

#### **4B.2 EMPLOYMENT OF SUBSTITUTE SERVICE PERSONNEL**

The Board recognizes the need to procure the services of substitute service personnel in order to continue the operation of the schools as a result of the absence of regular service personnel.

An applicant for substitute service employment will be placed on the waiting list as of the date he/she applies for employment if her/his services are not needed immediately.

When substitutes for a particular classification are needed, the applicants with the earliest application date shall be contacted and given an opportunity to test. An applicant who passes the test and meets the other employment qualifications shall be added to the substitute calling list. If more than one substitute in a classification is hired at the same time, they shall be called to meet at the Board office during the regular business day and shall draw an object from a container. The object shall be labeled with a number that indicates the order of seniority with "1" being first in seniority and so forth. Said employees shall be assigned calling seniority in the order determined by the drawing and shall complete the seniority form along with two witnesses. In the event an affected employee is unable or unwilling to attend and/or draw, another Board employee will draw in the stead of the employee. Their names will be placed on the substitute rotation list by the help desk secretary/accountant.

The Superintendent, subject to approval of the Board, may employ and assign substitute service personnel to any of the following duties:

- A. to fill the temporary absence of another service employee,
- B. to fill the position of a regular service employee who requests and is granted a leave of absence,
- C. to fill the position of a regular service employee who is absent due to workers' compensation, or
- D. to fill the position of a regular service employee who steps up into the position of another regular service employee who is absent.

A substitute service employee accrues substitute seniority as of the first (1<sup>st</sup>) day that he/she works in a particular classification for the purpose of applying for a job. The Personnel Department shall maintain the waiting list. Substitute service personnel are employed on a rotating basis according to their length of service until each substitute has had an opportunity to perform similar assignments.

A substitute service employee who is employed to fill the position of an absent employee for more than twenty (20) days

- A. shall acquire regular employment status, with the exception of regular employee job bidding rights;
- B. does not accrue regular seniority; and
- C. is accorded all other rights, privileges, and benefits pertaining to the position until the regular employee returns.

A substitute who commits to fill a long-term absence and works in excess of 30 consecutive work days in a single assignment is eligible for the following additional benefits:

- A. paid legal holidays that fall within the period of such assignment, funded by the district;

- B. paid out-of-school environment days that fall within the period of such assignment, funded by the district; and
- C. personal leave subject to the following provisions:
  - 1. such leave must be earned prior to its use;
  - 2. such leave may be earned only during employment in a single assignment exceeding 30 consecutive work days and may not be prorated for less than 20 working days; and
  - 3. such leave may be used only during employment in a single assignment exceeding 30 work days and may not be used during subsequent assignments of less than 30 work days.

A substitute service employee must accept 50% of the assignments for which he/she is called. Refusal to accept 50% of the assignments shall constitute grounds for dismissal. The Personnel Department shall review substitute service records at the end of each semester to determine compliance with the policy.

A retired service employee may substitute a maximum of 140 days per year and may substitute in the same year in which he/she retires.

*WV Code § 18A-4-15*

#### **Critical Need and Shortage Policy**

A retired bus operator may accept employment as a substitute bus operator for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retiree is otherwise entitled provided no non-retired substitute bus operator who holds the appropriate licensure is available to accept the assignment within the parameters of this policy. A retired bus operator may be employed as a substitute bus operator in an area of critical need and shortage on an expanded basis only when no other bus operator who holds licensure and training in the area and who is not retired is available and accepts the substitute assignment.

When a retired bus operator is employed as a substitute to fill a vacant position, the county board shall continue to post the vacancy until it is filled with a regularly employed operator who is fully certified or permitted for the position. The position vacancy shall be posted electronically and easily accessible to prospective employees.

Prior to employment of a substitute bus operator under the critical need and shortage provision, the county superintendent must submit to the Consolidated Public Retirement Board (CPRB) and to the West Virginia Board of Education (WVBOE), in a form approved by the retirement board, an affidavit stating the name of the county, the fact that the county has adopted this policy to employ retired bus operators as substitutes to address areas of critical need and shortage. The form shall also include and the name(s) of the person(s) to be employed pursuant to this policy, critical need and shortage area as well as the position

filled, the date the person gave notice of intent to retire, and the effective date of the person's retirement. Affidavits will be submitted to the WVDE and CPRB on an annual basis.

A bus operator is eligible to be employed as a critical needs substitute only if the retired bus operator's retirement became effective before the first day of July preceding at least the fiscal year during which he or she is employed as a critical needs substitute. Any person who retires and begins work as a substitute bus operator under the critical need and shortage provisions within the same fiscal year in which he/she retires shall lose retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retiree substitute in that fiscal year and ending with the month following the date the retiree ceases to perform service as a substitute.

