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<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-1 Personnel Policies Related to Employment in Preston County</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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All employees of the Preston County Board of Education are classified as either professional or service. Professional personnel are those employees required by law or by the rules and regulations of the State Board of Education to hold professional certification for the work they perform in areas of administration, supervision and instruction. All other Board employees are designated as service personnel. A comprehensive list of service job titles is contained in WVC §18A-4-8. The Board shall hire such members and classes of service employees as may be deemed necessary to support the total school program.

R 8-1-1 Equal Employment Opportunity

As required by federal laws and regulations, the Preston County Board of Education does not discriminate on the basis of gender, race, color, religion, handicapping condition, marital status, or national origin in employment or in the administration of its educational programs and activities. This policy shall be implemented in a manner that provides equal opportunity in all areas of personnel management such as recruitment, selection, hiring, benefits, promotions, transfers, training, discipline, terminations and any other employment actions. All employees of the Board are covered by this policy as well as applicants for employment.

The Superintendent/designee shall be responsible for assuring compliance with this policy. Corrective actions shall be taken in the event this policy is violated in any way.
(WVC §5-11-1---19; see Endnotes for Federal Acts)

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R 8-1-2 Employer-Employee Relations

The West Virginia Board of Education recognizes that the effective and efficient operation of the public schools within West Virginia depends upon the development of harmonious and cooperative relationships between county boards of education and school employees. Each group has a fundamental role to perform in the educational program and each has, in some instances, separate, distinct and clearly defined areas of responsibility, as provided for in Chapters 18 and 18A of the West Virginia Code. However, there are instances, particularly involving questions of wages, salaries, and conditions of work that are subject to disagreement and misunderstanding and may not be so clearly set forth.

In order to minimize possible disagreement and misunderstanding, the State Board has adopted the following statement of policy and procedure:

- ❖ County boards of education, subject to provisions of Chapter 18 and 18A of the West Virginia Code and the rules and regulations of the State Board of Education, are responsible for the management of the schools within each county. Their powers and responsibilities in setting policy and procedures and in providing for such management are broad but are not absolute.

- ❖ Employees of boards of education share the responsibility for implementing the policies and practices approved by boards of education and they have certain rights and responsibilities as provided in statute, in contract or in accepted practice.
- ❖ School employees are entitled to meet together within associations and to work together in order to improve their circumstances or the circumstances of the schools. However, the right to strike does not exist for any public employee in the State of West Virginia, including school employees.
- ❖ Board of education and school employees can most effectively discharge their total responsibilities to the public and to each other by establishing clear and open lines of communication. Employees should be encouraged to make suggestions, proposals and recommendations to the board of education through appropriate channels. Decisions of boards of education concerning such suggestions, proposals and recommendations should be communicated to the employees clearly and openly.
- ❖ Official meetings of boards of education are public meetings and employees are free to attend such meetings without fear of reprisal and should be encouraged to do so.
- ❖ All employees are entitled to know how well they are performing their jobs, and should be offered the opportunity of open and honest evaluation of their performance on a regular basis. Any decision concerning promotion, demotion, transfer or termination of employment should be based upon such evaluation and not upon extraneous factors.
- ❖ All employees are entitled to the opportunity to improve their job performance, prior to the termination or transfer of their services. All employees are also entitled to "due process" in matters affecting their employment, transfer, demotion or promotion.
- ❖ All official and enforceable personnel policies and procedures must be written and made available to every employee of each county board of education.
(SBP 5300 and WVC §18A-2-12)

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R 8-1-3 Employee Involvement in Decision Making

The Preston County Board of Education recognizes the following agencies through which the employees of the county may develop and represent their considered professional opinion on matters of concern to them and to the educational program:

- ❖ The Preston County Education Association (PCEA), affiliated with the West Virginia Education Association (WVEA)
- ❖ American Federation of Teachers – West Virginia (AFT-WV)
- ❖ The Preston County Service Personnel Association (PCSPA), affiliated with the West Virginia School Service Personnel Association (WVSSPA)
- ❖ United School Service Personnel Association (USSPA)
- ❖ Preston County Principals Association (PCPA)

The Board agrees to give due consideration to proposals and presentations made by these groups. Under this agreement, an invitation is extended to presidents of these groups to address the Board on matters of professional concern. Those who desire to make a proposal or presentation to the Board shall provide a copy of the same, along with a written request to appear before the Board, to the Superintendent at least ten days in advance of a regular or special meeting of the Board so that the request may be placed on the agenda.

(WVC §18-5A-5 and §18-5A-6)

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R 8-1-4 Employee Conflict of Interest

The Board of Education recognizes each employee as an individual and is not concerned with his personal habits and business affairs, unless:

- ❖ They are contrary to law, policy or regulation;
- ❖ They affect or impair the individual's ability to perform his official duties effectively or efficiently.

The statute concerning pecuniary interest specifically applies to all Board of Education members and employees. It prohibits any board member or board employee from becoming pecuniarily interested, directly or indirectly, in the proceeds of any contract or service or in furnishing supplies to the school district.

As interpreted by the State Superintendent of Schools, the statute declares "it is unlawful for board members or employees of a board to receive gifts or commissions on band equipment sold to schools or school children, commissions on pictures of school children taken by a company, yearbooks, class rings, caps and gowns, diplomas or any other equipment or material sold to a school or school children, or promise of benefits directly or indirectly in return for a contract, or the awarding of business, or promise of jobs in return for nomination or retention of a public official or office."

(WVC §61-10-15)

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R 8-1-5 Employee Protection

Liability Insurance:

As prescribed by state law, the Preston County Board of Education shall provide liability insurance coverage for all Board employees and the Board members themselves in the amount of six million dollars for each occurrence of a lawsuit. The State Board of Risk shall provide one million dollars of this coverage and the remaining five million dollars shall be provided through coverage purchased by the Preston County Board of Education from a company licensed to do business in the state. The insurance policy shall include comprehensive coverage, personal injury coverage, malpractice coverage, corporal punishment coverage, legal liability coverage, and payment of appropriate attorney fees.

Sexual violence (sexual abuse or molestation) in our society has become such an issue that the West Virginia Board of Risk and Insurance Management (BRIM) can no longer find an insurance carrier who is willing to provide excess coverage for employees beyond the one million dollars provided by the state. As of July 1, 2005, school employees may only rely on the one million dollars of coverage for acts involving sexual violence. BRIM will continue to provide five million dollars of excess liability coverage for other types of allegations lodged against school employees.

Protection against Physical Threat or Actual Physical Assault:

Recognizing the increasing possibility of physical threat or actual physical assault upon Board of Education employees, the West Virginia State Legislature has enacted appropriate protective legislation. The essence of the act is as follows:

- ❖ Any person who commits an assault by unlawfully attempting to inflict a violent injury to the person of school employees shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than five days or more than six months and fined not less than fifty dollars or more than one hundred dollars. An assault may occur:
 - While employees are engaged in the performance of their duties; or
 - Are commuting to or from work; or
 - As a result of retaliation for some action taken by the employee to supervise or discipline a student; or
 - By exhibiting behaviors that place a school employee in reasonable apprehension of immediately receiving a violent injury
- ❖ Any person who commits a battery by unlawfully and intentionally making physical contact of an insulting or provoking nature with the person of a school employee or by unlawfully and intentionally causing physical harm to a school employee shall be guilty of a misdemeanor, and, upon conviction, shall be confined in jail not less than ten days nor more than twelve months and fined not less than one hundred dollars nor more than five hundred dollars. A battery may occur:
 - While employees are engaged in the performance of their duties; or
 - Are commuting to or from work; or
 - As a result of retaliation for some action taken by the employee to supervise or discipline a student.

For purposes of this section, "school employee" means a person employed by the Board of Education whether employed on a regular full-time basis, an hourly basis or otherwise. Also, for the purpose of this section, student teachers shall be considered "school employees".

Threats, harassment, physical or mental abuse of any employee from any source will not be tolerated. The guidelines listed below should be followed if a violation occurs.

- ❖ The employee will use reasonable and prudent measures to avoid physical harm.
- ❖ The employee should immediately notify his/her principal or supervisor. In serious incidents, proper police authorities will be notified and furnished needed information.

- ❖ A written report of the incident will be filed with the immediate supervisor.
- ❖ Employees will be granted paid leave for mandatory court appearance concerning these violations.

For the general welfare of staff and students, loitering on school property will not be permitted. Employees have the obligation to notify the principal of the presence of unauthorized personnel on school property. The principal will take the necessary action to insure safety of staff and students.
(WVC §18A-5-1a; §29-12-5a; §61-2-15 and §61-6-14a)

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Adopted: May 23, 1983
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-2 Employment of Professional and Service Personnel</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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The employment of all personnel shall be made by the Board only upon the nomination and recommendation of the Superintendent. 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 classification as may be required by state law, state board regulation, or local regulations.

All prospective employees shall make application through the personnel office. When possible, all credentials should be on file before the recommendation is presented to the Board.

West Virginia Codes §21-1B-1 thru §21B-1B-5 require the Preston County Board of Education to maintain at the Central Office, records of all employees, together with proof of their legal status or authorization to work in the school system.

R 8-2-1 Vacancy Posting and Recruitment of Professional Personnel

The Director of Personnel shall maintain an up-to-date list of job vacancies. After each regular board meeting an updated vacancy list will be compiled. Per the requirements of State Code, the Board may not declare a position vacant and post a job opening sooner than ten days following the death of an individual employed in that position. Other lists may be published when vacancies are anticipated.

Persons seeking employment or current employees interested in transferring to a different position should check vacancy lists frequently. Persons interested in a job which is listed should contact the Personnel Office. The Director of Personnel shall keep a master list of people who requested a transfer on their intent form for the following school year. Those people who have requested transfer to specific schools or jobs will be considered when such openings occur.

Openings in established, existing, or newly created positions shall be processed in the following manner:

- ❖ Said notices shall be placed in conspicuous working places and on the PCBOE website for at least five working days. When vacancy postings are posted at the Board Office Complex and on the Board’s web site by 1:00 p.m., that day will be considered the first day of the five day posting requirement. The posting may then be closed at 4:00 p.m. on the fifth day.
- ❖ During school months every vacancy list will be sent to each principal;
- ❖ The vacancy list shall be posted for public review in the Board Office Complex;
- ❖ The notices shall be posted within 20 working days of the position opening and shall include the job description;
- ❖ Postings for vacancies shall be written so as to ensure that the largest possible pool of qualified applicants may apply;

- ❖ Any special skills or criteria required for the position must be included in the job description and must be directly related to the performance of the job. The posting may include other information such as the period of employment, amount of pay, and any benefits or other related information;
- ❖ Job postings shall contain only the criteria necessary for the successful performance of the job and shall not be written with the intent to favor a specific applicant;
- ❖ No vacancy shall be filled until after the five-day minimum posting period;
- ❖ Persons who wish to be considered for a posted position must complete a Bid Sheet. Bid Sheets may be obtained in the various schools, at the Central Office and online at the Board's web site. All Bid Sheets must be deposited in the collection box located in the main lobby at the Central Office prior to 4:00 p.m. of the closing date of the posting.
- ❖ If one or more of the applicants meets the qualifications listed in the job posting, the successful applicant to fill the vacancy shall be selected by the Board within 30 working days of the end of the posting period;
- ❖ A position held by a teacher who is certified, licensed or both and who has been issued a permit for full-time employment and is working toward certification in the permit area shall not be subject to posting if the certificate is awarded within five years;
- ❖ Job descriptions of each vacancy will be available to the public at each location where jobs are advertised.
(WVC §18A-4-7a)

Special Note: If an approved Innovation Zone plan includes a job posting that exceeds the qualification provided in §18A-4-7a, teachers in the county must approve the job posting by a majority vote in accordance with W.Va. Code §18-5B-8.

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R 8-2-2 Criteria for the Selection of Professional Personnel

The Board of Education shall make decisions affecting the hiring of professional personnel other than classroom teachers and the hiring of new classroom teachers on the basis of the applicant with the highest qualifications. The first set of criteria shall be used in judging the qualifications of both non-classroom professionals and new-to-the system applicants for teaching positions. Consideration shall be given to each of the following:

- ❖ Appropriate certification and or licensure
- ❖ Amount of experience relevant to the position, or the amount of teaching experience in the subject area
- ❖ The amount of course work and/or degree level in the relevant field and degree level generally
- ❖ Academic achievement
- ❖ Relevant specialized training
- ❖ Past performance evaluations conducted pursuant to §18A-2-12

- ❖ Other measures of indicators upon which the relative qualifications of the applicant may be fairly judged.

(A Board is free, within its discretion, to assign whatever weight it wishes to the various factors, as long as it considers each factor.)

If one or more permanently employed instructional personnel apply for a classroom teaching position and meet the standards set forth in the job posting, the Board shall make the decision affecting the filling of such position on the basis of the most qualified applicant. Should the process determine that the applicants' qualifications are equal; the final criteria shall be applied as a tie-breaker. The criteria for determining qualifications are as follows:

- ❖ Appropriate certification and or licensure;
- ❖ Total amount of teaching experience;
- ❖ The existence of teaching experience in the required certification area;
- ❖ Degree level in the required certification area;
- ❖ Specialized training directly related to the performance of the job as stated in the job description;
- ❖ An overall satisfactory rating on evaluations in the previous two evaluations conducted pursuant to §18A-2-12; and
- ❖ Seniority.

(Consideration shall be given to each criterion with each criterion being given equal weight.)

If the applicant with the most seniority is not selected for the position, upon the request of the applicant, a written statement of reasons shall be given with suggestions for improving the applicant's qualifications.

The Board shall hire professional educators for positions in summer school programs in accordance with §18-5-39 or §18A-4-7a of the code as applicable, except that a professional educator who is currently employed by the Board shall be given employment preference over applicants who are not current employees.

