

## CHAPTER 3

### **3.1.29 Employment of Substitutes in Areas of Critical Need and Shortage (Effective 08/24/16)**

#### **3.1.29.1 Philosophy**

Pursuant to West Virginia Code §18A-2-3, a person receiving retirement benefits under the provisions of West Virginia Code may accept employment as a substitute teacher for an unlimited number of days under certain specified circumstances each fiscal year without affecting the monthly retirement benefit to which the retiree is otherwise entitled.

#### **3.1.29.2 Definition**

The Marshall County Board of Education hereby adopts the definition of "area of critical need and shortage" set forth in West Virginia Code §18A-2-3, as follows: "Area of critical need and shortage" means an area of certification and training in which the number of available substitute teachers in the County who hold certification and training in that area and who are not retired is insufficient to meet the projected need for substitute teachers. Guidance counselors cannot be designated as areas of critical need and shortage. There exists within the County a critical need and shortage of substitute teachers in the following areas: Pre-School Special Needs, Autism, Special Education, Secondary Special Education, Secondary Science, Secondary Math, Foreign Language, Secondary English and Reading Specialists. Accordingly, this policy provides for the employment of retired teachers as substitute teachers during the school year in these areas.

#### **3.1.29.3 Requirements**

Prior to the employment of such substitute teacher as a critical needs substitute teacher beyond the post-retirement limitations established by the consolidated public retirement board, the superintendent shall submit, on a form approved by the Consolidated Public Retirement Board and the West Virginia Board of Education, an affidavit signed by the superintendent stating the name of the county, the fact that county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, and the name or names of the person or persons to be employed as a critical needs substitute pursuant to this policy, the critical need and shortage area position filled by each person, the date the person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement, to the Consolidated Public Retirement Board and the West Virginia Board of Education. A teacher is eligible to be employed as a critical needs substitute to fill a vacant position only if the retired teacher's retirement became effective at least 20 days before the beginning of the employment term during which he or she is employed as a substitute. The County Board shall cooperate with the West Virginia State Board of Education to verify the county's compliance with the requirements of this code section and verify the eligibility of the critical needs substitute teacher (i.e., adoption of local

policy, prior electronic posting of position opening, retirement date effective at least 20 days prior to school term , continuous and ongoing posting seeking fully certified non-retired teacher, and absence of a non-retired teacher who holds certification and training in the required area) and shall likewise submit a copy of the affidavit to the Consolidated Public Retirement Board.

#### **3.1.29.4 Retired Teacher Employment as Substitute**

Retired teachers employed as critical need/shortage area substitutes are considered day-to-day temporary, part-time employees. Retired teachers will be employed as a substitute teacher only when no other teacher who holds certification and training in the area and who is not retired is available and accepts the assignment. The substitutes are not eligible for additional pension or other benefits paid to regularly employed employees and shall not accrue seniority. When a retired teacher is employed as a critical needs substitute, the county board shall continue to post the vacant position until it is filled with a regularly employed teacher who is fully certified or permitted for the position . The position vacancy shall be posted electronically and easily accessible to prospective employees. Any person who retires and begins work as a substitute teacher under West Virginia Code §18A-2-3(c) and this policy within the same employment term shall lose those retirement benefits attributed to the annuity reserve, effective from the first day of employment as a retiree substitute in such employment term and ending with the month following the date the retiree ceases to perform services as a substitute.

A substitute teacher, who has been assigned as a classroom teacher in the same classroom continuously for more than one-half of a grading period and whose assignment remains in effect two 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.

### **3.1.29.5 Adoption and Renewal**

This policy is in effect for 2016-2017 school year only and is subject to annual renewal by the county board of education and approval by the West Virginia Board of Education. The provisions of West Virginia Code §18-2-3(c), shall expire on June 30, 2017.

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

Prior to the employment of any retired teacher as a substitute teacher in an area of critical need and shortage beyond the post-retirement, the Superintendent shall submit to the West Virginia Board of Education on a form approved by the Consolidated Public Retirement Board and the West Virginia Board of Education, an affidavit signed by the superintendent stating the name of the county, the fact that the county has adopted a policy to employ retired teachers as substitutes to address areas of critical need and shortage, the name or names of the person or persons to be employed as a critical needs substitute pursuant to the policy, the critical need and shortage area position filled by each person, the date that the person gave notice to the county board of the person's intent to retire, and the effective date of the person's retirement.

Review Schedule. This policy shall be reviewed annually.

Legal Authority: West Virginia Code §18A-2-3