

Policy ~~3120~~ 510 – Employment of Professional Personnel Full-time and Part-time Personnel

Revised policy and repeal of Policy 3120.05 (Employment of Personnel in Summer School Programs), Policy 3120.10 (Job Sharing), Policy 3121 (Criminal History Record Check), Policy 3132 (Vacancies – Professional Positions), Policy 4120 (Employment of Service Personnel), Policy 4120.05 (Employment of Personnel in Summer School Programs), Policy 4120.10 (Job Sharing), Policy 4121 (Criminal History Record Check), Policy 4125 (Competency Testing for Service Personnel), and Policy 4132 (Service Personnel Vacancies) effective July 1, 2019

1st reading May 23, 2019

2nd reading

3rd reading

Statutory authority West Virginia Code 18-1-1, 18-5-39, 18A-1-1, 18A-2-1 et seq., 18A-4-1 et seq.; West Virginia Board of Education Policy 5000

Administrative Guidelines

(none)

The Board of Education recognizes that it is vital to the successful operation of Roane County Schools that positions created by the Board be filled with highly qualified and competent personnel.

The employment of professional personnel shall be made by the Board only upon nomination and recommendation of the Superintendent. These nominations and recommendations shall be made pursuant to state law and policies.

~~The Superintendent shall provide the Principal at the school at which the professional educator is to be employed an opportunity to interview all qualified applicants and make recommendations to the Superintendent regarding their employment. The West Virginia Ethics Act prohibits public school employees from participating in any hiring decisions involving relatives or cohabitating sexual partners. "Relatives" are defined as individuals who are related to the employee as father, mother, son, daughter, brother, sister, spouse, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law. If a faculty senate representative must recuse himself/herself for this reason, an alternate member may be appointed by the committee chair or the single designee. The Principal may not recommend for employment an individual who is related to him or her as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.~~

~~The Principal shall submit recommendations to the Superintendent regarding the appointment, assignment, promotion, transfer and dismissal of all personnel assigned to the school or schools under said Principal's control. Such recommendation shall be submitted in writing as prescribed by the Superintendent. Additionally, the Principal shall receive hiring recommendations from the faculty senate at his/her school as provided in this policy and shall submit those recommendations in writing as prescribed by the superintendent. In the event that a Principal is unable to submit hiring recommendations or receive hiring recommendations from the faculty senate as set forth in this policy due to illness or absence, the assistant Principal shall submit hiring recommendations.~~

~~If there is no assistant Principal, the Superintendent shall assign a designee to carry out the role of the Principal. In the event that a Principal is unable to submit hiring recommendations or receive hiring recommendations from the faculty senate due to a relationship conflict stated above and as set forth in State law, the Superintendent shall assign a designee from the central office to carry out the role of the Principal. If a Principal or his/her her designated~~

replacement does not participate in the hiring process as set forth in this policy for a particular vacancy, the right of the Principal to submit recommendations regarding employment is forfeited for that vacancy.

However, if a Principal or his/her designated replacement does not participate in the hiring process as set forth in this policy, the Principal or his/her designee must still receive any hiring recommendation made by the faculty senate and transmit that recommendation to the Superintendent. A forfeiture of the Principal's right to submit a hiring recommendation shall not be the basis for objection by any prospective employee or any other person. Nothing shall prohibit the timely employment of persons to perform necessary duties.

The faculty senate at each school may establish a process for members to interview or otherwise obtain information regarding applicants for classroom teaching vacancies that will enable the faculty senate to submit recommendations regarding employment to the Principal. A faculty senate wishing to submit hiring recommendations to the Principal shall utilize one of the processes established by West Virginia State Board of Education policy 5000 and found in AG 3120A. At the conclusion of each school semester, a faculty senate may vote to change its adopted process for the next ensuing semester. Additionally, if a faculty senate desires to make hiring recommendations over the summer break, it may use the process then in place, if any, or it may vote to adopt a different process to be used only during the summer break. Nothing herein shall be construed to require a faculty senate to participate in this recommendation process. Failure by a faculty senate to choose to one of the processes for participating in the recommendation process shall forfeit the right of the faculty senate to make employment recommendations.

Prior to participating in an interview or otherwise making any hiring recommendations pursuant to West Virginia Board of Education policy 5000 and this policy, faculty senate hiring committees, single designees, any other faculty senate participants, and Principals must complete interview training as designated or approved by the WVDE. Once a faculty senate member or Principal has completed the designated interview training, additional training shall not be required unless the WVDE or Superintendent determines that additional training shall occur. Compensation for participation in training shall be based on the daily rate of pay for the participating classroom teacher who directly participated in the training for periods beyond his/her individual contract. Compensation for training shall not exceed one (1) hour.

In case the Board refuses to employ any or all of the persons nominated, the Superintendent shall nominate others and submit the same to the Board at such time as the Board may direct.

All personnel so nominated and recommended for employment and for subsequent assignment shall meet the certification, licensing, training, and other eligibility classifications as may be required by law and by State Board regulations.

Although applicable West Virginia school personnel hiring law and policy must be followed in every instance, the Board may grant preference in hiring to a veteran or disabled veteran who has been honorably discharged from the United States Armed Services if the veteran or disabled veteran meets all of the knowledge, skills, and eligibility requirements of the job, and that granting the preference does not violate any State equal employment opportunity law. For purposes of this policy, the term "veteran" means any person who has received an honorable discharge and has provided more than 180 consecutive days of full-time, active-duty service in the United States Armed Services or Reserve components thereof, including the National Guard; or has a service-connected disability rating fixed by the United States Department of Veterans Affairs. However, all applicable hiring laws and policies must be strictly followed, and such a preference may only be considered and/or granted after full compliance with the applicable hiring process and a determination that the applicant is otherwise fully qualified for the position at issue.