(WVC §18-5-39; §18A-4-7a)

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R 8-2-3 Vacancy Posting for Service Personnel

The Preston County Board of Education shall post and date notices of all service personnel job vacancies of established existing or newly created positions in conspicuous working places and on the Board's website for at least five working days. Per the requirements of State Code, the Board may not declare a position vacant and post a job opening sooner than 10 days following the death of an individual employed in that position.

When vacancy postings are posted at the Board Office Complex and on the Board's web site by 1:00 p.m., that day will be considered the first day of the five day posting requirement. The posting may then be closed at 4:00 p.m. on the fifth day.

Persons who wish to be considered for a posted position must complete a Bid Sheet. Bid Sheets may be obtained in the various schools, at the Central Office and online at the Board's web site. All Bid Sheets must be deposited in the collection box located in the main lobby at the Central Office prior to 4:00 p.m. of the closing date of the posting.

In the event a regular service employee submits a written request for a leave of absence in excess of 30 days and the Board grants the request in writing, or in the event a regular service employee is on workers compensation and the absence will extend beyond 30 days; the position shall be posted as a vacancy in accordance with WVC §18A-4-8b Full-time service employees shall have priority over substitute employees in filling such vacancies. All other absences, even long-term absences, will be treated as "temporary absence" to be covered through rotation of substitute service personnel as prescribed by law.

The notice shall include the job description, the period of employment, the work site, the starting and ending time of the daily shift, the amount of pay and any benefits and other information that is helpful to the employees to understand the particulars of the job. The notice of a job vacancy in the aide classification categories shall include the program or primary assignment of the position (e.g., kindergarten aide, special education aide, other classroom aide, and transportation aide).

From July 1, 2009 forward, all custodian positions shall be posted as shift-specific (e.g. morning, afternoon, evening, hoot owl).

Job postings may not require criteria which are not necessary for the successful performance of the job and may not be written with the intent to favor a specific applicant. After the five-day minimum posting period, all vacancies shall be filled within 20 working days from the posting date notice of any job openings. The factors the Board must use in comparing applicants for a service personnel position are:

- ❖ Seniority;
- ❖ Qualifications; and
- ❖ Evaluations of past service.

(WVC 18A-4-8b)

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R 8-2-4 Promotion and Filling Service Personnel Vacancies

The Preston County Board of Education shall make decisions affecting promotions and the filling of any service personnel positions of employment or jobs occurring throughout the school year that are to be performed by service personnel on the basis of seniority, qualifications and evaluation of past service.

Qualifications means the applicant holds a classification title in his/her category of employment as provided in WVC §18A-4-8b and is given first opportunity for promotion and filling vacancies. Other employees then shall be considered and shall qualify by meeting the definition of the job title that relates to the promotion or vacancy, as defined in WVC §18A-4-8.

Any employee who has ever been regularly employed in a classification title is deemed fully qualified to fill that classification. Likewise, any employee who passes the competency test for a classification title shall be fully qualified to fill a position in that job classification. Qualified applicants for employment vacancies shall be considered in the following order:

- ❖ Regularly employed service personnel who hold a classification title within the classification category of the vacancy;
- ❖ Service personnel who have held a classification title within the classification category of the vacancy whose employment has been discontinued (RIF) in accordance with WVC §18A-4-8b and are on the preferred recall list;
- ❖ Regularly employed service personnel who do not hold a classification title within the classification category of vacancy;
- ❖ Service personnel who have not held a classification title within the classification category of the vacancy and whose employment has been discontinued (RIF) in accordance with this section;
- ❖ Substitute service personnel who hold a classification title within the classification category of the vacancy;
- ❖ Substitute service personnel who do not hold a classification title within the classification category of the vacancy; and
- ❖ New service personnel.

The Board shall notify any person who has applied for a posted job of the status of his or her application as soon as possible after the Board makes a hiring decision regarding the posted position.

Upon request, the Board shall show valid cause when an employee with the most seniority is not promoted or employed in the position for which s/he applied.

Definition of a Promotion:

A promotion means any change in employment that the service person considers to improve his or her working circumstance within the classification category of employment.

- ❖ A promotion includes a transfer to another classification category or place of employment if the position is not filled by an employee who holds a title within that classification category of employment.
- ❖ Each class title listed in WVC §18A-4-8 is considered a separate classification category of employment for service personnel, except for those class titles having Roman numeral designations, which are considered a single classification of employment:
 - The cafeteria manager class title is included in the same classification category as cooks;

- The executive secretary class title is included in the same classification category as secretaries;
- Paraprofessional, autism mentor and Braille or sign language specialist class titles are included in the same classification category as aides; and
- The mechanic assistant and chief mechanic class titles are included in the same classification category as mechanics.
- ❖ The assignment of an aide to a particular position within a school is based on seniority within the aide classification category if the aide is qualified for the position.
- ❖ Assignment of a custodian to work shifts in a school or work site is based on seniority within the custodian classification category.
(WVC §18A-4-8b)

Limitations on Aide Transfers

An aide may transfer to another position of employment one time only during any one half of a school term, unless otherwise mutually agreed upon by the aide and the Superintendent, subject to Board approval. During the first year of employment as an aide, an aide may not transfer to another position of employment during the first one-half school term of employment unless mutually agreed upon by the aide and the Superintendent, subject to county board approval.
(WVC §18A-5-8)

Autism Mentors and Aides

After the fifth day prior to the beginning of the instructional term service personnel who are employed and assigned as an autism mentor or aide who works with students with autism, or as a paraprofessional, interpreter or aide who works with a student with an exceptionality whose IEP requires one-on-one services may not transfer to another position in the county during that instructional term, unless s/he does not have valid certification for the position currently held.

However, the autism aide, autism mentor or paraprofessional or interpreter or aide may apply for any posted vacant position and, if successful, assume the position at the beginning of the next instructional term. With the Superintendent's recommendation, the Board may allow the successful applicant to fill the position before the end of the instructional term, but only if it is determined to be in the best interest of the students. The Superintendent must notify the State Board of Education when such an exception is made.
(WVC §18A-5-8)

Special Circumstances Surrounding Aide Positions

The assignment of aide positions by seniority within a school will occur only when there is a classroom aide vacancy or reassignment. In those instances the regular aides currently assigned to the school may be offered, on the basis of their county seniority as aides, the opportunity to move to the position assignment where the need for a regular aide exists. Once all such realignments are made, the successful candidate under the posting would assume the assignment for which there remains a need. Interested applicants would be alerted to the fact that aide positions will be resolved in this way.

All aides who were hired in the past under job positing with or without a specific position designation shall be treated as permanently assigned to the recognized aide designation which matches their assigned duties as of July 1, 2009. As long as these individuals remain assigned to the position designation that s/he held on July 1, 2009, they may not be displaced by the new aide assignment rule contained in WVC§ 18A-4-8b.

In the event that the need arises within a school to assign more aides to a recognized aide position designation (without changing the total number of regular aide positions in the school) opportunities to move to a different designated aide position shall be offered on the basis of county seniority as an aide to the regular aides currently assigned to the school. If the need cannot be filled in this manner owing to a lack of interest of the current aides, the need shall be met utilizing the transfer or other personnel provisions of the West Virginia Code available to the school system.
(WVC §18A-4-8b)

Special Circumstances Surrounding Custodian Positions

The assignment of custodian positions by seniority within a school will occur only when there is a custodian vacancy or reassignment. In those instances the regular custodians currently assigned to the school may be offered, on the basis of their county seniority as custodians, the opportunity to move to the position assignment where the need for a regular custodian exists. Once all such realignments are made, the successful candidate under the posting would assume the assignment for which there remains a need. Interested applicants would be alerted to the fact that custodian positions will be resolved in this way.

All custodians who were hired in the past under job posting with or without a specific shift designation shall be treated as permanently assigned to the work shift which matches their assigned duties as of July 1, 2009. As long as these individuals remain assigned to the work shift that s/he held on July 1, 2009, they may not be displaced by the new custodian assignment rule contained in WVC§ 18A-4-8b.

In the event that the need arises within a school to assign more custodians to a particular work shift at a school or work site (without changing the total number of regular custodian positions in the school or work site) opportunities to move to a different shift shall be offered on the basis of county seniority as a custodian to the regular custodians currently assigned to the school or work site. If the need cannot be filled in this manner owing to a lack of interest of the current custodians, the need shall be met utilizing the transfer or other personnel provisions of the West Virginia Code available to the school system.
(WVC 18A-4-8b)

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R 8-2-5 FBI Background Check

Effective January 1, 2002, any applicant for an initial teaching license shall be fingerprinted and undergo a criminal background check by the FBI. Likewise, applicants for an initial position of bus driver shall be fingerprinted and undergo a criminal background check. The fingerprints shall be analyzed by the state police for a state criminal record check through the central abuse registry and then forwarded to the FBI for a national criminal record check. Information contained in the central abuse

registry or the FBI record may form the basis for denying a teaching certificate. The applicant must pay the cost of the background check. Upon written consent to the state department by the applicant and within 90 days of the state fingerprint analysis, the results of the state analysis may be provided to the Preston County Board of Education without further cost to the applicant.
(WVC §18A-3-10)

Access to the West Virginia Central Abuse Registry

Amendments to §15-2C-1 and §15-2C-9 authorize the State Board of Education and “qualified entities” (county boards of education) to access the West Virginia Central Abuse Registry maintained by the State Police Criminal Identification Bureau. The registry may be utilized as part of the screening process for current and prospective employees, including the screening of contractors and vendors who have or may have unsupervised access to children.

In the event the Board wishes to verify its eligibility as a qualified entity, it shall apply to the West Virginia State Police on a form prescribed by that organization.

Once verified as a qualified entity by the West Virginia State Police, the Board shall keep all records necessary to facilitate a security audit by the West Virginia State Police and shall cooperate in such audits as the West Virginia State Police or other authorities may deem necessary. Such records include, but are not limited to, criminal history records; notification that an individual has no criminal history; internal policies and procedures articulating the provisions for physical security; records of all disseminations of criminal history information; and a current, executed qualified entity user agreement with the West Virginia State Police.
(WVC §15-2C-1)

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R 8-2-6 Return of Contracts and Employment Forms

All persons who are employed by the Preston County Board of Education shall execute a written contract before entering upon their duties.

When a contract for employment is tendered to a prospective employee, it shall be stipulated by a notation thereon that the contract will be void if it is not signed and returned to the Board of Education Office within a designated time. Unless the employee is needed to start work immediately, the date of return on the contract shall be fourteen calendar days for professional contracts and thirty calendar days for service contracts.

All employment forms which accompany the contract or letter of assignment should be returned to the personnel office before the employee starts to work.

The necessary employment forms will be listed on the letter of assignment. They may include TB report, birth certificate, retirement form, withholding form, and certification and transcripts for teachers. Failure to return the employment forms may result in the withholding of pay until all forms are returned.

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R. 8-2-7 Service Personnel Employment Policies and Regulations

Except where noted, service employees shall be subject to and benefit from the same personnel policies and regulations as professional employees. General personnel policies and regulations relative to evaluation, suspension, dismissal, retirement, and/or resignations, which are in effect for both service and professional personnel, are contained in the Preston County Policy Manual.

Service personnel shall receive the State Basic Salary for their job classification and years of experience. The salary scale can be found in West Virginia Code §18A-4-8a.

Contracts with service personnel indicate the beginning and ending date for the year. Their supervisors shall determine specific time schedules and workload.

Employees accepting part-time employment in addition to their full-time employment by the Board shall be considered in violation of Board policy in the event such employment results in the employee reporting to work in a mentally and/or physically impaired condition.

SBP 4336 - West Virginia School Bus Transportation Policy and Procedures Manual specifies that any person accepting employment as a school bus operator shall accept such position with the understanding that the responsibilities involved are his/her primary employment, and that such employment shall not be limited, or interfered with, by any commitment as a result of any other employment. SBP 4336 further states that any person who performs responsibilities as a school bus operator shall not be eligible to operate a school bus without a minimum of six (6) consecutive hours of off duty time, for proper rest between the conclusion of the previous day's regularly scheduled afternoon run and immediately prior to the beginning of the next day's regularly scheduled morning run.

No service employee shall be permitted to become employed in more than one regular full-day position, nor more than two one-half day positions at the same time. This prohibition does not apply to extracurricular assignments or summer positions.

Personnel employed to perform tasks that involve the combination of two or more class titles are considered to be multi-classified. In this instance, the minimum salary scale shall be the higher pay grade of the class titles involved.

(WVC §16-3-4a; §18A-2-5; §18A-4-8a; §18A-4-8h and SBP 4336)

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R 8-2-8 Employment of Coordinator of Transportation

After July 1, 2010, all persons employed for the first time as a Supervisor of Transportation or in a multi-classification position that includes this title shall have five years of experience working in the transportation department of a county board. Experience working in the transportation department shall consist of serving as a bus operator, bus aide, assistant mechanic, mechanic, chief mechanic or in a clerical position within the transportation department.

(WVC §18A-4-8i)

R 8-2-9 Service Personnel Itinerant Status

Itinerant status means a service person that does not have a fixed work site and may be involuntarily reassigned to another work site. A service person is considered to hold itinerant status if s/he has bid upon a position posted as itinerant or has agreed to accept this status. A county board may establish positions with itinerant status only within the aide and autism mentor classification categories and only when the job duties involve exceptional students.

A service person with itinerant status may be assigned to a different work site upon written notice 10 days prior to the reassignment without the consent of the employee and without posting the vacancy. A service person with itinerant status may be involuntarily reassigned no more than twice during the school year. At the conclusion of each school year, the county board shall post and fill, pursuant to §18A-4-8b, all positions that have been filled without posting by a service person with itinerant status.

