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SENATE BILL NO. 438

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Education and Health
on February 9, 2012)

(Patron Prior to Substitute—Senator Obenshain)

A *BILL to amend and reenact §§ 22.1-253.13:5, 22.1-293, 22.1-294, 22.1-295, 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.*

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, 22.1-298.1, 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~~ *standards* included in the Guidelines for Uniform Performance Standards and Evaluation Criteria for Teachers, ~~Administrators~~ *Principals*, and Superintendents. *Evaluations shall include student academic progress as a significant component and an overall a summative rating.* 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 superintendents and other school staff; (ii) ~~administrative and supervisory personnel~~ *principals, supervisors, and division superintendents* 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 evaluation of personnel, 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 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 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 supervisors* designed to increase proficiency in instructional leadership and management, including training 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.

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

60 other assessment measures; (iii) methods for assessing the progress of individual students, including
61 Standards of Learning assessment materials or other criterion-referenced tests that match locally
62 developed objectives; (iv) instruction and remediation techniques in English, mathematics, science, and
63 history and social science; (v) interpreting test data for instructional purposes; (vi) technology
64 applications to implement the Standards of Learning; and (vii) effective classroom management.

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

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

72 § 22.1-293. School boards authorized to employ principals and assistant principals; license required;
73 powers and duties.

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

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

81 C. A principal may submit recommendations to the division superintendent for the appointment,
82 assignment, promotion, transfer, and dismissal of all personnel assigned to his supervision. ~~Beginning~~
83 ~~September 1, 2000, (i) principals~~ *Principals* must have received training, provided pursuant to
84 § 22.1-253.13:5, in the evaluation and documentation of employee performance, which evaluation and
85 documentation shall include, but shall not be limited to, employee skills and knowledge and student
86 academic progress, prior to submitting such recommendations; ~~and (ii) assistant~~ *Assistant* principals and
87 other ~~administrative supervisory~~ personnel participating in the evaluation and documentation of employee
88 performance must also have received such training in the evaluation and documentation of employee
89 performance.

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

92 § 22.1-294. Probationary terms of service for principals, assistant principals, and supervisors;
93 evaluation; reassigning principal, assistant principal, or supervisor to teaching position.

94 A. A person employed as a principal, assistant principal or supervisor, including a person who has
95 previously achieved ~~continuing term~~ contract status as a teacher, shall serve ~~three~~ *a probationary term of*
96 *five* years in such position in the same school division before ~~acquiring continuing~~ *being issued a*
97 *three-year term* contract status as principal, assistant principal or supervisor *for such position*.

98 B. Each local school board shall adopt for use by the division superintendent clearly defined criteria
99 for a performance evaluation process for principals, assistant principals, and supervisors that are
100 consistent with the performance ~~objectives~~ *standards* set forth in the Guidelines for Uniform Performance
101 Standards and Evaluation Criteria for Teachers, ~~Administrators~~ *Principals*, and Superintendents as
102 provided in § 22.1-253.13:5 and that includes, among other things, an assessment of such administrators'
103 skills and knowledge; student academic progress and school gains in student learning; and effectiveness
104 in addressing school safety and enforcing student discipline. The division superintendent shall implement
105 such performance evaluation process in making employment recommendations to the school board
106 pursuant to § 22.1-293. *Probationary principals and assistant principals shall be evaluated each school*
107 *year. Principals and assistant principals who have achieved term contract status shall be evaluated in*
108 *the third year of their term contract and more often as deemed necessary by the division superintendent,*
109 *and they shall be evaluated informally at least once during each of the first and second years of their*
110 *term contract. Principals and assistant principals who attained continuing contract status prior to the*
111 *2013-2014 school year shall be formally evaluated at least once every three years and evaluated*
112 *informally at least once each year that they are not formally evaluated. The division superintendent*
113 *shall consider such evaluations, among other things, in making any recommendations to the school*
114 *board regarding the nonrenewal of the probationary or term contract of any principal or assistant*
115 *principal.*

116 C. ~~Continuing Term~~ *Term* contract status, or *continuing contract status*, acquired by a principal, assistant
117 principal or supervisor shall not be construed (i) as prohibiting a school board from reassigning such
118 principal, assistant principal, or supervisor to a teaching position if notice of reassignment is given by
119 the school board by ~~April~~ *June* 15 of any year or (ii) as entitling any such principal, assistant principal,
120 or supervisor to the salary paid him as principal, assistant principal, or supervisor in the case of any
121 such reassignment to a teaching position.

