

1 That §18A-2-12 of the Code of West Virginia, 1931, as amended,
2 be amended and reenacted; and that said code be amended by adding
3 thereto a new article, designated §18A-3C-1, §18A-3C-2 and
4 §18A-3C-3, all to read as follows:

5 **ARTICLE 2. SCHOOL PERSONNEL.**

6 **§18A-2-12. Performance evaluations of school personnel;**
7 **professional personnel evaluation process.**

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

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

16 (c) For purposes of this section, "professional personnel",
17 "professional" or "professionals", means professional personnel as
18 defined in section one, article one of this chapter but does not
19 include professional personnel subject to the evaluation processes
20 established pursuant to the provisions of section two, article
21 three-c of this chapter.

22 (d) In developing the professional personnel performance

1 evaluation system, and amendments thereto, the state board shall
2 consult with the Center for Professional Development created in
3 article three-a of this chapter. The center shall participate
4 actively with the state board in developing written standards for
5 evaluation which clearly specify satisfactory performance and the
6 criteria to be used to determine whether the performance of each
7 professional meets such standards.

8 (e) The performance evaluation system shall contain, but ~~shall~~
9 not be limited to, the following information:

10 (1) The professional personnel positions to be evaluated,
11 whether they be teachers, substitute teachers, administrators,
12 principals or others;

13 (2) The frequency and duration of the evaluations, which shall
14 be on a regular basis and of such frequency and duration as to
15 insure the collection of a sufficient amount of data from which
16 reliable conclusions and findings may be drawn. ~~Provided, That~~ For
17 school personnel with five or more years of experience who have not
18 received an unsatisfactory rating, evaluations shall be conducted
19 no more than once every three years unless the principal determines
20 an evaluation for a particular school employee is needed more
21 frequently. ~~Provided, however, That~~ For classroom teachers with
22 five or more years of experience who have not received an

1 unsatisfactory rating, an evaluation shall be conducted or
2 professional growth and development plan required only when the
3 principal determines it ~~to be~~ is necessary for a particular
4 classroom teacher or when a classroom teacher exercises the option
5 of being evaluated at more frequent intervals;

6 (3) The evaluation shall serve the following purposes:

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

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

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

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

15 (4) The standards for satisfactory performance for
16 professional personnel and the criteria to be used to determine
17 whether the performance of each professional meets such standards
18 and other criteria for evaluation for each professional position
19 evaluated. ~~Effective July 1, 2003 and thereafter,~~ Professional
20 personnel, as appropriate, shall demonstrate competency in the
21 knowledge and implementation of the technology standards adopted by
22 the state board. If a professional fails to demonstrate competency

1 in the knowledge and implementation of these standards, he or she
2 will be subject to an improvement plan to correct the deficiencies;
3 and

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

10 (f) A professional whose performance is considered to be
11 unsatisfactory shall be given notice of deficiencies. A
12 remediation plan to correct deficiencies shall be developed by the
13 employing county board of education and the professional. The
14 professional shall be given a reasonable period of time for
15 remediation of the deficiencies and shall receive a statement of
16 the resources and assistance available for the purposes of
17 correcting the deficiencies.

18 (g) No person may evaluate professional personnel for the
19 purposes of this section unless the person has an administrative
20 certificate issued by the state superintendent and has successfully
21 completed education and training in evaluation skills through the
22 center for professional development, or equivalent education

1 training approved by the state board, which will enable the person
2 to make fair, professional, and credible evaluations of the
3 personnel whom the person is responsible for evaluating. After
4 July 1, 1994, no person may be issued an administrative certificate
5 or have an administrative certificate renewed unless the state
6 board determines that the person has successfully completed
7 education and training in evaluation skills through the center for
8 professional development or equivalent education and training
9 approved by the state board.

10 (h) Any professional whose performance evaluation includes a
11 written improvement plan shall be given an opportunity to improve
12 his or her performance through the implementation of the plan. If
13 the next performance evaluation shows that the professional is now
14 performing satisfactorily, no further action may be taken
15 concerning the original performance evaluation. If the evaluation
16 shows that the professional is still not performing satisfactorily,
17 the evaluator either shall make additional recommendations for
18 improvement or may recommend the dismissal of the professional in
19 accordance with the provisions of section eight of this article.

