

**CRITICAL NEED AND SHORTAGE: SUBSTITUTE BUS OPERATORS**

**1.0 Purpose**

The Superintendent has found that a critical need and shortage of substitute bus operators exist in Mercer County, West Virginia.

The purpose of this policy is to provide for the employment of retired bus operators on an extended basis to fill a critical need and shortage. The Mercer County Board of Education finds that there is a critical need and shortage. The Mercer 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 a retired bus operator as a critical need substitute bus operator during the fiscal year 2025-2026 on an expanded basis in areas of critical need and shortage for the substitute bus operator is hereby authorized.

**2.0 Definitions**

- 2.1 “Area of Critical Need and Shortage of Bus Operators” means that the number of available and qualified substitute bus operators in the county who are not retired and are available and willing to accept a substitute bus operator assignment is insufficient to meet the projected need for qualified substitute bus operators.

**3.0 Procedures**

- 3.1 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 extended basis only when no other qualified bus operator who is not retired is available and accepts the substitute assignment.
- 3.2 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 a regularly employed employees and may not accrue seniority.
- 3.3 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.
- 3.4 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 the 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

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- following the date the retiree comes to perform service as a critical need substitute bus operator.
- 3.5 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.
- 3.6 Prior to the employment of a retired bus operator on an extended basis as critical need substitute bus operator each fiscal year, the Superintendent shall submit to the State Board of Education, on a form approved by the Consolidated Retirement Board and the State Board, an affidavit signed by the Superintendent stating the following:
- Name of county;
  - The fact that the county has adopted a policy to employ a retired bus operator 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.
- 3.7 Upon verification of compliance with West Virginia Code 18A-2-3 and the eligibility of the critical needs substitute service personnel 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.
- 3.8 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.
- 3.9 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 service personnel (i.e., adoption of local policy, prior electronic posting of position opening, before the first day of July preceding at least the fiscal year during which he or she is employed as a critical needs substitute service personnel, continuous and ongoing posting seeking fully certified non-retired service personnel and absence of a non-retired service personnel holds certification and training in the required area).

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- 3.10 When a retired service personnel 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 as determined by the state board, provided that:
1. The posting is only required to occur once at the beginning of the year and once mid-year,
  2. The section does not apply when filling a service position of a regular service personnel on leave of absence, and
  3. This section does not apply when a position is filled with a regularly employed service personnel who is fully certified or permitted for the position, but the service personnel is not available at the time he or she accepts the position.
- 3.11 The County Superintendent shall forward a copy of this policy annually to the State Superintendent of Schools for approval by the West Virginia State Board of Education for approval by the West Virginia State Board of Education prior to employment of retired service personnel on an expanded basis as substitutes in areas of critical need and shortage.
- 3.12 Retired service personnel are 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 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 service personnel.
- 3.13 Every contract of employment for such retired service personnel to be employed for periods beyond the post-retirement employment limitation established by the consolidated public retirement board shall include therein the following information:
- 3.14 Any person who retires and begins work as a substitute service personnel 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 service personnel in that fiscal year and ending with the month following the date the retiree ceases to perform service as a critical needs substitute service personnel.
- 3.15 Retired service personnel 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 pensions or other benefits paid to regularly employed employees and shall not accrue seniority.

**4.0 Policy**

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- 4.1 This policy shall be effective for the 2025 – 2026 school year and shall be renewed annually by the Mercer County Board of Education and the State Board of Education.
- 4.2 The West Virginia Code provision that authorizes this policy is scheduled to expire on June 30, 2030, unless extended by the Legislature, therefore, this policy shall be eligible for renewal throughout the state.

**5.0 Severability**

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

Authority: W.Va. Code §18A-4-15a

Date(s): 04/08/24, 10/14/24, 8/25/25