



Commonplace Issues

October 29, 2025

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Personnel Issues

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Personnel Issues



Worker's Compensation

- An employee works 85 days and then is on worker's compensation for the remainder of their contract. Do they get a year's experience for pay purposes?
 - It depends...
 - According to WVDE [Policy 5612: Worker's Compensation](#), the answer depends on what option the employee selects when applying for worker's compensation.
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Personnel Issues



Early Retirement Bonus

- A teacher provides notification of their retirement by the deadline but will not be retiring until the end of July due to working in summer school. Is this teacher still eligible for the bonus?
 - Yes.
 - Because the teacher will not work any days in the following school year, the county board will have sufficient time to fill the position, consistent with the intent of the early retirement bonus.
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Personnel Issues



Grow Your Own Program

- Should current students participating in this program be paid through payroll as actual employees?
 - Yes
 - Students should complete signed timesheets documenting contact hours worked toward the 2,000-hour certification requirement under the program.
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Personnel Issues



Personal Leave Accrual

- Should the leave accrued during a summer term be separated from the leave accrued during the regular term?
 - Yes.
 - Many Summer terms only last 20-40 days. This would allow for 1.5 to 3 days of leave to be accrued during this term.
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Personnel Issues



Educational Interpreter

- Can an educational interpreter serve as the teacher of record for a student who is deaf or hard of hearing (DHH)?
 - No.
 - This is true even if the LEA does not have a certified DHH teacher.
 - While educational interpreters can be classified as service or professional personnel depending on their qualifications, they are not classified as certified instructional staff.
 - Service personnel and non-instructional personnel cannot serve as the "teacher of record"
 - "Service person" or "service personnel", whether singular or plural, means a nonteaching school employee who is **not included in the meaning of "teacher". (WV Code 18A-1-1).**
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Personnel Issues



Pay Grade H Positions

- Are county boards of education permitted to have more employees in pay grade H than they did in 1988?
 - No
 - The board may not employ a number of such personnel whose minimum monthly salary...is specified as **pay grade "H", which number exceeds the number employed by the board on March 1, 1988. (WV Code 18A-2-5).**
 - **This only applies to true Pay Grade H positions:**
 - Director of Coordinator of Services
 - Programmer
 - Supervisor of Maintenance
 - Supervisor of Transportation
 - The Office of School Finance will be having discussions about removing this restriction from WV Code.
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Personnel Issues



Jury Duty Pay

- Should county boards of education cover the difference between an employee's salary and their jury duty pay when the employee is serving as a juror and being paid by the court?
 - Yes.
 - WV Code 18A-5-3
 - In the case of service on a jury the board shall pay the difference between that allowed for such jury service and the amount of salary due the person for such period of time.
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Personnel Issues



Independent Contractor Identification

- How is a county board of education supposed to identify an independent contractor for tax purposes?
 - Numerous specifications must be met in order to qualify as an independent contractor.
 - Behavioral control
 - Financial control
 - Relationship/contract terms
 - Opportunity for profit/loss
 - Duration and exclusivity
 - Right to hire their own workers
 - [West Virginia Code | §21-5I-4](#)
 - [2025 Publication 15-A](#)
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Personnel Issues



College Credit for Vocational Hours (Service Personnel)

- How are vocational hours applied as college credit for service personnel pay?
 - Each 15 contact hours of training is equivalent to one semester hour of college credit.
 - [WVDE Policy 5314](#)
 - 6.2.c. Comparable credit. **Each 15 contact hours of training** obtained in a postsecondary program from an approved trade, vocational, technology, business, or similar institution **shall be equivalent to one semester hour of college credit.** Comparable credit shall be granted even if those contact hours are also counted toward meeting annual professional learning requirements.
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Personnel Issues



Speech Language Pathologists (SLPs)

- Can a county board of education independently contract with SLPs?
 - No
 - County boards cannot independently contract for service personnel or teachers.
 - SLPs are classified as classroom teachers, therefore, it is illegal to contract for their services.
 - [WV Code 18A-2-2](#)
 - March 17th, 2020, grievance decision that defined SLPs as classroom teachers: [2020-0238-BarED](#)
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Personnel Issues



