

Policy ~~3124~~ 520 – Employment Contracts—~~Teachers~~

Revised policy and repeal of Policy 3124.01 (Probationary Contract), Policy 3124.02 (Continuing Contract), Policy 3140 (Early Notification of Retirement: Professional Personnel), Policy 3140.01 (Resignation), Policy 3142 (Non-Renewal of Probationary Teacher Contract), Policy 4124 (Employment Contract – Service Personnel), Policy 4124.01 (Probationary Contract), Policy 4124.02 (Continuing Contract – Service Personnel), Policy 4140 (Termination for Cause and Resignation), Policy 4140.01 (Early Notification of Retirement: Service Personnel), and Policy 4142 (Non-Renewal of a Service Personnel Probationary Contract) effective July 1, 2019

1st reading May 23, 2019

2nd reading

3rd reading

Statutory authority (none)

Administrative Guidelines
(none)

Before entering upon their duties, all ~~teachers~~ employees shall execute a contract with the Board of Education.

Teachers' Contract

The teachers' contract shall state the salary to be paid and shall be in the form prescribed by the State Superintendent of Schools. Every such contract shall be signed by the ~~teacher~~ employee and by the president and secretary of the Board and when so signed shall be filed, together with relevant employment documents such as the certificate of the teacher, by the Superintendent in his/her capacity as secretary of the Board.

~~WV Code 18A-2-2~~

Service Personnel Contract

The service personnel contract shall be in the form as prescribed by state law.

Other Contracts

Other employment contracts may be offered by the Board whose form shall be approved by the Board prior to their use.

Probationary Contract

All ~~professional personnel~~ employees, including substitute employees, who have been employed by the Board of Education for less than three (3) years and who have not previously held a continuing contract with this or any other county board of education in West Virginia shall hold a probationary contract.

The Superintendent, at a meeting of the Board on or before May 1st of each year, shall provide in writing to the Board a list of all probationary teachers that s/he recommends to be rehired for the next ensuing school year. The Board shall act upon the Superintendent's recommendations at that meeting in accordance with WV Code 18A-2-8a. Any probationary teacher or other probationary employee who is not rehired by the Board at that meeting shall be notified in writing by certified mail, return receipt requested, to such person's last known address within ten (10) days following said Board meeting, of not having been rehired or not having been recommended for rehiring.

Any probationary teacher who receives notice that s/he has not been recommended for rehiring or other probationary employee who has not been reemployed may within ten (10) days after receiving the written notice request a statement of the reasons for not having been rehired and may request a hearing before the Board. Such hearing shall be held at the next regularly scheduled Board meeting or a special meeting of the Board called within thirty (30) days of the request for hearing. At the hearing, the reasons for the nonrehiring must be shown.

Continuing Contract

After three (3) consecutive years of successful experience, all ~~professional personnel~~ employees, including substitute employees, who enter into a new contract shall receive a continuing contract. A year of experience shall require successful employment for at least 133 days during a school year.

A professional ~~personnel~~ employee holding a continuing contract status with any other ~~one~~ county shall be granted continuing contract status with any other ~~this~~ County upon completion of one (1) year of acceptable employment if such employment is during the next succeeding school year or immediately following an approved leave of absence extending no more than one (1) year.

A professional employee who was previously employed by this County under a probationary contract status and returns to employment after voluntary resignation or retirement shall be required to complete three consecutive years of successful experience upon re-employment prior to being granted continuing contract status.

A professional employee who was previously employed by this County under a continuing contract status and returns to employment after voluntary resignation or retirement shall be restored to continuing contract status upon re-employment.

