

1 and reenact §18A-3-2a of said code; to amend and reenact §18A-
2 3A-1, §18A-3A-2 and §18A-3A-3 of said code; to amend and
3 reenact §18A-4-2a, §18A-4-7a, §18A-4-8 and §18A-4-14 of said
4 code; to amend and reenact §18A-5-2 of said code; to amend and
5 reenact §18C-4-1, §18C-4-2 and §18C-4-4 of said code; and to
6 amend said code by adding thereto three new sections,
7 designated §18C-4-2a, §18C-4-3a and §18C-4-6, all relating to
8 transforming and improving public education; removing outdated
9 language; requiring the State Board of Education, the Higher
10 Education Policy Commission and the Council for Community and
11 Technical College Education to collaborate in formally
12 adopting uniform and specific college- and career-readiness
13 standards for English/language arts and math; providing
14 methods for determining whether students have met the college-
15 and career-readiness standards; requiring that an explicit
16 focus be embedded in each course on the development of
17 English/language arts and math skills; requiring a
18 twelfth-grade transitional course for both English/language
19 arts and math for students not on track to be college ready;
20 requiring professional development on teaching the college-
21 and career-readiness standards to be included in the State
22 Board's Master Plan for Professional Staff Development;

1 requiring the State Board to require all teacher preparation
2 programs to include appropriate training for teaching adopted
3 standards in at least grades eight through twelve; requiring
4 the use of certain assessments, exams or tests for determining
5 whether a student is eligible for a remedial course; requiring
6 accountability for increasing the percentage of students who
7 meet the standards and for increasing the percentage of
8 students who are making adequate progress toward meeting the
9 standards; deleting requirement that a school or school system
10 that achieves adequate yearly progress is eligible for no less
11 than full accreditation or approval status as applicable;
12 eliminating obsolete Process for Improving Education Council;
13 establishing new criteria for state accreditation of public
14 schools; removing obsolete language; allowing for college and
15 career readiness standards to be included in student
16 assessment measures; removing language that restricts writing
17 assessments to certain grade levels; removing language that
18 restricts appropriate measures of student performance to be
19 used in an assessment of a school; requiring the board to
20 promulgate a new rule for a revised set of annual measures for
21 the accountability and accreditation system to meet the needs
22 of a federal waiver from No Child Left Behind; removing

1 prescriptive language preventing the accreditation system to
2 adequately measure student performance; requiring the State
3 Board to promulgate a new rule for state accreditation of
4 schools and school systems; mandating a report due to Governor
5 and Legislative Oversight Committee on Education
6 Accountability on or before December 1, 2013; requiring annual
7 reports; setting forth potential measures for the
8 accreditation system; professional development; establishing
9 clear state-level leadership of professional development;
10 providing findings on the importance of professional
11 development; requiring State Board of Education to develop a
12 master plan for professional development; manner in which
13 coordination, development and evaluation of professional
14 development programs by the State Board shall be done;
15 establishing a rule that shall include measurable standards;
16 requiring State Board approval of plans from Department of
17 Education, the Center for Professional Development, state
18 institutions of higher education and regional education
19 service agencies; annual report of professional development;
20 requirements for State Superintendent of Schools; increasing
21 the number of schools to be included in a special community
22 development pilot program; allowing the pilot program to

1 consult the Center for Professional Development for
2 professional development resources; requiring kindergarten and
3 early childhood aides to be licensed; exempting those eligible
4 for retirement before July 1, 2016; requiring early childhood
5 programs to be offered five days a week for the full day;
6 providing for local control of the school calendar; defining
7 terms and establishing findings about a schools calendar; 200-
8 day employment term for teachers; one hundred eighty separate
9 days of actual instruction are to be provided for students;
10 county policy for adding minutes or days to school calendar
11 for time lost to the instructional term; one hundred eighty
12 days must be within a 365-day calendar set by the county
13 board; limiting noninstructional interruptions to
14 instructional day; requiring State Board or State
15 Superintendent approval of proposed county calendar; public
16 meetings for discussions of a school system's calendar; waiver
17 from code sections that prevent a school system from meeting
18 one hundred eighty instructional days; board rule to implement
19 the calendar section provisions; faculty senate procedure for
20 making employment recommendations; removing language about
21 faculty senates on instructional support and enhancement days;
22 assignment of teachers when a vacancy was not foreseen before

1 March 1 based on pupil-teacher ratio; allowing participants in
2 Teach for America to become classroom teachers; creating a
3 critical need alternative teacher certificate; two-year
4 certificate and a one-year renewal of the critical need
5 alternative teacher certificate; minimum requirements to
6 receive a critical need alternative teacher certificate;
7 creating a professional support team for these new teachers;
8 recommendation for certification of teachers on the critical
9 need alternative teaching certificate by support team and
10 State Superintendent; amending requirements for professional
11 teaching certificates through alternative certifications;
12 further defining "critical need alternative teaching
13 certificates"; removing language that limits the number of
14 board-certified teachers who can receive reimbursement per
15 year; clarifying that teachers can receive reimbursement for
16 recertification; adding seniority to the list of factors to be
17 considered for hiring of filling vacancies in professional
18 positions of employment; eliminating restrictive hiring
19 language for classroom teaching positions; allowing county
20 boards to give consideration to recommendations made by the
21 principal and the faculty senate; allowing released employees
22 to be hired for specific vacancies prior to the job being

1 posted; limiting bumping to within a school; allowing for
2 multiple postings within a thirty-day period; removing
3 language that limits internal school bumping to elementary
4 school; reassigning a teacher within their school upon consent
5 of teacher and county board; eliminating the 43-week
6 restriction of service personnel contracts; defining the three
7 different types of early childhood classroom assistant teacher
8 certificates; clarifying the length of a teacher's duty-free
9 planning period; duties of other school employees and
10 substitute teachers during a teacher's planning period;
11 clarifying that not all holidays will be counted toward as a
12 day of the employment term; snow days not counted as days of
13 employment or days of instruction; calculation of pay for
14 professional and service personnel on snow days; loan
15 assistance for teachers in critical need areas; awarding loan
16 assistance; determining eligibility for loan assistance;
17 criteria for teacher compliance with terms of loan assistance
18 agreement; payments made directly to a lending entity; model
19 contract agreements for loan assistance; amount, limits and
20 duration of loan assistance; and repayment if loan assistance
21 conditions are not met by applicant.

22 *Be it enacted by the Legislature of West Virginia:*

1 That §18-2-23a and §18-2-32 of the Code of West Virginia,
2 1931, as amended, be repealed; that §18-2E-5c of said code be
3 repealed; that §18-2I-6 and §18-2I-7 of said code be repealed; that
4 §18A-3A-2a and §18A-3A-6 of said code be repealed; that §18-2-24 of
5 said code be amended and reenacted; that said code be amended by
6 adding thereto a new section, designated §18-2-39; that §18-2E-5 of
7 said code be amended and reenacted; that §18-2I-1, §18-2I-2,
8 §18-2I-3, §18-2I-4 and §18-2I-5 of said code be amended and
9 reenacted; that §18-3-1 and §18-3-12 of said code be amended and
10 reenacted; that §18-5-18, §18-5-44 and §18-5-45 of said code be
11 amended and reenacted; that §18-5A-5 of said code be amended and
12 reenacted; that §18A-2-7 of said code be amended and reenacted;
13 that said code be amended by adding thereto two new sections,
14 designated §18A-3-1d and §18A-3-1e; that §18A-3-2a of said code be
15 amended and reenacted; that §18A-3A-1, §18A-3-A-2 and §18A-3A-3 of
16 said code be amended and reenacted; that §18A-4-2a, §18A-4-7a,
17 §18A-4-8 and §18A-4-14 of said code be amended and reenacted; that
18 §18A-5-2 of said code be amended and reenacted; that §18C-4-1,
19 §18C-4-2 and §18C-4-4 of said code be amended and reenacted; and
20 that said code be amended by adding thereto three new sections,
21 designated §18C-4-2a, §18C-4-3a and §18C-4-6, all to read as
22 follows:

1 **CHAPTER 18. EDUCATION.**

2 **ARTICLE 2. STATE BOARD OF EDUCATION.**

3 **§18-2-24. Collaboration of state institutions of higher education**
4 **having a teacher preparation program with the Center**
5 **for Professional Development, state board and the**
6 **regional education service agencies.**

7 (a) For the purposes of this section, "teacher preparation
8 institution" means a state institution of higher education with a
9 teacher preparation program.

10 (b) The intent of this section is to establish a structure to
11 enhance collaboration between the teacher preparation institutions,
12 the Center for Professional Development, state board and the
13 regional education service agencies in providing professional
14 development.

15 (c) The Legislature finds that:

16 (1) There is insufficient collaboration of the teacher
17 preparation institutions with the Center for Professional
18 Development, state board, and each of the regional education
19 service agencies;

20 (2) More collaboration would prevent duplication of services
21 and result in higher quality professional development;

22 (3) Creating a structure and assigning responsibility would

1 promote more effective collaboration;

2 (4) The state's research and doctoral degree-granting public
3 institutions of higher education, West Virginia University and
4 Marshall University, have the most capacity to be important sources
5 of research and expertise on professional development;

6 (5) West Virginia University and Marshall University are the
7 only institutions in the state that offer course work leading to a
8 doctoral degree in education administration;

9 (6) As the largest state institutions of higher education,
10 West Virginia University and Marshall University have more capacity
11 than any other institution in the state to handle the additional
12 responsibilities assigned in this section;

13 (7) The coordination by West Virginia University and Marshall
14 University of the efforts of other teacher preparation institutions
15 to collaborate with the Center for Professional Development, state
16 board and each of the regional education service agencies will
17 provide points of accountability for the collaboration efforts of
18 the other institutions; and

19 (8) The state board's authority over the regional education
20 service agencies can be used to motivate the agencies to
21 collaborate with the teacher preparation institutions in providing
22 professional development and will serve as a point of

1 accountability for the collaboration efforts of the agencies.

2 (d) West Virginia University and Marshall University shall
3 collaborate with the Center for Professional Development in
4 performing the center's duties. This collaboration shall include
5 at least the following:

6 (1) Including the teacher preparation institutions in the
7 proposed professional staff development program ~~plan~~ goals required
8 to be submitted to the state Board by section twenty-three-a of
9 this article;

10 (2) Providing any available research-based expertise that
11 would be helpful in the design of the proposed professional staff
12 development program ~~plan~~ goals;

13 (3) Providing any available research-based expertise that
14 would be helpful in the implementation of professional development
15 programs; and

16 (4) Arranging for other state institutions of higher education
17 having a teacher preparation program to assist the center when that
18 assistance would be helpful.

19 (e) All teacher preparation institutions shall collaborate
20 with the regional education service agency of the service area in
21 which the institution is located at least to:

22 (1) Prevent unnecessary duplication of services;

1 (2) Assist in the implementation of the professional
2 development programs of the regional education service agency; and

3 (3) Assist the regional education service agency in obtaining
4 any available grants for professional development or to apply for
5 any available grant with the agency collaboratively.

6 (f) Since no teacher preparation institution exists in the
7 service area of Regional Education Service Agency IV, Marshall
8 University shall collaborate with that agency for the purposes set
9 forth in subdivision (e) of this section.

10 (g) In addition to the collaboration required by subsections
11 (e) and (f) of this section of all teacher preparation
12 institutions, West Virginia University and Marshall University
13 shall:

14 (1) Coordinate the collaboration of each of the other teacher
15 preparation institutions in their designated coordination area with
16 the appropriate regional education service agency. This
17 coordination at least includes ensuring that each of the other
18 institutions are collaborating with the appropriate regional
19 education service agency; and

20 (2) Collaborate with each of the other teacher preparation
21 institutions in their designated coordination area. This
22 collaboration at least includes providing assistance to the other

1 institutions in providing professional development and in their
2 collaboration with the appropriate regional education service
3 agency.

4 (h) The designated coordination area of West Virginia
5 University includes the service areas of Regional Education Service
6 Agencies V, VI, VII and VIII. The designated coordination area of
7 Marshall University includes the service areas of Regional
8 Education Service Agencies I, II, III and IV.

9 (i) The state board shall ensure that each of the regional
10 education service agencies is collaborating with the teacher
11 preparation institution or institutions in its service area for the
12 purposes set forth in subsection (e) of this section. Since
13 Regional Education Service Agency IV does not have a teacher
14 preparation institution in its service area, the state board shall
15 ensure that it is collaborating with Marshall University for the
16 purposes set forth in subsection (e) of this section.

17 (j) Before a regional education service agency, except for
18 Regional Education Service Agency IV, obtains professional
19 development related services or expertise from any teacher
20 preparation institution outside of that agency's service area, the
21 agency shall inform the ~~Center for Professional Development Board~~
22 state board. Before Regional Education Service Agency IV obtains

1 professional development related services or expertise from any
2 teacher preparation institution other than Marshall University, the
3 agency shall inform the ~~Center Board~~ state board.

4 (k) The collaboration and coordination requirements of this
5 section include collaborating and coordinating to provide
6 professional development for at least teachers, principals and
7 paraprofessionals.

8 **§18-2-39. College and career readiness initiative.**

9 (a) The Legislature finds that:

10 (1) According to ACT, only twenty-five percent of ACT-tested
11 high school graduates in the nation met college readiness
12 benchmarks in English, reading, mathematics and science and only
13 seventeen percent in West Virginia met the benchmarks in all four
14 subjects;

15 (2) The postsecondary remediation rates of students entering
16 postsecondary institutions directly out of high school indicate
17 that a large percentage of students are not being adequately
18 prepared at the elementary and secondary levels;

19 (3) This high level of postsecondary remediation is causing
20 both students and the state to expend extra resources that would
21 not have to be expended if the students were adequately prepared at
22 the elementary and secondary levels;

1 (4) A strong foundation in English/language arts and math
2 provides a basis for learning in all other subject areas and for
3 on-the-job training; and

4 (5) A comparison of the percentages of students considered
5 proficient in eighth grade reading and math by the state assessment
6 and the National Assessment of Educational Progress indicate that
7 the state assessment currently does not accurately reflect national
8 standards.

9 (b) Before the 2014-2015 school year, the state board, the
10 Higher Education Policy Commission and the Council for Community
11 and Technical College Education shall collaborate in formally
12 adopting uniform and specific college and career readiness
13 standards for English/language arts and math. The standards shall
14 be clearly linked to state content standards and based on skills
15 and competencies rather than high school course titles. The
16 standards shall allow for a determination of whether a student
17 needs to enroll in a postsecondary remedial course. The state
18 board shall develop a plan for gradually bringing the standards for
19 a high school diploma and college and career readiness into
20 uniformity, and report this plan to the Legislative Oversight
21 Commission on Education Accountability not later than December 31,
22 2013.

1 (c) The results on the comprehensive statewide student
2 assessment program in grade eleven in English/language arts and
3 mathematics shall be used to determine whether a student has met
4 the college and career readiness standards adopted pursuant to
5 subsection (b) of this section. Beginning with the 2015-2016
6 school year, instead of using the comprehensive statewide student
7 assessment program, the state board may develop and implement
8 end-of-course exams in English/language arts and math courses it
9 determines appropriate. These exams are designed for determining
10 whether a student has met the college and career readiness
11 standards. In order to allow for the enrollment in transitional
12 courses in the twelfth grade if necessary pursuant to subsection
13 (e) of this section, the courses, assessments and exams, as
14 applicable, shall be administered before the twelfth grade.

15 (d) Under its authority granted in section one, article three,
16 chapter eighteen-a of this code, the state board shall require all
17 teacher preparation programs in the state to include appropriate
18 training for teachers seeking to teach in at least any of grades
19 eight through twelve with respect to teaching the adopted college
20 and career readiness standards. This training shall focus on
21 teaching the standards directly, through embedding the standards in
22 other courses or both, as appropriate.

1 (e) The state board shall develop a twelfth-grade transitional
2 course for both English/language arts and math for those students
3 who are not on track to be college ready based on the assessment or
4 exam, as applicable, required pursuant to subsection (c) of this
5 section. The transitional courses shall be aligned with the
6 standards adopted pursuant to subsection (b) of this section.

7 (f) For all West Virginia public high school graduates who
8 graduate during or after the 2016-2017 school year, all state
9 institutions of higher education may use no factor other than the
10 assessment, exam or test, as applicable, required pursuant to
11 subsections (c) of this section to determine whether a student is
12 to enroll in a remedial course or is to be placed in a
13 college-level introductory course. Nothing in this subsection
14 prohibits an institution from administering a diagnostic test to
15 determine specific areas of weakness so that the specific
16 weaknesses can be remediated rather than requiring a student to
17 take an entire remedial course.

18 (g) The state board shall:

19 (1) Hold high schools and districts accountable for increasing
20 the percentages of students who meet the college and career
21 readiness standards as indicated by the assessments, exams or
22 tests, as applicable, required pursuant to subsections (c) and (e)

1 of this section. This accountability shall be achieved through the
2 school and school system accreditation provisions set forth in
3 section five, article two-e of this chapter;

4 (2) Align the comprehensive statewide student assessment for
5 all grade levels in which the test is given with the college and
6 career readiness standards adopted pursuant to subsection (b) of
7 this section or develop other aligned tests at each grade level so
8 that progress toward college and career readiness in
9 English/language arts and math can be measured; and

10 (3) Hold all schools and districts accountable for helping
11 students in earlier grade levels achieve scores on math and
12 English/language arts tests that predict success in subsequent
13 levels of related coursework. This accountability shall be
14 achieved through the school and school system accreditation
15 provisions set forth in section five, article two-e of this
16 chapter;

17 (h) Except as otherwise specified, all provisions of this
18 section become effective with the 2014-2015 school year.

19 **ARTICLE 2E. HIGH QUALITY EDUCATIONAL PROGRAMS.**

20 **§18-2E-5. Process for improving education; education standards;**
21 **statewide assessment program; accountability**
22 **measures; Office of Education Performance Audits;**

1 **school accreditation and school system approval;**
2 **intervention to correct low performance.**

3 (a) *Legislative findings, purpose and intent.* -- The
4 Legislature makes the following findings with respect to the
5 process for improving education and its purpose and intent in the
6 enactment of this section:

7 (1) The process for improving education includes four primary
8 elements, these being:

9 (A) Standards which set forth the knowledge and skills that
10 students should know and be able to ~~do~~ perform as the result of a
11 thorough and efficient education that prepares them for the
12 twenty-first century, including measurable criteria to evaluate
13 student performance and progress;

14 (B) Assessments of student performance and progress toward
15 meeting the standards;

16 (C) A system of accountability for continuous improvement
17 defined by high quality standards for schools and school systems
18 articulated by a rule promulgated by the state board and outlined
19 in subsection (c) of this section that will build capacity in
20 schools and districts to meet rigorous outcomes that assure student
21 performance and progress toward obtaining the knowledge and skills
22 intrinsic to a high quality education rather than monitoring for

1 compliance with specific laws and regulations; and

2 (D) A method for building the capacity and improving the
3 efficiency of schools and school systems to improve student
4 performance and progress.

5 (2) As the Constitutional body charged with the general
6 supervision of schools as provided by general law, the state board
7 has the authority and the responsibility to establish the
8 standards, assess the performance and progress of students against
9 the standards, hold schools and school systems accountable and
10 assist schools and school systems to build capacity and improve
11 efficiency so that the standards are met, including, when
12 necessary, seeking additional resources in consultation with the
13 Legislature and the Governor.

14 (3) As the constitutional body charged with providing for a
15 thorough and efficient system of schools, the Legislature has the
16 authority and the responsibility to establish and be engaged
17 constructively in the determination of the knowledge and skills
18 that students should know and be able to do as the result of a
19 thorough and efficient education. This determination is made by
20 using the process for improving education to determine when school
21 improvement is needed, by evaluating the results and the efficiency
22 of the system of schools, by ensuring accountability and by

1 providing for the necessary capacity and its efficient use.

2 (4) In consideration of these findings, the purpose of this
3 section is to establish a process for improving education that
4 includes the four primary elements as set forth in subdivision (1)
5 of this subsection to provide assurances that the high quality
6 standards are, at a minimum, being met and that a thorough and
7 efficient system of schools is being provided for all West Virginia
8 public school students on an equal education opportunity basis.

9 (5) The intent of the Legislature in enacting this section and
10 section five-c of this article is to establish a process through
11 which the Legislature, the Governor and the state board can work in
12 the spirit of cooperation and collaboration intended in the process
13 for improving education to consult and examine the performance and
14 progress of students, schools and school systems and, when
15 necessary, to consider alternative measures to ensure that all
16 students continue to receive the thorough and efficient education
17 to which they are entitled. However, nothing in this section
18 requires any specific level of funding by the Legislature.