Members of the organized militia in the active service of the State or another state shall be entitled to the same reemployment rights granted to members of the reserve components of the Armed Forces of the United States by applicable Federal law, including rights protected by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), as amended, 38 U.S.C. 4301-4334.

Professional personnel employed as deputy, associate, or assistant superintendents by the Board in offices, departments or divisions at locations other than a school and who are directly answerable to the Superintendent shall serve at the will and pleasure of the Superintendent and may be removed by the Superintendent upon approval of the Board. Such professional personnel shall retain seniority rights only in the area or areas in which they hold valid certification or licensure.

"Professional personnel" means persons who meet the certification requirements of the State, licensing requirements of the State or both and includes the professional educator and other professional employees.

- A. "Professional educator" has the same meaning as "teacher" as defined in section one (18-1-1), article one, chapter eighteen of the WV Code. Professional educators shall be classified as:
1. "Classroom teacher" means a professional educator who has a direct instructional or counseling relationship with students, spending the majority of his/her time in this capacity;
 2. "Principal" means a professional educator who, as agent of the County Board, has responsibility for the supervision, management, and control of a school or schools within the guidelines established by the County Board. The major area of the responsibility shall be the general supervision of all the schools and all school activities involving students, teachers, and other school personnel;
 3. "Supervisor" means a professional educator who, whether by this or other appropriate title, is responsible for working primarily in the field with professional and other personnel in instructional and other school improvement; and
 4. "Central Office Administrator" means a superintendent, associate superintendent, assistant superintendent and other professional educators, whether by these or other appropriate titles, who are charged with the administering and supervising of the whole or some assigned part of the total program of the countywide school system.
- B. "Other professional employee" means a person from another profession who is properly licensed and is employed to serve the public schools and includes a registered professional nurse, licensed by the West Virginia Board of Examiners for registered professional nurses.

All applications for employment shall be referred to the Superintendent and/or Director of Personnel. Anyone who intentionally misstates or attempts to prevent discovery of details of his / her qualification, prior experience, or background on an application for employment shall be subject to dismissal by the Board.

The spouse of the Superintendent or a Board member may not be employed by the Board in any professional position of employment except Principal or classroom teacher. If a Board member's spouse is being considered for such employment, the Board member must not participate in any way in the discussion or vote and must leave the Board meeting during such discussion and vote. If the Superintendent's spouse is being considered, the Superintendent must not participate in the discussion.

The Board will not employ the unemancipated children or, except for a spouse, a dependent (IRS criteria) of the Superintendent or any member of the Board. Otherwise, the Board may employ a member's or the Superintendent's relatives, including his/her parent or parent-in-law, brother or sister, brother-in-law or sister-in-law, child, son-in-law or daughter-in-law, grandparent, or grandchild. When any such relative of a Board member is employed as a professional employee, the related Board member shall not participate in any way in the discussion or vote on the employment, and the Board member shall leave the Board meeting during the discussion and vote. Likewise, when any such relative of the Superintendent is employed, the Superintendent shall not participate in any way in the discussion. Thereafter, the affected Board member may not vote on a personnel matter involving such a relative unless the matter affects the relative as a member of a profession or occupation, or as a member of a class of at least five (5) persons.

Any person who intentionally misstates facts material to his/her qualifications for employment or the determination of salary shall be subject to dismissal by the Board.

Applications for employment will not be accepted from any current Board member. If a Board member wishes to apply for a position, his/her resignation must be accepted by the Board prior to submitting an application and circumstances must be such as to avoid the Board member's apparent use of his/her authority or influence as a Board member to secure the employment position. Employment, as used herein, shall not include volunteer positions for which no compensation is paid.

The employment of prospective employable professional staff members on a reserve list prior to approval by the Board is authorized in an area of critical need and shortage when the Board adopts a policy authorizing the same, subject to the requirements of WV Code 18A-2-3 and West Virginia State Board of Education policy 5103. In such cases, regular employee status may only be granted in accordance with WV Code 18A-4-7a. "Prospective employable professional personnel" means certified professional educators who:

- A. have been recruited on a reserve list of a county board;
- B. have been recruited at a job fair or as a result of contact made at a job fair;
- C. have not obtained regular employee status through the job posting process provided for in WV Code 18A-4-7a and have obtained a baccalaureate degree from an accredited institution of higher education within the past year.

No candidate for employment as a professional staff member shall receive recommendation for such employment without having provided documentation of proper licensing and certification, or clear evidence that s/he has already completed all licensing and certification requirements satisfactorily and is merely awaiting receipt of the proper documents from the licensing agency. Said licensing shall meet the minimum requirements of State law for the position for which s/he is being recommended. The Superintendent shall request an appropriate criminal background check regarding the prospective employee prior to making any recommendation to the Board. Additionally, if a teacher is employed in good faith on the anticipation that s/he is eligible for a certificate and it is later determined that the teacher was not eligible, the State Superintendent of Schools may authorize payment by the County Board of Education to the teacher for a time not exceeding three (3) school months or the date of notification of his/her ineligibility, whichever shall occur first.

The Board shall make decisions affecting the filling of vacancies in professional positions of employment on the basis of the applicant with the highest qualifications.

