

Book	Policy Manual
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Legal	West Virginia Board of Education policy 5000 West Virginia Board of Education policy 5202 West Virginia 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
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3120 - **EMPLOYMENT OF PROFESSIONAL PERSONNEL**

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

The Board utilizes in their hiring process the various licensures approved by the West Virginia Board of Education to provide that the educators licensed to work in the District will meet the established levels of competence to deliver an appropriate and effective educational program to the students enrolled in the District. The Licensure requirements defined pursuant to West Virginia Board policy 5202 create standards so that educators will have the necessary knowledge and skills to meet the responsibilities of their assignments in instruction, student support, administration and any other area of responsibility for which licensure is required.

The employment of professional personnel shall be made by the Board only upon nomination and recommendation of the Superintendent.

All applications for employment shall be referred to the Manager of Professional Personnel via the District online bidding portal.

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 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 Board, has responsibility for the supervision, management, and control of a school or schools within the guidelines established by the 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 District-wide 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 Manager of Professional Personnel.

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.

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 (All vendors used for background checks shall be the approved vendor by the WV State Police) 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 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 timesheets 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.

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