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SENATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

Regular Session, 2003

ENROLLED

Committee Substitute for

SENATE BILL NO. 522

(By Senator Oliverio, et al)

PASSED March 16, 2003

In Effect July 1, 2003 **Passage**

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ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 522

(SENATORS OLIVERIO, PREZIOSO, PLYMALE, EDGELL, HUNTER,
GUILLS, BOWMAN, ROWE AND LOVE, *original sponsors*)

[Passed March 16, 2003; to take effect July 1, 2003.]

AN ACT to amend and reenact section one, article one, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to amend and reenact section four, article two of said chapter; to further amend said article by adding thereto a new section, designated section five-g; to amend and reenact section seven, article two-e of said chapter; to amend and reenact section one, article three of said chapter; to amend and reenact sections one and two, article four of said chapter; to further amend said article by adding thereto a new section, designated section six; to amend and reenact sections ten and eleven of said article; to amend and reenact sections one-a, one-c, four, seven, thirteen, fourteen, twenty-five and forty-five, article

five of said chapter; to amend and reenact sections two and five, article five-a of said chapter; and to amend and reenact section four, article eight of said chapter, all relating to public education generally; definitions; allowing state board president to serve an unlimited number of terms, but no more than two consecutive terms; requiring county boards to provide certain policies, summaries of any modifications to those policies and copies of annual reports to state board; requiring state board to submit copies of summaries and annual reports to the legislative oversight commission on education accountability; allowing, with state board approval, certain appropriations to be expended directly or through contractual agreements with county boards and regional education service agencies for materials and other costs associated with installation, set-up, internet hook-up and wiring of the computer hardware and software; clarifying that state superintendent serves at the will and pleasure of the state board; requiring the state board to annually evaluate the performance of the state superintendent and publicly announce the results of the evaluation; clarifying appointment of county superintendents; modifying authorization for county superintendent to transfer to a teaching position at the end of his or her term; extending the date before which the county superintendent is required to be appointed; requiring county superintendent to be a resident of the county, or of a contiguous county in this state, in which he or she serves; modifying requirements for permanent administrative certificate and county superintendent license; requiring state board to define three years of experience in management or supervision in rule; modifying health-related conditions of employment for county superintendents; providing for discontinuing or suspending employment of county superintendent under certain circumstances; requiring that county superintendents be evaluated at least annually; providing criteria for evaluation; providing for evaluation to take place in executive session; directing county board to release general statement to the public and provide additional information only by mutual consent of

county board and county superintendent; delineating authorized uses of evaluation results; allowing contract or written agreement to delineate a county superintendent acting as chief executive officer; removing county superintendent duty to organize and attend district institutes and organize and direct reading circles and boys' and girls' clubs; requiring county superintendent to report promptly to the county board whenever any school in the district appears to be failing to meet the standards for improving education; requiring county superintendent to keep county board apprised of certain issues in the district; removing requirement for county superintendent to direct the taking of school census; allowing county board members to serve on certain boards; allowing request of ethics commission for an advisory opinion; requiring ethics commission to issue advisory opinion within thirty days; entitling county board member who relies on opinion to reimbursement for attorney's fees and court costs incurred in certain proceedings; prohibiting vote cast from being invalidated due to subsequent finding that holding particular office or committee is a bar to membership on the board; providing that good faith reliance on a written advisory opinion is an absolute defense to certain civil suits or criminal prosecutions; requiring county board member training to include school performance issues; allowing feasible and practicable extension of training time; requiring annual county board self-assessment; specifying focus of evaluation instrument; requiring summary of evaluation to be made public; allowing county boards to meet in facilities within the county other than the county board office; authorizing lease of school property subject to certain requirements; clarifying county board authority to employ, contract with or otherwise engage legal counsel; including service personnel in job sharing arrangements; adding requirements for job sharing; limiting cost to retirement system; requiring filing of policies and summaries of policies that promote school board effectiveness; requiring annual meeting with a quorum of members from each local school improvement council; providing for meeting with less

than a quorum under certain circumstances; allowing county board to schedule additional meeting for any low performing school in the district; requiring county board to develop agenda for required annual meeting with local school improvement council; requiring certain items to be addressed; requiring county boards to make written requests for information from local school improvement councils throughout the year or hold community forums to receive input from the affected community as the county board considers necessary; modifying time requirements for reporting to state board on meetings with local school improvement councils; authorizing county board to request assistance from local school improvement council members to facilitate development of report; requiring county boards to review the policies to promote school board effectiveness each year; eliminating duty of county superintendent to make a tabular report to the county board annually; eliminating requirement that certain percentage of students be in attendance for a day to be considered instructional; including five instructional support and enhancement days within the instructional term that include instructional activities, professional activities and time for faculty senate meetings; requiring instructional activities for students to be scheduled by appointment; requiring school policy relating to use of time designated for instructional activities; providing that the presence of any certain number of students and the transportation of students is not required on instructional support and enhancement days; declaring instructional support and enhancement days a regular work day for all service personnel; providing that for one school year only, statewide assessment may not be prior to the fifteenth day of April; requiring professional development days to be used last when making up instructional days; allowing use of additional minutes of instruction each day for making up lost instructional days under certain circumstances; prohibiting more than one parent member of a local school improvement council from being employed at the school; requiring chair to appoint replacement of elected member of local school

improvement council if position becomes vacant; requiring principal to appoint replacement if appointed position becomes vacant; requiring principal to provide certain information at the organizational meeting of the local school improvement council; requiring local school improvement council chair, or designee, to be prepared to address certain matters at annual meeting and in writing; allowing state board to enter into contracts to provide orientation training for local school improvement council members; requiring that any training meet guidelines established by the state board; requiring emergency meetings of faculty senates to be held during noninstructional time; requiring a two-hour block of time be scheduled for a faculty senate meeting on a day scheduled for the opening of school prior to the beginning of the instructional term; requiring that a two-hour block of time be scheduled for a faculty senate meeting on each instructional support and enhancement day; and requiring state board rule excluding certain absences for accountability purposes.

Be it enacted by the Legislature of West Virginia:

That section one, article one, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; that section four, article two of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section five-g; that section seven, article two-e of said chapter be amended and reenacted; that section one, article three of said chapter be amended and reenacted; that sections one and two, article four of said chapter be amended and reenacted; that said article be further amended by adding thereto a new section, designated section six; that sections ten and eleven of said article be amended and reenacted; that sections one-a, one-c, four, seven, thirteen, fourteen, twenty-five and forty-five, article five of said chapter be amended and reenacted; that sections two and five, article five-a of said chapter be amended and reenacted; and that section four, article eight of said chapter be amended and reenacted all to read as follows:

ARTICLE 1. DEFINITIONS; LIMITATIONS OF CHAPTER; GOALS FOR EDUCATION.

§18-1-1. Definitions.

1 The following words used in this chapter and in any
2 proceedings pursuant thereto shall, unless the context
3 clearly indicates a different meaning, be construed as
4 follows:

5 (a) "School" means the pupils and teacher or teachers
6 assembled in one or more buildings, organized as a unit;

7 (b) "District" means county school district;

8 (c) "State board" means the West Virginia board of
9 education;

10 (d) "County board" or "board" means the county board
11 of education;

12 (e) "State superintendent" means the state superinten-
13 dent of free schools;

14 (f) "County superintendent" or "superintendent" means
15 the county superintendent of schools;

16 (g) "Teacher" means teacher, supervisor, principal,
17 superintendent or public school librarian; registered
18 professional nurse, licensed by the West Virginia board of
19 examiners for registered professional nurses and employed
20 by a county board of education, who has a baccalaureate
21 degree; or any other person regularly employed for in-
22 structional purposes in a public school in this state;

23 (h) "Service personnel" means all nonteaching school
24 employees not included in the above definition of
25 "teacher";

26 (i) "Social worker" means a nonteaching school em-
27 ployee who, at a minimum, possesses an undergraduate
28 degree in social work from an accredited institution of
29 higher learning and who provides various professional

30 social work services, activities or methods as defined by
31 the state board for the benefit of students;

32 (j) "Regular full-time employee" means any person
33 employed by a county board of education who has a
34 regular position or job throughout his or her employment
35 term, without regard to hours or method of pay;

36 (k) "Career clusters" means broad groupings of related
37 occupations;

38 (l) "Work-based learning" means a structured activity
39 that correlates with and is mutually supportive of the
40 school-based learning of the student and includes specific
41 objectives to be learned by the student as a result of the
42 activity;

43 (m) "School-age juvenile" means any individual who is
44 entitled to attend or who, if not placed in a residential
45 facility, would be entitled to attend public schools in
46 accordance with: (1) Section five, article two of this
47 chapter; (2) sections fifteen and eighteen, article five of
48 this chapter; or (3) section one, article twenty of this
49 chapter;

50 (n) "Student with a disability" means an exceptional
51 child, other than gifted, pursuant to section one, article
52 twenty of this chapter;

53 (o) "Low-density county" means a county whose ratio of
54 student population to square miles is less than or equal to
55 the state average ratio as computed by the state depart-
56 ment of education;

57 (p) "High-density county" means a county whose ratio of
58 student population to square miles is greater than the state
59 average ratio as computed by the state department of
60 education; and

61 (q) "Casual deficit" means a deficit of not more than
62 three percent of the approved levy estimate or a deficit
63 that is nonrecurring from year to year.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-4. Organization; appointment, compensation and duties of secretary.

1 At its first regular meeting in every year the state board
2 shall elect one of its members as president, who may serve
3 an unlimited number of terms, but no more than two
4 consecutive terms, and one as vice president of the board.
5 The state superintendent shall be the chief executive
6 officer of the state board and, subject to its direction, shall
7 execute its policies.

8 The state board shall appoint a secretary and fix the
9 secretary's salary to be paid out of the general school fund
10 upon warrants drawn by the state superintendent. The
11 secretary shall keep a record of the proceedings of the
12 state board and shall perform such other duties as it may
13 prescribe.

§18-2-5g. Duty to receive and submit summary of policy modifications and annual reports.