In judging qualifications for the filling of vacancies of professional positions of employment consideration shall be given to each of the following:

- A. appropriate certification, licensure, or both
- B. amount of experience relevant to the position; or, in the case of a classroom teaching position, the amount of teaching experience in the required certification area
- C. the amount of course work and/or degree level in the relevant field and degree level generally
- D. academic achievement
- E. in the case of a principal or classroom teaching position, certification by the National Board for Professional Teaching Standards
- F. specialized training relevant to performing the duties of the job
- G. past performance evaluations conducted pursuant to WV Code 18A-2-12 and 18A-3C-2 or, in the case of a classroom teacher, past evaluations of the applicant's performance in the teaching profession as a certified educator
- H. seniority
- I. other measures or indicators upon which the relative qualifications of the applicant may fairly be judged
- J. in the case of a classroom teaching position, the recommendation of the Principal of the school at which the applicant will be performing a majority of his/her duties, and

K.—in the case of a classroom teaching position, the recommendation, if any, resulting from the process established pursuant to WV Code 18-5A-5 by the faculty senate of the school at which the employee will be performing a majority of his/her duties

The Board is free, within its discretion, to assign whatever weight it wishes to each of the above criterion when assessing an applicant's qualifications; however, if one (1) or more permanently employment instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, each criterion above shall be given equal weight except that the criterion J. and K. shall each be double weighted. This shall apply when the faculty senate and the Principal do not agree on a recommendation, when either the faculty senate or Principal forfeit or cannot make a recommendation, or when the Superintendent does not concur with the recommendation of the Principal and the faculty senate

For a classroom teaching position, if the Principal and faculty senate recommend the same applicant, and the Superintendent concurs with those recommendations, then the Board shall appoint that applicant notwithstanding any other provision of WV Code to the contrary.

Classroom teachers who directly participate in making recommendations for filling classroom teaching positions pursuant to the options set forth in this policy for periods beyond his/her individual contract shall be compensated based on his/her daily rate of pay, prorated to an hourly rate. The Principal shall require that the participating teachers keep time sheets documenting the actual time spent on the recommendation process and shall verify that the time sheets are accurate before submitting them for payment. In no event shall a teacher be entitled to payment for more than two (2) hours per position. However, if there are more than four (4) qualified applicants for a single classroom teacher position who are selected for an interview by the hiring committee chair or single designee, the faculty senate members participating in the interviews may be compensated for an additional hour for actual time spent on the interview process for that position.

When making recommendations, the Faculty Senate and Principal shall consider each criterion listed in A-I above to determine which applicant is the most highly qualified for the position. The Principal or faculty senate is not required to assign any amount of weight to any factor.

Principals and faculty senate chairs or single designees shall complete the applicable hiring recommendation forms (See Form 3120 F3 and Form 3120 F4) and shall submit a completed form as documentation of the recommendation. Other than the recommendation form, no other matrix or documentation of the selection shall be required.

Any professional educator who is employed within the public school system of this State shall hold a valid teaching certificate licensing him/her to teach in the specializations and grade levels shown on the certificate for the period of his/her employment.

As provided in WV Code Section 18-5A-5(b)(2), the processes and procedures set forth in this policy are designed to be effective and consistent among schools and counties and are designed to avoid litigation or grievance. To that end, this policy is designed to allow teachers to be meaningfully involved in the hiring recommendation process in an open and honest manner without fear of reprisal, retaliation or coercion and to minimize lost instructional time and classroom disruption.

Notwithstanding any other provision of State law to the contrary, upon recommendation of the Principal and approval by the classroom teacher and the Board, a classroom teacher assigned to the school may at any time be assigned to a new or existing classroom teacher position at the school without the position being posted.

Notwithstanding any provision of WV Code to the contrary, all employees subject to release shall be considered applicants for any vacancy in an established, existing or newly created position that, on or before March 1st is known to exist for the next ensuing school year, and for which they are qualified, and, upon recommendation of the Superintendent, the Board shall appoint the successful applicant from among all qualified applicants. All employees subject to release shall be considered applicants for the positions for which they are qualified and shall be considered

~~before posting such vacancies for application by nonemployees. This provision shall not preclude the Board from posting and filling vacancies that exist in the current school year nor shall it supersede or alter the operation of WV Code 18A-4-8f or WV Code 18A-4-8i.~~

~~The Superintendent shall prepare administrative guidelines for the recruitment and selection of all professional staff.~~

Teachers in Federally-Funded Programs

~~Effective with the 2017-18 school year, All teachers in federally-funded programs must meet applicable West Virginia State certification and licensure requirements.~~

~~West Virginia State Board of Education policy 5000~~

~~West Virginia State Board of Education policy 5202~~

~~West Virginia State Board of Education policy 5310~~

~~WV Code 18-1-1, 18-4-10(2), 18A-1-1, 18A-2-1, 18A-2-3, 18A-2-12, 18A-4-7a and b~~

~~WV Code 5-11-9a, 15-1F-8~~

~~20 U.S.C. 6319~~

~~20 U.S.C. 7801~~

Employment of Personnel in Summer School Programs

~~The County Board of Education may employ any certified teacher as teachers personnel for the summer school program. All summer school positions available shall be posted and filled according to law.~~

~~Summer school positions for professional personnel shall be filled based on certification and length of time the professional has been employed in the Board's summer school program. A professional educator who is currently employed by the County Board shall be given employment preference over applicants who are not current employees. In the event that no employee who has been previously employed in the summer school program holds a valid certification or licensure, the Board shall fill the position as a classroom teaching position in accordance with 18A-4-7a.~~

~~Certified teachers employed by the Board to teach in the summer school program shall be paid an amount to be determined by the Board and shall enter into a contract of employment in such form as is prescribed by the Board. Teachers who teach summer courses of instruction which are offered for credit and which are taught during the regular school year shall be paid at the same daily rate they would receive if paid in accordance with the then current minimum monthly salary in effect for teachers in that county.~~