19 (b) *Electronic county and school strategic improvement plans.*
20 -- The state board shall promulgate a rule consistent with the
21 provisions of this section and in accordance with article three-b,
22 chapter twenty-nine-a of this code establishing an electronic

1 county strategic improvement plan for each county board and an
2 electronic school strategic improvement plan for each public school
3 in this state. Each respective plan shall be a five-year plan that
4 includes the mission and goals of the school or school system to
5 improve student, school or school system performance and progress,
6 as applicable. The strategic plan shall be revised annually in
7 each area in which the school or system is below the standard on
8 the annual performance measures. ~~The revised annual plan also~~
9 ~~shall identify any deficiency which is reported on the check lists~~
10 ~~identified in paragraph (G), subdivision (5), subsection (1) of~~
11 ~~this section including any deficit more than a casual deficit by~~
12 ~~the county board.~~ The plan shall be revised when required pursuant
13 to this section to include each annual performance measure upon
14 which the school or school system fails to meet the standard for
15 performance and progress, the action to be taken to meet each
16 measure, a separate time line and a date certain for meeting each
17 measure, a cost estimate and, when applicable, the assistance to be
18 provided by the department and other education agencies to improve
19 student, school or school system performance and progress to meet
20 the annual performance measure.

21 The department shall make available to all public schools
22 through its website or the West Virginia Education Information

1 System an electronic school strategic improvement plan boilerplate
2 designed for use by all schools to develop an electronic school
3 strategic improvement plan which incorporates all required aspects
4 and satisfies all improvement plan requirements of the No Child
5 Left Behind Act.

6 (c) *High quality education standards and efficiency standards.*

7 -- In accordance with the provisions of article three-b, chapter
8 twenty-nine-a of this code, the state board shall adopt and
9 periodically review and update high quality education standards for
10 student, school and school system performance and processes in the
11 following areas:

- 12 (1) Curriculum;
- 13 (2) Workplace readiness skills;
- 14 (3) Finance;
- 15 (4) Transportation;
- 16 (5) Special education;
- 17 (6) Facilities;
- 18 (7) Administrative practices;
- 19 (8) Training of county board members and administrators;
- 20 (9) Personnel qualifications;
- 21 (10) Professional development and evaluation;
- 22 (11) Student performance, ~~and~~ progress and attendance;

- 1 (12) School and school system performance and progress;
- 2 (13) A code of conduct for students and employees;
- 3 (14) Indicators of efficiency; and
- 4 (15) Any other areas determined by the state board.

5 ~~The standards, as applicable, shall incorporate the state's~~
6 ~~21st Century Skills Initiative and shall assure that graduates are~~
7 ~~prepared for continuing post-secondary education, training and work~~
8 ~~and that schools and school systems are making progress toward~~
9 ~~achieving the education goals of the state.~~

10 (d) *Comprehensive statewide student assessment program.* -- The
11 state board shall promulgate a rule in accordance with the
12 provisions of article three-b, chapter twenty-nine-a of this code
13 establishing a comprehensive statewide student assessment program
14 to assess student performance and progress in grades three through
15 twelve. Prior to the 2014-2015 school year, the state board shall
16 align the comprehensive statewide student assessment for all grade
17 levels in which the test is given with the college readiness
18 standards adopted pursuant to section thirty-nine, article two of
19 this chapter or develop other aligned tests to be required at each
20 grade level so that progress toward college readiness in
21 English/language arts and math can be measured. The state board
22 may require that student proficiencies be measured through the ACT

1 EXPLORE and the ACT PLAN assessments or other comparable
2 assessments, which are approved by the state board and provided by
3 future vendors. The state board may require that student
4 proficiencies be measured through the West Virginia writing
5 assessment at any ~~of the~~ grade levels ~~four, seven and ten~~
6 determined by the state board to be appropriate. ~~Provided, That,~~
7 ~~effective July 1, 2008, the state board may require that student~~
8 ~~proficiencies be measured through the West Virginia writing~~
9 ~~assessment at any of the grade levels four, seven and eleven~~
10 ~~determined by the state board to be appropriate.~~ The state board
11 may provide through the statewide assessment program other optional
12 testing or assessment instruments applicable to grade levels
13 kindergarten through grade twelve which may be used by each school
14 to promote student achievement. ~~upon approval by the school~~
15 ~~curriculum team or the process for teacher collaboration to improve~~
16 ~~instruction and learning established by the faculty senate as~~
17 ~~provided in section six, article five a of this chapter~~ The state
18 board annually shall ~~annually~~ publish and make available,
19 electronically or otherwise, to school curriculum teams and teacher
20 collaborative processes the optional testing and assessment
21 instruments. ~~The failure of a school to use any optional testing~~
22 ~~and assessment may not be cited as a deficiency in any~~

1 ~~accreditation review of the school; nor may the exercise of its~~
2 ~~discretion, as provided in section six, article five-a of this~~
3 ~~chapter, in using the assessments and implementing the~~
4 ~~instructional strategies and programs that it determines best to~~
5 ~~promote student achievement at the school be cited as a deficiency~~
6 ~~in any accreditation review of the school or in the personnel~~
7 ~~evaluation of the principal. The use of assessment results are~~
8 ~~subject to the following:~~

9 ~~(1) The assessment results for grade levels three through~~
10 ~~eight and eleven are the only assessment results which may be used~~
11 ~~for determining whether any school or school system has made~~
12 ~~adequate yearly progress (AYP);~~

13 ~~(2) Only the assessment results in the subject areas of~~
14 ~~reading/language arts and mathematics may be used for determining~~
15 ~~whether a school or school system has made adequate yearly progress~~
16 ~~(AYP);~~

17 ~~(3) The results of the West Virginia writing assessment, the~~
18 ~~ACT EXPLORE assessments and the ACT PLAN assessments may not be~~
19 ~~used for determining whether a school or school system has made~~
20 ~~adequate yearly progress (AYP);~~

21 ~~(4) The results of testing or assessment instruments provided~~
22 ~~by the state board for optional use by schools and school systems~~

1 ~~to promote student achievement may not be used for determining~~
2 ~~whether a school or school system has made adequate yearly progress~~
3 ~~(AYP); and~~

4 ~~(5) All assessment provisions of the comprehensive statewide~~
5 ~~student assessment program in effect for the school year 2006-2007~~
6 ~~shall remain in effect until replaced by the state board rule.~~

7 (e) *Annual performance measures for Public Law 107-110, the*
8 *Elementary and Secondary Education Act of 1965, as amended (No*
9 *Child Left Behind Act of 2001)*. -- The state board shall promulgate
10 a rule in accordance with the provisions of article three-b,
11 chapter twenty-nine-a of this code establishing the annual measures
12 of student, school and school system performance in accordance with
13 the state's revised accountability and accreditation system. The
14 standards shall include annual measures of student, school and
15 school system performance and progress for the grade levels and the
16 content areas defined by the act. The following annual measures of
17 student, school and school system performance and progress ~~shall be~~
18 ~~the only measures~~ for determining whether adequately yearly
19 progress under the No Child Left Behind Act has been achieved,
20 shall include, but are not limited to the following:

21 (1) The acquisition of student proficiencies as indicated by
22 student performance and progress on the required accountability

1 assessments at the grade levels and content areas as required by
2 the act. ~~subject to the limitations set forth in subsection (d) of~~
3 ~~this section~~

4 (2) The student participation rate in the uniform statewide
5 assessment ~~must~~ shall be at least ninety-five percent or the
6 average of the participation rate for the current and the preceding
7 two years is ninety-five percent for the school, county and state;

8 (3) Only for schools that do not include grade twelve, the
9 school attendance rate which ~~shall~~ may be no less than ninety
10 percent in attendance for the school, county and state. The
11 following absences are excluded:

12 (A) Student absences excused in accordance with the state
13 board rule promulgated pursuant to section four, article eight of
14 this chapter;

15 (B) Students not in attendance due to disciplinary measures;
16 and

17 (C) Absent students for whom the attendance director has
18 pursued judicial remedies compelling attendance to the extent of
19 his or her authority; and

20 (4) The high school graduation rate which ~~shall~~ may be no less
21 than eighty percent for the school, county and state; or if the
22 high school graduation rate is less than eighty percent, the high

1 school graduation rate shall be higher than the high school
2 graduation rate of the preceding year as determined from
3 information on the West Virginia Education Information System on
4 August 15.

5 (f) *State annual performance measures for school and school*
6 *system accreditation.* -- ~~The state board shall establish a system~~
7 ~~to assess and weigh annual performance measures for state~~
8 ~~accreditation of schools and school systems in a manner that gives~~
9 ~~credit or points such as an index to prevent any one measure alone~~
10 ~~from causing a school to achieve less than full accreditation~~
11 ~~status or a school system from achieving less than full approval~~
12 ~~status: *Provided, That a school or school system that achieves*~~
13 ~~adequate yearly progress is eligible for no less than full~~
14 ~~accreditation or approval status, as applicable, and the system~~
15 ~~established pursuant to this subsection applies only to schools and~~
16 ~~school systems that do not achieve adequate yearly progress.~~

17 ~~The following types of measures, as may be appropriate at the~~
18 ~~various programmatic levels, may be approved by the state board for~~
19 ~~the school and school system accreditation:~~

20 (1) ~~The acquisition of student proficiencies as indicated by~~
21 ~~student performance and progress on the uniform statewide~~
22 ~~assessment program at the grade levels as provided in subsection~~

1 ~~(d) of this section. The state board may approve providing bonus~~
2 ~~points or credits for students scoring at or above mastery and~~
3 ~~distinguished levels;~~

4 ~~(2) Writing assessment results in grades tested;~~

5 ~~(3) School attendance rates;~~

6 ~~(4) Percentage of courses taught by highly qualified teachers;~~

7 ~~(5) Percentage of students scoring at benchmarks on the~~
8 ~~currently tested ACT EXPLORE and ACT PLAN assessments or other~~
9 ~~comparable assessments, which are approved by the state board and~~
10 ~~provided by future vendors;~~

11 ~~(6) Graduation rates;~~

12 ~~(7) Job placement rates for vocational programs;~~

13 ~~(8) Percent of students passing end-of-course career/technical~~
14 ~~tests;~~

15 ~~(9) Percent of students not requiring college remediation~~
16 ~~classes; and~~

17 ~~(10) Bonus points or credits for subgroup improvement,~~
18 ~~advanced placement percentages, dual credit completers and~~
19 ~~international baccalaureate completers.~~

20 The state board shall promulgate a rule in accordance with the
21 provisions of article three-b, chapter twenty-nine-a of this code
22 that establishes a system to assess and weigh annual performance

1 measures for state accreditation of schools and school systems. The
2 state board shall also establish performance incentives for schools
3 and school systems as part of the state accreditation system. On or
4 before December 1, 2013, the board shall report to the Governor and
5 to the Legislative Oversight Commission on Education Accountability
6 the proposed rule for establishing the measures and incentives of
7 accreditation. Thereafter, the board shall provide an annual report
8 to the Governor and to the Legislative Oversight Commission on
9 Education Accountability on the impact and effectiveness of the
10 accreditation system. The rule for school and school system
11 accreditation proposed by the board may include, but not be limited
12 to the following measures:

13 (1) Percentage of students proficient in English and language
14 arts, math, science and other subjects determined by the board;

15 (2) Graduation or attendance rate;

16 (3) Students taking and passing AP tests;

17 (4) Students completing a career and technical education
18 class;

19 (5) Closing achievement gaps within subgroups of a school's
20 student population; and

21 (6) Students scoring at or above average attainment on SAT or
22 ACT tests.

1 (g) *Indicators of exemplary performance and progress.* -- The
2 standards shall include indicators of exemplary student, school and
3 school system performance and progress. The indicators of
4 exemplary student, school and school system performance and
5 progress ~~shall~~ may be used only as indicators for determining
6 whether accredited and approved schools and school systems should
7 be granted exemplary status. These indicators shall include, but
8 are not limited to, the following:

9 (1) The percentage of graduates who declare their intent to
10 enroll in college and other post-secondary education and training
11 following high school graduation;

12 (2) The percentage of graduates who receive additional
13 certification of their skills, competence and readiness for
14 college, other post-secondary education or employment above the
15 level required for graduation; and

16 (3) The percentage of students who successfully complete
17 advanced placement, dual credit and honors classes.

18 (h) *Indicators of efficiency.* -- In accordance with the
19 provisions of article three-b, chapter twenty-nine-a of this code,
20 the state board shall adopt by rule and periodically review and
21 update indicators of efficiency for use by the appropriate
22 divisions within the department to ensure efficient management and

1 use of resources in the public schools in the following areas:

2 (1) Curriculum delivery including, but not limited to, the use
3 of distance learning;

4 (2) Transportation;

5 (3) Facilities;

6 (4) Administrative practices;

7 (5) Personnel;

8 (6) Use of regional educational service agency programs and
9 services, including programs and services that may be established
10 by their assigned regional educational service agency or other
11 regional services that may be initiated between and among
12 participating county boards; and

13 (7) Any other indicators as determined by the state board.

14 (i) *Assessment and accountability of school and school system*
15 *performance and processes.* -- In accordance with the provisions of
16 article three-b, chapter twenty-nine-a of this code, the state
17 board shall establish by rule a system of education performance
18 audits which measures the quality of education and the preparation
19 of students based on the annual measures of student, school and
20 school system performance and progress. The system of education
21 performance audits shall provide information to the state board,
22 the Legislature and the Governor, ~~individually and collectively as~~

1 ~~the Process for Improving Education Council,~~ upon which they may
2 determine whether a thorough and efficient system of schools is
3 being provided. The system of education performance audits shall
4 include:

5 (1) The assessment of student, school and school system
6 performance and progress based on the annual measures set forth in
7 subsection (d) of this section;

8 (2) The evaluation of records, reports and other information
9 collected by the department upon which the quality of education and
10 compliance with statutes, policies and standards may be determined;

11 (3) The review of school and school system electronic
12 strategic improvement plans; and

13 (4) The on-site review of the processes in place in schools
14 and school systems to enable school and school system performance
15 and progress and compliance with the standards.

16 (j) *Uses of school and school system assessment information.*

17 -- The state board ~~and the Process for Improving Education Council~~
18 ~~established pursuant to section five-c of this article~~ shall use
19 information from the system of education performance audits to
20 assist ~~them~~ it in ensuring that a thorough and efficient system of
21 schools is being provided and to improve student, school and school
22 system performance and progress. Information from the system of

1 education performance audits further shall be used by the state
2 board for these purposes, including, but not limited to, the
3 following:

4 (1) Determining school accreditation and school system
5 approval status;

6 (2) Holding schools and school systems accountable for the
7 efficient use of existing resources to meet or exceed the
8 standards; and

9 (3) Targeting additional resources when necessary to improve
10 performance and progress.

11 The state board shall make accreditation information available
12 to the Legislature, the Governor, the general public and to any
13 individual who requests the information, subject to the provisions
14 of any act or rule restricting the release of information.

15 (k) *Early detection and intervention programs.* -- Based on the
16 assessment of student, school and school system performance and
17 progress, the state board shall establish early detection and
18 intervention programs using the available resources of the
19 Department of Education, the regional educational service agencies,
20 the Center for Professional Development and the Principals Academy,
21 as appropriate, to assist underachieving schools and school systems
22 to improve performance before conditions become so grave as to

1 warrant more substantive state intervention. Assistance shall
2 include, but is not limited to, providing additional technical
3 assistance and programmatic, professional staff development,
4 providing monetary, staffing and other resources where appropriate.
5 ~~and, if necessary, making appropriate recommendations to the~~
6 ~~Process for Improving Education Council~~

7 (1) *Office of Education Performance Audits.* --

8 (1) To assist the state board ~~and the Process for Improving~~
9 ~~Education Council~~ in the operation of a system of education
10 performance audits, the state board shall establish an Office of
11 Education Performance Audits consistent with the provisions of this
12 section. The Office of Education Performance Audits shall be
13 operated under the direction of the state board independently of
14 the functions and supervision of the State Department of Education
15 and state superintendent. The Office of Education Performance
16 Audits shall report directly to and be responsible to the state
17 board ~~and the Process for Improving Education Council created in~~
18 ~~section five-c of this article~~ in carrying out its duties under the
19 provisions of this section.

20 (2) The office shall be headed by a director who shall be
21 appointed by the state board and who ~~shall serve~~ serves at the will
22 and pleasure of the state board. The annual salary of the director

1 shall be set by the state board and may not exceed eighty percent
2 of the salary cap of the State Superintendent of Schools.

3 (3) The state board shall organize and sufficiently staff the
4 office to fulfill the duties assigned to it by law and by the state
5 board. Employees of the State Department of Education who are
6 transferred to the Office of Education Performance Audits shall
7 retain their benefits and seniority status with the Department of
8 Education.

9 (4) Under the direction of the state board, the Office of
10 Education Performance Audits shall receive from the West Virginia
11 education information system staff research and analysis data on
12 the performance and progress of students, schools and school
13 systems, and shall receive assistance, as determined by the state
14 board, from staff at the State Department of Education, the
15 regional education service agencies, the Center for Professional
16 Development, the Principals Academy and the School Building
17 Authority to carry out the duties assigned to the office.

18 (5) In addition to other duties which may be assigned to it by
19 the state board or by statute, the Office of Education Performance
20 Audits also shall:

21 (A) Assure that all statewide assessments of student
22 performance used as annual performance measures are secure as

1 required in section one-a of this article;

2 (B) Administer all accountability measures as assigned by the
3 state board, including, but not limited to, the following:

4 (i) Processes for the accreditation of schools and the
5 approval of school systems; and

6 (ii) Recommendations to the state board on appropriate action,
7 including, but not limited to, accreditation and approval action;

8 (C) Determine, in conjunction with the assessment and
9 accountability processes, what capacity may be needed by schools
10 and school systems to meet the standards established by the state
11 board and recommend to the state board ~~and the Process for~~
12 ~~Improving Education Council~~ plans to establish those needed
13 capacities;

14 (D) Determine, in conjunction with the assessment and
15 accountability processes, whether statewide system deficiencies
16 exist in the capacity of schools and school systems to meet the
17 standards established by the state board, including the
18 identification of trends and the need for continuing improvements
19 in education, and report those deficiencies and trends to the state
20 board; ~~and the Process for Improving Education Council~~

21 (E) Determine, in conjunction with the assessment and
22 accountability processes, staff development needs of schools and

1 school systems to meet the standards established by the state board
2 and make recommendations to the state board, ~~the Process for~~
3 ~~Improving Education Council,~~ the Center for Professional
4 Development, the regional educational service agencies, the Higher
5 Education Policy Commission and the county boards;

6 (F) Identify, in conjunction with the assessment and
7 accountability processes, exemplary schools and school systems and
8 best practices that improve student, school and school system
9 performance and make recommendations to the state board ~~and the~~
10 ~~Process for Improving Education Council~~ for recognizing and
11 rewarding exemplary schools and school systems and promoting the
12 use of best practices. The state board shall provide information
13 on best practices to county school systems and shall use
14 information identified through the assessment and accountability
15 processes to select schools of excellence; and

16 (G) Develop reporting formats, such as check lists, which
17 shall be used by the appropriate administrative personnel in
18 schools and school systems to document compliance with various of
19 the applicable laws, policies and process standards as considered
20 appropriate and approved by the state board, including, but not
21 limited to, the following:

22 (i) The use of a policy for the evaluation of all school

1 personnel that meets the requirements of sections twelve and
2 twelve-a, article two, chapter eighteen-a of this code;

3 (ii) The participation of students in appropriate physical
4 assessments as determined by the state board, which assessment may
5 not be used as a part of the assessment and accountability system;

6 (iii) The appropriate licensure of school personnel; and

7 (iv) The school provides multicultural activities.

8 Information contained in the reporting formats is subject to
9 examination during an on-site review to determine compliance with
10 laws, policies and standards. Intentional and grossly negligent
11 reporting of false information are grounds for dismissal.

