

12103767D

SENATE BILL NO. 438

Offered January 11, 2012

Prefiled January 11, 2012

A *BILL to amend and reenact §§ 22.1-253.13:5, 22.1-293, 22.1-294, 22.1-295, 22.1-297, 22.1-298.1, 22.1-299, 22.1-302, 22.1-303, 22.1-304, 22.1-305, 22.1-305.1, 22.1-306, 22.1-307, and 22.1-309 of the Code of Virginia and to repeal § 22.1-299.3 of the Code of Virginia, relating to public schools; teacher contract and evaluation policies.*

Patron—Obenshain

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-253.13:5, 22.1-293, 22.1-294, 22.1-295, 22.1-297, 22.1-298.1, 22.1-299, 22.1-302, 22.1-303, 22.1-304, 22.1-305, 22.1-305.1, 22.1-306, 22.1-307, and 22.1-309 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-253.13:5. Standard 5. Quality of classroom instruction and educational leadership.

A. Each member of the Board of Education shall participate in high-quality professional development programs on personnel, curriculum and current issues in education as part of his service on the Board.

B. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, teacher, ~~administrator~~ *principal*, and superintendent evaluations shall be consistent with the performance objectives included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, ~~Administrators~~ *Principals*, and Superintendents. *Annual evaluations of teachers, principals, and superintendents shall include student academic progress as a significant component of the evaluation. The evaluation shall include a summative rating for each performance standard and an overall summative rating using the ratings set forth in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.* Teacher evaluations shall include regular observation and evidence that instruction is aligned with the school's curriculum. Evaluations shall include identification of areas of individual strengths and weaknesses and recommendations for appropriate professional activities.

C. The Board of Education shall provide guidance on high-quality professional development for (i) teachers, principals, ~~supervisors~~ *division-level instructional personnel*, division superintendents, and other school staff; (ii) ~~administrative and supervisory~~ *superintendents, principals, and division-level instructional personnel* in the evaluation and documentation of teacher and ~~administrator~~ *principal* performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel; (iii) school board members on personnel, curriculum and current issues in education; and (iv) programs in Braille for teachers of the blind and visually impaired, in cooperation with the Virginia Department for the Blind and Vision Impaired.

The Board shall also provide technical assistance on high-quality professional development to local school boards designed to ensure that all instructional personnel are proficient in the use of educational technology consistent with its comprehensive plan for educational technology.

D. Each local school board shall require (i) its members to participate annually in high-quality professional development activities at the state, local, or national levels on governance, including, but not limited to, personnel policies and practices; *the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents*; curriculum and instruction; use of data in planning and decision making; and current issues in education as part of their service on the local board and (ii) the division superintendent to participate annually in high-quality professional development activities at the local, state, or national levels, *including, but not limited to, the Standards of Quality, Board of Education regulations, and the evaluation of personnel in accordance with the Board of Education's Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.*

E. Each local school board shall provide a program of high-quality professional development (i) in the use and documentation of performance standards and evaluation criteria based on student academic progress and skills for teachers, *principals*, and ~~administrators~~ *superintendents* to clarify roles and performance expectations and to facilitate the successful implementation of instructional programs that promote student achievement at the school and classroom levels; (ii) as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students, students with disabilities, and students who have been identified as having limited English proficiency and to increase student achievement and expand the knowledge and skills students require to meet the

INTRODUCED

SB438

standards for academic performance set by the Board of Education; (iii) in educational technology for all instructional personnel which is designed to facilitate integration of computer skills and related technology into the curricula; and (iv) for administrative personnel principals and superintendents designed to increase proficiency in instructional leadership and management, including training in the evaluation and documentation of teacher and administrator principal performance based on standards and student academic progress and the skills and knowledge of such instructional or administrative personnel set forth in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, Principals, and Superintendents.

In addition, each local school board shall also provide teachers and principals with high-quality professional development programs each year in (i) instructional content; (ii) the preparation of tests and other assessment measures; (iii) methods for assessing the progress of individual students, including Standards of Learning assessment materials or other criterion-referenced tests that match locally developed objectives; (iv) instruction and remediation techniques in English, mathematics, science, and history and social science; (v) interpreting test data for instructional purposes; (vi) technology applications to implement the Standards of Learning; and (vii) effective classroom management.

F. Schools and school divisions shall include as an integral component of their comprehensive plans required by § 22.1-253.13:6, high-quality professional development programs that support the recruitment, employment, and retention of qualified teachers and principals. Each school board shall require all instructional personnel to participate each year in these professional development programs.