20 (i) Lesson plans are intended to serve as a daily guide for
21 teachers and substitutes for the orderly presentation of the
22 curriculum. Lesson plans may not be used as a substitute for

1 observations by an administrator in the performance evaluation
2 process. A classroom teacher, as defined in section one, article
3 one of this chapter, may not be required to post his or her lesson
4 plans on the Internet or otherwise make them available to students
5 and parents or to include in his or her lesson plans any of the
6 following:

7 (1) Teach and reteach strategies;

8 (2) Write to learn activities;

9 (3) Cultural diversity;

10 (4) Color coding; or

11 (5) Any other similar items which are not required to serve as
12 a guide to the teacher or substitute for daily instruction; and

13 (j) The Legislature finds that classroom teachers must be free
14 of unnecessary paper work so that they can focus their time on
15 instruction. Therefore, classroom teachers may not be required to
16 keep records or logs of routine contacts with parents or guardians.

17 (k) Nothing in this section may be construed to prohibit
18 classroom teachers from voluntarily posting material on the
19 Internet.

20 **ARTICLE 3C. IMPROVING TEACHING AND LEARNING.**

21 **§18A-3C-1. Purposes.**

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

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

9 (2) Universal support for emerging teachers including
10 comprehensive new teacher induction and support for student
11 teachers, teachers teaching in assignments for which they have less
12 than a full professional credential and teacher candidates pursuing
13 certification through an alternative route;

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

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

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

4 (b) For purposes of this article "professional personnel"
5 includes, but is not limited to, classroom teachers, assistant
6 principals and principals as defined in section one, article one
7 chapter eighteen-a of this code.

8 **§18A-3C-2. Performance evaluations of professional personnel.**

9 (a) The intent of the Legislature is to allow for a multi-step
10 statewide implementation of performance evaluations for
11 professional personnel pursuant to this section consistent with
12 sound educational practices and resources available resulting in
13 full state-wide implementation by no later than the school year
14 2013-2014. Beginning with the schools included in the evaluation
15 processes for professional personnel piloted by the Department of
16 Education during the 2011-2012 school year, additional schools or
17 school systems shall be subject to the provisions of this article
18 in accordance with a plan established by the state board to achieve
19 full statewide implementation by no later than the school year
20 2013-2014. For schools and school systems subject to the
21 provisions of this article, the provisions of this article shall
22 govern when they are in conflict with other provisions of this

1 chapter and chapter eighteen of this code. Specifically, the
2 provisions of this article govern for the performance evaluation of
3 classroom teachers, principals and assistant principals employed in
4 these schools and school systems. To the extent that this article
5 conflicts with the provisions of section twelve, article two of
6 this chapter relating to professional personnel performance
7 evaluations, this article shall govern. The state board shall
8 submit a report on its plan for the phased implementation of this
9 article to the Legislative Oversight Commission on Education
10 Accountability at the Commission's July interim meeting in each
11 year of the phased implementation. The report shall include the
12 positions to be evaluated, the evaluation process and a list of the
13 schools and school systems subject to the provisions of this
14 article.

15 (b) Before July 1, 2013, the state board shall adopt a
16 legislative rule in accordance with article three-b, chapter
17 twenty-nine-a of this code, for evaluating the performance of each
18 professional personnel each year. The rule shall provide for
19 performance evaluations of professional personnel to be conducted
20 in accordance with this section in each school and school system
21 beginning with the 2013-14 school year.

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

4 (1) Alignment with the West Virginia professional teaching
5 standards adopted by the state board that establish the foundation
6 for educator preparation, teacher assessment and professional
7 development throughout the state;

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

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

15 (D) The use of school's school-wide student learning growth
16 as measured by the state-wide summative assessment as an evaluative
17 measure of all educators employed in the school.

