

Policy ~~3120.04~~ 511 – Employment of Substitutes

Revised policy and repeal of Policy 4120.04 (Employment of Substitutes) effective July 1, 2019

1st reading May 23, 2019

2nd reading

3rd reading

Statutory authority WV Code 18A-2-3, WV Code 18A-4-15

Administrative Guidelines

(none)

The Board of Education recognizes the need to procure the services of substitutes in order to continue the operation of the schools as a result of the absence of regular personnel.

The County Superintendent, subject to approval of the Board, may employ and assign substitute ~~teachers~~ employees to any of the following duties:

A. to fill the temporary absence of any ~~teacher~~ employee or an unexpired school term made vacant by resignation, death, suspension or dismissal;

B. to fill a ~~teaching~~ position of a regular ~~teacher~~ employee on leave of absence; and

C. to perform the instructional services of any ~~teacher~~ employee who is authorized by law to be absent from class without loss of pay, ~~providing the absence is approved by the Board in accordance with the law. The substitute shall be a duly certified teacher;~~ and

D. to fill the temporary vacancy in a newly created position for which a regular employee has not yet been hired.

For the purposes of this policy, a “long-term” assignment shall be one for which the absence or vacancy will last for more than 30 consecutive working days or for which such is expected.

~~Persons whose names do not already appear on the substitute list may attain that status only by making application in response to a posted notice of vacancy for the substitute list. The posting process, and the selection of candidates from among the applicants, shall follow the procedures set forth in WV Code 18A-4-7a.~~

Any person interested in working as a substitute employee for the Board shall make application for a posted vacancy for substitute employment. No person shall be hired as a substitute employee for the Board unless he / she has made such an application and has found to be qualified to hold such a position.

Prior to commencing their duties, all substitute employees shall submit to a criminal records check at their expense. The Board reserves the right to decline to employ, withdraw an offer of employment to, or terminate the contract of any person based on the results of this check or any person who fails to fully disclose his / her background information as required in the application process. For the purposes of this policy, a criminal records check conducted for certification or licensure with the West Virginia Department of Education may be used to comply with this requirement. Any former employee of the Board who returns to employment less than six months after separation shall not be required to submit to an additional criminal records check.

Substitute teachers shall be hired only after having submitted proof of appropriate certification or licensure. Substitute teachers who possess a professional teaching certificate or substitute permit endorsed in a particular area of certification may be assigned to long-term permanent or temporary vacancies (those lasting greater than 30 consecutive working days) in that area of certification.

Substitute service personnel must pass the state competency exam for the classification under which they wish to be hired. Former regular service personnel in a classification may be employed as substitute in that classification without passing the state competency exam.

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

~~The spouse of the Superintendent or a Board member may not be employed by the Board in any substitute professional position of employment except as substitute classroom teacher and substitute principal. 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 as substitute professionals 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 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 the Superintendent or a Board member is employed as a substitute professional employee, the related Superintendent or Board member shall not participate in any way in the discussion on the employment. The Board member shall not vote and shall leave the Board meeting during the discussion and vote. Thereafter, the Board member may not vote on a personnel matter involving such a person unless the matter affects the Board member's 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 payable or paid.~~

~~No candidate for employment as a substitute professional staff member shall receive recommendation for such employment without having proffered visual evidence of proper licensing or that application for such licensing is in process. 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.~~

~~Long-term substitute means a substitute employee who fills a vacant position that the Superintendent expects to extend for a least thirty (30) consecutive days, and is either:~~

~~—A. listed in the job posting as a long-term substitute position of over thirty (30) days; or~~

~~—B. listed in a job posting as a regular, full-time position and:~~

~~——1. is not filled by a regular, full-time employee; and~~

~~——2. is filled by a substitute employee.~~

~~For the purposes of eligibility for PEIA benefits, a long-term substitute does not include a retired employee hired to fill the vacant position.~~

~~A substitute teacher who has been assigned as a classroom teacher in the same classroom continuously for more than one-half (1/2) of a grading period and whose assignment remains in effect two (2) weeks prior to the end of the grading period, shall remain in the assignment until the grading period has ended, unless the principal of the school certifies that the regularly employed teacher has communicated with and assisted the substitute with the preparation of lesson plans and monitoring student progress or has been approved to return to work by his/her physician. For the purposes of this policy, teacher and substitute teacher means professional educator as defined in WV Code 18A-1-1.~~

~~Upon completion of 133 days of employment in any one (1) school year, substitute teachers, except retired teachers and other retired professional educators employed as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a permanent, full-time professional employee. Employment of 133 days or more as a substitute teacher shall be prorated and shall vest as a fraction of the school year worked by the permanent, full-time teacher.~~

Payment of Substitutes

The pay of a substitute teacher shall ~~not be less than~~ eighty percent (80%) of the daily rate of the State basic salary paid to teachers; however, any substitute teacher who teaches in excess of ten (10) consecutive instructional days in the same position shall, thereafter, ~~not be paid less than~~ eighty percent (80%) of the daily rate of the State advanced salary based upon teaching experience. Any substitute teacher who teaches in excess of thirty (30) days in the same position shall be paid the daily rate of the advanced salary schedule in the County.

