

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 576**

4 (By Senators Beach, Edgell and Williams)

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6 [Originating in the Committee on Education;  
7 reported February 23, 2012.]  
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11 A BILL to amend and reenact §18A-2-2, §18A-2-6, §18A-2-7 and §18A-  
12 2-8a of the Code of West Virginia, 1931, as amended; and to  
13 amend and reenact §18A-4-7a of said code, all relating to  
14 school personnel; changing certain deadlines pertaining to  
15 termination of a continuing contract, resignation, retirement,  
16 transfer and rehiring of probationary employees; changing the  
17 number of days prior to the beginning of the instructional  
18 term for limiting the transfer of certain employees; and  
19 restricting application of certain provisions pertaining to  
20 limiting the transfer of certain employees.

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

22 That §18A-2-2, §18A-2-6, §18A-2-7 and §18A-2-8a of the Code of  
23 West Virginia, 1931, as amended, be amended and reenacted; and that  
24 §18A-4-7a of said code be amended and reenacted, all to read as  
25 follows:

26 **ARTICLE 2. SCHOOL PERSONNEL.**

27 **§18A-2-2. Employment of teachers; contracts; continuing contract**  
28 **status; how terminated; dismissal for lack of need;**

1           **released time; failure of teacher to perform contract**  
2           **or violation thereof; written notice bonus for**  
3           **teachers and professional personnel.**

4           (a) Before entering upon their duties, all teachers shall  
5 execute a contract with their county boards, which shall state the  
6 salary to be paid and shall be in the form prescribed by the state  
7 superintendent. Each contract shall be signed by the teacher and  
8 by the president and secretary of the county board and shall be  
9 filed, together with the certificate of the teacher, by the  
10 secretary of the office of the county board: *Provided*, That when  
11 necessary to facilitate the employment of employable professional  
12 personnel and prospective and recent graduates of teacher education  
13 programs who have not yet attained certification, the contract may  
14 be signed upon the condition that the certificate is issued to the  
15 employee prior to the beginning of the employment term in which the  
16 employee enters upon his or her duties.

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

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

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

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

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

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

23 (B) By written resignation of the teacher on or before  
24 ~~February 1~~ March 1 to initiate termination of a continuing  
25 contract;

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

28 (3) The contract may be terminated at any time by mutual

1 consent of the school board and the teacher;

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

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

9 (6) A continuing contract does not operate to prevent a  
10 teacher's dismissal based upon the lack of need for the teacher's  
11 services pursuant to the provisions of law relating to the  
12 allocation to teachers and pupil-teacher ratios. The written  
13 notification of teachers being considered for dismissal for lack of  
14 need shall be limited to only those teachers whose consideration  
15 for dismissal is based upon known or expected circumstances which  
16 will require dismissal for lack of need. An employee who was not  
17 provided notice and an opportunity for a hearing pursuant to this  
18 subsection may not be included on the list. In case of dismissal  
19 for lack of need, a dismissed teacher shall be placed upon a  
20 preferred list in the order of their length of service with that  
21 board. No teacher may be employed by the board until each  
22 qualified teacher upon the preferred list, in order, has been  
23 offered the opportunity for reemployment in a position for which he  
24 or she is qualified, not including a teacher who has accepted a  
25 teaching position elsewhere. The reemployment shall be upon a  
26 teacher's preexisting continuing contract and has the same effect  
27 as though the contract had been suspended during the time the  
28 teacher was not employed.

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

14 (e) Any teacher who fails to fulfill his or her contract with  
15 the board, unless prevented from doing so by personal illness or  
16 other just cause or unless released from his or her contract by the  
17 board, or who violates any lawful provision of the contract, is  
18 disqualified to teach in any other public school in the state for  
19 a period of the next ensuing school year and the State Department  
20 of Education or board may hold all papers and credentials of the  
21 teacher on file for a period of one year for the violation:  
22 *Provided*, That marriage of a teacher is not considered a failure to  
23 fulfill, or violation of, the contract.

24 (f) Any classroom teacher, as defined in section one, article  
25 one of this chapter, who desires to resign employment with a county  
26 board or request a leave of absence, the resignation or leave of  
27 absence to become effective on or before July 15 of the same year  
28 and after completion of the employment term, may do so at any time

1 during the school year by written notification of the resignation  
2 or leave of absence and any notification received by a county board  
3 shall automatically extend the teacher's public employee insurance  
4 coverage until August 31 of the same year.