18 Eighty percent of the evaluation shall be based on an
19 appraisal of the educator's ability to perform the critical
20 standard elements of the professional teaching standards. The
21 appraisal shall include conferences with the evaluator reinforced
22 through observation. Twenty percent of the evaluation shall be

1 based on the evidence of the student learning, of which fifteen
2 percent shall be evidence of the student learning of students
3 assigned to the educator and five percent shall be student learning
4 growth measured by the school-wide score on the state summative
5 assessment.

6 (d) The process adopted by the state board for evaluating the
7 performance of principals and assistant principals shall include,
8 but not be limited to, the following:

9 (1) Alignment with the West Virginia professional leadership
10 standards adopted by the state board establishing the
11 responsibility effective principals for the collective success of
12 their school including the learning, growth and achievement of
13 students, staff and self;

14 (2) Employment of the professional leadership standards to
15 provide explicit and extensive measures of the work of school
16 leadership focused on the continuous improvement of teaching and
17 learning;

18 (3) The use of data, evidence and artifacts to confirm the
19 principal's performance on achieving the goals established by the
20 principal and superintendent based on the identified needs of the
21 principal and the school including, but not limited to, the
22 school's score on the state summative assessment; and

1 (4) The use of stakeholder surveys of students, parents and
2 teachers regarding the overall effectiveness of the principal on
3 elements of the school leader standards.

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

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

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

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

18 (4) Serve as a basis for informing the teacher preparation
19 programs in this state of an area or areas of needed improvement in
20 the programs, or informing a specific program of needed
21 improvement, when state-level aggregate evaluation data indicates

1 that beginning teachers who have graduated from the program have
2 specific weaknesses;

3 (5) Provide an indicator of level of performance of the
4 professional personnel;

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

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

9 (f) The rule adopted by the state board shall include
10 standards for performance of professional personnel and the
11 criteria to be used to determine whether their performance meets
12 the standards. The rule also shall include guidance on best
13 practices for providing time within the school day for teachers
14 subject to performance evaluations under this section to
15 participate in the collaborative, mentoring or coaching and
16 planning processes necessary for execution of the performance
17 evaluation process and achieving advanced levels of performance.

18 (g) The rule adopted by the state board shall include
19 provisions for written improvement plans when necessary to improve
20 the performance of the professional personnel. The written
21 improvement plan shall be specific as to what improvements are
22 needed in the performance of the professional personnel and shall

1 clearly set forth recommendations for improvements including
2 recommendations for additional education and training of
3 professionals subject to recertification. Professional personnel
4 whose performance evaluation includes a written improvement plan
5 shall be given an opportunity to improve his or her performance
6 through the implementation of the plan.

7 (h) Professional personnel whose performance is considered to
8 be unsatisfactory shall be given written notice of his or her
9 deficiencies. A written improvement plan to correct these
10 deficiencies shall be developed by the employing county board of
11 education and the employee. The professional personnel shall be
12 given a reasonable period of time, not exceeding twelve months, to
13 accomplish the requirements of the improvement plan and shall
14 receive a written statement of the resources and assistance
15 available for the purposes of correcting the deficiencies. If the
16 next performance evaluation shows that the professional is now
17 performing satisfactorily, no further action may be taken
18 concerning the original performance evaluation. If the evaluation
19 shows that the professional is still not performing satisfactorily,
20 the evaluator either shall make additional written recommendations
21 for improvement or may recommend the dismissal of the professional

1 personnel in accordance with the provisions of section eight,
2 article two of this chapter.

3 (i) No person may evaluate professional personnel for the
4 purposes of this section unless the person has an administrative
5 certificate issued by the state superintendent and has successfully
6 completed education and training in evaluation skills through the
7 center for professional development, or equivalent education
8 training approved by the state board, which will enable the person
9 to make fair, professional, and credible evaluations of the
10 personnel whom the person is responsible for evaluating.