G. Each local school board shall annually review its professional development program for quality, effectiveness, participation by instructional personnel, and relevancy to the instructional needs of teachers and the academic achievement needs of the students in the school division.

§ 22.1-293. School boards authorized to employ principals, assistant principals, and division-level instructional personnel; license required; powers and duties.

A. A school board, upon recommendation of the division superintendent, may employ principals and, assistant principals, and division-level instructional personnel. Persons employed in these positions shall hold licenses as prescribed by the Board of Education.

B. A principal shall provide instructional leadership in, shall be responsible for the administration of and shall supervise the operation and management of the school or schools and property to which he has been assigned, in accordance with the rules and regulations of the school board and under the supervision of the division superintendent.

C. A principal may submit recommendations to the division superintendent for the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to his supervision. Beginning September 1, 2000, (i) principals Principals must have received training, provided pursuant to § 22.1-253.13:5, in the evaluation and documentation of employee performance, which evaluation and documentation shall include, but shall not be limited to, employee skills and knowledge and student academic progress, prior to submitting such recommendations; and (ii) assistant. Assistant principals and other administrative school and division-level instructional personnel participating in the evaluation and documentation of employee performance must also have received such training in the evaluation and documentation of employee performance.

D. A principal shall perform such other duties as may be assigned by the division superintendent pursuant to the rules and regulations of the school board.

§ 22.1-294. Probationary terms of service for principals, assistant principals, and division-level instructional personnel; evaluation; reassigning principal, assistant principal, or division-level instructional personnel to teaching position.

A. A person employed as a principal, an assistant principal or supervisor, including a person who has previously achieved continuing contract status as a teacher, shall serve three years in such position in the same school division before acquiring continuing contract status as principal, assistant principal or supervisor division-level instructional personnel shall be issued a one-year probationary contract or an annual contract. A probationary contract shall be awarded regardless of previous employment in another school division or state, or whether the person had previously achieved annual contract status as a teacher. After two years of consecutive employment on a probationary contract in the same school division, the principal, assistant principal, or division-level instructional personnel shall be issued an annual contract if reemployed by the same school division in the following year.

Probationary contract employees may be dismissed without cause.

A principal, an assistant principal, or division-level instructional personnel may be dismissed or placed on probation for incompetency, immorality, noncompliance with school laws or regulations, disability as shown by competent medical evidence when in compliance with federal law, conviction of a felony or a crime of moral turpitude, or other good and just cause. A principal, an assistant principal, or division-level instructional personnel with an annual contract may be dismissed for just cause, which shall include two consecutive years of "unacceptable" summative ratings on evaluations, "unacceptable" summative evaluations in two of the previous three years, or a combination of "unacceptable" or

121 *"developing/needs improvement" summative evaluations in three of the past five years.*

122 *Any principal, assistant principal, or division-level instructional personnel employed on an annual*
 123 *contract shall be provided assistance to improve before termination.*

124 B. Each local school board shall adopt for use by the division superintendent clearly defined criteria
 125 for a performance evaluation process for principals, assistant principals, and ~~supervisors~~ *division-level*
 126 *instructional personnel* that are consistent with the performance objectives set forth in the Guidelines for
 127 Uniform Performance Standards and Evaluation Criteria for Teachers, ~~Administrators~~ *Principals*, and
 128 Superintendents as provided in § 22.1-253.13:5 and that includes, among other things, an assessment of
 129 such administrators' skills and knowledge; student academic progress and school gains in student
 130 learning; and effectiveness in addressing school safety and enforcing student discipline. The division
 131 superintendent shall implement such performance evaluation process in making employment
 132 recommendations to the school board pursuant to § 22.1-293. *Principals and assistant principals shall be*
 133 *evaluated each school year.*

134 C. ~~Continuing~~ Annual contract status acquired by a principal, an assistant principal, or ~~supervisor~~
 135 *division-level instructional personnel* shall not be construed (i) as prohibiting a school board from
 136 reassigning such principal, assistant principal, or ~~supervisor~~ *division-level instructional personnel* to a
 137 teaching position if notice of reassignment is given by the school board by ~~April~~ June 15 of any year or
 138 (ii) as entitling any such principal, assistant principal, or ~~supervisor~~ *division-level instructional personnel*
 139 to the salary paid him as principal, assistant principal, or ~~supervisor~~ *division-level instructional personnel*
 140 in the case of any such reassignment to a teaching position.