D. No such salary reduction and reassignment, however, shall be made without first providing such principal, assistant principal, or supervisor with written notice of the reason for such reduction and reassignment and an opportunity to present his or her position at an informal meeting with the division superintendent, the division superintendent's designee or the school board. The principal, assistant principal, or supervisor shall elect whether such meeting shall be with the division superintendent, the division superintendent's designee or the school board. The school board, division superintendent, or the division superintendent's designee shall determine what processes are to be followed at the meeting. The decision to reassign and reduce salary shall be at the sole discretion of the school board.

The intent of this section is to provide an opportunity for a principal, assistant principal, or supervisor to discuss the reasons for such salary reduction and reassignment with the division superintendent, his designee, or the school board, 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 salary reduction and reassignment of a principal, assistant principal, or supervisor.

E. As used in this section, "supervisor" means a person who holds an instructional supervisory position as specified in the regulations of the Board of Education and who is required to hold a license as prescribed by the Board of Education.

§ 22.1-295. Employment of teachers.

A. As used in this title, "teacher" means a person who (i) is regularly employed as a classroom teacher, guidance counselor, or library-media specialist/librarian and (ii) holds a valid teaching license. The teachers in the public schools of a school division shall be employed and placed in appropriate schools by the school board upon recommendation of the division superintendent. In placing teachers, school boards shall fill positions with licensed instructional personnel qualified in the relevant subject areas.

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

C. School boards shall develop a procedure for use by division superintendents and principals in evaluating instructional personnel teachers that is appropriate to the tasks performed and addresses, among other things, student academic progress and the skills and knowledge of instructional personnel, including, but not limited to, instructional methodology, classroom management, and subject matter knowledge.

~~Instructional personnel~~ Teachers employed by local school boards who have achieved continuing term contract status shall be formally evaluated not less than once every three years in the third year of their term contract and more often as deemed necessary by the principal, and they shall be evaluated informally at least once during each of the first and second years of their term contract. ~~Any instructional personnel~~ A teacher, who has achieved continuing term contract status, ~~receiving~~ who receives an unsatisfactory formal evaluation in the first year of his term contract and who continues to be employed by the local school board shall be formally evaluated no later than one year after receiving such unsatisfactory evaluation in the second year of his term contract. The evaluation shall be maintained in the employee's personnel file. The division superintendent shall consider such evaluations, among other things, in making any recommendations to the school board regarding the nonrenewal of the term contract of any teacher.

Teachers employed by local school boards who attained continuing contract status prior to the 2013-2014 school year shall be formally evaluated at least once every three years and more often as deemed necessary by the principal, and they shall be evaluated informally during each year that they are not formally evaluated. A teacher who has achieved continuing contract status, who receives an unsatisfactory formal evaluation and who continues to be employed by the local school board shall be formally evaluated in the following year. The evaluation shall be maintained in the employee's personnel file.

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

§ 22.1-298.1. Regulations governing licensure.

A. As used in this section:

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

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

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the

183 Board of Education.

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

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

191 B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of
192 teachers and other school personnel required to hold a license. Such regulations shall include
193 requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure. The
194 Board of Education shall revoke the license of any person for whom it has received a notice of
195 dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the
196 subject of a founded complaint of child abuse or neglect, after all rights to any appeal provided by
197 § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth
198 to approve educational programs, only the Board of Education shall have the authority to license
199 teachers to be regularly employed by school boards, including those teachers employed to provide
200 nursing education.

201 Notwithstanding the provisions of this section and the Board's authority to license teachers, local
202 school boards shall be authorized to issue valid, three-year local eligibility licenses pursuant to
203 § 22.1-299.3.

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

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

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

- 213 1. Every person seeking initial licensure or renewal of a license demonstrate proficiency in the use of
214 educational technology for instruction;
- 215 2. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have
216 not completed such study shall complete study in child abuse recognition and intervention in accordance
217 with curriculum guidelines developed by the Board of Education in consultation with the Department of
218 Social Services that are relevant to the specific teacher licensure routes;
- 219 3. Every person seeking initial licensure or renewal of a license shall receive professional
220 development in instructional methods tailored to promote student academic progress and effective
221 preparation for the Standards of Learning end-of-course and end-of-grade assessments; and
- 222 4. Every person seeking licensure with an endorsement as a teacher of the blind and visually
223 impaired shall demonstrate proficiency in reading and writing Braille.

