WEST VIRGINIA CODE CHAPTER 18A

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§18A-1-1. Definitions.

The definitions contained in §18-1-1 of this code apply to this chapter. In addition, the following words used in this chapter and in any proceedings pursuant to this chapter have the meanings ascribed to them unless the context clearly indicates a different meaning:

(a) "School personnel" means all personnel employed by a county board whether employed on a regular full-time basis, an hourly basis or otherwise. "School personnel" is comprised of two categories: Professional personnel and service personnel;

(b) "Professional person" or "professional personnel" means those persons or employees who meet the certification requirements of the state, licensing requirements of the state, or both, and includes a professional educator and other professional employee;

(c) "Professional educator" has the same meaning as "teacher" as defined in §18-1-1 of this code. Professional educators are classified as follows:

(1) "Classroom teacher" means a professional educator who has a direct instructional or counseling relationship with students and who spends the majority of his or her time in this capacity;

(2) "Principal" means a professional educator who functions as an agent of the county board and has responsibility for the supervision, management, and control of a school or schools within the guidelines established by the county board. The principal's major area of responsibility is the general supervision of all the schools and all school activities involving students, teachers, and other school personnel;

(3) "Supervisor" means a professional educator who is responsible for working primarily in the field with professional and other personnel in instructional and other school improvement. This category includes other appropriate titles or positions with duties that fit within this definition; and

(4) "Central office administrator" means a superintendent, associate superintendent, assistant superintendent, and other professional educators who are charged with administering and supervising the whole or some assigned part of the total program of the countywide school system. This category includes other appropriate titles or positions with duties that fit within this definition;

(d) "Other professional employee" means a person from another profession who is properly licensed and who is employed to serve the public schools. This definition includes a registered professional nurse, licensed by the West Virginia Board of Examiners for Registered Professional Nurses, who is employed by a county board and has completed either a two-year (64 semester hours) or a three-year (96 semester hours) nursing program;

(e) "Service person" or "service personnel", whether singular or plural, means a nonteaching school employee who is not included in the meaning of "teacher" as defined in §18-1-1 of this

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code and who serves the school or schools as a whole, in a nonprofessional capacity, including such areas as secretarial, custodial, maintenance, transportation, school lunch, and aides. Any reference to "service employee" or "service employees" in this chapter or chapter 18 of this code means service person or service personnel as defined in this section;

(f) "Principals Academy" or "academy" means the academy created pursuant to §18A-3A-2b of this code;

(g) "Center for Professional Development" means the center created pursuant to §18A-3A-1 of this code;

(h) "Job-sharing arrangement" means a formal, written agreement voluntarily entered into by a county board with two or more of its employees who wish to divide between them the duties and responsibilities of one authorized full-time position;

(i) "Prospective employable professional person", whether singular or plural, means a certified professional educator who:

(1) Has been recruited on a reserve list of a county board;

(2) Has been recruited at a job fair or as a result of contact made at a job fair;

(3) Has not obtained regular employee status through the job posting process provided in §18A-4-7a of this code; and

(4) Has obtained a baccalaureate degree from an accredited institution of higher education within the past year;

(j) "Dangerous student" means a student who is substantially likely to cause serious bodily injury to himself, herself, or another individual within that student's educational environment, which may include any alternative education environment, as evidenced by a pattern or series of violent behavior exhibited by the student, and documented in writing by the school, with the documentation provided to the student and parent or guardian at the time of any offense;

(k) "Alternative education" means an authorized departure from the regular school program designed to provide educational and social development for students whose disruptive behavior places them at risk of not succeeding in the traditional school structures and in adult life without positive interventions; and

(l) “Long-term substitute” means a substitute employee who fills a position for more than thirty consecutive instructional days, regardless of whether the position is vacant or the regular employee is absent, subject to the following:

(1) A position expected to exceed thirty consecutive instructional days shall be considered a long-term substitute position and shall require the individual serving in the assignment to

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hold the appropriate credential issued in accordance with State Board rule where the posting is only required to occur once at the beginning of the year and once mid-year in accordance to §18A-4-7a., and the position is listed as a regular, full-time position; is not filled by a regular, full-time employee; and is filled by a substitute employee.

(2) For the purposes of §5-16-2 of this code, long-term substitute does not include a retired employee hired to fill the vacant position.

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§18A-1-2. Repeal of inconsistent provisions.

The provisions of any articles or parts of articles, of the Code of West Virginia, 1931, as amended, which are inconsistent with the provisions of this chapter, are hereby repealed to the extent of such inconsistency.

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§18A-1-3. Constitutionality and severability.

If any provisions of this chapter or the application thereof to any person or circumstances shall be held to be unconstitutional and invalid, such unconstitutionality and invalidity shall not affect any one of the provisions or applications of the chapter which can be given effect without the invalid provisions or applications; and to this end the provisions of this chapter are separable. The Legislature hereby declares that it would have passed the remaining parts of this chapter if it had known that such other part or parts thereof would be declared unconstitutional and invalid.

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§18A-2-1. Employment in general.

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

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

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

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

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

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

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

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

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

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

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

(1) Supervising athletic games;

(2) Overseeing the athletic budget;

(3) Hiring game officials;

(4) Scheduling athletic contests;

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

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

(7) Scheduling transportation for athletic teams;

(8) Preparing and verifying athletic eligibility lists;

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

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

(11) Procuring and caring for athletic equipment; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The substitute shall be a duly certified teacher.

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

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

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

(2) For the purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"COUNTY BOARD OF EDUCATION

SERVICE PERSONNEL CONTRACT OF EMPLOYMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WV Legislature

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

WV Legislature

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

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

WV Legislature

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

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

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

WV Legislature

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

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

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

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

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

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

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

(e) Notwithstanding this section or any provision of this code, when actual student enrollment in a grade level or program, unforeseen on or before May 1 of the preceding school year, permits the assignment of fewer teachers or service personnel to or within a school under any pupil-teacher ratio, class size or caseload standard established in §18-5-18A of this code or any policy of the state board, the superintendent, with board

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approval, may reassign the surplus personnel to another school or to another grade level or program within the school if needed there to comply with any such pupil-teacher ratio, class size or caseload standard.

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

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

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

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

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

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§18A-2-7a. Statewide job bank.

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

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

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

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

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

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

(d) The following terms are defined as follows:

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

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

(A) Health insurance;

(B) Dental insurance;

(C) Vision insurance;

(D) Life insurance;

(E) Disability income protection;

(F) Retirement benefits;

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

(H) Educational benefits;

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(I) Childcare;

(J) Relocation benefits; and

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

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

WV Legislature

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WV Legislature

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

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

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

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

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

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

WV Legislature

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

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

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

WV Legislature

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

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

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

WV Legislature

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

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

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

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

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

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

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

WV Legislature

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

WV Legislature

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

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

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

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

WV Legislature

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

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

WV Legislature

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

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

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

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

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

(1) The professional personnel positions to be evaluated;

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

(3) The evaluation shall serve the following purposes:

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

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

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

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

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

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

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

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

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

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

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

(A) Teach and reteach strategies;

(B) Write to learn activities;

(C) Cultural diversity;

(D) Color coding; or

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

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substitute for daily instruction;

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

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

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

WV Legislature

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

(a) The Legislature makes the following findings:

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

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

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

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

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

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

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

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

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

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

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

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

WV Legislature

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

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

Number of Number of Average Number of

Meals Cooks Meals Served Per

Cook's Hours Worked

1-90 1 12.00

91-135 1.5 12.00

136-180 2 12.00

181-225 2.5 12.00

226-270 3 12.00

271-315 3.5 12.00

316-360 4 12.00

361-405 4.5 12.00

406-450 5 12.00

451-495 5.5 12.00

496-540 6 12.00

541-585 6.5 12.00

586-630 7 12.00

631-675 7.5 12.00

676-720 8 12.00

721-765 8.5 12.00

766-810 9 12.00

811-855 9.5 12.00

856-900 10 12.00

WV Legislature

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

WV Legislature

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

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

WV Legislature

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

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

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

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

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

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

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

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

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

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

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

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

WV Legislature

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

WV Legislature

§18A-2A-1. Supplemental duty calendar provisions.

(a) In this section, "supplemental duty" means a duty other than a duty assigned under an employee's contract that is generally expected to be performed during an educational day and which may be governed by an agreement, other than the employee's contract, between the district and the employee.

(b) Not later than the 15th day before the first day of the employment term of each school year, the county board shall adopt and provide to each classroom teacher, full-time counselor, and full-time librarian employed by the district a calendar that specifies the days each employee is expected to work for that school year: *Provided*, That any supplemental duty exceeding the eight hour contracted day shall be by agreement with the employee and preapproved by the county superintendent or by his or her designee, unless the supplemental duty is the result of an unanticipated emergency, and shall be paid in accordance with the agreement between the employee and the county.

WV Legislature

§18A-3-1. Teacher preparation programs; program approval and standards; authority to issue teaching certificates.

(a) The education of professional educators in the state is under the general direction and control of the state board.

The education of professional educators in the state includes all programs leading to certification to teach or serve in the public schools. The programs include the following:

(1) Programs in all institutions of higher education, including student teaching, resident teacher clinical experience, and the clinical teacher of record programs, as provided in this section;

(2) Beginning teacher and leader induction programs;

(3) Granting West Virginia certification to persons who received their preparation to teach outside the boundaries of this state, except as provided in subsection (b) of this section;

(4) Alternative preparation programs in this state leading to certification, including programs established pursuant to the provisions of §18A-3-1a, §18A-3-1b, §18A-3-1c, §18A-3-1d, §18A-3-1e, §18A-3-1f, §18A-3-1g, §18A-3-1h, and §18A-3-1i of this code and programs which are in effect on the effective date of this section;

(5) A Troops-to-Teachers Program, to be established by the state superintendent pursuant to §18A-3-2a of this code, to attract and recruit veterans of the armed forces to be public school teachers. Veterans will be given a veterans' preference in hiring in accordance with §6-13-1 of this code; and

(6) Continuing professional education, professional development, and in-service training programs for professional educators employed in the public schools in the state. Beginning with school year 2024-2025, and every five years after, the State Board of Education shall perform periodic reviews of professional development for teachers and education staff to ensure the following:

(A) That requirements and current training regimens are necessary and truly essential; and

(B) That a distinction is made between those professional education opportunities which are required and those just encouraged.

(i) The purpose of these reviews shall be to establish a training regimen that has the minimum amount of required training so that teachers can be better focused on the classroom.

(ii) School personnel may recommend legislative changes to this section and any other requirements mandated in this code.

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(b) The state board shall adopt standards for the education of professional educators in the state and for awarding certificates valid in the public schools of this state. The standards include, but are not limited to, the following:

(1) A provision for the study of the history and philosophical foundations of western civilization and the writings of the founders of the United States of America;

(2) A provision for the study of multicultural education. As used in this section, multicultural education means the study of the pluralistic nature of American society including its values, institutions, organizations, groups, status positions, and social roles;

(3) A provision for the study of classroom management techniques, including methods of effective management of disruptive behavior including addressing societal factors and their impact on student behavior; and

(4) A teacher from another state shall be awarded a teaching certificate for a comparable grade level and subject area valid in the public schools of this state, subject to §18A-3-10 of this code if he or she has met the following requirements:

(A) Holds a valid teaching certificate or a certificate of eligibility issued by another state;

(B) Has graduated from an educator preparation program at a regionally accredited institution of higher education or from another educator preparation program;

(C) Possesses the minimum of a bachelor’s degree; and

(D) Meets all of the requirements of the state for full certification except employment.

(c) The state board may enter into an agreement with county boards for the use of the public schools in order to give prospective teachers the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the West Virginia public schools.

(d) An agreement established pursuant to subsection (c) of this section shall recognize student teaching or teacher residency as a joint responsibility of the educator preparation institution and the cooperating public schools. The agreement shall include the following items:

(1) The minimum qualifications for the employment of public school teachers selected as supervising teachers, including the requirement that field-based and clinical experiences be supervised by a teacher fully certified in the state in which that teacher is supervising;

(2) The remuneration to be paid to public school teachers by the state board, in addition to their contractual salaries, for supervising student teachers or residents;

(3) Minimum standards to guarantee the adequacy of the facilities and program of the public school selected for student teaching or teacher residency;

WV Legislature

(4) Assurance that the student teacher or resident teacher, under the direction and supervision of the supervising teacher, shall exercise the authority of a substitute teacher;

(5) A provision requiring any higher education institution with an educator preparation program to document that the student or resident teacher's field-based and clinical experiences include participation and instruction with multicultural, at-risk, and exceptional children at each programmatic level for which the student teacher seeks certification; and

(6) A provision authorizing a school or school district that has implemented a comprehensive beginning teacher induction program to enter into an agreement that provides for the training and supervision of student teachers or resident teachers consistent with the educational objectives of this subsection by using an alternate structure implemented for the support, supervision, and mentoring of beginning teachers. The agreement is in lieu of any specific provisions of this subsection and is subject to the approval of the state board.

(e) Clinical teacher of record programs. —

(1) In lieu of the provisions of subsections (c) and (d) of this section and subject to approval of the state board, an institution of higher education with a program for the education of professional educators approved by the state board may enter into an agreement with county boards for the use of clinical teacher of record programs in the public schools.

(2) A "clinical teacher of record program" means an intensively supervised and mentored program for prospective teachers during their senior year that refines their professional practice skills and helps them gain the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the West Virginia public schools.

(3) The authorization for the higher education institution and the county board to implement a clinical teacher of record program is subject to state board approval. The provisions of the agreement include, but are not limited to, the following items:

(A) A requirement that the prospective teacher in a clinical teacher of record program has completed all other preparation courses and has passed the appropriate basic skills and subject matter test or tests required by the state board for teachers to become certified in the area for which licensure is sought;

(B) A requirement that the clinical teacher of record serve only in a teaching position in the county which has been posted and for which no other teacher fully certified for the position has been employed;

(C) Specifics regarding the program of instruction for the clinical teacher of record setting forth the responsibilities for supervision and mentoring by the higher education institution's educator preparation program, the school principal, and peer teachers and mentors, and the responsibilities for the formal instruction or professional development necessary for the clinical teacher of record to perfect his or her professional practice skills. The program also

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may include other instructional items as considered appropriate;

(D) A requirement that the clinical teacher of record hold a clinical teacher of record permit qualifying the individual to teach in his or her assigned position as the teacher of record;

(E) A requirement that the salary and benefit costs for the position to which the clinical teacher of record is assigned shall be used only for program support and to pay a stipend to the clinical teacher of record as specified in the agreement, subject to the following:

(i) The clinical teacher of record is a student enrolled in the teacher preparation program of the institution of higher education and is not a regularly employed employee of the county board;

(ii) The clinical teacher of record is included on the certified list of employees of the county eligible for state aid funding the same as an employee of the county at the appropriate level based on their permit and level of experience;

(iii) All state aid funding due to the county board for the clinical teacher of record shall be used only in accordance with the agreement with the institution of higher education for support of the program as provided in the agreement, including costs associated with instruction and supervision as set forth in paragraph (C) of this subdivision;

(iv) The clinical teacher of record is provided the same liability insurance coverage as other employees; and

(v) All state aid funding due to the county for the clinical teacher of record and not required for support of the program shall be paid as a stipend to the clinical teacher of record: *Provided*, That the stipend paid to the clinical teacher of record shall be no less than 65 percent of all state aid funding due the county for the clinical teacher of record;

(F) Other provisions that may be required by the state board.

(f) In lieu of the student teaching experience in a public school setting required by this section, an institution of higher education may provide an alternate student teaching or residency experience in a nonpublic school setting if the institution of higher education meets the following criteria:

(1) Complies with the provisions of this section;

(2) Has a state board-approved educator preparation program; and

(3) Enters into an agreement pursuant to subsections (g) and (h) of this section.

(g) At the discretion of the higher education institution, an agreement for an alternate student teaching or residency experience between an institution of higher education and a nonpublic school shall require one of the following:

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(1) The prospective teacher shall complete at least one half of the clinical experience in a public school; or

(2) The educator preparation program shall include a requirement that any student performing student teaching or residency in a nonpublic school shall complete the following:

(A) At least 200 clock hours of field-based training in a public school; and

(B) A course, which is a component of the institution's state board-approved educator preparation program, that provides information to prospective teachers equivalent to the teaching experience needed to demonstrate competence as a prerequisite to certification to teach in the public schools in West Virginia. The course also shall include instruction on at least the following elements:

(i) State board policy and provisions of this code governing public education;

(ii) Requirements for federal and state accountability, including the mandatory reporting of child abuse;

(iii) Federal- and state-mandated curriculum and assessment requirements, including multicultural education, safe schools, and student code of conduct;

(iv) Federal and state regulations for the instruction of exceptional students as defined by the Individuals with Disabilities Education Act, 20 U.S.C. § 1400 *et seq.*; and

(v) Varied approaches for effective instruction for students who are at-risk.