1 In addition to filing each policy as required by section
2 fourteen, article five of this chapter, the state board shall
3 require each county board to provide a summary of any
4 modifications to the policies and copies of annual reports
5 developed pursuant to section fourteen, article five of this
6 chapter. The state board shall submit copies of these
7 summaries of modifications to the policies and annual
8 reports, together with any comments and recommenda-
9 tions, to the legislative oversight commission on education
10 accountability, no later than the thirty-first day of Decem-
11 ber of each year.

ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.

§18-2E-7. Providing for high quality basic skills development and remediation in all public schools.

1 (a) The Legislature finds that teachers must be provided
2 the support, assistance and teaching tools necessary to

3 meet individual student instructional needs on a daily
4 basis in a classroom of students who differ in learning
5 styles, learning rates and in motivation to learn. The
6 Legislature further finds that attaining a solid foundation
7 in the basic skills of reading, composition and arithmetic
8 is essential for advancement in higher education, occupa-
9 tional and avocational pursuits and that computers are an
10 effective tool for the teacher in corrective, remedial and
11 enrichment activities. Therefore, the state board shall
12 develop a plan which specifies the resources to be used to
13 provide services to students in the earliest grade level and
14 moving upward as resources become available based on a
15 plan developed by each individual school team.

16 This plan must provide for standardization of computer
17 hardware and software and for technology upgrade and
18 replacement for the purposes of achieving economies of
19 scale, facilitating teacher training, permitting the compar-
20 ison of achievement of students in schools and counties
21 utilizing the hardware and software and facilitating the
22 repair of equipment and ensuring appropriate utilization
23 of the hardware and software purchased for remediation
24 and basic skills development.

25 The state board shall determine the computer hardware
26 and software specifications after input from practicing
27 teachers at the appropriate grade levels and with the
28 assistance of education computer experts and the curricu-
29 lum technology resource center.

30 Computer hardware and software shall be purchased
31 either directly or through a lease-purchase arrangement
32 pursuant to the provisions of article three, chapter five-a
33 of this code in the amount equal to anticipated revenues
34 being appropriated: *Provided*, That, with the approval of
35 the state board, the revenues appropriated may be ex-
36 pended directly or through contractual agreements with
37 county boards and regional education service agencies for
38 materials and other costs associated with installation, set-
39 up, internet hook-up and wiring of the computer hardware

40 and software: *Provided, however,* That nothing in this
41 section shall be construed to require any specific level of
42 funding by the Legislature.

43 The state board shall develop and provide through the
44 state curriculum technology resource center a program to
45 ensure adequate teacher training, continuous teacher
46 support and updates.

47 To the extent practicable, such technology shall be
48 utilized to enhance student access to learning tools and
49 resources outside of the normal school day, such as: Before
50 and after school; in the evenings, on weekends and during
51 vacations; and for student use for homework, remedial
52 work, independent learning, career planning and adult
53 basic education.

54 (b) The Legislature finds that the continued implementa-
55 tion of computer utilization under this section for high
56 quality basic skills development and remediation in the
57 middle schools, junior high schools and high schools is
58 necessary to meet the goal that high school graduates will
59 be prepared fully for college, other post-secondary educa-
60 tion or gainful employment. Further, such implementation
61 should provide a technology infrastructure at the middle
62 schools, junior high schools and high schools that has
63 multiple applications in enabling students to achieve at
64 higher academic levels. The technology infrastructure
65 should facilitate student development in the following
66 areas:

67 (1) Attaining basic computer skills such as word process-
68 ing, spreadsheets, data bases, internet usage, telecommuni-
69 cations and graphic presentations;

70 (2) Learning critical thinking and decision-making skills;

71 (3) Applying academic knowledge in real life situations
72 through simulated workplace programs;

73 (4) Understanding the modern workplace environment,
74 particularly in remote areas of the state, by bringing the
75 workplace to the school;

76 (5) Making informed career decisions based upon
77 information on labor markets and the skills required for
78 success in various occupations;

79 (6) Gaining access to labor markets and job placement;

80 (7) Obtaining information and assistance about college
81 and other post-secondary education opportunities and
82 financial aid; and

83 (8) Other uses for acquiring the necessary skills and
84 information to make a smooth transition from high school
85 to college, other post-secondary education or gainful
86 employment.

87 Therefore, the state board shall extend the plan as set
88 forth in subsection (a) of this section, and consistent with
89 the terms and conditions in said subsection, to address the
90 findings of this subsection regarding the continued
91 implementation of computer hardware and software and
92 technical planning support in the middle schools, junior
93 high schools and high schools of the state.

ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.

§18-3-1. Appointment; qualifications; compensation; traveling expenses; office and residence; evaluation.

1 There shall be appointed by the state board a state
2 superintendent of schools who shall serve at the will and
3 pleasure of the state board. He or she shall be a person of
4 good moral character, of recognized ability as a school
5 administrator, holding at least a master's degree in
6 educational administration, and shall have had not less
7 than five years of experience in public school work. He or
8 she shall receive an annual salary set by the state board, to
9 be paid monthly: *Provided*, That the annual salary may not
10 exceed one hundred forty-six thousand one hundred

11 dollars. The state superintendent also shall receive
12 necessary traveling expenses incident to the performance
13 of his or her duties to be paid out of the general school
14 fund upon warrants of the state auditor. The state super-
15 intendent shall have his or her office at the state capitol.
16 The state board shall report to the legislative oversight
17 commission on education accountability upon request
18 concerning its progress during any hiring process for a
19 state superintendent.

20 The state board annually shall evaluate the performance
21 of the state superintendent and publicly announce the
22 results of the evaluation.

ARTICLE 4. COUNTY SUPERINTENDENT OF SCHOOLS.

§18-4-1. Election and term; interim superintendent.

1 (a) The county superintendent shall be appointed by the
2 board upon a majority vote of the members thereof to
3 serve for a term of not less than one, nor more than four
4 years. At the expiration of the term or terms for which he
5 or she shall have been appointed, each county superinten-
6 dent shall be eligible for reappointment for additional
7 terms of not less than one, nor more than four years:
8 *Provided*, That at the expiration of his or her term or
9 terms of service the county superintendent may transfer to
10 any teaching position in the county for which he or she is
11 qualified and has seniority, unless dismissed for statutory
12 reasons. The appointment of the county superintendent
13 shall be made on or before the first day of June for a term
14 beginning on the first day of July following the appoint-
15 ment.

16 (b) A county superintendent who fills a vacancy caused
17 by an incomplete term shall be appointed to serve until the
18 following first day of July: *Provided, however*, That the
19 board may appoint an interim county superintendent to
20 serve for a period not to exceed one hundred twenty days
21 from the occurrence of the vacancy.

22 (c) The president of the county board, immediately upon
23 the appointment of the county superintendent, or the
24 appointment of an interim county superintendent, shall
25 certify the appointment to the state superintendent.

26 (d) During his or her term of appointment, the county
27 superintendent shall be a resident of the county or of a
28 contiguous county in this state, which he or she serves.
29 The county superintendent in office on the effective date
30 of this section shall continue in office until the expiration
31 of his or her term.

§18-4-2. Qualifications; health certificate; disability; acting superintendent.

1 (a) Each county superintendent shall hold a professional
2 administrative certificate endorsed for superintendent, or
3 a first class permit endorsed for superintendent, subject to
4 the following:

5 (1) A superintendent who holds a first-class permit may
6 be appointed for one year only, and may be reappointed
7 two times for an additional year each upon an annual
8 evaluation by the county board and a determination of
9 satisfactory performance and reasonable progress toward
10 completion of the requirements for a professional adminis-
11 trative certificate endorsed for superintendent;

12 (2) Any candidate for superintendent who possesses an
13 earned doctorate from an accredited institution of higher
14 education and either has completed three successful years
15 of teaching in public education or has the equivalent of
16 three years of experience in management or supervision as
17 defined by state board rule, after employment by the
18 county board shall be granted a permanent administrative
19 certificate and shall be a licensed county superintendent;

20 (3) The state board shall promulgate a legislative rule in
21 accordance with article three-b, chapter twenty-nine-a of
22 this code to address those cases where a county board
23 finds that course work needed by the county superinten-

24 dent who holds a first-class permit is not available or is
25 not scheduled at state institutions of higher education in
26 a manner which will enable the county superintendent to
27 complete normal requirements for a professional adminis-
28 trative certificate within the three-year period allowed
29 under the permit; and

30 (4) Any person employed as assistant superintendent or
31 educational administrator prior to the twenty-seventh day
32 of June, one thousand nine hundred eighty-eight, and who
33 was previously employed as superintendent is not required
34 to hold the professional administrative certificate en-
35 dorsed for superintendent.

36 (b) In addition to other requirements set forth in this
37 section, a county superintendent shall meet the following
38 health-related conditions of employment:

39 (1) Before entering upon the discharge of his or her
40 duties, file with the president of the county board a
41 certificate from a licensed physician certifying the follow-
42 ing:

43 (A) A tuberculin skin test, of the type Mantoux test (PPD
44 skin test), approved by the director of the department of
45 health, has been made within four months prior to the
46 beginning of the term of the county superintendent; and

47 (B) The county superintendent does not have tuberculo-
48 sis in a communicable state based upon the test results and
49 any further study;

50 (2) After completion of the initial test, the county
51 superintendent shall have an approved tuberculin skin test
52 once every two years or more frequently if medically
53 indicated. Positive reactors to the skin test are to be
54 referred immediately to a physician for evaluation and
55 indicated treatment or further studies;

56 (3) A county superintendent who is certified by a li-
57 censed physician to have tuberculosis in a communicable

58 stage shall have his or her employment discontinued or
59 suspended until the disease has been arrested and is no
60 longer communicable; and

61 (4) A county superintendent who fails to complete
62 required follow-up examinations as set forth in this
63 subsection shall be suspended from employment until a
64 report of examination is confirmed.

§18-4-6. Evaluation of county superintendent.

1 (a) At least annually, the county board shall evaluate the
2 performance of the county superintendent. The evaluation
3 process to be used shall be one authorized by the state
4 board. The West Virginia school board association shall
5 maintain a catalog of evaluation instruments which
6 comply with this section and shall make them available to
7 county boards.