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

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

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

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

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

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

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.

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.

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 the local school board required to enter into a written contract with a temporarily employed teacher. 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~~ *permitted* by the Board of Education shall be executed by the school board with ~~such employee~~ *a teacher* 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.

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~~ *five* years in the same school division shall be required before a teacher is issued a ~~continuing term~~ *contract for a term of three years*. 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 annually based upon the evaluation procedures developed by the employing school board for use by the division superintendent and principals in evaluating instructional personnel teachers as required by subsection C of § 22.1-295. A teacher in his first year of the probationary period shall be evaluated informally at least once during the first semester of the school year. 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 term contract status.

Any teacher hired on or after July 1, 2001, shall be required, as a condition of achieving continuing term 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 term contract status for failure to obtain such training.

B. Once a continuing term 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 two years, is made a part of the contract of employment. Further, when a teacher has attained continuing term 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 two years, if made a part of the contract for employment.

C. A teacher who attained continuing contract status prior to the 2013-2014 school year in a school division in the Commonwealth may be required to serve a probationary period in any other school division of the Commonwealth, if such probationary period is made part of the employment contract. Upon separating from a school division where a teacher had previously attained continuing contract status, such teacher shall subsequently be eligible for a three-year term contract upon successful completion of any required probationary period.

D. For the purpose of calculating the three five years of service required to attain continuing term 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.

DE. Teachers holding three-year local eligibility licenses issued prior to July 1, 2012, pursuant to § 22.1-299.3 shall not be eligible for continuing term 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 five-year probationary period prior to being eligible for continuing term contract status pursuant to this section.

§ 22.1-304. Reemployment of teacher who has not achieved term contract status; effect of term contract; resignation of teacher; reduction in number of teachers.

A. If a teacher who has not achieved continuing term contract status or a teacher who is in his last year of a term contract 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 a probationary or term contract must be given by the school board on or before April June 15 of each the year. If no such notice is given a teacher by April June 15, the teacher shall be entitled to a contract, or in the case of a teacher on a term contract, a term contract for the ensuing year in accordance with local salary stipulations including increments.

B. Teachers employed after completing the probationary period shall be entitled to continuing three-year term contracts during good behavior and competent service and prior to the age at which they are eligible or required to retire except as hereinafter provided. Teachers who attained continuing contract status prior to the 2013-2014 school year shall be entitled to continuing contracts in their current school division during good behavior and competent service. 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 term~~ contract or *continuing 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 term~~ contract or *continuing 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.

G. If a school board implements a reduction in workforce pursuant to this section, such reduction shall not be made solely on the basis of seniority, but must include consideration of, among other things, the performance evaluations of the teachers potentially affected by the reduction in workforce.

§ 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 term~~ contract status or of a teacher who is in the last year of his three-year term contract, 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~~ reasons for the recommendation as provided in this section, written notice of nonrenewal of the contract by the school board must be given *either within 10 days after the time for requesting a conference has expired and the teacher has not made a timely request for a conference or, if a conference is requested, 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~~ *term* contract status *or is in the last year of a three-year term contract*, 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, *principals*, and ~~administrators~~ *supervisors*, and that mentors (i) be classroom teachers who have achieved ~~continuing term~~ contract status 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 term~~ contract status, *or who is in the last year of a three-year term contract*, ~~(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, *or (9) coaching or extracurricular activity sponsorship*.

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 contract~~. *Dismissal shall not include the failure to grant a new term contract upon the expiration of a previous contract.*

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

A. Teachers 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 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 one or more unsatisfactory performance evaluations.

§ 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 term contract or continuing 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 any teacher, principal, assistant principal, or supervisor who successfully completed his probationary period and had achieved or was eligible for continuing contract status in a school division by the first day of the 2013-2014 school year and who is employed in the same school division for the 2013-2014 school year shall continue to have continuing contract status, during good behavior and competent service, as long as he remains employed in the same school division.