(h) In addition to the requirements set forth in subsection (g) of this section, an agreement for an alternate student teaching or residency experience between an institution of higher education and a nonpublic school shall include the following:

(1) A requirement that the higher education institution with an educator preparation program shall document that the student or resident teacher's field-based and clinical experiences include participation and instruction with multicultural, at-risk, and exceptional children at each programmatic level for which the student teacher seeks certification; and

(2) The minimum qualifications for the employment of school teachers selected as supervising teachers, including the requirement that field-based and clinical experiences be supervised by a teacher fully certified in the state in which that teacher is supervising.

(i) The state superintendent may issue certificates as provided in §18A-3-2a of this code to graduates of educator preparation programs and alternative educator preparation programs approved by the state board. The certificates are issued in accordance with this section and rules adopted by the state board.

(1) A certificate to teach may be granted only to a person who meets the following criteria:

WV Legislature

(A) Is a citizen of the United States, except as provided in subdivision (2) or (3) of this subsection;

(B) Is of good moral character;

(C) Is physically, mentally, and emotionally qualified to perform the duties of a teacher; and

(D) Is at least 18 years of age on or before October 1 of the year in which his or her certificate is issued.

(2) A permit to teach in the public schools of this state may be granted to a person who is an exchange teacher from a foreign country or an alien person who meets the requirements to teach.

(3) A certificate to teach may be granted to a noncitizen of the United States who holds a valid Permanent Resident Card, Employment Authorization Document, or work permit issued by the United States Citizenship and Immigration Services.

(j) Institutions of higher education approved for educator preparation may cooperate with each other and with one or more county boards to organize and operate centers to provide selected phases of the educator preparation program. The phases include, but are not limited to, the following:

(1) Student teaching and resident teacher clinical experience programs;

(2) Clinical teacher of record programs;

(3) Beginning teacher and leader induction programs;

(4) Instruction in methodology; and

(5) Seminar programs for college students, teachers with provisional certification, professional support team members, and supervising teachers.

By mutual agreement, the institutions of higher education and county boards may budget and expend funds to operate the centers through payments to the appropriate fiscal office of the participating institutions and the county boards.

(k) The provisions of this section do not require discontinuation of an existing student teacher training center or school which meets the standards of the state board.

(l) All institutions of higher education approved for educator preparation in the 1962-1963 school year continue to hold that distinction so long as they meet the minimum standards for educator preparation. Nothing in this section infringes upon the rights granted to any institution by charter given according to law previous to the adoption of this code.

WV Legislature

(m) Definitions. — For the purposes of this section, the following words have the meanings ascribed to them unless the context clearly indicates a different meaning:

(1) "Nonpublic school" means a private school, parochial school, church school, school operated by a religious order, or other nonpublic school that elects to meet the following conditions:

(A) Comply with the provisions of §18-28-1 *et seq*. of this code;

(B) Participate on a voluntary basis in a state-operated or state-sponsored program provided to this type of school pursuant to this section; and

(C) Comply with the provisions of this section;

(2) "At-risk" means a student who has the potential for academic failure including, but not limited to, the risk of dropping out of school, involvement in delinquent activity, or poverty as indicated by free or reduced lunch status; and

(3) "Exceptional child" or "exceptional children" has the meaning ascribed to these terms pursuant to §18-20-1 of this code but, as used in this section, the terms do not include gifted students.

WV Legislature

§18A-3-1a. Alternative programs for the education of teachers; purpose; definitions.

(a) Purpose. – Sections one-a, one-b, one-c, one-d, one-e, one-f, one-g, one-h and one-i of this article create an alternative means for a qualified person to earn a professional teaching certificate. These sections authorize a school or a school district to offer a rigorous alternative program for teacher certification in partnership with an accredited higher education institution, an entity affiliated with an accredited higher education institution, the West Virginia Department of Education or a regional education service agency, all under the supervision of the State Board.

(b) Definitions. -- For the purposes of this section and sections one-b, one-c, one-d, one-e, one-f, one-g, one-h and one-i of this article, the following terms have the meanings ascribed to them, unless the context in which a term is used clearly requires a different meaning:

(1) "Alternative program" means a program for teacher education that is offered as an alternative to the standard college or university programs for the education of teachers;

(2) "Alternative program teacher" means a teacher who holds an alternative program teacher certificate and who participates in an alternative program;

(3) "Area of critical need and shortage" means an opening in an established, existing or newly-created position which has been posted at least two times in accordance with section seven-a, article four of this chapter and for which no fully-qualified applicant has been employed;

(4) "Alternative program teacher certificate" means a temporary teacher certificate that authorizes a person to teach while participating in an alternative program;

(5) "Approved alternative program" means an alternative program that is approved by the State Board in accordance with section one-e of this article;

(6) "Approved education provider" means a partnership that the State Board has approved to provide an alternative program;

(7) "Partnership" means a partnership formed pursuant to section one-b of this article to provide an alternative program;

(8) "Partnership agreement" means an agreement adopted by a partnership pursuant to section one-b of this article; and

(9) "Professional support team" means the group of persons that an approved education provider has selected to train and supervise alternative program teachers.

WV Legislature

§18A-3-1b. Alternative program partnerships; formation; necessary partners; partnership agreements; single-provider programs.

(a) Formation. – One or more schools or school districts, or any combination of these, may form a partnership with one or more institutions of higher education, one or more entities affiliated with an institution of higher education, the West Virginia Department of Education, a regional education service agency, or any combination of these, to provide an alternative program.

(b) Necessary partners. – Except as provided in subsection (d) of this section, a partnership shall include at least one of the following:

(1) An institution of higher education with an accredited program for the education of professional educators that has been approved by the State Board;

(2) An entity affiliated with an institution of higher education that has an accredited program for the education of professional educators that has been approved by the State Board;

(3) The West Virginia Department of Education; or

(4) A regional education service agency.

(c) Partnership agreement contents. – A partnership shall adopt a written partnership agreement that governs how the partnership will conduct its alternative program and that identifies the rights and responsibilities of each partner. The partnership agreement shall include, at a minimum, the following elements:

(1) Procedures and criteria for determining whether a person is eligible to enroll in the alternative program;

(2) A requirement that a vacancy has to be advertised for a ten day period, and if no qualified traditional certified teacher applies, only then may the partnership consider enrolling as person in the alternative program;

(3) Procedures and criteria for making a formal offer of employment to a person who is eligible to enroll in the alternative program;

(4) A detailed list, with descriptions, of the categories, methods and sources of instruction that the alternative program will provide;

(5) A detailed description of the phases of on-the-job training and supervision that the alternative program will provide;

(6) A detailed description of the academic and performance standards that an alternative program teacher shall satisfy to receive the partnership's recommendation that the State Superintendent issue to him or her a professional teaching certificate;

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(7) Procedures for selecting and training the professional support team who will instruct, mentor or supervise alternative program teachers;

(8) Provisions for determining tuition or other charges, if any, relating to an alternative program;

(9) A requirement, subject to the provisions of subsection (e), subsection one-f of this article, that the hiring authority for any school or school district that hires an alternative program teacher will renew the alternative program teacher's contract from year to year as along as he or she makes satisfactory progress in the alternative education program and until he or she completes the alternative program; and

(10) Any other provisions that the partners consider necessary or helpful to ensure that the alternative program operates in accordance with this chapter.

WV Legislature

§18A-3-1c. Alternative program instruction for classroom teachers; methods; training and evaluation phases; professional support team; tuition.

(a) Alternative program instruction. -- An alternative program for classroom teachers shall provide, at a minimum, either six credit hours or six staff development hours of instruction in one or more of the following subjects:

(1) Early literacy (if an alternative program teacher will be teaching elementary school children);

(2) Student assessment;

(3) Development and learning;

(4) Curriculum;

(5) Classroom management;

(6) Use of educational computers and other technology; and

(7) Special education and diversity.

(b) Methods of instruction. – An alternative program may provide instruction through nontraditional methods, including, but not limited to, methods such as a series of modules covering the various topics, electronically delivered instruction, summer sessions, professional development and job-embedded mentoring.(c) Professional support team. – If the State Board approves, an alternative program may provide a professional support team whose structure is consistent with the structure that the partnership's participating school or schools use for supporting, supervising, inducting and mentoring a beginning teacher or teacher-in-residence. If the State Board approves, an alternative program's professional support team may be trained by and in coordination with the Center for Professional Development.

(d) Professional support team evaluation for classroom teachers. – The professional support team shall submit a written evaluation of the alternative program teacher to the approved education provider. This evaluation shall be submitted on a form specified by the approved education provider and shall be submitted before the first Monday in May on a date set by the approved education provider. The evaluation shall report the alternative program teacher's progress toward meeting the alternative program's academic and performance standards: Provided, That all final decisions on the progress of an alternative program teacher shall rest with the principal.(e) Tuition. – A partnership may not charge tuition, or impose any other charge for participation in an alternative program, unless the tuition or other charge is necessary to offset the partnership's cost of providing the alternative program: Provided, That a partner that is an institution of higher education with an accredited program for the education of professional educators may charge tuition for academic credit that an alternative education teacher receives in the alternative program if:

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(1) The institution of higher education is the entity that grants the academic credit; and

(2) The charge does not exceed the per credit rate charged for students enrolled in its standard program for the education of professional educators.

WV Legislature

§18A-3-1d. Alternative program rules; necessary contents.

(a) Alternative program rules. (

(1) The state board shall promulgate a legislative rule or rules in accordance with §29A-3B-1 et seq. of this code containing procedures for the approval and operation of alternative teacher education programs as provided in this article. The State Board shall promulgate separate procedures for alternative programs for classroom teachers, alternative programs for highly qualified special education teachers, and additional alternative programs to prepare highly qualified special education teachers. These procedures shall be separate from the state board's other procedures for approving standard teacher education programs.

(2) Before adopting a rule or rules, the state board shall submit its proposed rule or rules to the Legislative Oversight Commission on Education Accountability for review.

(b) Necessary contents. (The state board's rule or rules shall include, at a minimum, the following elements:

(1) An orderly set of deadlines, forms, and guidance to govern:

(A) A partnership's process for applying to become an approved education provider;

(B) The state board's process for reviewing and acting on a partnership's application;

(C) An approved education provider's process for seeking persons to enroll in an alternative program; and

(D) A person's process for enrolling in an approved education provider's alternative program;

(2) Procedures for determining whether a partnership agreement complies with §18A-3-1b and §18A-3-1c of this code;

(3) Procedures for determining whether a partnership agreement complies with any additional requirements contained in the state board's rule or rules;

(4) Standards for how often and for what lengths of time an alternative program teacher must observe in a mentor's classroom;

(5) Guidelines for determining what tuition or other charges an approved education provider may impose relating to an alternative program;

(6) A list of the test or tests that a person must pass if he or she seeks a certification to teach American Sign Language; and

(7) A list of the test or tests that a person must pass if he or she seeks a certification to teach

WV Legislature

in selected vocational and technical areas.

WV Legislature

§18A-3-1e. State Board approval; prohibited acts.

(a) State Board approval. –

(1) The State Board shall approve a partnership's application to operate an alternative program for classroom teachers if the State Board determines that the proposed alternative program, in all material respects, complies or will comply with the State Board's applicable alternative program rules and with the requirements of sections one-b, one-c of this article.

(2) The State Board shall approve a partnership's application to operate an alternative program for a highly qualified special education teacher if the State Board determines that the proposed alternative program, in all material respects, complies or will comply with the State Board's applicable alternative program rules and with the requirements of section one-g of this article.

(3) The State Board shall approve a partnership's application to operate an alternative program to prepare highly qualified special education teachers if the State Board determines that the proposed alternative program, in all material respects, complies or will comply with the State Board's applicable alternative program rules and with the requirements of section one-h of this article.

(b) Prohibited acts. –

(1) A partnership may not implement an alternative program until the partnership's alternative program has been approved by the State Board.

(2) A school or school district may not employ, or make a formal offer of employment to, any person for the purpose of his or her participation in an alternative program unless the alternative program is approved by the State Board and the school or school district is a member of the partnership that is operating the alternative program.

(3) A school or school district may not continue to employ an alternative program teacher unless he or she makes satisfactory progress in the alternative program for which he or she is employed.

WV Legislature

§18A-3-1f. Alternative program participation; eligibility for alternative program certificate; contract renewals; hiring preference.

(a) Alternative program participation. — A person may not participate in an alternative program unless he or she holds an alternative program teacher certificate issue by the state superintendent for the alternative program position in which he or she will be teaching. An alternative program teacher certificate is the same as a professional teaching certificate for the purpose of issuing a continuing contract.

(b) *Eligibility for alternative program teacher certificate*. — To be eligible for an alternative program teacher certificate, a person shall:

(1) Possess at least a bachelor's degree from a regionally accredited institution of higher education;

(2) Pass the same basic skills and subject matter test or tests required by the state board for traditional program candidates to become certified in the area for which he or she is seeking licensure;

(3) Hold United States citizenship or, if a noncitizen of the United States, hold a valid Permanent Resident Card, Employment Authorization Document (EAD), or work permit issued by the United States Citizenship and Immigration Services (USCIS);

(4) Be of good moral character;

(5) Be physically, mentally, and emotionally qualified to perform the duties of a teacher;

(6) Attain the age of 18 years on or before October 1 of the year in which the alternative program teacher certificate is issued;

(7) Receive from a county superintendent a formal offer of employment in an area of critical need and shortage and by a school or school district that is a member of an approved educational provider;

(8) Have relevant academic or occupational qualifications that reasonably indicate that the person will be competent to fill the teaching position in which he or she would be employed. For the purposes of this section, “reasonably indicate” means an academic major or occupational area the same as or similar to the subject matter to which the alternative program teacher is being hired to teach; and

(9) Qualify for employment after a criminal history check made pursuant to §18A-3-10 of this code.

(c) *Eligibility for alternative program certificate: American Sign Language*. — If a person seeks certification to teach American Sign Language, in lieu of subdivisions (1) and (2), subsection (b) of this section, he or she shall pass one or more appropriate state board-

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approved tests demonstrating his or her proficiency in American Sign Language.

(d) *Eligibility for alternative program certificate: selected vocational and technical areas*. — If a person seeks certification to teach in selected vocational and technical areas, in lieu of subdivisions (1) and (2), subsection (b) of this section, he or she shall pass one or more appropriate state board-approved tests demonstrating his or her proficiency in the basic skills and occupational content areas.

(e) *Contract renewals*. —

(1) A county board shall renew an alternative program teacher's contract from year to year as long as he or she makes satisfactory progress in the applicable alternative education program and until he or she completes the alternative program, except as provided in subdivision (2) of this subsection.

(2) If the school or school district that employs the alternative program teacher reduces its overall number of teachers, the alternative program teacher is subject to the same force reduction rules and procedures as any other employee, except those that relate to seniority. In no event will an alternative program teacher displace a professional educator as defined in §18A-1-1 of this code.

WV Legislature

§18A-3-1g. Alternative program for highly qualified special education teachers.

(a) An alternative program for highly qualified special education teachers are separate from the programs established under sections one-b and one-h of this article and are applicable only to teachers who have at least a bachelor's degree in a program for the preparation of teachers from an accredited institution of higher education.

(b) These programs are subject to the other provisions of sections one-b, one-c, one-e and one-f of this article only to the extent specifically provided in State Board rule.

(c) These programs may be an alternative to the standard college and university programs for the education of special education teachers and also may address the content area preparation of certified special education teachers.

(d) The programs shall incorporate professional development to the maximum extent possible to help teachers who are currently certified in special education to obtain the required content area preparation.

(e) Participation in an alternative education program pursuant to this section may not affect any rights, privileges or benefits to which the participant otherwise would be entitled as a regular employee and may not alter any rights, privileges or benefits of participants on continuing contract status.

WV Legislature

§18A-3-1h. Additional alternative program to prepare highly qualified special education teachers.

(a) An additional alternative program to prepare highly qualified special education teachers are separate from the programs established under sections one-b and one-g of this article and are applicable only to persons who hold a bachelor's degree from an accredited institution of higher education.

(b) These programs are subject to the other provisions of sections one-b, one-c, one-e and one-f of this article only to the extent specifically provided in State Board rule.

(c) These programs may be an alternative to the standard college and university programs for the education of special education teachers and also may address the content area preparation of these persons.

WV Legislature

§18A-3-1i. Recommendation for certification of alternative program teachers; report forms to be prepared by State Superintendent; appeal.

(a) At the conclusion of an approved alternative program, the approved education provider shall prepare a comprehensive evaluation report on the alternative program teacher's performance.

