

County Board Policy Actions & Opportunities Under the 2019 Legislation Affecting Public Schools

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Caution!

- Today we are speaking in generalities rather than specifics
- The information provided is not legal advice
- Information in this presentation may quickly become outdated
- Always update this information to ensure accuracy when dealing with a specific matter
- Consider seeking the advice of an attorney before tackling any significant legal issue involving new school laws, new Court and Grievance Board decisions, or new Ethics Commission advisory opinions



Some reminders about policies & manuals

- Literally required
- Required, but with options
- Discretionary but localized
- One-stop-shopping
- But, regardless, CONSEQUENTIAL



In this session

- A. Policies your board must enact
- B. Necessary revisions to previously mandated policies
- C. Modifications that might be made to required policies you already have
- D. Modifications that should or might be made to optional policies
- E. New policy opportunities for your board
- F. Action steps



A.

County Boards are required to adopt these policies that, until now, they have not been required to have



1. RIF “qualification” policies

■ HB 206

- says all RIF decisions shall be based on qualifications, and
- requires county policies that define qualifications
- But then requires that only three kinds of RIF decisions be based on those policies



The 3 decisions that must be based on qualifications as defined by county policy

- Which of a school’s grade-level classroom teacher’s job (K-6) is to be eliminated in a reducing the number of classroom teachers at that grade level
- Which classroom teacher in grades K-6 may be the one “bumped” from a school by the grade-level classroom teacher whose job is eliminated
- Which applicant from the preferred recall list should be offered a posted professional vacancy



How may a policy define qualifications?

- A board must consider whether to include any or all of the 11 criteria that continue to govern the choice of the most qualified applicant for a posted professional vacancy
- If a county's policy defines qualifications using any of the 11 criteria, then the policy may do so *“only after considering personnel whose last performance evaluation . . . is less than satisfactory”*
- The policy cannot use salary in the definition of qualifications



2. Public charter school policies

- How the county board will exercise its authority as an “authorizer” of public charter schools in
 - reviewing and acting on applications to establish schools
 - overseeing and evaluating the schools
 - Deciding whether to renew school contracts
- State Board policy, due before 1/1/20 will affect the county policy
- The policy must be enacted prior to the August 2020 start of the application and approval process



3. Open enrollment policies

- Think of them as “Inter-County Student Transfer” policies
- Must be in place before 7/1/20
- Cannot require approval of a transfer by either county board of education
- Cannot exact tuition charges



Optional policy provisions

- Admission criteria
- Permissible admission priorities
 - siblings of enrollees
 - 11th/12th graders whose family moved away
 - employees’ children, grandchildren, wards
 - adjoining county students who would travel less time or distance to school
 - adjoining county students who would surmount transportation obstacles



- Capacity restrictions
- Application procedures and timelines
- Transportation (except for students with IEPs requiring it)



4. Alternatives that LSICs propose to operation of a school

- Now that LSICs submit their proposals to the county board instead of the State Board, county boards must approve or disapprove (and in some cases send the proposals to Charleston)
- House Bill 206 requires each county board to establish a process to evaluate the operation of approved LSIC alternatives to the operation of the school



B.

County boards must revise these policies that they were already required, by law, to have



1. Salary schedules

- Amend county schedules to reflect
 - the recent across-the-board increases in the state minimum teacher and service personnel salaries
 - The three-step salary increase for classroom teachers who either
 - provide math instruction in their certified area for at least 60% of the time they instruct students, or
 - are certified in special education and employed as full-time special education teachers



2. Reduction in force policies

- With the exception of decisions made under the new “qualifications” policy, three factors must now determine which professional employees the county must release in a RIF:
 - seniority,
 - certification or licensure, and
 - performance evaluations



- House Bill 206 does not direct how performance evaluations shall enter into the decision about which professional to release in a RIF
- It says only that a county “may” release from employment any classroom teacher who has unsatisfactory evaluations for the previous two consecutive years, regardless of years of service



C.

