

Received

*Reviewed and Approved by  
Kelli Talbott on 9/13/24*

SEP 5 2024

3211

West Virginia  
Board of Education

**Braxton County Board of Education**  
**Critical Need and Shortage: Substitute Bus Operators**

**1. Purpose:**

The Superintendent has found that a critical need and shortage for substitute bus operators exists in Braxton County, West Virginia.

The Superintendent has communicated this finding to the Board and recommends that the Board adopt this policy to address a critical need and shortage for substitute bus operators.

The purpose of this policy is to provide for the employment of retired bus operators on an expanded basis to fill a critical need and shortage. The Braxton County Board of Education finds that there is a critical shortage of qualified bus operators in the district. Therefore, the employment of retired bus operators as critical need substitute bus operators during fiscal year 2024-2025 on an expanded basis in areas of critical need and shortage for substitute bus operators is hereby authorized.

**2. Definitions**

- A. "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 bus operators.

**3. Procedures**

- A. A retired bus operator may be employed as a substitute bus operator in an area of critical need and shortage for substitute bus operators on an expanded basis only when no other qualified bus operator who is not retired is available and accepts the substitute assignment.
- B. Retired bus operators employed to perform expanded substitute service pursuant to this 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 may not accrue seniority.
- C. A retired bus operator is eligible to be employed as a critical need substitute bus operator 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 need substitute bus operator.
- D. Every contract of employment for a retired bus operator to be

employed for periods beyond the post-retirement employment limitation established by the Consolidated Public Retirement Board shall include therein the following information:

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 retiree critical need substitute bus operator in that fiscal year and ending with the month following the date the retiree ceases to perform service as critical need substitute bus operator.

- E. When a retired bus operator is employed as a critical need substitute to fill a vacant position, the vacant position shall continue to be posted until it is filled with a regularly employed bus operator who is fully qualified for the position and the position vacancy shall be posted electronically and easily accessible to prospective employees as determined by the State Board.

#### **4. WEST VIRGINIA BOARD OF EDUCATION APPROVED AFFIDAVIT**

Prior to the employment of a retired bus operator on an expended basis as critical need substitute bus operator each fiscal year, the Superintendent shall submit to the State Board of Education, in a form approved by the Consolidated Public Retirement Board and the State Board, an affidavit signed by the Superintendent stating the following: name of the county; the fact that the county has adopted a policy to employ retired bus operators as substitutes to address its critical need and shortage; the name or names of the person or persons to be employed as a critical need substitute pursuant to this policy; the date the person gave notice to the county board of the person's intent to retire; and the effective date of the person's retirement.

#### **5. EFFECTIVE DATE/EXPIRATION**

This policy shall be effective for the 2024-2025 school year and shall be renewed annually by the Braxton County Board of Education and the State Board of Education. The West Virginia Code provision that authorizes this policy is scheduled to expire on June 30, 2028, unless extended by the Legislature; therefore, this policy shall be eligible for renewal through said date.

#### **6. SEVERABILITY**

If any provision of this policy or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this policy.

Legal: W. Va. Code §18A-4-15a

Last revised: September 3, 2024

Rec'd 9/10/24



Reviewed w/ K. Talbott  
Approved on 9/16/24  
JAP

### Agenda Item Details

Meeting	Aug 12, 2024 - Preston County Board of Education
Category	4. Policy / Review Adoption
Subject	A. PCS Policy R 8-39-9: Retired Teachers as Substitutes in Areas of Critical Need
Access	Public
Type	Action
Recommended Action	Recommend the Board approve the PCS Policy 8-39-9 on second read for final approval.

### Public Content

[criticalneedpolicy-07172024105907.pdf \(1,009 KB\)](#)

### Administrative Content

### Executive Content

### Motion & Voting

Recommend the Board approve the PCS Policy 8-39-9 on second read for final approval.

Motion by Cross Kisner, second by Jeff Zigray.

Final Resolution: Motion Carries

Yes: Jeff Zigray, Lucas Tatham, Cross Kisner, Michael Hovatter, Shelley Miller

## R 8 -39-9 Retired Teachers as Substitutes in Areas of Critical Need

Pursuant to current law (§ISA-2-3), the Preston County Board of Education shall, as necessary, exercise its option to use retired teachers as substitute teachers in areas of critical need and shortage for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retired employee is otherwise entitled.