8 (b) At a minimum, the evaluation process shall require
9 the county superintendent and county board to establish
10 written goals or objectives for the county superintendent
11 to accomplish within a given period of time. Additionally,
12 the county board shall evaluate the county superintendent
13 on his or her success in improving student achievement
14 generally across the county and specifically as it relates to
15 the management and administration of low performing
16 schools.

17 (c) The evaluation also may cover the performance of a
18 county superintendent in the areas of community relations,
19 school finance, personnel relations, curricular standards
20 and programs and overall leadership of the school district
21 as indicated primarily by improvements in student
22 achievement, testing and assessment.

23 (d) The evaluation of a county superintendent shall occur
24 in executive session. At the conclusion of the evaluation,
25 the county board shall make available to the public a
26 general statement about the evaluation process and the
27 overall result. Additional information about the evalua-

28 tion may be released only by mutual consent of the county
29 superintendent and the county board. The county board
30 may use the evaluation results to determine:

31 (1) Whether to extend the contract of the county superin-
32 tendent;

33 (2) Whether to offer the county superintendent a new
34 contract; and

35 (3) The level of compensation or benefits to offer the
36 county superintendent in any new or extended contract.

§18-4-10. Duties of county superintendent.

1 The county superintendent shall:

2 (1) Act as the chief executive officer of the county board
3 as may be delineated in his or her contract or other written
4 agreement with the county board, and, under the direction
5 of the state board, execute all its education policies;

6 (2) Nominate all personnel to be employed; in case the
7 county board refuses to employ any or all of the persons
8 nominated, the county superintendent shall nominate
9 others and submit the same to the county board at a time
10 the county board may direct. No person or persons shall
11 be employed except on the nomination of the county
12 superintendent;

13 (3) Assign, transfer, suspend or promote teachers and all
14 other school employees of the district, subject only to the
15 approval of the county board, and to recommend to the
16 county board their dismissal pursuant to the provisions of
17 this chapter;

18 (4) Report promptly to the county board in such manner
19 as it directs whenever any school in the district appears to
20 be failing to meet the standards for improving education
21 established pursuant to section five, article two-e of this
22 chapter;

23 (5) Close a school temporarily when conditions are
24 detrimental to the health, safety or welfare of the pupils;

25 (6) Certify all expenditures and monthly payrolls of
26 teachers and employees;

27 (7) Serve as the secretary of the county board and attend
28 all meetings of the county board or its committees, except
29 when the tenure, salary or administration of the county
30 superintendent is under consideration;

31 (8) Administer oaths and examine witnesses under oath
32 in any proceedings pertaining to the schools of the district
33 and have the testimony reduced to writing;

34 (9) Keep the county board apprised continuously of any
35 issues that affect the county board or its schools, programs
36 and initiatives. The county superintendent shall report to
37 the county board on these issues using any appropriate
38 means agreeable to both parties. When practicable, the
39 reports shall be fashioned to include a broad array of data
40 and information that the county board may consult to aid
41 in making decisions;

42 (10) Exercise all other authority granted by this chapter
43 or required by the county board or state board; and

44 (11) In case of emergency, act as the best interests of the
45 school demand. An emergency, as contemplated in this
46 section, is limited to an unforeseeable, catastrophic event
47 including natural disaster or act of war and nothing in this
48 section may be construed as granting the county superin-
49 tendent authority to override any statutory or constitu-
50 tional provision in the exercise of his or her emergency
51 power except where such authority is specifically granted
52 in the particular code section.

§18-4-11. Other powers and duties.

1 The county superintendent shall:

2 (1) Visit the schools as often as practicable; observe and
3 make suggestions concerning the instruction and class-

4 room management of the schools and their sanitary
5 conditions;

6 (2) Report to the county board cases of incompetence,
7 neglect of duty, immorality or misconduct in office of any
8 teacher or employee;

9 (3) Recommend for condemnation buildings unfit for
10 school use;

11 (4) Call, at his or her discretion, conferences of principals
12 and teachers to discuss the work of the schools of the
13 district;

14 (5) Report to the county board the progress and general
15 condition of the schools;

16 (6) Make reports as required by the state superinten-
17 dent. In case the county superintendent fails to report as
18 required, the state superintendent may direct that the
19 salary of the county superintendent be withheld until an
20 acceptable report is received; and

21 (7) Perform all other duties prescribed in this chapter
22 or required by the county board or the state board.

ARTICLE 5. COUNTY BOARD OF EDUCATION.

§18-5-1a. Eligibility of Members; training requirements.

1 (a) No person shall be eligible for membership on any
2 county board who is not a citizen, resident in such
3 county, or who accepts a position as teacher or service
4 personnel in the school district in which he or she is a
5 resident or who is an elected or an appointed member of
6 any political party executive committee, or who becomes
7 a candidate for any other office than to succeed oneself.

8 (b) No member or member-elect of any board shall be
9 eligible for nomination, election or appointment to any
10 public office, other than to succeed oneself, or for
11 election or appointment as a member of any political
12 party executive committee, unless and until after that

13 membership on the board, or his status as member-elect
14 to the board, has been terminated at or before the time of
15 his filing for such nomination for, or appointment to,
16 such public office or committee: *Provided*, That “office”
17 or “committee”, as used in this subsection and subsection
18 (a) of this section, does not include service on any board,
19 elected or appointed, profit or non profit, for which the
20 person does not receive compensation and whose primary
21 scope is not related to the public schools.

22 (c) A member or member elect of a county board, or a
23 person desiring to become a member of a county board,
24 may make a written request to the West Virginia ethics
25 commission for an advisory opinion on whether another
26 elected or appointed position held or sought by the
27 person is an office or public office which would bar
28 serving on the board pursuant to subsections (a) and (b)
29 of this section. Within thirty days of receipt of the
30 request, the ethics commission shall issue a written
31 advisory opinion in response to the request and shall also
32 publish such opinion in a manner which to the fullest
33 extent possible does not reveal the identity of the person
34 making the request. Any county board member who
35 relied in good faith upon an advisory opinion issued by
36 the West Virginia ethics commission that holding a
37 particular office or public office is not a bar from
38 membership on a county board of education and against
39 whom proceedings are subsequently brought for removal
40 from the county board on the basis of holding such office
41 or offices shall be entitled to reimbursement by the
42 county board for reasonable attorney’s fees and court
43 costs incurred by the member in defending against such
44 proceedings, regardless of the outcome of the proceed-
45 ings. Further, no vote cast by the member at a meeting
46 of the board shall be invalidated due to a subsequent
47 finding that holding the particular office or public is a
48 bar to membership on the county board. Good faith re-
49 liance on a written advisory opinion of the West Virginia
50 ethics commission that a particular office or public office

51 is not a bar to membership on a county board of educa-
52 tion is an absolute defense to any civil suit or criminal
53 prosecution arising from any proper action taken within
54 the scope of membership on the board, becoming a mem-
55 ber elect of the board or seeking election to the board.

56 (d) Any person who is elected or appointed to a county
57 board on or after the fifth day of May, one thousand nine
58 hundred ninety-two, shall possess at least a high school
59 diploma or a general educational development (GED)
60 diploma: *Provided*, That this provision shall not apply to
61 members or members-elect who have taken office prior
62 to the fifth day of May, one thousand nine hundred
63 ninety-two, and who serve continuously therefrom.

64 (e) No person elected to a county board after the first
65 day of July, one thousand nine hundred ninety, shall
66 assume the duties of board member unless he or she has
67 first attended and completed a course of orientation
68 relating to boardsmanship and governance effectiveness
69 which shall be given between the date of election and the
70 beginning of the member's term of office: *Provided*, That
71 a portion or portions of subsequent training such as that
72 offered in orientation may be provided to members after
73 they have commenced their term of office: *Provided*,
74 *however*, That attendance at the session of orientation
75 given between the date of election and the beginning of
76 the member's term of office shall permit such member or
77 members to assume the duties of board member, as
78 specified in this section. Members appointed to the
79 board shall attend and complete the next such course
80 offered following their appointment: *Provided further*,
81 That the provisions of this section relating to orientation
82 shall not apply to members who have taken office prior
83 to the first day of July, one thousand nine hundred
84 eighty-eight, and who serve continuously therefrom.

85 (f) Commencing on the effective date of this section,
86 members shall annually receive seven clock hours of
87 training in areas relating to boardsmanship, governance

88 effectiveness, and school performance issues including,
 89 but not limited to, pertinent state and federal statutes
 90 such as the “Process for Improving Education” set forth
 91 in section five, article two-e of this chapter and the “No
 92 Child Left Behind Act” and their respective administra-
 93 tive rules. Such orientation and training shall be ap-
 94 proved by the state board and conducted by the West
 95 Virginia school board association or other organization
 96 or organizations approved by the state board: *Provided,*
 97 That the state board may exclude time spent in training
 98 on school performance issues from the requisite seven
 99 hours herein required: *Provided, however,* That if the
 100 state board elects to exclude time spent in training on
 101 school performance issues from the requisite seven hours,
 102 such training shall be limited by the state board to a
 103 feasible and practicable amount of time. Failure to
 104 attend and complete such an approved course of orienta-
 105 tion and training relating to boardsmanship and gover-
 106 nance effectiveness without good cause as determined by
 107 legislative rules of the state board shall constitute
 108 neglect of duty.

109 (g) In the final year of any four-year term of office, a
 110 member shall satisfy the annual training requirement
 111 before the first day of January. The state board shall
 112 petition the circuit court of Kanawha County to remove
 113 any county board member who has failed to or who
 114 refuses to attend and complete the approved course of
 115 orientation and training. If the county board member
 116 fails to show good cause for not attending the approved
 117 course of orientation and training, the court shall remove
 118 the member from office.

§18-5-1c. Organization of board; evaluation.

1 (a) On the first Monday of July following each biennial
 2 primary election, each respective county board shall
 3 organize and shall elect a president from its own mem-
 4 bership for a two-year term. The county board shall

5 report promptly to the state superintendent the name of
6 the member elected as county board president.

