

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 5012

BY DELEGATES ELLINGTON, STATLER, HORNBY, AND

CROUSE

[Passed March 13, 2026; in effect 90 days from
passage (June 11, 2026)]

1 AN ACT to amend and reenact §18A-2-2 and §18A2-7 of the Code of West Virginia, 1931, as
2 amended, relating to allowing in cases of dismissal due to lack of need the dismissed
3 teacher to be transferred into an unfilled vacant position in order of their length of service
4 with the county board of education as an alternative to being placed upon a preferred list;
5 providing that these transfers are not effective until the following school year and do not
6 prevent the teacher from applying for another position; allowing reassignment of school
7 personnel after the last day of the second school month under certain conditions; providing
8 that transfers may not be made for arbitrary, capricious, or retaliatory reasons; and
9 allowing teachers to file a grievance for violation of certain provisions.

Be it enacted by the Legislature of West Virginia:

**§18A-2-2. Employment of teachers; contracts; continuing contract status; how terminated;
dismissal for lack of need; released time; failure of teacher to perform contract or
violation thereof; written notice bonus for teachers and professional personnel.**

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

10 (b) Each teacher's contract, under this section, shall be designated as a probationary or
11 continuing contract. A probationary teachers contract shall be for a term of not less than one nor
12 more than three years, one of which shall be for completion of a beginning teacher internship
13 pursuant to the provisions of section two-b, article three of this chapter, if applicable. If, after three

14 years of such employment, the teacher who holds a professional certificate, based on at least a
15 bachelor's degree, has met the qualifications for a bachelors degree and the county board enter
16 into a new contract of employment, it shall be a continuing contract, subject to the following:

17 (1) Any teacher with less than a bachelor's degree who holds a valid certificate and is
18 employed in a county beyond the three-year probationary period shall be granted continuing
19 contract status upon qualifying for the professional certificate based upon a bachelor's degree, if
20 the teacher becomes reemployed; and

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

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

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

29 (A) By a majority vote of the full membership of the county board on or before May 1 of
30 the then current year, after written notice, served upon the teacher, return receipt requested,
31 stating cause or causes and an opportunity to be heard at a meeting of the board prior to the
32 board's action on the termination issue; or

33 (B) By written resignation of the teacher on or before May 1 to initiate termination of a
34 continuing contract;

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

37 (3) The contract may be terminated at any time by mutual consent of the school board and
38 the teacher;

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

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

43 (6) A continuing contract does not operate to prevent a teacher's dismissal based upon
44 the lack of need for the teacher's services pursuant to the provisions of law relating to the
45 allocation to teachers and pupil-teacher ratios. The written notification of teachers being
46 considered for dismissal for lack of need shall be limited to only those teachers whose
47 consideration for dismissal is based upon known or expected circumstances which will require
48 dismissal for lack of need. An employee who was not provided notice and an opportunity for a
49 hearing pursuant to this subsection may not be included on the list. In case of dismissal for lack
50 of need, a dismissed teacher shall be placed upon a preferred list or transferred into an unfilled
51 vacant position in the order of their length of service with that board. A teacher may not be
52 employed by the board until each qualified teacher on the preferred list, in order, has been offered
53 the opportunity for transfer or reemployment in a position for which he or she is qualified, not
54 including a teacher who has accepted a teaching position elsewhere. The reemployment or
55 transfer shall be upon a teacher's preexisting continuing contract and has the same effect as
56 though the contract had been suspended during the time the teacher was not employed. Any
57 transfer pursuant to this subsection is not effective until the following school year and does not
58 prevent the teacher from applying for another position.

59 (d) In the assignment of position or duties of a teacher under a continuing contract, the
60 board may provide for released time of a teacher for any special professional or governmental
61 assignment without jeopardizing the contractual rights of the teacher or any other rights, privileges
62 or benefits under the provisions of this chapter. Released time shall be provided for any
63 professional educator while serving as a member of the Legislature during any duly constituted
64 session of that body and its interim and statutory committees and commissions without

65 jeopardizing his or her contractual rights or any other rights, privileges, benefits or accrual of
66 experience for placement on the state minimum salary schedule in the following school year under
67 the provisions of this chapter, board policy and law.

68 (e) A teacher is disqualified to teach in any public school in the state for the duration of
69 the next ensuing school year, if that teacher:

70 (1) Fails to fulfill his or her contract with the board, unless prevented from doing so by
71 personal illness or other just cause or unless released from his or her contract by the board, or

72 (2) Violates any lawful provision of his or her contract: *Provided*, That the marriage of a
73 teacher is not considered a failure to fulfill, or violation of, the contract.

74 The State Department of Education or board may hold all papers and credentials of the
75 teacher on file for a period of one year for the violation and shall report such disqualification status
76 in the National Association of State Directors of Teacher Education and Certification (NASDTEC)
77 database system.

78 (f) Any classroom teacher, as defined in section one, article one of this chapter, who
79 desires to resign employment with a county board or request a leave of absence, the resignation
80 or leave of absence to become effective on or before July 15 of the same year and after
81 completion of the employment term, may do so at any time during the school year by written
82 notification of the resignation or leave of absence and any notification received by a county board
83 shall automatically extend the teacher's public employee insurance coverage until August 31 of
84 the same year.

85 (g) (1) A classroom teacher who gives written notice to the county board on or before
86 March 1 of the school year of his or her retirement from employment with the board at the
87 conclusion of the school year shall be paid \$500 from the early notification of retirement line item
88 established for the Department of Education for this purpose, subject to appropriation by the
89 Legislature. If the appropriations to the Department of Education for this purpose are insufficient
90 to compensate all applicable teachers, the Department of Education shall request a supplemental

91 appropriation in an amount sufficient to compensate all such teachers. Additionally, if funds are
92 still insufficient to compensate all applicable teachers, the priority of payment is for teachers who
93 give written notice the earliest. This payment may not be counted as part of the final average
94 salary for the purpose of calculating retirement.