5 (g) (1) A classroom teacher who gives written notice to the  
6 county board on or before ~~December 1~~ January 15 of the school year  
7 of his or her retirement from employment with the board at the  
8 conclusion of the school year shall be paid \$500 from the Early  
9 Notification of Retirement line item established for the Department  
10 of Education for this purpose, subject to appropriation by the  
11 Legislature. If the appropriations to the Department of Education  
12 for this purpose are insufficient to compensate all applicable  
13 teachers, the Department of Education shall request a supplemental  
14 appropriation in an amount sufficient to compensate all such  
15 teachers. Additionally, if funds are still insufficient to  
16 compensate all applicable teachers, the priority of payment is for  
17 teachers who give written notice the earliest. This payment shall  
18 not be counted as part of the final average salary for the purpose  
19 of calculating retirement.

20 (2) The position of a classroom teacher providing written  
21 notice of retirement pursuant to this subsection may be considered  
22 vacant and the county board may immediately post the position as an  
23 opening to be filled at the conclusion of the school year. If a  
24 teacher has been hired to fill the position of a retiring classroom  
25 teacher prior to the start of the next school year, the retiring  
26 classroom teacher is disqualified from continuing his or her  
27 employment in that position. However, the retiring classroom  
28 teacher may be permitted to continue his or her employment in that

1 position and forfeit the early retirement notification payment if,  
2 after giving notice of retirement in accordance with this  
3 subsection, he or she becomes subject to a significant unforeseen  
4 financial hardship, including a hardship caused by the death or  
5 illness of an immediate family member or loss of employment of a  
6 spouse. Other significant unforeseen financial hardships shall be  
7 determined by the county superintendent on a case-by-case basis.  
8 This subsection does not prohibit a county school board from  
9 eliminating the position of a retiring classroom teacher.

10 **§18A-2-6. Continuing contract status for service personnel;**  
11 **termination.**

12 After three years of acceptable employment, each service  
13 personnel employee who enters into a new contract of employment  
14 with the board shall be granted continuing contract status:  
15 *Provided*, That a service personnel employee holding continuing  
16 contract status with one county shall be granted continuing  
17 contract status with any other county upon completion of one year  
18 of acceptable employment if such employment is during the next  
19 succeeding school year or immediately following an approved leave  
20 of absence extending no more than one year. The continuing  
21 contract of any such employee shall remain in full force and effect  
22 except as modified by mutual consent of the school board and the  
23 employee, unless and until terminated with written notice, stating  
24 cause or causes, to the employee, by a majority vote of the full  
25 membership of the board before ~~February 1~~ March 1 of the then  
26 current year, or by written resignation of the employee on or  
27 before that date. The affected employee has the right of a hearing  
28 before the board, if requested, before final action is taken by the

1 board upon the termination of such employment.

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

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 ~~February 1~~ March 1 if he or she is  
14 being considered for transfer or to be transferred. Only those  
15 employees whose consideration for transfer or intended transfer is  
16 based upon known or expected circumstances which will require the  
17 transfer of employees shall be considered for transfer or intended  
18 for transfer and the notification shall be limited to only those  
19 employees. Any teacher or employee who desires to protest the  
20 proposed transfer may request in writing a statement of the reasons  
21 for the proposed transfer. The statement of reasons shall be  
22 delivered to the teacher or employee within ten days of the receipt  
23 of the request. Within ten days of the receipt of the statement of  
24 the reasons, the teacher or employee may make written demand upon  
25 the superintendent for a hearing on the proposed transfer before  
26 the county board of education. The hearing on the proposed  
27 transfer shall be held on or before ~~March 15~~ April 15. At the  
28 hearing, the reasons for the proposed transfer must be shown.



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

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

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

27 **§18A-2-8a. Notice to probationary personnel of rehiring or**  
28 **nonrehiring; hearing.**

1 The superintendent at a meeting of the board on or before  
2 ~~March 15~~ April 15 of each year shall provide in writing to the  
3 board a list of all probationary teachers that he or she recommends  
4 to be rehired for the next ensuing school year. The board shall  
5 act upon the superintendent's recommendations at that meeting in  
6 accordance with section one of this article. The board at this  
7 same meeting shall also act upon the retention of other  
8 probationary employees as provided in sections two and five of this  
9 article. Any such probationary teacher or other probationary  
10 employee who is not rehired by the board at that meeting shall be  
11 notified in writing, by certified mail, return receipt requested,  
12 to such persons' last known addresses within ten days following  
13 said board meeting, of their not having been rehired or not having  
14 been recommended for rehiring.

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

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

25 **§18A-4-7a. Employment, promotion and transfer of professional**  
26 **personnel; seniority.**

27 (a) A county board of education shall make decisions affecting  
28 the hiring of professional personnel other than classroom teachers

1 on the basis of the applicant with the highest qualifications.

2 (b) The county board shall make decisions affecting the hiring  
3 of new classroom teachers on the basis of the applicant with the  
4 highest qualifications.