The pay of a substitute service personnel shall be at the daily rate that such person would receive in the vacancy in which he / she is serving.

Grievance Rights of Substitutes

A substitute shall have standing to file a grievance only on matters related to days worked or when there is a violation, misapplication or misinterpretation of a statute, policy, rule or written agreement relating to such substitute.

Evaluation of Substitutes

Substitute ~~teachers~~ employees shall be evaluated in accordance with ~~State and local policies~~ Policies 550 and 551.

~~Substitute teachers may be utilized to assist with classroom responsibilities in order to provide for planning time for a regular employee; however, any substitute teacher who is employed to teach a minimum of two (2) consecutive days in the same position shall be granted a planning period.~~

Personal Leave for Substitutes

Daily substitutes shall not earn sick leave and shall not be paid for days when students are not required to attend school.

Long-term substitutes shall earn the same rights and benefits afforded to regular employees when considering personal leave. Personal leave earned as a long-term substitute shall only be used while assigned as a long-term substitute or converted to personal leave as a regular employee.

Assignment of Substitutes

Substitute teachers may be chosen for day-to-day assignments by the preference of the absent teacher or the principal. An absent teacher shall not designate as preferred any substitute teacher who is a close relative of the absent teacher, including one's mother, father, child, sibling, grandmother, grandfather, aunt, uncle, niece, or nephew. For long-term assignments, preference shall be given to substitute teachers in the following ranked order:

1. Certified teachers who hold endorsement in the appropriate area of certification
2. Certified teachers who do not hold endorsement in the appropriate area of certification
3. Permitted teachers who hold endorsement in the appropriate area of certification
4. Permitted teachers who do not hold endorsement in the appropriate area of certification

If more than one substitute teacher is available for a long-term assignment such that this ranked order does not separate the candidates, then the preference of the absent teacher or the principal may be considered in the assignment.

Substitute service personnel shall be assigned on a rotating seniority basis within the appropriate classification, except that if the absence or vacancy is expected to extend for more than 30 consecutive working days due to the suspension of the absent employee or a Board-approved leave of absence, then the assignment shall be posted and filled pursuant to the requirements of filling vacancies in regular service personnel assignments. If under this process a regular service personnel is found to be most senior and qualified for the assignment, that regular service personnel shall fill the absence or vacancy and a substitute assigned to fill his / her regular assignment for the duration.

Availability of Substitutes

It is expected that substitute employees will be available and accept offered assignments. ~~Service employees will be expected to be available to receive work requests between the hours of 7:00 P.M. and 9:00 P.M., every day of the week, and beginning at 5:00 a.m. for job openings for the current day. The calls start at 4:00 a.m. for cooks and bus operators.~~ Substitute service employees personnel will be expected to serve all school attendance areas in Roane County. The unavailability of a substitute employee or the refusal of offered assignments has a detrimental effect upon the efficient operation of the school system. However, in recognition of the occurrence of a reasonable number of circumstances beyond the control of substitute employees, a determination has been made to permit a total of ten (10) instances of unavailability and/or refusal within a school year before adverse personnel action is recommended.

~~Should a substitute not be available for jobs offered in the middle of the work day, consideration may be given to excuse the unavailability. For jobs that become available after a service personnel shift has begun, the administrative staff may personally call for substitutes.~~

If ~~the~~ a substitute employee is called work on a day that the employee has previously scheduled a doctor's appointment during the projected work time and the employee can provide a signed statement from the physician for reason of absence, the refusal will be recorded, but not counted against the employee. In order to be excused, the doctor's statement must be presented by the third work day after the refusal.

~~During the established call times, at least one attempt shall be made to contact the individual Substitute by phone. The Board of Education recognizes that a limited amount of time is available to secure a substitute in the early morning hours and that the health and welfare of students should be the District's first priority in securing substitute personnel.~~

~~Roane County Schools~~ The Board employs an electronic calling system for substitutes and notifies substitutes of available work through the phone contacts provided by the substitute. The lack of a response is determined to mean "not available" and will counted as "no." It is recognized that it is the responsibility of the substitute to be available to answer the calls or update the electronic calling system when changing contact information.

