

Wayne County Board of Education

POLICY #4120.04

(*Service Personnel: Employment of Substitutes*)

Your comments concerning this policy should be sent in writing to:

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This policy is out for public comment for 10 working days beginning Wednesday, September 28, 2022 through Tuesday, October 11, 2022

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4120.04 - EMPLOYMENT OF SUBSTITUTES

The Board of Education shall employ, and the Superintendent, subject to the approval of said county board of education, shall assign, substitute service personnel on the basis of seniority, subject to the hereinafter terms and conditions. ~~of seniority, subject to the hereinafter terms and conditions.~~

A. ~~The county service personnel director, at least fifteen (15) Wayne County Central Office work days prior to the beginning date of students attending school for the current school year, shall send a letter, both by certified and regular mail, to each substitute service personnel employee currently on the county substitute service personnel list, informing each such substitute employee that in order to remain qualified for the coming school year, s/he must return to the service personnel department the Intent to Work form that will be included with the letter, with his/her preferred telephone number and mailing address, and declaration of preferred area. This form must be received by the Director of Service Personnel prior to the beginning date of students attending school.~~

~~Said letter shall also inform each such substitute employee that s/he has the option of tendering his/her resignation as a substitute employee, within fifteen (15) work days of receiving his/her letter.~~

~~Said letter shall also contain a copy of this amended substitute service employee policy and shall also inform each such substitute employee that this amended substitute service employee policy and any such amendments of said policy hereafter, will be available to each such substitute employee on the Board's internet website, and also available in paper form at the Service Personnel Director's office upon request, and that it shall be the employee's responsibility to stay current on any revisions to said policy.~~

B. The service personnel director or his/her staff shall timely provide each newly hired substitute service personnel employee with a copy of the substitute service employee policy in effect at the time of said employee's hiring; the service personnel director shall also provide the newly hired employee with written instructions as to how the automated call out system for substitute service personnel employees works and how the new employee is to operate such system and inform each such new employee that the above policy and instructions are available on line at the Board's website. ~~Each such newly hired substitute employee shall not be activated on the substitute rotation call out list until s/he acknowledges by signature on the Intent to Work form, provided by the service personnel director, receipt of the above items.~~

C. It shall be the sole responsibility of each substitute service personnel employee to timely provide the automated calling system with his/her preferred telephone number and timely provide the automated calling system with any change in said preferred telephone number.

D. The substitute service personnel employees' call out system shall be subject to the following:

- ~~Wayne County shall be considered to be divided into two (2) sections (northern and southern), with the central area of Wayne County to be considered as part of both the northern and southern sections.~~
- ~~Each substitute service personnel employee shall notify the service personnel director as to which of the above two (2) sections of Wayne County shall be the employee's primary section. Notification of primary service area will be included on the Intent to Work form mailed at the beginning of the school year. This form must be signed and returned to the service personnel director prior to the first day of students returning to school each year.~~
- ~~The automated calling system shall contact all substitutes in order of rotation within each classification of substitutes for all substitute positions available within the entire county, and the substitute may elect to accept any substitute positions offered to him/her, but only those offers made to him/her within his/her primary section shall be considered as to the percentage of offers that the substitute accepts and performs.~~
- ~~The northern section of Wayne County shall be considered to contain the following schools and other facilities: Kenova Elementary, Ceredo Elementary, Buffalo Elementary, Lavalette Elementary, Kellogg~~

~~Elementary, Kellogg Pre-K Building, C-K Middle School, Buffalo Middle School, Vinson Middle School, Spring Valley High School, Playmates Buffalo Building, Kenova Playmates, Wayne Elementary, Wayne Middle, Wayne High School, Prichard Elementary, and Wayne Pre-K Building.~~

5. ~~The southern section of Wayne County shall be considered to contain the following schools and other facilities: Crum Elementary, Crum Pre-K Building, Genoa Elementary, East Lynn Elementary, Fort Gay Pre-K-8, Dunlow Elementary, Crum Middle School, Telsia High School, Wayne Elementary, Wayne Middle, Wayne High School, Prichard Elementary, and Wayne Pre-K Building.~~
6. If the substitute employee is offered and accepts a substitute job on the same morning that the job is to begin, then the substitute shall have a reasonable amount of time to travel from his/her residence to the job site, based upon the time of the call, the distance to be traveled to the site, and the reasonable amount of time necessary to travel to said location. It is the responsibility of the substitute to notify the school of their approximate arrival time, if the beginning time cannot be met.
7. A substitute service employee is not permitted to make himself/herself unavailable for call out. Only the director of service personnel may designate a substitute service employee as unavailable.