~~If a county board reduces in force the number of employees to be employed in a particular summer program from the number employed in that position in previous summers, the reductions in force and priority in reemployment to that summer position shall be based upon the length of service time in the particular summer program.~~

~~A candidate's intentional misstatement of fact material to his/her qualifications for employment or the determination of his/her salary will be considered by the Board to constitute grounds for dismissal.~~

~~No candidate for employment shall received recommendation for such employment without having proffered visual evidence of proper licensing, if needed or that application for such licensing is in process.~~

~~W. Va. Code 18-5-39, and 18A-4-7c~~

Job Sharing

~~The Board of Education recognizes the value to the County to obtain the services of quality staff members who may not be available on a full-time basis but wish to offer their knowledge and skills part-time through a job-sharing process.~~

The County Board will consider job share requests only if the cost (including benefits) of employing two (2) or more staff members does not exceed the cost of employing one (1) full-time staff member.

Definition

~~"Job-sharing arrangement" means a formal, written agreement voluntarily entered into by a County Board with two (2) or more of its professional employees who wish to divide between them the duties and responsibilities of one (1) authorized full-time position.~~

Provisions

The following provisions shall apply to enter into job-sharing arrangements with its employees:

~~_____ A. _____ A job-sharing arrangement shall meet all the requirements relating to posting, qualifications and seniority as established by 18A-4-1, Code of West Virginia.~~

~~_____ B. _____ A County Board which enters into a job-sharing arrangement in which two (2) or more employees voluntarily share an authorized full-time position shall provide the mutually agreed upon employee coverage but shall not offer insurance coverage to more than one (1) of the job-sharing employees, including any group plan or group plans available under the State Public Employees Insurance Act.~~

~~_____ C. _____ Each job-sharing agreement shall be in writing on a form prescribed and furnished by the County Board. The agreement shall designate specifically one (1) employee only who is entitled to the insurance coverage. Any employee who is not so designated is not eligible for State public employees' insurance coverage regardless of the number of hours s/he works.~~

~~_____ D. _____ All employees involved in the job-sharing agreement meet the requirements of subdivision (3), section two (5-16-2), article sixteen, chapter five of the Code of West Virginia, including, but not limited to, the requirement that the employee must work at least one third (1/3) of the time required for a full-time employee.~~

~~_____ E. _____ When entering into a job-sharing agreement, the County Board and the employees involved in the job-sharing agreement shall consider issues such as retirement benefits, termination of the job-sharing agreement and any other issue the parties to the agreement consider appropriate. Any provision in the agreement relating to retirement benefits shall not cause any cost to be incurred by the retirement system that is more than the cost that would be incurred if a single employee were filling the position.~~

The Board authorizes the Superintendent shall develop administrative guidelines to create a job-sharing program pursuant to state law and policies provided it does not impact adversely on the County or any current staff member.

~~18-5-13(t), Code of West Virginia~~

Criminal History Record Check

To more adequately safeguard students and staff members, the Board of Education requires an inquiry into the background of each applicant the Superintendent recommends for employment on the County's professional staff. This requirement includes all substitutes and persons employed on a part-time basis such as coaches or activity supervisors who may have care, custody, or control of students. The ~~County Board of Education~~ shall request from the State criminal identification bureau the record of any and all criminal convictions relating to child abuse, sex-related offenses or possession of controlled substances with intent to deliver same of all of its employees hired on or after July 1, 1986.

~~It~~ A criminal record check is not required of any currently-employed staff member who is a candidate for another position in the County, nor for any previously employed staff member who is re-employed less than six months after separation.

~~Beginning the first day of January, 2002, any applicant for an initial license issued by the West Virginia Department of Education shall be fingerprinted by the West Virginia State Police or designee in accordance with State Board policy in order to determine the applicant's suitability for licensure. The fingerprints shall be analyzed by the State Police for a State criminal history record check through the central abuse registry and then forwarded to the Federal Bureau of Investigation for a national criminal history record check. Information contained in either the central abuse registry record or the Federal Bureau of Investigation record may form the basis for the denial of a certificate for just cause.~~

~~The applicant for initial certification pays for the cost of obtaining the central abuse registry record and the Federal Bureau of Investigation record.~~

~~Upon written consent to the State Department by the applicant and within ninety (90) days of the State fingerprint analysis, the results of a State analysis may be provided to a county board with which the applicant is applying for employment without further cost to the applicant.~~

~~Information maintained by the State Department or the county board which was obtained for the purpose of this policy is exempt from the disclosure provisions of the Freedom of Information Act, 29B-1-1, Code of West Virginia. Nothing in this policy prohibits disclosure or publication of information in a statistical or other form which does not identify the individuals involved or provide personal information.~~

~~The Superintendent shall establish administrative guidelines which will facilitate a records check that complies with the law and ensures that, at the time of the initial application, the applicant is properly informed of the requirement to obtain a.) a criminal history records check prior to employment, and b.) a set of the applicant's fingerprints.~~

~~Should it be necessary to employ a person to maintain continuity of the program, prior to receipt of the criminal history record, the Superintendent may employ the person on a provisional basis until the report is received.~~

~~WV Code 18-5-15c, 18A-3-10~~

~~West Virginia Department of Education Policy 5202~~

Vacancies—Professional Positions

~~Openings in established, existing or newly created positions shall be processed as follows: posted pursuant to state law. All such postings shall be made available on the Board's website and to any current employee or member of the public who wishes to view such postings at any of the Board's locations of operation, including schools, offices, and auxiliary locations where employees are regularly assigned duties.~~