A service person that is assigned to a beginning and ending work site and travels at the expense of the county board to other work sites during the daily schedule shall not be considered to hold itinerant status.

(WVC §18A-4-8)

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Adopted: May 23, 1983
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-3 Professional Personnel Certification</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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R 8-3-1 Highly Qualified Teacher

Effective with the 2006-2007 school year, all persons delivering instruction in the core academic subject areas must meet the definition of highly qualified as defined in NCLB and SBP 5202.

Definitions

- ❖ **Core Academic Subjects.** - The core academic subjects include the arts, reading/language arts, English, foreign language, mathematics, science, civics and government, economics, geography, and history. West Virginia defines the arts as dance, music, theatre, and visual art.
- ❖ **Highly Qualified Teacher-State Definition.** – A West Virginia public school teacher is considered highly qualified if s/he:
 - has a bachelor’s degree or higher; **and**
 - meets state certification requirements, including those certified through a WVBE-approved alternative route to certification program, with an endorsement(s) in the core academic subject(s) being taught; **and**
 - demonstrates subject matter competency by:
 - passing the state competency test for which a state minimum score was established by the WVBE in the content area(s); **or**
 - having an academic major or advanced credential(s) in the subject taught as defined in §126-136-4.4 and §126-136-4.6, respectively; **or**
 - satisfying West Virginia’s HOUSSE** definition as defined in §126-136-4.35 of SBP 5202, provided the individual previously held the appropriate license to deliver instruction in the core academic subject, but was not assigned to do so prior to the year in which the evaluation is conducted.

***HOUSSE may not be used to acquire an initial certification in one of the core academic subjects.*
- ❖ **Title I Reading Teacher.** - According to the NCLB guidelines, a Title I reading teacher is considered highly qualified if s/he holds certification in elementary education or multi-subjects. For state certification as a Title I reading teacher, the WVBE requires a master’s degree in reading specialist, completion of a graduate level reading specialist program, a reading authorization, or completion of a reading endorsement program.
 - The reading endorsement can be granted only to individuals who hold a professional teaching certificate.
 - The reading endorsement shall reflect those grade levels that appear on the individual’s professional teaching certificate.

- ❖ **Special Education Teacher** - A special education teacher who is responsible for providing instruction and course credit for any course included in the NCLB defined core academic subject areas for students with exceptionalities must hold a minimum of a bachelor's degree, meet state certification requirements with the appropriate endorsement in special education, and demonstrate subject matter competency in order to be considered highly qualified. A special education teacher can demonstrate subject matter competency in one of the following ways:
 - A special education teacher providing instruction to students with significant cognitive disabilities who take the West Virginia Alternate Assessment can demonstrate subject matter competence by successfully completing the Praxis II test required for Elementary Education **OR** by using the state's HOUSSE option defined in §136-136-4.35 of SBP 5202, provided the individual held the appropriate license to teach students with significant cognitive disabilities, but was not assigned to provide instruction in that setting prior to the year in which the evaluation is conducted.
 - An elementary special education teacher providing instruction at the elementary level can demonstrate subject matter competence by successfully completing the Praxis II test required for Elementary Education **OR** by using the state's HOUSSE option defined in §136-136-4.35, provided the individual held the appropriate license to teach students with significant cognitive disabilities, but was not assigned to provide instruction in that setting prior to the year in which the evaluation is conducted.
 - A consultative special education teacher working in a collaborative role with a highly qualified general education teacher is considered highly qualified.
 - A secondary special education teacher who is highly qualified to teach mathematics, English, or science may use the subject matter test required for any other specialization they may be assigned to teach to demonstrate subject matter competence **OR** use state's HOUSSE option defined in §126-136-4.35 of SBP 5202.
- ❖ **HOUSSE:** High Objective Uniform State Standard of Evaluation (HOUSSE): HOUSSE is an optional method of documenting subject matter competency in a core academic subject(s) for a teacher in order to meet the definition of highly qualified teacher. Section I of the Teacher Evaluation Form identified in State Board of Education Policy 5310 that addresses a teacher's knowledge of the subject has been designated as West Virginia's HOUSSE. A general education teacher not new to the profession and a special education teacher eligible to use HOUSSE as defined in State Board of Education Policy 5202 may use a rating of "meets standards" or higher on Section I of the Teacher Evaluation Form to document his/her subject matter competency in order to meet the definition of highly qualified teacher in that content are being evaluated that year. Special Education Teachers who must rely on HOUSSE to demonstrate subject matter competency may use WV Board of Education approved professional development for the purpose of demonstrating subject matter competence. (SBOE Policy 5202)

Guiding Principles for Utilizing Consultative Special Education Teachers (Collaboration):

- ❖ Consultative Special Education Teacher - A Special Education Teacher may serve in a consultative role to content certified and highly qualified general education teachers who are

providing direct initial instruction to special education students. The consultative special education teacher may go into the general education classroom to deliver services described below.

- ❖ Definition of Consultative Special Education Teacher - The duties of a consultative special education teacher may include:
 - reviewing and re-teaching prerequisite skills;
 - organizing previously introduced material;
 - reinforcing previously introduced material;
 - adapting curricula for easier access;
 - assisting with long-term assignments;
 - targeting learning strategies to ensure content knowledge acquisition, and

The consultative special education teacher may not be the teacher of record for students to whom s/he is providing services.

Efforts to Achieve 100% Highly Qualified Goal

In an ongoing effort to meet state and federal requirements relating to highly qualified teachers and paraprofessionals, recruiting and hiring practices will reflect efforts to seek and employ personnel that meet highly qualified standards. Ongoing efforts shall be made to ensure that 100% of teachers and paraprofessionals are highly qualified, which include the following:

- ❖ The Superintendent or his/her designee will verify that course codes, teacher certification codes, and other related data is recorded accurately in the West Virginia Education Information System.
- ❖ The Superintendent or his/her designee will involve the appropriate staff members in analyzing relevant data and identifying current and potential areas where 100% highly qualified requirements may not be met.
- ❖ The Superintendent or his/her designee will make appropriate efforts to recruit, retain, and retrain staff in order to increase the percentage of highly qualified teachers in core academic classes, as a means of designating appropriate solutions for identified problem areas. Also the following steps will be implemented:
 - Seek and obtain permits for teachers when applicable.
 - Provide funds that can be used to assist with tuition reimbursement for teachers seeking to become highly qualified, after successful completion of required classes. Title I, II, and/or Special Education funds shall be used for such purpose only after state funds allocated for such purpose have been exhausted. Teachers seeking tuition reimbursement must follow the procedures described below:
 - Complete Form 36 (available on the WVDE website at <http://wvde.state.wv.us/certification/forms.html>.)

- Submit Form 36, a W-9 tax form, and all other appropriate documentation to the Preston County Director of Federal Programs.
 - The Federal Programs Director will obtain the signature of the Preston County Superintendent of Schools, and submit Form 36 and all other necessary documentation to the West Virginia Department of Education.
 - Upon receipt of an "out-of-funds" letter from the WVDE, the teacher must notify the Preston County Federal Programs Director. Promptly, upon completion of the course, the teacher must submit a copy of the letter with a written request for tuition reimbursement to the Preston County Federal Programs Director. Reimbursement will be for tuition only.
 - No application will be considered that does not meet WVDE guidelines.
- Provide professional development opportunities for teachers seeking to become highly qualified.
 - Provide appropriate information to parents relating to teacher qualifications and highly qualified status, and communicate to staff members the policy and procedures relating to highly qualified teachers.
- ❖ The Superintendent or his/her designee will develop annual individual highly qualified plans for personnel who are not highly qualified. Plans should be developed jointly with principals and non-highly qualified personnel prior to the beginning of the 2nd school month, or within 30 days after employment in a position for which the individual is not highly qualified. Plans should be reviewed on or before June 1 to evaluate progress.

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R 8-3-2 Paraprofessional Certificates

Paraprofessionals (includes persons classified as Aide I, II, III, and IV, and paraprofessional). – The NCLB requires all paraprofessionals (excluding those with sole duties as translators and parental involvement assistants) providing instructional support in a program or school receiving Title I funds to be qualified by the end of the 2005-2006 school year.

Salary Classifications:

The Aide I, II, III, IV and Paraprofessional classification identified in W. Va. Code §18A-4-8 are included in the NCLB definition of paraprofessional. Consequently, all Aides I, II, III, IV and Paraprofessionals in West Virginia working in a program or school receiving Title I funds must meet the definition of qualified paraprofessional found in NCLB.

Title I Program or School:

All Aides I, II, III, IV and paraprofessionals working in a Title I school-wide program must be qualified, as defined in the NCLB, by the end of the 2005-2006 school year, regardless of the funding source for his/her position. All Aides I, II, III, IV and paraprofessionals, whose positions are funded by Title I funds; working in a Title I targeted assistance school must meet the definition of qualified paraprofessional found in NCLB.

Qualified Paraprofessional (includes persons classified as Aide I, II, III, and IV). - Criteria for being considered a qualified paraprofessional, as defined in the NCLB, require the completion of at least one of the following:

- ❖ College Coursework. – The applicant must have completed at least two years (48 semester hours) of study at an accredited institution of higher education, as defined in §126-136-4.5; **OR**
- ❖ College Degree. – The applicant must have obtained an associate degree or higher from an accredited institution of higher education, as defined in §126-136-4.5; **OR**
- ❖ WVBE Program. – The applicant must have completed the 36 semester hour program as identified in §126-136-12.1.3 and passed the current state competency exam for classroom aides developed pursuant to W. Va. Code §18A-4-8e; **OR**
- ❖ Academic Assessment. – The applicant must have met a rigorous standard of quality and can demonstrate, through a formal state approved academic assessment which includes a measurement of 1) knowledge of, and the ability to assist in instructing, reading, writing, and mathematics and 2) knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate. Paraprofessionals who have taken and passed the current state competency exam for paraprofessionals developed pursuant to W. Va. Code §18A-4-8e have satisfied this requirement.

Certified Paraprofessional (includes persons classified as Aide I, II, III, and IV). – The requirement for being a certified paraprofessional in West Virginia includes completion of the 36 semester hour program as identified in §126-136-12.1.3 and passage of the current state competency exam for classroom aides developed pursuant to W. Va. Code §18A-4-8e.
(WVC §18A-3-2a; SBP 5202)

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R 8-3-3 Professional Certification Requirements

All professional personnel shall hold certification or licensure for the subject or grades to which they are assigned. Pendleton County professional personnel shall be certified or licensed in accordance with *SBP 5202 - Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications*. Personnel who have questions concerning certification may review SBP 5202 on-line at the West Virginia State Department web site and/or contact the Pendleton County Schools Personnel Office.

Most Commonly Issued Certificates:

- ❖ Temporary Teaching Certificate;
- ❖ Initial Professional Teaching Certificate;
- ❖ Professional Five-Year Teaching Certificate;
- ❖ Temporary Administrative Certificate;

- ❖ Initial Professional Administrative Certificate;
- ❖ Professional Student Support Certificate;
 - School Counselor;
 - Professional Student Support Certificate;
 - Speech-Language Pathologist;
 - Attendance Director;
 - Athletic Trainer;
- ❖ Paraprofessional Certificate ; and
- ❖ Permits Issued to Professional Educators.

Renewal of Professional Certification:

It is the responsibility of each certified person to see that a valid certificate is on file in the Superintendent's office. When certified personnel have increased their certification, either by upgrading or by adding endorsements in certification for pay purposes, they are responsible for informing the Superintendent's office of the change. The Personnel Office should be informed of all expected changes before the start of each school year. Standards and guidelines for certification renewals may be found in *SBP 5202*.

Permanent Certification:

The holders of professional certificates may qualify for permanent certification once they have completed the requisite number of years of professional experience and when they have met the academic and other requirements contained in *SBP 5202*.

(SBP 5202)

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R 8-3-4 Tolling of License and Registration Requirements

The running of any licensure or registration requirement, including, but not limited to, the payment of any license or registration fees of a licensing board or commission of the state shall be tolled during the period of absence for active duty for any member of the National Guard or other reserve component of the armed services of the United States until sixty days after the return of the member from active duty: Provided, That the service member shall be granted a period of time equal to the period of active duty to fulfill any continuing education requirements needed for licensure or registration.

Note: Tolling may be construed to mean the clock temporarily stops on the term of a license or certificate. (WVC §15-1F-1b)

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R 8-3-5 Reimbursement for Tuition Costs

Teachers may petition the State Department of Education for reimbursement of tuition, registration and other required fees for coursework completed toward both certification renewal and additional endorsement in a shortage area. Reimbursements will be granted to applicants to the extent of funds appropriated by the legislature for these purposes.

Payment may be made to any teacher who holds either a valid West Virginia certificate or a first class permit for full-time employment; and is seeking an additional endorsement in a shortage area or certification renewal, and has a continuing contract with the Board.

If funds appropriated for the purposes specified above are insufficient for the reimbursement of all eligible courses within the limits provided in the code, the West Virginia Department of Education shall make the reimbursements for courses for additional endorsement in a shortage area and certification renewal in a shortage area first.

The payment shall be made as reimbursement for the tuition, registration and other required fees for any course completed at any college or university within the state or college or university outside the state if prior approval is granted by the State Department. However, payment made for any single fee may not exceed the amount of the highest corresponding fee charged at a state institution of higher education.

Reimbursement for courses completed toward certification renewal is limited to 15 semester hours of courses for any teacher. Reimbursement for courses completed toward additional endorsement in a shortage area is limited to 15 semester hours of courses for any teacher.

