professional personnel employed by the department to provide education services to residents in Department of Human Services' facilities, corrections facilities providing services to juvenile and youthful offenders, in the West Virginia schools for the deaf and the blind or in public community and technical colleges providing middle college services are afforded all the rights, privileges and benefits established for the professional personnel under this article, subject to the following:

- (1) The benefits apply only within the facility at which the professional personnel are employed;
- (2) The benefits exclude salaries unless explicitly provided for under this or other sections of this article; and
- (3) Seniority for the professional personnel is determined on the basis of the length of time the employee has been professionally employed at the facility, regardless of which state agency was the actual employer.

(c) Professional personnel and service personnel employed by the Department of Education to provide education and support services to residents in state Department of Human Services' facilities, corrections facilities providing services to juvenile and youthful offenders, the West Virginia schools for the deaf and the blind and in public community and technical colleges providing middle college services are state employees.

(d) Additional seniority provisions. —

(1) Notwithstanding any other provision of this section to the contrary, professional and service personnel employed in an educational facility operated by the West Virginia Department of Education accrue seniority at that facility on the basis of the length of time the employee has been employed at the facility. Professional and service personnel whose employment at the facility was preceded immediately by employment with the county board previously providing education services at the facility or whose employment contract was with the county board previously providing education services at the facility:

(A) Retains any seniority accrued during employment by the county board;

(B) Accrues seniority as a regular employee with the county board during employment at the facility;

(C) Attains continuing contract status in accordance with section two, article two, chapter eighteen-a of this code with both the county and the facility if the sum of the years employed by the county and the facility equals the statutory number required for continuing contract status; and

(D) Retains and continues to accrue county and facility seniority in the event of reemployment by the county as a result of direct transfer from the facility or recall from the preferred list.

(2) Reductions in work force in the facility or employment by the facility or county board are made in accordance with the provisions of sections seven-a and eight-b of this chapter. Only years of employment within the facility are considered for purposes of reduction in force within the facility.

(3) The seniority conferred in this section applies retroactively to all affected professional and service personnel, but the rights incidental to the seniority commence on the effective date of this section.

(4) Amendments made to this section during the 2009 regular session of the Legislature do not abrogate any rights, privileges or benefits bestowed under previous enactments of this section.

**§18A-4-18. Department of education certified staff salaries.**

(a) Personnel employed by the state Department of Education who are required to hold a teaching certificate shall receive a salary that is at least equal to the salary paid to comparable professional personnel employed by the county board in the county in which their office is located, minus the \$600 authorized pursuant to section two of this article for classroom teachers with twenty years of experience.

(b) Effective July 1, 2002, service personnel employed by the Department of Education shall receive a salary that is at least equal to the salary paid to comparable personnel employed by the county board in the county in which their principal place of employment is located. The Department of Education shall establish a salary schedule that phases in the necessary salary increases before July 1, 2002.

**§18A-4-19. Alteration of contract.**

(a) Notwithstanding the provisions of section seven-a of this article relating to professional personnel or any other section of this code to the contrary, any alteration of an employment contract of a professional educator who is employed for more than two hundred days, which alteration changes the number of days in the employment term, shall not be deemed a creation of a new position, nor shall such alteration require the posting of the position.

Notwithstanding the provisions of section seven-a of this article relating to professional personnel or any other section of this code to the contrary, any alteration of an employment contract of a professional educator which reduces or eliminates the local salary supplement or the benefits provided to such employee due to a defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making such reduction or elimination in accordance with section five-a of this article, shall not require termination of said employment contract as set forth in sections two and eight-a, article two of this chapter, nor shall it be deemed a creation of a new position, nor shall such alteration require the posting of the position.

(b) Notwithstanding the provisions of section eight-b of this article relating to school service personnel or any other section of this code to the contrary, any alteration of an employment contract of a service personnel employee who is employed for more than two hundred days, which alteration changes the number of days in the employment term, shall not be deemed a creation of a new position, nor shall such alteration require the posting of the position.