- ~~A.—The Board of Education shall post and date vacancy notices of each opening at least once. However, at its discretion, the Board may post an opening for a position other than a classroom teacher more than once in order to attract more qualified applicants.~~

~~Further, at its discretion, the Board may post an opening for a classroom teacher one additional time after it has first posted the position in order to attract more qualified applicants, but only if fewer than three (3) qualified individuals applied during the initial posting. If no applicant meets the qualifications set forth in the job posting, the Board may continue to post or repost without limitation.~~

~~The Superintendent shall have the authority to determine whether a professional position will be reposted. These provisions shall apply to both regular professional positions and extra-curricular professional positions.~~

1. ~~Each notice shall be posted in conspicuous working places for all professional personnel to observe for at least five (5) working days. Notice may also be posted to the County Website and/or West Virginia Department of Education Job Bank Website.~~

However, should there be any discrepancy between or among the postings, the printed postings in the working places of professional employees shall remain the official posting with which all applicants must comply.

2. ~~At least one (1) notice shall be posted within twenty (20) working days of the position openings and shall include the job description. The Board shall not declare a position vacant and post a job opening sooner than ten (10) days following the death of an individual employed in that position.~~
3. ~~Any special criteria or skills that are required by the position shall be specifically stated in the job description and directly related to the performance of the job.~~
4. ~~Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply.~~
5. ~~Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant.~~
- B. ~~No vacancy shall be filled until after the five (5) day minimum posting period of the most recent posted notice of the vacancy.~~
- C. ~~If one (1) or more applicants under all the postings for a vacancy meets the qualifications listed in the job posting, the successful applicant to fill the vacancy shall be selected by the Board within thirty (30) working days of the end of the first posting period.~~
- D. ~~A position held by a certified and/or licensed teacher who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five (5) years.~~
- E. ~~Nothing provided herein shall prevent the Board from eliminating a position due to lack of need.~~
- F. ~~Upon recommendation of the Principal and approval by the classroom teacher, Superintendent, and Board, a classroom teacher assigned to the school may at any time during the school year be assigned to a new or existing classroom teacher position at the school during the school year without the position being posted. This provision shall not apply to vacancies that will occur in the ensuing year or other future years.~~
- G. ~~Each year, provided there are no provisions of State law to the contrary, for any vacancy in an established, existing or newly created position that, on or before March 1, is known to exist for the ensuing school year, upon recommendation of the Superintendent, the Board shall appoint the successful applicant from among all qualified applicants for the position for which they are qualified and shall be considered before posting such vacancies for applications by nonemployees. This provision shall not preclude a Board from posting and filling vacancies that exist in the current school year nor shall it supersede or alter the operation of WV Code 18A-4-8f or WV Code 18A-4-8i.~~

All positions shall identify under a separate heading "Minimum Qualifications" listing certification requirements and that may list other requirements for which it has been determined that a candidate hold to be deemed minimally qualified.

Professional employees who have been placed on the preferred recall list shall be provided with notice by certified mail to their last known address of vacancies for which they are qualified. It shall be the duty of each professional employee on the preferred recall list to notify the Board of continued availability annually, of any change in address or in any change in certification and/or licensure. Any employee failing in duty shall be notified by certified mail to his/her last known address that they will be removed from the preferred recall list unless good cause is shown, within thirty (30) days, as to why they should not be removed from the preferred recall list. If good cause is not shown within the prescribed time, the Superintendent shall remove the employee from the recall list. If an employee accepts full-time employment with another County Board s/he shall be removed from the preferred recall list. Provided, however, the

~~failure of an employee on the preferred recall list to make application for an available position shall not be grounds for removal from the preferred recall list.~~

~~Where the total number of classroom teaching positions in an elementary school does not increase from one (1) school year to the next, but there exists in that school a need to realign the number of teachers in one (1) or more grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels for which they are certified without that position being posted if the employee and the Board mutually agree to the reassignment.~~

~~West Virginia State Board of Education policy 5000
WV Code 18A-4-7a, 18A-4-21~~

Employment of Service Personnel

~~The Board of Education recognizes that it is vital to the successful operation of the County that positions created by the Board be filled with qualified and competent personnel.~~

~~All applications for employment shall be referred to the Director of Personnel.~~

~~The employment of service personnel shall be made by the Board only upon nomination and recommendation of the Superintendent. When any recommended candidate has been rejected by the Board, the Superintendent shall make a substitute recommendation at such time as an appropriate notice and agenda item is provided.~~

~~A Board shall make decisions affecting promotions and the filling of any service personnel positions of employment or jobs occurring throughout the school year that are to be performed by service personnel on the basis of seniority, qualifications and evaluation of past service.~~