(SBP 2320, 5202 and §18A-3-3)

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R 8-3-6 Issuing Permits to Non-School Personnel Coaches

It is the policy of the Board to utilize school employees for coaching positions whenever possible; therefore, the Superintendent and school principals shall make every attempt to secure coaches from within the school or within the school system. In the event the Superintendent must recommend a non-school person for a middle or high school coaching position, he/she may petition the State Superintendent to issue a permit to the person who will be serving as either an extracurricular activity coach (sponsor) or an athletic coach. Such permits are subject to the following limitations:

- ❖ Such person shall be employed under a contract with the Preston County Board of Education which specifies the duties to be performed, which specifies a rate of pay equivalent to the rate of pay for professional educators in the district who accept similar duties as extra duty assignments and which provides for liability insurance associated with the activity: Provided, that such person shall not be considered an employee of the Board for salary and benefit purposes other than as specified in the contract;
- ❖ A currently employed certified professional educator has not applied for the position; and
- ❖ Such person completes an orientation program designed and approved in accordance with state board rules (SSAC provides the orientation program).

The Board further requires that all such employees receive and read carefully all county policies and regulations regarding the responsibilities of school personnel entrusted with the supervision of students. Such employees shall be required to submit to a tuberculin skin test as prescribed by law and shall submit to an FBI background check.

Such extracurricular assignments are for one year only and must be reposted annually in the event that a currently employed certified professional educator should desire the job.

The above regulations applied to both paid and unpaid non-school personnel coaches.
(WVC §18A-3-2a; SBP 5202))

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R 8-3-7 National Board Certification

The National Board for Professional Teaching Standards is an outgrowth of several studies conducted in the 1980's concerning the quality of American public education. The NBPTS seeks to identify and recognize teachers who effectively enhance student learning and demonstrate the high level of knowledge, skills, abilities, and commitments reflected in the five core propositions.

- ❖ Teachers are committed to students and their learning;
- ❖ Teachers know the subjects they teach and how to teach those subjects to students;
- ❖ Teachers are responsible for managing and monitoring student learning;
- ❖ Teachers think systematically about their practice and learn from experience;
- ❖ Teachers are members of learning communities.

The State Board of Education offers financial assistance to those teachers seeking NBTS and it also provides an annual salary supplement to those who achieve the certification (financial assistance to obtain the certification and annual salary supplement are subject to legislative appropriations).

The Preston County Board of Education supports this national and state effort to raise the level of the professional training of its teachers and encourages interested teachers to pursue their professional and personal goals.

Additional information about NBPTS may be found at the website (www.nbpts.org) or by calling 1-800-22TEACH.
(SBP 5202)

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R 8-3-8 Revocation of Teaching Certificates

Professional employees may have their certificates revoked for any of the following causes: Intemperance; untruthfulness; cruelty; immorality; the conviction of a felony or a guilty plea or a plea of no contest to a felony charge; the conviction, guilty plea or plea of no contest to any charge involving sexual misconduct with a minor or a student; or for using fraudulent, unapproved or insufficient credit to obtain the certificates.

However, the certificates of a teacher may not be revoked for any matter for which the teacher was disciplined, less than dismissal, by the Board, nor for which the teacher is meeting or has met an improvement plan determined by the Board, unless it can be proven by clear and convincing evidence that the teacher has committed one of the offenses listed above.

In order for any conduct of a teacher involving intemperance; cruelty; immorality; or using fraudulent, unapproved or insufficient credit to obtain the certificates to constitute grounds for the revocation of the certificates of the teacher, there must be a rational nexus between the conduct of the teacher and the performance of his or her job.

It shall be the duty of the Superintendent, if he/she knows of any acts on the part of any teacher for which a certificate may be revoked in accordance with §18A-3-6, to report the same, together with all the facts and evidence, to the state superintendent for such action as in the state superintendent's judgment may be proper.
(WVC §18A-3-6; SBP 5202)

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R 8-3-9 Athletic Trainer

The Preston County Board of Education shall employ an athletic trainer or an individual with limited football trainer authorization to serve during senior high school football practices and games.

Licensure Governing Athletic Trainers (SBP 5202; SBP 5112)

- ❖ **Athletic Trainer.** The Professional Service Certificate endorsed for athletic trainer stands alone, shall not require other certificates as a prerequisite, and must be renewed in accordance with renewal requirements for professional certificates approved by the West Virginia Department of Education (WVDE). Only an individual who holds a bachelor's degree from an accredited institution of higher education and has completed a state approved athletic trainer program, (including the content test) through an accredited institution of higher education shall be eligible for the Professional Service Certificate endorsed for athletic trainer.
- ❖ **Authorized Athletic Trainer.** An Authorization endorsed for athletic trainer may be issued to an individual who holds certification through the National Athletic Trainers Association Board of Certification (NATABOC). The Authorization may be reissued annually upon application to the WVDE Office of Professional Preparation with documentation of valid NATABOC certification and the recommendation of the superintendent of the employing county.
- ❖ **Permit Athletic Trainer Permit.** - The Full-time Permit endorsed for Athletic Trainer may be granted to an individual who holds a minimum of a bachelor's degree and has completed six semester hours of credit applicable to a state-approved Athletic Trainer program. An Athletic Trainer Permit requires a commitment among the county board of education, the institution of higher education and the individual assuring that the individual will complete at least six college credit hours per year in the program and that s/he will complete the program

in no more than five years. Additionally, these individuals must annually attend the Athletic Trainer workshop as provided in *SBP 5112, Athletic Trainers in the Public Schools of West Virginia*. The Permit may be renewed for five years provided that the candidate follows the agreement.

- ❖ **Limited Football Trainer Authorization.** If an athletic trainer can not be obtained, the Board may employ a licensed health care provider which may include, but not limited to, one of the following: physician, registered nurse, licensed practical nurse, chiropractor, physical therapist, occupational therapist, physicians assistant, paramedic, and emergency medical technician.

The individual employed under these provisions must complete the requirements to receive a Limited Football Trainer Authorization and must present a copy of a high school diploma or GED diploma. This credential may be renewed annually following the process outlines in *SBP 5112 and SBP 5202, Section 20*.

To qualify for limited football trainer authorization, county boards of education must:

- Post the position of athletic trainer or individual to receive limited football trainer authorization with a closing date of May 1 or earlier.
- If an athletic trainer cannot be employed, county boards of education shall select a licensed health care provider to apply for limited football trainer authorization.
- Require the individual seeking limited football trainer authorization to attend an athletic trainer workshop/clinic sanctioned by the WVSSAC.
- Require the individual seeking limited football trainer authorization to complete and submit the Application for Limited Football Trainer Authorization to the WVDE Office of Professional Preparation by July 1.

Athletic Trainers Registration

An athletic trainer must register with the Board of Physical Therapy before s/he advertises himself or herself as an athletic trainer in this State, or uses the initials “AT”, “registered athletic trainer”, “athletic trainer”, or any other words, abbreviations, titles or insignia which indicate, imply, or represent that the person is an athletic trainer.

(WVC §30-20A-2; §30-20A-5 and §30-20A-6)

General Role Description

Both an athletic trainer and authorized athletic trainer shall possess the essential knowledge, skills, attitudes, and credentials necessary to carry out the practices of prevention, evaluation, initial care, and physical rehabilitation of injuries sustained by students engaged in public school athletics. Personnel holding either of these positions shall have the responsibility for the development, implementation, and management of the athletic training program.

Individuals who possess credentials as a Permit Athletic Trainer or Limited Football Trainer Authorization shall have their duties limited to evaluation, initial care, and referral of injuries sustained by students engaged in public school athletics.

Governing Principles

An individual serving as an athletic trainer or individuals with limited football trainer authorization may not have simultaneous coaching responsibilities in the same sport.

An athletic trainer or an individual with limited football trainer authorization must be in attendance at all senior high school football practices and games. The Superintendent may grant excuses from this requirement for individual practices or games based on illness, accident or unforeseen events. When an athletic trainer or an individual with limited football trainer authorization is not in attendance because of an illness, accident or other unforeseen event, the Superintendent must secure the attendance of other persons with specialized health related training.

It shall be the responsibility of the athletic trainer or individual with limited football trainer authorization to determine whether or not an injured student athlete participates in a game or practice. **(SBP 5202 and SBP 5112)**

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Adopted: March 14, 1983
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-4 Service Personnel Certifications and Competency Exams</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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All service personnel employed by the Preston County Board of Education shall meet certification and competency standards as they are defined in the West Virginia Code, State Board Policies, and Federal Guidelines which accompany Federal Programs.

R 8-4-1 Commercial Driver’s License for School Personnel and Electrician License

Employees engaged in work related activities that require the driving of a motor vehicle used in commerce to transport at least 16 passengers (including the driver) or property shall be required to hold a commercial driver’s license (CDL) as a condition of employment. The Board shall reimburse the employee for any fees related to obtaining the CDL.

If the Board requires employees who perform electrical work to hold a license, it shall also pay the cost of such license.
(WVC §18A-2-4)

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R 8-4-2 Required Level of Education and Service Personnel Contracts

Before entering upon their duties all service personnel shall execute with the Board of Education a written contract in the form pursuant to state statutes and Preston County Board of Education regulations. Initial contracts of employment shall be designated as probationary contracts. Persons extended job offers shall return the contract of employment to the County Board Office within 30 days after receipt of the contract or they shall forfeit the right to employment.

Continuing contracts shall be granted to service employees who have completed three years of acceptable employment. Also, service employees holding a continuing contract with another county shall be granted a continuing contract upon completion of one year of successful employment if such employment is during the next succeeding school year or immediately following a leave of absence of one year or less.

Effective July 1, 1988, all first time employees must have obtained a high school diploma or a General Education Development Certificate (GED) or they must be enrolled in a GED program, in which case, continued employment is contingent upon normal progress and completion of the GED.
(WVC §18A-2-5)

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R 8-4-3 Competency Testing for Service Personnel

Every person (new applicants or current employees) desiring to be placed in a service personnel position shall first pass the State competency exam for the area of employment desired. Competency tests are offered regularly at the Vocational and Technical Center of Preston High School. The Superintendent may, with the approval of the Board, elect to designate other locations within Preston County as testing sites.

- ❖ The exams are both basic literacy tests and job specific.
- ❖ Applicants may request to take the written test orally. Oral test will be recorded mechanically and kept on file. The person administering the oral test may not know the applicant personally.
- ❖ The subject matter of the test shall be commensurate with the requirements of the job classification.
- ❖ Applicants who pass the test shall be deemed qualified to fill vacancies in the classification category.
- ❖ The test shall be given under uniform testing conditions.
- ❖ Current employees seeking employment in another classification shall be excused from work, without loss of pay, to take the competency test.
- ❖ A minimum of one day of appropriate in-service training will be provided for employees to assist them in preparing for the exam.
- ❖ An applicant who does not pass the exam shall be given other opportunities to retake the exam when applying for another vacancy in the classification category.
(WVC §18A-4-8e)

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R 8-4-4 Title I Paraprofessionals and Instructional Aides

New federal guidelines prompted by “No Child Left Behind” require that the Preston County Board of Education to institute the following guidelines for the employment of new aides and paraprofessionals and the training of current employees filling those positions. Current guidelines are as follows:

- ❖ New paraprofessionals employed after January 8, 2002 must have: 1) completed two years of study at an institution of higher education, or 2) obtained an Associate’s (or higher) degree, or 3) passed the current state competency test given to instructional aides.
- ❖ New Title I instructional aides must have 1) completed two years of study at an institution of higher education, or 2) obtained an Associate’s (or higher) degree, or 3) passed the current state competency test given to instructional aides.
- ❖ The Board shall provide information to all current paraprofessionals and instructional aides employed prior to January 8, 2002 that they must also meet the preceding guidelines within four years.

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R 8-4-5 Supervisory Aides

Within the framework of hiring practices in Preston County, principals may designate aides in the school who agree to exercise supervisory authority and stand in the place of parents and exercise such authority and control over students as is required of a teacher. Such appointments shall be on the basis of seniority and the duties to be performed must be clearly defined.

The terms and conditions of the agreement shall be in writing, signed by both parties and may include additional benefits.

The authority of a supervisory aide does not extend to suspension or expelling students, does not permit corporal punishment and does not allow these aides to perform instructional duties as a teacher or substitute teacher. However, supervisory aides may supervise students undergoing in-school suspension if the instructional duties required by this assignment are limited solely to handing out and collecting class work.

Supervisory aides shall receive a salary not less than one pay grade above the highest pay grade they hold at the time of appointment. They may not be required to perform noninstructional duties for an amount of time greater than that performed by other aides in the school unless aide and the Board mutually agree to the assignments. Supervisory aides shall have the option of agreeing to supervise students and of renewing related assignments annually. Should an aide elect not to renew the previous agreement to supervise students, the salary of the aide shall revert to the pay grade specified in the state salary schedule.

(WVC §18A-5-8)

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R 8-4-6 Bus Operator Certification

Notwithstanding any other provision of this code to the contrary and notwithstanding any rules of the school board concerning school bus operator certification in effect on the effective date of this section, the certification test for a school bus operators shall be required as follows, and school bus operators shall not be required to take the certification test more frequently:

- ❖ For substitute school bus operators and for school bus operators with regular employee status but on a probationary contract, the certification test shall be administered annually;
- ❖ For a school bus operators with regular employee status and continuing contract status, the certification test shall be administered triennially; and
- ❖ For substitute school bus operators who are retired from a county board and who at the time of retirement had 10 years of experience as a regular full-time bus operator, the certification test is shall be administered triennially.

(WVC §18A-4-8e)

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Adopted: March 14, 1983
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-5 Priority Placement of Professional and Service Personnel Following the Consolidation or Merger of Two or More Schools</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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Notwithstanding any other provision of Article 18A of the Code to the contrary, when a majority of the classroom teachers or school service personnel who vote to do so, in accordance with procedures established in WVC §18A-4-8f, and who are employed by Board, the Board shall give priority to classroom teachers or service personnel in any school or schools to be closed as a result of a consolidation or merger when filling positions in the new school created by consolidation or newly created positions in existing schools as a result of the merger.