5 (c) In judging qualifications for hiring employees pursuant to  
6 subsections (a) and (b) of this section, consideration shall be  
7 given to each of the following:

8 (1) Appropriate certification, licensure or both;

9 (2) Amount of experience relevant to the position; or, in the  
10 case of a classroom teaching position, the amount of teaching  
11 experience in the subject area;

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

14 (4) Academic achievement;

15 (5) Relevant specialized training;

16 (6) Past performance evaluations conducted pursuant to section  
17 twelve, article two of this chapter; and

18 (7) Other measures or indicators upon which the relative  
19 qualifications of the applicant may fairly be judged.

20 (d) If one or more permanently employed instructional  
21 personnel apply for a classroom teaching position and meet the  
22 standards set forth in the job posting, the county board of  
23 education shall make a decision affecting the filling of the  
24 position on the basis of the following criteria:

25 (1) Appropriate certification, licensure or both;

26 (2) Total amount of teaching experience;

27 (3) The existence of teaching experience in the required  
28 certification area;

- 1           (4) Degree level in the required certification area;
- 2           (5) Specialized training directly related to the performance  
3 of the job as stated in the job description;
- 4           (6) Receiving an overall rating of satisfactory in the  
5 previous two evaluations conducted pursuant to section twelve,  
6 article two of this chapter; and
- 7           (7) Seniority.

8           (e) In filling positions pursuant to subsection (d) of this  
9 section, consideration shall be given to each criterion with each  
10 criterion being given equal weight. If the applicant with the most  
11 seniority is not selected for the position, upon the request of the  
12 applicant a written statement of reasons shall be given to the  
13 applicant with suggestions for improving the applicant's  
14 qualifications.

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

22          (g) Upon completion of one hundred thirty-three days of  
23 employment in any one school year, substitute teachers, except  
24 retired teachers and other retired professional educators employed  
25 as substitutes, shall accrue seniority exclusively for the purpose  
26 of applying for employment as a permanent, full-time professional  
27 employee. One hundred thirty-three days or more of said employment  
28 shall be prorated and shall vest as a fraction of the school year

1 worked by the permanent, full-time teacher.

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

14 (I) Employment for a full employment term shall equal one year  
15 of seniority, but no employee may accrue more than one year of  
16 seniority during any given fiscal year. Employment for less than  
17 the full employment term shall be prorated. A random selection  
18 system established by the employees and approved by the board shall  
19 be used to determine the priority if two or more employees  
20 accumulate identical seniority: *Provided*, That when two or more  
21 principals have accumulated identical seniority, decisions on  
22 reductions in force shall be based on qualifications.

23 (j) Whenever a county board is required to reduce the number  
24 of professional personnel in its employment, the employee with the  
25 least amount of seniority shall be properly notified and released  
26 from employment pursuant to the provisions of section two, article  
27 two of this chapter. The provisions of this subsection are subject  
28 to the following:

1 (1) All persons employed in a certification area to be reduced  
2 who are employed under a temporary permit shall be properly  
3 notified and released before a fully certified employee in such a  
4 position is subject to release;

5 (2) An employee subject to release shall be employed in any  
6 other professional position where the employee is certified and was  
7 previously employed or to any lateral area for which the employee  
8 is certified, licensed or both, if the employee's seniority is  
9 greater than the seniority of any other employee in that area of  
10 certification, licensure or both;

11 (3) If an employee subject to release holds certification,  
12 licensure or both in more than one lateral area and if the  
13 employee's seniority is greater than the seniority of any other  
14 employee in one or more of those areas of certification, licensure  
15 or both, the employee subject to release shall be employed in the  
16 professional position held by the employee with the least seniority  
17 in any of those areas of certification, licensure or both; and

18 (4) If, prior to August 1, of the year a reduction in force is  
19 approved, the reason for any particular reduction in force no  
20 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  
23 his or her right to be restored to his or her position of  
24 employment. Within five days of being so notified, the released  
25 employee shall notify the board, in writing, of his or her intent  
26 to resume his or her position of employment or the right to be  
27 restored shall terminate. Notwithstanding any other provision of  
28 this subdivision, if there is another employee on the preferred

1 recall list with proper certification and higher seniority, that  
2 person shall be placed in the position restored as a result of the  
3 reduction in force being rescinded.