- ~~A. Seniority begins on the date that s/he enters into his/her assigned duties. For the purpose of filling vacancies, seniority is accumulated within particular classification categories of employment as those classification categories are referred to in WV Code 18A-4-8. If requested by the employee, the Board must show valid cause why an employee with the most seniority is not promoted or employed in the position for which s/he applies.~~
- ~~B. Qualifications means that the applicant holds a classification title in his/her category of employment and must be given first opportunity for promotion and filling vacancies. Other employees then must be considered and shall qualify by meeting the definition of the job title that relates to the promotion or vacancy as defined in WV Code 18A-4-8. Achieving a passing score on the State competency test shall conclusively demonstrate the qualification of an applicant for a classification title. Once an employee passes the competency test of a classification title, the applicant shall be fully qualified to fill vacancies in that classification category of employment (see Competency Testing for Service Personnel, Policy 4125). Qualified applicants shall be considered in the following order:
 - ~~1. regularly employed service personnel who hold a classification title within the classification category of the vacancy;~~
 - ~~2. service personnel who have held a classification title within the classification category of the vacancy whose employment has been discontinued due to a reduction-in-force;~~
 - ~~3. regularly employed service personnel who do not hold a classification title within classification category of the vacancy;~~
 - ~~4. service personnel who have not held a classification title within the classification category of the vacancy and whose employment has been discontinued due to a reduction-in-force;~~
 - ~~5. substitute service personnel who hold a classification title within the classification category of the vacancy;~~
 - ~~6. substitute service personnel who do not hold a classification title within the classification category of the vacancy; and~~
 - ~~7. new service personnel.~~~~

The assignment of an aide to a particular position within a school is based on seniority within the aide classification category if the aide is qualified for the position.

The assignment of a custodian to work shifts in a school or work site is based on seniority within the custodian classification category.

All persons employed for the first time in a position as Supervisor of Transportation or in a multi-classification position that includes this title shall have five (5) years of experience working in the transportation department of a district board. Experience working in the transportation department shall consist of serving as a bus operator, bus aide, assistant mechanic, mechanic, chief mechanic or in a clerical position within the transportation department.

A service employee with the class title of "school bus supervisor" must either currently be certified to operate a bus or have previously been certified to operate a bus.

A spouse of the Superintendent or a Board member may be employed by the Board as a service employee, provided that the Board member whose spouse is being considered for such employment must not participate in any way in the discussion or vote and must leave the Board meeting during such discussion and vote. In the case of the Superintendent's spouse who is considered for such employment, the Superintendent must not participate in any way in the discussion.

The Board will not employ as service personnel the unemancipated children or, except for a spouse, a dependent (IRS criteria) of the Superintendent or any member of the Board. Otherwise, the Board may employ the Superintendent's or a Board member's relatives, including his/her parent or parent-in-law, brother or sister, brother-in-law or sister-in-law, child, son-in-law or daughter-in-law, grandparent, or grandchild. When any such relative of a Board member is employed as a service employee, the related Board member shall not participate in any way in the discussion or vote on the employment, and the Board member shall leave the Board meeting during the discussion and vote. In the case of the Superintendent's relative, the Superintendent shall not participate in the discussion. Thereafter, the Board member may not vote on a personnel matter involving his/her relative unless the matter affects the relative as a member of a profession or occupation, or as a member of a class of at least five (5) persons.

Any person who intentionally misstates facts material to his/her qualifications for employment or the determination of salary shall be subject to dismissal by the Board.

Prior to recommending a candidate to the Board, the Superintendent shall ascertain that the applicant for employment for a service personnel position is qualified in that s/he holds or has held a classification title in the required category of employment or has achieved a passing score on the West Virginia State Board of Education's competency test for the classification title of the vacancy.

Beginning July 1, 2014, any person previously employed as an aide in a pre-kindergarten or kindergarten program (refer to WV Code 18-5-18) and who is employed in the same capacity on and after that date and any new person employed in that capacity in a pre-kindergarten or kindergarten program on and after that date shall hold the position of either Early Childhood Classroom Assistant Teacher I, Early Childhood Classroom Assistant Teacher II or Early Childhood Classroom Assistant Teacher III. Any person employed as an aide in a pre-kindergarten or kindergarten program that is eligible for full retirement benefits before July 1, 2020, may remain employed as an aide in that position and upon application, shall be granted an Early Childhood Classroom Assistant Teacher II, permanent authorization by the State Superintendent.

Paraprofessional in Federally Funded Programs

~~Effective with the 2017-18 school year, all paraprofessionals in Federally-funded programs must meet applicable West Virginia State certification and licensure requirements.~~

~~The Superintendent shall prepare procedures for the recruitment and selection of all service personnel.~~

~~West Virginia State Board of Education policy 5000~~

~~West Virginia State Board of Education policy 5202~~

~~WV Code 5-11-9a, 15-1F-8, 18A-2-1, 18A-4-8, 18A-4-8b, 18A-4-8e, 18A-4-8g~~

~~WV Code 18-5-18~~

Employment of Personnel in Summer School Programs

~~The Board may employ school service personnel to perform any related duties outside the regular school term as defined in WV Code 18A-4-8, including summer school programs. All such positions available shall be posted and filled according to law.~~

~~An employee who was employed in any service personnel job or position during the previous summer shall have the option of retaining the job or position if the job or position exists during any succeeding summer. If the employee is unavailable or if the position is newly created, the position shall be filled pursuant to WV Code 18A-4-8b.~~

~~When any summer employee is absent, qualified regular employees within the same classification category who are not working because their employment term for the school year has ended or has not yet begun the succeeding school employment term, shall be given first opportunity to substitute for the absent summer employee on a rotating and seniority basis.~~

~~When any summer employee who is employed in a summer position is granted a leave of absence for the summer months, the Board shall give regular employment status to the employee for that summer position which shall be filled under the procedure set forth in WV Code 18-4-8b. The summer employee on leave of absence has the option of returning to that summer position if the position exists the succeeding summer or whenever the position is reestablished if it were abolished.~~

~~The salary of a summer employee shall be in accordance with the salary schedule of persons regularly employed in the same position in the county where employed and persons employed in those positions are entitled to all rights, privileges and benefits provided in 18A-4-5b, 18A-4-8, 18A-4-8a, 18A-4-10 and 18A-4-14. Those persons are not entitled to a minimum employment term of two hundred days for their summer position.~~

