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| <p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-39 Substitute Employees</p> | <p>Last Reviewed: 6-28-10 Next Review: 7-01-12</p> |
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The Preston County Board of Education, under the direction of the Superintendent, shall maintain under contract a list of qualified personnel who may be called upon to assume the duties of regular employees who find it necessary to be absent from their assignments. Substitute assignments shall be made according to the rules promulgated by the Legislature and this body.

The efficiency and productivity of substitute employees is closely correlated to the assistance and support they receive from the administration and staff at the local level. Therefore, it shall be the responsibility of the building principal or work area supervisor or his/her designee to personally meet each substitute and given him/her a brief overview of his/her assignment for the day and any special events taking place during the day. The principal or supervisor shall also give the substitute a pre-prepared Substitute Packet of information which should include but is not limited to:

- ❖ A copy of the school schedule;
- ❖ Floor plan of the school;
- ❖ The regular teacher’s specific assignment and related information (i.e. lesson plans, work schedules, special duties, etc.);
- ❖ School hand book or summary of important school rules;
- ❖ Grade books and/or rosters used by the absent teacher;
- ❖ Information concerning cafeteria;/lunchroom, workrooms, parking, etc.;
- ❖ Emergency response information (i.e. fire exits, nurse location, etc.);
- ❖ A copy of the substitute evaluation document which will be completed by the principal/supervisor at the end of the work day; and
- ❖ Other pertinent information.

When circumstances permit, the principal or supervisor shall evaluate each substitute at the conclusion of his/her assignment in the local school or workplace. If an end of assignment review is not possible, the principal or supervisor shall complete the evaluation as soon as practicable. The evaluation shall consist of a review and assessment of the items on a checklist which has been developed to determine the substitute's efficiency and productivity in performing the assignment. The administrator shall mark each item as either satisfactory or unsatisfactory and may make additional comments as appropriate.

As appropriate, the principal or supervisor shall review the evaluation instrument with the substitute and offer suggestions for improvement in job performance as appropriate. The principal/supervisor and the substitute employee shall sign the document. The substitute employee may include a written statement as an addendum to the evaluation. The completed document shall be forwarded to the Personnel Office.

Substitutes who receive three negatively rated checklists will be offered the opportunity to have a conference with the county office program director or coordinator and/or the Assistant Superintendent in an effort to improve their performance and if appropriate, an improvement plan may be developed. Following that conference, if the individual continues to perform below an acceptable level, s/he may be subject to removal from the substitute employee list.

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R 8-39-1 Substitute Teacher Regulations

General Guidelines:

Substitute teachers may be employed by the Board of Education subject to State statutes and the Superintendent's and the Board's approval. Substitute teachers may be employed and assigned to perform the following duties:

- ❖ To fill the temporary absence of any teachers or an unexpired term made vacant by a resignation, death, suspension or dismissal.
- ❖ To fill the position of a regular teacher on leave of absence.
- ❖ To perform the duties of a teacher who is absent without loss of pay as approved by the Board (i.e. personal leave).

When the Board receives information that leads it to know or reasonably expect that a teacher's absence will prospectively extend for 20 consecutive employment days or more, the Personnel Director shall notify all qualified personnel on the preferred recall list of the opening. The opportunity to substitute in such cases shall be first offered, in seniority order, to qualified individuals on the preferred recall list. The 20 consecutive day rule applies to employees who are absent with a Board approved leave without pay or who are absent using personal leave benefits.

Substitutes may also fill the position of a permanent professional employee on a leave of absence. Provided, that if a leave of absence is anticipated to be 20 consecutive employment days or more, the vacancy/position shall be filled in accordance with Sections §18A-2-1, §18A-2-2 and §18-4-7a of the West Virginia Code and the substitute filling the position shall be given regular employee status including all rights, privileges, and benefits pertaining to such status. The substitute shall hold such position and status only until the permanent employee returns to the position or unless terminated/removed from the position in accordance with Sections §18A-2-2, §18A-2-7, §18A-2-8, and §18A4-7a of the West Virginia Code.