Service Personnel Pay

- If a county board hires a service person for only 5 hours a day, how much pay are they entitled to?
 - Full days pay.
 - WVC 18A-4-8a
 - (1) the minimum monthly pay for each service employee whose employment is for a period of more than three and one-half hours a day shall be at least the amounts indicated in the State Minimum Pay Scale Pay Grade Schedule
 - ...and the minimum monthly pay for each service employee whose employment is for a period of three and one-half hours or less a day shall be at least one-half the amount indicated in the State Minimum Pay Scale Pay Grade Schedule
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Personnel Issues



Substitute Pay

- A retired paraprofessional (pay grade F) comes back to work as a substitute Aide IV (pay grade D). What pay grade should the employee be paid?
 - Pay grade D
 - The pay grade that an employee was paid at the time of their retirement has no bearing on what they will be paid as a substitute. Service personnel are always compensated based on the specific position being filled.
 - WV Code 18A-4-15
 - (d)The salary of a substitute service person is determined:
 - (1) Based upon his or her years of employment as defined in section eight of this article;
 - (2) As provided in the state minimum pay scale set forth in section eight-a of this article; and
 - (3) In accordance with the salary schedule of persons regularly employed in the same position in the county in which he or she is employed.
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Personnel Issues



Substitute Benefits

- If a county board of education has a position filled with a long-term substitute, does the 30-day rule for benefits reset at the beginning of each fiscal year?
 - Yes.
 - WVDE legal counsel has stated that, in their opinion, the benefits would reset annually due to the fact that the sub is filling a position that is on a fiscal year contract. Ultimately, since the position's regular contract resets annually, so would the benefits afforded to a sub filling the position.
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Personnel Issues



Substitute Pay

- Do the 30 days worked need to be consecutive for a substitute to earn the higher rate of pay?
 - No, but it does need to be in the same position.
 - Example: Employee subs for a 6th grade teacher for 36 days. Later in the school year, they sub for the same 6th grade teacher 4 days. Should the 4 days be paid at the higher rate?
 - Yes.
 - January 25, 1991, grievance decision: [90-18-418](#)
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Personnel Issues



Substitute Pay

- A county board of education employs a substitute teacher with an associate's degree. At what level should this person be paid?
 - It depends...
 - WV Code 18A-4-1
 - (3) "Third class" means all certificates previously identified as: (a) "Standard normal certificates"; and (b) "third class temporary (**sixty-four semester hours**) certificates".
 - (4) "Second class" means all certificates previously identified as "second class temporary certificates based upon the required **ninety-six hours** of college work".
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Personnel Issues



Duty-Free Lunch and Planning Periods

- When should professional and service personnel receive a planning period or duty-free lunch?
 - WV Code 18A-4-14
 - Every teacher who is employed for a period of time more than **one half the class periods of the regular school day** and every service person whose employment is for a period of **more than three and one-half hours per day**...shall be provided a daily lunch recess of not less than thirty consecutive minutes, and the employee shall not be assigned any responsibilities during this recess.
 - Every teacher who is regularly employed for a period of time more than **one half the class periods of the regular school day** shall be provided at least one planning period within each school day...No teacher may be assigned any responsibilities during this period, and no county shall increase the number of hours to be worked by a teacher as a result of such teacher being granted a planning period.
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Personnel Issues



Military Leave

- If an employee is on military leave without pay, will health and life insurance benefits continue without interruption?
 - It depends...
 - An employee who is on an approved military leave of absence without pay, due to an active call of duty from the President, is entitled to continue health and life benefit coverage **for as long as premium payments are made. The employee is responsible for paying the employee share of the premium costs for each month during the military leave of absence, and the employer is required to pay its share.**
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Personnel Issues



Donation of Pay

- If an employee would like to donate their coaching stipend to a local charity anonymously, how should this be handled?
 - The county board would need to pay the employee, and the donation could be handled two different ways...
 - The county board of education could set up a deduction code to have the net pay deducted from the employee and remit the amount to the local charity.
 - The employee could simply make an anonymous donation to the local charity once they receive their stipend.
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Personnel Issues



Planning Period Pay

- What compensation plan should be in place for instances where teachers must give up their planning period to cover other classrooms?
 - The county board of education should approve a rate that will be paid to teachers that give up their planning period to cover other classrooms.
 - This could be included in a formal board-approved policy or as a standalone item that the board approves.
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Personnel Issues