Each year a consolidation or merger is proposed, prior to the implementation of that plan, the Superintendent shall cause to be prepared and distributed to all faculty senates and to all schools and work sites a ballot on which teachers and service personnel may indicate whether or not they desire those affected by school closings to be given priority status in filling new positions.

Prior to the first Monday in April which is the date by which notice requirements for reduction in force and transfer must be initiated, the Superintendent shall tabulate and post all results of the voting by school employees. The total number of votes shall be tabulated separately for classroom teachers and service personnel. Priority placement status for classroom teachers will be conferred only if a majority of the total number of teachers who cast a ballot votes to do so. Likewise, priority placement status for service personnel will be conferred only if a majority of the total number of service personnel who cast a ballot vote to do so.

Voting procedures for determining priority placement in the event of a merger or consolidation shall be as follows:

- ❖ A secret ballot election shall be held in each faculty senate for classroom teachers. The faculty senate chair shall convey the results to the Superintendent
- ❖ A secret ballot election shall be held at each school or work site for service personnel. The service personnel supervisor at each school or work site shall convey the results of the election to the Superintendent.

If a majority approves, the teachers or school service personnel in the school or schools to be closed shall have priority in filling new positions in the new or merged schools for which the teachers are certified or for which the school service personnel are qualified and meet the standards set forth in the job posting on the basis of seniority within the county. A teacher or school service personnel may receive priority for filling a position at a school affected by a merger, or consolidation only for the position being created by the influx of students from a consolidated or merged school into the school receiving students from their closed school or grade level.

The most senior teacher from the closed grades or school shall be placed first, the second most senior shall be placed next and so on until all the newly created positions are filled or until all the teachers in closed grades or schools who wish to transfer into the newly created positions are placed.

The most senior service person from the closed school or schools has priority in filling any position within his or her classification category. The second most senior service person from the closed school or schools then has priority in filling remaining vacancies and so on until all available positions are filled.

If there are fewer new positions in the newly created school or merged school than there are classroom teachers or school service personnel from the school or schools to be closed, the teachers or school service personnel who were not placed in the new positions retain the same rights as all other teachers or service personnel with regard to seniority, transfer and reduction in force.

A consolidation, for the purpose of this policy, means one or more schools are closed, or one or more grade levels are removed from one or more schools and the students are assigned to a new school.

A merger, for the purpose of this policy, means one or more schools are closed or one or more grades levels are removed from one or more schools and the students are assigned to another existing school.

(WVC §18A-4-8f)

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Adopted: August 9, 2010
Amended/revised:

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-6 Employee Medical Examinations</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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As prescribed by state law, certain Preston County Board of Education employees will be required to undergo medical examinations as a condition of employment (Superintendent and bus drivers). Bus drivers/contract bus drivers are also subject to routine annual medical examinations in order to retain their positions. The Preston County Board of Education shall pay the cost of routine medical examinations required as a condition of employment as defined in law, state regulation, or Board policy.

Each year, the Board will solicit bids from area physicians to perform the required examinations. The Board will pay the cost of the physical performed by the successful bidder with a cap of \$35.00 per examination. If the employee secures a physician of his/her own choosing, and not one designated by the school system, the employee shall be reimbursed at the same standard fee established by the Board and/or the Superintendent.

The physician shall record the findings of each such examination on the forms provided by the Board and shall mail said forms directly to the Board Office.
(WVC §21-3-17 and §18A-2-10)

Bus Drivers

Before entering into the discharge of his/her duties as a school bus operator, the applicant shall have a physical examination as prescribed in *SBP 4336 - West Virginia School Bus Transportation Policy and Procedures Manual*

The result of the physical examination shall be recorded on a prescribed form and forwarded to the State Director of School Transportation. A copy of the report will become a part of the bus operator's permanent record in the county office. The original report of the physical examination shall govern eligibility. However, exceptions may be made in case of vision where corrective lenses remedy the condition and in the event the school authorities in charge feel that the original report is inaccurate or questionable. When questionable reports are received, the applicant may be required to take another physical examination by a physician or specialist designated by the County Superintendent of Schools. Bus operators will be required to undergo and pass an annual physical exam in order to maintain their certification and employment.

All school bus operators and other holders of CDL licenses will be subject to pre-employment, random, post accident, and reasonable suspicion testing for the use of certain controlled substances and alcohol under the regulations established by the U. S. Department of Transportation, Federal Highway Administration's implementation of the Omnibus Transportation Employee Testing Act of 1991 (OTETA), including subsequent revisions or additions. The Board shall be responsible for payment of the cost of all such test. A full explanation of the Board's drug testing procedures may be found in *File: R 8-8-1 Transportation Employees' Alcohol and Controlled Substance Testing*.
(WVC §16-3D-3 and SBP 4336)

Superintendent of Schools

Before entering upon the discharge of his/her duties, the Superintendent shall file with the president of the Board a certificate from a licensed physician, certifying that an approved tuberculin skin test has been made within the last four months and that he/she does not have tuberculosis in a communicable state. After the completion of the initial test, the Superintendent shall have an approved skin test once every two years or more frequently if medically indicated. A positive reaction requires immediate referral to a physician for evaluation and indicated treatment or further studies.

In the event the Superintendent is at any time certified by a licensed physician to have tuberculosis in a communicable stage shall have his/her employment discontinued or suspended until the disease has been arrested and is no longer communicable. Failure to complete required follow-up examinations as required by the code shall result in a suspension of employment until an examination report is confirmed.

(WVC §18-4-2)

Custodian, Maintenance, Supply, and Bus Maintenance Employees

Custodial, maintenance, supply, and bus maintenance employees shall, before beginning their employment, have a physical examination, including a full-size chest x-ray, PA view, which shall be checked by a physician for evidence of pneumoconiosis, tuberculosis, or other respiratory disease. If any evidence of pneumoconiosis or other illness exists, the Board may require left and right lateral x-rays and/or spirometer tests or other tests necessary to confirm or reject the initial diagnosis.

Other Personnel

This policy shall apply equally to other personnel who may be required by law, state regulations, or Board policy to have medical examinations as a condition of employment.

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Adopted: March 14, 1983
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-7 Tuberculin Examinations</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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The Preston County Board of Education recognizes its responsibility to safeguard the welfare of its students and personnel from tuberculosis in the communicable stage. Therefore, all school personnel (including full-time or part-time substitutes) shall have an approved tuberculin skin test at the time of employment performed by the local health department or the person’s physician. Additional tuberculosis skin tests or other medical screens may be required by the local health department or Commissioner of the Bureau for Public Health, if medically indicated. Positive reactors to the tuberculin examination **and** those with previous positive skin tests shall be immediately referred to a physician for evaluation and treatment or further studies.

School personnel found to have tuberculosis in a communicable stage shall have their employment suspended until the local health officer, in consultation with the Commissioner of the Bureau for Public Health, approves a return to work. School personnel who have not had the required examination will be suspended from employment until reports of examination are confirmed by the local health officer.

The local health officer shall be responsible for arranging proper follow-up of school personnel and students who are unable to obtain physician evaluation for a positive tuberculin skin test.

The Commissioner shall have the authority to require selective testing of students and school personnel for tuberculosis when there is reason to believe that they may have been exposed to the tuberculosis organism.

The school nurse shall identify and refer any students or school personnel to the local health officer in instances where he/she may have reason to suspect that the individual has been exposed to tuberculosis or has symptoms indicative of the disease.
(WVC §16-3D-3)

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Adopted: November 29, 1993
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-8 Transportation Employees’ Alcohol and Controlled Substance Testing</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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This policy complies with the Omnibus Transportation Employee Testing Act of 1991. Employees and students are the Boards' most valuable resource and their health and safety is a serious concern. The board will not tolerate any drug or alcohol misuse which imperils the health and well being of its employees or students or threatens the economic health of the county school system.

The use of illegal drugs and the misuse of alcohol and other controlled substances is inconsistent with the responsible behavior expected of all citizens. Employees who use illegal drugs or abuse alcohol and other controlled substances tend to be less productive, less reliable, and prone to greater absenteeism resulting in increased cost, delay, and risk in the board's performance and their own safety. Employees have the right to work in a safe environment. Employees who abuse drugs or alcohol are a danger to themselves, to other employees, to students and to the public. Our board is therefore committed to maintaining a safe and healthy work environment, free from the negative influence of drugs and alcohol.

Communication/Distribution of Policy

The individuals affected by this drug and alcohol testing program will be given a copy of this policy and a signed receipt will be obtained from each individual, which will be placed in their personnel file. Subsequent questions regarding the policy and administrative regulations and their implementations should be referred to the director of transportation.

Types of Testing Required

The Preston County Board of Education will conduct drug and alcohol screening on all regular, substitute, and potential employees in safety-sensitive positions, who are required to maintain a Commercial Driver's License (CDL). Employees in safety-sensitive positions are required to be tested in the following categories:

Post Offer of Employment

The Board requires that each offer of employment, as well as transfer into a safety-sensitive position, shall be conditioned on the passing of a urine drug screen, testing for the following drugs: marijuana, PCP, opiates, amphetamines, and cocaine, and the passing of an alcohol breath test of less than 0.02 concentration of alcohol. The board will not hire or transfer into a safety-sensitive position, any applicant who fails to pass either test.

Random Testing

All employees covered by this policy are subject to unannounced testing based on random selection, which also includes substitute employees performing safety-sensitive functions. Random testing will be spread reasonably through a twelve (12) month period, with testing to be at the rate of 50% of the number of employees covered for drug testing, and at a rate of 25% of the same employees, for alcohol testing. Random selection will be provided by the designated contractor through a computerized program.

If an employee (driver) has not been chosen through a scientifically valid method within a three year period, the Preston County Board of Education may request the employee to submit to a drug and alcohol test.

Reasonable Suspicion

When a trained supervisor has reasonable cause to believe an employee is using a prohibited substance, the supervisor will require that the employee submit to a urine drug test and/or an alcohol breath test. The decision to test must be based on a reasonable and identifiable belief that the employee is using a prohibited substance on the basis of specific physical, behavioral, or performance indicators. Supervisors will be required to document the employee's conduct and his/her justifications for the test.

Reasonable suspicion alcohol testing is authorized only if the observations required by these regulations are made during, just preceding, or just after the period of the workday that the driver is required to be in compliance with these regulations. A driver may be directed by the Board to undergo reasonable suspicion alcohol testing only while the driver is performing safety-sensitive functions, or just after the driver has ceased performing such functions.

Post Accident Testing

As soon as practicable following an accident, the county shall test for alcohol and controlled substances each surviving employee if the following conditions exist:

- ❖ The employee who was performing safety sensitive functions with respect to the vehicle, if and the accident involved the loss of human life; or
- ❖ The employee ~~who~~ receives a citation under State or local law for a moving traffic violation arising from the accident.
 - An alcohol test must be administered within eight (8) hours following the accident; and
 - A controlled substances test must be administered within thirty-two (32) hours following the accident.

Any employee subject to post-accident testing shall remain readily available for such testing or may be deemed to have refused to submit to testing.

Return-to-Duty Testing

Before an employer returns to the performance of safety-sensitive duties after engaging in conduct prohibited by this policy, he/she will be required to undergo an alcohol test with a result indicating an alcohol concentration level of less than 0.02 and a controlled substance test with a result indicating a verified negative result for controlled substance use.

Follow-up Testing

Follow-up testing will be done with employees for whom it has been determined that they are in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances. The number and frequency of such follow-up tests shall be directed by the substance abuse

professional and consist of at least six (6) tests in the first twelve (12) months following the employee's return to duty. Follow-up testing shall not exceed sixty (60) months from the date of the employees return to duty.

Drug Testing Procedures

The Board will designate collection sites which have necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, storage, and transportation of urine specimens to the certified drug laboratory as specified in 49 CFR, part 40. Laboratories conducting such tests will be certified by the National Institute of Drug Abuse (NIDA) and certified under the Department of Health and Human Services guidelines. The screening and confirmation values are subject to change, based on updates and DOT criteria. The initial testing will use an immunoassay for: PCP, Amphetamines, Cocaine, Marijuana, and Opiates. All specimens identified as positive on the initial test will be confirmed positive using gas chromatography/mass spectrometry (GC/SM). All test results will be forwarded to the Medical Review Officer in a confidential manner. The MRO will review both positive and negative test results to assure their accuracy and that the chain of custody is intact. Before a specimen is considered positive, the MRO will make contact with the donor to verify the test as being positive. Additional information about not being able to make contact with donor is covered in the Medical Review Officer section further into this policy.

Drug Specimen Procedures

Drug specimens will be collected at the designated collection site in concurrence with DOT regulations.

- ❖ The collection site person shall instruct the employees to provide at least 45 ml of urine under the split sample method of collection.
- ❖ If a collection container is used, the collection site person, in the presence of the donor, pours the urine into two specimen bottles: Thirty (30) ml shall be poured into one bottle, to be used as the primary specimen. At least fifteen (15) ml shall be poured into the other bottle, to be used as the split specimen.
- ❖ If a single specimen bottle is used as a collection container, the collection site person shall pour thirty (30) ml of urine from the specimen bottle into a second specimen bottle (to be used as the primary specimen) and retain the remainder (at least fifteen [15] ml in the collection bottle to be used as the split specimen).
- ❖ Both bottles shall be shipped in a single shipping container, together with copies 1, 2, and the split specimen copy of the chain or custody form, to the laboratory.
- ❖ If the test results of the primary specimen are positive, the employee may request that the MRO direct that the split specimen be tested in a different DHHS-certified laboratory for presence of drug(s) for which a positive result was obtained in the test of the primary specimen. The MRO shall honor such a request; it is made in writing, within 72 hours of the employee having been notified of a verified positive test result.
- ❖ When the MRO informs the laboratory in writing that the employee has requested a test of the split specimen, the laboratory shall forward, to a different DHHS-approved laboratory, the split specimen bottle, with seal intact, a copy of the MRO request, and the split specimen copy of the chain of custody form with appropriate chain of custody entries.