In the event a substitute employee is either "not available" or "declines" work on seven (7) separate occasions the employee shall be provided with a warning letter indicating that three (3) additional instances of non-availability and/or refusal shall result in a recommendation that employment be terminated. After a warning letter has been issued and following three (3) additional instances or non-availability and/or refusal within a school year, the Superintendent may

recommend the termination of the employment of the substitute employee. A substitute employee who is terminated under the terms of this policy shall not be eligible for employment with Reane County Schools the Board in any capacity for a period of two (2) years following the date of termination.

~~WV Code 18A-2-3, 18A-4-7, 18A-4-14, 18A-4-7a, 18A-2-12, 18-29-2, 16-3D-3~~

~~WV Code 61-10-15~~

~~The Board of Education shall employ and the Superintendent, subject to the approval of the Board, shall assign substitute service personnel on the basis of seniority to perform any of the following duties:~~

~~A. To fill the temporary absence of another service employee~~

~~B. To fill the position of a regular service employee who either requests a leave of absence from the Board in writing and is granted the leave in writing by the Board, or is on workers' compensation and absent.~~

~~If the leave of absence is to extend beyond thirty (30) working days, the Board shall post the position of the absent employee under the procedure set forth in WV Code 18A-4-8b. If a substitute service employee is employed to fill the position of the absent employee and is employed in the position for twenty (20) or more working days, the substitute service person acquires regular employee status with the exception of regular job bidding rights, does not accrue regular seniority, and is accorded all other rights, privileges and benefits pertaining to the position until the regular employee returns to the position or ceases to be employed by the Board.~~

~~The regular or substitute employee who fills a vacancy that is related to a leave of absence or the absence of an employee on worker's compensation in any manner as provided in this policy, upon termination of the leave of absence of the employee, shall be returned to his/her original position or status.~~

~~No service person may be required to request or to take a leave of absence and no service person shall be deprived of any right or privilege of regular employment status for refusal to request or failure to take a leave of absence.~~

~~C. To perform the service of a service employee who is authorized to be absent from duties without loss of pay.~~

~~D. To temporarily fill a vacancy in a permanent position caused by severance of employment by the resignation, transfer, retirement, permanent disability, dismissal for cause, or death of the regular service employee who had been assigned to fill the position.~~

~~Within twenty (20) working days from the commencement of the vacancy, the Board shall fill the vacancy under the procedures described in WV Code 18A-4-8b and 18A-2-5, and the person hired to fill the vacancy shall have and shall be accorded all rights, privileges and benefits pertaining to the position.~~

~~E. To fill the vacancy created by a regular employee's suspension.~~

~~If the suspension is for more than thirty (30) working days, the Board shall post the position of the suspended employee under the provisions of WV Code 18A-4-8b. If a substitute service employee is employed to fill the suspended employee's position, the substitute employee shall acquire regular employee status with the exception of regular employee job bidding rights, shall not accrue regular seniority, and shall be accorded all rights, privileges and benefits pertaining to the position until the termination by the Board becomes final or the suspended employee is returned to employment.~~

~~If the suspended employee is not returned to his/her job, the Board shall fill the vacancy under the procedures described in WV Code 18A-4-8b, and WV Code 18A-2-5.~~

~~F. To temporarily fill a vacancy in a newly created position prior to employment of a service personnel on a regular basis under the procedure set forth in WV Code 18A-4-8b.~~

~~Service personnel substitutes shall be assigned in the following manner:~~

~~A. A substitute with the greatest length of service time, that is, from the date s/he began his/her assigned duties as~~

a substitute in that particular category of employment, shall be given priority in accepting the assignment throughout the period of the regular employee's absence or until the vacancy is filled on a regular basis under the procedures described in WV Code 18A-4-8b.

B. All service personnel substitutes shall be employed on a rotating basis according to the length of their service time until each substitute has had an opportunity to perform similar assignments. Employees first placed on the substitute rotation list during a school year shall initially be placed at the bottom of the list. The substitute rotation list shall be re-ordered according to seniority each July 1st.

C. If there are regular service employees employed in the same building or working station as the absent employee and who are employed in the same classification category of employment, they shall be first offered the opportunity to fill the position of the absent employee on a rotating and seniority basis with a substitute service employee then filling the regular employee's position. A regular employee assigned to fill the position of an absent employee shall be given the opportunity to hold that position throughout the absence. For purposes of this policy, all regularly employed bus operators are considered to be employed within the same building or working station.