E. A substitute employee shall have been considered to have refused a substitute's job ~~when such substitute employee within the substitute's primary section when such substitute employee~~ actually refuses such a job offer, does not answer his/her telephone (answering machine) when contacted for such a job offer, does not respond to such an offer, etc. A substitute employee must report to work ~~for fifty percent (50%) or more days called based on~~ a minimum of ~~ten (10) full work days based on a minimum of twenty (20) calls twenty (20) calls~~ for substitute jobs ~~in his/her primary section~~ per school year. At the end of the school year, substitute service employees who have not met this requirement will be recommended for termination by the Superintendent ~~for termination of employment~~ to the Board, subject to WV Code 18A-2-7 and 18A-2-8. ~~Provided that a substitute service employee cannot accrue more than one (1) refusal during a calendar day and in the event that a substitute accepts and works a job during a calendar day, s/he cannot then accrue a refusal on the same calendar day for not accepting another job assignment offered for another portion of that same day.~~

F. If a substitute employee encounters a valid medical or family emergency and is unable to comply with Item E of this policy, then said substitute employee or a member of his/her immediate family, must notify the service personnel director in writing, of the existence of such an emergency, accompanied by a doctor's excuse where appropriate, within ten (10) work days of the first day of any such emergency.

G. Retired service personnel employees of the Board shall be eligible to apply for admission to any of the substitute service personnel lists of the Board. Seniority as a substitute for any above retired employee will start at the date of his/her first day of substitute work as a retired employee substitute. Any retired employee who is employed as a substitute will be subject to all of the requirements and conditions set forth in this present policy, with the exception of the ~~ten (10) full day above "50%" rule concerning performing jobs, in his/her primary section.~~

H. Any substitute service employee whose contract is terminated by the Board and is removed from the substitute rotation list for any reason listed in the Wayne County Substitute Service Employee Policy, or any violation of other State/Federal employee policies or codes, shall not be able to apply as a substitute service employee until on or after September 1st of the following school year in which such employee's employment was terminated, and if such a former employee applies for substitute employment thereafter with the Board, s/he shall be subject to all of the requirements of any new applicant, if the Board, in its discretion, elects to rehire such a former employee.

I. An automated substitute call out system is employed by the Board to facilitate calling substitute service personnel employees for prospective jobs, and said system is considered a designee of the ~~district county~~ service personnel director. Each substitute service employee shall be considered responsible for meeting the minimum requirements of the automated system to be an active participant, including but not limited to registering with the system and providing accurate contact information.

Failure of any substitute service employee to comply with the minimum requirements of this automated system will result in the recommendation of the Superintendent for the Board to terminate such employee's employment, subject to WV Code 18A-2-7 and 18A-2-8.

~~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. The unavailability of a substitute employee or the refusal of offered assignments at excessive levels, regardless of the reasons for such unavailability or refusal, 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 five (5) instances of unavailability and/or refusal (regardless of reason) within a school year before adverse personnel action is recommended. Separate logs shall be maintained for substitute lists in each classification. Each log shall reflect the response to telephone contacts or attempted telephone contacts made to offer available substitute assignments. If there is no answer or a voice mail message is left and not returned within a five (5) minute period the log shall note that the substitute employee was "not available." If an employee declines an assignment after being contacted the log shall note "decline." In the event a substitute employee is either "not available" or "declines" work on three (3) separate occasions, the employee shall be provided with a warning letter indicating that two (2) 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 two (2) additional instances of non-availability and/or refusal within a school year, the Superintendent shall 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 the District in any capacity for a period of three (3) 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 District in which s/he is employed.

Before any substitute service employee enters upon his/her duties, s/he shall execute with the District 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 PERTA benefits, a long-term substitute does not include a retired employee hired to fill the vacant position. Prior to any retireant becoming employed on a temporary full-time or temporary part-time basis by the District shall notify the Retirement Board and the retireant, in writing, if and when the retireant's potential temporary employment will negatively impact the retireant's retired status or benefits. Upon the retireant's acceptance of either temporary full-time or temporary part-time employment, the employer shall notify the Retirement Board, in writing, of the retireant's subsequent employment.

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.

[] No individual shall be eligible for a substitute service personnel assignment in which s/he would be responsible for supervising his/her spouse, or in which s/he would be supervised by his/her spouse.

[] No individual shall be eligible for a substitute service personnel assignment in which s/he would be responsible for supervising a member of his/her immediate family, or in which s/he would be supervised by a member of his/her spouse. A substitute service employee's immediate family members are his/her spouse, 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.

[] 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.

*All provisions set forth above come directly from Statute, WV Code 18A-4-15, and are mandated by Statute.

**This definition comes directly from Statute, WV. Code 18A-1-1.