12 (m) *On-site reviews.* --

13 (1) The system of education performance audits shall include
14 on-site reviews of schools and school systems which shall be
15 conducted only at the specific direction of the state board upon
16 its determination that the performance and progress of the school
17 or school system are persistently below standard or that other
18 circumstances exist that warrant an on-site review. Any discussion
19 by the state board of schools to be subject to an on-site review or
20 dates for which on-site reviews will be conducted may be held in
21 executive session and is not subject to the provisions of article
22 nine-a, chapter six of this code relating to open governmental

1 proceedings. An on-site review shall be conducted by the Office of
2 Education Performance Audits of a school or school system for the
3 purpose of investigating the reasons for performance and progress
4 that are persistently below standard and making recommendations to
5 the school and school system, as appropriate, and to the state
6 board on such measures as it considers necessary to improve
7 performance and progress to meet the standard. The investigation
8 may include, but is not limited to, the following:

9 (A) Verifying data reported by the school or county board;

10 (B) Examining compliance with the laws and policies affecting
11 student, school and school system performance and progress;

12 (C) Evaluating the effectiveness and implementation status of
13 school and school system electronic strategic improvement plans;

14 (D) Investigating official complaints submitted to the state
15 board that allege serious impairments in the quality of education
16 in schools or school systems;

17 (E) Investigating official complaints submitted to the state
18 board that allege that a school or county board is in violation of
19 policies or laws under which schools and county boards operate; and

20 (F) Determining and reporting whether required reviews and
21 inspections have been conducted by the appropriate agencies,
22 including, but not limited to, the State Fire Marshal, the Health

1 Department, the School Building Authority and the responsible
2 divisions within the Department of Education, and whether noted
3 deficiencies have been or are in the process of being corrected.
4 The Office of Education Performance Audits may not conduct a
5 duplicate review or inspection of any compliance reviews or
6 inspections conducted by the department or its agents or other duly
7 authorized agencies of the state, nor may it mandate more stringent
8 compliance measures.

9 (2) The Director of the Office of Education Performance Audits
10 shall notify the county superintendent of schools five school days
11 prior to commencing an on-site review of the county school system
12 and shall notify both the county superintendent and the principal
13 five school days before commencing an on-site review of an
14 individual school: *Provided*, That the state board may direct the
15 Office of Education Performance Audits to conduct an unannounced
16 on-site review of a school or school system if the state board
17 believes circumstances warrant an unannounced on-site review.

18 (3) The Office of Education Performance Audits shall conduct
19 on-site reviews which are limited in scope to specific areas in
20 which performance and progress are persistently below standard as
21 determined by the state board unless specifically directed by the
22 state board to conduct a review which covers additional areas.

1 (4) An on-site review of a school or school system shall
2 include a person or persons from the Department of Education or a
3 public education agency in the state who has expert knowledge and
4 experience in the area or areas to be reviewed and who has been
5 trained and designated by the state board to perform such
6 functions. If the size of the school or school system and issues
7 being reviewed necessitate the use of an on-site review team or
8 teams, the person or persons designated by the state board shall
9 advise and assist the director to appoint the team or teams. The
10 person or persons designated by the state board shall be the team
11 leaders.

12 The persons designated by the state board ~~shall be~~ are
13 responsible for completing the report on the findings and
14 recommendations of the on-site review in their area of expertise.
15 It is the intent of the Legislature that the persons designated by
16 the state board participate in all on-site reviews that involve
17 their area of expertise, to the extent practicable, so that the
18 on-site review process will evaluate compliance with the standards
19 in a uniform, consistent and expert manner.

20 (5) The Office of Education Performance Audits shall reimburse
21 a county board for the costs of substitutes required to replace
22 county board employees while they are serving on a review team.

1 (6) At the conclusion of an on-site review of a school system,
2 the director and team leaders shall hold an exit conference with
3 the superintendent and shall provide an opportunity for principals
4 to be present for at least the portion of the conference pertaining
5 to their respective schools. In the case of an on-site review of
6 a school, the exit conference shall be held with the principal and
7 curriculum team of the school and the superintendent shall be
8 provided the opportunity to be present. The purpose of the exit
9 conference is to review the initial findings of the on-site review,
10 clarify and correct any inaccuracies and allow the opportunity for
11 dialogue between the reviewers and the school or school system to
12 promote a better understanding of the findings.

13 (7) The Office of Education Performance Audits shall report
14 the findings of an on-site review to the county superintendent and
15 the principals whose schools were reviewed within thirty days
16 following the conclusion of the on-site review. The Office of
17 Education Performance Audits shall report the findings of the
18 on-site review to the state board within forty-five days after the
19 conclusion of the on-site review. ~~A copy of the report shall be~~
20 ~~provided to the Process for Improving Education Council at its~~
21 ~~request.~~ A school or county that believes one or more findings of
22 a review are clearly inaccurate, incomplete or misleading,

1 misrepresent or fail to reflect the true quality of education in
2 the school or county or address issues unrelated to the health,
3 safety and welfare of students and the quality of education, may
4 appeal to the state board for removal of the findings. The state
5 board shall establish a process for it to receive, review and act
6 upon the appeals. The state board shall report to the Legislative
7 Oversight Commission on Education Accountability during its July
8 interim meetings, or as soon thereafter as practical, on each
9 appeal during the preceding school year.

10 (8) The Legislature finds that the accountability and
11 oversight of the following activities and programmatic areas in the
12 public schools is controlled through other mechanisms and that
13 additional accountability and oversight are not only unnecessary
14 but counterproductive in distracting necessary resources from
15 teaching and learning. Therefore, notwithstanding any other
16 provision of this section to the contrary, the following activities
17 and programmatic areas are not subject to review by the Office of
18 Education Performance Audits:

19 (A) Work-based learning;

20 (B) Use of advisory councils;

21 (C) Program accreditation and student credentials;

22 (D) Student transition plans;

- 1 (E) Graduate assessment form;
- 2 (F) Casual deficit;
- 3 (G) Accounting practices;
- 4 (H) Transportation services;
- 5 (I) Special education services;
- 6 (J) Safe, healthy and accessible facilities;
- 7 (K) Health services;
- 8 (L) Attendance director;
- 9 (M) Business/community partnerships;
- 10 (N) Pupil-teacher ratio/split grade classes;
- 11 (O) Local school improvement council, faculty senate, student
12 assistance team and curriculum team;
- 13 (P) Planning and lunch periods;
- 14 (Q) Skill improvement program;
- 15 (R) Certificate of proficiency;
- 16 (S) Training of county board members;
- 17 (T) Excellence in job performance;
- 18 (U) Staff development; and
- 19 (V) Preventive discipline, character education and student and
20 parental involvement.
- 21 (n) *School accreditation.* -- The state board annually shall
22 review the information from the system of education performance

1 audits submitted for each school and shall issue to every school
2 one of the following approval levels: Exemplary accreditation
3 status, distinction accreditation status, full accreditation
4 status, temporary accreditation status, conditional accreditation
5 status or low performing accreditation status.

6 (1) Full accreditation status shall be given to a school when
7 the school's performance and progress meet or exceed the standards
8 adopted by the state board pursuant to subsection (e) or (f), as
9 applicable, of this section and it does not have any deficiencies
10 which would endanger student health or safety or other
11 extraordinary circumstances as defined by the state board. A
12 school that meets or exceeds the performance and progress standards
13 but has the other deficiencies shall remain on full accreditation
14 status for the remainder of the accreditation period and shall have
15 an opportunity to correct those deficiencies, notwithstanding other
16 provisions of this subsection.

17 (2) Temporary accreditation status shall be given to a school
18 when the school's performance and progress are below the level
19 required for full accreditation status. Whenever a school is given
20 temporary accreditation status, the county board shall ensure that
21 the school's electronic strategic improvement plan is revised in
22 accordance with subsection (b) of this section to increase the

1 performance and progress of the school to a full accreditation
2 status level. The revised plan shall be submitted to the state
3 board for approval.

4 (3) Conditional accreditation status shall be given to a
5 school when the school's performance and progress are below the
6 level required for full accreditation, but the school's electronic
7 strategic improvement plan meets the following criteria:

8 (A) The plan has been revised to improve performance and
9 progress on the standard or standards by a date or dates certain;

10 (B) The plan has been approved by the state board; and

11 (C) The school is meeting the objectives and time line
12 specified in the revised plan.

13 (4) Exemplary accreditation status shall be given to a school
14 when the school's performance and progress substantially exceed the
15 standards adopted by the state board pursuant to subsections (f)
16 and (g) of this section. The state board shall promulgate
17 legislative rules in accordance with the provisions of article
18 three-b, chapter twenty-nine-a of this code designated to establish
19 standards of performance and progress to identify exemplary
20 schools.

21 (5) Distinction accreditation status shall be given to a
22 school when the school's performance and progress exceed the

1 standards adopted by the state board. The state board shall
2 promulgate legislative rules in accordance with the provisions of
3 article three-b, chapter twenty-nine-a of this code establishing
4 standards of performance and progress to identify schools of
5 distinction.

6 (6) Low-performing accreditation status shall be given to a
7 school whenever extraordinary circumstances exist as defined by the
8 state board.

9 (A) These circumstances shall include, but are not limited to,
10 any one or more of the following:

11 (i) The failure of a school on temporary accreditation status
12 to obtain approval of its revised electronic school strategic
13 improvement plan within a reasonable time period as defined by the
14 state board;

15 (ii) The failure of a school on conditional accreditation
16 status to meet the objectives and time line of its revised
17 electronic school strategic improvement plan;

18 (iii) The failure of a school to meet a standard by the date
19 specified in the revised plan; and

20 (iv) The results of the most recent statewide assessment in
21 reading and math or other multiple measures as determined by the
22 state board that identify the school as low performing at its

1 programmatic level in three of the last five years.

2 (B) Whenever the state board determines that the quality of
3 education in a school is low performing, the state board shall
4 appoint a team of improvement consultants from the West Virginia
5 Department of Education State System of Support to make
6 recommendations for correction of the low performance. These
7 recommendations shall be communicated to the county board and a
8 process shall be established in conjunction with the State System
9 of Support to correct the identified deficiencies. If progress in
10 correcting the low performance as determined by the state board is
11 not made within one year following the implementation of the
12 measures adopted to correct the identified deficiencies or by a
13 date certain established by the state board after at least one year
14 of implementation, the state board shall place the county board on
15 temporary approval status and provide consultation and assistance
16 to the county board to assist it in the following areas:

17 (i) Improving personnel management;

18 (ii) Establishing more efficient financial management
19 practices;

20 (iii) Improving instructional programs and rules; or

21 (iv) Making any other improvements that are necessary to
22 correct the low performance.

1 (C) If the low performance is not corrected by a date certain
2 as set by the state board:

3 (i) The state board shall appoint a monitor who shall be paid
4 at county expense to cause improvements to be made at the school to
5 bring it to full accreditation status within a reasonable time
6 period as determined by the state board. The monitor's work
7 location shall be at the school and the monitor shall work
8 collaboratively with the principal. The monitor shall, at a
9 minimum, report monthly to the state board on the measures being
10 taken to improve the school's performance and the progress being
11 made. The reports may include requests for additional assistance
12 and recommendations required in the judgment of the monitor to
13 improve the school's performance, including, but not limited to,
14 the need for targeting resources strategically to eliminate
15 deficiencies;

16 (ii) The state board may make a determination, in its sole
17 judgment, that the improvements necessary to provide a thorough and
18 efficient education to the students at the school cannot be made
19 without additional targeted resources, in which case it shall
20 establish a plan in consultation with the county board that
21 includes targeted resources from sources under the control of the
22 state board and the county board to accomplish the needed

1 improvements. Nothing in this subsection ~~shall be construed to~~
2 ~~allow~~ allows a change in personnel at the school to improve school
3 performance and progress, except as provided by law;

4 (iii) If the low performance is not corrected within one year
5 after the appointment of a monitor, the state board may make a
6 determination, in its sole judgment, that continuing a monitor
7 arrangement is not sufficient to correct the low performance and
8 may intervene in the operation of the school to cause improvements
9 to be made that will provide assurances that a thorough and
10 efficient system of schools will be provided. This intervention
11 may include, but is not limited to, establishing instructional
12 programs, taking such direct action as may be necessary to correct
13 the low performance, declaring the position of principal is vacant
14 and assigning a principal for the school who shall serve at the
15 will and pleasure of and, under the sole supervision of, the state
16 board: *Provided*, That prior to declaring that the position of the
17 principal is vacant, the state board must make a determination that
18 all other resources needed to correct the low performance are
19 present at the school. If the principal who was removed elects not
20 to remain an employee of the county board, then the principal
21 assigned by the state board shall be paid by the county board. If
22 the principal who was removed elects to remain an employee of the

1 county board, then the following procedure applies:

2 (I) The principal assigned by the state board shall be paid by
3 the state board until the next school term, at which time the
4 principal assigned by the state board shall be paid by the county
5 board;

6 (II) The principal who was removed is eligible for all
7 positions in the county, including teaching positions, for which
8 the principal is certified, by either being placed on the transfer
9 list in accordance with section seven, article two, chapter
10 eighteen-a of this code, or by being placed on the preferred recall
11 list in accordance with section seven-a, article four, chapter
12 eighteen-a of this code; and

13 (III) The principal who was removed shall be paid by the
14 county board and may be assigned to administrative duties, without
15 the county board being required to post that position until the end
16 of the school term.

17 (6) The county board ~~shall~~ may take no action nor refuse any
18 action if the effect would be to impair further the school in which
19 the state board has intervened.

20 (7) The state board may appoint a monitor pursuant to the
21 provisions of this subsection to assist the school principal after
22 intervention in the operation of a school is completed.

1 (o) *Transfers from low-performing schools.* -- Whenever a
2 school is determined to be low performing and fails to improve its
3 status within one year, following state intervention in the
4 operation of the school to correct the low performance, any student
5 attending the school may transfer once to the nearest fully
6 accredited school in the county, subject to approval of the fully
7 accredited school and at the expense of the school from which the
8 student transferred.

9 (p) *School system approval.* -- The state board annually shall
10 review the information submitted for each school system from the
11 system of education performance audits and issue one of the
12 following approval levels to each county board: Full approval,
13 temporary approval, conditional approval or nonapproval.

14 (1) Full approval shall be given to a county board whose
15 schools have all been given full, temporary or conditional
16 accreditation status and which does not have any deficiencies which
17 would endanger student health or safety or other extraordinary
18 circumstances as defined by the state board. A fully approved
19 school system in which other deficiencies are discovered shall
20 remain on full accreditation status for the remainder of the
21 approval period and shall have an opportunity to correct those
22 deficiencies, notwithstanding other provisions of this subsection.

1 (2) Temporary approval shall be given to a county board whose
2 education system is below the level required for full approval.
3 Whenever a county board is given temporary approval status, the
4 county board shall revise its electronic county strategic
5 improvement plan in accordance with subsection (b) of this section
6 to increase the performance and progress of the school system to a
7 full approval status level. The revised plan shall be submitted to
8 the state board for approval.

9 (3) Conditional approval shall be given to a county board
10 whose education system is below the level required for full
11 approval, but whose electronic county strategic improvement plan
12 meets the following criteria:

13 (i) The plan has been revised in accordance with subsection
14 (b) of this section;

15 (ii) The plan has been approved by the state board; and

16 (iii) The county board is meeting the objectives and time line
17 specified in the revised plan.

18 (4) Nonapproval status shall be given to a county board which
19 fails to submit and gain approval for its electronic county
20 strategic improvement plan or revised electronic county strategic
21 improvement plan within a reasonable time period as defined by the
22 state board or which fails to meet the objectives and time line of

1 its revised electronic county strategic improvement plan or fails
2 to achieve full approval by the date specified in the revised plan.

3 (A) The state board shall establish and adopt additional
4 standards to identify school systems in which the program may be
5 nonapproved and the state board may issue nonapproval status
6 whenever extraordinary circumstances exist as defined by the state
7 board.

8 (B) Whenever a county board has more than a casual deficit, as
9 defined in section one, article one of this chapter, the county
10 board shall submit a plan to the state board specifying the county
11 board's strategy for eliminating the casual deficit. The state
12 board either shall approve or reject the plan. If the plan is
13 rejected, the state board shall communicate to the county board the
14 reason or reasons for the rejection of the plan. The county board
15 may resubmit the plan any number of times. However, any county
16 board that fails to submit a plan and gain approval for the plan
17 from the state board before the end of the fiscal year after a
18 deficit greater than a casual deficit occurred or any county board
19 which, in the opinion of the state board, fails to comply with an
20 approved plan may be designated as having nonapproval status.

21 (C) Whenever nonapproval status is given to a school system,
22 the state board shall declare a state of emergency in the school

1 system and shall appoint a team of improvement consultants to make
2 recommendations within sixty days of appointment for correcting the
3 emergency. When the state board approves the recommendations, they
4 shall be communicated to the county board. If progress in
5 correcting the emergency, as determined by the state board, is not
6 made within six months from the time the county board receives the
7 recommendations, the state board shall intervene in the operation
8 of the school system to cause improvements to be made that will
9 provide assurances that a thorough and efficient system of schools
10 will be provided. This intervention may include, but is not
11 limited to, the following:

12 (i) Limiting the authority of the county superintendent and
13 county board as to the expenditure of funds, the employment and
14 dismissal of personnel, the establishment and operation of the
15 school calendar, the establishment of instructional programs and
16 rules and any other areas designated by the state board by rule,
17 which may include delegating decision-making authority regarding
18 these matters to the state superintendent;

19 (ii) Declaring that the office of the county superintendent is
20 vacant;

21 (iii) Delegating to the state superintendent both the
22 authority to conduct hearings on personnel matters and school

1 closure or consolidation matters and, subsequently, to render the
2 resulting decisions and the authority to appoint a designee for the
3 limited purpose of conducting hearings while reserving to the state
4 superintendent the authority to render the resulting decisions;

5 (iv) Functioning in lieu of the county board of education in
6 a transfer, sale, purchase or other transaction regarding real
7 property; and

8 (v) Taking any direct action necessary to correct the
9 emergency including, but not limited to, the following:

10 (I) Delegating to the state superintendent the authority to
11 replace administrators and principals in low performing schools and
12 to transfer them into alternate professional positions within the
13 county at his or her discretion; and

14 (II) Delegating to the state superintendent the authority to
15 fill positions of administrators and principals with individuals
16 determined by the state superintendent to be the most qualified for
17 the positions. Any authority related to intervention in the
18 operation of a county board granted under this paragraph is not
19 subject to the provisions of article four, chapter eighteen-a of
20 this code;

21 (q) Notwithstanding any other provision of this section, the
22 state board may intervene immediately in the operation of the

1 county school system with all the powers, duties and
2 responsibilities contained in subsection (p) of this section, if
3 the state board finds the following:

4 (1) That the conditions precedent to intervention exist as
5 provided in this section; and that delaying intervention for any
6 period of time would not be in the best interests of the students
7 of the county school system; or

8 (2) That the conditions precedent to intervention exist as
9 provided in this section and that the state board had previously
10 intervened in the operation of the same school system and had
11 concluded that intervention within the preceding five years.

12 (r) *Capacity*. -- The process for improving education includes
13 a process for targeting resources strategically to improve the
14 teaching and learning process. Development of electronic school
15 and school system strategic improvement plans, pursuant to
16 subsection (b) of this section, is intended, in part, to provide
17 mechanisms to target resources strategically to the teaching and
18 learning process to improve student, school and school system
19 performance. When deficiencies are detected through the assessment
20 and accountability processes, the revision and approval of school
21 and school system electronic strategic improvement plans shall
22 ensure that schools and school systems are efficiently using

1 existing resources to correct the deficiencies. When the state
2 board determines that schools and school systems do not have the
3 capacity to correct deficiencies, the state board shall work with
4 the county board to develop or secure the resources necessary to
5 increase the capacity of schools and school systems to meet the
6 standards and, when necessary, seek additional resources in
7 consultation with the Legislature and the Governor.

8 The state board shall recommend to the appropriate body
9 including, but not limited to, ~~the Process for Improving Education~~
10 ~~Council~~, the Legislature, county boards, schools and communities
11 methods for targeting resources strategically to eliminate
12 deficiencies identified in the assessment and accountability
13 processes. When making determinations on recommendations, the
14 state board shall include, but is not limited to, the following
15 methods:

16 (1) Examining reports and electronic strategic improvement
17 plans regarding the performance and progress of students, schools
18 and school systems relative to the standards and identifying the
19 areas in which improvement is needed;

20 (2) Determining the areas of weakness and of ineffectiveness
21 that appear to have contributed to the substandard performance and
22 progress of students or the deficiencies of the school or school

1 system and requiring the school or school system to work
2 collaboratively with the West Virginia Department of Education
3 State System of Support to correct the deficiencies;

4 (3) Determining the areas of strength that appear to have
5 contributed to exceptional student, school and school system
6 performance and progress and promoting their emulation throughout
7 the system;

8 (4) Requesting technical assistance from the School Building
9 Authority in assessing or designing comprehensive educational
10 facilities plans;

11 (5) Recommending priority funding from the School Building
12 Authority based on identified needs;

13 (6) Requesting special staff development programs from the
14 Center for Professional Development, the Principals Academy, higher
15 education, regional educational service agencies and county boards
16 based on identified needs;

17 (7) Submitting requests to the Legislature for appropriations
18 to meet the identified needs for improving education;

19 (8) Directing county boards to target their funds
20 strategically toward alleviating deficiencies;

21 (9) Ensuring that the need for facilities in counties with
22 increased enrollment are appropriately reflected and recommended

1 for funding;

2 (10) Ensuring that the appropriate person or entity is held
3 accountable for eliminating deficiencies; and

4 (11) Ensuring that the needed capacity is available from the
5 state and local level to assist the school or school system in
6 achieving the standards and alleviating the deficiencies.

