

# VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

## CHAPTER 1037

*An Act to amend and reenact §§ 22.1-253.13:5, 22.1-293, 22.1-294, 22.1-295, 22.1-298, 22.1-303, 22.1-303.1, 22.1-305, and 22.1-305.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 22.1-60.1, 22.1-299.2 and 23-9.2:3.4, relating to the Education Accountability and Quality Enhancement Act of 1999.*

[H 2710]

Approved May 7, 1999

**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, 22.1-303, 22.1-303.1, 22.1-305, and 22.1-305.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 22.1-60.1, 22.1-299.2 and 23-9.2:3.4 as follows:**

*§ 22.1-60.1. Evaluation of superintendent.*

*Each local school board shall evaluate the division superintendent annually. The Board of Education shall develop guidelines for uniform performance standards and criteria to be used by local school boards in evaluating superintendents. These standards and criteria shall include, but not be limited to, assessing teacher and administrator skills and knowledge, improving student academic progress, providing for school safety and enforcing student discipline.*

*§ 22.1-253.13:5. Standard 5. Training and professional development.*

A. The General Assembly and the Board of Education find that effective educational leadership and personnel and appropriate programs of professional development and training are essential for the advancement of public education in the Commonwealth.

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

C. Consistent with the finding that leadership is essential for the advancement of public education in the Commonwealth, the Board of Education shall develop leadership standards for superintendents and principals, *which standards shall include training in the implementation of the Standards of Learning and training in the evaluation and documentation of teacher and administrator performance based on student academic progress and the skills and knowledge of instructional personnel.*

D. The Board of Education shall sponsor, conduct or provide advice on (i) training and professional development of teachers, principals, supervisors, division superintendents and other school staff; (ii) *training for all administrative and supervisory personnel in the evaluation and documentation of teacher and administrator performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel;* ~~(ii)~~ (iii) in-service programs for school board members on personnel, curriculum and current issues in education; and ~~(iii)~~ (iv) in cooperation with the Virginia Department for the Visually Handicapped, in-service programs in Braille for teachers of the blind and visually impaired. The Board shall provide technical assistance on professional development to local school boards designed to seek to ensure that all instructional personnel are proficient in the use of educational technology consistent with its Six-Year Educational Technology Plan for Virginia.

E. Each local school board shall require (i) its members to participate annually in in-service programs on personnel, curriculum and current issues in education as part of their service on the local board and (ii) require the division superintendent to participate annually in professional development activities at the local, state or national levels.

F. Each local school board shall provide (i) a program of professional development, as part of the license renewal process, to assist teachers and principals in acquiring the skills needed to work with gifted students and handicapped students and to increase student achievement, (ii) a program of professional development in educational technology for all instructional personnel, and (iii) a program of professional development for administrative personnel designed to increase proficiency in instructional leadership and management, *including training in the evaluation and documentation of teacher and administrator performance based on student academic progress and the skills and knowledge of such instructional or administrative personnel.*

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

A. A school board, upon recommendation of the division superintendent, may employ principals and assistant principals. 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 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 principals and other administrative 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 supervisors; evaluation; reassigning principal, assistant principal or supervisor to teaching position.

A. A person employed as a principal, 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.

*B. Each local school board shall adopt for use by the division superintendent clearly defined criteria for a performance evaluation process for principals, assistant principals, and supervisors that includes, among other things, an assessment of such administrators' skills and knowledge; student academic progress and school gains in student learning; and effectiveness in addressing school safety and enforcing student discipline. The division superintendent shall implement such performance evaluation process in making employment recommendations to the school board pursuant to § 22.1-293.*

C. Continuing contract status acquired by a principal, assistant principal or supervisor shall not be construed (i) as prohibiting a school board from reassigning such principal, assistant principal or supervisor to a teaching position if notice of reassignment is given by the school board by April ~~fifteenth~~ 15 of any year or (ii) as entitling any such principal, assistant principal or supervisor to the salary paid him as principal, assistant principal or supervisor in the case of any 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 a 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. 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 the highest quality instructional personnel 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. School boards shall develop a procedure for use by division superintendents and principals in evaluating instructional personnel 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.*

§ 22.1-298. Regulations governing licensure.

A. The Board of Education shall, by regulation, prescribe the requirements for licensure of teachers. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

B. Such regulations shall include:

1. A requirement that every teacher seeking initial licensure take a professional teacher's examination prescribed by the Board;

2. A requirement that persons seeking licensure on and after July 1, 2000, complete study in attention deficit disorder and gifted education, including the use of multiple criteria to identify gifted students;

3. *A requirement that persons seeking initial licensure on and after July 1, 2002, to have completed complete study in, among other things, (i) methods of improving communication between schools and families; (ii) ways of increasing family involvement in student learning at home and in school; and (iii) the Standards of Learning;*

4. A requirement that, on and after July 1, 2000, persons seeking licensure with endorsements as teachers of the blind and visually impaired demonstrate minimum proficiency in Braille; ~~and~~

5. *A requirement that persons seeking initial licensure on and after July 1, 2003, complete study 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*

6. *A requirement that persons seeking licensure renewal on and after July 1, 2004, receive training 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.*

C. 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.

D. The Board's licensure regulations shall also require that licensure for superintendents and principals, on and after July 1, 2000, be contingent upon acquiring the skills established in the Board's leadership standards.