A leave of absence shall include any unpaid leave by an employee as defined in *File: 8-15 Leave of Absence*

Notification of Absence (Teacher's Responsibility):

Principals of all schools are furnished a list of approved substitute teachers. The principal shall contact a teacher on the approved list. Regular teachers shall notify the principal on the day preceding their anticipated absence indicating number of days they expect to be absent. Insofar as possible, the regular teacher should notify his/her principal by 7:00 a.m. if s/he is going to be unexpectedly absent.

The day before their return absent teachers shall notify the principal and s/he shall likewise notify the substitute. If teachers fail to notify their principal on the day prior to their return, the substitute shall remain on the job and the regular teacher will forfeit a day of personal leave.

Teacher absences must be reported on the regular substitute form by the principal even though a substitute is not obtained. The principal of each school shall have prepared for distribution to substitute teachers, data relative to lesson plans, fire drills, special duties, etc. If a substitute is mistakenly sent to an assignment and s/he is not needed, s/he shall be paid for his/her travel expense and pay at the rate of one-eighth of what s/he would have received for a full day of substitute work.

Substitute teachers who are “continuously assigned” to the same classroom for more than one-half of a grading period and whose assignment remains in effect two weeks prior to the end of a grading period are to remain in the assignment until the grading period has ended, unless the principal 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 by his/her physician.

Substitute teachers shall observe the same school day and teaching and duty schedule as required for the regular full-time teacher for whom the substitution is required. Substitute teachers who teach a minimum of two consecutive days in the same position shall be granted a planning period (WVC §18A-2-3, §18A-4-7, §18A-4-7a and §18A-4-14)

Professional Substitute Pay Scale:

The daily rate of pay for a substitute teacher shall not be less than 80% of the daily rate of the state BASIC salary for the first 10 days. Any substitute teacher who teaches in excess of 10 consecutive instructional days in the same position (11- 30 days) shall be paid eighty percent of the daily rate of the state ADVANCED salary. Substitute teachers who teach in excess of 30 days in the same position shall be paid the daily rate of the advanced salary, within that teacher's county (NOTE: §18A-4-7 does not require that the 30 days be consecutive as required for the previous category).

- ❖ **BASIC** salary is defined in §18A-4-1 as the salary paid to teachers with zero years of experience and in accordance with the teacher’s classification of certification and training. In other words, there is no equity and no experience pay.
- ❖ **ADVANCED** salary is defined in §18A-4-1 as basic salary plus the experience increment for the allowable years of experience of the teacher. In other words, still no equity but the teacher is paid for experience and his/her classification of certification and training.
- ❖ **ADVANCED** salary within the teacher’s county (for those who teach in excess of 30 days in the same position) has been interpreted to mean the county’s actual salary schedule for a regular teacher, which includes state basic, state equity, and the county supplement. Substitutes who teach in excess of 30 days in the same position are to be paid the same daily rate as a regular teacher with the same salary classification and years of experience.

R 8-39-2 Substitute Service Employees

General Guidelines:

The Preston County Board shall employ individuals for service personnel substitute lists pursuant to §18A-4-15. The Superintendent is authorized to assign substitute service personnel on the basis of seniority to perform any of the following duties:

- ❖ To fill the temporary absence of another service employee; or
- ❖ To fill the position of a regular service employee who requests in writing and is granted a leave of absence in writing by the Board or to fill the position of a regular service employee who is on workers' compensation.
- ❖ If the absence caused by a leave of absence or a workers' compensation claim is to extend beyond 30 days, the Board shall post the position of the absent employee. If a substitute person is employed to fill the position and is employed 20 or more working days, that person:
 - Acquires regular employee status with the exception of regular employee job bidding rights;
 - Does not accrue regular seniority;
 - Shall hold the position and regular employee status only until the regular employee returns to the position *or* when the regular employee's employment by the Board ceases; and
 - Shall be accorded all rights, privileges and benefits pertaining to the position after 20 or more working days. However, the phrase "all rights, privileges and benefits" does not include retirement benefits. Retirement benefits are accorded only to employees who are regularly employed for full-time service.
- ❖ To perform the service of a service employee who is authorized to be absent from duties without loss of pay.
- ❖ To temporarily fill a vacancy in a permanent position caused by severance of employment by the resignation, transfer, retirement, permanent disability, dismissal pursuant to §18A-2-8 or death of the regular service employee who had been assigned to fill the position.
 - Within 20 working days from the commencement of the vacancy, the board shall fill the vacancy under the procedures set out in §18A-4-8b or §18A-2-5 of the code, and the person hired to fill the vacancy shall be accorded all rights, privileges and benefits pertaining to the position. However, the phrase "all rights, privileges and benefits" does not include retirement benefits. Retirement benefits are accorded only to employees who are regularly employed for full-time service.
- ❖ To fill the vacancy created by a regular employee's suspension. If the suspension is for more than 30 working days the Board shall post the position according to §18A-4-8b of the Code. If a substitute service employee is assigned to fill the vacancy, that person:
 - Acquires regular employee status with the exception of regular employee job bidding rights;
 - Does not accrue regular seniority;