95 (2) The position of a classroom teacher providing written notice of retirement pursuant to
96 this subsection may be considered vacant and the county board may immediately post the
97 position as an opening to be filled at the conclusion of the school year. If a teacher has been hired
98 to fill the position of a retiring classroom teacher prior to the start of the next school year, the
99 retiring classroom teacher is disqualified from continuing his or her employment in that position.
100 However, the retiring classroom teacher may be permitted to continue his or her employment in
101 that position and forfeit the early retirement notification payment if, after giving notice of retirement
102 in accordance with this subsection, he or she becomes subject to a significant unforeseen
103 financial hardship, including a hardship caused by the death or illness of an immediate family
104 member or loss of employment of a spouse. Other significant unforeseen financial hardships shall
105 be determined by the county superintendent on a case-by-case basis. This subsection does not
106 prohibit a county school board from eliminating the position of a retiring classroom teacher.

ARTICLE 2. SCHOOL PERSONNEL.

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

1 (a) The superintendent, subject only to approval of the board, may assign, transfer,
2 promote, demote or suspend school personnel and recommend their dismissal pursuant to
3 provisions of this chapter. However, an employee shall be notified in writing by the superintendent
4 on or before April 1 if he or she is being considered for transfer or to be transferred. Only those
5 employees whose consideration for transfer or intended transfer is based upon known or

6 expected circumstances which will require the transfer of employees shall be considered for
7 transfer or intended for transfer and the notification shall be limited to only those employees. Any
8 teacher or employee who desires to protest the proposed transfer may request in writing a
9 statement of the reasons for the proposed transfer. The statement of reasons shall be delivered
10 to the teacher or employee within ten days of the receipt of the request. Within 10 days of the
11 receipt of the statement of the reasons, the teacher or employee may make written demand upon
12 the superintendent for a hearing on the proposed transfer before the county board. The hearing
13 on the proposed transfer shall be held on or before May 1. At the hearing, the reasons for the
14 proposed transfer must be shown.

15 (b) The superintendent at a meeting of the board on or before May 1 shall furnish in writing
16 to the board a list of teachers and other employees to be considered for transfer and subsequent
17 assignment for the next ensuing school year. An employee who was not provided notice and an
18 opportunity for a hearing pursuant to subsection (a) of this section may not be included on the list.
19 All other teachers and employees not so listed shall be considered as reassigned to the positions
20 or jobs held at the time of this meeting. The list of those recommended for transfer shall be
21 included in the minute record of the meeting and all those so listed shall be notified in writing and
22 shall be delivered within 10 days following the board meeting, with written receipt notification
23 documented by the superintendent, and shall state that the person is being recommended for
24 transfer and subsequent assignment and the reasons therefor.

25 (c) The superintendent's authority to suspend school personnel shall be temporary only
26 pending a hearing upon charges filed by the superintendent with the county board and the period
27 of suspension may not exceed 30 days unless extended by order of the board.

28 (d) The provisions of this section respecting hearing upon notice of transfer are not
29 applicable in emergency situations where a school building becomes damaged or destroyed
30 through an unforeseeable act and which act necessitates a transfer of the school personnel
31 because of the aforementioned condition of the building.

32 (e) Notwithstanding this section or any provision of this code, when actual student
33 enrollment in a grade level or program, unforeseen on or before May 1 of the preceding school
34 year, permits the assignment of fewer teachers or service personnel to or within a school under
35 any pupil-teacher ratio, class size or caseload standard established in §18-5-18A of this code or
36 any policy of the state board, the superintendent, with board approval, may reassign the surplus
37 personnel to another school or to another grade level or program within the school if needed there
38 to comply with any such pupil-teacher ratio, class size or caseload standard.

39 (1) Before any reassignment may occur pursuant to this subsection, notice shall be
40 provided to the employee and the employee shall be provided an opportunity to appear before
41 the county board to state the reasons for his or her objections, if any, prior to the board voting on
42 the reassignment.

43 (2) Except as otherwise provided in subdivision (1) of this subsection, the reassignment
44 may be made without following the notice and hearing provisions of this section, and at any time
45 during the school year when the conditions of this subsection are met: *Provided*, That the
46 reassignment may not occur after the last day of the second school month unless student
47 population shifts have resulted in a teacher or service personnel being without any instructional
48 responsibilities or work assignments: *Provided further*, That no transfer shall be made based on
49 arbitrary, capricious, or retaliatory reasons. Any teacher who believes that his/her transfer violated
50 these provisions may file a grievance pursuant to the West Virginia Public Employees Grievance
51 Procedure set forth in § 6C-2-1 *et seq.* of this code.

52 (3) A professional employee reassigned under this subsection shall be the least senior of
53 the surplus professional personnel who holds certification or licensure to perform the duties at the
54 other school or at the grade level or program within the school.

55 (4) A service employee reassigned under this subsection shall be the least senior of the
56 surplus personnel who holds the same classification or multiclassification needed to perform the
57 duties at the other school or at the grade level or program within the same school.

58 (5) No school employee's annual contract term, compensation or benefits shall be
59 changed as a result of a reassignment under this subsection.

The Clerk of the House of Delegates and the Clerk of the Senate hereby certify that the foregoing bill is correctly enrolled.

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Clerk of the House of Delegates

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Clerk of the Senate

Originated in the House of Delegates.

In effect 90 days from passage.

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Speaker of the House of Delegates

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President of the Senate

The within is this the.....
Day of, 2026.

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Governor