7 (b) Annually, each county board shall assess its own
8 performance using an instrument approved by the state
9 board. In developing or making determinations on
10 approving evaluation instruments, the state board may
11 consult with the West Virginia school board association
12 or other appropriate organizations. The evaluation
13 instrument selected shall focus on the effectiveness of the
14 county board in the following areas:

15 (1) Dealing with its various constituency groups and
16 with the general public;

17 (2) Providing a proper framework and the governance
18 strategies necessary to monitor and approve student
19 achievement on a continuing basis; and

20 (3) Enhancing the effective utilization of the policy
21 approach to governance.

22 At the conclusion of the evaluation, the county board
23 shall make available to the public a summary of the
24 evaluation, including areas in which the board concludes
25 improvement is warranted.

**§18-5-4. Meetings; employment and assignment of teachers;
budget hearing; compensation of members;
affiliation with state and national associations.**

1 (a) The county board shall meet on the first Monday in
2 July, and upon the dates provided by law for the laying
3 of levies, and at any other times the county board fixes
4 upon its records. Subject to adequate public notice,
5 nothing herein shall prohibit the county board from
6 conducting regular meetings in facilities within the
7 county other than the county board office. At any
8 meeting as authorized in this section and in compliance
9 with the provisions of article four of this chapter, the
10 county board may employ qualified teachers, or those

11 who will qualify by the time they enter upon their duties,
12 necessary to fill existing or anticipated vacancies for the
13 current or next ensuing school year. At a meeting of the
14 county board, on or before the first Monday in May, the
15 county superintendent shall furnish in writing to the
16 county board a list of those teachers to be considered for
17 transfer and subsequent assignment for the next ensuing
18 school year. All other teachers not listed are considered
19 as reassigned to the positions held at the time of this
20 meeting. The list of those recommended for transfer
21 shall be included in the minute record and the teachers
22 listed shall be notified in writing. The notice shall be
23 delivered in writing, by certified mail, return receipt
24 requested, to the teachers' last known addresses within
25 ten days following the board meeting, of their having
26 been recommended for transfer and subsequent assign-
27 ment.

28 (b) Special meetings may be called by the president or
29 any three members, but no business may be transacted
30 other than that designated in the call.

31 (c) In addition, a public hearing shall be held concern-
32 ing the preliminary operating budget for the next fiscal
33 year not fewer than ten days after the budget has been
34 made available to the public for inspection and within a
35 reasonable time prior to the submission of the budget to
36 the state board for approval. Reasonable time shall be
37 granted at the hearing to any person who wishes to speak
38 regarding any part of the budget. Notice of the hearing
39 shall be published as a Class I legal advertisement in
40 compliance with the provisions of article three, chapter
41 fifty-nine of this code.

42 (d) A majority of the members of the county board
43 constitutes the quorum necessary for the transaction of
44 official business.

45 (e) Board members may receive compensation at a rate
46 not to exceed one hundred sixty dollars per meeting

47 attended, but they may not receive pay for more than
48 fifty meetings in any one fiscal year. Board members
49 who serve on an administrative council of a multicounty
50 vocational center also may receive compensation for
51 attending up to twelve meetings of the council at the
52 same rate as for meetings of the county board. Meetings
53 of the council are not counted as board meetings for
54 purposes of determining the limit on compensable board
55 meetings.

56 (f) Members also shall be paid, upon the presentation
57 of an itemized sworn statement, for all necessary travel-
58 ing expenses, including all authorized meetings, incurred
59 on official business, at the order of the county board.

60 (g) When, by a majority vote of its members, a county
61 board considers it a matter of public interest, the county
62 board may join the West Virginia school board associa-
63 tion and the national school board association and may
64 pay the dues prescribed by the associations and approved
65 by action of the respective county boards. Membership
66 dues and actual traveling expenses incurred by board
67 members for attending meetings of the West Virginia
68 school board association may be paid by their respective
69 county boards out of funds available to meet actual
70 expenses of the members, but no allowance may be made
71 except upon sworn itemized statements.

§18-5-7. Sale of school property at public auction; rights of grantor of lands in rural communities; oil and gas leases; disposition of proceeds; lease of school property.

1 (a) Except as set forth in subsection (b) of this section,
2 if at any time a county board determines that any
3 building or any land is no longer needed for school
4 purposes, the county board may sell, dismantle, remove
5 or relocate the building and sell the land on which it is
6 located at public auction, after proper notice and on such
7 terms as it orders, to the highest responsible bidder.

8 (b) Notwithstanding the provisions of subsection (a) of
9 this section, in rural communities, the grantor of the
10 lands or his or her heirs or assigns has the right to
11 purchase at the sale, the land, exclusive of the buildings
12 on the land and the mineral rights, at the same price for
13 which it was originally sold: *Provided*, That the sale to
14 the board was not a voluntary arms length transaction
15 for valuable consideration approximating the fair
16 market value of the property at the time of the sale to the
17 board: *Provided, however*, That the provisions of this
18 section may not operate to invalidate any provision of
19 the deed to the contrary.

20 (c) The county board, by the same method set forth in
21 subsection (a) of this section for the sale of school
22 buildings and lands, may, in lieu of offering the property
23 for sale, enter into a lease for oil or gas or other minerals
24 any lands or school sites owned in fee by it. The pro-
25 ceeds of the sales and rentals shall be placed to the credit
26 of the fund or funds of the district as the county board
27 may direct.

28 (d) The county board may make any sale of property
29 subject to the provision that all liability for hazards
30 associated with the premises are to be assumed by the
31 purchaser. In any sale by the county board of improved
32 property in which the actual consideration is less than
33 ten thousand dollars or in any sale of unimproved
34 property in which the actual consideration is less than
35 one thousand dollars, the county board shall make any
36 sale of property subject to the provision that all liability
37 for hazards associated with the premises are to be
38 assumed by the purchaser. The county board shall
39 inform any prospective purchaser of known or suspected
40 hazards associated with the property.

41 (e) Except as provided by the provisions of subsection
42 (b) of this section, where a county board determines that
43 any school property is no longer needed for school
44 purposes, the county board may, upon determining that

45 it will serve the best interests of the school system and
46 the community, offer the property for lease. The proce-
47 dure set forth in subsection (a) of this section relating to
48 sale of school buildings and lands shall apply to leasing
49 the school property. Any lease authorized by the provi-
50 sions of this subsection shall be in writing. The writing
51 shall include a recitation of all known or reasonably
52 suspected hazards associated with the property, an
53 assumption by the lessee of all liability related to all
54 hazards, whether disclosed or not, and provisions
55 wherein the lessee assumes all liability for any actions
56 arising from the property during the term of the lease.

57 (f) Notwithstanding any provision of this section to the
58 contrary, the provisions of this section concerning sale or
59 lease at public auction may not apply to a county board
60 selling, leasing or otherwise disposing of its property for
61 a public use to the state of West Virginia, or its political
62 subdivisions, including county commissions, for an
63 adequate consideration without considering alone the
64 present commercial or market value of the property.

§18-5-13. Authority of boards generally.

1 Each county board, subject to the provisions of this
2 chapter and the rules of the state board, has the author-
3 ity:

4 (a) To control and manage all of the schools and school
5 interests for all school activities and upon all school
6 property, whether owned or leased by the county,
7 including the authority to require that records be kept of
8 all receipts and disbursements of all funds collected or
9 received by any principal, teacher, student or other
10 person in connection with the schools and school inter-
11 ests, any programs, activities or other endeavors of any
12 nature operated or carried on by or in the name of the
13 school, or any organization or body directly connected
14 with the school, to audit the records and to conserve the
15 funds, which shall be considered quasipublic moneys,

16 including securing surety bonds by expenditure of board
17 moneys;

18 (b) To establish schools, from preschool through high
19 school, inclusive of vocational schools; and to establish
20 schools, programs or both, for post-high school instruc-
21 tion, subject to approval of the state board;

22 (c) To close any school which is unnecessary and to
23 assign the pupils of the school to other schools: *Pro-*
24 *vided*, That the closing shall be officially acted upon, and
25 teachers and service personnel involved notified on or
26 before the first Monday in April, in the same manner as
27 provided in section four of this article, except in an
28 emergency, subject to the approval of the state superin-
29 tendent, or under subdivision (e) of this section;

30 (d) To consolidate schools;

31 (e) To close any elementary school whose average daily
32 attendance falls below twenty pupils for two months in
33 succession and send the pupils to other schools in the
34 district or to schools in adjoining districts. If the teach-
35 ers in the closed school are not transferred or reassigned
36 to other schools, they shall receive one month's salary;

37 (f) (1) To provide at public expense adequate means of
38 transportation, including transportation across county
39 lines for students whose transfer from one district to
40 another is agreed to by both county boards as reflected
41 in the minutes of their respective meetings, for all
42 children of school age who live more than two miles
43 distance from school by the nearest available road; to
44 provide at public expense, according to such rules as the
45 board may establish, adequate means of transportation
46 for school children participating in county board-ap-
47 proved curricular and extracurricular activities; to
48 provide at public expense, by rules and within the
49 available revenues, transportation for those within two
50 miles distance; and to provide, at no cost to the county

51 board and according to rules established by the board,
52 transportation for participants in projects operated,
53 financed, sponsored or approved by the commission on
54 aging, all subject to the following:

55 (A) All costs and expenses incident in any way to
56 transportation for projects connected with the commis-
57 sion on aging shall be borne by the commission or the
58 local or county chapter of the commission;

59 (B) In all cases, the school buses owned by the county
60 board shall be driven or operated only by drivers regu-
61 larly employed by the county board;

62 (C) The county board may provide, under rules estab-
63 lished by the state board, for the certification of profes-
64 sional employees as drivers of county board-owned
65 vehicles with a seating capacity of less than ten passen-
66 gers used for the transportation of pupils for school-
67 sponsored activities other than transporting students
68 between school and home. The use of the vehicles shall
69 be limited to one for each school-sponsored activity; and

70 (D) Buses shall be used for extracurricular activities as
71 provided in this section only when the insurance pro-
72 vided for by this section is in effect;

73 (2) To enter into agreements with one another as
74 reflected in the minutes of their respective meetings to
75 provide, on a cooperative basis, adequate means of
76 transportation across county lines for children of school
77 age subject to the conditions and restrictions of this
78 subsection and subsection (h) of this section;

