

PERSONNEL

CRITICAL NEED/SHORTAGE - RETIRED BUS OPERATORS

1. PURPOSE

The Legislature has authorized county boards of education experiencing a shortage of qualified substitute bus operators to expand the use of retired bus operators to provide service as substitute bus operators in an area of critical need and shortage. Subject to certain conditions, a retiree may accept employment as a critical needs substitute bus operator for an unlimited number of days each fiscal year without affecting the monthly retirement benefit to which the retirant is otherwise entitled under W.Va. Code 18-7A-1 et seq.

2. DEFINITION

“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. FINDINGS

- 3.1. The Superintendent has informed the Board that a critical need and shortage for substitute bus operators exists in Berkeley County, West Virginia.
- 3.2. The Superintendent has recommended that the Board adopt this policy to address a critical need and shortage for substitute bus operators.

4. AUTHORIZATION

The employment of retired bus operators as critical need substitute bus operators during fiscal year 2025-2026 on an expanded basis in areas of critical need and shortage for substitute bus operators is hereby authorized.

5. POLICY

- 5.1. 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 expanded basis only when no other qualified bus operator who is not retired is available and accepts the substitute assignment.
- 5.2. 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 regularly employed employees and may not accrue seniority.
- 5.3. 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.
- 5.4. 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 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.

- 5.5. 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.

6. WEST VIRGINIA BOARD OF EDUCATION APPROVAL/AFFIDAVIT

Prior to the employment of a retired bus operator on an expanded 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.

7. EFFECTIVE DATE/EXPIRATION

This policy shall be effective for the 2025-2026 school year and shall be renewed annually by the Berkeley 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.

8. SEVERABILITY

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

Authority: W.Va. Code §18A-4-15a
Adopted: 09/05/2023, 10/7/24; 10/20/25



Book	Policy Manual
Section	4000 Service Personnel
Title	AREAS OF CRITICAL NEED AND SHORTAGE FOR SUBSTITUTE BUS OPERATORS
Code	po4120.12
Status	Active
Adopted	November 13, 2023
Last Revised	October 27, 2025

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 area 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 2025-2026 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 2025-2026 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. Such posting will only be required once at the beginning of the year and once mid-year. This does not apply when filling a bus operator position of a regular bus operator on leave of absence, nor does it apply when a position is filled with a certified bus operator, but the bus operator is not available at the time the bus operators accepts 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, 2030, unless extended by the legislature.

Revised 11/24/24

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WV Code 18A-4-15a