*"Area of critical need and shortage for substitute teachers" means an area of certification and training in which the number of available substitutes teachers in the county who hold certification and training in that area and who are not retired is insufficient to meet the projected need for substitute teachers. Guidance counselors cannot be designated as areas of critical need and shortage.*

Upon the recommendation of the Superintendent, the Preston County Board of education shall renew its policy annually and shall submit it to the WVBE annually for its approval. This policy is effective for the ~~2023-2024~~ ~~2024-2025~~ school term only; therefore, the Preston County Board of Education shall be obligated to submit a new policy for subsequent years.

The following conditions and criteria shall be met in the employment of retired employees as substitute teachers in an area of critical need and shortage:

- \*A retired teacher may be employed as a substitute teacher in an area of critical need and shortage on an expanded basis as provided in the code only when no other teacher who holds certification and training in the area and who is not retired is available and accepts the substitute assignment;
- \* Prior to employment of a substitute teacher beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the Superintendent shall submit to the Consolidated Public Retirement Board and the WVBE, on a form approved by the Consolidated Retirement Board, an affidavit signed by the Superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, the name or names of the person or persons to be employed pursuant to the policy, the critical need and shortage area position filled by each person, 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.
- \* The WVBE must verify the county's compliance with the requirements of §18A2-3 and verify the eligibility of the critical needs substitute teacher. Therefore, all affidavits must be submitted to the WVBE as well as the retirement board (i.e., adoption of local policy, prior electronic posting of position opening, retirement date effective at least 20 days prior to school term, continuous and ongoing posting seeking fully certified non-retired teacher, and absence of a non-retired teacher who holds certification and training in the required area).
- \* Any person who retires and begins work as a critical needs substitute teacher within the same employment term shall lose those retirement benefits attributed to the annuity reserve, effective from

the first day of employment as a retiree substitute in that employment term and ending with the month following the date the retiree ceases to perform service as a substitute.

\* A retired teacher is eligible to be employed as a critical needs substitute teacher to fill a vacant position without any loss of retirement benefits attributed to the annuity reserve only if the retired teacher'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 teacher.

\* Retired teachers employed to perform expanded substitute service pursuant to this 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 teacher is employed as a critical needs substitute the county board shall continue to post the vacant position until it is filled with a regularly employed teacher who is fully certified or permitted for the position.

\* When a retired teacher is employed as a critical needs substitute to fill a vacant position, the position vacancy shall be posted electronically and easily accessible to prospective employees.

The provisions of §18A-2-3 shall expire on June 30, 2025.

The individual area(s) of critical need and/or shortage for the ~~2023-2024~~ 2024-2025 school term have been identified as:

Elementary Education

Math ~~(Middle/High)~~

PE/Health (K-12)

Special Education (K-12)

Speech Language Pathologist (PK-12)

Counselors (PK-12)

Wayne Cty / Teachers  
Filed 9/25/24

Reviewed w/ Keeli Talbott  
on 9/24/25 + Approved  
JHP

## 3120.12 - 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 teachers as substitutes on an expanded basis in areas of critical need and shortage.

The Board of Education hereby adopts the definition of "area of critical need and shortage" set forth in West Virginia Code 18A-2-3 as follows: "Area of critical need and shortage for substitute teachers" means an area of certification and training in which the number of available substitute teachers in the District who hold certification and training in that area and who are not retired is insufficient to meet the projected need for substitute teachers. Teacher or substitute teacher includes speech pathologists, school nurses, and guidance counselors.

The Board additionally finds and determines that:

- A. there presently exists within the County a critical need for substitute teachers in the areas of:
  1. Administration
  2. Art
  3. Mathematics
  4. Science
  5. Special Education (All Areas)

- B. and that, there is also a shortage of available certified substitute teachers, who are not retired, available to cover these areas of critical need.

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

This policy shall be effective upon approval by the West Virginia Board of Education for the 2024-2025 year only, subject to annual review by the County Board and re-approval by the West Virginia Board of Education.

Prior to employment of a retired teacher, as a critical needs substitute teacher beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board ("Retirement Board"), the Superintendent shall submit to the West Virginia Board of Education in a form approved by the 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 teachers as substitutes to address areas of critical need and shortage, the name or names of the person or persons to be employed as a critical needs substitute pursuant to the policy, the critical need and shortage area position filled by each person, 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-2-3 and the eligibility of the critical needs substitute teacher for employment beyond the post-retirement limit, the West Virginia Board of Education shall submit the affidavit to the Retirement Board. Prior to any retirant becoming employed on a temporary full-time or temporary part-time basis by the county, the county shall notify the Retirement Board and the retirant, in writing, if and when the retirant's potential temporary employment will negatively impact the retirant's retired status or benefits. Upon the retirant's acceptance of either temporary full-time or temporary part-time employment, the employer shall notify the Retirement Board, in writing, of the retirant's subsequent employment.