- ❖ The result of the test of the split specimen is transmitted by the second laboratory to the MRO.
- ❖ Removal from performing a safety-sensitive function is not stayed, pending the result of the test of the split specimen
- ❖ If the result of the test of the split specimen fails to reconfirm the presence of the drugs(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test, and report the cancellation and the reasons for it to the employer, the employee, and the DOT.

Medical Review Officer/Review and Reporting Test Results

The Preston County Board of Education has retained Preston Memorial Hospital, an approved Medical Review Officer, to review and verify the validity of all test results and to authorize re-analysis of a specimen to determine the accuracy of the reported result when appropriate. The Medical Review Officer will act in accordance with the guidelines for Medical Review Officer, as set up by the Department of Transportation, and with the Standard Operating Procedure Manual on file at the County Office.

Negative Results: In the area of negative results, the MRO's position is purely administrative. All negative results will be reviewed by the MRO and reported as such to the county designate.

Positive Results: Prior to reporting as verified positive, the MRO will give the individual an opportunity to discuss the test. The MRO will review, interpret, and verify positive test results. He will be responsible for examining alternative medical and biochemical explanations. Such action and review may include conducting a medical interview, medical history, or reviewing other relative factors. The MRO is responsible for directly contacting the individual, on a confidential basis, to review test results. If after making all reasonable efforts and documenting such, the MRO is unable to reach the Individual directly, the MRO will contact the board designate, who will direct the individual to contact the MRO as soon as possible. If these efforts are unsuccessful, the Board will remove the employee from the safety-sensitive position.

Under the following circumstances, the MRO may verify a test as positive without having communicated directly with the individual:

- ❖ The employee expressly declines the opportunity to discuss the results with the MRO.
- ❖ The MRO may verify a test as positive after five (5) days if the Board has contacted or made a reasonable effort to contact the employee but the employee did not contact the MRO.

The employer shall notify a driver of the results of a pre-employment controlled substance test if the driver requests such results within sixty (60) calendar days of being notified of the disposition of the employment application. The employer shall notify a driver of the results of the random, reasonable suspicion and post-accident tests for controlled substances if the results are verified as positive. The employer shall also inform the driver as to which controlled substance(s) were verified as positive.

Consequences of Positive Drug Testing

An employee testing positive for a controlled substance or refusing to submit to a drug test will be immediately removed from their safety-sensitive position. Said employee will be suspended from employment, without pay, and recommended for dismissal per the school laws of West Virginia.

Alcohol Testing Procedures

The Preston County Board of Education will designate collection sites which have necessary personnel, materials, equipment, facilities, and supervision to provide for the collection, security, and storage of information, as specified in 49 CFR, part 40. Persons conducting such tests will be called breath alcohol technicians, as defined by the Department of Transportation. Because alcohol is a legal substance, the rules define specific prohibited alcohol-related conduct. Performance of safety-sensitive functions is prohibited:

- ❖ while having an alcohol concentration of 0.04 or greater, as indicated by breathe test;
- ❖ while using alcohol;
- ❖ within four (4) hours after using alcohol;
- ❖ if the employee refuses to submit to an alcohol test; or
- ❖ if the employee uses alcohol within eight (8) hours after an accident, or until tested.

In order for an individual to have a verified positive, two (2) tests are required. If the initial test registers an alcohol concentration of less than 0.02, the test is considered "negative" and nothing else is required. If an individual has an alcohol concentration of 0.02 or greater a second or confirmation test is required. This test must be performed using an evidential breath device (EBT) that prints the results, date and time, a sequential test number, and the name and serial number of the EBT, to ensure the reliability of the results. The confirmation test results determine any action taken.

Prohibitions

- ❖ No driver shall report to duty or remain on duty requiring the performance of safety-sensitive function
 - while having an alcohol concentration of 0.04 or greater;
 - while in possession of alcohol;
 - while using alcohol or any controlled substance, except when the use of the controlled substance is pursuant to the instructions of a physician who has advised the driver that the substance does not adversely affect the driver's ability to safely operate a commercial motor vehicle;
 - within four (4) hours after using alcohol.
- ❖ No driver required to take a post-accident test shall use alcohol for eight (8) hours following the accident or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- ❖ No driver shall perform a safety-sensitive function if the driver refuses to submit to a required alcohol or controlled substances test.

- ❖ No driver found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following the administration of the test.

Consequences of Positive Alcohol Testing

If a subject employee has an alcohol concentration level of 0.02 or greater but less than 0.04 s/he is to be removed from safety-sensitive duties until the start of his/her next regularly scheduled duty period, but not less than 24 hours following the administration of the test.

If an individual registers a concentration of 0.04 or greater, they must be immediately removed from any safety-sensitive duties. If an employee has an alcohol concentration of 0.04 or greater, the employee cannot return to work in a safety-sensitive function until (1) evaluated, (2) treated, if required by substance abuse professional, and (3) retested with a result below 0.02. Disciplinary action, up to and including dismissal, will be initiated.

Consequences for Refusing to Submit to Testing

- ❖ The Preston County Board of Education may not employ any person who fails the drug or alcohol test specified in this policy. Refusal to submit to testing or to sign appropriate consent forms will be considered a positive test. The following will be considered as refusal to submit to testing.
- ❖ Failure to provide adequate breath or urine for testing when required without a valid medical explanation;
- ❖ Engaging in conduct which clearly obstructs the testing process;
- ❖ Failure to sign the alcohol testing form if the employee did not take the test; or
- ❖ Leaving the scene of an accident requiring testing before being tested and not being reasonably available for testing (except, for example, when necessary to receive medical treatment);
- ❖ A refusal can also occur where an employee who screens positive for alcohol admits alcohol misuse in violation of the rules and refuses a confirmation test.

Record keeping

Documentation of all results will be maintained in separate and secure files. The regulations require that the following records be maintained for five (5) years:

- ❖ Driver alcohol test results indicating concentration of 0.02 or greater;
- ❖ Driver verified positive controlled substance test results;
- ❖ Refusals to take required alcohol and/or controlled substance tests;
- ❖ Calibration documentation of EBT's;
- ❖ Driver evaluation and referrals; and
- ❖ Annual calendar year summaries.

Records related to the alcohol and controlled substances collection process (except calibration of EBT's) and training shall be maintained for two (2) years. Records of negative and canceled controlled substance test results and alcohol test results with a concentration of less than 0.02 must be maintained for a minimum of one (1) year.

Confidentiality

The Board policy is to ensure confidentiality in the application of this program. Results will not be released without the expressed authorization of the tested individual except upon request by the appropriate supervisor, MRO or DOT. All drug and alcohol testing records will be stored in a secure location, as designated by the Board, in the Board's offices. Such records will not be made part of the individual's personnel files. Results of testing will not be released to subsequent employers unless written consent is given by the individual. Each employee may also have access to their individual records upon written request.

The information maintained in-the employee's file will include the following:

- ❖ Employee submitting to a drug test and type of test.
- ❖ Collection date.
- ❖ Collection location.
- ❖ Identity of person performing the test, collection, analysis, and MRO.
- ❖ Test results. If a test result for controlled substance is positive, the identity of the drug for which the test was verified positive will be maintained.

All such reports will be retained by the school system for five (5) years, with the exception of one (1) year limitation for negative results. The MRO is responsible for maintaining records for a period of five (5) years.

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R 8-8-1 Defeating Drug/Alcohol Screening Tests (Criminal Penalties)

Criminal penalties may be imposed upon persons who:

- ❖ Knowingly sells, gives away, distributes or markets any substance or product in this state or transports such a substance or product into this state with the intent that the substance or product will be used to defeat a drug or alcohol screening test;
- ❖ Attempts to defeat a drug or alcohol screening test by the substitution of a false sample;
- ❖ Knowingly advertises for sale or distribution any substance or product the advertised purpose of which is to defeat a bodily fluid screening test for drugs or alcohol;
- ❖ Adulterates a bodily fluid sample with the intent to defeat a drug or alcohol screening test;
- ❖ Knowingly possesses adulterants for the purpose of defeating a drug or alcohol screening test;
or

- ❖ Knowingly sells adulterants which are intended to be used to adulterate a urine or other bodily fluid sample for the purpose of defeating a drug or alcohol screening test.

A person who violates a provision of §60A-4-412(a):

- ❖ For a first offense is guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars (\$1,000);
- ❖ For a second offense is guilty of a misdemeanor and, upon conviction, be fined not more than five thousand dollars (\$5,000);
- ❖ For a third or subsequent offense is guilty of a misdemeanor and, upon conviction, be fined not more than ten thousand dollars (\$10,000) or confined in the regional jail for not more than one year, or both.

As defined in the code, "adulterate" means a substance that is not expected to be in human fluids but that is a concentration so high that it is not consistent with human bodily fluids, including, but not limited to: Bleach; chromium; creatinine; detergent; glutaraldehyde; glutaraldehyde/squalene; hydrochloric acid; hydroiodic acid; iodine; nitrite; peroxidase; potassium dichromate; potassium nitrate; pyridinium chlorochromate; and sodium nitrite.

(WVC §60-4-412 (a)(b))

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Adopted: January 12, 1995
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-9 Employee Grievance Procedure</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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The Preston County Board of Education believes that the resolution of problems which arise between employees and the Board or administrators who represent the Board is necessary in order for good morale to be maintained, for effective job performance to be enhanced, and for the citizens of the community to be better served. To facilitate this, the Board shall follow the grievance procedure for employees as provided in §6C-2-1 thru §6C-2-6 of the W.Va. Code

Nothing in the code and accompanying guidelines prohibits the informal disposition of grievances by stipulation or settlement agreed to in writing by the parties, nor the exercise of any hearing right provided in Chapter 18 or Chapter 18A of the code

The effective day of the Public Employees Grievance Procedure shall be July 1, 2007. Any grievance proceeding which is in process on the effective date of the new procedures will be completed as expeditiously as possible, and all outstanding orders for hearings must be completed by the first day of July, 2007. Parties to grievances for which a hearing has not been held may, by agreement, proceed to either level two or level three.

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R 8-9-1 Definitions as They Apply to the Preston County Board of Education

- ❖ **"Board"** means the West Virginia Public Employees Grievance Board created in WVC § 6C.
- ❖ **"Chief administrator"** means the Superintendent. The Superintendent may appoint a designee who shall have the authority delegated to handle any aspect of the grievance procedure as established by code.
- ❖ **"Days"** means working days exclusive of Saturday, Sunday, official holidays and any day in which the employee's workplace is legally closed under the authority of the Superintendent owing to weather or other cause provided for by statute, rule, policy or practice.
- ❖ **"Discrimination"** means any differences in the treatment of similarly situated employees, unless the differences are related to the actual job responsibilities of the employees or are agreed to in writing by the employees.
- ❖ **"Employee"** means:
 - A person hired for permanent employment by an employer for a probationary, full- or part-time position.
 - A substitute education employee 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 the substitute.
- ❖ **"Employee organization"** means an employee advocacy organization with employee members that has filed with the board the name, address, chief officer and membership criteria of the organization.
- ❖ **"Employer"** means the Preston County Board of Education.

- ❖ **"Favoritism"** means unfair treatment of an employee as demonstrated by preferential, exceptional or advantageous treatment of a similarly situated employee unless the treatment is related to the actual job responsibilities of the employee or is agreed to in writing by the employee.
- ❖ **"Grievance"** means a claim by an employee alleging a violation, a misapplication or a misinterpretation of the statutes, policies, rules or written agreements applicable to the employee including:
 - Any violation, misapplication or misinterpretation regarding compensation, hours, terms and conditions of employment, employment status or discrimination, unless the discrimination is related to the actual job responsibilities of the employee or agreed to in writing by the employee;
 - Any discriminatory or otherwise aggrieved application of unwritten policies or practices of his or her employer;
 - Any specifically identified incident of harassment, including repeated or continual disturbance, irritation or annoyance of an employee that is contrary to the demeanor expected by law, policy and profession, or favoritism, including unfair treatment of an employee as demonstrated by preferential, exceptional or advantageous treatment of another similarly situated employee; or
 - Any action, policy or practice constituting a substantial detriment to or interference with the effective job performance of the employee, or the health and safety of the employee.
- ❖ **"Grievant"** means an employee or group of similarly situated employees filing a grievance.
- ❖ **"Harassment"** means repeated or continual disturbance, irritation or annoyance of an employee that is contrary to the behavior expected by law, policy and profession.
- ❖ **"Party" and "parties"** mean the grievant and employer.
- ❖ **"Representative"** means any employee organization, fellow employee, legal counselor or other person designated by the grievant as the grievant's representative and may not include a supervisor who evaluates the grievant.
- ❖ **"Reprisal"** means the retaliation of an employer toward a grievant, witness, representative or any other participant in the grievance procedure either for an alleged injury itself or any lawful attempt to redress it.
(WVC §6C-2-2)

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R 8-9-2 Grievance Procedure Generally

The procedures set forth in the following pages are very specific and clearly define the manner in which employee grievances must be reviewed and resolved.

Time Limits:

- ❖ An employee shall file a grievance within the time limits specified in the code.

- ❖ The specified time limits may be extended to a date certain by mutual written agreement, and shall be extended whenever a grievant is not working because of accident, sickness, death in the immediate family or other cause for which the grievant has approved leave from his/ her employment.