~~If the Board reduces in force the number of employees to be employed in a particular summer program or classification from the number employed in that position in previous summers, the reductions in force and priority in reemployment to that summer position shall be based upon the length of service time in the particular summer program or classification.~~

~~For the purpose of this policy, summer employment for service personnel includes, but is not limited to, filling jobs and positions as defined in WV Code 18A-4-8 and especially established for and which are to be predominantly performed during the summer months to meet the needs of the Board.~~

~~A candidate's intentional misstatement of fact material to his/her qualifications for employment or the determination of his/her salary will be considered by the Board to constitute grounds for dismissal.~~

~~WV Code 18-5-39~~

Job-Sharing

The Board of Education recognizes the value to the County to obtain the services of quality staff members who may not be available on a full-time basis but wish to offer their knowledge and skills part-time through a job-sharing process.

The County will consider job share requests only if the cost (including benefits) of employing two (2) or more staff members does not exceed the cost of employing one (1) full-time staff member.

Definition

"Job-Sharing arrangement" means a formal, written agreement voluntarily entered into by a County Board with two (2) or more of its service personnel employees who wish to divide between them the duties and responsibilities of one (1) authorized full-time position.

Provisions

The following provisions shall apply to enter into job-sharing arrangements with its employees:

_____ A. _____ A job-sharing arrangement shall meet all the requirements relating to posting, qualifications and seniority as established by 18A-4-1, Code of West Virginia.

_____ B. _____ A County Board which enters into a job-sharing arrangement in which two (2) or more employees voluntarily share an authorized full-time position shall provide the mutually agreed upon employee coverage but shall not offer insurance coverage to more than one (1) of the job-sharing employees, including any group plan or group plans available under the State Public Employees Insurance Act.

_____ C. _____ Each job-sharing agreement shall be in writing on a form prescribed and furnished by the County Board. The agreement shall designate specifically one (1) employee only who is entitled to the insurance coverage. Any employee who is not so designated is not eligible for State public employees' insurance coverage regardless of the number of hours s/he works.

_____ D. _____ All employees involved in the job-sharing agreement meet the requirements of subdivision (3), section two [5-16-2], article sixteen, chapter five of the Code of West Virginia, including, but not limited to, the requirement that the employee must work at least one-third (1/3) of the time required for a full-time employee.

_____ E. _____ When entering into a job-sharing agreement, the County Board and the employees involved in the job-sharing agreement shall consider issues such as retirement benefits, termination of the job-sharing agreement and any other issue the parties to the agreement consider appropriate. Any provision in the agreement relating to retirement benefits shall not cause any cost to be incurred by the retirement system that is more than the cost that would be incurred if a single employee were filling the position.

The Board authorizes the Superintendent to create a job-sharing program provided it does not impact adversely on the County or any current staff member.

~~18-5-13(t), Code of West Virginia~~

Criminal History Record Check

To more adequately safeguard students and staff members, the Board of Education requires an inquiry into the background of each applicant the Superintendent recommends for employment on the County's service personnel staff. This requirement includes all substitutes and persons employed on a part-time basis such as coaches or activity supervisors who may have care, custody, or control of students. The County Board of Education shall request from the State Criminal Identification Bureau the record of any and all criminal convictions relating to child abuse, sex-related offenses or possession of controlled substances with intent to deliver same for all of its employees hired on or after July 1, 1986. It is not required of any currently-employed staff member who is a candidate for another position in the County.

Beginning the first day of January, 2002, any applicant for an initial license issued by West Virginia Department of Education shall be fingerprinted by the West Virginia State Police or designee in accordance with State Board policy in order to determine the applicant's suitability for licensure. The fingerprints shall be analyzed by the State police for a State criminal history record check through the central abuse registry and then forwarded to the Federal Bureau of Investigation for a national criminal history record check. Information contained in either the central abuse registry record or the Federal Bureau of Investigation record may form the basis for the denial of a certificate for just cause.

The applicant for initial certification pays for the cost of obtaining the central abuse registry record and the Federal Bureau of Investigation record.

Upon written consent to the State Department by the applicant and within ninety (90) days of the State fingerprint analysis, the results of a State analysis may be provided to a County Board with which the applicant is applying for employment without further cost to the applicant.

Information obtained by the State Department or the County Board which was obtained for the purpose of this policy is exempt from the disclosure provisions of the Freedom of Information Act. Nothing in this policy prohibits disclosure or publication of information in a statistical or other form which does not identify the individuals involved or provide personal information.

The Superintendent shall establish administrative guidelines which will facilitate a records check that complies with the law and ensures that, at the time of the initial application, the applicant is properly informed of the requirement to obtain a criminal history records check prior to employment, and a set of the applicant's fingerprints.

The guidelines shall also require that any information and records obtained from such inquiries be kept confidential and shall not be released or disseminated.

Should it be necessary to employ a person to maintain continuity of the District's operations, prior to receipt of the criminal history record, the Superintendent may, except in the case of a bus driver, employ the person on a provisional basis until the report is received.

In accordance with State transportation regulations, the Superintendent shall request the administrator in charge of transportation to conduct an annual review of each school bus driver's abstract driver record through the Division of Motor Vehicles (DMV) to determine that currently employed bus drivers have no more than nine (9) points and no convictions or DMV suspensions or revocations of license, or charge of operating a motor vehicle while under the influence of alcohol, drugs, or narcotics, or having had clear and convincing evidence presented, such as positive breath or blood test, of operating a motor vehicle under the influence of same. The applicant/employee shall not be certified to operate a school bus for at least two (2) years subsequent to a first offense for such conviction or suspension/revocation. For a second offense, certification shall be withdrawn and refused permanently.