(b) This report shall be submitted directly to the State Superintendent and shall contain a recommendation as to whether or not a professional teaching certificate should be issued to the alternative program teacher. The State Superintendent shall develop standard forms for this report, and the report shall be made on one or more of the State Superintendent's forms.

(c) The comprehensive evaluation report shall include one of the following recommendations:

(1) Approved: Recommends issuance of a professional teaching certificate;

(2) Insufficient: Recommends that a professional teaching certificate not be issued but that the candidate be allowed to seek reentry on one or more occasions in the future to an approved alternative program; or

(3) Disapproved: Recommends that a professional teaching certificate not be issued and that the candidate not be allowed to enter into another approved alternative program in this state but not be prohibited from pursuing teacher certification through other approved programs for the education of teachers in this state.

(d) The approved education provider shall provide the alternative program teacher with a copy of the alternative program teacher's written evaluation report and certification recommendation before the approved education provider submits them to the State Superintendent. If the alternative program teacher disagrees with the provider's recommendation, the alternative program teacher may, within fifteen days of receipt, request an appeal in accordance with the certification appeals process established by the State Board.

WV Legislature

§18A-3-1j. Additional alternative preparation programs administered by the Department of Education.

(a) Additional alternative programs to prepare teachers established or adopted solely by the State Board of Education are separate from the programs established under §18A-3-1b, §18A-3-1g, and §18A-3-1h of this code, do not required any partner, and are applicable only to persons who hold a bachelor's degree from an accredited institution of higher education.

(b) These programs are subject to other provisions of this article only to the extent specifically provided in state board rules.

(c) These programs may be an alternative to the standard college and university programs for the education of teacher and also may address the content area preparation of these persons.

WV Legislature

§18A-3-2. Teacher certification; required; expiration;

qualifications; certification of aliens.

Any professional educator, as defined in article one of this chapter, who is employed within the public school system of the state shall hold a valid teaching certificate licensing him or her to teach in the specializations and grade levels as shown on the certificate for the period of his or her employment. If a teacher is employed in good faith on the anticipation that he or she is eligible for a certificate and it is later determined that the teacher was not eligible, the state Superintendent of Schools may authorize payment by the county board of education to the teacher for a time not exceeding three school months or the date of notification of his or her ineligibility, whichever shall occur first. All certificates shall expire on June 30 of the last year of their validity irrespective of the date of issuance.

WV Legislature

§18A-3-2a. Certificates valid in the public schools that may be issued by the State Superintendent.

In accordance with state board rules for the education of professional educators adopted pursuant to §18A-3-1 of this code and subject to the limitations and conditions of that section, the State Superintendent may issue the following certificates valid in the public schools of the state:

(a) Professional teaching certificates. —

(1) A professional teaching certificate for teaching in the public schools may be issued to a person who meets the following conditions: (A) Holds at least a bachelor's degree from a regionally accredited institution of higher education, and:

(i) Has passed appropriate state board approved basic skills and subject matter tests in the area for which licensure is being sought; and

(ii) Has completed a program for the education of teachers which meets the requirements approved by the state board; or

(iii) Has met equivalent standards at institutions in other states; or

(iv) Has completed three years of successful teaching experience within the last seven years under a license issued by another state in the area for which licensure is being sought; or

(v) Has completed an alternative program approved by another state; or

(B) Holds at least a bachelor's degree from an accredited institution of higher education, and:

(i) Has passed appropriate state board approved basic skills and subject matter tests; and

(ii) Has completed an alternative program for teacher education as provided in this article; and

(iii) Is recommended for a certificate in accordance with the provisions of §18A-3-1i of this code relating to the program; and

(iv) Is recommended by the State Superintendent based on documentation submitted; or

(C) Holds a bachelor's degree from an accredited institution of higher education, and:

(i) Submits to a criminal history check pursuant to §18A-3-10 of this code: *Provided*, That information discovered during the criminal history check may form the basis for the denial of a certificate for just cause; and

(ii) Successfully completes pedagogical training or a pedagogical course or courses in

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substantive alignment with nationally recognized pedagogical standards, or approved or established by the state board; and

(iii) Passes the same subject matter and competency test or tests required by the state board for traditional program applicants for licensure or;

(D) Is an honorably discharged member of the armed forces who:

(i) Holds at least a bachelor's degree from an accredited institution of higher education that is related to the available position which the veteran has applied to; and

(ii) Has passed the basic skills and subject matter test or tests required by the state board for teachers to become certified in the area for which the licensure is sought; and

(iiii) Is exempt from any additional teacher certification requirements except the criminal history check required by §18A-3-10 of this code.

(2) The certificate shall be endorsed to indicate the grade level or levels or areas of specialization in which the person is certified to teach or to serve in the public schools.

(3) The initial professional certificate is issued provisionally for a period of three years from the date of issuance:

(A) The certificate may be converted to a professional certificate valid for five years subject to successful completion of a beginning teacher induction program, if applicable; or

(B) The certificate may be renewed subject to rules adopted by the state board.

(4) Teaching certificates granted pursuant to §18A-3-2a(a)(1)(C) of this code shall be equivalent to certificates granted to graduates of teacher preparation programs at public higher education institutions.

(b) Alternative program teacher certificate. — An alternative program teacher certificate may be issued to a candidate who is enrolled in an alternative program for teacher education approved by the state board.

(1) The certificate is valid only for the alternative program position in which the candidate is employed and is subject to enrollment in the program.

(2) The certificate is valid while the candidate is enrolled in the alternative program, up to a maximum of three years, and may not be renewed.

(c) Professional administrative certificate. —

(1) A professional administrative certificate, endorsed for serving in the public schools, with specific endorsement as a principal, vocational administrator, supervisor of instructions, or

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superintendent, may be issued to a person who has completed requirements all to be approved by the state board as follows:

(A) Holds at least a master's degree from an institution of higher education accredited to offer a master's degree, and:

(i) Has successfully completed an approved program for administrative certification developed by the state board in cooperation with the chancellor for higher education; and

(ii) Has successfully completed education and training in evaluation skills through the Center for Professional Development, or equivalent education and training in evaluation skills approved by the state board; and

(iii) Possesses three years of management level experience.

(2) Any person serving in the position of dean of students on June 4, 1992, is not required to hold a professional administrative certificate.

(3) The initial professional administrative certificate is issued provisionally for a period of five years. This certificate may be converted to a professional administrative certificate valid for five years or renewed, subject to the regulations of the state board.

(d) Paraprofessional certificate. — A paraprofessional certificate may be issued to a person who meets the following conditions:

(1) Has completed 36 semester hours of post-secondary education or its equivalent in subjects directly related to performance of the job, all approved by the state board; and

(2) Demonstrates the proficiencies to perform duties as required of a paraprofessional as defined in §18A-4-8 of this code.

(e) Other certificates; permits. —

(1) Other certificates and permits may be issued, subject to the approval of the state board, to persons who do not qualify for the professional or paraprofessional certificate.

(2) A certificate or permit may not be given permanent status and a person holding one of these credentials shall meet renewal requirements provided by law and by regulation, unless the state board declares certain of these certificates to be the equivalent of the professional certificate.

(3) Within the category of other certificates and permits, the State Superintendent may issue certificates for persons to serve in the public schools as athletic coaches or coaches of other extracurricular activities, whose duties may include the supervision of students, subject to the following limitations:

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(A) The person is employed under a contract with the county board of education.

(i) The contract specifies the duties to be performed, specifies a rate of pay that is equivalent to the rate of pay for professional educators in the district who accept similar duties as extra duty assignments, and provides for liability insurance associated with the activity; and

(ii) The person holding this certificate is not considered an employee of the board for salary and benefit purposes other than as specified in the contract.

(B) The person completes an orientation program designed and approved in accordance with state board rules.

(f) Clinical teacher of record permit. —

(1) A clinical teacher of record permit may be issued to a candidate who is enrolled in a clinical teacher of record program in accordance with an agreement between an institution of higher education and a county board. The agreement is developed pursuant to §18A-3-1(e) of this code and requires approval by the state board.

(2) The permit is valid only for the clinical teacher of record program position in which the candidate is enrolled and is subject to enrollment in the program. The permit is valid for no more than one school year and may not be renewed.

(g) Temporary teaching certificates for armed forces spouses. —

(1) A temporary teaching certificate for an armed forces spouse may be issued to an individual who meets the following criteria:

(A) He or she is married to a member of the armed forces of the United States who is on active duty;

(B) He or she holds a current unencumbered teaching certificate or license issued by an equivalent credentialing department, board, or authority, as determined by the State Superintendent, in another state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, another territory or protectorate of the United States or a foreign country; and

(C) He or she provides proof acceptable to the State Superintendent that his or her spouse is assigned to a duty station in this state or at a military installation within 50 air miles of the West Virginia border and that he or she is also assigned to a duty station in this state or at a military installation within 50 air miles of the West Virginia border under his or her spouse’s official active duty military orders.

(2) The State Superintendent shall deny a temporary teaching certificate to an individual described in paragraph (1) of this subdivision for fraud, material misrepresentation or concealment in the person’s application for a temporary teaching certificate or for a

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conviction for which an individual's teaching certificate may be revoked under §18A-3-6 of this code.

(3) A temporary teaching certificate issued under paragraph (1) of this subdivision is valid for one year and may be renewed for additional one-year terms if the State Superintendent determines the individual holding the temporary teaching certificate continues to meet the requirements of paragraph (1) of this subdivision. The State Superintendent may revoke a temporary teaching certificate for a conviction for which an individual's teaching certificate may be revoked under §18A-3-6 of this code.

(h) Notwithstanding the provisions of subsection (a)(3)(B) of this section, teachers with a bachelor's degree and 10 years teaching experience, with a valid teaching certificate, in good standing, without any unsatisfactory evaluations will be able to apply for and receive a permanent teaching certificate in West Virginia without having to take any additional course work. This subsection shall be effective from passage.

(i) Adjunct teaching permit. — An adjunct teacher permit may be issued to an individual who meets the requirements set forth in §18A-3-2b of this code.

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§18A-3-2b. Adjunct teaching permit.

(a) An individual with an adjunct teaching permit may be hired to fill a vacant teaching position, offer a new program or class, or to supplement a program currently being offered only if no other teacher holding certification in the subject area is available and accepts the position or assignment. All requirements of this section other than the requirement for a criminal history check pursuant to §18A-3-2b(b)(2) of this code apply separately to each year of employment under an adjunct teaching permit.

(b) An adjunct teacher permit may be issued to an individual who meets the following requirements:

(1) The individual has at least four years of experience in the content area in which the individual intends to teach through employment experience or has a college degree in that content area: *Provided*, That a related content area that includes the concepts of the content area in which the individual intends to teach satisfies this requirement;

(2) The individual submits to the criminal history check of applicants for licensure provided in §18A-3-10 of this code;

(3) The individual has not been convicted of a felony or plead guilty or plead no contest to a felony charge or convicted, plead guilty, or plead no contest to any charge involving sexual misconduct with a minor or a student.

(c) An adjunct teacher permit is valid for one year from the date of issuance. Each year that a county board seeks to employ an individual under an adjunct teaching permit, the county board shall repost the position. Renewal of the permit is contingent upon the teacher's performance meeting a basic standard as determined by an evaluation. For this purpose, the state board shall include in its evaluation rule required by §18A-3C-2 of this code a process for the evaluation of teachers holding an adjunct teacher permit.

(d) If a county board employs any individual with an adjunct teaching permit issued pursuant to this section:

(1) The employment may be on a part-time or full-time basis;

(2) The compensation may be any amount both the county board and the adjunct teacher agree to and is not required to be based on §18A-4-2 or any other provision of this code;

(3) The county board is not required to provide the adjunct teacher retirement benefits, health insurance, nor any other type of employment benefit unless both the county board and the adjunct teacher agree to those benefits;

(4) The county board shall enter into a contract with the adjunct teacher that specifies the length of time for the contract; which days the adjunct teacher is to teach; the amount of time the teacher is to teach on those days; the rate of compensation; whether any

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retirement, health insurance, or any other type of benefit will be provided and if so exactly what those benefits will be; and any other provisions the county board and adjunct teacher agree to;

(5) The individual who holds the adjunct teaching permit may teach in any content area, including a career and technical education content area, in which the individual is allowed to teach based on the individual's experience described in subsection (b) of this section;

(6) The individual must be assigned a teacher mentor for support in pedagogy; and

(7) The individual shall complete the harassment, intimidation, and bullying training, and preventing child sexual abuse training required by state board policy 4373, and education on the warning signs and resources to assist in suicide prevention pursuant to §18-2-40 of this code within the first 90 days of employment.

(e) An adjunct teacher may not provide special education instruction.

(f) Each county board that employs an adjunct teacher with an adjunct teacher permit issued pursuant to this section shall report to the West Virginia Department of Education the following information:

(1) The number of adjunct teachers who hold a permit issued under this section that the county board has hired each school year, disaggregated by the grade level and subject area taught by the adjunct teacher; and

(2) The following information for each adjunct teacher described in subdivision (1) of this subsection:

(A) The name of the adjunct teacher;

(B) The subject matter the adjunct teacher is permitted to teach;

(C) A description of the adjunct teacher's experience that qualifies him or her under §18A-3-2b(b)(1) of this code;

(D) The compensation paid to the adjunct teacher during the school year;

(E) The number of previous adjunct teaching employment agreements the adjunct teacher has entered into with the county board.

(g) A county board shall post a vacant adjunct teacher position pursuant to §18A-4-7a(q) of this code.

(h) A county board may notify parents of students enrolled in the school of a vacant adjunct teacher position.

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(i) The county board shall announce any vacant adjunct teacher positions at its meetings.

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§18A-3-2c. Minimum qualities, proficiencies and skills required of principals; state board rule.

On or before October 1, 2018, the state board shall promulgate rules in accordance with §29A-3B-1 et seq. of this code regarding the minimum qualities, proficiencies and skills that will be required of principals after July 1, 2019. The state board shall promulgate and may, from time to time, amend such rules. The rules promulgated by the state board shall address at least the following:

(1) Instructional leadership and management techniques, including, but not limited to, the standards for high quality schools, the school accreditation process, and strategic planning for continuous improvement;

(2) Staff relations, including, but not limited to, the development and use of skills necessary to make a positive use of faculty senates, manage faculty and staff with courtesy and mutual respect, coach and motivate employees, and build consensus as a means of management;

(3) School community leadership qualities, including, but not limited to, the ability to organize and leverage community initiative, communicate effectively, work effectively with local school improvement councils, manage change, resolve conflict, and reflect the highest personal values;

(4) Educational proficiencies, including, but not limited to, knowledge of curriculum, instructional techniques, student learning styles, student assessment criteria, school personnel performance, evaluation skills, and family issues; and

(5) Administrative skills, including, but not limited to, organizational, fiscal, public policy, and total quality management skills and techniques.

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§18A-3-2d

Repealed

Acts, 2018 Reg. Sess., Ch. 105.

WV Legislature

§18A-3-3. Renewal of certificates; permanent certification.

(a) Until the person qualifies for a permanent certificate, any professional or first class certificate based upon a bachelor's degree shall be renewable provided the holder within five years from the date the certificate became valid:

(1) Files application on a prescribed form with the state Department of Education;

(2) Presents an official transcript of six semester hours of approved credit as may be prescribed by the state board;

(3) Successfully completes a beginning teacher internship program, if applicable; and

(4) Submits a recommendation based on successful teaching experience from the county superintendent of schools of the county in which the holder last taught or resides.

(b) The holder of a professional certificate, valid for five years, shall have the certificate made permanent upon meeting any of the following requirements:

(1) Completion of the second renewal, in accordance with the provisions set forth in subsection (a) of this section; or

(2) After five years of service in the public schools, presentation of a transcript showing the completion of requirements for a master's degree from an institution of higher education accredited to offer the master's degree and in a program relevant to the public school program or completes the fifth year of training leading to a bachelor's degree in library science from a school fully approved by the American Library Association; or

(3) Receives certification through the National Board for Professional Teaching Standards.

(c) To satisfy any of the requirements of subsection (b) of this section, the person must file application on a prescribed form with the state Department of Education and must submit a recommendation from the county superintendent of schools of the county in which the person last taught or resides.

(d) All certificates and permits, other than the professional certificate, shall be renewed in accordance with state board regulations.

(e) If the applicant seeking renewal has cause to believe that the county superintendent refuses to give a recommendation without just cause, the applicant shall have the right, in such case, to appeal to the state Superintendent of Schools whose responsibility it shall be to investigate the matter and issue a certificate if, in the opinion of the state superintendent, the county superintendent's recommendation was withheld arbitrarily.

(f) A person who has reached the age of sixty and holds a renewable certificate, as provided in this section, need not present renewal credit but shall meet all other renewal

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requirements.

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§18A-3-3a. Payment of tuition, registration and other fees for teachers; maximum payment per teacher.