Overtime Pay

- If an employee's normal work week consists of a 37.5 hours and they work 39 hours, should they receive overtime pay?
 - In most cases, No.
 - FLSA guidance is specific to "hours worked". Any "hours worked" over 40 hours is to receive overtime pay.
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Personnel Issues



Overtime Pay

- If service personnel perform extracurricular or extra duty work in a week which contains a school holiday, are they entitled to 1.5 pay for this work even if this additional work does not put them over 40 hours for the week?
 - Yes.
 - January 31, 1990, grievance decision: [Docket No. 01-88-259](#)
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Personnel Issues



Overtime Pay

- If, during a week that contains a school holiday, a service personnel employee works over 40 hours, do they receive 1.5 pay?
 - Yes, but please keep in mind...
 - This could be particularly difficult in the scenario below:
 - Employee works an extra curricular or extra duty job during the week of a holiday, qualifying them for 1.5 pay even though they are under 40 hours for the week
 - Employee picks up additional work which also puts them over 40 hours worked for the week. The 1.5 pay here would need to be calculated using a blended rate.
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Personnel Issues



Bus Driver Pay

- If a bus driver works 2.5 hours in the morning, 2.5 hours in the afternoon and works in the middle for 6 hours totaling 11 hours per day (55 hours per week), are they entitled to any overtime? and if so, how would that be calculated?
 - Yes
 - Nonexempt employees are entitled to overtime for any hours worked over 40 hours in a week's time. The employee should have been paid overtime for 15 hours at what FLSA refers to as the "blended rate." This is essentially a weighted average of compensation earned throughout the week.
 - FLSA guidance is specific to "hours worked". Any "hours worked" over 40 hours is to receive overtime pay.
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Personnel Issues



Bus Driver Pay

- If a bus driver is off work Monday-Wednesday and comes back to work Thursday and Friday (8 hours each day), then does a 6-hour trip on Saturday, are they entitled to overtime pay?
 - No, But...
 - WVC 18A-4-8(e) states the following: If a service person whose regular work week is scheduled from Monday through Friday agrees to perform any work assignments on a Saturday or Sunday, the service person is paid for at least one-half day of work for each day he or she reports for work. If the service person works more than three and one-half hours on any Saturday or Sunday, he or she is paid for at least a full day of work for each day.
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Personnel Issues



Personal Leave Banks

- Are employees in different counties able to donate leave days to each other?
 - No
 - §18A-4-10c. Personal leave banks for care givers.
 - (i) He or she is an employee of the same county board of education as the care giver;
 - §18A-4-10d. Use of personal leave days by surviving spouse in certain circumstances.
 - (1) "Surviving spouse" means an employee of a county board whose spouse was also employed by the same county board at the time of his or her death; and
 - (2) "Deceased spouse" means a person who, at the time of his or her death, was employed by the same Board of Education as his or her spouse.
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Personnel Issues



Years of Experience

- What years of experience should be granted to service personnel who have worked in the same field outside of a county board of education?
 - None, with one exception.
 - West Virginia Code §18A-4-8(i)
 - "Years of employment" means the number of years which an employee classified as a service person has been employed by a county board in any position...and includes service in the Armed Forces of the United States, if the employee was employed at the time of his or her induction.
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Personnel Issues



Years of Experience

- If a CTE teacher for health care previously worked as a nurse for several years, should her time as a nurse count as years of experience for certified list and pay purposes?
 - It depends...
 - Nursing experience gained outside of the education realm **must be granted for “years of experience” when the individual is employed as a nurse** in the school system, but if the individual is employed as a teacher, only their “years of experience” in the teaching profession would apply.
 - However, if a nursing license is required in order to teach the course, then the individual should be granted the additional years of experience.
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Personnel Issues



Years of Experience

- If a service personnel moves to a professional position, can they bring their years of experience with them?
 - No.
 - If a professional personnel moves to a service personnel position, can they bring their years of experience with them?
 - Yes.
 - WVC 18A-4-1(1) states that “Years of experience” (for professional personnel) means the number of years the teacher has been **employed in the teaching profession**.
 - “Years of employment” for service personnel means the number of years which an employee classified as service personnel has been **employed by a board in any position**.
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Personnel Issues