- Is accorded all rights, privileges and benefits pertaining to the position until the termination by the county board becomes final or the suspended employee returns to employment. However, the phrase “all rights, privileges and benefits” does not include retirement benefits. Retirement benefits are accorded only to employees who are regularly employed for full-time service.
- If the suspended employee is not returned to his or her job, the board shall fill the vacancy under the procedures set out in §18A-4-8b or §18A-2-8 of the code.
- ❖ To temporarily fill a vacancy in a newly created position prior to employment of a service employee on a regular basis.
- ❖ To fill an overtime assignment at a school or work station or to fill an extra-duty assignment: Provided that permanent service employee at the school or work station employed in the classification requiring the overtime shall be offered the opportunity to fill the overtime assignment prior to the assignment of substitute service personnel; and permanent service employees shall be offered the opportunity to fill the extra-duty assignment in accordance with §18A-4-8b of the West Virginia Code prior to the assignment of substitute service personnel.
(WVC §18A-4-15)

Notification of Absence (Employee and Supervisor Responsibilities):

Regular Service personnel shall notify the principal/supervisor on the day preceding their anticipated absence indicating number of days they expect to be absent. Insofar as possible, the regular service employee should notify his/her principal/supervisor by at least one hour prior to his/her starting time if s/he is going to be unexpectedly absent.

The day before their return absent service employees shall notify the principal/supervisor and s/he shall likewise notify the substitute. If service employees fail to notify their principal/supervisor on the day prior to their return, the substitute shall remain on the job and the regular service employee will forfeit a day of personal leave.

The Superintendent or designee shall be notified by the immediate supervisor at each school or work station of the impending absence of any service employee prior to the absence of the employee. The immediate supervisor may use his/her discretion as to the need for a substitute.

Rank Order of Assigning Service Substitutes:

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.

Generally speaking the order of assignment of substitutes on a daily basis shall be as follows:

- ❖ Any regular service person employed in the same building or working station and the same classification category of employment as the absent employee shall be given the first opportunity to fill the position of the absent employee on a rotating and seniority basis. In such case the regular service person's position is filled by a substitute service person. For the purpose of this section only, all regularly employed school bus operators are considered to be employed within the same building or working station.
- ❖ At the second level, the substitute with the greatest length of service time, that is, from the date he or she began his or her assigned duties as a substitute in that particular category of employment, shall be given priority in accepting the assignment.
- ❖ All 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.

Procedures for Calling Substitutes

Upon being notified of the absence of an employee and need for a substitute, the Superintendent or designee shall assign substitute service personnel on a seniority and rotating basis in accordance with the following:

- ❖ The most senior substitute in the classification of the absent employee shall be offered the substitute assignment;
- ❖ If the most senior substitute is unavailable for the assignment, declines the assignment, cannot be contacted, or is already assigned, the next most senior substitute shall be offered the employment;
- ❖ Substitutes shall be contacted, in order of seniority until the assignment is filled;
 - Contacted means a phone call to a substitute requesting that s/he work.
 - If a line is busy, or there is no answer, one additional attempt will be made to contact the substitute.
 - Answering machines: A message shall be left stating that the substitute was contacted (5 minutes will be allowed for employee to return a call) and no additional attempt to contact will occur for this assignment.
- ❖ After an assignment is filled, the next most senior substitute shall be offered the next available assignment;
- ❖ When all substitutes in a classification have been offered the opportunity for an assignment, the rotation shall begin again with the most senior substitute;
- ❖ If two or more assignments are available, the next most senior substitute in the rotation shall be given his/her preference of assignment;
- ❖ Substitutes shall have the right to remain in any assignment which is for consecutive days.