79 (g) (1) To lease school buses operated only by drivers
80 regularly employed by the county board to public and
81 private nonprofit organizations or private corporations
82 to transport school-age children to and from camps or
83 educational activities in accordance with rules estab-
84 lished by the county board. All costs and expenses

85 incurred by or incidental to the transportation of the
86 children shall be borne by the lessee;

87 (2) To contract with any college or university or
88 officially recognized campus organizations to provide
89 transportation for college or university students, faculty
90 or staff to and from the college or university. Only
91 college and university students, faculty and staff may be
92 transported pursuant to this section. The contract shall
93 include consideration and compensation for bus opera-
94 tors, repairs and other costs of service, insurance and any
95 rules concerning student behavior;

96 (h) To provide at public expense for insurance against
97 the negligence of the drivers of school buses, trucks or
98 other vehicles operated by the board; and if the transpor-
99 tation of pupils is contracted, then the contract for the
100 transportation shall provide that the contractor shall
101 carry insurance against negligence in an amount speci-
102 fied by the board;

103 (i) To provide solely from county board funds for all
104 regular full-time employees of the county board all or
105 any part of the cost of a group plan or plans of insurance
106 coverage not provided or available under the West
107 Virginia public employees insurance act;

108 (j) To employ teacher aides, to provide in-service
109 training for teacher aides, the training to be in accor-
110 dance with rules of the state board and, in the case of
111 service personnel assuming duties as teacher aides in
112 exceptional children programs, to provide a four-clock-
113 hour program of training prior to the assignment which
114 shall, in accordance with rules of the state board, consist
115 of training in areas specifically related to the education
116 of exceptional children;

117 (k) To establish and conduct a self-supporting dormi-
118 tory for the accommodation of the pupils attending a
119 high school or participating in a post high school pro-

120 gram and of persons employed to teach in the high school
121 or post high school program;

122 (l) At the board's discretion, to employ, contract with
123 or otherwise engage legal counsel in lieu of utilizing the
124 prosecuting attorney to advise, attend to, bring, prose-
125 cute or defend, as the case may be, any matters, actions,
126 suits and proceedings in which the board is interested;

127 (m) To provide appropriate uniforms for school service
128 personnel;

129 (n) To provide at public expense and under rules as
130 established by any county board for the payment of
131 traveling expenses incurred by any person invited to
132 appear to be interviewed concerning possible employ-
133 ment by the county board;

134 (o) To allow or disallow their designated employees to
135 use publicly provided carriage to travel from their
136 residences to their workplace and return: *Provided*, That
137 the usage is subject to the supervision of the county
138 board and is directly connected with and required by the
139 nature and in the performance of the employee's duties
140 and responsibilities;

141 (p) To provide, at public expense, adequate public
142 liability insurance, including professional liability
143 insurance for county board employees;

144 (q) To enter into agreements with one another to
145 provide, on a cooperative basis, improvements to the
146 instructional needs of each district. The cooperative
147 agreements may be used to employ specialists in a field
148 of academic study or support functions or services, for
149 the academic study. The agreements are subject to
150 approval by the state board;

151 (r) To provide information about vocational or higher
152 education opportunities to students with handicapping
153 conditions. The county board shall provide in writing to

154 the students and their parents or guardians information
155 relating to programs of vocational education and to
156 programs available at state funded institutions of higher
157 education. The information may include sources of
158 available funding, including grants, mentorships and
159 loans for students who wish to attend classes at institu-
160 tions of higher education;

161 (s) To enter into agreements with one another, with the
162 approval of the state board, for the transfer and receipt
163 of any and all funds determined to be fair when students
164 are permitted or required to attend school in a district
165 other than the district of their residence; and

166 (t) To enter into job-sharing arrangements, as defined
167 in section one, article one, chapter eighteen-a of this
168 code, with its employees, subject to the following provi-
169 sions:

170 (1) A job-sharing arrangement shall meet all the
171 requirements relating to posting, qualifications and
172 seniority, as provided for in article four, chapter
173 eighteen-a of this code;

174 (2) Notwithstanding any provisions of this code or
175 legislative rule and specifically the provisions of article
176 sixteen, chapter five of this code to the contrary, a
177 county board which enters into a job-sharing arrange-
178 ment in which two or more employees voluntarily share
179 an authorized full-time position shall provide the
180 mutually agreed upon employee coverage but shall not
181 offer insurance coverage to more than one of the job-
182 sharing employees, including any group plan or group
183 plans available under the state public employees insur-
184 ance act;

185 (3) Each job-sharing agreement shall be in writing on
186 a form prescribed and furnished by the county board.
187 The agreement shall designate specifically one employee
188 only who is entitled to the insurance coverage. Any

189 employee who is not so designated is not eligible for state
190 public employees insurance coverage regardless of the
191 number of hours he or she works;

192 (4) All employees involved in the job-sharing agree-
193 ment meet the requirements of subdivision (3), section
194 two, article sixteen, chapter five of this code; and

195 (5) When entering into a job sharing agreement, the
196 county board and the employees involved in the job-
197 sharing agreement shall consider issues such as retire-
198 ment benefits, termination of the job sharing agreement
199 and any other issue the parties to the agreement consider
200 appropriate. Any provision in the agreement relating to
201 retirement benefits shall not cause any cost to be in-
202 curred by the retirement system that is more than the
203 cost that would be incurred if a single employee were
204 filling the position.

205 “Quasipublic funds” as used in this section means any
206 money received by any principal, teacher, student or
207 other person for the benefit of the school system as a
208 result of curricular or noncurricular activities.

209 Each county board shall expend under rules it estab-
210 lishes for each child an amount not to exceed the propor-
211 tion of all school funds of the district that each child
212 would be entitled to receive if all the funds were distrib-
213 uted equally among all the children of school age in the
214 district upon a per capita basis.

§18-5-14. Policies to promote school board effectiveness.

1 (a) No later than the first day of August, two thousand
2 three, each county board shall adopt and file with the
3 state board copies of policies and summaries of policies
4 that promote school board effectiveness. These policies
5 may be modified by the county board as necessary, but
6 shall be refiled with the state board following each
7 modification. The policies shall address the following
8 objectives:

9 (1) Establishing direct links between the county board
10 and its local school improvement councils and between
11 the county board and its faculty senates for the purpose
12 of enabling the county board to receive information,
13 comments and suggestions directly from the councils and
14 faculty senates regarding the broad guidelines for
15 oversight procedures, standards of accountability and
16 planning for future needs as required by this section. To
17 further development of these linkages, each county board
18 shall:

19 (A) Meet at least annually with a quorum of members
20 from each local school improvement council in the
21 district, at a time and in a manner to be determined by
22 the county board, except, in order to facilitate schedul-
23 ing, the county board may adopt an alternate procedure
24 allowing it to conduct the required annual meeting with
25 each council in the absence of a quorum of council
26 members if the alternate procedure has received prior
27 approval from the state board and if the school district
28 serves more than twenty thousand students or has more
29 than twelve public schools.

30 Nothing in this section prohibits a county board from
31 meeting with representatives of a local school improve-
32 ment council, but at least one annual meeting shall be
33 held, as specified in this section.

34 At any time and with reasonable advance notice,
35 county boards may schedule additional meetings with
36 the council for any low performing school in the district;

37 (B) At least thirty days before an annual meeting with
38 each local school improvement council, develop and
39 submit to the council an agenda for the annual meeting
40 which requires the council chair or a member designated
41 by the chair, to address items designated by the county
42 board from the report created pursuant to this section,
43 and one or more of the following issues:

44 (i) School performance;

45 (ii) Curriculum;

46 (iii) Status of the school in meeting the unified school
47 improvement plan established pursuant to section five,
48 article two-e of this chapter; and

49 (iv) Status of the school in meeting the county plan
50 established pursuant to section five, article two-e of this
51 chapter;

52 (C) Make written requests for information from the
53 local school improvement council throughout the year or
54 hold community forums to receive input from the af-
55 fected community as the county board considers neces-
56 sary; and

57 (D) Report details to the state board concerning the
58 meeting or meetings held with councils, as specified in
59 this section. The information shall be provided to the
60 state board at the conclusion of the school year, but no
61 later than the first day of September of each year, and
62 shall become an indicator in the performance accredita-
63 tion process for each county. In order to facilitate
64 development of this report, a county board may consult
65 with and request assistance from members of the coun-
66 cils.

67 (2) Providing for the development of direct links
68 between the county board and the community at large
69 allowing for community involvement at regular county
70 board meetings and specifying how the county board will
71 communicate regularly with the public regarding impor-
72 tant issues;

73 (3) Providing for the periodic review of personnel
74 policies of the district in order to determine their effec-
75 tiveness;

76 (4) Setting broad guidelines for the school district,
77 including the establishment of specific oversight proce-

78 dures, development and implementation of standards of
79 accountability and development of long-range plans to
80 meet future needs as required by this section; and

81 (5) Using school-based accreditation and performance
82 data provided by the state board and other available
83 data in county board decisionmaking to meet the educa-
84 tion goals of the state and other goals as the county
85 board may establish.

86 (b) On or before the first day of August of each year,
87 county school boards shall review the policies listed in
88 subsection (a) of this section and may modify these
89 policies as necessary.

§18-5-25. Duties of superintendent as secretary of board.

1 The county superintendent as secretary of the board
2 shall:

3 (1) Take the oath prescribed in the constitution before
4 performing any of the duties of his office;

5 (2) Attend all board meetings and record its official
6 proceedings in a book kept for that purpose;

7 (3) Record the number of each order issued the name of
8 the payee, the purpose for which the order was issued
9 and the amount thereof. Every order shall be signed by
10 the secretary and the president of the board;

11 (4) Care for and keep all papers belonging to the board,
12 including evidences of title, contracts and obligations.
13 They shall be kept in the secretary's office, accessibly
14 arranged for reference;

15 (5) Record and keep on file all papers and documents
16 pertaining to the business of the board;

17 (6) Keep the accounts and certify the reports required
18 by law or requested by the board;

19 (7) Administer oaths to school officers, teachers and
20 others making reports;

21 (8) Deliver in proper condition to his successor all
22 records and property pertaining to his office; and

23 (9) Exercise such other duties as are prescribed by law.