141 D. No such salary reduction and reassignment, however, shall be made without first providing such
 142 principal, assistant principal, or ~~supervisor~~ *division-level instructional personnel* with written notice of
 143 the reason for such reduction and reassignment and an opportunity to present his or her position at an
 144 informal meeting with the division superintendent, the division superintendent's designee or the school
 145 board. The principal, assistant principal, or ~~supervisor~~ *division-level instructional personnel* shall elect
 146 whether such meeting shall be with the division superintendent, the division superintendent's designee or
 147 the school board. The school board, division superintendent, or the division superintendent's designee
 148 shall determine what processes are to be followed at the meeting. The decision to reassign and reduce
 149 salary shall be at the sole discretion of the school board.

150 The intent of this section is to provide an opportunity for a principal, an assistant principal, or
 151 ~~supervisor~~ *division-level instructional personnel* to discuss the reasons for such salary reduction and
 152 reassignment with the division superintendent, his designee, or the school board, and the provisions of
 153 this section are meant to be procedural only. Nothing contained herein shall be taken to require cause, as
 154 defined in § 22.1-307, for the salary reduction and reassignment of a principal, an assistant principal, or
 155 ~~supervisor~~ *division-level instructional personnel*.

156 E. As used in this section, ~~"supervisor"~~ *"division-level instructional personnel"* means a person who
 157 holds a ~~supervisory~~ *division-level instructional personnel* position as specified in the regulations of the
 158 Board of Education and who is required to hold a license as prescribed by the Board of Education.

159 § 22.1-295. Teachers; Definition and employment thereof.

160 A. As used in this title, *"teacher"* means a person who (i) is regularly employed full time as a
 161 teacher, guidance counselor, speech language pathologist, or library-media specialist/librarian and (ii)
 162 holds a valid teaching license. The teachers in the public schools of a school division shall be employed
 163 and placed in appropriate schools by the school board upon recommendation of the division
 164 superintendent. In placing teachers, school boards shall fill positions with licensed instructional personnel
 165 ~~qualified~~ *with endorsements* in the relevant grade levels/subject areas.

166 B. School boards shall adopt employment policies and practices designed to promote the employment
 167 and retention of highly qualified teachers and to effectively serve the educational needs of students.
 168 Such policies shall include, but need not be limited to, incentives for excellence in teaching, including
 169 financial support for teachers attending professional development seminars or those seeking and
 170 obtaining national certification.

171 C. School boards shall develop a procedure for use by division superintendents and principals in
 172 evaluating ~~instructional personnel~~ *teachers* that is appropriate to the tasks performed and addresses;
 173 among other things, student academic progress and the skills and knowledge of instructional personnel,
 174 including, but not limited to, instructional methodology, classroom management, and subject matter
 175 knowledge the standards, including student academic progress as a significant component of the
 176 evaluation as set forth in the Guidelines for Uniform Performance Standards and Evaluation Criteria for
 177 Teachers, Principals, and Superintendents.

178 D. A person employed as a teacher shall be issued a one-year probationary or annual contract. A
 179 probationary contract shall be awarded regardless of previous employment in another school division or
 180 state. After two years of consecutive employment on a probationary contract in the same school division,
 181 the teacher shall be issued an annual contract if reemployed by the same school division the following

182 school year.

183 Probationary contract employees may be dismissed without cause. Any teacher employed on an
184 annual contract shall be provided assistance to improve prior to termination from the position.

185 Instructional personnel Teachers employed by local school boards who have achieved continuing
186 annual contract status shall be evaluated not less than once every three years. Any instructional
187 personnel, who has achieved continuing contract status, receiving an unsatisfactory evaluation who
188 continues to be employed by the local school board shall be evaluated no later than one year after
189 receiving such unsatisfactory evaluation each school year. During the probationary period, such
190 probationary teacher shall be evaluated twice annually, with mid-year and final evaluations. The
191 evaluation shall be maintained in the employee's personnel file.

192 E. Each local superintendent shall annually certify divisionwide compliance with the provisions of
193 this section to the Department.

194 § 22.1-297. Assignment of teachers, principals, and assistant principals by superintendent.