7 **ARTICLE 2I. PROFESSIONAL DEVELOPMENT.**

8 **§18-2I-1. Legislative purpose.**

9 The purpose of this article is to establish clear state-level
10 leadership for professional development for all West Virginia
11 public school educators and administrators. As the state
12 institution charged with the general supervision of the state
13 school system, the state board shall institute a system for the
14 coordination and delivery of high quality professional development.
15 Such system shall clearly define the goals for professional
16 development and delineate roles and responsibilities among the
17 various state and regional professional development providers.

18 **§18-2I-2. Legislative findings.**

19 The Legislature finds:

20 (1) That high quality professional development is critical in
21 supporting improved practice, assuring teacher quality and raising
22 student achievement;

1 (2) That professional development is vital in the state's
2 overall school improvement efforts;

3 (3) That the state board should assure the efficient delivery
4 of high quality professional development programs and assure that
5 duplication of efforts be minimized and that all stakeholders are
6 appropriately involved in the planning and implementing of programs
7 to meet requisite needs and that high quality professional
8 development programs be provided to public school educators of West
9 Virginia in the most efficient and cost effective manner; and

10 (4) It should be the goal that professional development occur
11 outside of scheduled instructional time so student learning is not
12 interrupted by the absence of their classroom teacher.

13 **§18-2I-3. Annual professional development master plan established**
14 **by state board.**

15 (a) The state board shall annually establish a master plan for
16 professional development in the public schools of the state, in
17 accordance with section twenty-three-a, article two of this
18 chapter. As a first priority, the state board shall require
19 adequate and appropriate professional development to ensure high
20 quality teaching that will support improved student achievement,
21 enable students to meet the content standards established for the
22 required curriculum in the public schools and to be prepared for

1 college and careers.

2 (b) The state board shall annually submit the master plan to
3 the State Department of Education, the Center for Professional
4 Development, the regional educational service agencies, the Higher
5 Education Policy Commission and the Legislative Oversight
6 Commission on Education Accountability.

7 (c) In establishing the goals, the state board shall review
8 reports that may indicate a need for professional staff development
9 including, but not limited to, the report of the Center for
10 Professional Development created in article three-a, chapter
11 eighteen-a of this code, student test scores on the statewide
12 student assessment program, the measures of student and school
13 performance for accreditation purposes, school and school district
14 report cards and the state board's plans for the use of funds in
15 the Strategic Staff Development Fund pursuant to section five of
16 this article

17 (d) Pursuant to section thirty-nine, article two of this
18 chapter the state board shall include in its Master Plan for
19 Professional Staff Development:

20 (1) Professional development for teachers teaching the
21 transitional courses on how to teach the adopted college and career
22 readiness standards for English/language arts and math; and

1 the identification of needed professional development and various
2 delivery models;

3 (6) Processes for collaboration among West Virginia Department
4 of Education, Center for Professional Development, RESAs and county
5 boards of education;

6 (7) Processes for ensuring that the expertise and experience
7 of state institutions of higher education with teacher preparation
8 programs are included in developing and implementing professional
9 development programs; and

10 (8) Evaluation of the provided professional development.

11 (b) The state board approval of the proposed professional
12 development programs shall establish a Master Plan for Professional
13 Development which shall be submitted by the state board to the
14 affected agencies and to the Legislative Oversight Commission on
15 Education Accountability. The Master Plan shall include the state
16 board-approved plans for professional development by the State
17 Department of Education, the Center for Professional Development,
18 the state institutions of higher education and the regional
19 educational service agencies to meet the professional development
20 goals of the state board.

21 (c) The state board shall annually submit a report on the
22 effectiveness, efficiency and impact of the statewide professional

1 development plan to the Legislative Oversight Commission on
2 Education Accountability.

3 **§18-2I-5. Strategic Staff Development Fund.**

4 (a) There is created an account within the state board titled
5 the Strategic Staff Development Fund. The allocation of balances
6 which accrue in the General School Fund shall be transferred to the
7 Strategic Staff Development Fund each year when the balances become
8 available. Any remaining funds transferred to the Strategic Staff
9 Development Fund during the fiscal year shall be carried over for
10 use in the same manner the next fiscal year and shall be separate
11 and apart from, and in addition to, the transfer of funds from the
12 General School Fund for the next fiscal year.

13 (b) The money in the Strategic Staff Development Fund shall be
14 used by the state board to provide staff development in schools,
15 counties or both that the state board determines need additional
16 resources. The state board is required to report to the Legislative
17 Oversight Commission on Education Accountability before December
18 1, annually on the effectiveness of the staff development resulting
19 from expenditures in this fund.

20 **ARTICLE 3. STATE SUPERINTENDENT OF SCHOOLS.**

21 **§18-3-1. Appointment; qualifications; compensation; traveling**
22 **expenses; office and residence; evaluation.**

1 There shall be appointed by the state board a State
2 Superintendent of Schools who ~~shall serve~~ serves at the will and
3 pleasure of the state board. He or she shall be a person of good
4 moral character, of recognized ability as a school administrator,
5 holding at least a master's degree ~~in educational administration,~~
6 and ~~shall have~~ who has had not less than five years of experience
7 in public school work. He or she shall receive an annual salary
8 set by the state board, to be paid monthly: *Provided*, That the
9 annual salary may not exceed ~~\$146,100: *Provided, however, That*~~
10 ~~after June 30, 2006, the annual salary may not exceed \$175,000~~
11 \$175,000. The state superintendent also shall receive necessary
12 traveling expenses incident to the performance of his or her duties
13 to be paid out of the General School Fund upon warrants of the
14 State Auditor. The state superintendent shall have his or her
15 office at the State Capitol. The state board shall report to the
16 Legislative Oversight Commission on Education Accountability upon
17 request concerning its progress during any hiring process for a
18 state superintendent.

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

22 **§18-3-12. Special Community Development School Pilot Program.**

1 (a) The state superintendent shall establish a Special
2 Community Development School Pilot Program to be implemented in ~~one~~
3 a neighborhood of at least five public school schools, which shall
4 include at least one elementary and middle school, for the duration
5 of five years. The ~~public school~~ neighborhood of public schools
6 designated by the state superintendent for the pilot shall have
7 significant enrollments of disadvantaged, minority and
8 underachieving students. The designated ~~public school~~ neighborhood
9 of public schools under the direction of the county board and
10 county superintendent shall work in collaboration with higher
11 education, community organizations, Center for Professional
12 Development, local business leaders and the state board to develop
13 and implement strategies that could be replicated in other public
14 schools with significant enrollments of disadvantaged, minority and
15 underachieving students to improve academic achievement. For
16 purposes of this section neighborhood means an area of no more than
17 seven square miles.

18 (b) Beginning in January, ~~2011~~ 2014, on or before the first
19 day of the regular session of the Legislature, and each year
20 thereafter, the state superintendent, county superintendent for the
21 county in which the schools are located and lead community based
22 organizations shall make a status report to the Legislative

1 Oversight Commission on Education Accountability and to the state
2 board. The report may include any recommendations based on the
3 progress of the demonstration project that he or she considers
4 either necessary for improving the operations of the demonstration
5 project or prudent for improving student achievement in other
6 public schools through replication of successful demonstration
7 school programs.

8 **ARTICLE 5. COUNTY BOARD OF EDUCATION.**

9 **§18-5-18. Kindergarten programs.**

10 (a) County boards shall provide kindergarten programs for all
11 children who have attained the age of five prior to September 1, of
12 the school year in which the pupil enters the kindergarten program
13 and may, pursuant to the provisions of section forty-four, article
14 five, chapter eighteen of this code, establish kindergarten
15 programs designed for children below the age of five. The programs
16 for children who shall have attained the age of five shall be
17 full-day everyday programs.

18 (b) Persons employed as kindergarten teachers, as
19 distinguished from paraprofessional personnel, shall be required to
20 hold a certificate valid for teaching at the assigned level as
21 prescribed by ~~regulations~~ rules established by the state board.
22 The state board shall establish ~~and prescribe guidelines and~~

1 ~~criteria setting forth~~ the minimum requirements for all
2 paraprofessional personnel employed in kindergarten programs
3 established pursuant to the provisions of this section and no such
4 paraprofessional personnel ~~shall~~ may be employed in any
5 kindergarten program unless he or she meets ~~such~~ the minimum
6 requirements. Beginning July 1, 2014, a person employed as an aide
7 in a kindergarten program is required to hold either an early
8 childhood classroom assistant teacher temporary authorization, an
9 early childhood classroom assistant teacher permanent authorization
10 or an early childhood classroom assistant teacher paraprofessional
11 certificate. The state board shall establish the minimum
12 requirements for each of the three early childhood classroom
13 assistant teacher licenses. Any person employed as an aide in a
14 kindergarten program that is eligible for full retirement benefits
15 before July 1, 2016, is not required to acquire licensure in this
16 section.

17 (c) The state board with the advice of the state
18 superintendent shall establish and prescribe guidelines and
19 criteria relating to the establishment, operation and successful
20 completion of kindergarten programs in accordance with the other
21 provisions of this section. Guidelines and criteria so established
22 and prescribed also are intended to serve for the establishment and

1 operation of nonpublic kindergarten programs and shall be used for
2 the evaluation and approval of ~~such~~ those programs by the state
3 superintendent, provided application for ~~such~~ the evaluation and
4 approval is made in writing by proper authorities in control of
5 ~~such~~ the programs. The state superintendent, annually, shall
6 publish a list of nonpublic kindergarten programs, including
7 Montessori kindergartens that have been approved in accordance with
8 the provisions of this section. Montessori kindergartens
9 established and operated in accordance with usual and customary
10 practices for the use of the Montessori method which have teachers
11 who have training or experience, regardless of additional
12 certification, in the use of the Montessori method of instruction
13 for kindergartens shall be considered to be approved.

14 (d) Pursuant to ~~such~~ the guidelines and criteria, and only
15 pursuant to ~~such~~ the guidelines and criteria, the county boards may
16 establish programs taking kindergarten to the homes of the children
17 involved, using educational television, paraprofessional personnel
18 in addition to and to supplement regularly certified teachers,
19 mobile or permanent classrooms and other means developed to best
20 carry kindergarten to the child in its home and enlist the aid and
21 involvement of its parent or parents in presenting the program to
22 the child; or may develop programs of a more formal kindergarten

1 type, in existing school buildings, or both, as ~~such~~ the county
2 board may determine, taking into consideration the cost, the
3 terrain, the existing available facilities, the distances each
4 child may be required to travel, the time each child may be
5 required to be away from home, the child's health, the involvement
6 of parents and ~~such~~ other factors as each county board may find
7 pertinent. ~~Such~~ The determinations by any county board ~~shall be~~
8 are final and conclusive.

9 **§18-5-44. Early childhood education programs.**

10 (a) For the purposes of this section, "early childhood
11 education" means programs for children who have attained the age of
12 four prior to September 1 of the school year in which the pupil
13 enters the program created in this section.

14 (b) *Findings.* --

15 (1) Among other positive outcomes, early childhood education
16 programs have been determined to:

17 (A) Improve overall readiness when children enter school;

18 (B) Decrease behavioral problems;

19 (C) Improve student attendance;

20 (D) Increase scores on achievement tests;

21 (E) Decrease the percentage of students repeating a grade; and

22 (F) Decrease the number of students placed in special

1 education programs;

2 (2) Quality early childhood education programs improve school
3 performance and low-quality early childhood education programs may
4 have negative effects, especially for at-risk children;

5 (3) West Virginia has the lowest percentage of its adult
6 population twenty-five years of age or older with a bachelor's
7 degree and the education level of parents is a strong indicator of
8 how their children will perform in school;

9 (4) During the 2006-2007 school year, West Virginia ranked
10 thirty-ninth among the fifty states in the percentage of school
11 children eligible for free and reduced lunches and this percentage
12 is a strong indicator of how the children will perform in school;

13 (5) For the school year 2008-2009, thirteen thousand one
14 hundred thirty-five students were enrolled in prekindergarten, a
15 number equal to approximately sixty-three percent of the number of
16 students enrolled in kindergarten;

17 (6) Excluding projected increases due to increases in
18 enrollment in the early childhood education program, projections
19 indicate that total student enrollment in West Virginia will
20 decline by one percent, or by approximately two thousand seven
21 hundred four students, by the school year 2012-2013;

22 (7) In part, because of the dynamics of the state aid formula,

1 county boards will continue to enroll four-year old students to
2 offset the declining enrollments;

3 (8) West Virginia has a comprehensive kindergarten program for
4 five-year olds, but the program was established in a manner that
5 resulted in unequal implementation among the counties which helped
6 create deficit financial situations for several county boards;

7 (9) Expansion of current efforts to implement a comprehensive
8 early childhood education program should avoid the problems
9 encountered in kindergarten implementation;

10 (10) Because of the dynamics of the state aid formula,
11 counties experiencing growth are at a disadvantage in implementing
12 comprehensive early childhood education programs; and

13 (11) West Virginia citizens will benefit from the
14 establishment of quality comprehensive early childhood education
15 programs.

16 (c) Beginning no later than the school year 2012-2013, and
17 continuing thereafter, county boards shall provide early childhood
18 education programs for all children who have attained the age of
19 four prior to September 1 of the school year in which the pupil
20 enters the early childhood education program. Beginning no later
21 than the school year 2016-2017, and continuing thereafter, full day
22 early childhood education programs shall be available to all

1 children.

2 (d) The program shall meet the following criteria:

3 (1) It shall be voluntary, except, upon enrollment, the
4 provisions of section one, article eight of this chapter apply to
5 an enrolled student; and

6 (2) ~~It may be for fewer than five days per week and may be~~
7 ~~less than full day~~ All children shall have the opportunity to
8 enroll in a full day program. The program may be for fewer than
9 five days per week and may be less than full day based on family
10 need.

11 (e) Enrollment of students in Head Start, in any other program
12 approved by the state superintendent as provided in subsection (k)
13 of this section ~~shall~~ may be counted toward satisfying the
14 requirement of subsection (c) of this section.

15 (f) For the purposes of implementation financing, all counties
16 are encouraged to make use of funds from existing sources,
17 including:

18 (1) Federal funds provided under the Elementary and Secondary
19 Education Act pursuant to 20 U.S.C. §6301, *et seq.*;

20 (2) Federal funds provided for Head Start pursuant to 42
21 U.S.C. §9831, *et seq.*;

22 (3) Federal funds for temporary assistance to needy families

1 pursuant to 42 U.S.C. §601, *et seq.*;

2 (4) Funds provided by the School Building Authority pursuant
3 to article nine-d of this chapter;

4 (5) In the case of counties with declining enrollments, funds
5 from the state aid formula above the amount indicated for the
6 number of students actually enrolled in any school year; and

7 (6) Any other public or private funds.

8 (g) Each county board shall develop a plan for implementing
9 the program required by this section. The plan shall include the
10 following elements:

11 (1) An analysis of the demographics of the county related to
12 early childhood education program implementation;

13 (2) An analysis of facility and personnel needs;

14 (3) Financial requirements for implementation and potential
15 sources of funding to assist implementation;

16 (4) Details of how the county board will cooperate and
17 collaborate with other early childhood education programs
18 including, but not limited to, Head Start, to maximize federal and
19 other sources of revenue;

20 (5) Specific time lines for implementation; and

21 (6) Any other items the state board may require by policy.

22 (h) A county board shall submit its plan to the Secretary of

1 the Department of Health and Human Resources. The secretary shall
2 approve the plan if the following conditions are met:

3 (1) The county board has maximized the use of federal and
4 other available funds for early childhood programs;

5 (2) The county board has provided for the maximum
6 implementation of Head Start programs and other public and private
7 programs approved by the state superintendent pursuant to the terms
8 of subsection (k) of this section; and

9 (3) If the Secretary of the Department of Health and Human
10 Resources finds that the county board has not met one or more of
11 the requirements of this subsection, but that the county board has
12 acted in good faith and the failure to comply was not the primary
13 fault of the county board, then the secretary shall approve the
14 plan. Any denial by the secretary may be appealed to the circuit
15 court of the county in which the county board is located.

16 (i) The county board shall submit its plan for approval to the
17 state board. The state board shall approve the plan if the county
18 board has complied substantially with the requirements of
19 subsection (g) of this section and has obtained the approval
20 required in subsection (h) of this section.

21 (j) Every county board shall submit its plan for reapproval by
22 the Secretary of the Department of Health and Human Resources and

1 by the state board at least every two years after the initial
2 approval of the plan and until full implementation of the early
3 childhood education program in the county. As part of the
4 submission, the county board shall provide a detailed statement of
5 the progress made in implementing its plan. The standards and
6 procedures provided for the original approval of the plan apply to
7 any reapproval.

8 (k) A county board may not increase the total number of
9 students enrolled in the county in an early childhood program until
10 its program is approved by the Secretary of the Department of
11 Health and Human Resources and the state board.

12 (l) The state board annually may grant a county board a waiver
13 for total or partial implementation if the state board finds that
14 all of the following conditions exist:

15 (1) The county board is unable to comply either because:

16 (A) It does not have sufficient facilities available; or

17 (B) It does not and has not had available funds sufficient to
18 implement the program;

19 (2) The county has not experienced a decline in enrollment at
20 least equal to the total number of students to be enrolled; and

21 (3) Other agencies of government have not made sufficient
22 funds or facilities available to assist in implementation.

1 Any county board seeking a waiver shall apply with the
2 supporting data to meet the criteria for which they are eligible on
3 or before March 25 for the following school year. The state
4 superintendent shall grant or deny the requested waiver on or
5 before April 15 of that same year.

6 (m) The provisions of subsections (b), (c) and (d), section
7 eighteen of this article relating to kindergarten apply to early
8 childhood education programs in the same manner in which they apply
9 to kindergarten programs.

10 (n) Annually, the state board shall report to the Legislative
11 Oversight Commission on Education Accountability on the progress of
12 implementation of this section.

13 (o) Except as required by federal law or regulation, no county
14 board may enroll students who will be less than four years of age
15 prior to September 1 for the year they enter school.

16 (p) Neither the state board nor the state department may
17 provide any funds to any county board for the purpose of
18 implementing this section unless the county board has a plan
19 approved pursuant to subsections (h), (i) and (j) of this section.

20 (q) The state board shall promulgate a rule in accordance with
21 the provisions of article three-b, chapter twenty-nine-a of this
22 code for the purposes of implementing the provisions of this

1 section. The state board shall consult with the Secretary of the
2 Department of Health and Human Resources in the preparation of the
3 rule. The rule shall contain the following:

4 (1) Standards for curriculum;

5 (2) Standards for preparing students;

6 (3) Attendance requirements;

7 (4) Standards for personnel; and

8 (5) Any other terms necessary to implement the provisions of
9 this section.

10 (r) The rule shall include the following elements relating to
11 curriculum standards:

12 (1) A requirement that the curriculum be designed to address
13 the developmental needs of four-year old children, consistent with
14 prevailing research on how children learn;

15 (2) A requirement that the curriculum be designed to achieve
16 long-range goals for the social, emotional, physical and academic
17 development of young children;

18 (3) A method for including a broad range of content that is
19 relevant, engaging and meaningful to young children;

20 (4) A requirement that the curriculum incorporate a wide
21 variety of learning experiences, materials and equipment, and
22 instructional strategies to respond to differences in prior

1 experience, maturation rates and learning styles that young
2 children bring to the classroom;

3 (5) A requirement that the curriculum be designed to build on
4 what children already know in order to consolidate their learning
5 and foster their acquisition of new concepts and skills;

6 (6) A requirement that the curriculum meet the recognized
7 standards of the relevant subject matter disciplines;

8 (7) A requirement that the curriculum engage children actively
9 in the learning process and provide them with opportunities to make
10 meaningful choices;

11 (8) A requirement that the curriculum emphasize the
12 development of thinking, reasoning, decisionmaking and
13 problem-solving skills;

14 (9) A set of clear guidelines for communicating with parents
15 and involving them in decisions about the instructional needs of
16 their children; and

17 (10) A systematic plan for evaluating program success in
18 meeting the needs of young children and for helping them to be
19 ready to succeed in school.

20 (s) The secretary and the state superintendent shall submit a
21 report to the Legislative Oversight Commission on Education
22 Accountability and the Joint Committee on Government and Finance

1 which addresses, at a minimum, the following issues:

2 (1) A summary of the approved county plans for providing the
3 early childhood education programs pursuant to this section;

4 (2) An analysis of the total cost to the state and county
5 boards of implementing the plans;

6 (3) A separate analysis of the impact of the plans on counties
7 with increasing enrollment; and

8 (4) An analysis of the effect of the programs on the
9 maximization of the use of federal funds for early childhood
10 programs.