A retired bus operator employed under these critical need and shortage provisions is considered a day-to-day, temporary, part-time employee and is not eligible for additional pension or other benefits paid to regular employees. Such a substitute shall not accrue seniority.

*This policy is effective for the current ~~2023-2024~~ 2024 – 2025 school year only. The policy must be renewed by the county board annually and is subject to approval by the state board of education. The provisions allowed by this policy expire 30 June ~~2024~~ 2025.*

*WV Code ~~18A-4-15a~~*

*The West Virginia Code that authorizes this policy is scheduled to expire on June 30, 2028, unless extended by the legislature.*



Ord 2/27/25

## SUBSTITUTES IN AREAS OF CRITICAL NEED AND SHORTAGE

### Purpose

The purpose of this policy, as recommended by the Superintendent, is to provide for the employment of retired bus operators as substitutes on an expanded basis in areas of critical need and shortage.

The McDowell County Board of Education hereby adopts the definition of "area of critical need and shortage" set forth in 18A-4-15a, *Code of West Virginia*, as follows: "Area of critical need and shortage for substitute bus operators" means that the number of available qualified substitute bus operators in the county who are not retired and are available and willing to accept substitute bus operator assignments is insufficient to meet the projected need for qualified substitute school bus operators.

The Board additionally finds and determines that

- A. there presently exists within McDowell County Schools a critical need for qualified substitute bus operators,
- B. and that, there is also a shortage of available qualified substitute bus operators, who are not retired, available for cover these areas of critical need.

Accordingly, the Board hereby authorizes the employment of retired bus operators as substitute bus operators during the 2024-2025 school year on an expanded basis in those areas of critical need and shortage as noted above as is recommended by the Superintendent. In no case shall a retired bus operator be employed where there is available for employment another qualified bus operator in the area of need who is not retired and who is available and accepts the substitute assignment.

This policy shall be effective upon approval by the State Board for one (1) year only, subject to annual review by the County Board and re-approval by the State Board.

A retired bus operator is eligible to be employed as a critical needs substitute to fill a vacant position without any loss of retirement benefits attributed to the annuity reserve only if the retired bus operator's retirement became effective before the first day of July preceding at least the fiscal year during which he or she is employed as a critical needs substitute bus operator.

Prior to employment of a critical needs bus operator as a critical needs substitute bus operator beyond the post retirement employment limitations established by the Consolidated Public Retirement Board, the Superintendent shall submit to the West Virginia Board of Education in a form approved by the Consolidated Retirement Board and the West Virginia Board of Education, an affidavit signed by the Superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired bus operators as substitutes to address areas of critical need and shortage, the name of names of the person or persons to be employed as a critical needs substitute pursuant to the policy, the date that the person gave notice to the County Board of the person's intent to retire, and the effective date of the person's retirement. Upon verification of compliance with *West Virginia Code* 18A-4-15a and the eligibility of the critical need substitute school bus operator for employment beyond the post-retirement limit, the West Virginia Board of Education shall submit the affidavit to the Consolidated Public Retirement Board.

The County shall cooperate with the West Virginia Board of Education to verify the county's compliance with the requirements of West Virginia Code 18A-4-15a and verify the eligibility of the critical needs substitute school bus operator (i.e., adoption of a local policy, review and approve annually, prior to electronic posting of position opening, retirement date effective before the first day of July preceding at least the fiscal year during which he or she is employed as a critical needs substitute bus operator, and absence of a non-retired school bus operator who holds certification and training in the required area).

Any person who retires and begins work as a critical need substitute bus operator within the same fiscal year in which that person retired shall lose those retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retired critical need substitute bus operator in that fiscal year and ending with the month following the date the retiree ceases to perform service as a critical need substitute bus operator.

Retired bus operators employed to perform expanded substitute service as a critical need bus operator pursuant to policy are considered day-to-day, temporary, part-time employees. The substitutes are not eligible for additional pension or other benefits paid to regularly employed employees and shall not accrue seniority.

When a retired school bus operator is employed as a critical needs substitute to fill a vacant position, the county board shall continue to post the vacant position until it is filled with a regularly employed bus operator which is fully qualified for the position. The position vacancy shall be posted electronically and easily accessible to prospective employees as determined by the state board.

The County Superintendent shall forward a copy of this policy annually to the State Superintendent of Schools for approval by the State Board of Education prior to employment of retired bus operators on an expanded basis as substitutes in areas of critical need and shortage.

The W. Va. Code that authorizes this policy is scheduled to expire **June 30, 2028**, unless extended by the legislature; therefore, this policy shall also expire on that date.

Reference: W. Va. Code 18A-4-15a

Adopted On:  
January 18, 2024

Revised  
January 13, 2025