(a) The West Virginia Department of Education shall promulgate rules to administer the reimbursement of tuition, registration and other required fees for coursework completed by teachers in accordance with the provisions of this section. The rules shall provide for reimbursement for courses completed toward both certification renewal and additional endorsement in a shortage area.

(b) As used in this section, the following words and phrases have the meanings ascribed to them:

(1) "Teacher" has the meaning provided in section one, article one, chapter eighteen of this code.

(2) "Shortage area" shall be defined by state board policy to indicate the subject areas for which an insufficient number of teachers are available.

(3) "Certification" and "certificate" mean a valid West Virginia:

(A) Professional teaching, service or administrative certificate, or its equivalent; or

(B) Provisional professional teaching, service or administrative certificate, or its equivalent.

(4) "Requirements for certification renewal" are those requirements of the state Department of Education as provided in section three of this article.

(5) "Requirements for additional endorsement" are those requirements of the state Department of Education as provided in section three of this article.

(6) "State institution of higher education" has the meaning provided in section two, article one, chapter eighteen-b of this code.

(c) To the extent of funds appropriated for the purposes specified in this section, payment shall be made to any teacher who:

(1) Holds either a valid West Virginia:

(A) Certificate; or

(B) First class permit for full-time employment; and

(2) Is seeking:

(A) An additional endorsement in a shortage area, and either resides in the state or is employed regularly for instructional purposes in a public school in the state; or

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(B) Certification renewal, and has a continuing contract with a county board.

(d) The payment shall be made as reimbursement for the tuition, registration and other required fees for any course completed at:

(1) Any college or university within the state; or

(2) A college or university outside the state if prior approval is granted by the department.

(e) A course is eligible for reimbursement if it meets the requirements for:

(1) An additional endorsement in a shortage area; or

(2) Certification renewal.

(f) If funds appropriated for the purposes specified in this section are insufficient for the reimbursement of all eligible courses within the limits provided in this section, the West Virginia Department of Education shall make the reimbursements for courses for additional endorsement in a shortage area and certification renewal in a shortage area first.

(g) Payment made for any single fee may not exceed the amount of the highest corresponding fee charged at a state institution of higher education.

(h) Reimbursement for courses completed toward certification renewal is limited to fifteen semester hours of courses for any teacher. Reimbursement for courses completed toward additional endorsement in a shortage area is limited to fifteen semester hours of courses for any teacher.

(i) The West Virginia Department of Education shall seek funding from sources other than general revenue appropriation, including, but not limited to, workforce investment funds.

(j) No provision of this section may be construed to require any appropriation or any specific amount of appropriation for the purposes specified in this section, or to require the department to expend funds for those purposes from any other amounts appropriated for expenditure by the department.

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§18A-3-4. Validity of present certificates.

Nothing in this article shall be construed or interpreted in such way as to invalidate or in any manner change or shorten the validity period of certificates, including grade-level teaching rights, in force on the effective date of this act, nor the right to renew or make permanent such certificates, notwithstanding the provisions set forth in §18A-3-2a of this code.

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§18A-3-5. Validity of certificates held by members of Armed Forces.

A certificate held by a member of the Armed Forces of the United States shall have the period of validity extended to June thirtieth of the year following his or her separation from active duty or honorable discharge provided the certificate was valid at the time of entry into the Armed Forces.

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§18A-3-6. Grounds for revocation or suspension of certificates; other authorized actions by state superintendent; required reporting by county superintendents; and recalling certificates for correction.

(a) The state superintendent may, after 10 days' notice and upon proper evidence, revoke or suspend the certificates of any teacher for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea, or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved, or insufficient credit to obtain the certificates: *Provided*, That in order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved, or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job. The state superintendent shall also have the authority to limit certificates, issue letters of admonishment, or enter into consent agreements requiring specific training in order for a teacher to maintain a certificate. The state superintendent may designate the West Virginia Commission for Professional Teaching Standards or members thereof to conduct hearings on revocations or certificate denials and make recommendations for action by the state superintendent. The state superintendent may issue subpoenas and subpoenas duces tecum to obtain testimony and documents to aid in the investigation of allegations against any person subject to licensure by the state superintendent.

(b) The state superintendent may automatically suspend the certificate held by a teacher, as defined by §18-1-1(g) of this code, or any individual holding a certificate granted pursuant to §18A-3-2a of this code, in any of the following circumstances:

(1) The teacher or certificate holder is charged or indicted for an offense under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state;

(2) The teacher or certificate holder is charged or indicted with any criminal offense that requires the teacher to register as a sex offender;

(3) The teacher or certificate holder is charged or indicted with any criminal offense which has as an element delivery or distribution of a controlled substance; (4) The teacher or certificate holder is charged or indicted for any offense under the provisions of §61-2-1 of this code or under any law of the United States or any other state for an offense which has the same elements as those offenses described in §61-2-1 of this code; or

(5) A petition has been filed pursuant to §49-4-601 of this code alleging that the teacher or certificate holder has committed abuse of a child.

(c) If any such charge or indictment resulting in suspension pursuant to subsection (b) of this section is dismissed by the court in which it is pending, if the teacher or certificate holder is acquitted of such charge, or if a petition filed pursuant to §49-4-601 and resulting in

suspension pursuant to subsection (b) of this section is dismissed by the court in which it is pending, the teacher's or certificate holder's certification shall be reinstated unless otherwise prohibited by law.

(d) The state superintendent shall automatically revoke the certificate held by a teacher, as defined by §18-1-1(g) of this code, or any individual holding a certificate granted pursuant to §18A-3-2a of this code, in any of the following circumstances:

(1) The teacher or certificate holder pleads guilty to or is convicted under §61-8D-3 or §61-8D-5 of this code or comparable statute in any other state;

(2) The teacher or certificate holder pleads guilty to or is convicted of any criminal offense that requires the teacher to register as a sex offender;

(3) The teacher or certificate holder pleads guilty to or is convicted of any criminal offense which has as an element delivery or distribution of a controlled substance;

(4) The teacher or certificate holder pleads guilty to or is convicted under the provisions of §61-2-1 of this code or has been so convicted under any law of the United States or any other state for an offense which has the same elements as those offenses described in §61-2-1 of this code; or

(5) A court of competent jurisdiction has adjudicated the teacher or certificate holder as having committed abuse of a child under §49-4-601 of this code.

(e) If any conviction resulting in automatic revocation pursuant to subsection (d) of this section is overturned by any court of this state or the United States, or if such adjudication of abuse of a child pursuant to §49-4-601 of this code and resulting in automatic revocation pursuant to subsection (d) of this section is overturned by the Supreme Court of Appeals of West Virginia, the teacher's or certificate holder's certification shall be reinstated unless otherwise prohibited by law.

(f) A teacher, as defined by §18-1-1(g) of this code, and including any individual holding a certificate granted pursuant to §18A-3-2a of this code, shall maintain a professional relationship with all students at all times, both in and out of the classroom. Following a hearing as provided in subsection (a) of this section, any teacher found to have committed any act of sexual abuse of a student or minor, or to have engaged in inappropriate sexual conduct with a student or minor; committed an act of cruelty to children or an act of child endangerment or solicited, encouraged, engaged in or consummated an inappropriate relationship with any student, minor, or individual; exploited a student by engaging in any of the aforementioned illegal or inappropriate conduct which then escalated into a relationship with the exploited student within 12 months of that student's graduation; or engaged in grooming a student or minor shall have his or her certificate revoked for a period of time not less than five years. For the purposes of this subsection, "grooming a student or minor" means befriending and establishing an emotional connection with a student or minor, which

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may include the family of the student or minor, to lower the student's or minor's inhibitions with the objective of committing sexual abuse, child trafficking, child prostitution, the production of child pornography, or any other offense for which a certificate shall be revoked under this subsection.

(g) Any county superintendent, public school principal, or public charter school administrator who knows of any acts on the part of any teacher for which a certificate may be revoked or for which other action may be taken in accordance with this section shall report this, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent's judgment may be proper.

(h) 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 the state board.

(i) The state superintendent shall maintain a public database of individuals who have had adverse action taken against their teaching certificate by the state superintendent. Individuals whose certificate has been revoked by the state superintendent are not eligible to be employed by a county board unless the individual's certificate is subsequently reinstated by the state superintendent.

(j) This section applies to all public school teachers whether employed by a county board or the governing board of a public charter school.

(k) The state superintendent shall periodically ensure that county boards are acting in compliance with this section.

(l) The state board may propose legislative rules pursuant to §29A-3B-1 *et seq*. of this code that are necessary to implement the provisions of this section.

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§18A-3-7. Certificate fees.

The fee for the issuance or renewal of any certificate, if applicable, shall be established by the state Board of Education.

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§18A-3-8. County professional staff development councils.

The Legislature finds the professional expertise and insight of the classroom teacher to be an invaluable ingredient in the development and delivery of staff development programs which meet the needs of classroom teachers.

Therefore, a professional staff development council comprised of proportional representation from the major school levels and from vocational, special education and other specialties in proportion to their employment numbers in the county shall be established in each school district in the state in accordance with rules adopted by the State Board of Education. Nominations of instructional personnel to serve on the county staff development council may be submitted by the faculty senates of the district to the county superintendent who shall prepare and distribute ballots and tabulate the votes of the counties instructional personnel voting on the persons nominated. Each county staff development council shall consist of between nine and fifteen members at the discretion of the county superintendent based on the size of the county. The councils have final authority to propose staff development programs for their peers based upon an analysis of the individual and collective needs of the schools of the county as indicated by their strategic plans.

The county superintendent or a designee has an advisory, nonvoting role on the council. The county board shall make available an amount equal to one tenth of one percent of the amounts provided in accordance with §18-9A-4 of this code and credit the funds to an account to be used by the council to fulfill its objectives. The local board has final approval of all proposed disbursements.

Any funds credited to the council during a fiscal year, but not used by the council, shall be carried over in the council account for use in the next fiscal year. These funds are separate and apart from, and in addition to, those funds to be credited to the council pursuant to this section. At the end of each fiscal year, the council shall report to each faculty senate chairperson the amount of funds carried over into the next fiscal year.

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§18A-3-9. County service personnel staff development councils.

(a) The Legislature finds the professional expertise and insight of service personnel to be an invaluable ingredient in the development and delivery of staff development programs which meet the needs of service personnel.

(b) Therefore, a service personnel staff development council comprised of representation from the various categories of service personnel employment shall be established in each school district in the state in accordance with rules adopted by the state Board of Education. Nominations of service personnel to serve on the county service personnel staff development council may be submitted by the six groups, as defined in subsection (e), section one, article one of this chapter, of the district to the county superintendent who shall prepare and distribute ballots and tabulate the votes of the counties service personnel voting on the persons nominated. Each county staff service personnel development council shall consist of two employees from each category of employment one of whom shall be elected as chairperson by the staff development council members. The councils have final authority to propose staff development programs for their peers based upon rules established by statute and the council on service personnel education. The county superintendent or a designee has an advisory, nonvoting role on the council. The county board shall make available an amount equal to one tenth of one percent of the amounts provided in accordance with section five, article nine-a, chapter eighteen of this code and credit the funds to an account to be used by the council to fulfill its objectives. The local board has the final approval of all proposed disbursements. Any funds credited to the council during a fiscal year, but not used by the council, shall be carried over in the council account for use in the next fiscal year. Any carried-over funds shall be separate and apart from, and in addition to, the funds to be credited to the council pursuant to this section.

(c) At the end of each fiscal year, the county board of education shall report to the staff development chairperson the total amount and balance of the staff development council account, the amount appropriated for the recent fiscal year, the amount of funds requested and used by the staff development council, and the amount of funds carried over into the next fiscal year. The county board of education shall further provide to the state Superintendent of Schools at the end of each fiscal year the names of the service personnel staff development council members, the name of the chairperson, the number of meetings the service personnel staff development council held to plan staff development programs and the number of hours service employees were provided during their employment terms to implement their staff development programs.

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§18A-3-10. Criminal history check of applicants for licensure by the state Department of Education.

(a) Any applicant for an initial license issued by the West Virginia Department of Education shall be fingerprinted by the West Virginia State Police in accordance with state board policy in order to determine the applicant's suitability for licensure. The fingerprints shall be analyzed by the State Police for a state criminal history record check through the central abuse registry and then forwarded to the Federal Bureau of Investigation for a national criminal history record check.

(b) Information contained in either the central abuse registry record or the Federal Bureau of Investigation record may form the basis for the denial of a certificate for just cause.

(c) The applicant for initial certification pays for the cost of obtaining the central abuse registry record and the Federal Bureau of Investigation record.

(d) Upon written consent to the state department by the applicant and within ninety days of the state fingerprint analysis, the results of a state analysis may be provided to a county board with which the applicant is applying for employment without further cost to the applicant.

(e) Information maintained by the state department or a county board which was obtained for the purpose of this section is exempt from the disclosure provisions of chapter twenty-nine-b of this code. Nothing in this section prohibits disclosure or publication of information in a statistical or other form which does not identify the individuals involved or provide personal information.

(f) After an initial license has been issued by the West Virginia Department of Education, the West Virginia Department of Education may require any licensee to be fingerprinted by the West Virginia State Police in accordance with state board policy: Provided, That the licensee lived outside of the State of West Virginia for a period of one year or more since his or her licensure, or the West Virginia Department of Education or the school administrator has a reasonable belief that the licensee has not notified the school administrator of any felony conviction, conviction of any offense under chapter sixty-one, article eight-b of this code, or offenses of similar nature to those in chapter sixty-one, article eight-b of this code that have been established under any other state or the United States. The fingerprints may be analyzed by the West Virginia State Police for a state criminal history record check through the central abuse registry and then forwarded to the Federal Bureau of Investigation for a national criminal history record check.

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§18A-3-11. Fellowship for 21st Century Learners.

(a) The Legislature finds that:

(1) There are instances, especially for the purpose of professional development, where it would be beneficial for persons who are members of the Teachers' Retirement System or the Teachers' Defined Contribution System to be employed by state institutions of higher education or research corporations;

(2) Members of the Teachers' Retirement System are discouraged from terminating their membership to that system because their annuity is based on their final average salary and their total service credit;

(3) A member of the Teachers' Defined Contribution System may be discouraged from terminating his or her membership to that system because the member may be completely vested in that system or have made substantial progress toward being vested;

(4) These members also are discouraged from leaving employment that allows them to participate in the Public Employees Insurance Program pursuant to article sixteen, chapter five of this code; and

(5) An example of this beneficial arrangement would be the employment of a member of the Teachers' Retirement System or a member of the Teachers' Defined Contribution System by an entity that otherwise would not be considered an employer under article seven-a, chapter eighteen of this code or article seven-b, chapter eighteen of this code for the purpose of working on a joint professional development project between higher education and public education.

(b) For the purposes of this section only, unless the context clearly indicates otherwise:

(1) "Employer" means either the state institution of higher education or the research corporation employing a 21st Century Learner Fellow;

(2) "Research corporation" means a corporation meeting the description set forth in section three, article twelve, chapter eighteen-b of this code; and

(3) "State institution of higher education" means the same as defined in section two, article one, chapter eighteen-b of this code.

(c) The State Superintendent is authorized to designate up to twenty-five professional educators who are currently employed and who are members of either the Teachers' Retirement System set forth in article seven-a, chapter eighteen of this code or the Teachers' Defined Contribution System set forth in article seven-b, chapter eighteen of this code as 21st Century Learner Fellows, subject to the following:

(1) Before designating a person as a 21st Century Learner Fellow, the state Superintendent

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shall consult with the state institution of higher education or the research corporation that would employ the member if designated;

(2) In determining whether or not to designate a person as a 21st Century Learner Fellow, the state Superintendent shall give preference to a person who:

(A) Is certified by the National Board for Professional Teaching Standards; and

(B) Demonstrates leadership within his or her content field in the county, regional education service agency area or the state;

(3) The duration of the person's designation as a 21st Century Learner Fellow shall be for the period in which the specific project to be undertaken by the person will last as determined by the state Superintendent at the time he or she designates the person; and

(4) Only the employer may terminate the employment of a person designated as a 21st Century Learner Fellow prior to the end of the duration of the person's designation as set forth in subsection (3) of this subsection.

(d) Notwithstanding any other provision of the code to the contrary, the professional educators designated as 21st Century Learner Fellows may elect to remain a member of the retirement system in which they were a member of immediately preceding their designation while they are employed by either a state institution of higher education or a research corporation, subject to the following:

(1) This authorization to remain a member of the retirement system in which they were a member of immediately preceding their designation only applies to authorization to remain a member of either the Teachers' Retirement System set forth in article seven-a, chapter eighteen of this code or to the Teachers' Defined Contribution System set forth in article seven-b, chapter eighteen of this code, but not both;

(2) Both the employer and the member each shall contribute their share as required by article seven-a, chapter eighteen of this code or article seven-b, chapter eighteen of this code, as applicable;

(3) If a 21st Century Learner Fellow elects to remain a member of either the Teachers' Retirement System set forth in article seven-a, chapter eighteen of this code or the Teachers' Defined Contribution System set forth in article seven-b, chapter eighteen of this code, he or she may not participate in any retirement plan offered by the employer; and

(4) Notwithstanding any other provision of law to the contrary, the employer does not assume any liability for benefits accrued by the 21st Century Learner Fellow while he or she was employed by any other entity.