11 The intent of this subsection is to enable the Legislature to
12 proceed in a fiscally responsible manner, make any necessary
13 program improvements based on reported information prior to
14 implementation of the early childhood education programs.

15 (t) After the school year 2012-2013, on or before July 1 of
16 each year, each county board shall report the following information
17 to the Secretary of the Department of Health and Human Resources
18 and the state superintendent:

19 (1) Documentation indicating the extent to which county boards
20 are maximizing resources by using the existing capacity of
21 community-based programs, including, but not limited to, Head Start
22 and child care; and

1 (2) For those county boards that are including eligible
2 children attending approved, contracted community-based programs in
3 their net enrollment for the purposes of calculating state aid
4 pursuant to article nine-a of this chapter, documentation that the
5 county board is equitably distributing funding for all children
6 regardless of setting.

7 **§18-5-45. School calendar.**

8 (a) As used in this section:

9 (1) "Instructional day" means a day within the instructional
10 term which meets the following criteria:

11 (A) Instruction is offered to students for at least the
12 minimum amount of hours provided by state board rule;

13 (B) Instructional time is used for instruction and
14 cocurricular activities; and

15 (C) Other criteria as the state board determines appropriate.

16 (2) "Cocurricular activities" are activities that are closely
17 related to identifiable academic programs or areas of study that
18 serve to complement academic curricula as further defined by the
19 state board.

20 (b) *Findings.* --

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

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

4 (3) The school calendar shall provide for one hundred eighty
5 separate instructional days.

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

8 (1) An employment term that excludes Saturdays and Sundays and
9 consists of at least two hundred days, which need not be
10 successive;

11 (2) Within the employment term, an instructional term for
12 students of no less than one hundred eighty separate instructional
13 days, which includes an inclement weather and emergencies plan
14 designed to guarantee an instructional term for students of no less
15 than one hundred eighty separate instructional days; and

16 (3) A policy that requires additional minutes of instruction
17 in the school day or additional days of instruction to recover time
18 lost due to late arrivals and early dismissals; and

19 (4) A policy that determines that if it is not possible to
20 complete one hundred eighty separate instructional days with the
21 current school calendar, the county board shall schedule
22 instruction on any available noninstructional day, regardless of

1 the purpose for which the day originally was scheduled, and the day
2 will be used for instruction of students: *Provided*, That the
3 provisions of this subsection do not apply to:

4 (1) Holidays; and

5 (2) Election day.

6 (d) The instructional term shall commence and terminate on a
7 date selected by the county board. Calculation of the required one
8 hundred eighty separate instructional days must fall within a three
9 hundred sixty-five day period to be established by the county
10 board.

11 (e) Noninstructional days shall total twenty and shall be
12 comprised of the following:

13 (1) Seven holidays;

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

16 (3) The remaining days to be designated by the county board
17 for purposes to include, but not be limited to:

18 (A) Curriculum development;

19 (B) Preparation for opening and closing school;

20 (C) Professional development;

21 (D) Teacher-pupil-parent conferences;

22 (E) Professional meetings; and

1 (F) Making up days when instruction was scheduled but not
2 conducted.

3 (f) The state board may not schedule the primary statewide
4 assessment program thirty days prior to the end of the
5 instructional year unless the state board determines that the
6 nature of the test mandates an earlier testing date.

7 (g) The following applies to cocurricular activities:

8 (1) The state board shall determine what activities may be
9 considered cocurricular;

10 (2) The state board shall determine the amount of
11 instructional time that may be consumed by cocurricular activities;
12 and

13 (3) Other requirements or restrictions the state board may
14 provide in the rule required to be promulgated by this section.

15 (h) Extracurricular activities may not be used for
16 instructional time: *Provided*, That the state board may provide for
17 the attendance by students of certain activities sanctioned by the
18 Secondary School Activities Commission when those activities are
19 related to statewide tournaments or playoffs or are programs
20 required for Secondary School Activities Commission approval.

21 (i) Noninstructional interruptions to the instructional day
22 shall be minimized to allow the classroom teacher to teach.

1 (j) Prior to implementing the school calendar, the county
2 board shall secure approval of its proposed calendar from the state
3 board or, if so designated by the state board, from the state
4 superintendent.

5 (k) In formulation of a school's calendar, a county school
6 board shall hold at least two public meetings that allow parents,
7 teachers, teacher organizations, businesses and other interested
8 parties within the county to discuss the school calendar. The
9 public notice of the date, time and place of the public hearing
10 must be published in a local newspaper of general circulation in
11 the area as a Class II legal advertisement, in accordance with the
12 provisions of article three, chapter fifty-nine of this code.

13 (l) The county board may contract with all or part of the
14 personnel for a longer term.

15 (m) The minimum instructional term may be decreased by order
16 of the state superintendent in any county declared a federal
17 disaster area and where the event causing the declaration is
18 substantially related to a reduction of instructional days.

19 (n) Notwithstanding any provision of this code to the
20 contrary, the state board may grant a waiver to a county board for
21 its noncompliance with provisions of chapter eighteen, eighteen-a,
22 eighteen-b and eighteen-c of this code to maintain compliance in

1 reaching the mandatory one hundred eighty separate instructional
2 days established in this section.

3 (o) The state board shall promulgate a rule in accordance with
4 the provisions of article three-b, chapter twenty-nine-a of this
5 code for the purpose of implementing the provisions of this
6 section.

7 **ARTICLE 5A. LOCAL SCHOOL INVOLVEMENT.**

8 **§18-5A-5. Public school faculty senates established; election of**
9 **officers; powers and duties.**

10 (a) There is established at every public school in this state
11 a faculty senate which is comprised of all permanent, full-time
12 professional educators employed at the school who shall all be
13 voting members. Professional educators, as used in this section,
14 means professional educators as defined in chapter eighteen-a of
15 this code. A quorum of more than one half of the voting members of
16 the faculty shall be present at any meeting of the faculty senate
17 at which official business is conducted. Prior to the beginning of
18 the instructional term each year, but within the employment term,
19 the principal shall convene a meeting of the faculty senate to
20 elect a chair, vice chair and secretary and discuss matters
21 relevant to the beginning of the school year. The vice chair shall
22 preside at meetings when the chair is absent. Meetings of the

1 faculty senate shall be held during the times provided in
2 accordance with subdivision (12), subsection (b) of this section as
3 determined by the faculty senate. Emergency meetings may be held
4 during noninstructional time at the call of the chair or a majority
5 of the voting members by petition submitted to the chair and vice
6 chair. An agenda of matters to be considered at a scheduled
7 meeting of the faculty senate shall be available to the members at
8 least two employment days prior to the meeting. For emergency
9 meetings the agenda shall be available as soon as possible prior to
10 the meeting. The chair of the faculty senate may appoint such
11 committees as may be desirable to study and submit recommendations
12 to the full faculty senate, but the acts of the faculty senate
13 shall be voted upon by the full body.

14 (b) In addition to any other powers and duties conferred by
15 law, or authorized by policies adopted by the state or county board
16 of education or bylaws which may be adopted by the faculty senate
17 not inconsistent with law, the powers and duties listed in this
18 subsection are specifically reserved for the faculty senate. The
19 intent of these provisions is neither to restrict nor to require
20 the activities of every faculty senate to the enumerated items
21 except as otherwise stated. Each faculty senate shall organize its
22 activities as it deems most effective and efficient based on school

1 size, departmental structure and other relevant factors.

2 (1) Each faculty senate shall control funds allocated to the
3 school from legislative appropriations pursuant to section nine,
4 article nine-a of this chapter. From such funds, each classroom
5 teacher and librarian shall be allotted \$100 for expenditure during
6 the instructional year for academic materials, supplies or
7 equipment which, in the judgment of the teacher or librarian, will
8 assist him or her in providing instruction in his or her assigned
9 academic subjects or shall be returned to the faculty senate:
10 *Provided*, That nothing contained herein prohibits the funds from
11 being used for programs and materials that, in the opinion of the
12 teacher, enhance student behavior, increase academic achievement,
13 improve self-esteem and address the problems of students at-risk.
14 The remainder of funds shall be expended for academic materials,
15 supplies or equipment in accordance with a budget approved by the
16 faculty senate. Notwithstanding any other provisions of the law to
17 the contrary, funds not expended in one school year are available
18 for expenditure in the next school year: *Provided, however*, That
19 the amount of county funds budgeted in a fiscal year may not be
20 reduced throughout the year as a result of the faculty
21 appropriations in the same fiscal year for such materials, supplies
22 and equipment. Accounts shall be maintained of the allocations and

1 expenditures of such funds for the purpose of financial audit.
2 Academic materials, supplies or equipment shall be interpreted
3 broadly, but does not include materials, supplies or equipment
4 which will be used in or connected with interscholastic athletic
5 events.

6 (2) A faculty senate may establish a process for members to
7 ~~interview new prospective professional educators and~~
8 ~~paraprofessional employees~~ submit recommendations for hiring of
9 classroom teachers at the school and submit recommendations
10 regarding employment to the principal, who may also make
11 independent recommendations, for submission to the county
12 superintendent: *Provided*, That such process shall be chaired by
13 the school principal and must permit the timely employment of
14 persons to perform necessary duties.

15 (3) A faculty senate may nominate teachers for recognition as
16 outstanding teachers under state and local teacher recognition
17 programs and other personnel at the school, including parents, for
18 recognition under other appropriate recognition programs and may
19 establish such programs for operation at the school.

20 (4) A faculty senate may submit recommendations to the
21 principal regarding the assignment scheduling of secretaries,
22 clerks, aides and paraprofessionals at the school.

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

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

7 (7) Each faculty senate shall elect three faculty
8 representatives to the local school improvement council established
9 pursuant to section two of this article.

10 (8) Each faculty senate may nominate a member for election to
11 the county staff development council pursuant to section eight,
12 article three, chapter eighteen-a of this code.

13 (9) Each faculty senate shall have an opportunity to make
14 recommendations on the selection of faculty to serve as mentors for
15 beginning teachers under beginning teacher internship programs at
16 the school.

17 (10) A faculty senate may solicit, accept and expend any
18 grants, gifts, bequests, donations and any other funds made
19 available to the faculty senate: *Provided*, That the faculty senate
20 shall select a member who has the duty of maintaining a record of
21 all funds received and expended by the faculty senate, which record
22 shall be kept in the school office and is subject to normal

1 auditing procedures.

2 (11) Any faculty senate may review the evaluation procedure as
3 conducted in their school to ascertain whether the evaluations were
4 conducted in accordance with the written system required pursuant
5 to section twelve, article two, chapter eighteen-a of this code and
6 the general intent of this Legislature regarding meaningful
7 performance evaluations of school personnel. If a majority of
8 members of the faculty senate determine that such evaluations were
9 not so conducted, they shall submit a report in writing to the
10 State Board of Education: *Provided*, That nothing herein creates
11 any new right of access to or review of any individual's
12 evaluations.

13 (12) A local board shall provide to each faculty senate a
14 two-hour block of time for a faculty senate meeting on a day
15 scheduled for the opening of school prior to the beginning of the
16 instructional term. ~~and a two-hour block of time on each~~
17 ~~instructional support and enhancement day scheduled by the board~~
18 ~~for instructional activities for students and professional~~
19 ~~activities for teachers pursuant to section forty five, article~~
20 ~~five of this chapter~~ A faculty senate may meet for an unlimited
21 block of time ~~per month~~ during noninstructional days to discuss and
22 plan strategies to improve student instruction and to conduct other

1 faculty senate business. A faculty senate meeting scheduled on a
2 noninstructional day shall be considered as part of the purpose for
3 which the noninstructional day is scheduled. This time may be
4 utilized and determined at the local school level and includes, but
5 is not limited to, faculty senate meetings.

6 (13) Each faculty senate shall develop a strategic plan to
7 manage the integration of special needs students into the regular
8 classroom at their respective schools and submit the strategic plan
9 to the superintendent of the county board of education periodically
10 pursuant to guidelines developed by the State Department of
11 Education. Each faculty senate shall encourage the participation
12 of local school improvement councils, parents and the community at
13 large in developing the strategic plan for each school.

14 Each strategic plan developed by the faculty senate shall
15 include at least: (A) A mission statement; (B) goals; (C) needs;
16 (D) objectives and activities to implement plans relating to each
17 goal; (E) work in progress to implement the strategic plan; (F)
18 guidelines for placing additional staff into integrated classrooms
19 to meet the needs of exceptional needs students without diminishing
20 the services rendered to the other students in integrated
21 classrooms; (G) guidelines for implementation of collaborative
22 planning and instruction; and (H) training for all regular

1 classroom teachers who serve students with exceptional needs in
2 integrated classrooms.

3 **CHAPTER 18A. SCHOOL PERSONNEL.**

4 **ARTICLE 2. SCHOOL PERSONNEL.**

5 **§18A-2-7. Assignment, transfer, promotion, demotion, suspension**
6 **and recommendation of dismissal of school personnel**
7 **by superintendent; preliminary notice of transfer;**
8 **hearing on the transfer; proof required.**

9 (a) The superintendent, subject only to approval of the board,
10 may assign, transfer, promote, demote or suspend school personnel
11 and recommend their dismissal pursuant to provisions of this
12 chapter. However, an employee shall be notified in writing by the
13 superintendent on or before March 1 if he or she is being
14 considered for transfer or to be transferred. Only those employees
15 whose consideration for transfer or intended transfer is based upon
16 known or expected circumstances which will require the transfer of
17 employees shall be considered for transfer or intended for transfer
18 and the notification shall be limited to only those employees. Any
19 teacher or employee who desires to protest the proposed transfer
20 may request in writing a statement of the reasons for the proposed
21 transfer. The statement of reasons shall be delivered to the
22 teacher or employee within ten days of the receipt of the request.

1 Within ten days of the receipt of the statement of the reasons, the
2 teacher or employee may make written demand upon the superintendent
3 for a hearing on the proposed transfer before the county board of
4 education. The hearing on the proposed transfer shall be held on
5 or before April 15. At the hearing, the reasons for the proposed
6 transfer must be shown.

7 (b) The superintendent at a meeting of the board on or before
8 April 15 shall furnish in writing to the board a list of teachers
9 and other employees to be considered for transfer and subsequent
10 assignment for the next ensuing school year. An employee who was
11 not provided notice and an opportunity for a hearing pursuant to
12 subsection (a) of this section may not be included on the list.
13 All other teachers and employees not so listed shall be considered
14 as reassigned to the positions or jobs held at the time of this
15 meeting. The list of those recommended for transfer shall be
16 included in the minute record of the meeting and all those so
17 listed shall be notified in writing, which notice shall be
18 delivered in writing, by certified mail, return receipt requested,
19 to the persons' last known addresses within ten days following the
20 board meeting, of their having been so recommended for transfer and
21 subsequent assignment and the reasons therefor.

22 (c) The superintendent's authority to suspend school personnel

1 shall be temporary only pending a hearing upon charges filed by the
2 superintendent with the board of education and the period of
3 suspension may not exceed thirty days unless extended by order of
4 the board.

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

11 (e) Notwithstanding any provision of this code to the
12 contrary, when actual student enrollment in a grade level or
13 program, unforeseen before March 1 of the preceding school year,
14 permits the assignment of fewer teachers or service employees to or
15 within a school under any pupil-teacher ratio, class size or
16 caseload standard established in section eighteen-a, article five,
17 chapter eighteen of this code or any policy of the state board, the
18 superintendent, with board approval, may reassign the surplus
19 personnel to another school or to another grade level or program
20 within the school if needed there to comply with any such
21 pupil-teacher ratio, class size or caseload standard. The
22 reassignment may be made without following the notice and hearing

1 provisions of this section, and at any time during the school year
2 when the conditions of this subsection are met. The employee
3 reassigned under this subsection shall be the least senior teacher
4 or service employee working at the school, or in the grade level or
5 program, in the requisite certification or classification area(s).
6 If the classroom teacher is reassigned there shall be no diminution
7 of pay or benefits as a result of the reassignment.

8 **ARTICLE 3. TRAINING, CERTIFICATION, LICENSING, PROFESSIONAL**
9 **DEVELOPMENT.**

10 **§18A-3-1d. Teach For America.**

11 (a) *Definitions.* -- For the purposes of this section:

12 (1) "Critical need alternative teaching certificate" means a
13 certificate issued to a candidate who has been admitted to the
14 Teach For America Corps, is assigned to teach in West Virginia, and
15 who does not meet the standard educational requirements for teacher
16 certification.

17 (2) "Teach For America" means the national nonprofit
18 organization focused on eliminating educational inequity by
19 recruiting, selecting, training and supporting high-achieving
20 recent college graduates and professionals to teach for at least
21 two years in low-income communities throughout the United States,
22 as part of the Teach For America corps.

1 (3) "Teach For America corps member" means an individual who
2 has been admitted to the Teach For America corps to be a teacher,
3 and who is in the process of completing a two-year commitment as
4 part of the corps.

5 (b) *Critical need alternative teaching certificate* -

6 (1) To serve as teacher of record under this section, the
7 candidate must hold a critical need alternative teaching
8 certificate issued by the state superintendent and endorsed for the
9 instructional field in which the candidate seeks certification.

10 (2) The certificate is issued for two years and may be renewed
11 for one additional year, and no individual may hold a critical need
12 alternative teacher certificate for a period exceeding three years.
13 The critical need alternative teacher certificate is equivalent to
14 a professional teaching certificate for the purpose of issuing a
15 continuing contract, and for the purposes of being designated a
16 highly qualified teacher under the No Child Left Behind Act.

17 (3) To be eligible for a critical need alternative teacher
18 certificate, an applicant shall meet the following criteria:

19 (A) Have been admitted into the Teach For America corps and be
20 part of the Teach For America corps serving West Virginia;

21 (B) Possess at least a bachelor's degree with a minimum of a
22 2.5 grade point average from a regionally accredited institution of

1 higher education in any discipline;

2 (C) Pass the same basic skills and subject matter test or
3 tests required by the state board for traditional program
4 candidates to become certified in the area for which licensure is
5 being sought, and passage of the subject matter test or tests
6 shall be sufficient to earn endorsement in the instructional field,
7 provided that all other requirements set forth in this subsection
8 are met;

9 (D) Have completed Teach For America's summer training
10 institute;

11 (E) Hold United States citizenship; be of good moral character
12 and be physically, mentally and emotionally qualified to perform
13 the duties of a teacher;

14 (F) Attain the age of eighteen years on or before October 1 of
15 the year in which the critical need alternative teacher certificate
16 is issued; and

17 (G) Qualify for employment following a criminal history check
18 pursuant to section ten of this article.

19 (4) Notwithstanding any law or rule to the contrary, a person
20 who satisfies the requirements set forth in subdivision (3) of this
21 subsection shall be granted a formal document authorizing him or
22 her to work in a public school in West Virginia.

1 (5) Teach For America provides essential knowledge and skills,
2 and participants in the West Virginia corps certified under this
3 section shall complete the summer training institute and ongoing
4 two-year professional development required by Teach for America.

5 (6) In addition to receiving support provided by Teach For
6 America staff, candidates certified under this section shall
7 successfully complete a Beginning Teacher Internship program under
8 section two-b of this article.

9 (7) *Professional support team.* --

10 (A) Training and support of teachers certified under this
11 section are provided by a professional support team including the
12 school principal, or his or her designee, an experienced classroom
13 teacher who is serving as a mentor under the Beginning Teacher
14 Internship program pursuant to section two-b of this article, and
15 a staff member of Teach For America.

16 (B) The school principal, or his or her designee, serves as
17 chairperson of the team.

18 (C) The professional support team shall submit a written
19 evaluation of the teacher certified under this section to the
20 county superintendent at the conclusion of the teacher's second
21 year of teaching. The written evaluation shall be in a form
22 specified by the county superintendent and submitted on a date

1 specified by the county superintendent. The evaluation shall report
2 the progress of the teacher toward meeting the requirements of the
3 training and support program, and all final decisions on the
4 progress of the teacher and recommendations shall rest with the
5 principal.

6 (D) Notwithstanding any law to the contrary, upon program
7 completion and at least three years of successful teaching
8 experience, the teacher is eligible for a professional certificate,
9 as per the requirements established in section one-e of this
10 article.

11 **§18A-3-1e. Recommendation for certification of teachers on the**
12 **critical need alternative teaching certificate.**

13 (a) At the conclusion of the program administered pursuant to
14 section one-d of this article, the support team defined in section
15 one-d of this article shall prepare a comprehensive evaluation
16 report on the teacher's performance. This report shall be submitted
17 directly to the State Superintendent of Schools and shall contain
18 a recommendation as to whether or not a professional certificate
19 should be issued to the teacher. The report shall be made on
20 standard forms developed by the state superintendent.