It is expected that substitute employees will be available and accept offered assignments. Service employees will be expected to be available to receive work requests between the hours of 7:00 P.M. and 9:00 P.M., every day of the week, and beginning at 5:00 a.m. for job openings for the current day. The calls start at 4:00 a.m. for cooks and bus operators. Substitute employees will be expected to serve all school attendance areas in Roane County. The unavailability of a substitute employee or the refusal of offered assignments has a detrimental effect upon the efficient operation of the school system. However, in recognition of the occurrence of a reasonable number of circumstances beyond the control of substitute employees, a determination has been made to permit a total of ten (10) instances of unavailability and/or refusal within a school year before adverse personnel action is recommended.

Should a substitute not be available for jobs offered in the middle of the work day, consideration may be given to excuse the unavailability. For jobs that become available after a service personnel shift has begun, the administrative staff may personally call for substitutes.

If the substitute employee is called work on a day that the employee has previously scheduled a doctor's appointment during the projected work time and the employee can provide a signed statement from the physician for reason of absence, the refusal will be recorded, but not counted against the employee. In order to be excused, the doctor's statement must be presented by the third work day after the refusal.

During the established call times, at least one attempt shall be made to contact the individual Substitute by phone. The Board of Education recognizes that a limited amount of time is available to secure a substitute in the early morning hours and that the health and welfare of students should be the District's first priority in securing substitute personnel.

Roane County Schools employs an electronic calling system for substitutes and notifies substitutes of available work through the phone contacts provided by the substitute. The lack of a response is determined to mean "not available" and will counted as "no." It is recognized that it is the responsibility of the Substitute to be available to answer the calls or update the electronic calling system when changing contact information.

In the event a substitute employee is either "not available" or "declines" work on seven (7) separate occasions the employee shall be provided with a warning letter indicating that three (3) additional instances of non-availability and/or refusal shall result in a recommendation that employment be terminated. After a warning letter has been issued and following three (3) additional instances of non-availability and/or refusal within a school year, the Superintendent may recommend the termination of the employment of the substitute employee. A substitute employee who is terminated under the terms of this policy shall not be eligible for employment with Roane County Schools in any capacity for a period of two (2) years following the date of termination.

Persons whose names do not already appear on the substitute list for a service personnel category of employment may attain that status only by making application in response to a posted notice of vacancy for that substitute list. The posting process, and the selection of candidates from among the applicants, shall follow the procedures set forth in WV Code 18A-4-8b.

The salary of a substitute service employee shall be based upon his/her years of employment as defined in WV Code 18A-4-8 and as provided in the State minimum pay scale set forth in WV Code 18A-4-8a and shall be in accordance with the salary schedule of persons regularly employed in the same position in the county in which s/he is employed.

Before any substitute service employee enters upon his/her duties, s/he shall execute with the County Board a written contract as provided in WV Code 18A-2-5.

To establish a uniform system of providing a fair and equitable opportunity for substitutes to enter upon their duties for the first time, the following method shall be used: The initial order of assigning newly employed substitutes shall be determined by a random selection system established by the affected substitute employees and approved by the Board. This initial priority order shall be in effect only until the substitute service personnel have entered upon their duties for the first time.

Long term substitute means a substitute employee who fills a vacant position that the Superintendent expects to extend for a least thirty (30) consecutive days, and is either:

- A. listed in the job posting as a long term substitute position of over thirty (30) days; or
- B. listed in a job posting as a regular, full time position and:
 - 1. is not filled by a regular, full time employee; and
 - 2. is filled by a substitute employee.

For the purposes of eligibility for PEIA benefits, a long term substitute does not include a retired employee hired to fill the vacant position.

Substitute service employees who have worked thirty (30) days for a school system shall have all rights pertaining to suspension, dismissal and contract renewal as are granted to regular service personnel in WV Code 18A-2-6, 18A-2-7, 18A-2-8 and WV Code 18A-2-8a. A substitute employee who has not worked a total of thirty (30) days may be dismissed at the sole discretion of the Superintendent, with or without cause. Any substitute employee dismissed by the Superintendent shall be notified of his/her dismissal in writing.

The Board will not employ as a substitute service employee the unemancipated child or a dependent (IRS criteria) of the Superintendent or any Board member. 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 substitute 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. When any such relative of the Superintendent is employed as a substitute service employee, the Superintendent shall not participate in any way in the discussion on the employment. Thereafter, the Board member may not vote on a personnel matter involving his/her relative unless the matter affects the Board member's 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 as a substitute service employee or the determination of salary shall be subject to dismissal by the Board.

Applications for employment as a substitute service employee 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.~~

~~A substitute service employee may file a grievance but is considered an employee only on matters related to days worked or when there is a violation, misapplication or misinterpretation of a statute, policy, rule or written agreement relating to such substitute.~~

~~Substitute service personnel shall be evaluated in accordance with State and local policies.~~