§18-5-45. School calendar.

1 (a) As used in this section, the following terms have the
2 following meanings:

3 (1) "Instructional day" means a day within the instruc-
4 tional term which meets the following criteria:

5 (A) Instruction is offered to students for the amounts of
6 time provided by state board rule;

7 (B) Instructional time is used for instruction,
8 cocurricular activities and approved extracurricular
9 activities and pursuant to the provisions of subdivision
10 (12), subsection (b), section five, article five-a of this
11 chapter, faculty senates; and

12 (C) Such other criteria as the state board determines
13 appropriate.

14 (2) "Bank time" means time added beyond the required
15 instructional day which may be accumulated and used in
16 larger blocks of time during the school year for instruc-
17 tional or noninstructional activities, as further defined
18 by the state board.

19 (3) "Extracurricular activities" are activities under the
20 supervision of the school such as athletics,
21 noninstructional assemblies, social programs, entertain-
22 ment and other similar activities, as further defined by
23 the state board.

24 (4) "Cocurricular activities" are activities that are
25 closely related to identifiable academic programs or

26 areas of study that serve to complement academic
27 curricula as further defined by the state board.

28 (b) *Findings.* –

29 (1) The primary purpose of the school system is to
30 provide instruction for students.

31 (2) The school calendar, as defined in this section, is
32 designed to define the school term both for employees
33 and for instruction.

34 (3) The school calendar traditionally has provided for
35 one hundred eighty actual days of instruction but
36 numerous circumstances have combined to cause the
37 actual number of instructional days to be less than one
38 hundred eighty.

39 (4) The quality and amount of instruction offered
40 during the instructional term is affected by the extracur-
41 ricular and cocurricular activities allowed to occur
42 during scheduled instructional time.

43 (5) Within reasonable guidelines, the school calendar
44 should be designed at least to guarantee that one hun-
45 dred eighty actual days of instruction are possible.

46 (c) The county board shall provide a school term for its
47 schools that contains the following:

48 (1) An employment term for teachers of no less than
49 two hundred days, exclusive of Saturdays and Sundays;
50 and

51 (2) Within the employment term, an instructional term
52 for students of no less than one hundred eighty separate
53 instructional days.

54 (d) The instructional term for students shall include,
55 one instructional day in each of the months of October,
56 December, February, April and June which is an instruc-
57 tional support and enhancement day scheduled by the

58 board to include both instructional activities for students
59 and professional activities for teachers to improve
60 student instruction. The instructional activities for
61 students may include, but are not limited to, both in-
62 school and outside of school activities such as student
63 mentoring, tutoring, counseling, student research and
64 other projects or activities of an instructional nature,
65 community service, career exploration, parent and
66 teacher conferences, visits to the homes of students,
67 college and financial aid workshops and college visits.
68 The instructional activities for students shall be deter-
69 mined and scheduled at the local school level. The first
70 two hours of the instructional day shall be used for
71 instructional activities for students which require the
72 direct supervision or involvement by teachers, and such
73 activities shall be limited to two hours. To ensure that
74 the students who attend are properly supervised, the
75 instructional activities for students shall be arranged by
76 appointment with the individual school through the
77 principal, a teacher or other professional personnel at the
78 school. The school shall establish a policy relating to the
79 use of the two-hour block scheduled for instructional
80 activities for students. The professional activities for
81 teachers shall include a two-hour block of time immedi-
82 ately following the first two hours of instructional
83 activities for students during which the faculty senate
84 shall have the opportunity to meet. Any time not used by
85 the faculty senate and the remainder of the school day,
86 not including the duty free lunch period, shall be used
87 for other professional activities for teachers to improve
88 student instruction which may include, but are not
89 limited to, professional staff development, curriculum
90 team meetings, individualized education plan meetings
91 and other meetings between teachers, principals, aides
92 and paraprofessionals to improve student instruction as
93 determined and scheduled at the local school level.
94 Notwithstanding any other provision of law or policy to
95 the contrary, the presence of any specific number of

96 students in attendance at the school for any specific
97 period of time shall not be required on instructional
98 support and enhancement days and the transportation of
99 students to the school shall not be required. Instruc-
100 tional support and enhancement days are also a sched-
101 uled work day for all service personnel and shall be used
102 for training or other tasks related to their job classifica-
103 tion if their normal duties are not required.

104 (e) The instructional term shall commence no earlier
105 than the twenty-sixth day of August and terminate no
106 later than the eighth day of June.

107 (f) Noninstructional days shall total twenty and shall
108 be comprised of the following:

109 (1) Seven holidays as specified in section two, article
110 five, chapter eighteen-a of this code;

111 (2) Election day as specified in section two, article five,
112 chapter eighteen-a of this code;

113 (3) Six days to be designated by the county board to be
114 used by the employees outside the school environment;
115 and

116 (4) Six days to be designated by the county board for
117 any of the following purposes:

118 (A) Curriculum development;

119 (B) Preparation for opening and closing school;

120 (C) Professional development;

121 (D) Teacher-pupil-parent conferences;

122 (E) Professional meetings; and

123 (F) Making up days when instruction was scheduled
124 but not conducted.

125 (g) Three of the days described in subdivision (4),
126 subsection (f) of this section shall be scheduled prior to

127 the twenty-sixth day of August for the purposes of
128 preparing for the opening of school and staff develop-
129 ment.

130 (h) At least one of the days described in subdivision (4),
131 subsection (f) of this section shall be scheduled after the
132 eighth day of June for the purpose of preparing for the
133 closing of school. If one hundred eighty separate instruc-
134 tion days occur prior to the eighth day of June, this day
135 may be scheduled on or before the eighth day of June.

136 (i) At least four of the days described in subdivision (3),
137 subsection (f) of this section shall be scheduled after the
138 first day of March.

139 (j) At least two of the days described in subdivision (4),
140 subsection (f) of this section, will be scheduled for
141 professional development. The professional development
142 conducted on these days will be consistent with the goals
143 established by the state board pursuant to the provisions
144 of section twenty-three-a, article two, chapter eighteen
145 of this code.

146 (k) Subject to the provisions of subsection (h) of this
147 section, all noninstructional days will be scheduled prior
148 to the eighth day of June.

149 (l) Except as otherwise provided in this subsection, the
150 state board may not schedule the primary statewide
151 assessment program prior to the fifteenth day of May of
152 the instructional year, unless the state board determines
153 that the nature of the test mandates an earlier testing
154 date. For the school year beginning two thousand three
155 only, the state board may not schedule the primary
156 statewide assessment program prior to the fifteenth day
157 of April of the instructional year.

158 (m) If, on or after the first day of March, the county
159 board determines that it is not possible to complete one
160 hundred eighty separate days of instruction, the county
161 board shall schedule instruction on any available

162 noninstructional day, regardless of the purpose for which
163 the day originally was scheduled, and the day will be
164 used for instruction: *Provided*, That the noninstructional
165 days scheduled for professional development shall be the
166 last available noninstructional days to be rescheduled as
167 instructional days: *Provided, however*, That on or after
168 the first day in March, the county board also may require
169 additional minutes of instruction in the school day to
170 make up for lost instructional days in excess of the days
171 available through rescheduling and, if in its judgment it
172 is reasonable and necessary to improve student perfor-
173 mance, to avoid scheduling instruction on noninstruc-
174 tional days previously scheduled for professional devel-
175 opment. The provisions of this subsection do not apply
176 to: (1) Holidays; and (2) election day.

177 (n) The following applies to bank time:

178 (1) Except as provided in subsection (m) of this section,
179 bank time may not be used to avoid one hundred eighty
180 separate days of instruction;

181 (2) Bank time may not be used to lengthen the time
182 provided in law for faculty senates;

183 (3) The use of bank time for extracurricular activities
184 will be limited by the state board; and

185 (4) Such other requirements or restrictions as the state
186 board may provide in the rule required to be promul-
187 gated by this section.

188 (o) The following applies to cocurricular activities:

189 (1) The state board shall determine what activities may
190 be considered cocurricular;

191 (2) The state board shall determine the amount of
192 instructional time that may be consumed by cocurricular
193 activities; and

194 (3) Such other requirements or restrictions as the state
195 board may provide in the rule required to be promul-
196 gated by this section.

197 (p) The following applies to extracurricular activities:

198 (1) Except as provided by subdivision (3) of this
199 subsection, extracurricular activities may not be sched-
200 uled during instructional time;

201 (2) The use of bank time for extracurricular activities
202 will be limited by the state board; and

203 (3) The state board shall provide for the attendance by
204 students of certain activities sanctioned by the secondary
205 schools activities commission when those activities are
206 related to statewide tournaments or playoffs or are
207 programs required for secondary schools activities
208 commission approval.

209 (q) Noninstructional interruptions to the instructional
210 day shall be minimized to allow the classroom teacher to
211 teach.

212 (r) Nothing in this section prohibits establishing year-
213 round schools in accordance with rules to be established
214 by the state board.

215 (s) Prior to implementing the school calendar, the
216 county board shall secure approval of its proposed
217 calendar from the state board or, if so designated by the
218 state board, from the state superintendent.

219 (t) The county board may contract with all or part of
220 the personnel for a longer term.

221 (u) The minimum instructional term may be decreased
222 by order of the state superintendent in any county
223 declared a federal disaster area and where the event
224 causing the declaration is substantially related to a
225 reduction of instructional days.

226 (v) Where the employment term overlaps a teacher's or
227 service personnel's participation in a summer institute or
228 institution of higher education for the purpose of ad-
229 vancement or professional growth, the teacher or service
230 personnel may substitute, with the approval of the
231 county superintendent, the participation for up to five of
232 the noninstructional days of the employment term.

233 (w) The state board shall promulgate a rule in accor-
234 dance with the provisions of article three-b, chapter
235 twenty-nine-a of this code for the purpose of implement-
236 ing the provisions of this section.

ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.

§18-5A-2. Local school improvement councils; election.