21 The comprehensive evaluation report shall include one of the
22 following recommendations:

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

3 (2) Insufficient: Recommends that a professional certificate
4 not be issued but that the candidate be allowed to seek reentry on
5 one or more occasions in the future into an approved alternative
6 teacher education program or the Teach For America program; or

7 (3) Disapproved: Recommends that a professional certificate
8 not be issued and that the candidate not be allowed to enter into
9 another approved alternative teacher education program or the Teach
10 For America program in this state, but may not be prohibited from
11 pursuing teacher certification through other approved programs for
12 the education of teachers in this state.

13 (b) The support team shall provide the teacher with a copy of
14 the teacher's written evaluation report and certification
15 recommendation before submitting it to the state superintendent. If
16 the teacher disagrees with the provider's recommendation, the
17 teacher may, within fifteen days of receipt, request an appeal in
18 accordance with the certification appeals process established by
19 the State Board of Education.

20 **§18A-3-2a. Certificates valid in the public schools that may be**
21 **issued by the state superintendent.**

22 In accordance with state board rules for the education of

1 professional educators adopted pursuant to section one of this
2 article and subject to the limitations and conditions of that
3 section, the state superintendent may issue the following
4 certificates valid in the public schools of the state:

5 (a) *Professional teaching certificates.* --

6 (1) A professional teaching certificate for teaching in the
7 public schools may be issued to a person who meets the following
8 conditions:

9 (A) Holds at least a bachelor's degree from an accredited
10 institution of higher education in this state; and

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

13 (ii) Has met equivalent standards at institutions in other
14 states and has passed appropriate state board approved basic skills
15 and subject matter tests or has completed three years of successful
16 experience within the last seven years in the area for which
17 licensure is being sought; or

18 (B) Holds at least a bachelor's degree ~~in a discipline taught~~
19 ~~in the public schools~~ from an accredited institution of higher
20 education; and

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

1 (ii) Has completed three years of successful experience within
2 the last seven years in the area for which licensure is being
3 sought; and

4 (I) Has completed an alternative program for teacher education
5 approved by the state board or the Teach For America program in
6 accordance with section one-d of this article;

7 (II) Is recommended for a certificate in accordance with the
8 provisions of sections one-a, ~~and one-b~~ and one-e of this article
9 relating to the program; or

10 (III) Is recommended by the state superintendent based on
11 documentation submitted.

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

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

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

22 (B) The certificate may be renewed subject to rules adopted by

1 the state board.

2 (b) *Alternative program teacher certificate.* -- An alternative
3 program teacher certificate may be issued to a candidate who is
4 enrolled in an alternative program for the education of teachers in
5 accordance with the provisions of section one-a of this article.

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

9 (2) The certificate is valid for one year and may be renewed
10 for each of the following two consecutive years only.

11 (c) *Critical need alternative teaching certificate.* -- A
12 critical need alternative teaching certificate may be issued to a
13 candidate in accordance with provisions of section one-d of this
14 article.

15 (1) The certificate is valid subject to the provisions of
16 section one-d of this article.

17 (2) The certificate is valid for two years and may be renewed
18 for one additional year only.

19 ~~(c)~~ (d) *Professional administrative certificate.* --

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

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

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

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

8 (ii) Has successfully completed education and training in
9 evaluation skills through the center for professional development,
10 or equivalent education and training in evaluation skills approved
11 by the state board; and

12 (iii) Possesses three years of management level experience.

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

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

21 ~~(d)~~ (e) *Paraprofessional certificate.* -- A paraprofessional
22 certificate may be issued to a person who meets the following

1 conditions:

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

5 (2) Demonstrates the proficiencies to perform duties as
6 required of a paraprofessional as defined in section eight, article
7 four of this chapter.

8 ~~(e)~~ (f) *Other certificates; permits. --*

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

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

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

22 (A) The person is employed under a contract with the county

1 board of education.

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

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

10 (B) A currently employed certified professional educator has
11 not applied for the position; and

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

14 ~~(f)~~ (g) *Teacher-In-Residence Permit.* --

15 (1) A teacher-in-residence permit may be issued to a candidate
16 who is enrolled in a teacher-in-residence program in accordance
17 with an agreement between an institution of higher education and a
18 county board. The agreement is developed pursuant to subsection
19 (f), section one of this article and requires approval by the state
20 board.

21 (2) The permit is valid only for the teacher-in-residence
22 program position in which the candidate is enrolled and is subject

1 to enrollment in the program. The permit is valid for no more than
2 one school year and may not be renewed.

3 **ARTICLE 3A. CENTER FOR PROFESSIONAL DEVELOPMENT.**

4 **§18A-3A-1. Center for Professional Development; intent and**
5 **mission; Principals Academy curriculum and**
6 **expenses; authorization to charge fees.**

7 (a) Teaching is a profession that directly correlates to the
8 social and economic well-being of a society and its citizens.
9 Superior teaching is essential to a well-educated and productive
10 populace. Strong academic leadership provided by principals and
11 administrators skilled in modern management principles is also
12 essential. The intent of this article is to recognize the value of
13 professional involvement by experienced educators, principals and
14 administrators in building and maintaining a superior force of
15 professional educators and to establish avenues for applying this
16 involvement.

17 (b) The general mission of the center is to advance the
18 quality of teaching and management in the schools of West Virginia
19 through: (1) The implementation primarily of statewide training,
20 professional staff development, including professional staff
21 development for at least teachers, principals and
22 paraprofessionals, and technical assistance programs and practices

1 as recommended by the state board to assure the highest quality of
2 teaching and management; and (2) the provision of technical and
3 other assistance and support to regional and local education
4 agencies in identifying and providing high-quality professional
5 staff development, including professional staff development for at
6 least teachers, principals and paraprofessionals, and training
7 programs and implementing best practices to meet their locally
8 identified needs. The center also may implement local programs if
9 the state board, in its Master Plan for Professional Staff
10 Development established pursuant to ~~section twenty three a, article~~
11 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this
12 code, determines that there is a specific local need for the
13 programs. Additionally, the center shall perform other duties
14 assigned to it by law.

15 Nothing in this article ~~shall be construed to require~~ requires
16 any specific level of funding by the Legislature.

17 (c) The Center for Professional Development Board is
18 reconstituted, and all terms of members elected or appointed prior
19 to the effective date of this section are expired. The center
20 board shall consist of thirteen persons as follows:

21 (1) The Secretary of Education and the Arts, ex officio, and
22 the state superintendent, ex officio, each of whom is:

1 (A) Entitled to vote; and

2 (B) A Cochair of the board.

3 (2) Two members of the state board, elected by the state
4 board;

5 (3) One person employed by West Virginia University and one
6 person employed by Marshall University, both of whom are:

7 (A) Appointed by the President of the employing institution;

8 (B) Faculty in the teacher education section of the employing
9 institution; and

10 (C) Knowledgeable in matters relevant to the issues addressed
11 by the center;

12 (4) One regional education service agency executive director,
13 elected by all of the regional education service agency executive
14 directors;

15 (5) Three experienced educators, of whom one is a working
16 classroom teacher, one is a school principal and one is a county
17 administrator. All such educators are:

18 (A) Appointed by the Governor by and with the advice and
19 consent of the Senate;

20 (B) Experienced educators who have achieved recognition for
21 their superior knowledge, ability and performance in teaching or
22 management, as applicable; and

1 (C) Knowledgeable in matters relevant to the issues addressed
2 by the center; and

3 (6) Three citizens of the state who are:

4 (A) Knowledgeable in matters relevant to the issues addressed
5 by the center, including, but not limited to, professional
6 development and management principles; and

7 (B) Appointed by the Governor by and with the advice and
8 consent of the Senate.

9 (C) Not more than two such members may be residents within the
10 same congressional district.

11 (d) Each appointment and election is for a two-year term.
12 Such members may serve no more than two consecutive two-year terms.

13 (1) The state board shall elect another member to fill the
14 unexpired term of any person who vacates state board membership.

15 (2) The regional education service agency executive directors
16 shall elect an executive director to fill the unexpired term of any
17 executive director who ceases to be employed in that capacity.

18 (3) Of the initial members appointed by the Governor, three
19 are appointed for one-year terms and three are appointed for
20 two-year terms. Each successive appointment by the Governor is for
21 a two-year term. The Governor shall appoint a new member to fill
22 the unexpired term of any vacancy in the appointed membership.

1 (4) The President of West Virginia University and Marshall
2 University each appoints an employee to fill the unexpired term of
3 any member who ceases to be employed by that institution.

4 (e) The Center for Professional Development Board shall meet
5 at least quarterly and the appointed members shall be reimbursed
6 for reasonable and necessary expenses actually incurred in the
7 performance of their official duties from funds appropriated or
8 otherwise made available for those purposes upon submission of an
9 itemized statement therefor.

10 (f) The position of executive director is abolished. The
11 Governor shall appoint, by and with the advice and consent of the
12 Senate, a chief executive officer with knowledge and experience in
13 professional development and management principles. Any reference
14 in this code to the Executive Director of the Center for
15 Professional Development means the Chief Executive Officer. From
16 appropriations to the Center for Professional Development, the
17 center board sets the salary of the Chief Executive Officer. The
18 center board, upon the recommendation of the Chief Executive
19 Officer, may employ other staff necessary to carry out the mission
20 and duties of the center. The Chief Executive Officer serves at
21 the will and pleasure of the Governor. Annually, the center board
22 shall evaluate the Chief Executive Officer, and shall report the

1 results to the Governor. The duties of the Chief Executive Officer
2 include:

3 (1) Managing the daily operations of the center;

4 (2) Ensuring the implementation of the center's mission;

5 (3) Ensuring collaboration of the center with other
6 professional development providers;

7 (4) Requesting from the Governor and the Legislature any
8 resources or statutory changes that would help in enhancing the
9 collaboration of all professional development providers in the
10 state, in advancing the quality of professional development through
11 any other means or both;

12 (5) Serving as the chair of the Principals Standards Advisory
13 Council created in section two-c, article three of this chapter and
14 convening regular meetings of this council to effectuate its
15 purposes; and

16 (6) Other duties as assigned by the Governor or the center
17 board.

18 (g) When practicable, personnel employed by state higher
19 education agencies and state, regional and county public education
20 agencies shall be made available to the center to assist in the
21 operation of projects of limited duration, subject to the
22 provisions of section twenty-four, article two, chapter eighteen of

1 this code.

2 (h) The center shall assist in the delivery of programs and
3 activities pursuant to this article to meet statewide, and if
4 needed as determined by the goals and Master Plan for Professional
5 Staff Development established by the state board pursuant to
6 ~~section twenty-three-a, article two, chapter eighteen~~ article
7 two-i, chapter eighteen-a of this code, the local professional
8 development needs of paraprofessionals, teachers, principals and
9 administrators and may contract with existing agencies or agencies
10 created after the effective date of this section or others to
11 provide training programs in the most efficient manner. Existing
12 programs currently based in agencies of the state shall be
13 continued in the agency of their origin unless the center
14 establishes a compelling need to transfer or cancel the existing
15 program. The center shall recommend to the Governor the transfer
16 of funds to the providing agency, if needed, to provide programs
17 approved by the center.

18 (i) The Center for Professional Development shall implement
19 training and professional development programs for the Principals
20 Academy based upon the minimum qualities, proficiencies and skills
21 necessary for principals in accordance with the standards
22 established by the state board pursuant to the terms of section

1 two-c, article three of this chapter.

2 (j) In accordance with section two-c, article three of this
3 chapter, the center ~~shall be~~ is responsible for paying reasonable
4 and necessary expenses for persons attending the Principals
5 Academy: *Provided*, That nothing in this section ~~shall be construed~~
6 ~~to require~~ requires any specific level of funding by the
7 Legislature.

8 (k) Persons attending the professional development offerings
9 of the center and other courses and services offered by the Center
10 for Professional Development, except the Principals Academy shall
11 be assessed fees which shall be less than the full cost of
12 attendance. There is hereby created in the State Treasury a
13 special revenue account known as the "Center for Professional
14 Development Fund". All moneys collected by the center shall be
15 deposited in the fund for expenditure by the center board for the
16 purposes specified in this section. Moneys remaining in the fund
17 at the end of the fiscal year are subject to reappropriation by the
18 Legislature.

19 (l) The center board shall make collaboration with the state
20 board in providing professional development services in the
21 following areas a priority:

22 (1) Services to those public schools selected by the state

1 superintendent pursuant to section three-g, article two-e, chapter
2 eighteen of this code; and

3 (2) Services in any specific subject matter area that the
4 state board, the Legislature or both, determine is justified due to
5 a need to increase student achievement in that area.

6 **§18A-3A-2. Professional development project.**

7 Subject to the provisions of ~~section twenty-three a, article~~
8 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this
9 code, through this project the Center for Professional Development
10 shall:

11 (1) Identify, coordinate, arrange and otherwise assist in the
12 delivery of professional development programs and activities that
13 help professional educators acquire the knowledge, skills,
14 attitudes, practices and other such pertinent complements
15 considered essential for an individual to demonstrate appropriate
16 performance as a professional person in the public schools of West
17 Virginia. The basis for the performance shall be the laws,
18 policies and regulations adopted for the public schools of West
19 Virginia, and amendments thereto. The center also may permit and
20 encourage school personnel such as classroom aides, higher
21 education teacher education faculty and higher education faculty in
22 programs such as articulated tech prep associate degree and other

1 programs to participate in appropriate professional development
2 programs and activities with public school professional educators;

3 (2) Identify, coordinate, arrange and otherwise assist in the
4 delivery of professional development programs and activities that
5 help principals and administrators acquire knowledge, skills,
6 attitudes and practices in academic leadership and management
7 principles for principals and administrators and such other
8 pertinent complements considered essential for principals and
9 administrators to demonstrate appropriate performance in the public
10 schools of West Virginia. The basis for the performance shall be
11 the laws, policies and regulations adopted for the public schools
12 of West Virginia, and amendments thereto;

13 (3) Serve in a coordinating capacity to assure that the
14 knowledge, skills, attitude and other pertinent complements of
15 appropriate professional performance which evolve over time in the
16 public school environment are appropriately reflected in the
17 programs approved for the education of professional personnel,
18 including, but not limited to, advising the teacher education
19 programs of major statutory and policy changes in the public
20 schools which affect the job performance requirements of
21 professional educators, including principals and administrators;

22 (4) Provide for the routine updating of professional skills of

1 professional educators, including principals and administrators,
2 through in-service and other programs. The routine updating may be
3 provided by the center through statewide or regional institutes
4 which may require a registration fee;

5 (5) Provide for the routine education of all professional
6 educators, including principals and administrators, and those
7 service personnel having direct contact with students on warning
8 signs and resources to assist in suicide prevention under
9 guidelines established by the state board. The education may be
10 accomplished through self review of suicide prevention materials
11 and resources approved by the state board. The provisions of this
12 paragraph may be known and cited as the "Jason Flatt Act of 2012";

13 (6) Provide consultation and assistance to county staff
14 development councils established under the provisions of section
15 eight, article three of this chapter in planning, designing,
16 coordinating, arranging for and delivering professional development
17 programs to meet the needs of the professional educators of their
18 district. From legislative appropriations to the center, exclusive
19 of the amounts required for the expenses of the principals academy,
20 the center shall, unless otherwise directed by the Legislature,
21 provide assistance in the delivery of programs and activities to
22 meet the expressed needs of the school districts for professional

1 development to help teachers, principals and administrators
2 demonstrate appropriate performance based on the laws, policies and
3 regulations adopted for the public schools of West Virginia; and

4 (7) Cooperate and coordinate with the institutions of higher
5 education to provide professional staff development programs that
6 satisfy some or all of the criteria necessary for currently
7 certified professional educators to meet the requirements for an
8 additional endorsement in an area of certification and for
9 certification to teach in the middle school grades.

10 If the center is not able to reach agreement with the
11 representatives of the institutions providing teacher education
12 programs on which courses will be approved for credit toward
13 additional endorsements, the state board may certify certain
14 professional staff development courses to meet criteria required by
15 the state board. This certification shall be done on a course by
16 course basis.

17 **§18A-3A-3. Professional personnel evaluation project.**

18 Subject to the provisions of ~~section twenty-three a, article~~
19 ~~two, chapter eighteen~~ article two-i, chapter eighteen-a of this
20 code, through this project the center shall:

21 (1) Establish programs that provide education and training in
22 evaluation skills to administrative personnel who will evaluate the

1 employment performance of professional personnel pursuant to the
2 provisions of section twelve, article two of this chapter; and

3 (2) Establish programs that provide instruction to classroom
4 teachers who will serve as beginning teacher mentors in accordance
5 with the provisions of section two-b, article three of this
6 chapter.

7 **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

8 **§18A-4-2a. State minimum salary bonus for classroom teachers with**
9 **national board certification.**

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

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

1 one certification.

2 (c) The payments:

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

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

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

8 (d) One-half the certification fee shall be paid for
9 reimbursement once to each teacher who enrolls in the program for
10 the National Board for Professional Teaching Standards
11 certification and one-half the certification fee shall be paid for
12 reimbursement once to each teacher who completes the National Board
13 for Professional Teaching Standards certification. Completion
14 shall be defined as the completion of ten scorable entries, as
15 verified by the National Board for Professional Teaching Standards.
16 Teachers who achieve National Board for Professional Teaching
17 Standards certification may be reimbursed a maximum of \$600 for
18 expenses actually incurred while obtaining the National Board for
19 Professional Teaching Standards certification.

20 ~~(e) The state board shall limit the number of teachers who~~
21 ~~receive the initial reimbursements of the certification fees set~~
22 ~~forth in subsection (d) to two hundred teachers annually. The~~

1 state board shall establish selection criteria for the teachers by
2 the legislative rule required pursuant to subsection (g) of this
3 section.

4 (f) Subject to the provisions of subsection (e) of this
5 section, funding for reimbursement of the certification and
6 re-certification fee and expenses actually incurred while obtaining
7 the National Board for Professional Teaching Standards
8 certifications shall be administered by the State Department of
9 Education from an appropriation established for that purpose by the
10 Legislature. If funds appropriated by the Legislature to
11 accomplish the purposes of this subsection are insufficient, the
12 state department shall prorate the reimbursements for expenses and
13 shall request of the Legislature, at its next regular session,
14 funds sufficient to accomplish the purposes of this subsection,
15 including needed retroactive payments.

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

19 (h) Nothing in this section prevents the state board from
20 reimbursing classroom teachers that seek national board
21 re-certification.

22 **§18A-4-7a. Employment, promotion and transfer of professional**

1 **personnel; seniority.**

2 (a) A county board of education shall make decisions affecting
3 the hiring of professional personnel other than classroom teachers
4 on the basis of the applicant with the highest qualifications.

5 (b) The county board shall ~~make decisions affecting the hiring~~
6 ~~of new classroom teachers~~ fill vacancies in professional positions
7 of employment on the basis of the applicant with the highest
8 qualifications. The county superintendent shall be hired under
9 separate criteria established by the county board.

10 (c) In judging qualifications for ~~hiring employees pursuant to~~
11 ~~subsections (a) and (b) of this section~~ filling vacancies in
12 professional positions of employment, consideration shall be given
13 to each of the following:

14 (1) Appropriate certification, licensure or both;

15 (2) Amount of experience relevant to the position; or, in the
16 case of a classroom teaching position, the amount of teaching
17 experience in the subject area;

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

20 (4) Academic achievement;

21 (5) Relevant specialized training;

22 (6) Past performance evaluations conducted pursuant to section

1 twelve, article two of this chapter;

2 (7) Seniority; and

3 ~~(7)~~ (8) Other measures or indicators upon which the relative
4 qualifications of the applicant may fairly be judged.

5 ~~(d) If one or more permanently employed instructional~~
6 ~~personnel apply for a classroom teaching position and meet the~~
7 ~~standards set forth in the job posting, the county board of~~
8 ~~education shall make a decision affecting the filling of the~~
9 ~~position on the basis of the following criteria:~~

10 ~~(1) Appropriate certification, licensure or both;~~

11 ~~(2) Total amount of teaching experience;~~

12 ~~(3) The existence of teaching experience in the required~~
13 ~~certification area;~~

14 ~~(4) Degree level in the required certification area;~~

15 ~~(5) Specialized training directly related to the performance~~
16 ~~of the job as stated in the job description;~~

17 ~~(6) Receiving an overall rating of satisfactory in the~~
18 ~~previous two evaluations conducted pursuant to section twelve,~~
19 ~~article two of this chapter; and~~

20 ~~(7) Seniority.~~

21 ~~(e) In filling positions pursuant to subsection (d) of this~~
22 ~~section, consideration shall be given to each criterion with each~~

1 ~~criterion being given equal weight. If the applicant with the most~~
2 ~~seniority is not selected for the position, upon the request of the~~
3 ~~applicant a written statement of reasons shall be given to the~~
4 ~~applicant with suggestions for improving the applicant's~~
5 ~~qualifications.~~ In judging qualifications for filling a classroom
6 teacher vacancy at a school, the county board shall also give
7 consideration to any recommendations made by the principal and by
8 the process, if any, established by the faculty senate pursuant to
9 section five, article five-a, chapter eighteen of this code to
10 interview prospective professional educators.