County boards may wish to modify these policies that they were already required to have, and which the new legislation allows, but does not require, them to modify



1. Laterality policies

- Lateral RIF “bumping” by professionals
 - “Classroom teachers” are by law lateral to “classroom teachers”
 - Counselors are “classroom teachers”
- For all others: county policy controls
 - Must consider/May consider
 - “The rank of each position in terms of title, nature of responsibilities, salary level, certification and/or licensure, and days in the period of employment”



2. School board effectiveness

- Links/review/guidelines policy deadline: January 2020
 - But you already have one?
- No longer file with State Board
- Annual county board/LSIC meetings are now required only for low-performing schools
 - Meeting agenda:
 - Dialogue report
 - Any county superintendent report
 - Any issues the board designates regarding performance, curriculum and progress under the school improvement plan and county's strategic improvement plan
 - Continuing written requests for information and community forums
- Annual meetings with other LSICs are allowed



D.

Although not required by law, county boards sometimes have these policies, not listed above, that should be examined for changes necessitated or expressly allowed by new legislation



1. Employee discipline policies

- SB 632 adds as grounds for the suspension or dismissal of a school employee:
 - a finding of abuse by DHHR
 - conviction of, a guilty plea to, or a plea of no contest to a misdemeanor, where the misdemeanor charge has a rational nexus between the conduct and performance of the employee's job



■ Also:

A board may now take “necessary steps to suspend or dismiss any person in its employment at any time should the health, safety, and welfare of students be jeopardized or the learning environment of other students has been impacted.”



- County superintendents must report to the State Superintendent any employee suspended or dismissed under West Virginia Code § 18A-2-8



2. LSIC policies

- None of the parent members may be employed at the school
 - Previously: One could
- Principal must now appoint one more at-large member
 - For a total of three
- In vo-tech and comprehensive schools, the director or principal now appoints up to 4 additional members



- LSIC chair is no longer term-limited
- Principal must now give at least 5 days notice of the annual organizational meeting
 - Previously: at least 2 days



- Eliminated Mandatory annual public meetings on effective discipline policies
- Added: Mandatory annual “positive and interactive dialogue” meetings about the school’s academic performance and standing



- **Eliminated:** Requirement that the county board meet annually with every LSIC
 - **But the board may if it wants to**
- **Added:** Requirement that the county board meet annually with LSICs of low performing schools



3. Professional seniority policies

- **Replaces the rule for breaking seniority ties with one that applies only when 2 or more professionals, initially employed on or after 7/1/19, have the “same certification” and same seniority “date”**
- **How to break other professional seniority ties?**



4. Personal leave policies

- Professional and service employees may now annually use 4 days of their paid personal leave without regard to the cause of the absence
 - Previously: 3 days
- \$500 year-end bonus for classroom teachers who use no more than 4 days of paid personal leave



5. Posting policies

- Classroom teacher re-postings are no longer limited to when less than 3 individuals applied during the initial posting
- Re-postings are arguably not limited, except that the opening must still be filled within 30 days of the end of the first posting period if one or more qualified persons applied under any posting



6. Transportation policies

- Regarding students who reside in other counties:
 - Free and reduced lunch status may be considered
 - Students with IEPs requiring transportation must be transported
 - Options



7. Attendance policies

- Attendance director, assistant attendance director or principal, after 3 unexcused absences and after 5 unexcused absences
 - Make meaningful contact with parent, guardian or custodian to learn
 - reasons for the absences
 - what school can do to help student avoid unexcused absences



E.

Although not required to do so, county boards might want to take advantage of new opportunities by adopting policies that are discretionary under the legislation



1. Exceptional need expense fund

- Use of surplus funds to benefit students who are likely to perform better outside the public school setting
 - services and materials that are necessary for a student's education success but are not met within the public school district
 - the amount of funds to be deposited into the fund annually



- the qualifying expenses for which the funds may be used
- measures to protect against improper use of the funds
- conditions under which payments from the fund cease
- eligibility requirements for service providers
- requirement that overpayments recaptured from refunded expenditures revert to the fund



2. Additional teacher compensation policies

- House Bill 206 allows higher pay for:
 - Certified teachers in certain subject areas where the county has critical need and shortage
 - Teachers in remote locations or schools with high turnover of experienced teachers
 - Regular teachers who also provide strong school-based support and supervision



F.

These new action steps should be assigned a high priority as we begin the new school year



- School safety program
- Preferred recall priorities
- Personal leave
- Faculty senate funds
- Student absences
- Insurance notification