- ❖ If a substitute is absent during one or more days of a consecutive assignment because of personal or family illness, death in the family, death of in-laws, or funeral of a close relative as defined in *File: 8-11*, s/he has the right to return to the assignment; however, the substitute shall lose the right to return to the assignment if s/he is absent for any other reason or cannot be contacted;
- ❖ The substitute rotation shall begin each school year with the most senior substitute and rotate throughout the remainder of the year (July 1 - June 30);
- ❖ If new substitutes are employed during the school year, they shall be placed below the least senior substitute in the rotation. A random drawing will be conducted by the superintendent or designee to determine the order in which the new substitutes are assigned. The new substitutes shall initially be assigned in this order; however, the first day of work shall establish the beginning date for determining seniority. After the beginning date is determined, the substitutes shall be assigned to the rotation on that basis.
- ❖ If two or more substitutes have the same first day of work, a random drawing shall be conducted by the superintendent or designee for the purpose of determining the most senior substitute.
- ❖ No position opening, whether temporary or permanent may be filled until all service personnel on the preferred recall list have been properly notified of existing vacancies and have been given an opportunity to accept reemployment.
- ❖ Permanent service employees who have resigned or retired and are employed as substitutes shall be treated as a new substitute.

Maintaining a Listing of Substitute Personnel:

An approved listing of substitute service personnel shall be provided annually by the Preston County Board of Education. Individuals who are interested in being substitutes shall contact the Director of Personnel and complete the appropriate application form. Applications can only be accepted from persons meeting the following criteria:

- ❖ A high school graduate, or GED, or currently enrolled in a GED program; and
- ❖ A passing score on the State mandated competency test for the specific employment categories where substitute employment is desired.

Such applicants shall be presented, along with a recommendation to the Superintendent and the Board of Education. Following Board approval, individuals named shall be placed on the substitute list. The identification and placement of names on the substitute list shall be done at the beginning of each school term. It will be necessary for all personnel to notify the Board of their desire to be placed on the substitute list for each ensuing year. It is the intent of the Board to employ a sufficient number of substitute personnel at the beginning of the school term. Placement of additional names on the substitute list will be done only on an as needed as determined by the Superintendent and Board.

As substitute service personnel are often needed on a regular basis or under emergency circumstances, and may be used for varying lengths of times, it shall be necessary for such personnel to be available for employment as needed. Preference for placing individuals on the substitute service personnel list will be based on their availability to work on an as-needed basis. Applicants must show

that such substitute work would not conflict with other employment or responsibilities. This may be verified through the applicant's employer as necessary. Substitute service personnel shall be hired on an as-needed basis through the Superintendent's Office.
(WVC §18A-2-5; §18A-4-8; §18A-4-8e and §18A-4-15)

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R 8-39-3 Service Substitute Pay Scale

Generally speaking, WVC §18A-4-15(d) requires the Preston County Board of Education to base substitute service personnel salaries upon their years of employment as defined in WVC §18A-4-8 and the salary shall be in accordance with the salary of the person who is regularly employed in the position.

However, the State Department Office of School Finance has ruled that the salary of a substitute service employee working in positions that have multiple levels, depending upon either years of experience or educational level, shall be based upon the years of employment and educational level of the substitute employee and not upon the years of employment and educational level of the regular employee.

The Office of School Finance has also ruled that Substitute aides and secretaries will be paid on their own experience and level of education and not those of the employee for whom they are substituting.

Also, service employees who normally work a split-shift and who agree to work for another employee who does not have a split-shift will not receive the split-shift differential pay for those days worked.