~~The continuing contract of any professional personnel employee shall remain in full force and effect except as modified by mutual consent of the school board and the employee, unless and until terminated:~~

- ~~A. By a majority vote of the full membership of the Board on or before May 1st of the then current year, after written notice, served upon the employee, return receipt requested, stating cause or causes and an opportunity to be heard at a meeting of the Board prior to the Board's action.~~
- ~~B. By written resignation of the employee on or before May 1st to initiate termination of a continuing contract. The termination shall take effect at the close of the school year in which the contract is so terminated.~~
- ~~C. By mutual consent, at any time, of the School Board and the employee.~~
- ~~D. By termination under WV Code 18A-2-8.~~
- ~~E. By dismissal based upon the lack of need for the employee's services pursuant to the provisions of law relating to the allocation to teachers and student teacher ratios. The written notification of employees being considered for dismissal for lack of need shall be limited to only those employees whose consideration for dismissal is based upon known or expected circumstances which will require dismissal for lack of need. An employee who was not provided notice and an opportunity for a hearing pursuant to Section (A) of this policy may not be included on the list. In case of such dismissal, the employee so dismissed shall be placed upon a preferred list in the order of their length of service with that board, and no employee shall be employed by the Board until each qualified employee upon the preferred list, in order, shall have been offered the opportunity for re-employment in a position for which they are qualified, provided that s/he has not accepted a position elsewhere. Such re-employment shall be upon an employee's preexisting continuing contract and shall have the same effect as though the contract had been suspended during the time the employee was not employed.~~

~~A teacher is disqualified to teach in any public school in the State for the duration of the next ensuing school year, if that teacher fails to fulfill his/her contract with the Board, unless prevented from so doing by personal illness or other just cause or unless released from such contract by the Board, or violates any lawful provision of his/her contract. Marriage of an employee shall not be considered a failure to fulfill, or violation of, the contract. The State Department of Education or Board may hold all papers and credentials of such teacher on file for a period of one (1) year for such~~

violation and shall report such disqualification status in the National Association of State Directors of Teacher Education and Certification database system.

In the assignment of position or duties of an employee under a continuing contract, the Board may provide for released time of an employee for any special professional or governmental assignment without jeopardizing the contractual rights of such employee or any other rights, privileges or benefits. Released time shall be provided for any professional employee while serving as a member of the Legislature during any duly constituted session of that body and its interim and statutory committees and commissions without jeopardizing his/her contractual rights or any other rights, privileges, benefits or accrual of experience for placement on the State minimum salary schedule in the following school year under the provisions of State law and Board policy. An employee who is a member of the Legislature will not receive pay from the Board while executing legislative duties. Such employee may use the three (3) days of personal leave without cause for that purpose or vacation days if applicable. An employee, who is granted leave under this policy, shall accrue seniority during the period of time that the employee is on this Board approved leave of absence.

WV Code 18A-2-2

Early Notification of Retirement:-Professional Personnel

Any classroom teacher who gives written notice to the County Board on or before March 1st of the school year of their retirement from employment with the Board at the conclusion of the school year shall be paid \$500.00 from the "Early Notification of Retirement" line item established for the Department of Education for this purpose, subject to appropriation by the legislature. The Board shall not provide any additional payment for such notice from classroom teachers, nor any payment whatsoever for such notice from other employees. If the appropriations to the Department of Education for this purpose are insufficient to compensate all applicable teachers, the Department of Education shall request a supplemental appropriation in an amount sufficient to compensate all such teachers. Additionally, if funds are still insufficient to compensate all applicable teachers, the priority of payment is for teachers who give written notice the earliest. This payment shall not be counted as part of the final average salary for the purpose of calculating retirement.

The position of a classroom teacher providing written notice of retirement pursuant to this policy may be considered vacant and the County Board may immediately post the position as an opening to be filled at the conclusion of the school year. If a teacher has been hired to fill the position of a retiring classroom teacher prior to the start of the next school year, the retiring classroom teacher is disqualified from continuing his/her employment in that position. However, the retiring classroom teacher may be permitted to continue his/her employment in that position and forfeit the early retirement notification payment if, after giving notice of retirement in accordance with this policy, s/he becomes subject to a significant unforeseen financial hardship, including a hardship caused by the death or illness of an immediate family member or loss of employment of a spouse. Other significant unforeseen financial hardships shall be determined by the Superintendent on a case-by-case basis. This policy does not prohibit the Board from eliminating the position of a retiring classroom teacher.