WV Code 18-5-15c, 18A-3-10

West Virginia Department of Education Policy 5202

Competency Testing for Service Personnel

Service personnel competency testing shall be performed by the Superintendent or designee using the state-defined testing materials and per the requirements defined by the West Virginia Department of Education and state law.

Any currently employed service personnel who wishes to transfer into a classification for which he / she has not previously passed the competency test shall be given an opportunity to pass such test prior to consideration of other

individuals of lesser seniority, provided such a test exists for that classification. Competency testing performed for the purposes of hiring new substitute service personnel shall only be made available to candidates for such substitute service personnel vacancy(ies).

~~The purpose of these tests shall be to provide the County Board of Education a uniform means of determining whether school service personnel employees who do not hold a classification title in a particular category of employment can meet the definition of the classification title in another category of employment. Competency tests shall not be used to evaluate employees who hold the classification title in the category of their employment.~~

~~Each classification title defined and listed in WV Code 18A-4-8a shall be considered a separate classification category of employment for service personnel and shall have a separate competency test, except for those class titles having Roman numeral designations, which shall be considered a single classification of employment and shall have a single competency test. The cafeteria manager class title shall be included in the same classification category as cooks and shall have the same competency test. The executive secretary class title shall be included in the same classification category as secretaries and shall have the same competency test. The classification titles of chief mechanic, mechanic and assistant mechanic shall be included in one (1) classification title and shall have the same competency test.~~

~~The competency test shall consist of an objective written and/or performance test developed by the West Virginia State Board of Education. Applicants shall have the opportunity of taking the written test orally if requested. Oral tests shall be recorded mechanically and kept on file. Persons administering the oral test shall not know the applicant personally.~~

~~The performance test for all classifications and categories other than bus operator shall be administered by an employee of the board of education or an employee of a multi-county vocational school that serves the county at a location designated by the Superintendent and approved by the Board.~~

~~A standard passing score shall be established by the State Department of Education for each test and shall be used by the County Board of Education. The subject matter of each competency test shall be commensurate with the requirements of the definitions of the classification titles as provided in WV Code 18A-4-8. The subject matter of each competency test shall be designed in such a manner that achieving a passing grade will not require knowledge and skill in excess of the requirements of the definition of the classification titles.~~

~~Achieving a passing score shall conclusively demonstrate the qualification of an applicant for a classification title. Once an employee passes the competency test of a classification title, the applicant is fully qualified to fill vacancies in that classification category of employment as provided in WV Code 18A-4-8b and shall not be required to take the competency test again.~~

~~An applicant who fails to achieve a passing score shall be given other opportunities to pass the competency test when making application for another vacancy within the classification category.~~

~~Competency tests shall be administered to applicants in a uniform manner under uniform testing conditions. The County Board of Education is responsible for scheduling competency tests and notifying applicants of the date and time of the test. The Board shall not utilize a competency test other than the test developed by the West Virginia State Board of Education.~~

~~When scheduling of the competency test conflicts with the work schedule of a school employee who has applied for a vacancy, the employee shall be excused from work to take the competency test without loss of pay.~~

~~Competency tests shall be utilized to determine the qualification of new applicants seeking initial employment in a particular classification title as either a regular or substitute employee. The Board reserves the right to determine~~

~~minimum qualifications that exceed the definition of classification titles when the best interests of students compel the identification of additional qualifications.~~

~~Once an employee holds or has held a classification title in a category of employment, that employee shall be considered qualified for the classification title even though that employee no longer holds that classification.~~

~~Board of Education of the County of Randolph v. Scott, No. 31691~~

~~WV Code 18A-4-8e~~

Service Personnel Vacancies

~~Openings in established, existing or newly created positions shall be processed as follows:~~

~~_____ A. _____ The Board of Education shall post and date vacancy notices which shall be subject to the following:~~

~~_____ 1. _____ The notices shall be posted in conspicuous working places for all service personnel to observe for at least five (5) working days. Notices may also be posted to the West Virginia Department of Education Job Bank Website.~~

~~_____ However, should there be any discrepancy between or among the postings, the printed postings in the working places of service personnel employees shall remain the official posting to which all applicants must comply.~~

~~_____ 2. _____ The notice shall be posted within twenty (20) working days of the position openings and shall include the job description. The Board shall not declare a position vacant and post a job opening sooner than ten (10) days following the death of an individual employed in that position.~~

~~_____ 3. _____ All vacancies in existing or newly created positions shall be filled within twenty (20) working days for the closing date of the job posting for the position. The Board shall notify the successful applicant as soon as possible after the Board makes a hiring decision regarding the posted position.~~

~~_____ 4. _____ Postings for vacancies made pursuant to this section shall be written so as to ensure that the largest possible pool of qualified applicants may apply.~~

~~_____ 5. _____ Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant.~~

~~_____ B. _____ Nothing provided herein shall prevent the Board from eliminating a position due to lack of need.~~

~~_____ C. _____ The Board shall notify all service personnel on the preferred list of all position openings that exist from time to time. The notification shall be sent annually, with written receipt notification documented by the Superintendent, and shall list instructions to access job postings on any website maintained by or available for the use of the Board. If an employee accepts full-time employment with another district s/he shall be removed from the preferred recall list. The refusal of an employee on the preferred recall list to accept an offered position shall be grounds for removal from the preferred recall list unless the refusal is for reasons deemed compelling.~~

~~WV Code 18A-4-7a, 18A-4-21~~