

**TRANSYLVANIA COUNTY BOARD OF EDUCATION  
RESOLUTION – TEACHER CONTRACTS**

**NOW COMES** the **TRANSYLVANIA COUNTY BOARD OF EDUCATION** (hereinafter “Board”) on this the 17<sup>th</sup> day of March, 2014 and, at this duly constituted regular meeting where a quorum of said Board is present, hereby resolve the following:

**WHEREAS**, in the Appropriations Act of 2013 (2013 N.C. Sess. Laws 36) (hereinafter “Appropriations Act”), the North Carolina General Assembly amended N.C.G.S. § 115C-325 to prohibit local boards of education from conferring career status for any additional teachers after August 1, 2013 and, effective July 1, 2018, eliminating career status for those career teachers who have previously been granted career status by a local board of education;

**WHEREAS**, while the Board takes no official position as to prospectively eliminating career status for teachers who have yet to obtain it, the Board believes that retroactively removing career status from those teachers who have already obtained it may unconstitutionally interfere with employment contracts legally issued by the Board by eliminating a vested property right from career status teachers in violation of the United States and North Carolina constitutions;

**WHEREAS**, as of the date of this Resolution, there is pending litigation regarding the legality of the Appropriations Act with respect to retroactively eliminating career status for teachers;

**WHEREAS**, the Appropriations Act includes legislation that requires superintendents to recommend, and local boards of education to offer, four-year contracts to twenty-five percent (25%) of “teachers” with three (3) consecutive years of teaching experience in the school district who have met certain standards of performance (hereinafter “25% Mandate”);

**WHEREAS**, the 25% Mandate requires that, in exchange for the four-year contract and a five-hundred dollar (\$500) pay raise for each year of the contract, beginning with the 2014-2015 school year, those teachers with career status shall voluntarily relinquish their career status;

**WHEREAS**, in order to consider the contract offer under the 25% Mandate and given the pending litigation calling into question the legality of retroactively divesting teachers of their career status, teachers will not have sufficient information to make an informed decision when they are faced with the decision to voluntarily forfeit their vested property right to career status in exchange for a four-year contract and additional compensation;

**WHEREAS**, furthermore, the language in the 25% Mandate is vague and subject to multiple, inconsistent interpretations;

**WHEREAS**, the language in the 25% Mandate does not define the term “teacher” and that term has been interpreted differently by the General Assembly’s fiscal staff and the North Carolina Attorney General;

**WHEREAS**, the Attorney General’s advisory opinion, assuming that opinion is upheld in a court of law, broadly defines “teacher” to include various classifications of employees aside from traditional classroom teachers;

**WHEREAS**, the 25% Mandate requires superintendents to recommend only those “teachers” who are “proficient” on the “teacher evaluation instrument” but fails to recognize that many categories of

employees treated as “teachers” (based on the Attorney General’s advisory opinion of that term) are not measured by “teacher evaluation instruments” that consider “proficiency”;

**WHEREAS**, there is no existing common measurements or evaluation instrument that applies to all the “teachers” (based on the Attorney General’s advisory opinion of that term) for ratings, test data, teacher effectiveness ratings or other objective measurement;

**WHEREAS**, the 25% Mandate fails as a “merit based” pay initiative in that teachers had no prior notice of the criteria necessary to earn additional compensation;

**WHEREAS**, this school system has far more than 25% of its teachers that deserve a pay raise given the excellent services the provided to our students; and therefore, the 25% Mandate process is divisive, inequitable and demeaning to our teachers;

**WHEREAS**, at this point, the 25% Mandate has only been funded for this current biennium budget and the General Assembly has not assured boards of education or teachers that adequate funds will be allocated to fund the 25% Mandate provisions for the full four (4) years;

**WHEREAS**, in the event that the General Assembly does not fund the Mandate beyond the current biennium budget, the financial obligation to fund the additional compensation for those teachers who voluntarily accept the terms of the four-year contract may fall to the Board;

**WHEREAS**, the Board is deeply concerned that the potentially unlawful and unconstitutional elimination of a vested and earned property right and the identification of only twenty five percent (25%) of Transylvania County Schools’ teachers for long-term contracts threaten to disrupt the collaborative, collegial and stable teaching and learning environments that research show are critical to higher levels of student performance.

**NOW, THEREFORE, BE IT RESOLVED** that the Board requests that the North Carolina General Assembly rescind all provisions of the Appropriations Act that eliminate career status for those teachers who already have been awarded career status; that the General Assembly restore career status to those teachers who have a vested right to career status by virtue of having been awarded career status after complying with the statutory and contractual requirements of the Board and the State of North Carolina; and allow the Board to use the funds allocated in the State budget for the 25% Mandate as part of effective and locally developed compensation plan that recruits, retains and rewards excellence in teaching; and

**BE IT FURTHER RESOLVED** that the Board has significant legal concerns and reservations regarding the 25% Mandate and its impact on the Board and its employees.

**ADOPTED** this the 17<sup>th</sup> day of March, 2014.

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Tawny McCoy, Chair

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Jeff McDaris, Superintendent