E. Persons seeking initial licensure who graduate from Virginia institutions of higher education shall, on and after July 1, 2002, only be licensed as instructional personnel by the Board of Education if the endorsement areas offered at such institutions have been assessed by a national accrediting agency or by a state approval process, with final accreditation by the Board of Education.

F. *The Board shall prescribe a professional teacher's examination for administration by Virginia's public institutions of higher education as provided in § 23-9.2:3.4 to persons seeking entry into teacher education programs in such public institutions and shall establish a minimum passing score for such examination. The examination shall be sufficiently rigorous and the minimum score set as necessary to ensure that candidates have adequate academic and professional preparation to teach.*

*Candidates who fail to achieve the minimum score established by the Board shall not be denied entrance into the relevant teacher education programs solely on the basis of such failure and shall have the opportunity to address any deficiencies if enrolled in such program. Before completing any approved teacher education program, candidates must achieve the minimum score on the test prescribed by the Board.*

*The Board of Education, in consultation with the State Council on Higher Education, shall develop guidelines for performance reports to be submitted by the public institutions of higher education pursuant to § 23-9.2:3.4. Such reports shall include annual data on the pass rates, by institution, of graduates of Virginia's institutions of higher education taking the state licensure examination and shall not include any information identifying individual graduates.*

§ 22.1-299.2. *National Teacher Certification Incentive Reward Program and Fund.*

A. *From such funds as may be appropriated for such purpose and from such gifts, donations, grants, bequests, and other funds as may be received on its behalf, there is hereby established the National Teacher Certification Incentive Reward Program (the Program), to be administered by the Board of Education, and a special nonreverting fund within the state treasury known as the National Teacher Certification Incentive Reward Program Fund (the Fund). The Fund shall be established on the books of the Comptroller, and any moneys remaining in the Fund at the end of the biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on such funds shall remain in the Fund and be credited to it.*

*The State Treasurer shall manage the Fund, subject to the authority of the Board of Education to provide for its disbursement. The Fund shall be disbursed to award incentive grants to public school teachers obtaining national certification from the National Board for Professional Teaching Standards.*

*To the extent funds are available in the Fund, teachers who obtain national certification shall receive an initial state-funded award of \$5,000 and a subsequent award of \$2,500 each year for the life of the certificate. Such awards shall continue to be paid upon renewal of the certificate. The Board shall establish procedures for determining amounts of awards if the moneys in the Fund are not sufficient to award each eligible teacher \$5,000.*

B. *The Board may issue guidelines governing the Program as it deems necessary and appropriate.*

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

A. A probationary term of service for three years in the same school division shall be required before a teacher is issued a continuing contract. *School boards shall provide each probationary teacher, except*

*probationary teachers who have prior successful teaching experience, as determined by the local school board, 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 as required by § 22.1-295 B. 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.*

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 years of service required to attain continuing 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.

§ 22.1-303.1. Immunity from civil liability for certain individuals.

Any teacher who, in good faith, participates in conducting a peer review of another teacher or a person who conducts a review of a teacher ~~under the Beginning Teacher Assistance Program~~ *as a mentor teacher* shall be immune from civil liability for any act, omission or statement made in the performance of these duties unless such act, omission or statement was made in bad faith or with malicious intent.

§ 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 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, ~~if any including such performance evaluations~~, to the teacher and, if requested by the teacher, to his or her representative. Within ten 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 days of the request, and shall give the teacher at least fifteen 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 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 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 ~~fifteenth~~ 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; ~~provided, however, that~~ 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; ~~provided, however, that~~ 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

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. ~~As part of the Beginning Teacher Assistance Program, The Board of Education may 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 ~~support, orientation and guidance~~ *for beginning teachers 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 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.*

~~Local school boards choosing to implement mentor teacher programs shall provide the Board with any information requested concerning such programs in a timely fashion.~~

B. The Board shall serve as fiscal agent for the participating school boards in matters concerning the mentor teacher programs. The Board 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.

§ 23-9.2:3.4. Teacher education programs; reporting requirements.

A. *The boards of visitors of those public institutions of higher education providing teacher education programs shall administer the entrance examination prescribed by the Board of Education pursuant to § 22.1-298 to all persons seeking entry into such teacher education programs.*

*Notwithstanding any other provision of this title to the contrary, such boards of visitors shall not deny candidates who fail to achieve the minimum score established by the Board entrance into the relevant teacher education programs solely on the basis of such failure, and shall require achievement of such minimum passing score as a condition of completing any approved teacher education program. Students failing to achieve the minimum passing score shall have the opportunity to address any deficiencies while enrolled in such teacher education program.*

B. *All Virginia public institutions of higher education that offer teacher education programs, master's degree programs in education or master's degree programs in administration shall submit annual performance reports as set forth in Board of Education guidelines and as required by § 22.1-298 F. Such reports shall include annual data on the pass rates of graduates of such Virginia institutions of higher education taking the state licensure examination and shall not include any information identifying individual graduates.*