(e) Notwithstanding any other provision of code to the contrary, each 21st Century Learner Fellow also qualifies as an employee for the purposes of being authorized to participate in

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the Public Employees Insurance Program pursuant to article sixteen, chapter five of this code and the state institution of higher education or the research corporation, as applicable, shall be considered an employer under that program, subject to the following:

(1) The state institution of higher education or the research corporation, as applicable, is not considered an employer with respect to any employee other than a 21st Century Learner Fellow;

(2) For any employee that elects to participate in the program pursuant to this subdivision, the employer shall pay their share of the premium and the employee shall pay his or her share of the premium pursuant to article sixteen, chapter five of this code; and

(3) Notwithstanding any other provision of law to the contrary, the employer does not assume any liability for benefits accrued by the 21st Century Learner Fellow while he or she was employed by any other entity.

(f) Notwithstanding any other provision of law to the contrary:

(1) The employer is not responsible for any accrued annual leave, sick leave or both that a 21st Century Learner Fellow has accumulated during any prior employment; and

(2) If a 21st Century Learner Fellow has accumulated sick leave from prior employment, and if not for this subsection that sick leave obligation or any part of that obligation otherwise would have been transferred to the employer, after expending all sick leave accrued with the employer, the 21st Century Learner may expend the sick leave accumulated with the prior employer, and the prior employer is responsible for paying the cost of the sick leave expended by the 21st Century Learner Fellow at a rate equivalent to the salary and benefits paid to the 21st Century Learner Fellow at the time his or her employment with the prior employer ended.

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§18A-3-12. Technology integration specialists.

The Legislature finds that technology integration specialists are becoming more crucial as technology plays a continuously increasing role in the education of students. In order to address the need for more technology integration specialists, the teacher preparation programs in this state shall cooperate with the state board to ensure that:

(1) A portion of the technology integration hours required to apply for the Advanced Credential endorsed for Technology Integration Specialist is offered at each teacher preparation program while students are still working toward their teaching degree;

(2) Teacher education program students are aware of the option of attaining a Technology Integration Specialist Advanced Credential and Temporary Authorization early enough so that they can take advantage of the hours offered; and

(3) Alternative education programs are established by the teacher preparation programs to assist teachers who have already received their teaching certification attain the required hours necessary to earn a Technology Integration Specialist Advanced Credential. These alternative education programs are separate from programs required to be established by section one-a of this article.

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§18A-3-13. Training course for principals in public schools; informing teachers of due process; IEP format.

(a) *Training*. – Principals who are employed in public schools, appropriate central office personnel, superintendent, and county board of education members shall receive in-person training on the Individuals with Disability Education Act (IDEA), federal regulations and West Virginia State Board of Education Policy 2419 "Regulations for the Education of Students with Exceptionalities". Specifically, this training must include the understanding of a students' Least Restrictive Environment (LRE), student discipline procedures and requirements, and parental rights and due process safeguards. This training shall also include the following information:

(1) Maximum class size for instructional periods by programmatic level and level of service needs for students with disabilities;

(2) Extenuating circumstances for submitting a waiver request when student numbers exceed staffing ratios;

(3) Teacher's rights for advocating for students, procedural rights documentation, and all protections set forth under §18-20-1c;

(4) Classroom teachers' rights and protections that they may not be reprimanded for advocating for their student(s); and

(5) Information related to local advocacy agencies and local United States Department of Education funded advocacy agencies.

(b) *Time period*. – This training shall be conducted for principal, appropriate central office personnel, Superintendents, and county board of education members before December 31, 2025, and following subsequent revisions to IDEA, federal regulations and/or West Virginia State Board of Education Policy 2419 "Regulations for the Education of Students with Exceptionalities". Newly employed personnel and elected or appointed county board of education members shall receive this training within 30 days thereof.

(c) *Teacher protections and rights*. – Each principal and county board members shall inform teachers, in person, of their rights; including but not limited to:

(1) The documentation process within a 45-day grading period for teachers;

(2) The rights of teachers when it comes to informing parents of local advocates who can come to the Individualized Education Program ("IEP") meetings;

(3) Protection methods in place for teachers who advocate for student placement; and

(4) All teacher protections and rights set forth under §18-20-1c.

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(d) *Individualized Education Program meeting format*. – In every Individualized Education Program meeting, a representative of the school shall explain to the guardian of the child, verbally, the process for identifying a student, the parents or guardians due process rights, teacher protections and procedural rights as set forth under §18-20-1c and local advocacy centers information and points of contact.

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§18A-3A-1

Repealed

Acts, 2018 Reg. Sess., Ch. 105.

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§18A-3A-2

Repealed

Acts, 2018 Reg. Sess., Ch. 105.

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§18A-3A-2a.

Repealed.

Acts, 2013 Reg. Sess., Ch. 18A.

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§18A-3A-2b

Repealed

Acts, 2018 Reg. Sess., Ch. 105.

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§18A-3A-3

Repealed

Acts, 2018 Reg. Sess., Ch. 105.

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§18A-3A-4.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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§18A-3A-5

Repealed

Acts, 2018 Reg. Sess., Ch. 105.

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§18A-3A-6.

Repealed.

Acts, 2013 Reg. Sess., Ch. 55.

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§18A-3B-1. Establishment of educators' professional standards board.

The Legislature hereby finds and declares that in order to more fully provide for a thorough and efficient system of free schools within the state it is necessary to establish an educators' professional standards board. The board will be responsible for governing the education profession, including the establishment of standards for entering the education profession, and remaining a member of the education profession. The board shall also establish standards for institutions of higher education engaged in teacher preparation programs.

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§18A-3B-2. Educators' professional standards board; composition; appointment; terms of members.

(a) There is created an educators' professional standards board consisting of nine members appointed by the Governor, with the advice and consent of the Senate.

(b) The term of office for each member is three years except that the original term of three members, including not more than one teacher, shall be for one year, and the original term of three members, including not more than two teachers, shall be for two years.

(c) Any member who, through change of employment standing or other circumstances, no longer meets the criteria for the position to which the member was appointed shall no longer be eligible to serve in that position, and the position on the commission shall become vacant sixty days following the member's change in circumstances.

(d) The membership of the educators' professional standards board shall consist of: One classroom teacher currently employed by a county board of education teaching vocational education; one classroom teacher currently employed by a county board of education teaching in an elementary school; one classroom teacher currently employed by a county board of education teaching in a middle school; one classroom teacher currently employed by a county board of education teaching in a secondary school; one classroom teacher currently employed by a county board of education teaching special education; the state superintendent of schools or his or her designee; one elementary school or secondary school principal currently employed by a county board of education; one county superintendent of schools currently employed by a county board of education; and one administrator or faculty member representing a public college or university in West Virginia.

No more than five members of the board may belong to the same political party nor reside in the same congressional district. Members of the board must have been actively engaged in teaching, supervising or administering in the public schools or in approved teacher education institutions in West Virginia for the period of five years immediately preceding appointment. In addition, members appointed to represent classroom teachers under this section must hold valid West Virginia teaching certificates other than permits.

(e) A member of the board shall receive no compensation for his or her services as a member, but subject to any other applicable law regulating travel and other expenses for state officer, he or she shall receive his or her actual and necessary travel and other expenses incurred in the performance of his or her official duties: Provided, That any member who is an employee of a county board of education shall be released by his or her employer to attend board meetings without loss of salary or personal leave.

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§18A-3B-3. Powers and duties.

Prior to January 1, 1995, the professional standards board shall develop a plan and propose legislation which will expand the powers and duties of the professional standards board to include the following: (1) Establish and maintain standards and requirements for obtaining and maintaining a license for teaching; (2) issue, renew, suspend, and revoke teaching licenses; (3) hear appeals regarding application, renewal, suspension or revocation of licenses; (4) enter into reciprocity agreements to provide for licensing of applicants from other states or nations; (5) set standards, approve, and evaluate teacher preparation programs; (6) adopt standards for examinations and assessments to assure eligibility for licenses to enter the profession of teaching; (7) create other actions that relate to the improvement of instruction through teacher education and professional development and to attract qualified candidates for teacher training from among the citizens of West Virginia; and (8) perform other actions that relate to the improvement of instruction through teacher education and professional development and to attract qualified candidates for teacher training from among the citizens of West Virginia.

On or before January 1, 1995, the board shall submit copies of the proposed legislation to the Governor, President of the Senate, Speaker of the House of Delegates and the Legislative Oversight commission on education accountability.

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§18A-3C-1. Findings; purposes and definition.

(a) The Legislature makes the following findings:

(1) Processes set forth in this article for the performance evaluation of professional personnel and the induction and professional growth of teachers and leaders are not intended to make up for substandard initial preparation, but instead are intended to build on a solid foundation created by the teacher and principal preparation programs. Therefore, the Legislature expects the teacher preparation programs to graduate teachers and leaders who can perform at a level that increases student achievement. The Legislature expects that the processes set forth in this article will allow a teacher and principal to excel beyond that level in the classroom and in school leadership positions;

(2) The comprehensive system of support provided in this article should be implemented in a way that effectively provides for the professional growth of teachers and principals;

(3) In order for the comprehensive system of support to much more effectively provide for the professional growth of teachers and principals, professional development resources must be focused in the most cost effective manner on the unique needs of individual schools, including their professional personnel evaluation data, to increase the school's capacity to improve student performance and progress; and

(4) Although the quality of the teacher is extremely important to the academic achievement of students, students cannot learn if they are not present to receive the instruction. Therefore, attending school on a regular basis is of utmost importance to the academic success of students.

(b) The purpose of this article is to create a comprehensive infrastructure that routinely supports a continuous process for improving teaching and learning. Its focus is on developing strong teaching and school leadership, without which effective learning does not occur. The general components of this infrastructure include the following:

(1) High-quality teacher and principal preparation, induction, and evaluation;

(2) Universal support for emerging teachers and principals including comprehensive induction and support for (A) Beginning teachers, student teachers, teachers teaching in assignments for which they have less than a full professional credential, and teacher candidates pursuing certification through an alternative route; and (B) beginning principals, assistant principals, and vocational administrators, and those of them beginning a new assignment at a school with a significantly different grade level configuration;

(3) Evaluation of the performance of teachers and leaders in demonstrating high quality professional practice, leadership, and collaboration and the resulting growth in student learning;

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(4) Focused improvement in teaching and learning through the use of evaluation data to inform the delivery of professional development and additional supports to improve teaching based on the evaluation results and to inform the need for improvements in teacher preparation programs; and

(5) The creation of a leadership culture that seeks and builds powerful alliances among all stakeholders focused on continuous growth in student learning.

(c) For purposes of this article "professional personnel" includes classroom teachers, assistant principals, and principals as defined in §18A-1-1 of this code.

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§18A-3C-2. Performance evaluations of professional personnel.

(a) The provisions of this section govern the performance evaluation of classroom teachers, principals and assistant principals employed in public schools and school systems. To the extent that this section conflicts with the provisions of §18A-2-12 of this code relating to professional personnel performance evaluations, this section shall govern.

(b) Before July 1, 2018, the state board shall adopt a legislative rule in accordance with §29A-3B-1 *et seq*. of this code, for annually evaluating the performance of each professional person. The rule shall provide for performance evaluations of professional personnel to be conducted in accordance with this section in each school and school system.

(c)(1) The process adopted by the state board for evaluating the performance of classroom teachers shall incorporate at least the following:

(A) Alignment with the West Virginia Professional Teaching Standards adopted by the state board that establish the foundation for educator preparation, teacher assessment, and professional development throughout the state;

(B) Employment of the professional teaching standards to provide explicit and extensive measures of the work of teaching and what teachers must know and be able to do and provide evaluative measures of educator performance; and

(C) The use of two pieces of evidence at two points in time over the instructional term to demonstrate student learning as an indicator of educator performance.

(2) Eighty percent of the evaluation shall be based on an appraisal of the educator's ability to perform the critical standard elements of the professional teaching standards. The appraisal shall include conferences with the evaluator reinforced through observation. Twenty percent of the evaluation shall be based on evidence of the learning of the students assigned to the educator in accordance with paragraph (C), subdivision (1) of this subsection.

(d)(1) The process adopted by the state board for evaluating the performance of principals and assistant principals shall include at least the following:

(A) Alignment with the West Virginia Professional Leadership Standards adopted by the state board establishing the responsibility of principals for the collective success of their school including the learning, growth, and achievement of students, staff, and self;

(B) Employment of the professional leadership standards to provide explicit and extensive measures of the work of school leadership focused on the continuous improvement of teaching and learning. The process shall include conferences and goal setting with the superintendent or his or her designee and the use of a survey of stakeholders to assist in identifying the needs and establishing the goals for the school and the principal. The survey shall be distributed to at least the following stakeholders: Students, parents, teachers, and service personnel. The evaluative measures shall include the use of data, evidence, and

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artifacts to confirm the principal's performance on achieving the goals established by the principal and superintendent; and

(C) The use of two pieces of evidence at two points in time over the instructional term to demonstrate the growth in student learning at the school.

(2) Eighty percent of the evaluation shall be based on an appraisal of the principal's or the assistant principal's ability to perform the critical standard elements of the professional leadership standards and achieve the goals established for the principal and the school. Twenty percent of the evaluation shall be based on evidence of the learning of the students assigned to the school in accordance with paragraph (C), subdivision (1) of this subsection.

(e) Evaluations of the performance of professional personnel shall serve the following purposes:

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

(2) Serve as the basis for providing professional development specifically targeted on the area or areas identified through the evaluation process as needing improvement. If possible, this targeted professional development should be delivered at the school site using collaborative processes, mentoring or coaching or other approaches that maximize use of the instructional setting;

(3) Serve as the basis for establishing priorities for the provision of county-level professional development when aggregate evaluation data from the county's schools indicates an area or areas of needed improvement;

(4) Serve as a basis for informing the teacher preparation programs in this state of an area or areas of needed improvement in the programs, or informing a specific program of needed improvement, when state-level aggregate evaluation data indicates that beginning teachers who have graduated from the program have specific weaknesses;

(5) Provide an indicator of level of performance of the professional personnel and, if the evaluation indicates any area, quality, skill, or level of performance is less than accomplished, provide an explanation and data to support the evaluation;

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

(7) Serve as documentation for a dismissal on the grounds of unsatisfactory performance.

(f) The rule adopted by the state board shall include standards for the performance of professional personnel and the criteria to be used to determine whether their performance meets the standards. The rule also shall include guidance on best practices for providing time within the school day for teachers and leaders subject to performance evaluations

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under this section to participate in the collaborative mentoring or coaching and planning processes necessary for execution of the performance evaluation process and achieving advanced levels of performance.

(g) The rule adopted by the state board shall include provisions for written improvement plans when necessary to improve the performance of the professional personnel. The written improvement plan shall be specific as to what improvements are needed in the performance of the professional personnel and shall clearly set forth recommendations for improvements including recommendations for additional education and training of professionals subject to recertification. Professional personnel whose performance evaluation includes a written improvement plan shall be given an opportunity to improve his or her performance through the implementation of the plan.

(h) A professional person whose performance is considered to be unsatisfactory shall be given written notice of his or her deficiencies. A written improvement plan to correct these deficiencies shall be developed by the employing county board and the employee. The professional person shall be given a reasonable period of time, not exceeding 12 months, to accomplish the requirements of the improvement plan and shall receive a written statement of the resources and assistance available for the purposes of correcting the deficiencies. If the next performance evaluation shows that the professional is now performing satisfactorily, no further action may be taken concerning the original performance evaluation. If the evaluation shows that the professional is still not performing satisfactorily, the evaluator either shall make additional written recommendations for improvement or may recommend the dismissal of the professional personnel in accordance with the provisions of §18A-2-8 of this code.

(i) No person may evaluate professional personnel for the purposes of this section unless the person has an administrative certificate issued by the state superintendent and has successfully completed education and training in evaluation skills approved by the state board which will enable the person to make fair, professional, and credible evaluations of the personnel whom the person is responsible for evaluating.

(j) Prior to implementation of the evaluation process pursuant to this section at a school, each affected employee shall be given training to ensure that the employees have a full understanding of the purposes, instruments, and procedures used in evaluating their performance. Thereafter, this training shall be held annually at the beginning of the employment term.

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§18A-3C-3. Comprehensive system for teacher and leader induction and professional growth.