The County Board shall cooperate with the West Virginia Board of Education to verify the county's compliance with the requirements of this code section and verify the eligibility of the critical needs substitute teacher (i.e., adoption of local policy, prior electronic posting of position opening, retirement date effective before the first day of July, preceding at least the fiscal year during which s/he is employed, continuous and ongoing posting seeking fully certified non-retired teacher, and absence of a non-retired teacher who holds certification and training in the required area).

When a retired teacher is employed as a substitute to fill a vacant position, the County shall continue to post the vacant position until it is filled with a regularly employed teacher who is fully certified or permitted for the position.

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

A retired teacher is eligible to be employed as a critical needs substitute to fill a vacant position only if the retired teacher's retirement became effective before the first day of July preceding at least the fiscal year during which s/he is employed as a substitute.

Every contract of employment for such retired teachers to be employed for periods beyond the post-retirement employment limitation established by the consolidated public retirement board shall include therein the following information:

Any person who retires and begins work as a substitute teacher within the same fiscal year shall lose those retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retiree critical needs substitute teacher in that fiscal year and ending with the month following the

date the retiree ceases to perform service as a critical needs substitute teacher.

Retired teachers employed to perform expanded substitute service provided in this 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.

The West Virginia Code provision that authorizes this policy is scheduled to expire on June 30, 2025, unless extended by the Legislature.

WV Code 18A-2-3

WV Code 18-7A-38



Reviewed w/ H. Talbott & Approved  
on 9/16/24  
Received  
JHP

SEP 16 2024

Book	Policy Manual	West Virginia Board of Education
Section	Board Corrections	
Title	Copy of AREAS OF CRITICAL NEED AND SHORTAGE FOR SUBSTITUTE BUS OPERATORS	
Code	po4120.12	
Status		
Adopted	November 27, 2023	

**4120.12 - AREAS OF CRITICAL NEED AND SHORTAGE FOR SUBSTITUTE BUS OPERATORS**

**Bus Operators**

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

The Board of Education hereby adopts the definition of "area of critical need and shortage" set forth in West Virginia Code 18A-4-15a 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 bus operators.

The Board additionally finds and determines that:

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

Accordingly, the Board hereby authorizes the employment of retired bus operators as substitute bus operators during the ~~2023-2024~~ 2024-2025 school year on an expanded basis in this area of critical need and shortage noted above as is recommended by the Superintendent. In no case shall a retired substitute bus operator be employed where there is available for employment another qualified bus operator who is not retired and who will accept the substitute assignment.

This policy shall be effective upon approval by the West Virginia Board of Education for the ~~2023-2024~~ 2024-2025 year only, subject to annual review by the County Board and re-approval by the West Virginia Board of Education.

Prior to employment of a retired bus operator as a critical need substitute bus operator beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the county superintendent submits to the state board in a form approved by the Consolidated Public Retirement Board and the state board, 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 its critical need and shortage, the name or names of the person or persons to be employed as a critical need 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 this section and the eligibility of the critical need substitute bus operator for employment beyond the post-retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement Board.

The County Board shall cooperate with the West Virginia Board of Education to verify the county's compliance with the requirements of WV Code and verify the eligibility of the critical needs substitute bus operator (i.e., adoption of local policy, prior electronic posting of position opening, retirement date effective before the first day of July, preceding at least the

fiscal year during which s/he is employed, continuous and ongoing posting seeking fully qualified non-retired bus operators, and absence of a non-retired bus operator who holds qualification and training in the required area).

When a retired bus operator is employed as a substitute to fill a vacant position, the County shall continue to post the vacant position electronically and easily accessible to prospective employees until it is filled with a regularly employed bus operator who is fully qualified for the position.

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

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 s/he is employed as a critical need substitute.

Every contract of employment for such retired bus operator to be employed for periods beyond the post-retirement employment limitation established by the consolidated public retirement board shall include therein the following information:

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

Retired bus operators employed to perform expanded substitute service provided in this 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.

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

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WV Code 18A-4-15a