11 **§18A-3C-3. Comprehensive system for teacher induction and**
12 **professional growth.**

13 (a) The intent of the Legislature is to allow for a multistep
14 statewide implementation of a comprehensive system of support for
15 building professional practice of beginning teachers, specifically
16 those on the initial and intermediate progressions, consistent with
17 sound educational practices and resources available. In this
18 regard, it is the intent of the Legislature that the transition of
19 schools and school systems to a comprehensive system of support
20 that includes support for improved professional performance
21 targeted on deficiencies identified through the evaluation process
22 will be implemented concurrent with the first year that a school or

1 system receives final evaluation results from the performance
2 evaluation process pursuant to section two of this article.
3 Further, because of significant variability among the counties, not
4 only in the size of their teaching force, distribution of
5 facilities and available resources, but also because of their
6 varying needs, the Legislature intends for the implementation of
7 this section to be accomplished in a manner that provides adequate
8 flexibility to the counties to design and implement a comprehensive
9 system of support for improving professional performance that best
10 achieves the goals of this section within the county. Finally,
11 because of the critical importance of ensuring that all teachers
12 perform at the accomplished level or higher in the delivery of
13 instruction that at least meets the West Virginia professional
14 teaching standards and because achieving this objective at a
15 minimum entails providing assistance to address the needs as
16 indicated by the data informed results of annual performance
17 evaluations, including the self-assessed needs of the teachers
18 themselves, the Legislature expects the highest priority for
19 county, regional and state professional development will be on
20 meeting these needs and that the transition to a comprehensive
21 system of support for improving professional practice will reflect

1 substantial redirection of existing professional development
2 resources toward this highest priority.

3 (b) On or before July 1, 2012, the state board shall publish
4 guidelines on the design and implementation of a comprehensive
5 system of support for improving professional practice. The purpose
6 of the guidelines is to assist the county board with the design and
7 implementation of a system that best achieves the goals of this
8 section within the county. The guidelines may include examples of
9 best practices and resources available to county boards to assist
10 them with the design and implementation of a comprehensive system.

11 (c) Effective for the school year beginning July 1, 2013, and
12 thereafter, a county board is not eligible to receive state funding
13 appropriated for the purposes of this section or any other
14 provision of law related to beginning teacher internships and
15 mentor teachers unless it has adopted a plan for implementation of
16 a comprehensive system of support for improving professional
17 practice, the plan has been verified by the state board as meeting
18 the requirements of this section and the county is implementing the
19 plan. The plan shall address the following:

20 (1) The manner in which the county will provide the strong
21 school-based support and supervision that will assist beginning
22 teachers develop instructional and management strategies,

1 procedural and policy expertise, and other professional practices
2 they need to be successful in the classroom and perform at the
3 accomplished level. Nothing in this subdivision prohibits a school
4 or school system that was granted an exception or waiver from
5 section two-c, article three of this chapter prior to the effective
6 date of this section from continuing implementation of the program
7 in accordance with the exception or waiver;

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

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

20 (4) The manner in which the county will use the data from the
21 educator performance evaluation system to serve as the basis for
22 establishing priorities for the provision of county-level

1 professional development when aggregate evaluation data from the
2 county's schools indicates an area or areas of needed improvement;

3 (5) If a county utilizes master teachers, mentors, academic
4 coaches or any other approaches utilizing individual employees to
5 provide support, supervision or other professional development or
6 training to other employees for the purpose of improving their
7 professional practice, the manner in which the county will select
8 each of these individual employees based on demonstrated superior
9 performance and competence as well as the manner in which the
10 county will coordinate support for these employees;

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

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

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

1 (d) Effective the school year beginning July 1, 2013, and
2 thereafter, appropriations for beginning teacher mentors and any
3 new appropriation which may be made for the purposes of this
4 section shall be expended by county boards only to accomplish the
5 activities as set forth in their county plan pursuant to this
6 section. Effective the school year beginning July 1, 2013, and
7 thereafter, no specific level of compensation is guaranteed for any
8 employee service or employment as a mentor and such service or
9 employment is not subject to the provisions of this code governing
10 extra duty contracts.

11 (e) The Legislative Oversight Commission on Education
12 Accountability shall review the progress of the implementation of
13 this article and may make any recommendations it deems necessary to
14 the Legislature during the 2013 regular legislative session.

NOTE: The purpose of this bill is to phase-in a new evaluation process for professional personnel and institute a comprehensive teacher mentoring system in West Virginia.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.

Article 3C is new; therefore, strike-throughs and underscoring have been omitted.