4 (k) For the purpose of this article, all positions which meet  
5 the definition of "classroom teacher" as defined in section one,  
6 article one of this chapter shall be lateral positions. For all  
7 other professional positions, the county board of education shall  
8 adopt a policy by October 31, 1993, and may modify the policy  
9 thereafter as necessary, which defines which positions shall be  
10 lateral positions. The board shall submit a copy of its policy to  
11 the state board within thirty days of adoption or any modification,  
12 and the state board shall compile a report and submit the report to  
13 the Legislative Oversight Commission on Education Accountability by  
14 December 31, 1993, and by that date in any succeeding year in which  
15 any county board submits a modification of its policy relating to  
16 lateral positions. In adopting the policy, the board shall give  
17 consideration to the rank of each position in terms of title;  
18 nature of responsibilities; salary level; certification, licensure  
19 or both; and days in the period of employment.

20 (l) After the ~~fifth~~ twentieth day prior to the beginning of  
21 the instructional term, no person employed and assigned to a  
22 professional position may transfer to another professional position  
23 in the county during that instructional term unless the person  
24 holding that position does not have valid certification. The  
25 provisions of this subsection are subject to the following:

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

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

4 (3) The county board, upon recommendation of the  
5 superintendent may fill a position before the next instructional  
6 term when it is determined to be in the best interest of the  
7 students. ~~Provided, That~~ The county superintendent shall notify  
8 the state board of each transfer of a person employed in a  
9 professional position to another professional position after the  
10 ~~fifth~~ twentieth day prior to the beginning of the instructional  
11 term;

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

17 (5) The Legislature finds that it is not in the best interest  
18 of the students particularly in the elementary grades to have  
19 multiple teachers for any one grade level or course during the  
20 instructional term. It is the intent of the Legislature that the  
21 filling of positions through transfers of personnel from one  
22 professional position to another after the ~~fifth~~ twentieth day  
23 prior to the beginning of the instructional term should be kept to  
24 a minimum.

25 (m) All professional personnel whose seniority with the county  
26 board is insufficient to allow their retention by the county board  
27 during a reduction in work force shall be placed upon a preferred  
28 recall list. As to any professional position opening within the



1 area where they had previously been employed or to any lateral area  
2 for which they have certification, licensure or both, the employee  
3 shall be recalled on the basis of seniority if no regular, full-  
4 time professional personnel, or those returning from leaves of  
5 absence with greater seniority, are qualified, apply for and accept  
6 the position.

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

18 (o) Openings in established, existing or newly created  
19 positions shall be processed as follows:

20 (1) Boards shall be required to post and date notices which  
21 shall be subject to the following:

22 (A) The notices shall be posted in conspicuous working places  
23 for all professional personnel to observe for at least five working  
24 days;

25 (B) The notice shall be posted within twenty working days of  
26 the position openings and shall include the job description;

27 (C) Any special criteria or skills that are required by the  
28 position shall be specifically stated in the job description and

1 directly related to the performance of the job;

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

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

8 (2) No vacancy shall be filled until after the five-day  
9 minimum posting period;

10 (3) If one or more applicants meets the qualifications listed  
11 in the job posting, the successful applicant to fill the vacancy  
12 shall be selected by the board within thirty working days of the  
13 end of the posting period;

14 (4) A position held by a teacher who is certified, licensed or  
15 both, who has been issued a permit for full-time employment and is  
16 working toward certification in the permit area shall not be  
17 subject to posting if the certificate is awarded within five years;  
18 and

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

21 (p) Notwithstanding any other provision of the code to the  
22 contrary, where the total number of classroom teaching positions in  
23 an elementary school does not increase from one school year to the  
24 next, but there exists in that school a need to realign the number  
25 of teachers in one or more grade levels, kindergarten through six,  
26 teachers at the school may be reassigned to grade levels for which  
27 they are certified without that position being posted: *Provided,*  
28 That the employee and the county board of education mutually agree

1 to the reassignment.

2 (q) Reductions in classroom teaching positions in elementary  
3 schools shall be processed as follows:

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

8 (2) When a specified grade level needs to be reduced and the  
9 least senior employee in the school is not in that grade level, the  
10 least senior classroom teacher in the grade level that needs to be  
11 reduced shall be reassigned to the position made vacant by the  
12 transfer of the least senior classroom teacher in the school  
13 without that position being posted: *Provided*, That the employee is  
14 certified, licensed or both and agrees to the reassignment.

15 (r) Any board failing to comply with the provisions of this  
16 article may be compelled to do so by mandamus and shall be liable  
17 to any party prevailing against the board for court costs and  
18 reasonable attorney fees as determined and established by the  
19 court. Further, employees denied promotion or employment in  
20 violation of this section shall be awarded the job, pay and any  
21 applicable benefits retroactive to the date of the violation and  
22 payable entirely from local funds. Further, the board shall be  
23 liable to any party prevailing against the board for any court  
24 reporter costs including copies of transcripts.

25 (s) The county board shall compile, update annually on July 1  
26 and make available by electronic or other means to all employees a  
27 list of all professional personnel employed by the county, their  
28 areas of certification and their seniority.