1 (a) A local school improvement council shall be estab-
2 lished at every school consisting of the following:

3 (1) The principal, who shall serve as an ex officio
4 member of the council and be entitled to vote;

5 (2) Three teachers elected by the faculty senate of the
6 school;

7 (3) Two school service personnel elected by the school
8 service personnel employed at the school;

9 (4) Three parent(s), guardian(s) or custodian(s) of
10 students enrolled at the school elected by the parent(s),
11 guardian(s) or custodian(s) members of the school's
12 parent teacher organization: *Provided*, That if there is no
13 parent teacher organization, the parent(s), guardian(s) or
14 custodian(s) members shall be elected by the parent(s),
15 guardian(s) or custodian(s) of students enrolled at the
16 school in such manner as may be determined by the
17 principal;

18 (5) Two at-large members appointed by the principal,
19 one of whom resides in the school's attendance area and
20 one of whom represents business or industry, neither of

21 whom is eligible for membership under any of the other
22 elected classes of members;

23 (6) In the case of vocational-technical schools, the
24 vocational director: *Provided*, That if there is no voca-
25 tional director, then the principal may appoint no more
26 than two additional representatives, one of whom
27 represents business and one of whom represents industry;

28 (7) In the case of a school with students in grade seven
29 or higher, the student body president or other student in
30 grade seven or higher elected by the student body in
31 those grades.

32 (b) Under no circumstances may more than one parent
33 member of the council be then employed at that school in
34 any capacity.

35 (c) The principal shall arrange for such elections to be
36 held prior to the fifteenth day of September of each
37 school year to elect a council and shall give notice of the
38 elections at least one week prior to the elections being
39 held. To the extent practicable, all elections to select
40 council members shall be held within the same week.

41 (d) Parent(s), guardian(s) or custodian(s), teachers and
42 service personnel elected to the council shall serve a two-
43 year term and elections shall be arranged in such a
44 manner that no more than two teachers, no more than
45 two parent(s), guardian(s) or custodian(s) and no more
46 than one service person are elected in a given year. All
47 other non-ex officio members shall serve one-year terms.

48 (e) Council members may only be replaced upon death,
49 resignation, failure to appear at three consecutive
50 meetings of the council for which notice was given, or a
51 change in personal circumstances so that the person is no
52 longer representative of the class of members from which
53 appointed. In the case of a vacancy in an elected mem-
54 bership, the chair of the council shall appoint another
55 qualified person to serve the unexpired term of the

56 person being replaced or, in the case of an appointed
57 member of the council, the principal shall appoint a
58 replacement as soon as practicable.

59 (f) As soon as practicable after the election of council
60 members, and no later than the first day of October of
61 each school year, the principal shall convene an organi-
62 zational meeting of the school improvement council. The
63 principal shall notify each member in writing at least
64 two employment days in advance of the organizational
65 meeting. At this meeting, the principal shall provide
66 each member with the following:

67 (1) A copy of the current applicable sections of this
68 code;

69 (2) Any state board rule or regulation promulgated
70 pursuant to the operation of these councils; and

71 (3) Any information as may be developed by the
72 department of education on the operation and powers of
73 local school improvement councils and their important
74 role in improving student and school performance and
75 progress.

76 (g) The council shall elect from its membership a chair
77 and two members to assist the chair in setting the agenda
78 for each council meeting. The chair shall serve a term of
79 one year and no person may serve as chair for more than
80 two consecutive terms. If the chair's position becomes
81 vacant for any reason, the principal shall call a meeting
82 of the council to elect another qualified person to serve
83 the unexpired term. Once elected, the chair is responsi-
84 ble for notifying each member of the school improvement
85 council in writing two employment days in advance of
86 any council meeting.

87 (h) School improvement councils shall meet at least
88 once every nine weeks or equivalent grading period at
89 the call of the chair or by three fourths of its members.

90 (i) The local school improvement council shall meet at
91 least annually with the county board, in accordance with
92 the provisions in section fourteen, article five of this
93 chapter. At this annual meeting, the local school im-
94 provement council chair, or another member designated
95 by the chair, shall be prepared to address any matters as
96 may be requested by the county board as specified in the
97 meeting agenda provided to the council and may further
98 provide any other information, comments or suggestions
99 the local school improvement council wishes to bring to
100 the county board's attention. Anything presented under
101 this subsection shall be submitted to the county board in
102 writing.

103 (j) School improvement councils shall be considered for
104 the receipt of school of excellence awards under section
105 three of this article and competitive grant awards under
106 section twenty-nine, article two of this chapter and may
107 receive and expend such grants for the purposes pro-
108 vided in such section. In any and all matters which may
109 fall within the scope of both the school improvement
110 councils and the school curriculum teams authorized in
111 section five of this article, the school curriculum teams
112 shall be deemed to have jurisdiction. In order to promote
113 innovations and improvements in the environment for
114 teaching and learning at the school, a school improve-
115 ment council shall receive cooperation from the school in
116 implementing policies and programs it may adopt to:

117 (1) Encourage the involvement of parent(s), guardian(s)
118 or custodian(s) in their child's educational process and in
119 the school;

120 (2) Encourage businesses to provide time for their
121 employees who are parent(s), guardian(s) or custodian(s)
122 to meet with teachers concerning their child's education;

123 (3) Encourage advice and suggestions from the business
124 community;

125 (4) Encourage school volunteer programs and
126 mentorship programs; and

127 (5) Foster utilization of the school facilities and
128 grounds for public community activities.

129 (k) On or before the eighth day of June, one thousand
130 nine hundred ninety-five, each local school improvement
131 council shall develop and deliver a report to the
132 countywide council on productive and safe schools. The
133 report shall include guidelines for the instruction and
134 rehabilitation of pupils who have been excluded from the
135 classroom, suspended from the school or expelled from
136 the school, the description and recommendation of in-
137 school suspension programs, a description of possible
138 alternative settings, schedules for instruction and
139 alternative education programs and an implementation
140 schedule for such guidelines. The guidelines shall
141 include the following:

142 (1) A system to provide for effective communication
143 and coordination between school and local emergency
144 services agencies;

145 (2) A preventive discipline program which may include
146 the responsible students program devised by the West
147 Virginia board of education as adopted by the county
148 board of education, pursuant to the provisions of subsec-
149 tion (e), section one, article five, chapter eighteen-a of
150 this code; and

151 (3) A student involvement program, which may include
152 the peer mediation program or programs devised by the
153 West Virginia board of education as adopted by the
154 county board of education, pursuant to the provisions of
155 subsection (e), section one, article five, chapter eighteen-
156 a of this code.

157 (l) The council may include in its report to the county-
158 wide council on productive and safe schools provisions
159 of the state board of education policy 4373, student code

160 of conduct, or any expansion of such policy which
161 increases the safety of students in schools in this state
162 and is consistent with the policies and other laws of this
163 state.

164 (m) Councils may adopt their own guidelines estab-
165 lished under this section. In addition, the councils may
166 adopt all or any part of the guidelines proposed by other
167 local school improvement councils, as developed under
168 this section, which are not inconsistent with the laws of
169 this state, the policies of West Virginia board of educa-
170 tion or the policies of the county board of education.

171 (n) The state board of education shall provide assis-
172 tance to a local school improvement council upon receipt
173 of a reasonable request for that assistance. The state
174 board also may solicit proposals from other parties or
175 entities to provide orientation training for local school
176 improvement council members and may enter into
177 contracts or agreements for that purpose. Any training
178 for members shall meet the guidelines established by the
179 state board.

**§18-5A-5. Public school faculty senates established; election
of officers; powers and duties.**

1 (a) There is established at every public school in this
2 state a faculty senate which is comprised of all perma-
3 nent, full-time professional educators employed at the
4 school who shall all be voting members. Professional
5 educators, as used in this section, means professional
6 educators as defined in chapter eighteen-a of this code.
7 A quorum of more than one half of the voting members
8 of the faculty shall be present at any meeting of the
9 faculty senate at which official business is conducted.
10 Prior to the beginning of the instructional term each
11 year, but within the employment term, the principal shall
12 convene a meeting of the faculty senate to elect a chair,
13 vice chair and secretary and discuss matters relevant to
14 the beginning of the school year. The vice chair shall

15 preside at meetings when the chair is absent. Meetings
16 of the faculty senate shall be held during the times
17 provided in accordance with subdivision (12), subsection
18 (b) of this section as determined by the faculty senate.
19 Emergency meetings may be held during
20 noninstructional time at the call of the chair or a major-
21 ity of the voting members by petition submitted to the
22 chair and vice chair. An agenda of matters to be consid-
23 ered at a scheduled meeting of the faculty senate shall be
24 available to the members at least two employment days
25 prior to the meeting. For emergency meetings the
26 agenda shall be available as soon as possible prior to the
27 meeting. The chair of the faculty senate may appoint
28 such committees as may be desirable to study and submit
29 recommendations to the full faculty senate, but the acts
30 of the faculty senate shall be voted upon by the full body.

31 (b) In addition to any other powers and duties con-
32 ferred by law, or authorized by policies adopted by the
33 state or county board of education or bylaws which may
34 be adopted by the faculty senate not inconsistent with
35 law, the powers and duties listed in this subsection are
36 specifically reserved for the faculty senate. The intent of
37 these provisions is neither to restrict nor to require the
38 activities of every faculty senate to the enumerated items
39 except as otherwise stated. Each faculty senate shall
40 organize its activities as it deems most effective and
41 efficient based on school size, departmental structure
42 and other relevant factors.

43 (1) Each faculty senate shall control funds allocated to
44 the school from legislative appropriations pursuant to
45 section nine, article nine-a of this chapter. From such
46 funds, each classroom teacher and librarian shall be
47 allotted fifty dollars for expenditure during the instruc-
48 tional year for academic materials, supplies or equip-
49 ment which, in the judgment of the teacher or librarian,
50 will assist him or her in providing instruction in his or
51 her assigned academic subjects or shall be returned to

52 the faculty senate: *Provided*, That nothing contained
53 herein prohibits the funds from being used for programs
54 and materials that, in the opinion of the teacher, enhance
55 student behavior, increase academic achievement,
56 improve self-esteem and address the problems of stu-
57 dents at-risk. The remainder of funds shall be expended
58 for academic materials, supplies or equipment in accor-
59 dance with a budget approved by the faculty senate.
60 Notwithstanding any other provisions of the law to the
61 contrary, funds not expended in one school year are
62 available for expenditure in the next school year: *Pro-*
63 *vided, however*, That the amount of county funds bud-
64 geted in a fiscal year may not be reduced throughout the
65 year as a result of the faculty appropriations in the same
66 fiscal year for such materials, supplies and equipment.
67 Accounts shall be maintained of the allocations and
68 expenditures of such funds for the purpose of financial
69 audit. Academic materials, supplies or equipment shall
70 be interpreted broadly, but does not include materials,
71 supplies or equipment which will be used in or connected
72 with interscholastic athletic events.