WV Code 18A-2-2, 18A-2-5a

Resignation

Any employee may submit notice of resignation at any time during the school year, provided that such resignation shall not be considered official until action is taken by the Board to accept it. Such notice may be withdrawn at any time prior to the Board's action and may not be withdrawn thereafter except by action of the Board to rescind its acceptance.

Any classroom teacher or administrator who does not make known his / her intention to resign employment or retire prior to July 15th of a particular school year may be required to fulfill his / her contract for that same year pursuant to state law.

Any teacher who fails to fulfill his/her contract with the Board of Education, unless prevented from so doing by personal illness or other just cause or unless released from such contract by the Board, or who violates any lawful provision

thereof, shall be disqualified to teach in any other public school in the State for a period of the next ensuing school year and the State Department of Education or Board may hold all papers and credentials of such teacher on file for a period of one (1) year for such violation. The marriage of a teacher shall not be considered a failure to fulfill, or violation of, the contract.

Any classroom teacher, as defined in WV 18A-1-1, who desires to resign employment with the Board, with such resignation to become effective on or before the fifteenth (15th) day of July of the same year and after completion of the employment term, may do so at any time during the school year by written notification and any such notification received by a Board shall automatically extend such teacher's public employee insurance coverage until the thirty-first (31st) day of August of the same year.

Non-Renewal of Probationary Teacher Contract

The Superintendent, at a meeting of the Board of Education on or before May 1st of each year, shall provide in writing to the Board a list of all probationary teachers that s/he recommends to be rehired for the next ensuing school year. The Board shall act upon the Superintendent's recommendation at that meeting. Any probationary teacher who is not rehired by the Board at that meeting shall be notified in writing, by certified mail, return receipt requested, to such person's last known addresses within ten (10) days following said Board meeting, of their not having been rehired or not having been recommended for rehiring.

If the reason for non-renewal is based solely on lack of need, the teacher shall be eligible for placement on the preferred recall list and shall, upon reemployment, resume the employment status that would have existed in the ensuing year of employment had the contract not been non-renewed.

Any probationary teacher who receives notice that s/he has not been recommended for rehiring who has not been reemployed may within ten (10) days after receiving the written notice request a statement of the reasons for not having been rehired and may request a hearing before the Board. Such hearing shall be held at the next regularly scheduled Board meeting or a special meeting of the Board called within thirty (30) days of the request for hearing. At the hearing, the reasons for the non-rehiring must be shown.

Any hearing conducted shall be conducted by a majority of the members of the Board. The hearing shall be held in executive session of the Board unless the teacher requests the hearing in public. The hearing shall be recorded mechanically. The Board may be represented by counsel and the teacher may be represented by counsel or a designee. The hearing shall include the opportunity for presentation of evidence, confrontation and examination of witnesses, and the review of arguments of both the teacher and the Board. A record of the hearing may be taken by either party at the expense of the party taking the record. Within ten (10) days of the conclusion of the hearing, the Board shall issue to the teacher a written decision containing an order affirming the intention of the Board not to reemploy the teacher or an order vacating the intention not to reemploy and expunging any record of the intention, notice of the intention, and the hearing.

If the sole reason for non-renewal is lack of need, the teacher shall be placed on the preferred recall list.

A teacher may appeal an order affirming the intention of the Board not to reemploy the teacher to the West Virginia Public Employees Grievance Board.

WV Code 18A-2-8a

Employment Contract—Service Personnel

Before entering upon their duties, service personnel shall execute with the Board of Education a written contract on a form prescribed by State law.

Each contract of employment shall be designated as a probationary or continuing contract. The employment of service personnel shall be made a matter of minute record. The employee shall return the contract of employment to the

County Board of Education within thirty (30) days after receipt or otherwise s/he shall forfeit his/her right to employment.

