

S  
HB 4406

FILED

2006 APR -5 P 3:09

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2006



# ENROLLED

## House Bill No. 4406

(By Delegates Perry, Pino, Beach, Williams,  
Duke, Campbell, Poling and Sumner)



Passed March 11, 2006

In Effect Ninety Days from Passage

FILED

2006 APR -5 P 3:09

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**E N R O L L E D**

**H. B. 4406**

(BY DELEGATES PERRY, PINO, BEACH, WILLIAMS,  
DUKE, CAMPBELL, POLING AND SUMNER)

---

[Passed March 11, 2006: in effect ninety days from passage.]

---

AN ACT to amend and reenact §18A-2-12 of the Code of West Virginia, 1931, as amended, relating to professional evaluations of classroom teachers; limiting the frequency of requiring an evaluation or a professional growth and development plan for certain classroom teachers; and making technical changes.

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

That §18A-2-12 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 2. SCHOOL PERSONNEL.**

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

- 1 (a) The state board shall adopt a written system for the
- 2 evaluation of the employment performance of personnel, which
- 3 system shall be applied uniformly by county boards of educa-

4 tion in the evaluation of the employment performance of  
5 personnel employed by the board.

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

9 (c) For purposes of this section, "professional personnel",  
10 "professional" or "professionals", means professional personnel  
11 as defined in section one, article one of this chapter.

12 (d) In developing the professional personnel performance  
13 evaluation system, and amendments thereto, the state board  
14 shall consult with the Center for Professional Development  
15 created in article three-a of this chapter. The center shall  
16 participate actively with the state board in developing written  
17 standards for evaluation which clearly specify satisfactory  
18 performance and the criteria to be used to determine whether  
19 the performance of each professional meets such standards.

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

22 (1) The professional personnel positions to be evaluated,  
23 whether they be teachers, substitute teachers, administrators,  
24 principals or others;

25 (2) The frequency and duration of the evaluations, which  
26 shall be on a regular basis and of such frequency and duration  
27 as to insure the collection of a sufficient amount of data from  
28 which reliable conclusions and findings may be drawn: *Pro-*  
29 *vided*, That for school personnel with five or more years of  
30 experience, who have not received an unsatisfactory rating,  
31 evaluations shall be conducted no more than once every three  
32 years unless the principal determines an evaluation for a  
33 particular school employee is needed more frequently: *Pro-*  
34 *vided, however*, That for classroom teachers with five or more

35 years of experience who have not received an unsatisfactory  
36 rating, an evaluation shall be conducted or professional growth  
37 and development plan required only when the principal  
38 determines it to be necessary for a particular classroom teacher,  
39 or when a classroom teacher exercises the option of being  
40 evaluated at more frequent intervals;

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

42 (A) Serve as a basis for the improvement of the perfor-  
43 mance of the personnel in their assigned duties;

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

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

48 (D) Serve as a basis for programs to increase the profes-  
49 sional growth and development of professional personnel;

50 (4) The standards for satisfactory performance for profes-  
51 sional personnel and the criteria to be used to determine  
52 whether the performance of each professional meets such  
53 standards and other criteria for evaluation for each professional  
54 position evaluated. Effective the first day of July, two thousand  
55 three and thereafter, professional personnel, as appropriate,  
56 shall demonstrate competency in the knowledge and implemen-  
57 tation of the technology standards adopted by the state board.  
58 If a professional fails to demonstrate competency, in the  
59 knowledge and implementation of these standards, he or she  
60 will be subject to an improvement plan to correct the deficien-  
61 cies; and

62 (5) Provisions for a written improvement plan, which shall  
63 be specific as to what improvements, if any, are needed in the  
64 performance of the professional and shall clearly set forth

65 recommendations for improvements, including recommenda-  
66 tions for additional education and training during the profes-  
67 sional's recertification process.

68 (f) A professional whose performance is considered to be  
69 unsatisfactory shall be given notice of deficiencies. A  
70 remediation plan to correct deficiencies shall be developed by  
71 the employing county board of education and the professional.  
72 The professional shall be given a reasonable period of time for  
73 remediation of the deficiencies and shall receive a statement of  
74 the resources and assistance available for the purposes of  
75 correcting the deficiencies.

76 (g) No person may evaluate professional personnel for the  
77 purposes of this section unless the person has an administrative  
78 certificate issued by the state superintendent and has success-  
79 fully completed education and training in evaluation skills  
80 through the center for professional development, or equivalent  
81 education training approved by the state board, which will  
82 enable the person to make fair, professional, and credible  
83 evaluations of the personnel whom the person is responsible for  
84 evaluating. After the first day of July, one thousand nine  
85 hundred ninety-four, no person may be issued an administrative  
86 certificate or have an administrative certificate renewed unless  
87 the state board determines that the person has successfully  
88 completed education and training in evaluation skills through  
89 the center for professional development, or equivalent educa-  
90 tion and training approved by the state board.

91 (h) Any professional whose performance evaluation  
92 includes a written improvement plan shall be given an opportu-  
93 nity to improve his or her performance through the implementa-  
94 tion of the plan. If the next performance evaluation shows that  
95 the professional is now performing satisfactorily, no further  
96 action may be taken concerning the original performance  
97 evaluation. If the evaluation shows that the professional is still

98 not performing satisfactorily, the evaluator either shall make  
99 additional recommendations for improvement or may recom-  
100 mend the dismissal of the professional in accordance with the  
101 provisions of section eight of this article.

102 (i) Lesson plans are intended to serve as a daily guide for  
103 teachers and substitutes for the orderly presentation of the  
104 curriculum. Lesson plans may not be used as a substitute for  
105 observations by an administrator in the performance evaluation  
106 process. A classroom teacher, as defined in section one, article  
107 one of this chapter, may not be required to post his or her lesson  
108 plans on the internet or otherwise make them available to  
109 students and parents or to include in his or her lesson plans any  
110 of the following:

111 (1) Teach and re-teach strategies;

112 (2) Write to learn activities;

113 (3) Cultural diversity;

114 (4) Color coding; or

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

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

122 (k) Nothing in this section may be construed to prohibit  
123 classroom teachers from voluntarily posting material on the  
124 internet.

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

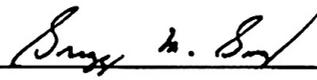
  
\_\_\_\_\_  
Chairman Senate Committee

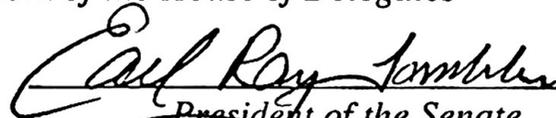
  
\_\_\_\_\_  
Chairman House Committee

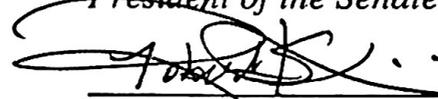
Originating in the House.

In effect ninety days from passage.

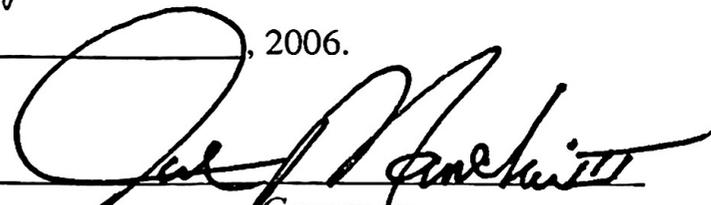
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 4<sup>th</sup>  
day of April, 2006.

  
\_\_\_\_\_  
Governor

PRESENTED TO THE  
GOVERNOR

MAR 29 2006

Time

4:00 pm