195 A division superintendent shall have authority to assign to their respective positions in the school
196 wherein they have been placed by the school board all teachers, principals, and assistant principals. If
197 the school board adopts a resolution authorizing the division superintendent to reassign such teachers,
198 principals, and assistant principals, the division superintendent may reassign any such teacher, principal,
199 or assistant principal for that school year to any school within such division, provided no change or
200 reassignment during a school year shall affect the salary of such teacher, principal, or assistant principal
201 for that school year. A principal shall have the authority to refuse the assignment of teachers to his
202 school who have two consecutive years of "unacceptable" summative ratings on evaluations,
203 "unacceptable" summative evaluations in two of the previous three years, or a combination of
204 "unacceptable" or "developing/needs improvement" summative evaluations in three of the past five years.

205 § 22.1-298.1. Regulations governing licensure.

206 A. As used in this section:

207 "Alternate route to licensure" means a nontraditional route to teacher licensure available to
208 individuals who meet the criteria specified in the regulations issued by the Board of Education.

209 "Licensure by reciprocity" means a process used to issue a license to an individual coming into
210 Virginia from another state when that individual meets certain conditions specified in the Board of
211 Education's regulations.

212 "Professional teacher's assessment" means those tests mandated for licensure as prescribed by the
213 Board of Education.

214 "Provisional license" means a nonrenewable license issued by the Board of Education for a specified
215 period of time, not to exceed three years, to an individual who may be employed by a school division in
216 Virginia and who generally meets the requirements specified in the Board of Education's regulations for
217 licensure, but who may need to take additional coursework or pass additional assessments to be fully
218 licensed with a renewable license.

219 "Renewable license" means a license issued by the Board of Education for five years to an individual
220 who meets the requirements specified in the Board of Education's regulations.

221 B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of
222 teachers and other school personnel required to hold a license. Such regulations shall include
223 requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure. The
224 Board of Education shall revoke the license of any person for whom it has received a notice of
225 dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the
226 subject of a founded complaint of child abuse or neglect, after all rights to any appeal provided by
227 § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth
228 to approve educational programs, only the Board of Education shall have the authority to license
229 teachers to be regularly employed by school boards, including those teachers employed to provide
230 nursing education.

231 Notwithstanding the provisions of this section and the Board's authority to license teachers, local
232 school boards shall be authorized to issue valid, three-year local eligibility licenses pursuant to
233 § 22.1-299.3.

234 C. The Board of Education's regulations shall include requirements that a person seeking initial
235 licensure:

- 236 1. Complete professional assessments as prescribed by the Board of Education;
- 237 2. Complete study in attention deficit disorder;
- 238 3. Complete study in gifted education, including the use of multiple criteria to identify gifted
239 students; and
- 240 4. Complete study in methods of improving communication between schools and families and ways
241 of increasing family involvement in student learning at home and at school.

242 D. In addition, such regulations shall include requirements that:

- 243 1. Every person seeking initial licensure or renewal of a license demonstrate proficiency in the use of

educational technology for instruction;

2. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

3. Every person seeking initial licensure or renewal of a license shall receive professional development in instructional methods tailored to promote student academic progress and effective preparation for the Standards of Learning end-of-course and end-of-grade assessments; and

4. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille.

E. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

F. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations.

G. Notwithstanding any provision of law to the contrary, the Board may provide for the issuance of a provisional license, valid for a period not to exceed three years, to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law.

H. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. The individual must establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. An assessment of basic skills as provided in § 22.1-298.2 and service requirements shall not be imposed for these licensed individuals; however, other licensing assessments, as prescribed by the Board of Education, shall be required; and

3. The Board may include other provisions for reciprocity in its regulations.

§ 22.1-299. License required of teachers.

No teacher shall be regularly employed by a school board or paid from public funds unless such teacher holds a license or provisional license issued by the Board of Education or a ~~three-year local eligibility license issued by a local school board pursuant to § 22.1-299.3.~~ Notwithstanding the provision in § 22.1-298.1 that the provisional license is limited to three years, if a teacher employed in Virginia under a provisional license is activated or deployed for military service within a school year (July 1-June 30), an additional year will be added to the teacher's provisional license for each school year or portion thereof the teacher is activated or deployed. The additional year or years shall be granted the following year or years after the return of the teacher from deployment or activation. Local school divisions may grant similar extensions for local eligibility licenses in their discretion.

In accordance with regulations prescribed by the Board, a person not meeting the requirements for a license or provisional license may be employed and paid from public funds by a school board temporarily as a substitute teacher to meet an emergency.

§ 22.1-302. Written contracts required; execution of contracts; qualifications of temporarily employed teachers; rules and regulations.