Paraprofessionals

- If an aide, with a paraprofessional certificate, is working in a classroom and the county is unable to get a substitute teacher, is the aide able to instruct the class for any amount of time with administration checking in occasionally?
 - No.
 - WV Code 18A-5-8. Authority of certain aides to exercise control over students
 - (b) The authority...does **not** extend to...performing instructional duties as a teacher or substitute teacher.
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Personnel Issues



Calculating the 1/7th Daily Rate

- On what amount should the 1/7th calculation be based?
 - Total Daily Salary
 - This amount includes an employee's wage or salary earned through the **entire day**.
 - Includes the combination of **both** a normal assignment and a supplemental assignment
 - September 29, 1993, grievance decision: [93-22-082](#)
 - If the daily rate of an employee is not the same for each day worked, the 1/7th daily rate **must be calculated for each day that the extra-duty assignment is worked.**
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Personnel Issues



Executive Secretaries

- Can any school secretary be classified as an executive secretary?
 - No.
 - Only secretaries who are assigned to work for central office administrators whose positions are characterized as having significant administrative duties may be classified as an executive secretary.
 - The classification depends on the duties and responsibilities of the individual to whom the secretary is assigned.
 - January 31, 1995, grievance decision: [94-15-568](#)
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Personnel Issues



Leave of Absence

- If an employee takes a leave of absence without pay, can that year off count as a year of experience for payroll purposes?
 - No, however...
 - WV Code 18A-4-7b (b) states, in part, “an employee shall receive **seniority credit for each day the employee is professionally employed regardless of whether the employee receives pay for that day**....that an employee who is on an approved leave of absence shall accrue seniority during the period of time that the employee is on the approved leave of absence.”
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Personnel Issues



Extra Pupil Pay

- Should a teacher receive extra pupil pay even if the students putting her over the limit is not present in the classroom for are not there for an extended period of time?
 - Yes
 - According to various circuit court and grievance board interpretations of WV Code 18-5-18a, county boards are required to pay teachers who have additional students enrolled in their classrooms based on students enrolled.
 - Also includes all non-instructional days
 - Holidays
 - Vacation days
 - OS days
 - Snow days
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Personnel Issues



Faculty Senate

- Are county boards of education allowed to reimburse sales tax for purchases that individuals make with their allotment of faculty senate funds?
 - Yes
 - While the county board is tax exempt, the individuals are not, therefore, businesses will charge the individuals tax that will then need to be reimbursed.
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Personnel Issues



School Counselor YOE

- Do outside years of experience for school counselors count for state aid funding purposes?
 - Yes
 - Superintendent Interpretations have made it clear that school counselors would be eligible for and receive extra years of experience.
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Personnel Issues



Payment of Bonuses

- Can a county board of education pay bonuses to its employees?
 - Yes...but,
 - Only those bonuses explicitly stated in WV Code:
 - Early retirement notification
 - Attendance Incentive
 - “A county board of education is purely a creature of statute and may exercise only those powers authorized by state law.” Evans v. Hutchinson, 158 W.Va 359, 214 S.E.2d 453
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Personnel Issues



FT Employee Subbing in Another County

- Could a FT employee in one county perform substitute work in another county?
 - Yes, but...
- Professional position would be limited to the 4 without cause days.
- WV Code 18A-4-H
 - Due to the shortages of substitutes in service personnel positions, a service personnel may substitute on a day-to-day basis in a position outside of their regular full-time position: provided, that a service personnel may not substitute in another position if:
 - A qualified substitute is available to fill the shift
 - The shift interferes with their regular duties and or responsibilities
 - They are not properly certified and trained for that position.