(a) The intent of the Legislature is to allow for local-level implementation of comprehensive systems of support for building professional practice consistent with sound educational practices and resources available. In this regard, it is the intent of the Legislature that the comprehensive systems of support shall incorporate support for improved professional performance that begins with meaningful assistance for beginning teachers and leaders and also is targeted on deficiencies identified through the educator personnel evaluation process and other professional development needs identified in the strategic plans for continuous improvement of schools and school systems. Further, because of significant variability among the counties, not only in the size of their teaching force, distribution of facilities and available resources, but also because of their varying needs, the Legislature intends for the implementation of this section to be accomplished in a manner that provides adequate flexibility to the counties to design and implement a comprehensive system of support for improving professional performance that best achieves the goals of this section within the county. Finally, because of the critical importance of ensuring that all teachers perform at the accomplished level or higher in the delivery of instruction that at least meets the West Virginia Professional Teaching Standards and because achieving this objective at a minimum entails providing assistance to address the needs as indicated by the data informed results of annual performance evaluations, including the self-assessed needs of the teachers themselves, the Legislature expects the highest priority for county and state professional development will be on meeting these needs and that the comprehensive systems of support for improving professional practice will reflect substantial redirection of existing professional development resources toward this highest priority.

(b) Each county board shall ensure that the results on the comprehensive statewide student assessment for the students taught by each teacher are provided to that teacher so that the teacher can see the performance of the students he or she taught the previous school year.

(c) On or before July 1, 2018, the state board shall publish guidelines on the design and implementation of a county-level comprehensive system of support for improving professional practice. The purpose of the guidelines is to assist the county board with the design and implementation of a system that best achieves the goals of this section within the county. The guidelines may include examples of best practices and resources available to county boards to assist them with the design and implementation of a comprehensive system of support and may include guidelines for the design and implementation of a teacher leader framework committed to improving the quality of instruction.

(d) Effective for the school year beginning July 1, 2018, and thereafter, a county board is not eligible to receive state funding appropriated for the purposes of this section or any other provision of law related to beginning teacher and principal internships and mentor teachers and principals unless it has adopted a plan for implementation of a comprehensive system of support for improving professional practice, the plan has been verified by the state board as meeting the requirements of this section and the county is implementing the plan. The plan

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shall address the following:

(1) The manner in which the county will provide the strong school-based support and supervision that will assist beginning teachers in developing instructional and management strategies, procedural and policy expertise, and other professional practices they need to be successful in the classroom and perform at the accomplished level. Nothing in this subdivision prohibits a school or school system that was granted an exception or waiver from §18A-3-2c of this code prior to the effective date of this section from continuing implementation of the program in accordance with the exception or waiver;

(2) The manner in which the county will provide the strong support and supervision necessary to assist teachers employed by the county who are less than fully certified for the teaching position in which they are employed that will include an emphasis on grade-level content, standards driven instruction, research-based instructional strategies, and mentoring support consistent with the West Virginia Professional Teaching Standards.

(3) The manner in which the county will provide the strong support and supervision that will assist beginning principals in developing instructional leadership, supervisory and management strategies, procedural and policy expertise, and other professional practices they need to be successful in leading continuous school improvement and performing at the accomplished level or above;

(4) The manner in which the county in cooperation with the teacher preparation programs in this state will provide strong school-based support and assistance necessary to make student and resident teaching a productive learning experience;

(5) The manner in which the county will use the data from the educator performance evaluation system to serve as the basis for providing professional development specifically targeted on the area or areas identified through the evaluation process as needing improvement. If possible, this targeted professional development should be delivered at the school site using collaborative processes, mentoring or coaching or other approaches that maximize use of the instructional setting;

(6) The manner in which the county will use the data from the educator performance evaluation system to serve as the basis for establishing priorities for the provision of county-level professional development when aggregate evaluation data from the county's schools indicates an area or areas of needed improvement;

(7) If a county uses master teachers, mentors, academic coaches, or any other approaches using individual employees to provide support, supervision, or other professional development or training to other employees for the purpose of improving their professional practice, the manner in which the county will select each of these individual employees based upon demonstrated superior performance and competence as well as the manner in which the county will coordinate support for these employees. If the duties of the position are to provide mentoring to an individual teacher at only one school, then priority shall be

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given to applicants employed at the school at which those duties will be performed;

(8) The manner in which the county will use local resources available, including, but not limited to, funds for professional development and academic coaches, to focus on the priority professional development goals of this section;

(9) The manner in which the county will adjust its scheduling, use of substitutes, collaborative planning time, calendar, or other measures as may be necessary to provide sufficient time for professional personnel to accomplish the goals of this section as set forth in the county's plan; and

(10) The manner in which the county will monitor and evaluate the effectiveness of implementation and outcomes of the county system of support for improving professional practice.

(e) Effective the school year beginning July 1, 2020, and thereafter, appropriations for supporting county-level implementation of the comprehensive systems of support for teacher and leader induction and professional growth pursuant to §18-9A-10 of this code and any new appropriation which may be made for the purposes of this section shall be expended by county boards only to accomplish the activities as set forth in their county plan pursuant to this section. Effective the school year beginning July 1, 2020, and thereafter, any employee service or employment as a mentor is not subject to the provisions of this code governing extra duty contracts. A county board may adopt a teacher leader framework designed to accomplish the purposes of this section related to teacher induction and professional growth and, if the county board adopts a county salary supplement pursuant to §18A-4-5a of this code to provide additional compensation to teachers who, in addition to teaching duties, are assigned other duties for new teacher induction, improving professional practice and furthering professional growth among teachers as set forth in the county’s comprehensive system of support, then appropriations made for supporting the purposes of this section may be applied to that salary supplement and other associated costs which may include a reduction in the teaching load of the teacher leader: *Provided*, That effective July 1, 2024, and thereafter, any additional amount paid to a teacher pursuant to this section shall only be for the duration of any service provided under this section and not be considered salary for the purposes of the computation of an annuity under §18-7A-26 of this code.

(f) The Department of Education shall assist county boards with the design and implementation of a teacher leader framework to accomplish the teacher induction and professional growth aspects of their comprehensive systems of support pursuant to this section. The goals of a teacher leader framework are to achieve:

(1) Increased student achievement and growth through the development of a shared leadership structure at the school level;

(2) Broader dissemination and use of effective teacher strategies through an increase in teacher collaboration; and

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(3) Stronger and more positive school and district culture through the development and retention of highly effective teachers.

(g) The Department of Education may form networks among schools or school systems, or both, of comparable size and interests for the design and implementation of teacher leader frameworks that are:

(A) Driven by varying district and school needs;

(B) Related to existing state and district initiatives;

(C) Designed to improve student achievement and growth; and

(D) Designed to fit district size, current culture for collaboration, and funding capacity.

(h) A teacher leader framework adopted by a county board must:

(1) Create specific roles and responsibilities, eligibility requirements, and compensation plans for each teacher leader position, and clearly communicate these to teacher leaders, administrators, and other stakeholders;

(2) Provide regular, targeted professional learning opportunities for teacher leaders, and encourage redelivery within their respective schools;

(3) Provide time and opportunities for teacher leaders to collaborate with administrators, curriculum staff, other teacher leaders, and teachers;

(4) Monitor and evaluate the effectiveness of the teacher leader program through surveys from school administrators and school faculty; and

(5) Include teacher leaders in the school improvement planning process.

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.

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(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.

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§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.

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

(a) For school year 2026-2027, 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 Exp	4th Class	3rd Class	2nd Class	A.B.	A.B. 15	M.A.	M.A. 15	M.A. 30	M.A. 45	Doctorate
0	40,617	41,306	41,572	43,015	43,776	45,543	46,304	47,065	47,826	48,861
1	40,945	41,634	41,900	43,533	44,294	46,062	46,823	47,583	48,344	49,379
2	41,274	41,962	42,228	44,052	44,813	46,580	47,341	48,102	48,863	49,898
3	41,602	42,290	42,556	44,571	45,331	47,099	47,860	48,620	49,381	50,416
4	42,174	42,862	43,128	45,333	46,094	47,862	48,623	49,383	50,144	51,179
5	42,502	43,190	43,456	45,852	46,613	48,380	49,141	49,902	50,663	51,698
6	42,830	43,518	43,784	46,370	47,131	48,899	49,660	50,420	51,181	52,216
7	43,158	43,847	44,112	46,889	47,650	49,417	50,178	50,939	51,700	52,735
8	43,486	44,175	44,441	47,407	48,168	49,936	50,697	51,457	52,218	53,253
9	43,814	44,503	44,769	47,926	48,687	50,454	51,215	51,976	52,737	53,772
10	44,143	44,831	45,097	48,446	49,206	50,974	51,735	52,496	53,256	54,291
11	44,471	45,159	45,425	48,964	49,725	51,493	52,253	53,014	53,775	54,810
12	44,799	45,487	45,753	49,483	50,243	52,011	52,772	53,533	54,293	55,328
13	45,127	45,815	46,081	50,001	50,762	52,530	53,290	54,051	54,812	55,847
14	45,455	46,143	46,409	50,520	51,280	53,048	53,809	54,570	55,330	56,365
15	45,783	46,471	46,737	51,038	51,799	53,567	54,327	55,088	55,849	56,884
16	46,111	46,799	47,065	51,557	52,317	54,085	54,846	55,607	56,367	57,402
17	46,439	47,128	47,393	52,075	52,836	54,604	55,365	56,125	56,886	57,921
18	46,767	47,456	47,722	52,594	53,355	55,122	55,883	56,644	57,405	58,440
19	47,095	47,784	48,050	53,112	53,873	55,641	56,402	57,162	57,923	58,958
20	47,423	48,112	48,378	53,631	54,392	56,159	56,920	57,681	58,442	59,477
21	47,752	48,440	48,706	54,149	54,910	56,678	57,439	58,199	58,960	59,995
22	48,080	48,768	49,034	54,668	55,429	57,196	57,957	58,718	59,479	60,514
23	48,408	49,096	49,362	55,187	55,947	57,715	58,476	59,236	59,997	61,032
24	48,736	49,424	49,690	55,705	56,466	58,234	58,994	59,755	60,516	61,551
25	49,064	49,752	50,018	56,224	56,984	58,752	59,513	60,274	61,034	62,069
26	49,392	50,080	50,346	56,742	57,503	59,271	60,031	60,792	61,553	62,588
27	49,720	50,408	50,674	57,261	58,021	59,789	60,550	61,311	62,071	63,106
28	50,048	50,737	51,002	57,779	58,540	60,308	61,068	61,829	62,590	63,625
29	50,376	51,065	51,331	58,298	59,058	60,826	61,587	62,348	63,108	64,143
30	50,704	51,393	51,659	58,816	59,577	61,345	62,105	62,866	63,627	64,662

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Years Exp	4th Class	3rd Class	2nd Class	A.B.	A.B. 15	M.A.	M.A. 15	M.A. 30	M.A. 45	Doctorate
31	51,033	51,721	51,987	59,335	60,096	61,863	62,624	63,385	64,145	65,180
32	51,361	52,049	52,315	59,853	60,614	62,382	63,143	63,903	64,664	65,699
33	51,689	52,377	52,643	60,372	61,133	62,900	63,661	64,422	65,183	66,218
34	52,017	52,705	52,971	60,890	61,651	63,419	64,180	64,940	65,701	66,736
35	52,345	53,033	53,299	61,409	62,170	63,937	64,698	65,459	66,220	67,255

(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;

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(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.

WV Legislature

§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

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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.

WV Legislature

§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-

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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

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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.

WV Legislature

§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.

WV Legislature

(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

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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.

WV Legislature

§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

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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.

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§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.

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§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.

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§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.

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§18A-4-5c.

Repealed.

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

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§18A-4-5d.

Repealed.

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

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§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.

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§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.

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§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

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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.

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(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;

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(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

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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

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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

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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.

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§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.

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§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.

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§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

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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;

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"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

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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;

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"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

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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;

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"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;

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"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, shader, 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;

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"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;

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"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,

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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:

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(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

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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.

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

(a) Effective July 1, 2026, the minimum monthly pay for each service employee shall be as follows:

(1) For school year 2026-2027 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							
Exp.	A	B	C	D	E	F	G	H
0	2,464	2,485	2,527	2,580	2,633	2,696	2,728	2,801
1	2,496	2,518	2,559	2,612	2,666	2,729	2,760	2,834
2	2,529	2,550	2,592	2,645	2,698	2,761	2,793	2,866
3	2,561	2,583	2,625	2,678	2,731	2,794	2,826	2,899
4	2,594	2,616	2,657	2,710	2,763	2,827	2,858	2,933
5	2,627	2,648	2,690	2,743	2,796	2,859	2,891	2,965
6	2,659	2,681	2,724	2,776	2,829	2,892	2,924	2,998
7	2,693	2,713	2,756	2,808	2,861	2,925	2,956	3,031
8	2,726	2,746	2,789	2,841	2,894	2,957	2,989	3,063
9	2,758	2,779	2,822	2,875	2,927	2,990	3,021	3,096
10	2,791	2,812	2,854	2,907	2,959	3,024	3,055	3,129
11	2,824	2,845	2,887	2,940	2,992	3,056	3,088	3,161
12	2,856	2,878	2,919	2,973	3,026	3,089	3,120	3,194
13	2,889	2,910	2,952	3,005	3,058	3,121	3,153	3,227
14	2,922	2,943	2,985	3,038	3,091	3,154	3,186	3,259
15	2,954	2,976	3,017	3,070	3,123	3,187	3,218	3,292
16	2,987	3,008	3,050	3,103	3,156	3,219	3,251	3,325
17	3,019	3,041	3,084	3,136	3,189	3,252	3,284	3,358
18	3,052	3,074	3,116	3,168	3,221	3,285	3,316	3,391
19	3,086	3,106	3,149	3,201	3,254	3,317	3,349	3,423
20	3,118	3,139	3,182	3,235	3,287	3,350	3,382	3,457
21	3,151	3,171	3,214	3,267	3,319	3,383	3,414	3,491
22	3,184	3,205	3,247	3,300	3,352	3,416	3,448	3,523
23	3,216	3,238	3,280	3,333	3,386	3,450	3,482	3,557
24	3,249	3,270	3,312	3,365	3,418	3,484	3,515	3,591
25	3,282	3,303	3,345	3,398	3,452	3,516	3,549	3,623
26	3,314	3,336	3,377	3,432	3,486	3,550	3,581	3,657
27	3,347	3,368	3,410	3,464	3,518	3,582	3,615	3,690
28	3,380	3,401	3,444	3,498	3,552	3,616	3,649	3,724
29	3,412	3,435	3,477	3,530	3,585	3,650	3,681	3,758
30	3,446	3,467	3,511	3,564	3,618	3,682	3,715	3,791

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31	3,479	3,501	3,545	3,598	3,652	3,716	3,749	3,824
32	3,513	3,534	3,577	3,631	3,684	3,750	3,781	3,858
33	3,547	3,567	3,611	3,665	3,718	3,782	3,815	3,891
34	3,579	3,601	3,645	3,699	3,752	3,816	3,849	3,924
35	3,613	3,635	3,677	3,731	3,784	3,850	3,882	3,958
36	3,647	3,668	3,711	3,765	3,819	3,883	3,916	3,990
37	3,679	3,702	3,745	3,799	3,853	3,917	3,949	4,024
38	3,713	3,734	3,777	3,831	3,885	3,950	3,982	4,058
39	3,747	3,768	3,811	3,865	3,919	3,983	4,016	4,090
40	3,779	3,802	3,844	3,898	3,953	4,017	4,049	4,124

(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:

CLASS TITLE	PAY GRADE
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

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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

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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-Receptionist	D
Truck Driver	D
Warehouse Clerk	C
Watchman	B
Welder	F
WVEIS Data Entry and 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;

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(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.

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(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

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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.

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§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.

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(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

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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

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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.

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(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.

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§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.

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§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.

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§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.

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(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

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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.

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(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.

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§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

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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.

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§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

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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

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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

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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.

WV Legislature

§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.

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(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.

WV Legislature

§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.

WV Legislature

§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

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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

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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.

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§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.

WV Legislature

(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.

WV Legislature

§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.

WV Legislature

(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.

WV Legislature

§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.

WV Legislature

§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.

WV Legislature

§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

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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

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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

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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.

WV Legislature

§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

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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:

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(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.

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§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

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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.

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§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.

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§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.

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§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.

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§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

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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.

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§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.

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§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.

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§18A-5-1. Authority of teachers and other school personnel; exclusion of students having infectious diseases; suspension or expulsion of disorderly students; corporal punishment abolished.

(a) The teacher shall stand in the place of the parent(s), guardian(s), or custodian(s) in exercising authority over the school and has control of all students enrolled in the school from the time they reach the school until they have returned to their respective homes, except where transportation of students is provided, the driver in charge of the school bus or other mode of transportation shall exercise such authority and control over the students while they are in transit to and from the school.