A. A written contract, in a form prescribed by the Board of Education, shall be made by the school board with each teacher employed by it, except those who are temporarily employed, before such teacher enters upon his duties. Such contract shall be signed in duplicate, with a copy thereof furnished to both parties.

The standard 10-month contract shall include 200 days, including (i) a minimum of 180 teaching days or 990 instructional hours and (ii) up to 20 days for activities such as teaching, participating in professional development, planning, evaluating, completing records and reports, participating on committees or in conferences, or such other activities as may be assigned or approved by the local school board.

A temporarily employed teacher, as used in this section, shall mean (i) one who is employed to substitute for a contracted teacher for a temporary period of time during the contracted teacher's absence; or (ii) one who is employed to fill a teacher vacancy for a period of time, but for no longer than 90 teaching days in such vacancy, unless otherwise approved by the Superintendent of Public Instruction on a case-by-case basis, during one school year.

B. The Board of Education shall promulgate regulations regarding temporarily employed teachers, as defined in this section, which shall provide that such teachers be at least ~~eighteen~~ 18 years of age and that they hold a high school diploma or a general educational development (GED) certificate.

A temporarily employed teacher is not required to be licensed by the Board of Education, nor is a temporarily employed teacher required to enter into a written contract with the local school board. However, local school boards shall establish employment qualifications for temporarily employed teachers which may exceed the Board's regulations for the employment of such teachers. School boards shall also seek to ensure that temporarily employed teachers who are engaged as long-term substitutes shall exceed baseline employment qualifications.

C. A separate contract in a form prescribed by the Board of Education shall be executed by the school board with such employee who is receiving a monetary supplement for any athletic coaching or extracurricular activity sponsorship assignment. This contract shall be separate and apart from the contract for teaching.

Termination of a separate contract for any athletic coaching or extracurricular activity sponsorship assignment by either party thereto shall not constitute cause for termination of the separate teaching contract of the coach or teacher.

All such contracts shall require the party intending to terminate the coaching or extracurricular activity sponsorship contract to give reasonable notice to the other party before termination thereof shall become effective. *The contract for coaching or extracurricular activity sponsorship is not subject to grievance.*

For the purposes of this section, "extracurricular activity sponsorship" means an assignment for which a monetary supplement is received, requiring responsibility for any student organizations, clubs, or groups, such as service clubs, academic clubs and teams, cheerleading squads, student publication and literary groups, and visual and performing arts organizations except those that are conducted in conjunction with regular classroom, curriculum, or instructional programs.

§ 22.1-303. Probationary terms of service for teachers.

A. A probationary term of service for ~~three~~ *two consecutive* years in the same school division shall be required before a teacher is issued a ~~continuing~~ *an annual* contract for the following year in the same school division. School boards shall provide each probationary teacher except probationary teachers who have prior successful teaching experience, as determined by the local school board in a school division, a mentor teacher, as described by Board guidelines developed pursuant to § 22.1-305.1, during the first year of the probationary period, to assist such probationary teacher in achieving excellence in instruction. During the probationary period, such probationary teacher shall be evaluated *twice* annually, *with mid-year and final evaluations*, based upon the evaluation procedures developed by the employing school board for use by the division superintendent and principals in evaluating instructional personnel as required by subsection C of § 22.1-295. The division superintendent shall consider such evaluations, among other things, in making any recommendations to the school board regarding the nonrenewal of such probationary teacher's contract as provided in § 22.1-305.

If the teacher's performance evaluation during the probationary period is not satisfactory, the school board shall not reemploy the teacher; however, nothing contained in this subsection shall be construed to require cause, as defined in § 22.1-307, for the nonrenewal of the contract of a teacher who has not achieved ~~continuing~~ *annual* contract status.

~~Any A teacher hired on or after July 1, 2001, shall be required, as a condition of achieving continuing contract status, to have successfully completed training in instructional strategies and techniques for intervention for or remediation of students who fail or are at risk of failing the Standards of Learning assessments. Local school divisions shall be required to provide said training at no cost to teachers employed in their division. In the event a local school division fails to offer said training in a timely manner, no teacher will be denied continuing contract status for failure to obtain such training.~~

B. ~~Once a continuing contract status has been attained in a school division in the Commonwealth, another probationary period need not be served in any other school division unless such probationary period, not to exceed one year, is made a part of the contract of employment. Further, when a teacher has attained continuing contract status in a school division in the Commonwealth, and separates from and returns to teaching service in a school division in Virginia by the beginning of the third year, such teacher shall be required to serve a probationary period not to exceed one year, if made a part of the contract for employment.~~

C. ~~For the purpose of calculating the three two consecutive~~ years of service required to attain ~~continuing~~ *annual* contract status, at least 160 contractual teaching days during the school year shall be deemed the equivalent of one year in the first year of service by a teacher.

