

**PERSONNEL**

**CRITICAL NEED/SHORTAGE - SUBSTITUTE TEACHER**

**1. PURPOSE**

In accordance with W. Va. Code §18A-2-3(c), the purpose of this policy to address Areas of critical need and shortage of substitute teachers and to provide for the employment of retired teachers as critical needs substitute teachers during the school year on an expanded basis in areas of critical need and shortage for substitute teacher beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board.

**2. FINDINGS**

The Berkeley County Board of Education hereby finds and determines that:

2.1. There presently exists within Berkeley County, West Virginia, an insufficient number of available substitute teachers who hold appropriate certification and training to meet the projected need for substitute teachers in the following areas of critical need and shortage: English, Language Arts, Reading Specialist, English as a Second Language (ESL), Elementary Education, Pre-K, School Library-Media, Art, Foreign Languages, Science (Chemistry, General Science, Earth, Physics, and Biology), Mathematics, Driver's Education, Family & Consumer Science, Physical Education/Health, Industrial Arts, Technical Education, Social Studies, Business Education/Marketing, Speech Language Pathologist, School Nurse, School Counselor, and Special Education (all categories).

2.2. The Superintendent has recommended that the Berkeley County Board of Education address the shortage of substitutes in the areas of critical need by adopting a policy permitting retired teachers to substitute for an unlimited number of days in order to help alleviate shortages in the areas of critical need identified in section 2.1 of this policy.

**3. POLICY**

3.1. The Berkeley County Board of Education hereby adopts this policy to permit retired teachers to substitute for an unlimited number of days in the school year, without affecting such retiree's monthly retirement benefit, in order to alleviate the critical needs and shortages identified in section 2.1 of this policy, in accordance with the provisions of W. Va. Code §18A-2-3 and §18-7A-38.

3.2. Retired teachers may be employed in areas of critical need and shortage on this expanded basis only when no other qualified teacher who holds certification and training in the area and who is not retired is available and accepts the substitute assignment.

3.3. Any person who retires and begins work as a substitute teacher within the same fiscal year shall lose the retirement benefits attributed to the annuity reserve, effective from the first day of the 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.

3.4. Retired teachers employed to perform expanded substitute service pursuant to this policy are considered day-to-day, temporary, part-time employees. The substitute is not eligible for additional pension or other benefits paid to regularly employed employees and shall not accrue seniority.

3.5. A retired teacher is eligible to be employed as a critical needs substitute to fill a vacant position only when 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 critical needs substitute.

3.6. When a retired teacher is employed as a substitute to fill a vacant position, the position shall continue to be posted until it is filled with a regularly employed teacher. The position vacancy shall be posted electronically and easily accessible to prospective employees.

#### **4. EFFECTIVE DATE**

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 W. Va. Code provision that authorizes this policy is scheduled to expire June 30, 2030, unless extended by the legislature; therefore, this policy shall be eligible for renewal through said date.

#### **5. WEST VIRGINIA BOARD OF EDUCATION APPROVAL**

The superintendent shall submit a copy of this policy to the West Virginia Board of Education for its approval prior to employment of a retired teacher as a substitute beyond the period now permitted without affecting the retired teacher's monthly retirement benefits.

#### **6. AFFIDAVIT**

Prior to the employment of any retired teacher as a substitute beyond the post-retirement employment limitations established by the Consolidated Public Retirement Board, the Superintendent shall submit to the state board of

education, an affidavit, in a form approved by said retirement board and the state board, stating the name of the county, the fact that the Berkeley County Board of Education has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage and the name(s) of the person(s) to be employed pursuant to this 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 W. Va. Code §18A-2-3 and the eligibility of the critical needs substitute teacher for employment beyond the post-retirement limit, the state board shall submit the affidavit to the Consolidated Public Retirement Board.

## **7. 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.

Adoption Date: 10/18/04; 01/05/05; 11/07/05; 12/15/08; 10/3/11; 11/05/12; 10/21/13; 10/05/2015; 12/5/2016; 11/6/2017; 11/05/2018; 11/04/2019; 01/06/2020; 11/02/2020; 5/3/2021; 10/5/21; 10/17/22; 09/05/23, 10/7/24; 10/20/25

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### **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 County 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 school 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. Special Education (all categories)
2. Language Arts, Reading
3. English
4. Mathematics
5. Science (all categories)
6. Foreign Languages
7. English as a Second Language
8. Speech Language Pathologists
9. School Psychologists
10. Elementary Education
11. Pre-K
12. Art
13. Health and PE
14. Driver Education

16. Agricultural Education

17. Business Education

18. School Counselor

19. School Nurse

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 2025-2026 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 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 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 retiree becoming employed on a temporary full-time or temporary part-time basis by the County, the County shall notify the Retirement Board and the retiree, in writing, if and when the retiree's potential temporary employment will negatively impact the retiree's retired status or benefits. Upon the retiree's acceptance of either temporary full-time or temporary part-time employment, the employer shall notify the Retirement Board, in writing, of the retiree'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. Such posting will only be required once at the beginning of the year and once mid-year. This does not apply when filling a teaching position of a regular teacher on leave of absence, nor does it apply when a position is filled with a regularly employed teacher who is fully certified or permitted for the position, but the teacher is not available at the time s/he 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 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.

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.

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.

A retired teacher 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 teacher's retirement became effective before the first day of July preceding the fiscal year during which s/he is employed as a critical needs substitute.

The West Virginia Code that authorizes this policy is scheduled to expire June 30, 2030, unless extended by the legislature.

Revised 11/12/24

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WV Code 18A-2-3

WV Code 18-7A-38