(b) Subject to the rules of the state board, the teacher shall exclude from the school any student known to have, or who is suspected of having, any infectious disease, or any student who has been exposed to any infectious disease and shall immediately notify the proper health officer or medical inspector of the exclusion. Any student so excluded may not be readmitted to the school until he or she has complied with all the requirements of the rules governing those cases or has presented a certificate of health signed by the medical inspector or other proper health officer.

(c) This subsection is subject to the requirements of subsections (j) through (p) of this section. The teacher may exclude from his or her classroom or school bus any student who is guilty of disorderly conduct; who in any manner interferes with an orderly educational process; who behaves in a manner that obstructs the teaching or learning process of others in the classroom; who threatens, abuses, or otherwise intimidates or attempts to intimidate a school employee or a student; who willfully disobeys a school employee; or who uses abusive or profane language directed at a school employee. Any student excluded shall be placed under the control of the principal of the school or a designee. The excluded student may be admitted to the classroom or school bus only after a school counselor, school social worker, school psychologist, or behavior interventionist develops a behavioral plan for re-entry to the classroom for the student and when the principal, or a designee, provides written certification to the teacher that the student may be readmitted and specifies the specific type of disciplinary action, if any, that was taken. If the principal finds that disciplinary action is warranted, he or she shall provide written and, if possible, telephonic notice of the action to the parent(s), guardian(s), or custodian(s). When a student is excluded from a classroom or a school bus two times in one semester, and after exhausting all reasonable methods of classroom discipline provided in the school discipline plan, the student may be readmitted to the classroom or the school bus only after the principal, teacher, school counselor, or school social worker, and, if possible, the parent(s), guardian(s), or custodian(s) of the student have held a conference to discuss the student's disruptive behavior patterns, a school social worker, behavior specialist, board certified behavior analyst, school psychologist, or other qualified employee with expertise in the behavioral area establishes and implements a behavioral plan, and the teacher and the principal agree on a course of discipline for the student and inform the parent(s), guardian(s), or custodian(s) of the course of action. Thereafter, if the student's disruptive behavior persists,

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upon the teacher's request, the principal may, to the extent feasible, transfer the student to another setting. The Legislature finds that isolating students or placing them in alternative learning centers or licensed behavioral health agencies may be the best setting for chronically disruptive students. The county board shall create more alternative learning centers, expand its capacity for alternative placements, or partner with a licensed behavioral health agency, subject to funding, to correct these students' behaviors so they can return to a regular classroom without engaging in further disruptive behavior. Students in alternative learning centers, in alternative placements, or with a licensed behavioral health agency shall meet regularly with a school social worker, behavior specialist, board certified behavior analyst, school psychologist, or other qualified employee with expertise in the behavioral area to address the behavioral and mental health concerns associated with the referral to the alternative learning center and to assist in developing a transition plan back to the classroom and assist with that transition.

(d) Notwithstanding anything in this section to the contrary, nothing herein may be construed to conflict with or be applied to conflict with the provisions of the Individuals with Disabilities Education Act, 20 U.S.C. §1400, *et seq*. or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794.

(e) The Legislature finds that suspension from school is not appropriate solely for a student's failure to attend class. Therefore, a student may not be suspended from school solely for not attending class. Other methods of discipline may be used for the student which may include, but are not limited to, detention, extra class time, or alternative class settings.

(f) Corporal punishment of any student by a school employee is prohibited.

(g) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions. These policies shall encourage the use of alternatives to discipline practices, provide for the training of school personnel by school social workers, behavior specialists, board certified behavior analysts, school psychologists, and other qualified employees with expertise in the behavioral area in alternatives to discipline practices, and provide for encouraging the involvement of parent(s), guardian(s), or custodian(s) in the maintenance of school discipline. To promote a teaching and learning environment free from substantial classroom disturbances, each county board shall ensure that each school implements a tier system policy, with teacher input, to provide a framework for student behaviors and punishments. The policy shall be clear and concise with specific guidelines and examples. The principal shall support the teacher in the discipline of the students if proper cause and documentation is provided following the schoolwide discipline policy. The teacher may not be reprimanded if their actions are legal and within the structure of the county board's policy for student behavior and punishment. The county board policies shall also include an appeal procedure whereby a teacher may appeal to the county superintendent if a school principal refuses to allow the exclusion of a student from the classroom or if a teacher believes the school principal has prematurely ended the exclusion of a student from the classroom. The county boards shall provide for the

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immediate incorporation and implementation in schools of a preventive discipline program which may include the responsible student program and a student involvement program, which may include the peer mediation program, devised by the state board. Each county board may modify those programs to meet the particular needs of the county. The county boards shall provide in-service training for teachers and principals relating to assertive discipline procedures and conflict resolution. The county boards also may establish cooperatives with private entities to provide middle educational programs or behavior intervention programs, which may include programs focusing on developing individual coping skills, conflict resolution, anger control, self-esteem issues, stress management and decision making for students, and any other program related to preventive discipline.

(h) For the purpose of this section:

"Principal" means the principal, assistant principal, vice principal, or the administrative head of the school, or a professional personnel designee of the principal or the administrative head of the school.

“School counselor” has the same meaning as provided for in §18-5-18b.

“School social worker” has the same meaning as “social worker” as provided for in §18-1-1.

“School psychologist” has the same meaning as “licensed school psychologist” as provided for in §30-21-2.

"Student" includes any child, youth, or adult who is enrolled in any instructional program or activity conducted under board authorization and within the facilities of, or in connection with, any program under public school direction: *Provided*, That, in the case of adults, the student–teacher relationship shall terminate when the student leaves the school or other place of instruction or activity;

"Teacher" means all professional educators as defined in §18A-1-1 of this code and includes the driver of a school bus or other mode of transportation.

(i) Teachers shall exercise other authority and perform other duties prescribed for them by law or by the rules of the state board not inconsistent with the provisions of this chapter and Chapter 18 of this code.

(j) When a grade kindergarten through six teacher in an elementary setting, or pre-K teacher at a publicly funded pre-K facility, determines that the behavior of the student is violent, threatening, or intimidating toward staff or peers, or creates an unsafe learning environment or impedes on other students' ability to learn in a safe environment, the student shall be referred to the school counselor, school social worker, school psychologist, or behavior interventionist who shall conduct a functional behavioral assessment to assess underlying causes of the student’s behavior. The school counselor, school social worker, school psychologist, or behavior interventionist shall prioritize and use evidence-based

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interventions and supports to establish a behavioral plan for the student. The behavioral plan shall be followed for a period of two weeks. After that, a re-evaluation of the student's behavior shall be conducted and if adequate progress is being made, the behavioral plan shall continue. If the evaluation does not show adequate progress, the principal, teacher, and school counselor, school social worker, school psychologist, or behavior interventionist shall determine whether the plan needs to be changed. If the plan is amended and, after another period of two weeks, the student still has not shown adequate progress then the student shall be placed in a behavioral intervention program or with a licensed behavioral health agency the county has established, has partnered with another county board to establish, or has gained access to for its students through an agreement with another county board for the purpose of addressing such behaviors.

(k) "Violent, threatening, or intimidating" behavior by the student is defined as a behavior that seriously and materially interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity. Violent, threatening, or intimidating behaviors are further defined as those actions causing or intending to cause physical harm to the teacher, principal, school service personnel, or the students in the classroom setting.

(l) If the county board has not established, partnered with another county board to establish, or gained access through an agreement with another county board to a behavioral intervention program:

(1) The student shall be removed from the classroom immediately after the incident and removed from the presence of other students for the remainder of the school day;

(2) The parents shall be notified and shall pick the student up from school preferably immediately, but by the end of the day at the latest, upon which the student shall be considered suspended from school;

(3) If a student has to ride the bus home, that student shall ride the bus under the supervision of a principal, vice principal, or an individual designated by the principal to ensure the safety of the student, the bus driver, and other students on the bus;

(4) The student shall continue to be suspended for the next one to three school days while alternative learning accommodations are made;

(5) The student may be evaluated under Child Find and may be referred for a functional behavior analysis pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §1400, *et seq*.: *Provided*, That the student shall be referred to the student assistance team (SAT), 504 team, or IEP team at that school – whichever is most appropriate for that student – for an immediate intervention, or manifestation if the student has an IEP;

(6) The student shall receive his or her education through the alternative learning accommodations and may not return to school until a risk assessment is done;

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(7) After the risk assessment, the student's return to school shall be on a provisional basis for a period of five to 10 days. If another incident as described in this subsection occurs within that time frame, or repeated instances occur following the time frame, the student shall be subject to the provisions of §18A-5-1a for purposes of expulsion: *Provided*, That the expulsion shall not continue through two continuous semesters: *Provided further*, That the teacher may come to the expulsion hearing in instances where a student shows violent, threatening, or intimidating behavior;

(8) If the virtual school option is the agreed upon method of alternative education, then the student can begin the program at such time the decision is made; and

(9) Whether a student's behavior falls under the requirements of this subsection and whether the student is to be placed in an alternative learning environment for the remainder of the semester or school year pursuant to subdivision (6) of this subsection shall be at the discretion of the student's classroom teacher and principal or vice principal. If the principal or vice principal disagree with the actions of the teacher, the principal or vice principal may provide written documentation on their disagreement, the teacher may provide written documentation on their disagreement, and both the principal/vice principal or the teacher may appeal to the county superintendent.

(m) When a grade six through 12 teacher, excluding an elementary school teacher, determines that the behavior of the student is disorderly conduct, is interfering with an orderly educational process, or obstructs the teaching or learning process of others in the classroom:

(1) The student may be excluded from that teacher's classroom and, if excluded, may not re-enter that teacher's classroom for at least the remainder of the instructional day; and

(2) If the student is excluded pursuant to subdivision (1) of this subsection:

(A) The principal shall communicate with the teacher within 24 hours of the student being excluded from the teacher's classroom about the exclusion;

(B) The teacher has 24 hours to create an electronic record and place the report of this action into the West Virginia Education Information System without any repercussion to the teacher; and

(C) If the student is removed from a classroom a total of three times in one month for one or more of the behaviors set forth in this subsection, the student shall receive, as determined by the principal, an in-school suspension, an out-of-school suspension, or may be considered for placement in an alternative learning center or with a licensed behavioral health agency if one is available within the school district.

(n) For purposes of subsection (m) of this section, "disorderly or obstructive" behavior by the student is defined as a behavior that seriously and materially interferes with a teacher's

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ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(o) The State Board of Education shall promulgate a rule pursuant to §29A-3B-1 *et seq*. which adopts a statewide disciplinary policy: *Provided*, That if a county or school in this state has a behavioral interventionist, they may apply for a waiver from the statewide disciplinary policy upon a showing of continued positive educational progress from the existing county or school disciplinary policy currently in effect. "Positive educational progress" is defined as data that demonstrates a decrease in violent, threatening, intimidating, disorderly, and obstructive behavior. Such positive educational progress shall also demonstrate that students are maintaining the necessary educational benchmarks otherwise provided for in this code.

(p) For purposes of this section, school counselors, school social workers, school psychologists, or behavior interventionists may provide behavioral support to ensure the effectiveness of this section.

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§18A-5-1a. Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by students upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception; alternative education.

(a) A principal shall suspend a student from school or from transportation to or from the school on any school bus if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Violated the provisions of subsection (b), section fifteen, article two, chapter sixty-one of this code; (ii) violated the provisions of subsection (b), section eleven-a, article seven of said chapter; or (iii) sold a narcotic drug, as defined in section one hundred one, article one, chapter sixty-a of this code, on the premises of an educational facility, at a school-sponsored function or on a school bus. If a student has been suspended pursuant to this subsection, the principal shall, within twenty-four hours, request that the county superintendent recommend to the county board that the student be expelled. Upon such a request by a principal, the county superintendent shall recommend to the county board that the student be expelled. Upon such recommendation, the county board shall conduct a hearing in accordance with subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board shall expel the student.

(b) A principal shall suspend a student from school, or from transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section, has: (i) Committed an act or engaged in conduct that would constitute a felony under the laws of this state if committed by an adult; or (ii) unlawfully possessed on the premises of an educational facility or at a school-sponsored function a controlled substance governed by the Uniform Controlled Substances Act as described in chapter sixty-a of this code. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(c) A principal may suspend a student from school, or transportation to or from the school on any school bus, if the student, in the determination of the principal after an informal hearing pursuant to subsection (d) of this section: (i) Threatened to injure, or in any manner injured, a student, teacher, administrator or other school personnel; (ii) willfully disobeyed a teacher; (iii) possessed alcohol in an educational facility, on school grounds, a school bus or at any school-sponsored function; (iv) used profane language directed at a school employee or student; (v) intentionally defaced any school property; (vi) participated in any physical altercation with another person while under the authority of school personnel; or (vii)

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habitually violated school rules or policies. If a student has been suspended pursuant to this subsection, the principal may request that the superintendent recommend to the county board that the student be expelled. Upon such recommendation by the county superintendent, the county board may hold a hearing in accordance with the provisions of subsections (e), (f) and (g) of this section to determine if the student committed the alleged violation. If the county board finds that the student did commit the alleged violation, the county board may expel the student.

(d) The actions of any student which may be grounds for his or her suspension or expulsion under the provisions of this section shall be reported immediately to the principal of the school in which the student is enrolled. If the principal determines that the alleged actions of the student would be grounds for suspension, he or she shall conduct an informal hearing for the student immediately after the alleged actions have occurred. The hearing shall be held before the student is suspended unless the principal believes that the continued presence of the student in the school poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the student shall be suspended immediately and a hearing held as soon as practicable after the suspension.

The student and his or her parent(s), guardian(s) or custodian(s), as the case may be, shall be given telephonic notice, if possible, of this informal hearing, which notice shall briefly state the grounds for suspension.

At the commencement of the informal hearing, the principal shall inquire of the student as to whether he or she admits or denies the charges. If the student does not admit the charges, he or she shall be given an explanation of the evidence possessed by the principal and an opportunity to present his or her version of the occurrence. At the conclusion of the hearing or upon the failure of the noticed student to appear, the principal may suspend the student for a maximum of ten school days, including the time prior to the hearing, if any, for which the student has been excluded from school.

The principal shall report any suspension the same day it has been decided upon, in writing, to the parent(s), guardian(s) or custodian(s) of the student by regular United States mail. The suspension also shall be reported to the county superintendent and to the faculty senate of the school at the next meeting after the suspension.

(e) Prior to a hearing before the county board, the county board shall cause a written notice which states the charges and the recommended disposition to be served upon the student and his or her parent(s), guardian(s) or custodian(s), as the case may be. The notice shall state clearly whether the board will attempt at hearing to establish the student as a dangerous student, as defined by section one, article one of this chapter. The notice also shall include any evidence upon which the board will rely in asserting its claim that the student is a dangerous student. The notice shall set forth a date and time at which the hearing shall be held, which date shall be within the ten-day period of suspension imposed by the principal.

(f) The county board shall hold the scheduled hearing to determine if the student should be reinstated or should, under the provisions of this section, must be expelled from school. If the county board determines that the student should or must be expelled from school, it also may determine whether the student is a dangerous student pursuant to subsection (g) of this section. At this, or any hearing before a county board conducted pursuant to this section, the student may be represented by counsel, may call his or her own witnesses to verify his or her version of the incident and may confront and cross examine witnesses supporting the charge against him or her. The hearing shall be recorded by mechanical means unless recorded by a certified court reporter. The hearing may be postponed for good cause shown by the student but he or she shall remain under suspension until after the hearing. The state board may adopt other supplementary rules of procedure to be followed in these hearings. At the conclusion of the hearing the county board shall either: (1) Order the student reinstated immediately at the end of his or her initial suspension; (2) suspend the student for a further designated number of days; or (3) expel the student from the public schools of the county.

(g) A county board that did not intend prior to a hearing to assert a dangerous student claim, that did not notify the student prior to the hearing that a dangerous student determination would be considered and that determines through the course of the hearing that the student may be a dangerous student shall schedule a second hearing within ten days to decide the issue. The hearing may be postponed for good cause shown by the student, but he or she remains under suspension until after the hearing.

A county board that expels a student, and finds that the student is a dangerous student, may refuse to provide alternative education. However, after a hearing conducted pursuant to this section for determining whether a student is a dangerous student, when the student is found to be a dangerous student, is expelled and is denied alternative education, a hearing shall be conducted within three months after the refusal by the board to provide alternative education to reexamine whether or not the student remains a dangerous student and whether the student shall be provided alternative education. Thereafter, a hearing for the purpose of reexamining whether or not the student remains a dangerous student and whether the student shall be provided alternative education shall be conducted every three months for so long as the student remains a dangerous student and is denied alternative education. During the initial hearing, or in any subsequent hearing, the board may consider the history of the student's conduct as well as any improvements made subsequent to the expulsion. If it is determined during any of the hearings that the student is no longer a dangerous student or should be provided alternative education, the student shall be provided alternative education during the remainder of the expulsion period.