D. Teachers holding three-year local eligibility licenses pursuant to § 22.1-299.3 shall not be eligible for continuing contract status while teaching under the authority of such license. Upon attainment of a collegiate professional or postgraduate professional license issued by the Department of Education, such teachers shall serve the three-year probationary period prior to being eligible for continuing contract

status pursuant to this section.

§ 22.1-304. Reemployment of teacher; resignation of teacher; reduction in number of teachers.

A. If a teacher who has not achieved ~~continuing~~ contract status receives notice of reemployment, he must accept or reject in writing within 15 days of receipt of such notice. Except as provided in § 22.1-305 and except in the case of a reduction in force as provided in subsection F, written notice of nonrenewal of the contract must be given by the school board on or before ~~April~~ June 15 of each year. If no such notice is given a teacher by ~~April~~ June 15, the teacher shall be entitled to a contract for the ensuing year in accordance with local salary stipulations including increments.

B. ~~Teachers~~ A teacher employed after completing the probationary period shall be entitled to ~~continuing contracts~~ an annual contract during good behavior and competent service and prior to the age at which ~~they are~~ the teacher is eligible or required to retire except as hereinafter provided. Written notice of noncontinuation of the contract by either party must be given by ~~April~~ June 15 of each year; otherwise the contract continues in effect for the ensuing year in conformity with local salary stipulations including increments.

C. A teacher may resign after ~~April~~ June 15 of any school year with the approval of the local school board or, upon authorization by the school board, with the approval of the division superintendent. The teacher shall request release from contract at least two weeks in advance of intended date of resignation. Such request shall be in writing and shall set forth the cause of resignation.

If the division superintendent has been authorized to approve resignations, a teacher may, within one week, withdraw a request to resign. Upon the expiration of the one-week period, the division superintendent shall notify the school board of his decision to accept or reject the resignation. The school board, within two weeks, may reverse the decision of the division superintendent.

In the event that the board or the division superintendent declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, disciplinary action, which may include revocation of the teacher's license, may be taken pursuant to regulations prescribed by the Board of Education.

D. As soon after ~~April~~ June 15 as the school budget shall have been approved by the appropriating body, the school board shall furnish each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Nothing in the ~~continuing~~ annual contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available with which to meet such obligation.

E. A school board may reduce the number of teachers, whether or not such teachers have reached ~~continuing~~ annual contract status, because of decrease in enrollment or abolition of particular subjects.

F. Within two weeks of the approval of the school budget by the appropriating body, but no later than ~~June~~ July 1, school boards shall notify all teachers who may be subject to a reduction in force due to a decrease in the school board's budget as approved by the appropriating body. *If workforce reduction is needed, a division school board shall retain employees based upon educational program needs and the performance evaluations of employees within the affected program areas. Within the program areas requiring reduction, the employee with the lowest performance evaluations shall be the first to be released. A division school board shall not prioritize retention of employees based solely upon seniority.*

§ 22.1-305. Nonrenewal of contract of probationary teacher.

A. Before a division superintendent recommends to the school board nonrenewal of the contract of a teacher who has not achieved ~~continuing~~ annual contract status, the division superintendent shall consider, among other things, the performance evaluations for such teacher required by § 22.1-303 and shall notify the teacher of the proposed recommendation. Upon written request of the teacher within five working days after receipt of such notice, the division superintendent or his designee shall orally provide the specific reasons, if any, for such recommendation, along with supporting documentation, including such performance evaluations, to the teacher and, if requested by the teacher, to his or her representative. Within ~~ten~~ 10 days after receiving such reasons, the teacher may request, by notification in writing to the division superintendent, a conference before the division superintendent. Upon such request, the division superintendent shall set a date for the conference, which shall be within ~~thirty~~ 30 days of the request, and shall give the teacher at least ~~fifteen~~ 15 days' notice of the time and place of the conference.

B. The conference shall be before the division superintendent or his designee. No such designee shall have recommended to the division superintendent the nonrenewal of the teacher's contract. The teacher and the person or persons who recommended the nonrenewal of the teacher's contract to the division superintendent, or a representative of either or both, shall be allowed to participate in the conference, but no such representative shall be an attorney.