After three (3) years of acceptable employment, each service personnel employee who enters into a new contract of employment with the Board shall be granted continuing contract status.

A service personnel employee holding continuing contract status with another county shall be granted continuing contract status with this Board upon completion of one (1) year of acceptable employment if such employment is during the next succeeding school year or immediately following an approved leave of absence extending no more than one (1) year. "Acceptable employment" shall mean receiving a satisfactory evaluation at the conclusion of the school year.

WV Code 18A-2-5, 18A-2-6

Probationary Contract

All service personnel with who has been employed by the Board for less than three (3) years shall hold a probationary contract.

The Superintendent at a meeting of the Board of Education on or before May 1st of each year shall provide in writing to the Board a list of all probationary service personnel that s/he recommends to be rehired for the next ensuing school year. The Board shall act upon the Superintendent's recommendations at that meeting. Any service personnel employee who is not rehired by the Board at that meeting shall be notified in writing by certified mail, return receipt requested, to such person's last known address within ten (10) days following said Board meeting, of not having been rehired or not having been recommended for rehiring.

Any probationary service personnel employee who receives notice that s/he has not been recommended for rehiring may within ten (10) days after receiving the written notice request a statement of the reasons for not having been rehired and may request a hearing before the Board. Such hearing shall be held at the next regularly scheduled Board meeting or at a special meeting of the Board called within thirty (30) days of the request for hearing. At the hearing, the reasons for the non-rehiring must be shown.

Continuing Contract — Service Personnel

After three (3) years of acceptable employment, all service personnel who enter into a new contract of employment shall be granted continuing contract status. A year of experience shall require successful employment for at least 133 days during a school year.

A service personnel employee holding a continuing contract status with one county shall be granted continuing contract status with any other county upon completion of one (1) year of acceptable employment if such employment is during the next succeeding school year or immediately following an approved leave of absence which extends no more than one (1) year.

The continuing contract of any service personnel employee shall remain in full force and effect except as modified by mutual consent of the school board and the employee, unless and until terminated:

- A. by a majority vote of the full membership of the Board on or before the first day of May of the then current year, after written notice, served upon the employee, return receipt requested, stating cause or causes and an opportunity to be heard at a meeting of the Board prior to the Board's action;
- B. by written resignation of the employee on or before to the first day of May;
- C. by mutual consent, at any time, of the School Board and the employee;
- D. by termination pursuant to WV Code 18A-2-8;
- E. By dismissal based upon the lack of need for the employee's services. The written notification of employees being considered for dismissal for lack of need shall be limited only to those employees whose consideration for dismissal is based upon known or expected circumstances which will require dismissal for lack of need. An employee who was not provided notice and an opportunity for a hearing pursuant to Section (A) of this policy

may not be included on the list. In case of such dismissal, the employee so dismissed shall be placed upon a preferred list in the order of their length of service with that board, and no employee shall be employed by the Board until each qualified employee upon the preferred list, in order, shall have been offered the opportunity for re-employment in a position for which they are qualified provided that s/he has not accepted a position elsewhere. Such re-employment shall be upon an employee's preexisting continuing contract and shall have the same effect as through the contract had been suspended during the time the employee was not employed.

In the assignment of position or duties of an employee under a continuing contract, the Board may provide for released time of an employee for any special professional or governmental assignment without jeopardizing the contractual rights of such employee or any other rights, privileges or benefits. Released time shall be provided for any service personnel employee while serving as a member of the Legislature during any duly constituted session of that body and its interim and statutory committees and commissions without jeopardizing his/her contractual rights or any other rights, privileges, benefits or accrual of experience for placement on the State minimum salary schedule in the following school year under the provisions of State law and Board policy. An employee who is a member of the Legislature will not receive pay from the Board while executing legislative duties. Such employee may use vacation days, if applicable, or personal leave (not sick) for that purpose, if desired. An employee, who is granted leave under this policy, shall accrue seniority during the period of time that the employee is on this board approved leave of absence.