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

18 ~~(g)~~ (f) Upon completion of one hundred thirty-three days of
19 employment in any one school year, substitute teachers, except
20 retired teachers and other retired professional educators employed
21 as substitutes, shall accrue seniority exclusively for the purpose
22 of applying for employment as a permanent, full-time professional

1 employee. One hundred thirty-three days or more of said employment
2 shall be prorated and shall vest as a fraction of the school year
3 worked by the permanent, full-time teacher.

4 ~~(h)~~ (g) Guidance counselors and all other professional
5 employees, as defined in section one, article one of this chapter,
6 except classroom teachers, shall gain seniority in their
7 nonteaching area of professional employment on the basis of the
8 length of time the employee has been employed by the county board
9 of education in that area: *Provided*, That if an employee is
10 certified as a classroom teacher, the employee accrues classroom
11 teaching seniority for the time that that employee is employed in
12 another professional area. For the purposes of accruing seniority
13 under this paragraph, employment as principal, supervisor or
14 central office administrator, as defined in section one, article
15 one of this chapter, shall be considered one area of employment.

16 ~~(i)~~ (h) Employment for a full employment term shall equal one
17 year of seniority, but no employee may accrue more than one year of
18 seniority during any given fiscal year. Employment for less than
19 the full employment term shall be prorated. A random selection
20 system established by the employees and approved by the board shall
21 be used to determine the priority if two or more employees
22 accumulate identical seniority: *Provided*, That when two or more

1 principals have accumulated identical seniority, decisions on
2 reductions in force shall be based on qualifications.

3 ~~(j)~~ (i) Whenever a county board is required to reduce the
4 number of professional personnel in its employment, or within a
5 school, the employee holding a position to be reduced with the
6 least amount of seniority or the least amount of seniority within
7 the school, in defined circumstances, shall be properly notified
8 and released from employment pursuant to the provisions of section
9 two, article two of this chapter. The provisions of this
10 subsection are subject to the following:

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

15 (2) Notwithstanding any provision of this code to the
16 contrary, all employees subject to release shall be considered
17 applicants for any vacancy in an established, existing or newly
18 created position that, on or before February 15, is known to exist
19 for the ensuing school year, and for which they are qualified, and,
20 upon recommendation of the superintendent, the board shall appoint
21 the successful applicant from among them before posting such
22 vacancies for application by other persons;

1 ~~(2)~~ (3) An employee subject to release shall be employed in
2 any other professional position where the employee is certified and
3 was previously employed or to any lateral area for which the
4 employee is certified, licensed or both, if the employee's
5 seniority is greater than the seniority of any other employee in
6 that area of certification, licensure or both: Provided, That the
7 position is not at a school to which the employee is not currently
8 assigned;

9 ~~(3)~~ (4) If an employee subject to release holds certification,
10 licensure or both in more than one lateral area and if the
11 employee's seniority is greater than the seniority of any other
12 employee in one or more of those areas of certification, licensure
13 or both, the employee subject to release shall be employed in the
14 professional position held by the employee with the least seniority
15 in any of those areas of certification, licensure or both, whose
16 position is either at the same school or not assigned to a school;
17 and

18 ~~(4)~~ (5) If, prior to August 1, of the year a reduction in
19 force is approved, the reason for any particular reduction in force
20 no longer exists as determined by the county board in its sole and
21 exclusive judgment, the board shall rescind the reduction in force
22 or transfer and shall notify the released employee in writing of

1 his or her right to be restored to his or her position of
2 employment. Within five days of being so notified, the released
3 employee shall notify the board, in writing, of his or her intent
4 to resume his or her position of employment or the right to be
5 restored shall terminate. Notwithstanding any other provision of
6 this subdivision, if there is another employee on the preferred
7 recall list with proper certification and higher seniority, that
8 person shall be placed in the position restored as a result of the
9 reduction in force being rescinded.

10 ~~(k)~~ (j) For the purpose of this article, all positions which
11 meet the definition of "classroom teacher" as defined in section
12 one, article one of this chapter shall be lateral positions. For
13 all other professional positions, the county board of education
14 shall adopt a policy by October 31, 1993, and may modify the policy
15 thereafter as necessary, which defines which positions shall be
16 lateral positions. The board shall submit a copy of its policy to
17 the state board within thirty days of adoption or any modification,
18 and the state board shall compile a report and submit the report to
19 the Legislative Oversight Commission on Education Accountability by
20 December 31, 1993, and by that date in any succeeding year in which
21 any county board submits a modification of its policy relating to
22 lateral positions. In adopting the policy, the board shall give

1 consideration to the rank of each position in terms of title;
2 nature of responsibilities; salary level; certification, licensure
3 or both; and days in the period of employment.

4 ~~(i)~~ (k) After the twentieth day prior to the beginning of the
5 instructional term, no person employed and assigned to a
6 professional position may transfer to another professional position
7 in the county during that instructional term unless the person
8 holding that position does not have valid certification. The
9 provisions of this subsection are subject to the following:

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

13 (2) Professional personnel who have been on an approved leave
14 of absence may fill these vacancies upon their return from the
15 approved leave of absence;

16 (3) The county board, upon recommendation of the
17 superintendent may fill a position before the next instructional
18 term when it is determined to be in the best interest of the
19 students. The county superintendent shall notify the state board
20 of each transfer of a person employed in a professional position to
21 another professional position after the twentieth day prior to the
22 beginning of the instructional term;

1 (4) The provisions of this subsection do not apply to the
2 filling of a position vacated because of resignation or retirement
3 that became effective on or before the twentieth day prior to the
4 beginning of the instructional term, but not posted until after
5 that date; and

6 (5) The Legislature finds that it is not in the best interest
7 of the students particularly in the elementary grades to have
8 multiple teachers for any one grade level or course during the
9 instructional term. It is the intent of the Legislature that the
10 filling of positions through transfers of personnel from one
11 professional position to another after the twentieth day prior to
12 the beginning of the instructional term should be kept to a
13 minimum.

14 ~~(m)~~ (l) All professional personnel whose seniority with the
15 county board is insufficient to allow their retention by the county
16 board during a reduction in work force shall be placed upon a
17 preferred recall list. As to any professional position opening
18 within the area where they had previously been employed or to any
19 lateral area for which they have certification, licensure or both,
20 the employee shall be recalled on the basis of seniority if no
21 regular, full-time professional personnel, or those returning from
22 leaves of absence with greater seniority, are qualified, apply for

1 and accept the position.

2 ~~(n)~~ (m) Before position openings that are known or expected to
3 extend for twenty consecutive employment days or longer for
4 professional personnel may be filled by the board, the board shall
5 be required to notify all qualified professional personnel on the
6 preferred list and give them an opportunity to apply, but failure
7 to apply shall not cause the employee to forfeit any right to
8 recall. The notice shall be sent by certified mail to the last
9 known address of the employee, and it shall be the duty of each
10 professional personnel to notify the board of continued
11 availability annually, of any change in address or of any change in
12 certification, licensure or both.

13 ~~(o)~~ (n) Openings in established, existing or newly created
14 positions shall be processed as follows:

15 (1) Boards shall be required to post and date notices ~~which~~ of
16 each opening at least once and may at their discretion post an
17 opening more than once in order to attract more qualified
18 applicants. The posting or postings for an opening are subject to
19 the following:

20 (A) ~~The notices~~ Each notice shall be posted in conspicuous
21 working places for all professional personnel to observe for at
22 least five working days;

1 (B) ~~The~~ At least one notice shall be posted within twenty
2 working days of the position openings and shall include the job
3 description;

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

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

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

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

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

21 (4) A position held by a teacher who is certified, licensed or
22 both, who has been issued a permit for full-time employment and is

1 working toward certification in the permit area shall not be
2 subject to posting if the certificate is awarded within five years;
3 and

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

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

15 ~~(q) Reductions in classroom teaching positions in elementary~~
16 ~~schools shall be processed as follows:~~

17 ~~(1) When the total number of classroom teaching positions in~~
18 ~~an elementary school needs to be reduced, the reduction shall be~~
19 ~~made on the basis of seniority with the least senior classroom~~
20 ~~teacher being recommended for transfer; and~~

21 ~~(2) When a specified grade level needs to be reduced and the~~
22 ~~least senior employee in the school is not in that grade level, the~~

1 ~~least senior classroom teacher in the grade level that needs to be~~
2 ~~reduced shall be reassigned to the position made vacant by the~~
3 ~~transfer of the least senior classroom teacher in the school~~
4 ~~without that position being posted: *Provided, That the employee is*~~
5 ~~certified, licensed or both and agrees to the reassignment.~~

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

16 ~~(s)~~ (q) The county board shall compile, update annually on
17 July 1 and make available by electronic or other means to all
18 employees a list of all professional personnel employed by the
19 county, their areas of certification and their seniority.

20 (r) Notwithstanding any other provision of this code to the
21 contrary, upon recommendation of the principal and approval by the
22 classroom teacher and county board, a classroom teacher assigned to

1 the school may at any time be assigned to a new or existing
2 classroom teacher position at the school without the position being
3 posted.

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

6 (a) The purpose of this section is to establish an employment
7 term and class titles for service personnel. The employment term
8 for service personnel may not be less than ten months. A month is
9 defined as twenty employment days. The county board may contract
10 with all or part of these service personnel for a longer term. ~~The~~
11 ~~beginning and closing dates of the ten-month employment term may~~
12 ~~not exceed forty three weeks.~~

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

17 (c) Service personnel employed in the same classification for
18 more than the two hundred-day minimum employment term shall be paid
19 for additional employment at a daily rate of not less than the
20 daily rate paid for the two hundred-day minimum employment term.

21 (d) A service person may not be required to report for work
22 more than five days per week without his or her agreement, and no

1 part of any working day may be accumulated by the employer for
2 future work assignments, unless the employee agrees thereto.

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

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

14 (1) A maintenance person means a person who holds a
15 classification title other than in a custodial, aide, school lunch,
16 office or transportation category as provided in section one,
17 article one of this chapter.

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

22 (3) The additional compensation provided ~~for~~ in this

1 subsection:

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

5 (B) Is payable entirely from county board funds.

6 (g) When there is a change in classification or when a service
7 person meets the requirements of an advanced classification, his or
8 her salary shall be made to comply with the requirements of this
9 article and any county salary schedule in excess of the minimum
10 requirements of this article, based upon the service person's
11 advanced classification and allowable years of employment.

12 (h) A service person's contract, as provided in section five,
13 article two of this chapter, shall state the appropriate monthly
14 salary the employee is to be paid, based on the class title as
15 provided in this article and on any county salary schedule in
16 excess of the minimum requirements of this article.

17 (i) The column heads of the state minimum pay scale and class
18 titles, set forth in section eight-a of this article, are defined
19 as follows:

20 (1) "Pay grade" means the monthly salary applicable to class
21 titles of service personnel;

22 (2) "Years of employment" means the number of years which an

1 employee classified as a service person has been employed by a
2 county board in any position prior to or subsequent to the
3 effective date of this section and includes service in the Armed
4 Forces of the United States, if the employee was employed at the
5 time of his or her induction. For the purpose of section eight-a
6 of this article, years of employment is limited to the number of
7 years shown and allowed under the state minimum pay scale as set
8 forth in section eight-a of this article;

9 (3) "Class title" means the name of the position or job held
10 by a service person;

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

14 (5) "Accountant II" means a person employed to maintain
15 accounting records and to be responsible for the accounting process
16 associated with billing, budgets, purchasing and related
17 operations;

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

21 (7) "Accounts payable supervisor" means a person employed in
22 the county board office who has primary responsibility for the

1 accounts payable function and who either has completed twelve
2 college hours of accounting courses from an accredited institution
3 of higher education or has at least eight years of experience
4 performing progressively difficult accounting tasks.
5 Responsibilities of this class title may include supervision of
6 other personnel;

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

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

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

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

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

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

4 (A) Has completed eighteen hours of state board-approved
5 college credit at a regionally accredited institution of higher
6 education, or

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

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

15 (13) "Auditor" means a person employed to examine and verify
16 accounts of individual schools and to assist schools and school
17 personnel in maintaining complete and accurate records of their
18 accounts;

19 (14) "Autism mentor" means a person who works with autistic
20 students and who meets standards and experience to be determined by
21 the state board. A person who has held or holds an aide title and
22 becomes employed as an autism mentor shall hold a

1 multiclassification status that includes both aide and autism
2 mentor titles, in accordance with section eight-b of this article;

3 (15) "Braille or sign language specialist" means a person
4 employed to provide braille and/or sign language assistance to
5 students. A service person who has held or holds an aide title and
6 becomes employed as a braille or sign language specialist shall
7 hold a multiclassification status that includes both aide and
8 braille or sign language specialist title, in accordance with
9 section eight-b of this article;

10 (16) "Bus operator" means a person employed to operate school
11 buses and other school transportation vehicles as provided by the
12 state board;

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

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

19 (19) "Cafeteria manager" means a person employed to direct the
20 operation of a food services program in a school, including
21 assigning duties to employees, approving requisitions for supplies
22 and repairs, keeping inventories, inspecting areas to maintain high

1 standards of sanitation, preparing financial reports and keeping
2 records pertinent to food services of a school;

3 (20) "Carpenter I" means a person classified as a carpenter's
4 helper;

5 (21) "Carpenter II" means a person classified as a journeyman
6 carpenter;

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

11 (23) "Clerk I" means a person employed to perform clerical
12 tasks;

13 (24) "Clerk II" means a person employed to perform general
14 clerical tasks, prepare reports and tabulations and operate office
15 machines;

16 (25) "Computer operator" means a qualified person employed to
17 operate computers;

18 (26) "Cook I" means a person employed as a cook's helper;

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

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

5 (29) "Crew leader" means a person employed to organize the
6 work for a crew of maintenance employees to carry out assigned
7 projects;

8 (30) "Custodian I" means a person employed to keep buildings
9 clean and free of refuse;

10 (31) "Custodian II" means a person employed as a watchman or
11 groundsman;

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

15 (33) "Custodian IV" means a person employed as head
16 custodians. In addition to providing services as defined in
17 "custodian III," duties may include supervising other custodian
18 personnel;

19 (34) "Director or coordinator of services" means an employee
20 of a county board who is assigned to direct a department or
21 division.

22 (A) Nothing in this subdivision prohibits a professional

1 person or a professional educator from holding this class title;

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

6 (C) The director or coordinator of services shall be
7 classified either as a professional person or a service person for
8 state aid formula funding purposes;

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

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

18 (35) "Draftsman" means a person employed to plan, design and
19 produce detailed architectural/engineering drawings;

20 (36) "Electrician I" means a person employed as an apprentice
21 electrician helper or one who holds an electrician helper license
22 issued by the State Fire Marshal;

1 (37) "Electrician II" means a person employed as an
2 electrician journeyman or one who holds a journeyman electrician
3 license issued by the State Fire Marshal;

4 (38) "Electronic technician I" means a person employed at the
5 apprentice level to repair and maintain electronic equipment;

6 (39) "Electronic technician II" means a person employed at the
7 journeyman level to repair and maintain electronic equipment;

8 (40) "Executive secretary" means a person employed as
9 secretary to the county school superintendent or as a secretary who
10 is assigned to a position characterized by significant
11 administrative duties;

12 (41) "Food services supervisor" means a qualified person who
13 is not a professional person or professional educator as defined in
14 section one, article one of this chapter. The food services
15 supervisor is employed to manage and supervise a county school
16 system's food service program. The duties include preparing
17 in-service training programs for cooks and food service employees,
18 instructing personnel in the areas of quantity cooking with economy
19 and efficiency and keeping aggregate records and reports;

20 (42) "Foreman" means a skilled person employed to supervise
21 personnel who work in the areas of repair and maintenance of school
22 property and equipment;

1 (43) "General maintenance" means a person employed as a helper
2 to skilled maintenance employees and to perform minor repairs to
3 equipment and buildings of a county school system;

4 (44) "Glazier" means a person employed to replace glass or
5 other materials in windows and doors and to do minor carpentry
6 tasks;

7 (45) "Graphic artist" means a person employed to prepare
8 graphic illustrations;

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

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

16 (48) "Heating and air conditioning mechanic I" means a person
17 employed at the apprentice level to install, repair and maintain
18 heating and air conditioning plants and related electrical
19 equipment;

20 (49) "Heating and air conditioning mechanic II" means a person
21 employed at the journeyman level to install, repair and maintain
22 heating and air conditioning plants and related electrical

1 equipment;

2 (50) "Heavy equipment operator" means a person employed to
3 operate heavy equipment;

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

7 (52) "Key punch operator" means a qualified person employed to
8 operate key punch machines or verifying machines;

9 (53) "Licensed practical nurse" means a nurse, licensed by the
10 West Virginia Board of Examiners for Licensed Practical Nurses,
11 employed to work in a public school under the supervision of a
12 school nurse;

13 (54) "Locksmith" means a person employed to repair and
14 maintain locks and safes;

15 (55) "Lubrication man" means a person employed to lubricate
16 and service gasoline or diesel-powered equipment of a county school
17 system;

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

1 (57) "Mail clerk" means a person employed to receive, sort,
2 dispatch, deliver or otherwise handle letters, parcels and other
3 mail;

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

7 (59) "Mason" means a person employed to perform tasks
8 connected with brick and block laying and carpentry tasks related
9 to these activities;

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

14 (61) "Mechanic assistant" means a person employed as a
15 mechanic apprentice and helper;

16 (62) "Multiclassification" means a person employed to perform
17 tasks that involve the combination of two or more class titles in
18 this section. In these instances the minimum salary scale shall be
19 the higher pay grade of the class titles involved;

20 (63) "Office equipment repairman I" means a person employed as
21 an office equipment repairman apprentice or helper;

22 (64) "Office equipment repairman II" means a person

1 responsible for servicing and repairing all office machines and
2 equipment. A person holding this class title is responsible for
3 the purchase of parts necessary for the proper operation of a
4 program of continuous maintenance and repair;

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

9 (66) "Paraprofessional" means a person certified pursuant to
10 section two-a, article three of this chapter to perform duties in
11 a support capacity including, but not limited to, facilitating in
12 the instruction and direct or indirect supervision of students
13 under the direction of a principal, a teacher or another designated
14 professional educator.

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

19 (B) A person who has held or holds an aide title and becomes
20 employed as a paraprofessional shall hold a multiclassification
21 status that includes both aide and paraprofessional titles in
22 accordance with section eight-b of this article; and

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

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

13 (68) "Plumber I" means a person employed as an apprentice
14 plumber and helper;

15 (69) "Plumber II" means a person employed as a journeyman
16 plumber;

17 (70) "Printing operator" means a person employed to operate
18 duplication equipment, and to cut, collate, staple, bind and shelve
19 materials as required;

20 (71) "Printing supervisor" means a person employed to
21 supervise the operation of a print shop;

22 (72) "Programmer" means a person employed to design and

1 prepare programs for computer operation;

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

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

9 (75) "School bus supervisor" means a qualified person:

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

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

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

20 (77) "Secretary II" means a person employed in any elementary,
21 secondary, kindergarden, nursery, special education, vocational or
22 any other school as a secretary. The duties may include performing

1 general clerical tasks; transcribing from notes, stenotype,
2 mechanical equipment or a sound-producing machine; preparing
3 reports; receiving callers and referring them to proper persons;
4 operating office machines; keeping records and handling routine
5 correspondence. Nothing in this subdivision prevents a service
6 person from holding or being elevated to a higher classification;

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

14 (79) "Supervisor of maintenance" means a skilled person who is
15 not a professional person or professional educator as defined in
16 section one, article one of this chapter. The responsibilities
17 include directing the upkeep of buildings and shops, and issuing
18 instructions to subordinates relating to cleaning, repairs and
19 maintenance of all structures and mechanical and electrical
20 equipment of a county board;

21 (80) "Supervisor of transportation" means a qualified person
22 employed to direct school transportation activities properly and

1 safely, and to supervise the maintenance and repair of vehicles,
2 buses and other mechanical and mobile equipment used by the county
3 school system. After July 1, 2010, all persons employed for the
4 first time in a position with this classification title or in a
5 multi-classification position that includes this title shall have
6 five years of experience working in the transportation department
7 of a county board. Experience working in the transportation
8 department shall consist of serving as a bus operator, bus aide,
9 assistant mechanic, mechanic, chief mechanic or in a clerical
10 position within the transportation department;

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

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

17 (83) "Warehouse clerk" means a person employed to be
18 responsible for receiving, storing, packing and shipping goods;

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

1 (85) "Welder" means a person employed to provide acetylene or
2 electric welding services for a school system; ~~and~~

3 (86) "WVEIS data entry and administrative clerk" means a
4 person employed to work under the direction of a school principal
5 to assist the school counselor or counselors in the performance of
6 administrative duties, to perform data entry tasks on the West
7 Virginia Education Information System, and to perform other
8 administrative duties assigned by the principal;

9 (87) "Early Childhood Classroom Assistant Teacher - Temporary
10 Authorization" means a person who does not possess minimum
11 requirements for the Permanent Authorization requirements, but are
12 enrolled in and pursuing requirements;

13 (88) "Early Childhood Classroom Assistant Teacher - Permanent
14 Authorization" means a person who has completed the minimum
15 requirements for a state-awarded certificate for early childhood
16 classroom assistant teachers that meet or exceed the requirements
17 for a Child Development Associate. Equivalency for the West
18 Virginia Department of Education will be determined as the Child
19 Development Associate or the West Virginia Apprenticeship for Child
20 Development Specialists; and

21 (89) "Early Childhood Classroom Assistant Teacher -
22 Paraprofessional Certificate" means a person who has completed

1 permanent authorization requirements, as well as additional
2 requirements comparable to current paraprofessional certificate.