(h) The superintendent may apply to a circuit judge or magistrate for authority to subpoena witnesses and documents, upon his or her own initiative, in a proceeding related to a recommended student expulsion or dangerous student determination, before a county board conducted pursuant to the provisions of this section. Upon the written request of any other party, the superintendent shall apply to a circuit judge or magistrate for the authority to subpoena witnesses, documents or both on behalf of the other party in a proceeding related

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to a recommended student expulsion or dangerous student determination before a county board. If the authority to subpoena is granted, the superintendent shall subpoena the witnesses, documents or both requested by the other party. Furthermore, if the authority to subpoena is granted, it shall be exercised in accordance with the provisions of section one, article five, chapter twenty-nine-a of this code.

Any hearing conducted pursuant to this subsection may be postponed: (1) For good cause shown by the student; (2) when proceedings to compel a subpoenaed witness to appear must be instituted; or (3) when a delay in service of a subpoena hinders either party's ability to provide sufficient notice to appear to a witness. A student remains under suspension until after the hearing in any case where a postponement occurs.

(i) Students may be expelled pursuant to this section for a period not to exceed one school year, except that if a student is determined to have violated the provisions of subsection (a) of this section the student shall be expelled for a period of not less than twelve consecutive months, subject to the following:

(1) The county superintendent may lessen the mandatory period of twelve consecutive months for the expulsion of the student if the circumstances of the student's case demonstrably warrant;

(2) Upon the reduction of the period of expulsion, the county superintendent shall prepare a written statement setting forth the circumstances of the student's case which warrant the reduction of the period of expulsion. The county superintendent shall submit the statement to the county board, the principal, the faculty senate and the local school improvement council for the school from which the student was expelled. The county superintendent may use the following factors as guidelines in determining whether or not to reduce a mandatory twelve-month expulsion:

(A) The extent of the student's malicious intent;

(B) The outcome of the student's misconduct;

(C) The student's past behavior history;

(D) The likelihood of the student's repeated misconduct; and

(E) If applicable, successful completion or making satisfactory progress toward successful completion of Juvenile Drug Court pursuant to section one-d of this section.

(j) In all hearings under this section, facts shall be found by a preponderance of the evidence.

(k) For purposes of this section, nothing herein may be construed to be in conflict with the federal provisions of the Individuals with Disabilities Education Act, 20 U. S. C. §1400, et seq.

WV Legislature

(l) Each suspension or expulsion imposed upon a student under the authority of this section shall be recorded in the uniform integrated regional computer information system (commonly known as the West Virginia Education Information System) described in subsection (f), section twenty-six, article two, chapter eighteen of this code.

(1) The principal of the school at which the student is enrolled shall create an electronic record within twenty-four hours of the imposition of the suspension or expulsion.

(2) Each record of a suspension or expulsion shall include the student's name and identification number, the reason for the suspension or expulsion and the beginning and ending dates of the suspension or expulsion.

(3) The state board shall collect and disseminate data so that any principal of a public school in West Virginia can review the complete history of disciplinary actions taken by West Virginia public schools against any student enrolled or seeking to enroll at that principal's school. The purposes of this provision are to allow every principal to fulfill his or her duty under subsection (b), section fifteen-f, article five, chapter eighteen of this code to determine whether a student requesting to enroll at a public school in West Virginia is currently serving a suspension or expulsion from another public school in West Virginia and to allow principals to obtain general information about students' disciplinary histories.

(m) Principals may exercise any other authority and perform any other duties to discipline students consistent with state and federal law, including policies of the state board.

(n) Each county board is solely responsible for the administration of proper discipline in the public schools of the county and shall adopt policies consistent with the provisions of this section to govern disciplinary actions.

(o) For the purpose of this section, "principal" means the principal, assistant principal, vice principal or the administrative head of the school or a professional personnel designee of the principal or the administrative head of the school.

WV Legislature

§18A-5-1b. Alternative procedures for expulsion hearings by county boards.

The county boards may employ a hearing examiner to conduct the expulsion hearings required by this article. The hearing examiner shall be an attorney, duly licensed to practice law in the State of West Virginia and shall not be employed by the state or county boards for any other reason.

The hearing examiner shall conduct hearings in compliance with the guidelines of section one-a of this article. All hearings shall be recorded by mechanical means, unless recorded by a certified court reporter. The hearing examiner shall issue a decision and written findings of fact and conclusions of law within five days of the conclusion of the hearing. Hearings by a hearing examiner shall have the same force and effect as a decision made by a county board. Upon the written request of a parent, guardian, or custodian of the student, or the county superintendent, the county board shall review the decision of the hearing examiner. Within ten calendar days from the date of the request of the review, the county board shall enter an order affirming, reversing, or modifying the decision of the hearing examiner. A county board may, in its own discretion, hold a hearing to determine any issues in question.

The authority of the county superintendent shall be the same as contained in section one-a of this article.

WV Legislature

§18A-5-1c. Bill of Rights and Responsibilities for Students and School Personnel.

(a) The Legislature finds that:

(1) The mission of public schools is to prepare students for equal and responsible citizenship and productive adulthood;

(2) Democratic citizenship and productive adulthood begin with standards of conduct in schools;

(3) Schools should be safe havens for learning with high standards of conduct for students; and

(4) Rights necessarily carry responsibilities.

(b) In recognition of the findings in this section, the following Bill of Rights and Responsibilities for Students and School Personnel is established:

(1) The right to attend a school and ride a bus that is safe, orderly and drug free;

(2) The right to learn and work in a school that has clear discipline codes with fair and consistently enforced consequences for misbehavior;

(3) The right to learn and work in a school that has alternative educational placements for violent or chronically disruptive students;

(4) The right to be treated with courtesy and respect;

(5) The right to a attend a school and ride on a bus that is free from bullying;

(6) The right to support from school administrators when enforcing discipline policies;

(7) The right to support from parents, the community, public officials and businesses in their efforts to uphold high standards of conduct; and

(8) The responsibility to adhere to the principles in this Bill of Rights and Responsibilities for Students and School Personnel, and to behave in a manner that guarantees that other students and school personnel enjoy the same rights.

WV Legislature

§18A-5-1d. Return to school through Juvenile Drug Court for certain students.

(a) When a student is expelled from school pursuant to §18A-5-1a of this code, the county board, county superintendent, or principal for the school from which the student was expelled or the parent, guardian, or custodian may refer the student to a Juvenile Drug Court, operated pursuant to §49-4-703 of this code. Upon referral, the judge assigned to Juvenile Drug Court shall determine whether the student is an appropriate candidate for Juvenile Drug Court.

(b) If the judge determines the student is an appropriate candidate for Juvenile Drug Court, then the court has jurisdiction over the student in the same manner as it has jurisdiction over all other persons in Juvenile Drug Court. Jurisdiction over students includes the ability to issue any of the various sanctions available to the Juvenile Drug Court, including temporary detention.

(c)(1) Successful completion of Juvenile Drug Court or certification by the Juvenile Drug Court judge that the student is making satisfactory progress toward successful completion of Juvenile Drug Court warrants consideration for reduction of the expulsion period, pursuant to §18A-5-1a of this code.

(2) The Juvenile Drug Court shall notify the county superintendent of the completion or certification. The county superintendent shall arrange a meeting with the Juvenile Drug Court treatment team, the court, and the student assistance team of the school from which the student was expelled to discuss the student's history, progress, and potential for improvement.

(3) The student assistance team shall evaluate and recommend whether the student's expulsion period should be reduced, and the student reinstated in school.

(4) The student assistance team's recommendation shall be presented to the superintendent, who shall make the final determination. The superintendent shall prepare a statement detailing reasons for or against school reinstatement and submit the statement to the county board. If the superintendent determines to reduce the expulsion period, he or she shall submit the statement required by §18A-5-1a(i) of this code and place the student in an appropriate school within the district.

(5) A student to be reinstated shall be permitted to return to school no later than the 10th regular school day following notice by the court to the superintendent regarding the student's successful completion or satisfactory progress toward successful completion of Juvenile Drug Court.

WV Legislature

§18A-5-2. Holidays; closing of schools; time lost because of such; special Saturday classes.

(a) Schools shall be closed on Saturdays and on the following days which are designated as legal school holidays: Independence Day, Labor Day, Veterans Day, Thanksgiving Day, Christmas Day, New Year's Day, Martin Luther King's birthday, Memorial Day and West Virginia Day. Schools also shall be closed on any day on which a primary election, general election or special election is held throughout the state or school district and on any day appointed and set apart by the president or the Governor as a holiday of special observance by the people of the state.

(b) When any of the above designated holidays, except a special election, falls on Saturday, the schools shall be closed on the preceding Friday. When any designated holiday falls on Sunday, the schools shall be closed on the following Monday.

(c) Special classes may be conducted on Saturdays for pupils and by teachers and service personnel. Saturday classes shall be conducted on a voluntary basis and teachers and service personnel shall be remunerated in ratio to the regularly contracted pay.

(d) Any school or schools may be closed by proper authorities on account of the prevalence of contagious disease, conditions of weather or any other calamitous cause over which the board has no control.

(1) Under any or all of the above provisions, the time lost by the school closings may not be counted as days of employment and may not be counted as meeting a part of the requirements of the minimum term of one hundred eighty days of instruction. A school employee's pay per pay period may not change as a result of a school closing not being counted as a day of employment, and the employee shall be paid the same amount during any pay period in which a school closing occurs that the employee would have been paid during the pay period if a school closing had not occurred.

(2) On the day or days when a school or schools are closed, county boards may provide appropriate alternate work schedules for professional and service personnel affected by the closing of any school or schools under any or all of the provisions of this subsection. Professional and service personnel shall receive pay the same as if school were in session.

(3) Insofar as funds are available or can be made available during the school year, the board may extend the employment term for the purpose of making up time that might affect the instructional term.

(e) In addition to any other provisions of this chapter, the board further is authorized to provide in its annual budget for meetings, workshops, vacation time or other holidays through extended employment of personnel at the same rate of pay.

WV Legislature

§18A-5-3. Exemption from jury service.

Notwithstanding any other provision of law, professional personnel and other persons actively engaged in school work in this state shall be required to serve on any jury during the period of his contract with a Board of Education unless excused therefrom by judge of the court. In the case of service on a jury the board shall pay the difference between that allowed for such jury service and the amount of salary due the person for such period of time.

WV Legislature

§18A-5-3a. Answering witness subpoenas.

Any teacher, principal, supervisor, service personnel or other person employed by a Board of Education who is subpoenaed to appear as a witness but not as a defendant in any criminal proceeding in any court of law may make such appearance without any loss of pay. The board shall pay to such employee the difference between the witness fee, exclusive of travel allowances, payable for such appearance by the court and the amount of salary due to the person for the time such employee is absent from his employment by reason of answering such subpoena.

WV Legislature

§18A-5-4. Educational meetings.

A county board of education may approve the attendance of any or all teachers at educational conventions, conferences, or other professional meetings of teachers on school days when in the judgment of the superintendent it is necessary or desirable. Attendance at such meetings may be substituted for an equal amount of teaching or employment and teachers attending shall not suffer loss of pay. Further, the board is authorized to pay all or any part of expenses of any personnel whom it may designate to represent the board at any such professional or educational meetings or in visitation to another school system.

Every county board of education shall adopt a policy under which professional educators serving as mentor teachers, serving on state and county professional staff development councils, serving on school curriculum teams, and serving on professional support teams will be granted professional time if required for performance of their duties during the instructional day or extra duty compensation if required at other times and for reimbursement for necessary expenses actually incurred in attending meetings of the bodies upon which they serve upon. Such policy shall provide for the coverage of the professional personnel's regular duties during such release times through the use of paraprofessional aides, substitutes and other methods if necessary to avoid the interruption of instruction.

WV Legislature

§18A-5-4a. Educational or service meetings.

A county board of education may approve the attendance of any or all service personnel at educational conventions, conferences, or school service meetings of service personnel on school days when in the judgment of the superintendent it is necessary or desirable. Attendance at such meetings may be substituted for an equal amount of employment and service personnel so attending shall not suffer loss of pay. Further, the board is authorized to pay all or any part of expenses of any personnel whom it may designate to represent the board at any such educational conventions, conferences or school service meetings or in visitation to another school system.

WV Legislature

§18A-5-5. Records; reports by professional and other personnel.

Every teacher, principal, supervisor, or other person employed by a Board of Education shall keep such records and shall make such reports as may be required by the state Superintendent of Schools, and such records shall be kept and such reports shall be made according to the forms and blanks prescribed and furnished by the state superintendent. Teachers shall also keep such other records and make such other reports as may be required by the board of Education employing them.

WV Legislature

§18A-5-6. School census.

A school census of youths from birth through twenty years of age as of September first of the year in which taken, or of such ages as otherwise may locally be determined and of mentally and physically handicapped persons of all ages, may be made as directed by a county board of education. The school census may be taken by the teachers or as otherwise directed by the county board of education. Teachers taking the school census shall be entitled to use school hours not to exceed a total of one school day, and shall be compensated for such time as for time taught.

The State Superintendent of Schools shall have authority to require a statewide enumeration by the counties at such times as he may direct and may establish the procedures therefor.

In order that the census record may be as currently accurate as possible, and a reliable source of reference through the school year, it shall be the duty of each county superintendent of schools to establish and administer through the office of the county director of school attendance a system of cumulative census records which may be prescribed by the state Superintendent of Schools.

WV Legislature

§18A-5-7. Oath required of teachers.

Every teacher shall, at the time of signing his contract to teach, take an oath to support the Constitution of the United States and the Constitution of the State of West Virginia, and to honestly demean himself in the teaching profession and to the best of his ability execute his position of teacher. Such oath shall be printed on the contract form prescribed by the state superintendent.

WV Legislature

§18A-5-8. Authority of certain aides to exercise control over students; compensation; transfers.

(a) Within the limitations provided in this section, any aide who agrees to do so shall stand in the place of the parent or guardian and shall exercise such authority and control over students as is required of a teacher as provided in section one of this article. The principal shall designate aides in the school who agree to exercise that authority on the basis of seniority as an aide and shall enumerate the instances in which the authority shall be exercised by an aide when requested by the principal, assistant principal or professional employee to whom the aide is assigned.

(b) The authority provided for in subsection (a) of this section does not extend to suspending or expelling any student, participating in the administration of corporal punishment or performing instructional duties as a teacher or substitute teacher. However, the authority extends to supervising students undergoing in-school suspension if the instructional duties required by the supervision are limited solely to handing out class work and collecting class work. The authority to supervise students undergoing in-school suspension does not include actual instruction.

(c) An aide designated by the principal under subsection (a) of this section shall receive a salary not less than one pay grade above the highest pay grade held by the service person under section eight-a, article four of this chapter and any county salary schedule in excess of the minimum requirements of this article.

(d) An aide may not be required by the operation of this section to perform noninstructional duties for an amount of time which exceeds that required under the aide's contract of employment or that required of other aides in the same school unless the assignment of the duties is mutually agreed upon by the aide and the county superintendent, or the superintendent's designated representative, subject to county board approval.

(1) The terms and conditions of the agreement shall be in writing, signed by both parties, and may include additional benefits.

(2) The agreement shall be uniform as to aides assigned similar duties for similar amounts of time within the same school.

(3) Aides have the option of agreeing to supervise students and of renewing related assignments annually. If an aide elects not to renew the previous agreement to supervise students, the minimum salary of the aide shall revert to the pay grade specified in section eight-a, article four of this chapter for the classification title held by the aide and any county salary schedule in excess of the minimum requirements of this article.

(e) For the purposes of this section, aide means any aide class title as defined in section eight, article four of this chapter regardless of numeric classification.

WV Legislature

(f) Regular service personnel employed in a category of employment other than aide who seek employment as an aide shall hold a high school diploma or shall have received a general educational development certificate and shall have the opportunity to receive appropriate training pursuant to subsection (j), section thirteen, article five, chapter eighteen of this code and section two, article twenty of said chapter.

WV Legislature

§18A-6-1. Retirement fund for school employees.

Boards of education shall have authority to establish and maintain a teachers retirement fund for both teachers and nonteaching employees of their districts. The administration of such funds shall be in accordance with the rules and regulations of the state Board of Education relating thereto.

WV Legislature

§18A-7-1. Severability.

Pursuant to section ten, article two, chapter two of this code, if any provision of this chapter or the application thereof to any person or circumstance is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect other provisions or applications of the chapter, and to this end the provisions of this chapter are declared to be severable.

WV Legislature