WV Code 18A-2-6

WV Code 18A-2-6a

WV Code 18A-2-8

Termination for Cause and Resignation

Termination

The employment of service personnel may be terminated at any time by the mutual consent of the Board of Education and the employee.

An employment contract may be terminated at any time, upon a majority vote of the Board, for: immorality, incompetence, cruelty, insubordination, intemperance, willful neglect of duty, unsatisfactory performance, the conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge. A charge of unsatisfactory performance shall not be made except as the result of an employee performance evaluation.

Prior to any recommendation to the Board that an employee be suspended or terminated, the Superintendent shall provide the employee with notice of the grounds for the proposed recommendation and afford the employee with an opportunity to respond to the charges. The opportunity to respond shall be offered in the form of an informal meeting. The employee may elect to be accompanied by a representative or counsel, but may not be compelled to give a statement or otherwise respond to charges.

Following the opportunity of an employee to meet informally with the Superintendent, the charges shall be stated in writing served upon the employee within two (2) days of presentation of said charges to the Board. The employee so affected shall be given an opportunity, within five (5) days of receiving such written notice, to request, in writing, a level three (3) hearing and appeals pursuant to WV Code 6C-2-1 et seq. (Grievance Procedure), except that dismissal for the conviction of a felony or guilty plea or plea of nolo contendere to a felony charge is not by itself grounds for a grievance proceeding.

An employee charged with the commission of a felony may be reassigned to duties which do not involve direct interaction with students pending final disposition of the charges. Provided, if no suitable alternative position is available, the employee may be suspended without pay pending final disposition of the charges. Provided, further, no employee shall be suspended without pay pending presentation of charges to the Board unless the employee is afforded

with an opportunity to give his/her version of the events in question or to otherwise respond to the charges in a meeting or conference with the Superintendent.

Any employee terminated by the Board shall be paid his/her full wages earned within seventy two (72) hours.

Resignation

Resignations may be withdrawn anytime prior to Board approval. Resignations may not be withdrawn after they have been approved by the Board.

WV Code 18A-2-8, 21-5-4

Early Notice of Retirement: Service Personnel

Any service personnel who gives written notice to the County Board of Education on or before March 1st of the school year of their retirement from employment with the Board at the conclusion of the school year shall be paid \$500 from local funds.

WV Code 18A-2-5-a

Non-renewal of a Service Personnel Probationary Contract

The Superintendent, at a meeting of the Board of Education on or before May 1st of each year, shall provide in writing to the Board a list of all probationary service personnel that s/he recommends to be rehired for the next ensuing school year. The Board shall act upon the Superintendent's recommendations at that meeting. Any probationary service personnel who is not rehired by The Board at that meeting shall be notified in writing, by certified mail, and return receipt requested, to such persons' last known address within ten (10) days following said Board meeting, of their not having been rehired or not having been recommended for rehiring.

If the reason for non-renewal is based solely on lack of need, the service personnel shall be eligible for placement on the preferred recall list and shall, upon reemployment, resume the employment status that would have existed in the ensuing year of employment had the contract not been non-renewed.

Should a hearing be requested, the burden shall be on the Superintendent to show the reasons for non-rehiring. The hearing shall be held in executive session unless the employee requests the hearing to be conducted in public. The hearing shall be recorded by mechanical means. The Board and/or the Superintendent may be represented by counsel and the employee may be represented by counsel or a representative. The hearing shall include, for each party, the opportunity for presentation of evidence, confrontation and examination of witnesses. At the conclusion of the hearing the Board may deliberate and, following its deliberation, shall either affirm the decision of non-renewal or set aside the decision on non-renewal. The Superintendent shall provide the employee of written notice of the Board's decision within two (2) days of the hearing.

WV Code 18A-2-8a