Notwithstanding the provisions of section eight-b of this article relating to school service personnel or any other section of this code to the contrary, any alteration of an employment contract of a service personnel employee which reduces or eliminates the local salary supplement or the benefits provided to such employee due to a defeat of a special levy, or a loss in assessed values or events over which it has no control and for which the county board has received approval from the state board prior to making such reduction or elimination in accordance with section five-b of this article, shall not require termination of said employment contract as set forth in sections six and eight-a, article two of this chapter, nor shall it be deemed a creation of a new position, nor shall such alteration require the posting of the position.

**§18A-4-20. Moving expenses allowed for teachers laid off in counties due to lack of need.**

(a) From funds appropriated, the Department of Education may pay the moving expenses for a teacher who meets the following criteria:

(1) The teacher's position was eliminated as part of a reduction in force by a West Virginia county school board;

(2) The teacher has secured employment for a West Virginia county school board in another county;

(3) The teacher has moved his or her residence to the West Virginia county in which he or she has gained employment or to an adjacent county in West Virginia;

(4) The teacher is to be employed in a county where shortages exist either in numbers of teachers or in subject matter areas as determined by the state board; and

(5) As a result of the new employment, it would be impractical for the teacher to maintain his or her previous residence.

(b) The reimbursement shall be for actual expenses and shall not exceed \$2,500, subject to the availability of funds.

(c) Each county board of education shall send the state board by May 1, annually, a report that includes:

(1) The available teacher positions in the county;

(2) Any shortages in subject matter areas in the county; and

(3) The name of all teachers reduced in force: Provided, That the teacher has permitted the county board to submit his or her name.

(d) The state board shall compile a report including all information submitted to the state board based on the reports provided in subsection (c) of this section. The state board shall send this report to each county board of education. Additionally, the state board shall send a letter to all teachers reduced in force. This letter shall identify all teacher positions available in West Virginia and identify those counties where shortages exist either in numbers of teachers or in subject matter areas.

(e) The state board shall promulgate a rule pursuant to the provisions of article three-b, chapter twenty-nine-a of this code that implements the provisions of this section. The rule shall include, but is not limited to:

(1) Standards sufficient to define and measure the criteria set forth in subsection (a) of this

section; and

(2) A procedure for allocating the funds if the funds appropriated are insufficient.

(f) Nothing in this section shall require any level of appropriation by the Legislature.

(g) The state board shall report to the Legislature by January 1, of each year on the number of teachers being reimbursed.

(h) This section shall expire on July 1, 2005, unless continued by the Legislature.

**§18A-4-21. Posting of position opening following death of incumbent.**

A county board may not declare a position vacant and post a job opening sooner than ten days following the death of an individual employed in that position.

WV Legislature

**§18A-4-22. Prohibition on aiding and abetting sexual abuse.**

(a) No school personnel, contractor or agent, or any employee of any state, regional or local educational agency including any employee of a public or private school, may assist an individual employed as school personnel, a contractor or an agent in obtaining a new job if the individual or agency knows, or has probable cause to believe, that such school employee, contractor or agent engaged in sexual misconduct regarding a minor or student in violation of the law: Provided, That nothing in this section shall be construed to prohibit the routine transmission of administrative and personnel files.

(b) The requirements of subsection (a) of this section shall not apply if:

(1) The information giving rise to probable cause has been properly reported to a law-enforcement agency with jurisdiction over the alleged misconduct and reported to any other authorities as required by federal, state or local law; and

(2) One of the following has happened:

(A) The matter has been officially closed, or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school personnel, contractor or agent engaged in sexual misconduct regarding a minor or student in violation of the law;

(B) The school personnel, contractor or agent has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or

(C) The case or investigation remains open and there have been no charges filed against, or indictment of, the school personnel, contractor or agent within four years of the date on which the information was reported to a law-enforcement agency.

(c) Nothing in this section shall be construed to override a statute, regulation or policy that provides greater or additional protections to prohibit any individual who is school personnel, contractor or agent, or any state, regional or local educational agency from assisting a school employee who engaged in sexual misconduct regarding a minor or student in violation of the law in obtaining a new job.