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Purchasing Issues

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Purchasing Issues



Special Education Services

- Should special education services such as OT, PT, speech, etc. be bid out?
 - It depends.
 - If purchased with state/local funds, No.
 - If purchased with federal funds, Yes.
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Purchasing Issues



Chamber of Commerce Dues

- Can county boards of education use county funds to pay membership dues to the Chamber of Commerce?
 - Yes.
 - According to Ethics Advisory Opinion No. [2000-15](#), county boards of education are permitted to pay these membership dues.
 - Policy 1224.1 will be updated for this change in guidance.
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Purchasing Issues



Sole Source Letters

- Can county boards of education use a sole source letter from a vendor as support for a sole source purchase?
 - No.
 - County boards of education should do their own research to determine whether sole source procurement is acceptable.
 - Thousands of federal funds have had to be returned because a county used a sole-source letter from a vendor.
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Purchasing Issues



Fundraisers

- If a school plans a fundraiser, do they need to bid out items if they reach the bid thresholds?
 - It depends...
 - It will be dependent on the specific fundraiser conducted. For example,
 - If the SSO is raffling a \$12,000 4-wheeler; Yes.
 - If the SSO is selling \$12,000 worth of Krispy Kreme donuts; No, as shopping for lower-priced donut vendors is not practical.
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Purchasing Issues



Food for Meetings

- Can County Boards of Education purchase food for meetings?
 - No.
 - Appendix C of Policy 1224.1
 - However, WV Code 18-5-13 does allow schools to expend funds for student, parent, teacher and community recognition programs using fundraiser dollars advertised for this purpose.
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Miscellaneous Issues

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Miscellaneous Issues



Facility Rental

- Are county boards of education permitted to rent or lease school property to profit making organizations?
 - No
 - 49 Op. Att'y Gen. 114 (1961).
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Miscellaneous Issues



Schools and Public Funds

- Are county boards of education permitted to distribute public funds to individual schools for expenditure?
 - No
 - Funds may be allocated to each school, but the actual procurement transactions are to be handled through the central office.
 - Exceptions:
 - Faculty Senate funding
 - Occasional or infrequent reimbursement of an expense unintentionally paid by the school
 - Disbursement of funds to a school for the repetitive purchase of a specific item (postage)
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Miscellaneous Issues



Tech Center and Sales Tax

- A tech center has a food truck that they are planning to take to local fairs. The revenue from the sale of food will be expended for the benefit of the class. Do they need to collect sales tax?
 - Yes.
 - Sales tax is required in any type of business activity conducted by tech programs. There have been BOEs audited in the past that have had to **repay thousands of dollars in uncollected sales tax**. These activities are considered a part of the simulated workplace environment and not a “fundraiser.”
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Miscellaneous Issues



Faculty Senate calculation

- What personnel are used to calculate the county board of education’s faculty senate funding.
 - Faculty senate allocations are based on PI and PSSP personnel.
 - An easy way to identify what personnel falls under these two categories is the position code listing on the professional certified list instructions.
 - PI personnel have a # symbol next to the listed position code.
 - PSSP personnel have a @ symbol next to the listed position code.
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Miscellaneous Issues



GoFundMe

- Can GoFundMe be used as a fundraising option?
 - Yes, but...
 - Fundraiser must still be approved
 - Use an administrator or designee e-mail address
 - Once donation window closes, all funds must be remitted to the school, and all provisions of Policy 1224.1 are to be applied.
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Miscellaneous Issues



Out of State Tuition

- Must county boards of education charge out-of-state students tuition?
 - Yes
 - An Attorney General opinion from 1969 requires this.
 - Must be charged based on total county school per capita cost
 - Each county is different, and the calculation will be determined based on factors that exist in your county.
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Miscellaneous Issues



Fundraisers for Individual Students/Families

- Can county boards of education collect donations or conduct fundraisers and give the proceeds directly to an individual or the student's family?
 - No, however...
 - Schools may be able to find a local charitable or private non-profit organization that will be willing to assist the student in need.
 - Then, a fundraiser could be conducted and advertised as being for the purpose of assisting the student via the charitable organization.
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Miscellaneous Issues



501(c)3 Status

- Are county boards of education tax exempt because they are a 501(c)3 organization?
 - No
 - County boards of education are **NOT** 501(c)3 organizations.
 - County boards of education are political subdivision of the State of West Virginia.

http://www.law.cornell.edu/uscode/html/uscode26/usc_sec_26_00000115----000-.html

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Miscellaneous Issues



Technology Disposal

- Could a county board of education allow seniors to keep their county-provided technology if it is at the end of its life cycle?
- No.
- Section 31.2 of Policy 8200 gives specific guidelines for how to properly dispose of these items.
- Section 31.3 of Policy 8200 provides guidance on how to dispose of items purchased with federal funds.

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Questions?

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