The pay received by regular employees who also serve, as substitute employees for another class title will be based upon their years of experience in that class, but they will not be paid for both assignments at the same time unless leave time is used.
(WVC §18A-4-8; §18A-4-15)

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R 8-39-4 Long-term Substitutes – PEIA Benefits

“Long-term substitute” means a substitute employee who fills a posted vacant position that the Superintendent expects to extend for at least 30 consecutive days and is either:

- ❖ Listed in the job posting as a long-term substitute position of over 30 days; or
- ❖ Listed in a job posting as a regular, full-time position and:
 - Is not filled by a regular, full-time employee; and
 - Is filled by a substitute employee.

Long-term substitutes shall be eligible to receive PEIA benefits. A long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and until the end of that instructional term, is eligible for PEIA benefits until the first day of September following that instructional term: Provided, however, that a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible for PEIA benefits only during such time as s/he is actually employed as a long-term substitute.

However, for purposes of PEIA coverage, a retired employee who is hired as a substitute to fill a vacant position is not considered to be a long term substitute entitled to coverage.
[WVC § 5-16-2-(3); §18A-1-1(I)]

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R 8-39-5 Additional Substitute Benefits After 30 Days of Consecutive Employment

Substitutes working more than 30 consecutive days in the same position shall accrue benefits as follows:

- ❖ Legal holidays, snow days, and OSE days will be paid days beginning with the 31st day.
- ❖ Substitutes may utilize any previous allocations of PL days or any PL days granted as indicated below effective with the 31st day.
 - If the regular employee is on a leave-of-absence or sick leave for a specified period of time, the substitute will be granted 1 ½ PL days for each 20 day period, or major portion thereof scheduled beyond the initial 30 day period.
 - If it is unknown when the employee will return to work, the substitute will be granted 1 ½ days each time a 20 day period or major portion thereof has been completed in the same position.
 - PEIA and retirement benefits are not available for substitutes unless the substitute is granted regular employee status or the substitute employee is filling the position as a long-term substitute as designated by the Superintendent.

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R 8-39-6 Substitute Service Personnel Employment Rights after 30 Days of Employment

A substitute service person who has worked 30 days for the school system has all rights pertaining to suspension, dismissal and contract renewal as is granted to regular service personnel in the code.

(WVC 18A-4-15)

R 8-39-7 Substitute Employees Who Complete 133 Days of Employment in Any One School Year

Substitute teachers and service personnel who complete 133 days of employment in any one school year shall receive credit for one year of service for salary purposes upon achieving full-time employment status.

A long-term substitute who is continuously employed for at least 133 instructional days during an instructional term, and until the end of that instructional term, is eligible for PEIA benefits until the first day of September following that instructional term: Provided, however, That a long-term substitute employed fewer than 133 instructional days during an instructional term is eligible PEIA benefits only during such time as he or she is actually employed as a long-term substitute. (WVC § 5-16-2-(3))

Beginning July 1, 2007, a substitute school service employee who acquires regular employment status serving in posted long-term substitute assignments will no longer acquire regular employee job bidding or regular seniority while serving in such assignments
(WVC §5-16-2-(3); §18A-1-1)

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R 8-39-8 Substitutes who are Unavailable for or Refuse to Accept Assignments

The West Virginia Code obligates substitute employees to accept assignments in a reasonable manner. Generally speaking, all substitute employees are expected to accept assignments in all work stations within the county. However, circumstances may exist that allow a substitute employee to request that the Superintendent's designee allow their names to be placed on the roster as serving only a particular school attendance area, school or grade level. Service personnel who are granted that privilege must continue to abide by the rotating schedule for service personnel assignments.

Acceptable reasons for refusing work are personal illness, illness in the immediate family or owing to a death in the immediate family. Unacceptable reasons include, but are not limited to, refusing to answer the telephone, declining assignments for personal reasons, not wanting to go to more remote schools unless a pre-approval has been mutually agreed upon. Therefore, any substitute who continuously refuses to accept an offer of employment within one school year as shown below may be terminated for willful neglect of duty.

- ❖ Refusing three (3) job assignments = warning letter
- ❖ Refusing two (2) additional job assignments = letter of reprimand
- ❖ Refusing one (1) additional job assignments = Superintendent may recommend dismissal

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