C. If the conference is before a designee of the division superintendent, the designee shall communicate his recommendations to the division superintendent and to the teacher.

D. The division superintendent shall notify the teacher, in writing, of his intention with respect to the recommendation within ~~ten~~ 10 days after the conference.

E. In any case in which a teacher requests a conference as provided in this section, written notice of nonrenewal of the contract by the school board must be given within ~~thirty~~ 30 days after the division superintendent notifies the teacher of his intention with respect to the recommendation and the provisions of § 22.1-304 requiring such notice on or before ~~April~~ June 15 shall not be applicable.

F. The conference shall be confidential and no written or oral communication of such conference shall be made to anyone other than the school board, in executive session, and employees of the school division having an interest therein; however, both the teacher and the division superintendent, upon request, may provide the reasons for the nonrenewal to a potential employer of the teacher.

G. The provisions of this section shall be inapplicable when a decrease in enrollment or the abolition of a particular subject or reduction in the number of classes offered in a particular subject causes a reduction in the number of teachers; however, a statement to that effect shall be placed in the personnel file of each teacher whose contract is nonrenewed for any such reason.

H. The intent of this section is to provide an opportunity for a probationary teacher to discuss the reasons for nonrenewal with the division superintendent or his designee, and the provisions of this section are meant to be procedural only. Nothing contained herein shall be taken to require cause, as defined in § 22.1-307, for the nonrenewal of the contract of a teacher who has not achieved ~~continuing~~ annual contract status nor shall the failure of the school board or the division superintendent to comply with any time requirement herein constitute a basis for continued employment of the teacher.

§ 22.1-305.1. Mentor teacher programs.

A. The Board of Education shall establish, from such funds as may be appropriated by the General Assembly, mentor teacher programs utilizing specially trained public school teachers as mentors to provide assistance and professional support to teachers entering the profession and to improve the performance of experienced teachers who are not performing at an acceptable level.

The Board shall issue guidelines for such mentor teacher programs and shall set criteria for beginning and experienced teacher participation, including self-referral, and the qualifications and training of mentor teachers. Such guidelines shall provide that the mentor programs be administered by local school boards, with the assistance of an advisory committee made up of teachers and administrators, and that mentors (i) be classroom teachers who have ~~achieved continuing contract status~~ *three years of successful, full-time teaching experience in public schools in the Commonwealth* and who work in the same building as the teachers they are assisting or be instructional personnel who are assigned solely as mentors; (ii) be assigned a limited number of teachers at any time; however, instructional personnel who are not assigned solely as mentors should not be assigned to more than four teachers at any time; and (iii) guide teachers in the program through demonstrations, observations, and consultations to promote instructional excellence. Local school boards shall strive to provide adequate release time for mentor teachers during the contract day.

B. The ~~Board~~ local school board shall serve as fiscal agent for the participating school boards in matters concerning the mentor teacher programs. The ~~Board~~ Department of Education shall allocate, from such funds as are appropriated, moneys to participating school divisions for the purpose of supporting such programs which shall include, but not be limited to, compensation for mentor teachers.

§ 22.1-306. Definitions.

As used in this article:

"Grievance" means a complaint or dispute by a teacher relating to his ~~or her~~ employment including, but not necessarily limited to: (i) disciplinary action including dismissal or placing on probation; (ii) the application or interpretation of: (a) personnel policies, (b) procedures, (c) rules and regulations, (d) ordinances and (e) statutes; (iii) acts of reprisal against a teacher for filing or processing a grievance, participating as a witness in any step, meeting or hearing relating to a grievance, or serving as a member of a fact-finding panel; and (iv) complaints of discrimination on the basis of race, color, creed, political affiliation, handicap, age, national origin or sex. Each school board shall have the exclusive right to manage the affairs and operations of the school division. Accordingly, the term "grievance" shall not include a complaint or dispute by a teacher relating to ~~(i)~~ (1) establishment and revision of wages or salaries, position classifications or general benefits, ~~(ii)~~ (2) suspension of a teacher or nonrenewal of the contract of a teacher who has not achieved ~~continuing~~ annual contract status, ~~(iii)~~ (3) the establishment or contents of ordinances, statutes or personnel policies, procedures, rules and regulations, ~~(iv)~~ (4) failure to promote, ~~(v)~~ (5) discharge, layoff or suspension from duties because of decrease in enrollment, decrease in enrollment or abolition of a particular subject or insufficient funding, ~~(vi)~~ (6) hiring, transfer, assignment and retention of teachers within the school division, ~~(vii)~~ (7) suspension from duties in emergencies, or ~~(viii)~~ (8) the methods, means and personnel by which the school division's operations are to be carried on.