Default:

- ❖ The grievant prevails by default if a required response is not made by the employer within the time limits established in the code, unless the employer is prevented from doing so directly as a result of injury, illness or a justified delay not caused by negligence or intent to delay the grievance process.
- ❖ Within 10 days of the default, the grievant may file with the Superintendent or designee a written notice of intent to proceed directly to the next level or to enforce the default. If the Superintendent objects to the default, then s/he may request a hearing before an administrative law judge for the purpose of stating a defense to the default or showing that the remedy requested by the prevailing grievant is contrary to law or contrary to proper and available remedies
- ❖ If the administrative law judge finds that the employer has a defense to the default as permitted by the code, or that the remedy is contrary to law or not proper or available at law, he/she may deny the default, or modify the remedy to be granted to comply with the law or otherwise make the grievant whole.

Defenses and limitations:

- ❖ **Untimeliness** -- Any assertion by any party that the filing of the grievance at level one was untimely shall be made at or before level two.
- ❖ **Back Pay** -- When it is a proper remedy, back pay may only be granted for one year prior to the filing of a grievance, unless the grievant shows, by a preponderance of the evidence, that the employer acted in bad faith in concealing the facts giving rise to the claim for back pay, in which case an eighteen-month limitation on back pay applies.
- ❖ **Statutory defense** -- If the employer intends to assert the application of any statute, policy, rule or written agreement as a defense at any level, then a copy of the materials shall be forwarded to the grievant and his or her representative.

Withdrawal and Reinstatement of grievance:

An employee may withdraw a grievance at any time by filing a written notice of withdrawal with the Superintendent or the board. The grievance may not be reinstated by the grievant unless reinstatement is granted by the Superintendent or the "Board". If more than one employee is named as a grievant, the withdrawal of one employee does not prejudice the rights of any other employee named in the grievance.

Consolidation and Groups of Similarly Situated Employees:

- ❖ Grievances may be consolidated at any level by agreement of all parties, or at the discretion of the administrative law judge.

- ❖ Class actions are not permitted. However, a grievance may be filed by one or more employees on behalf of a group of similarly situated employees, but any similarly situated employee shall indicate in writing his/her intent to join the group of similarly situated employees. Only one employee filing a grievance on behalf of similarly situated employees shall be required to participate in the level one hearing.

Intervention:

Upon a timely request, any employee may intervene and become a party to a grievance at any level when the employee demonstrates that the disposition of the action may substantially and adversely affect his or her rights or property and that his or her interest is not adequately represented by the existing parties.

Representation in a Disciplinary Grievance:

An employee may designate a representative who may be present at any step of the procedure as well as at any meeting that is held with the employee for the purpose of discussing or considering disciplinary action.

An employee may not be compelled to testify against himself or herself in a disciplinary grievance hearing.

Reprisal:

No reprisal or retaliation of any kind may be taken by an employer against a grievant or any other participant in the grievance procedure by reason of his or her participation. Reprisal or retaliation constitutes a grievance, and any person held responsible is subject to disciplinary action for insubordination.

Forms:

The "Board" shall create the forms for filing grievances, giving notice, taking appeals, making reports and recommendations, and all other necessary documents provide them to the Superintendent to make available to any employee upon request

Discovery:

The parties are entitled to copies of all material submitted to the Superintendent or designee or the administrative law judge by any party. All documents submitted become part of the record

Conferences and Hearings:

- ❖ **Impartiality** – The administrative law judge shall conduct all level three hearings in an impartial manner and shall ensure that all parties are accorded procedural and substantive due process.
- ❖ **Closed Conferences and Hearings.** -- All conferences and hearings shall be conducted in private. Hearings may be public at level three at the discretion of the administrative law judge.

- ❖ **Evidence** -- All parties may present supportive or corroborative evidence and argument with respect to the grievance at a conference or hearing. Formal rules of evidence do not apply, but parties are bound by the rules of privilege recognized by law, and the rules and procedures established by the board.
- ❖ **Witnesses** – At level one, the Superintendent may call witnesses and may allow parties to call witnesses during a conference or hearing upon request. The parties have the right to call, examine and cross-examine witnesses during any hearing. Administrative law judges may issue subpoenas for witnesses, limit witnesses, administer oaths and may exercise other powers granted by rule or law. No employee may be compelled to testify against himself or herself in a grievance hearing.
- ❖ **Notice** -- Reasonable notice of a conference or hearing shall be sent at least five days prior to the hearing to all parties and their representatives and shall include the date, time and place of the hearing. If an employer causes a conference or hearing to be postponed without adequate notice to employees who are scheduled to appear during their normal work day, the employees may not suffer any loss in pay for work time lost.
- ❖ **Scheduling** – All proceedings shall be scheduled during regular work hours in a convenient location accessible to all parties in accommodation to the parties' normal operations and work schedules. By agreement of the parties, a proceeding may be scheduled at any time or any place. Disagreements shall be decided by the administrative law judge.
- ❖ **Record** – Conferences are not required to be recorded, but all evidence submitted and the decision become part of the record. All the testimony and evidence at a hearing shall be recorded by mechanical means, and a copy of the recording provided to any party upon request. The “Board” is responsible for paying for and promptly providing a certified transcript of a hearing to a requesting party or the court for a mandamus or appellate proceeding.

Grievance decisions:

- ❖ Any party may propose findings of fact and conclusions of law within twenty days of an arbitration or a level three hearing.
- ❖ Decisions rendered at all levels of the grievance procedure shall be dated, in writing, setting forth the decision or decisions and the reasons for the decision, and transmitted to the “Board”, the employer and the grievant within the time limits prescribed. If the grievant is denied the relief sought, the decision shall include the procedure for the next level of appeal for the grievant.

Preparation time

- ❖ The grievance shall be processed during regular working hours with minimal interference with the normal operations of the employer and schedule of the employee.
- ❖ The grievant, witnesses and an employee representative shall be granted reasonable and necessary time off during working hours for grievance proceedings without loss of pay and without charge to annual or compensatory leave credits.

- ❖ In addition to actual time spent in grievance conferences and hearings, the grievant and an employee representative shall be granted time off during working hours, not to exceed four hours per grievance, for the preparation of the grievance without loss of pay and without charge to annual or compensatory leave credits. However, the first responsibility of any employee is the work assigned to the employee. An employee may not allow grievance preparation and representation activities to seriously affect the overall productivity of the employee.
- ❖ The grievant and an employee representative shall have access to the employer's equipment for purposes of preparing grievance documents subject to the reasonable rules of the employer governing the use of the equipment for non-work purposes.
- ❖ Disagreements regarding preparation time shall be decided by the "Board" or the presiding administrative law judge.

Grievance files:

- ❖ All grievance forms and reports shall be kept in a file separate from the personnel file of the employee and may not become a part of the personnel file, but shall remain confidential except by mutual written agreement of the parties
- ❖ The grievant may file a written request to have the grievant's identity removed from any files kept by the employer one year following the conclusion of the grievance.

Number of Grievances:

The number of grievances filed against an employer by an employee is not, per se, an indication of the employer's or the employee's job performance.
(WVC §6C-2-3)

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R 8-9-3 Grievance Procedural Levels

Level one: Superintendent or Designee:

- ❖ Within 15 days following the occurrence of the event upon which the grievance is based, or within 15 days of the date upon which the event became known to the employee, or within 15 days of the most recent occurrence of a continuing practice giving rise to a grievance, an employee may file a written grievance with the Superintendent or designee stating the nature of the grievance and the relief requested and request either a conference or a hearing. The employee shall also file a copy of the grievance with the "Board".
- ❖ If requested by the grievant, the Superintendent or designee shall hold the conference, as requested by the grievant, within 10 days of receiving the grievance. A conference is a private, informal meeting between the grievant and the Superintendent/designee to discuss the issues raised by the grievance, exchange information and attempt to resolve the grievance. The Superintendent/designee may permit other employees and witnesses to attend and participate in the conference. The Superintendent/designee shall issue a written decision within 15 days of the conference.

- ❖ If requested by the grievant, the Superintendent or designee shall hold the conference, as requested by the grievant, within 10 days of receiving the grievance. A conference is a private, informal meeting between the grievant and the Superintendent/designee to discuss the issues raised by the grievance, exchange information and attempt to resolve the grievance. The Superintendent/designee may permit other employees and witnesses to attend and participate in the conference. The Superintendent/designee shall issue a written decision within 15 days of the conference.
- ❖ If requested by the grievant, the Superintendent or designee shall hold a level one hearing within 15 days of receiving the grievance. A level one hearing is a recorded proceeding conducted in private in which the grievant is entitled to be heard and to present evidence. The formal rules of evidence and procedure do not apply, but the parties are bound by the rules of privilege recognized by law. The parties may present and cross-examine witnesses and produce documents, but the number of witnesses, motions and other procedural matters may be limited by the Superintendent/designee. The Superintendent or designee shall issue a written decision within fifteen days of the level one hearing.
- ❖ An employee may proceed directly to level three upon the agreement of the employee and the Superintendent or designee or when discharged, suspended without pay or demoted or reclassified resulting in a loss of compensation or benefits.

Level two: Alternative Dispute Resolution:

- ❖ Within 10 days of receiving an adverse written decision at level one, the grievant shall file a written request for mediation, private mediation or private arbitration with the “Board” if the grievant desires to continue the grievance process.
 - **Mediation** – The “Board” shall schedule the mediation between the parties within 20 days of the request. Mediation shall be conducted by an administrative law judge pursuant to standard mediation practices and “Board” procedures at no cost to the parties. Parties may be represented and shall have the authority to resolve the dispute. Agreements reached through mediation shall be documented in writing within 15 days. Agreements are binding and enforceable in this state by a writ of mandamus.
 - **Private Mediation** – The parties may agree in writing to retain their choice of a private mediator and share the cost. The mediator shall schedule the mediation within 20 days of the written request and shall follow standard mediation practices and any applicable “Board” procedures. Parties may be represented and shall have the authority to resolve the dispute. Agreements reached through mediation shall be documented in writing within 15 days. Agreements are binding and enforceable by a writ of mandamus.
 - **Private Arbitration** -- The parties may agree, in writing, to retain their choice of a private arbitrator and share the cost. The arbitrator shall schedule the arbitration within 20 days of the written request and shall follow standard arbitration practices and any applicable board procedures. The arbitrator shall render a decision in writing to all parties, setting forth findings of fact and conclusions of law on the issues submitted within 30 days following the arbitration. An arbitration decision is binding and enforceable in this state by a writ of mandamus. The arbitrator shall inform the board, in writing, of the decision within 10 days.

Level three: Adjudication:

- ❖ Within 10 days of receiving a written report stating that level two was unsuccessful, the grievant may file a written appeal with the employer and the board requesting a level three hearing on the grievance.
- ❖ The administrative law judge shall conduct all proceedings in an impartial manner and shall ensure that all parties are accorded procedural and substantive due process.
- ❖ The administrative law judge shall schedule the level three hearing and any other proceedings or deadlines within a reasonable time in consultation with the parties. The location of the hearing and whether the hearing is to be made public are at the discretion of the administrative law judge.
- ❖ The administrative law judge may issue subpoenas for witnesses, limit witnesses, administer oaths and exercise other powers granted by rule or law.
- ❖ Within 30 days following the hearing or the receipt of the proposed findings of fact and conclusions of law, the administrative law judge shall render a decision in writing to all parties setting forth findings of fact and conclusions of law on the issues submitted.
- ❖ The administrative law judge may make a determination of bad faith and, in extreme instances, allocate the cost of the hearing to the party found to be acting in bad faith. The allocation of costs shall be based on the relative ability of the party to pay the costs
(WVC §6C-2-4)

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R 8-9-4 Enforcement and Appeal

As under the former grievance process, any party may appeal to Circuit Court within 30 days of receiving an Administrative Law Judge's decision, but all such appeals must now be made to the Circuit Court of Kanawha County.

- ❖ The decision of the administrative law judge is final upon the parties and is enforceable in the circuit court of Kanawha County.
- ❖ A party may appeal the decision of the administrative law judge on the grounds that the decision:
 - Is contrary to law or a lawfully adopted rule or written policy of the employer;
 - Exceeds the administrative law judge's statutory authority;
 - Is the result of fraud or deceit;
 - Is clearly wrong in view of the reliable, probative and substantial evidence on the whole record; or
 - Is arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

- ❖ A party shall file the appeal in the circuit court of Kanawha County within thirty days of receipt of the administrative law judge's decision. The decision of the administrative law judge is not automatically stayed upon the filing of an appeal, but a stay may be granted by the circuit court upon a separate motion for a stay.
- ❖ The court shall review the entire record that was before the administrative law judge, and the court may hear oral arguments and require written briefs. The court may reverse, vacate or modify the decision of the administrative law judge, or may remand the grievance to the administrative law judge or the chief administrator for further proceedings.
(WVC §6C-5)

R 8-9-5 Allocation of Expenses and Attorney's Fees

Any expenses incurred relative to the grievance procedure at levels one, two or three shall be borne by the party incurring the expenses.

In the event a grievant or employer appeals an adverse Level Three decision to the Circuit court of Kanawha County, or an adverse circuit court decision to the Supreme Court of Appeals of West Virginia, and the grievant substantially prevails upon the appeal, the grievant may recover from the employer court costs and reasonable attorney's fees for the appeal to be set by the court.
(WVC §6C-2-6)

R 8-9-6 Mandamus Proceeding

If the Preston County Board of Education fails to comply with the provisions of the code relating to employee grievance procedures it may be compelled to do so by a mandamus proceeding and may be liable to a prevailing party for court costs and reasonable attorney's fees to be set by the court.
(WVC §6C-2-7)

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Adopted: June 28, 1993
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION

FILE: 8 – PERSONNEL MANAGEMENT

File: 8-10 Employee Code of Conduct

Last Reviewed: 8-9-10

Next Review: 7-1-12

The Preston County Board of Education recognizes that the capabilities and conduct of all school employees greatly affect the quality of education provided to its students. The Board further believes that all school employees should be intrinsically motivated by the importance of the job that they do. The purpose of the Employee Code of Conduct is to establish appropriate standards of conduct for all school personnel.