73 (2) A faculty senate may establish a process for faculty
74 members to interview new prospective professional
75 educators and paraprofessional employees at the school
76 and submit recommendations regarding employment to
77 the principal, who may also make independent recom-
78 mendations, for submission to the county superintendent:
79 *Provided*, That such process shall be chaired by the
80 school principal and must permit the timely employment
81 of persons to perform necessary duties.

82 (3) A faculty senate may nominate teachers for recogni-
83 tion as outstanding teachers under state and local
84 teacher recognition programs and other personnel at the
85 school, including parents, for recognition under other
86 appropriate recognition programs and may establish
87 such programs for operation at the school.

88 (4) A faculty senate may submit recommendations to
89 the principal regarding the assignment scheduling of
90 secretaries, clerks, aides and paraprofessionals at the
91 school.

92 (5) A faculty senate may submit recommendations to
93 the principal regarding establishment of the master
94 curriculum schedule for the next ensuing school year.

95 (6) A faculty senate may establish a process for the
96 review and comment on sabbatical leave requests
97 submitted by employees at the school pursuant to section
98 eleven, article two of this chapter.

99 (7) Each faculty senate shall elect three faculty repre-
100 sentatives to the local school improvement council
101 established pursuant to section two of this article.

102 (8) Each faculty senate may nominate a member for
103 election to the county staff development council pursu-
104 ant to section eight, article three, chapter eighteen-a of
105 this code.

106 (9) Each faculty senate shall have an opportunity to
107 make recommendations on the selection of faculty to
108 serve as mentors for beginning teachers under beginning
109 teacher internship programs at the school.

110 (10) A faculty senate may solicit, accept and expend
111 any grants, gifts, bequests, donations and any other
112 funds made available to the faculty senate: *Provided*,
113 That the faculty senate shall select a member who has
114 the duty of maintaining a record of all funds received
115 and expended by the faculty senate, which record shall
116 be kept in the school office and is subject to normal
117 auditing procedures.

118 (11) Any faculty senate may review the evaluation
119 procedure as conducted in their school to ascertain
120 whether the evaluations were conducted in accordance
121 with the written system required pursuant to section

122 twelve, article two, chapter eighteen-a of this code and
123 the general intent of this Legislature regarding meaning-
124 ful performance evaluations of school personnel. If a
125 majority of members of the faculty senate determine that
126 such evaluations were not so conducted, they shall
127 submit a report in writing to the state board of educa-
128 tion: *Provided*, That nothing herein creates any new right
129 of access to or review of any individual's evaluations.

130 (12) A local board shall provide to each faculty senate
131 a two-hour block of time for a faculty senate meeting on
132 a day scheduled for the opening of school prior to the
133 beginning of the instructional term, and a two-hour
134 block of time on each instructional support and enhance-
135 ment day scheduled by the board for instructional
136 activities for students and professional activities for
137 teachers pursuant section forty-five, article five of this
138 chapter. A faculty senate may meet for an unlimited
139 block of time per month during noninstructional days to
140 discuss and plan strategies to improve student instruc-
141 tion and to conduct other faculty senate business. A
142 faculty senate meeting scheduled on a noninstructional
143 day shall be considered as part of the purpose for which
144 the noninstructional day is scheduled. This time may be
145 utilized and determined at the local school level and
146 includes, but is not limited to, faculty senate meetings.

147 (13) Each faculty senate shall develop a strategic plan
148 to manage the integration of special needs students into
149 the regular classroom at their respective schools and
150 submit the strategic plan to the superintendent of the
151 county board of education periodically pursuant to
152 guidelines developed by the state department of educa-
153 tion. Each faculty senate shall encourage the participa-
154 tion of local school improvement councils, parents and
155 the community at large in developing the strategic plan
156 for each school.

157 Each strategic plan developed by the faculty senate
158 shall include at least: (A) A mission statement; (B) goals;

159 (C) needs; (D) objectives and activities to implement
160 plans relating to each goal; (E) work in progress to
161 implement the strategic plan; (F) guidelines for placing
162 additional staff into integrated classrooms to meet the
163 needs of exceptional needs students without diminishing
164 the services rendered to the other students in integrated
165 classrooms; (G) guidelines for implementation of collabo-
166 rative planning and instruction; and (H) training for all
167 regular classroom teachers who serve students with
168 exceptional needs in integrated classrooms.

ARTICLE 8. COMPULSORY SCHOOL ATTENDANCE.

**§18-8-4. Duties of attendance director and assistant directors;
complaints, warrants and hearings.**

1 (a) The county attendance director and the assistants
2 shall diligently promote regular school attendance. They
3 shall ascertain reasons for inexcusable absences from
4 school of pupils of compulsory school age and students
5 who remain enrolled beyond the sixteenth birthday as
6 defined under this article and shall take such steps as
7 are, in their discretion, best calculated to correct atti-
8 tudes of parents and pupils which results in absences
9 from school even though not clearly in violation of law.

10 (b) In the case of five consecutive or ten total
11 unexcused absences of a child during a school year, the
12 attendance director or assistant shall serve written
13 notice to the parent, guardian or custodian of such child
14 that the attendance of such child at school is required
15 and that within ten days of receipt of the notice the
16 parent, guardian or custodian, accompanied by the child,
17 shall report in person to the school the child attends for
18 a conference with the principal or other designated
19 representative of the school in order to discuss and
20 correct the circumstances causing the inexcusable
21 absences of the child; and if the parent, guardian or
22 custodian does not comply with the provisions of this
23 article, then the attendance director or assistant shall

24 make complaint against the parent, guardian or custo-
25 dian before a magistrate of the county. If it appears
26 from the complaint that there is probable cause to
27 believe that an offense has been committed and that the
28 accused has committed it, a summons or a warrant for
29 the arrest of the accused shall issue to any officer autho-
30 rized by law to serve the summons or to arrest persons
31 charged with offenses against the state. More than one
32 summons or warrant may be issued on the same com-
33 plaint. The summons or warrant shall be executed
34 within ten days of its issuance.

35 (c) The magistrate court clerk, or the clerk of the
36 circuit court performing the duties of the magistrate
37 court as authorized in section eight, article one, chapter
38 fifty of this code, shall assign the case to a magistrate
39 within ten days of execution of the summons or warrant.
40 The hearing shall be held within twenty days of the
41 assignment to the magistrate, subject to lawful continu-
42 ance. The magistrate shall provide to the accused at
43 least ten days' advance notice of the date, time and place
44 of the hearing.

45 (d) When any doubt exists as to the age of a child
46 absent from school, the attendance director shall have
47 authority to require a properly attested birth certificate
48 or an affidavit from the parent, guardian or custodian of
49 such child, stating age of the child. The county atten-
50 dance director or assistant shall, in the performance of
51 his or her duties, have authority to take without warrant
52 any child absent from school in violation of the provi-
53 sions of this article and to place such child in the school
54 in which such child is or should be enrolled.

55 (e) The county attendance director shall devote such
56 time as is required by section three of this article to the
57 duties of attendance director in accordance with this
58 section during the instructional term and at such other
59 times as the duties of an attendance director are re-
60 quired. All attendance directors hired for more than two

61 hundred days may be assigned other duties determined
62 by the superintendent during the period in excess of two
63 hundred days. The county attendance director shall be
64 responsible under direction of the county superintendent
65 for the efficient administration of school attendance in
66 the county.

67 (f) In addition to those duties directly relating to the
68 administration of attendance, the county attendance
69 director and assistant directors shall also perform the
70 following duties:

71 (1) Assist in directing the taking of the school census to
72 see that it is taken at the time and in the manner pro-
73 vided by law;

74 (2) Confer with principals and teachers on the compari-
75 son of school census and enrollment for the detection of
76 possible nonenrollees;

77 (3) Cooperate with existing state and federal agencies
78 charged with enforcement of child labor laws;

79 (4) Prepare a report for submission by the county
80 superintendent to the state superintendent of schools on
81 school attendance, at such times and in such detail as
82 may be required. The state board shall promulgate a
83 legislative rule pursuant to article three-b, chapter
84 twenty-nine-a of this code that sets forth student ab-
85 sences that shall be excluded for accountability pur-
86 poses. The absences that shall be excluded by the rule
87 shall include, but not be limited to, excused student
88 absences, students not in attendance due to disciplinary
89 measures and absent students for whom the attendance
90 director has pursued judicial remedies to compel atten-
91 dance to the extent of his or her authority. The atten-
92 dance director shall file with the county superintendent
93 and county board of education at the close of each month
94 a report showing activities of the school attendance
95 office and the status of attendance in the county at the
96 time;

97 (5) Promote attendance in the county by the compila-
98 tion of data for schools and by furnishing suggestions
99 and recommendations for publication through school
100 bulletins and the press, or in such manner as the county
101 superintendent may direct;

102 (6) Participate in school teachers' conferences with
103 parents and students;

104 (7) Assist in such other ways as the county superinten-
105 dent may direct for improving school attendance;

106 (8) Make home visits of students who have excessive
107 unexcused absences, as provided above, or if requested
108 by the chief administrator, principal or assistant princi-
109 pal; and

110 (9) Serve as the liaison for homeless children and youth.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Carly Ann
.....
Chairman Senate Committee

Shawn Spence
.....
Chairman House Committee

Originated in the Senate.

To take effect July 1, 2003.

Darrell Stephens
.....
Clerk of the Senate

Gregory D. Bond
.....
Clerk of the House of Delegates

Carl Ray Tambuli
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within *is approved* this the *2nd*
Day of *April*, 2003.

Bob Wise
.....
Governor

PRESENTED TO THE
GOVERNOR

Date 3/27/03

Time 10:10am