While these management rights are reserved to the school board, failure to apply, where applicable, the rules, regulations, policies, or procedures as written or established by the school board is grievable.

"Dismissal" means the dismissal of any teacher during the term of such teacher's contract and the nonrenewal of the contract of a teacher on ~~continuing~~ *an annual* contract.

§ 22.1-307. Dismissal, etc., of teacher; grounds.

A. ~~Teachers~~ *A teacher* may be dismissed or placed on probation for incompetency, immorality, noncompliance with school laws and regulations, disability as shown by competent medical evidence when in compliance with federal law, conviction of a felony or a crime of moral turpitude, or other good and just cause. *A teacher with an annual contract may be dismissed for just cause. Just cause includes two consecutive years of "unacceptable" summative ratings on evaluations, "unacceptable" summative evaluations in two of the previous three years, or a combination of "unacceptable" or "developing/needs improvement" summative evaluations in three of the past five years. Any teacher employed on an annual contract shall be provided assistance to improve before termination.* A teacher shall be dismissed if such teacher is or becomes the subject of a founded complaint of child abuse and neglect, pursuant to § 63.2-1505, and after all rights to an appeal provided by § 63.2-1526 have been exhausted. The fact of such finding, after all rights to an appeal provided by § 63.2-1526 have been exhausted, shall be grounds for the local school division to recommend that the Board of Education revoke such person's license to teach. No teacher shall be dismissed or placed on probation solely on the basis of the teacher's refusal to submit to a polygraph examination requested by the school board.

B. For the purposes of this article, "incompetency" may be construed to include, but shall not be limited to, consistent failure to meet the endorsement requirements for the position or performance that is documented through evaluation to be consistently less than satisfactory.

§ 22.1-309. Notice to teacher of recommendation of dismissal or placing on probation; school board not to consider merits during notice; superintendent required to provide reasons for recommendation upon request.

In the event a division superintendent determines to recommend dismissal of any teacher or the placing on probation of a teacher on ~~continuing~~ *an annual* contract, written notice shall be sent to the teacher notifying him of the proposed dismissal or placing on probation and informing him that within ~~fifteen~~ 15 days after receiving the notice the teacher may request a hearing before the school board as provided in § 22.1-311 or before a fact-finding panel as provided in § 22.1-312. During such ~~fifteen-day~~ 15-day period and thereafter until a hearing is held in accordance with the provisions herein, if one is requested by the teacher, the merits of the recommendation of the division superintendent shall not be considered, discussed or acted upon by the school board except as provided for herein. At the request of the teacher, the division superintendent shall provide the reasons for the recommendation in writing or, if the teacher prefers, in a personal interview. In the event a teacher requests a hearing pursuant to § 22.1-311 or § 22.1-312, the division superintendent shall provide, within ~~ten~~ 10 days of the request, the teacher or his representative with the opportunity to inspect and copy his personnel file and all other documents relied upon in reaching the decision to recommend dismissal or probation. Within ~~ten~~ 10 days of the request of the division superintendent, the teacher or his representative shall provide the division superintendent with the opportunity to inspect and copy the documents to be offered in rebuttal to the decision to recommend dismissal or probation. The division superintendent and the teacher or his representative shall be under a continuing duty to disclose and produce any additional documents identified later which may be used in the respective parties' cases-in-chief. The cost of copying such documents shall be paid by the requesting party.

For the purposes of this section, "personnel file" ~~shall mean~~ *means* any and all memoranda, entries, or other documents included in the teacher's file as maintained in the central school administration office or in any file on the teacher maintained within a school in which the teacher serves.

2. That § 22.1-299.3 of the Code of Virginia is repealed.

3. That the provisions of this act shall become effective on July 1, 2013.

4. That individuals who would have achieved continuing contract status in a school division by the first day of the 2013-2014 school year and who are employed in the same school division for the 2013-2014 school year shall be issued an annual contract. Individuals who would have achieved continuing contract status in a school division by the first day of the 2013-2014 school year and who are employed in another school division for the 2013-2014 school year shall be issued a probationary contract.