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

10 (k) A service person whose years of employment exceeds the
11 number of years shown and provided ~~for~~ under the state minimum pay
12 scale set forth in section eight-a of this article may not be paid
13 less than the amount shown for the maximum years of employment
14 shown and provided ~~for~~ in the classification in which he or she is
15 employed.

16 (l) Each county board shall review each service person's job
17 classification annually and shall reclassify all service persons as
18 required by the job classifications. The state superintendent may
19 withhold state funds appropriated pursuant to this article for
20 salaries for service personnel who are improperly classified by the
21 county boards. Further, the state superintendent shall order a
22 county board to correct immediately any improper classification

1 matter and, with the assistance of the Attorney General, shall take
2 any legal action necessary against any county board to enforce the
3 order.

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

6 (1) Reclassified by class title; or

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

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

18 (o) Notwithstanding any provision of this code to the
19 contrary, a service person who holds a continuing contract in a
20 specific job classification and who is physically unable to perform
21 the job's duties as confirmed by a physician chosen by the
22 employee, shall be given priority status over any employee not

1 holding a continuing contract in filling other service personnel
2 job vacancies if the service person is qualified as provided in
3 section eight-e of this article.

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

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

18 (r) Itinerant status means a service person who does not have
19 a fixed work site and may be involuntarily reassigned to another
20 work site. A service person is considered to hold itinerant status
21 if he or she has bid upon a position posted as itinerant or has
22 agreed to accept this status. A county board may establish

1 positions with itinerant status only within the aide and autism
2 mentor classification categories and only when the job duties
3 involve exceptional students. A service person with itinerant
4 status may be assigned to a different work site upon written notice
5 ten days prior to the reassignment without the consent of the
6 employee and without posting the vacancy. A service person with
7 itinerant status may be involuntarily reassigned no more than twice
8 during the school year. At the conclusion of each school year, the
9 county board shall post and fill, pursuant to section eight-b of
10 this article, all positions that have been filled without posting
11 by a service person with itinerant status. A service person who is
12 assigned to a beginning and ending work site and travels at the
13 expense of the county board to other work sites during the daily
14 schedule, shall not be considered to hold itinerant status.

15 **§18A-4-14. Duty-free lunch and daily planning period for certain**
16 **employees.**

17 (1) Notwithstanding the provisions of section seven, article
18 two of this chapter, every teacher who is employed for a period of
19 time more than one-half the class periods of the regular school day
20 and every service personnel whose employment is for a period of
21 more than three and one-half hours per day and whose pay is at
22 least the amount indicated in the "state minimum pay scale" as set

1 forth in section eight-a of this article shall be provided a daily
2 lunch recess of not less than thirty consecutive minutes, and such
3 employee shall not be assigned any responsibilities during this
4 recess. Such recess shall be included in the number of hours
5 worked, and no county shall increase the number of hours to be
6 worked by an employee as a result of such employee being granted a
7 recess under the provisions of this section.

8 (2) Every teacher who is regularly employed for a period of
9 time more than one-half the class periods of the regular school day
10 shall be provided at least one planning period within each school
11 instructional day to be used to complete necessary preparations for
12 the instruction of pupils. Such planning period shall be the
13 length of the ~~usual class period in the school to which such~~
14 ~~teacher is assigned, and shall be~~ shortest class taught by the
15 classroom teacher and may not be less than thirty minutes. No
16 teacher ~~shall~~ may be assigned any responsibilities during this
17 period. ~~and no county shall increase the number of hours to be~~
18 ~~worked by a teacher as a result of such teacher being granted a~~
19 ~~planning period subsequent to the adoption of this section (March~~
20 ~~13, 1982).~~

21 ~~Principals, and assistant principals, where applicable, shall~~
22 ~~cooperate in carrying out the provisions of this subsection,~~

~~1 including, but not limited to, assuming control of the class period
2 or supervision of students during the time the teacher is engaged
3 in the planning period. Substitute teachers may also be utilized
4 to assist with classroom responsibilities under this subsection:
5 *Provided, That any substitute teacher who is employed to teach a
6 minimum of two consecutive days in the same position shall be
7 granted a planning period pursuant to this section.*~~

8 (3) Nothing in this section ~~shall be construed to prevent~~
9 prevents any teacher from exchanging his or her lunch recess or a
10 planning period or any service personnel from exchanging his or her
11 lunch recess for any compensation or benefit mutually agreed upon
12 by the employee and the county superintendent of schools or his or
13 her agent: *Provided, That a teacher and the superintendent or his
14 or her agent may not agree to terms which are different from those
15 available to any other teacher granted rights under this section
16 within the individual school or to terms which in any way
17 discriminate among such teachers within the individual school, and
18 that service personnel granted rights under this section and the
19 superintendent or his or her agent may not agree to terms which are
20 different from those available to any other service personnel
21 within the same classification category granted rights under this
22 section within the individual school or to terms which in any way*

1 discriminate among such service personnel within the same
2 classification category within the individual school.

3 **ARTICLE 5. AUTHORITY; RIGHTS; RESPONSIBILITY.**

4 **§18A-5-2. Holidays; closing of schools; time lost because of such;**
5 **special Saturday classes.**

6 (a) Schools ~~shall~~ may not be kept open on any Saturday nor on
7 the following days which are designated as legal school holidays,
8 namely: Independence Day, Labor Day, Veterans Day, Thanksgiving
9 Day, Christmas Day, New Year's Day, Martin Luther King's birthday,
10 Memorial Day, West Virginia Day, and any day on which a primary
11 election, general election or special election is held throughout
12 the state or school district and any day appointed and set apart by
13 the president or the Governor as a holiday of special observance by
14 the people of the state.

15 ~~When any such holiday falls within the employment term, it~~
16 ~~shall be considered as a day of the employment term and the~~
17 ~~full-time school personnel shall receive his or her pay for same.~~

18 (b) When any of the above designated holidays, except a
19 special election, falls on Saturday, the schools shall be closed on
20 the preceding Friday; when any such falls on Sunday, the schools
21 shall be closed on the following Monday.

22 (c) Special classes may be conducted on Saturdays, provided

1 they are conducted on a voluntary basis, for pupils and by teachers
2 and service personnel, and that such teachers and service personnel
3 shall be remunerated in ratio to the regularly contracted pay.

4 (d) Any school or schools may be closed by proper authorities
5 on account of the prevalence of contagious disease, conditions of
6 weather or any other calamitous cause over which the board has no
7 control. Under any or all of the above provisions, the time lost
8 by the closing of schools ~~is~~ may not be counted as days of
9 employment and may not be counted as meeting a part of the
10 requirements of the minimum term of one hundred eighty days of
11 instruction. On ~~such~~ those day or days, county boards of education
12 may provide appropriate alternate work schedules for professional
13 and service personnel affected by the closing of any school or
14 schools under any or all of the above provisions. Professional and
15 service personnel shall receive pay. Insofar as funds are
16 available or can be made available during the school year, the
17 board may extend the employment term for the purpose of making up
18 time that might affect the instructional term.

19 In addition to any other provisions of this chapter, the board
20 is further authorized to provide in its annual budget for meetings,
21 workshops, vacation time or other holidays through extended
22 employment of personnel at the same rate of pay.

1 in accordance with the provisions of article three-a, chapter
2 twenty-nine-a of this code, for the administration of the
3 Underwood-Smith Teacher Scholarship and Loan Assistance program by
4 the senior administrator in furtherance of the purposes of this
5 article, including, but not limited to, ~~scholarship selection~~
6 ~~criteria and procedures, renewal, compliance, noncompliance and~~
7 ~~repayment, deferral and excusal.~~ In accordance with such rules,
8 ~~the senior administrator shall establish appropriate guidelines for~~
9 ~~program operation~~ the following:

10 (1) Establishing scholarship selection criteria and
11 procedures;

12 (2) Establishing criteria and procedures for identifying
13 subject areas, public schools or geographic areas in critical need
14 of teachers;

15 (3) Awarding loan assistance, including establishing
16 conditions under which partial awards may be granted for less than
17 a full year of teaching in an area of critical need;

18 (4) Determining eligibility for loan assistance renewal;

19 (5) Establishing criteria for determining participant
20 compliance or noncompliance with terms of the agreement and
21 establishing procedures to address noncompliance including, but not
22 limited to, repayment, deferral and excusal;

1 (6) Establishing procedures ensuring that loan assistance
2 funds are paid directly to the proper lending entity; and

3 (7) Developing model agreements.

4 (c) There is ~~hereby~~ created in the State Treasury a special
5 revolving fund to be known as the "Underwood-Smith Teacher
6 Scholarship and Loan Assistance Fund" to be administered by the
7 senior administrator solely for granting scholarships and loan
8 assistance to prospective teachers in accordance with this article.
9 Any moneys which may be appropriated by the Legislature, or
10 received by the senior administrator from other sources, for the
11 purposes of this article shall be deposited in the fund. Any
12 moneys remaining in the fund at the close of a fiscal year shall be
13 carried forward for use in the next fiscal year. Any moneys repaid
14 to the senior administrator by reason of default of a scholarship
15 agreement under this article shall also be deposited in the fund.
16 Fund balances shall be invested with the state's consolidated
17 investment fund, and any and all interest earnings on these
18 investments shall be used solely for the purposes for which moneys
19 invested were appropriated or otherwise received.

20 (d) The senior administrator may accept and expend any gift,
21 grant, contribution, bequest, endowment or other money for the
22 purposes of this article and shall make a reasonable effort to

1 encourage external support for the scholarship program.

2 (e) For the purpose of encouraging support for the scholarship
3 program from private sources, the senior administrator may set
4 aside no more than half of the funds appropriated by the
5 Legislature for Underwood-smith Teacher Scholarships and Loan
6 Assistance to be used to match two state dollars to each private
7 dollar from a nonstate source contributed on behalf of a specific
8 institution of higher education in this state.

9 **§18C-4-2. Selection criteria and procedures for awarding**
10 **scholarships.**

11 (a) The Governor shall designate an existing scholarship
12 selection agency or panel to select the recipients of
13 Underwood-Smith teacher scholarships who meet the eligibility
14 criteria set forth in subsection (b) of this section. If no such
15 agency or panel exists, the Governor shall appoint a scholarship
16 selection panel for this purpose which shall consist of seven
17 persons representative of public school administrators, teachers,
18 including preschool teachers, and parents.

19 (b) Eligibility for an Underwood-Smith Teacher Scholarship
20 award shall be limited to ~~West Virginia resident~~ students who:

21 (1) Have graduated or are graduating from a West Virginia high
22 school and rank in the top ten percent of their graduating class or

1 the top ten percent statewide of those West Virginia students
2 taking the American college test;

3 (2) Have a cumulative grade point average of at least three
4 and twenty-five one hundredths on a possible scale of four after
5 successfully completing two years of course work at an approved
6 institution of higher education in West Virginia;

7 (3) Are public school aides or paraprofessionals as defined in
8 section eight, article four, chapter eighteen-a of this code and
9 who have a cumulative grade point average of at least three and
10 twenty-five one hundredths on a possible scale of four after
11 successfully completing two years of course work at an approved
12 institution of higher education in West Virginia; or

13 (4) Are graduate students at the master's degree level who
14 have graduated or are graduating in the top ten percent of their
15 college graduating class.

16 (c) In accordance with the rules of the commission, the vice
17 chancellor for administration shall develop criteria and procedures
18 for the selection of scholarship recipients that reflect the
19 purposes of this article and the areas in which particular efforts
20 will be made in the selection of scholars as set forth in section
21 one of this article and which also may include, but not be limited
22 to, the grade point average of the applicant, involvement in

1 extracurricular activities, financial need, current academic
2 standing and an expression of interest in teaching as expressed in
3 an essay written by the applicant. Such criteria and procedures
4 further may require the applicant to furnish letters of
5 recommendation from teachers and others. It is the intent of the
6 Legislature that academic abilities be the primary criteria for
7 selecting scholarship recipients: *Provided*, That the qualified
8 applicants with the highest academic abilities who intend to pursue
9 teaching careers in areas of critical need and shortage as
10 determined by the State Board of Education shall be given priority.

11 (d) In developing the selection criteria and procedures to be
12 used by the panel, the vice chancellor for administration shall
13 solicit the views of public and private education agencies and
14 institutions and other interested parties. These views: (1) Shall
15 be solicited by means of written and published selection criteria
16 and procedures in final form for implementation; and (2) may be
17 solicited by means of public hearings on the present and projected
18 teacher needs of the state or any other methods the vice chancellor
19 for administration may determine to be appropriate to gather the
20 information.

21 (e) The Vice Chancellor for Administration shall make
22 application forms for Underwood-Smith Teacher Sholarships available

1 to public and private high schools in the state and in other
2 locations convenient to applicants, parents and others, and shall
3 make an effort to attract students from low-income backgrounds,
4 ethnic or racial minority students, students with disabilities, and
5 women or minority students who show interest in pursuing teaching
6 careers in mathematics and science and who are underrepresented in
7 those fields.

8 **§18C-4-2a. Selection criteria and procedures for loan assistance.**

9 (a) Eligibility for an award is limited to a teacher who meets
10 the following requirements:

11 (1) Has earned a teaching degree and is certified to teach a
12 subject area of critical need in the public schools of West
13 Virginia. A certified teacher in a subject area of critical need
14 who is enrolled in an advanced in-field degree course or who has
15 earned an advanced in-field degree may apply for an award to be
16 paid toward current or future education loans;

17 (2) Has agreed to teach, or currently is teaching, a subject
18 area of critical need in a state school or geographic area of the
19 state identified as an area of critical need.

20 (b) In accordance with the rule promulgated pursuant to
21 section one of this article, the administrator shall develop
22 criteria and procedures for the administration of the program.

1 These shall include, but are not limited to, ensuring that awards
2 are given only on the condition that the recipient adheres to an
3 agreement to teach a subject area of critical need in the
4 identified school or geographic area of critical need.

5 (c) The vice chancellor for administration shall make
6 available program application forms to public and private schools
7 in the state via the department's website and in other locations
8 convenient to potential applicants.

9 **§18C-4-3a. Loan assistance agreement.**

10 (a) Before receiving an award, each eligible teacher shall
11 enter into an agreement with the department and shall meet the
12 following criteria:

13 (1) Provide the department with evidence of compliance with
14 subsection (b), section four of this article;

15 (2) Teach in a subject area or geographic area of critical
16 need full-time under contract with a county board for a period of
17 two school years for each year for which loan assistance is
18 received pursuant to this article. The senior administrator may
19 grant a partial award to an eligible recipient whose contract term
20 is for less than a full school year pursuant to criteria
21 established by rule.

22 (3) Acknowledge that an award is to be paid to the recipient's

1 educational loan institution, not directly to the recipient, only
2 after the department determines that the recipient has complied
3 with all terms of the agreement; and

4 (4) Repay all or part of an award received pursuant to this
5 article if the award is not paid to the educational loan
6 institution or if the recipient does not comply with the other
7 terms of the agreement.

8 (b) Each agreement shall fully disclose the terms and
9 conditions under which an award may be granted pursuant to this
10 article and under which repayment may be required. The agreement
11 also shall include the conditions and procedures established by
12 section five of this article.

13 **§18C-4-4. Renewal conditions; noncompliance; deferral; excusal.**

14 (a) The recipient of an Underwood-Smith Teacher Scholarship is
15 eligible for scholarship renewal only during such periods that the
16 recipient is:

17 (1) Enrolled as a full-time student in an accredited
18 institution of higher education in this state;

19 (2) Pursuing a course of study leading to teacher
20 certification at the preschool, elementary, middle or secondary
21 level in this state;

22 (3) Maintaining satisfactory progress as determined by the

1 institution of higher education the recipient is attending; and

2 (4) Complying with such other standards as the boards may
3 establish by rule.

4 (b) The recipient is eligible for renewal of loan assistance
5 only during the periods when the recipient is under contract with
6 a county board to teach in a subject area of critical need in a
7 school or geographic area of critical need, and complies with other
8 criteria and conditions established by rule.

9 ~~(b)~~ (c) Recipients found to be in noncompliance with the
10 agreement entered into under section three of this article shall be
11 required to repay the amount of the scholarship awards received,
12 plus interest, and, where applicable, reasonable collection fees,
13 on a schedule and at a rate of interest prescribed in the program
14 guidelines. Such guidelines shall also provide for proration of
15 the amount to be repaid by a recipient who teaches for part of the
16 period required under subsection (a), section three of this article
17 and for appeal procedures under which a recipient may appeal any
18 determination of noncompliance.

19 ~~(c)~~ (d) A recipient shall not be considered in violation of
20 the agreement entered into under ~~section~~ sections three and three-a
21 of this article during any period in which the recipient is:

22 (1) Pursuing a full-time course of study at an accredited

1 institution of higher education;

2 (2) Serving, not in excess of four years, as a member of the
3 armed services of the United States;

4 (3) Seeking and unable to find full-time employment in
5 accordance with paragraph (A), subdivision (2), subsection (a),
6 section three of this article and is fulfilling any of the
7 alternatives specified in paragraph (B) of said subdivision; ~~or~~

8 (4) Satisfying the provisions of additional repayment
9 exemptions that may be prescribed by the boards by rule;

10 ~~(d) A recipient shall be excused from repayment of a teacher
11 scholarship received under this article if the recipient dies or
12 becomes permanently and totally disabled as established by sworn
13 affidavit of a qualified physician.~~

14 (5) Unable to fulfill the agreement due to death, permanent or
15 temporary disability as established by sworn affidavit of a
16 qualified physician or a condition covered under the Family and
17 Medical Leave Act of 1993.

18 (e) The rules adopted by the governing boards may provide
19 guidelines under which the senior administrator may, if extenuating
20 circumstances exist, extend the period for fulfilling the
21 obligation to fifteen years for scholarships.

22 (f) For purposes of loan assistance, if a teacher is teaching

1 under a contract in a position that no longer meets the definition
2 of critical need under rules established in accordance with this
3 article, the teacher is eligible for renewal of loan assistance
4 until the teacher leaves his or her current position.

5 **§18C-4-6. Amount and duration of loan assistance; limits.**

6 (a) Each award recipient is eligible to receive loan
7 assistance of up to \$2,000 annually subject to limits set forth in
8 subsection (b) of this section:

9 (1) If the recipient has taught math or science for a full
10 school year under contract with a county board in a school or
11 geographic area of critical need; and

12 (2) If the recipient otherwise has complied with the terms of
13 the agreement and with provisions of this article and any rules
14 promulgated pursuant thereto.

15 (b) No recipient may receive loan assistance pursuant to this
16 article which accumulates in excess of \$15,000.

NOTE: The purpose of this bill is to improve public education by revising outdated provisions of the code to implement initiatives that will better prepare students for the college and work realities of the 21st Century.

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

§18-2-39, §18A-3-1d, §18A-3-1e, §18C-4-2a, §18C-4-3a and §18C-4-6 are new; therefore strike-throughs and underscoring have been omitted.

§18-5-45, §18-2I-1, §18-2I-2, §18-2I-3, §18-2I-4 and §18-2I-5 are completely rewritten; therefore, strike-throughs and underscoring have been omitted.