These regulations require that school employees respond immediately and consistently to incidents of bullying, harassment, intimidation, substance abuse, and/or violence or any other code of conduct violation that impacts negatively on students in a manner that effectively addresses incidents, deters future incidents, and affirms respect for individuals.

“Employee” shall include all school personnel employed by the Preston County Board of Education whether employed on a regular full-time basis or otherwise. All school employees shall:

- ❖ Exhibit professional behavior by showing positive examples of preparedness, communication, fairness, punctuality, attendance, language, and appearance;
- ❖ Contribute, cooperate, and participate in creating an environment in which all employees/students are accepted and are provided the opportunity to achieve at the highest levels in all areas of development;
- ❖ Maintain a safe and healthy environment, free from harassment, intimidation, bullying, substance abuse, and/or violence, and free from bias and discrimination;
- ❖ Create a culture of caring through understanding and support;
- ❖ Immediately intervene in any code of conduct violations, which has a negative impact on students, in a manner that preserves confidentiality and the dignity of each person;
- ❖ Demonstrate responsible citizenship by maintaining a high standard of conduct, self-control, and moral/ethical behavior; and
- ❖ Comply with all Federal and West Virginia laws, policies, regulations and procedures.

The Preston County Board of Education shall distribute the Employee Code of Conduct to all school employees at the beginning of each school year with their contract assignment.

Each employee shall sign and return a form stating that they have received, read, and understand the Employee Code of Conduct. The form shall be attached to the employee’s Payroll Form at the end of the first month of school. Failure to return the Employee Code of Conduct Form will result in a delay in the processing of the Payroll Report. The signed Employee Code of Conduct Form will be maintained in the employees’ personnel file.

In addition, the principals will provide orientation training on the Employee Code of Conduct during their opening of school staff development.
(WVC §18-2E-5 and SBP 5902)

Substitute employees will be provided a written explanation of the Employee Code of Conduct and the name of a contact person in case they have additional questions and/or concerns. This form will be maintained in the employees' personnel file.

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Adopted: June 23, 2003
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION

FILE: 8 – PERSONNEL MANAGEMENT

File: 8-11 Personal Leave Benefits

Last Reviewed: 8-9-10

Next Review: 7-1-12

At the beginning of his/her employment term, each permanent employee shall be entitled annually to one and one-half personal leave days for each employment month or major fraction thereof in the employee's employment term. Unused leave shall be accumulative without limitation. If an employee should use personal leave which s/he has not yet accumulated on a monthly basis and subsequently leaves his/her employment, the employee shall be required to reimburse the Board for the salary or wages paid to him/her for such unaccumulated leave.

R 8-11-1 Definition of Terms

- ❖ **Child** - Any individual who is a biological, adopted, or foster child, a stepchild or a legal ward of an employee, and is (1) under eighteen years of age; or (2) eighteen years of age or older and incapable of self-care because of mental or physical disability.
- ❖ **Close Relative** - This will include the aunt, uncle, nephew, or niece of an employee.
- ❖ **Consecutive Days** - Consecutive days shall refer to paid work days.
- ❖ **Dependent** - Any individual whom is living with or dependent upon the income of an employee whether related by blood or not.
- ❖ **Employee** - Any individual, hired for permanent employment for the Preston County Board of Education.
- ❖ **Health Care Provider** - A person, partnership, corporation, facility, or institution licensed, certified or authorized by law to provide professional health care services in West Virginia to an individual during this individual's care, treatment, or confinement.
- ❖ **Illness** - This will include any physical, mental, or emotional ailment, accidental injury, or any medical reason, including pregnancy, which will be considered a temporary disability which prevents an employee from doing his/her job.
- ❖ **Immediate Family** - This will include the spouse, father, mother, grandfather, grandmother, son, daughter, grandson, granddaughter, brother, sister, or dependent of an employee.
- ❖ **In-Law** - This will include the mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law, or daughter-in-law of an employee.
- ❖ **Parent** - Biological, foster or adoptive parent, a stepparent or a legal guardian.
- ❖ **Personal Leave** - This will include any day(s) for which an employee is to be paid except those days worked, and legal holidays, and OSE days.
- ❖ **Serious Health Condition or Life Threatening Illness** - A physical or mental illness, injury, or impairment which involves inpatient care in a hospital, hospice, or residential health care facility; or continuing treatment, health care, or continuing supervision by a health care provider.
- ❖ **Son or Daughter** - Any individual who is a biological, adopted, or foster child, a stepchild, or a legal ward of an employee.

- ❖ **Spouse** - Any person legally married to an employee of the Preston County Board of Education.
- ❖ **Sudden and Unexpected Circumstance and Emergency** - Any event which would not allow twenty-four hour notice.
- ❖ **Twenty-four Hour Notice** - This will be defined as twenty-four hours in advance of the time that an employee is required to report to work.

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R 8-11-2 Allowable Reasons for Personal Leave

- ❖ **Personal Illness** - Personal leave shall be granted when an employee is absent from work because of personal illness. Leave requests for more than three consecutive days shall require written certification from a health care provider which specifies the nature and duration of the illness.
- ❖ **Death in the Immediate Family** - Personal leave of three days shall be granted to an employee upon the death of a member of his/her immediate family.
- ❖ **Death of In-laws** - Personal leave of three days shall be granted to an employee upon the death of an in-law.
- ❖ **Funeral of a Close Relative** - Personal leave of one day shall be granted to an employee to attend the funeral of a close relative.
- ❖ **Funeral of a Fellow Employee** - Personal leave of one-half day shall be granted for an employee to attend the funeral of a fellow employee.
- ❖ **Illness of Member of Immediate Family** - Personal leave of ten days per school year shall be granted when an employee is absent from work to care for an ill member of his/her immediate family. Leave requests for more than three consecutive days shall require written certification from a health care provider which specifies the nature and duration of the illness.
- ❖ **Leave Without Cause (Miscellaneous Day)** - Personal leave of three days per school year shall be granted to an employee without regard to the cause for the absence in accordance with the guidelines in *R 8-11-3*.
- ❖ **Serious Health Condition or Life Threatening Illness of Spouse, Parent, Dependent, or Child** - Personal leave shall be granted when an employee is absent from work to care for his/her spouse, parent, dependent, or child who has a serious health condition or life threatening illness. Leave requests for this reason must include written certification from a health care provider which specifies:
 - that the spouse, parent, dependent, or child has a life threatening illness or serious health condition;

- the date the life threatening illness or serious health condition commenced and its probable duration; and
- the medical facts regarding the life threatening illness or serious health condition.

The number of personal leave days used for this reason may not exceed the total number of paid leave days to which the employee is entitled.

- ❖ **Birth, Adoption, and Infant Bonding** - Personal leave shall be granted when an employee is absent from work to care for his/her newborn or adopted son or daughter. Leave requests for this reason shall include documentation from a health care provider for a birth, and from an adoption agency for an adoption, which certifies the birth or adoption. Personal leave for bonding shall be granted only in conjunction with a birth or adoption.

The number of personal leave days used for this reason may not exceed the total number of paid leave days to which the employee is entitled.

- ❖ **Personal Development**

- Personal leave of one day per school year shall be granted when an employee is absent from work to attend a seminar, conference, etc., which will enhance their performance as an employee. A written summary of the seminar, conference, etc., which specifies the benefits of the employee received must be submitted with the leave claim.
- Personal leave of three days per school year shall be granted for an employee who is an officer or elected representative of an employee or professional organization to attend a meeting or meetings of such organization. Documentation of attendance at the meeting(s) agenda of the meeting(s), etc.) must be submitted with the leave claim.
- Personal leave of one day per school year shall be granted for an employee to attend a legislative session for the purpose of meeting with members of the legislature regarding issues that directly affects the educational system/process. Leave requests must be submitted in advance to the principal or immediate supervisor and shall be limited to a maximum of two employees per school or work station per day and a maximum total of ten employees county-wide per day. The principal or immediate supervisor shall request approval from the Superintendent or designee in advance for all leave requests for attendance at a legislative session. A maximum total of twenty employees per school year shall be approved (60% professional and 40% service).

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R 8-11-3 Guidelines for Submitting Personal Leave Requests

- ❖ Failure on the part of an employee to comply with these regulations in all respects shall be considered sufficient cause for voiding the claim of that employee for personal leave payment. The fraudulent submission of a leave request shall be grounds for dismissal of the employee.

- ❖ It shall be the duty of each employee to notify his/her principal or immediate supervisor at the earliest possible time before an absence occurs. The employee must state the reason for the absence and when s/he expects to return to work. For leave without cause (miscellaneous day) a reason need not be stated if the request is made 24 hours in advance. If the principal or supervisor cannot be reached, the employee shall notify the Director of Personnel.
- ❖ Claims for personal leave must be made on the proper form and must include all of the information required by the Personal Leave Policy. The Superintendent or designee shall examine all claims and process for payment those claims which are properly presented and meet all the requirements of the policy. S/he shall refuse any claim that is not properly filed, that does not fall within the guidelines of the policy, or that s/he has reason to believe is fraudulent. To prevent abuse, claims which are believed possibly fraudulent will be investigated.
- ❖ All claims for personal leave except leave without cause (miscellaneous day) days must be submitted to the principal or supervisor on the form provided by the county office within seven days after the employee returns to work or the claim will be voided.
- ❖ Expenses (lunch, travel, registration, etc.) shall not be approved for personal development leave, nor shall credit be granted for, or in lieu of required staff development hours.
- ❖ Additional leave may be granted to an employee by the superintendent or his designee upon the death of an immediate family member or in-law, because of extraordinary circumstances such as travel distance.
- ❖ If an employee is on personal leave, s/he will receive credit for a Legal Holiday or OSE day which occurs during the leave; staff development day(s) and parent-teacher conference day(s) shall be counted as personal leave days unless the employee has completed the requirements for said days.
- ❖ Personal leave may be utilized by an employee only during their employment term.

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R 8-11-4 Personal Leave without Cause (Miscellaneous Days)

- ❖ Notice of such leave shall be given to the employee's principal or immediate supervisor at least 24 hours in advance, except that in the case of sudden and unexpected circumstances, such notice shall be given as soon as reasonably practicable. If the principal or supervisor cannot be reached, the employee shall contact the Director of Personnel for approval.
- ❖ The use of such leave shall be denied if, at the time notice is given either 15 percent of the employees, or three employees, whichever is greater, under the supervision of the principal or immediate supervisor, have been notified the principal or supervisor of their intention to use that day for such leave.
- ❖ The employee shall request approval for leave without cause without stating a cause by completing and submitting the appropriate form at least 24 hours in advance.

- ❖ If the request is submitted less than 24 hours in advance, the employee must upon returning to work complete the proper form, explain the sudden and unexpected circumstances preventing the request to have been filed within the 24 hours prior to limitation period, and submit the form to the principal or immediate supervisor within two days after returning to work. All requests filed with the principal or immediate supervisor, less than 24 hours in advance are required to have the approval of the principal or immediate supervisor and the Director of Personnel. Neglect in giving proper notice is grounds for rejection of request.
- ❖ Personal Leave without cause may be taken on consecutive days within the following regulations:
 - Consecutive days may or may not be approved during the last week of school depending upon administrative approval.
 - Consecutive days may or may not be approved preceding or following a holiday depending upon administrative approval.
- ❖ A maximum of two (2) leave days without cause may be carried over from year to year.
- ❖ Any employee who feels that his/her claim was improperly processed may appeal the decision to a review committee composed of the Director of Personnel; the president of the Preston County Education Association; the president of the Preston County Principals' Association; and the president of the Preston County School Service Personnel Association. This review committee shall meet when there are appeals to process and review claims appealed to it.

The committee shall have the authority to process for payment by majority vote any claim previously rejected. The committee shall report its actions to the employee making the appeal and to the Superintendent. However, either the Superintendent or the employee, who filed the claim may appeal the decision of the review committee directly to the, Preston County Board of Education in writing within five (5) days of receiving the committee report. The decision of the Board of Education is final.

 - All paid leave is charged against the employee's total allowable number of personal leave days.
 - All approvals are subject to an allocation of days for that purpose actually being available.
- ❖ Full-time employees may be granted up to 120 hours of paid leave in a calendar year to use for the employee's donation of any portion of an adult liver or adult kidney. They may also be granted up to 56 hours of paid leave to use for the employee's donation of adult bone marrow.
(WVC §18A-4-10)

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Adopted: September 9, 1996
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-12 Personal (Sick) Leave Bank</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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Pursuant to the provisions of §18A-4-10 the Preston County Board of Education hereby establishes a Sick Leave Bank for professional and service personnel effective January 1, 2008. This Sick Leave Bank shall provide Preston County employees the option of offering assistance to fellow employees on those occasions when additional sick leave days are needed because of a "Catastrophic medical emergency". "Catastrophic medical emergency" means a medical or physical condition that:

- ❖ Incapacitates an employee;
- ❖ Is likely to require the prolonged absence of the employee from duty; and
- ❖ Will result in a substantial loss of income to the employee because the employee:
 - Has exhausted all accrued personal leave; and
 - Is not eligible to receive personal leave or has exhausted personal leave available from a leave bank established pursuant to the code.

R 8-12-1 Organization and Structure of the Sick Leave Bank

Sick Leave Bank Membership

All regular employees of the Preston County Board of Education are eligible for enrollment in the Sick Leave Bank on a voluntary basis. Temporary employees are not eligible to participate.

Any person under contract with the Preston County Board of Education shall be eligible to enroll and receive benefits. Under contract is to be construed as meaning all employees currently assigned to work stations within the county and those employees who are recovering from an extended illness and who are currently utilizing their accumulated sick leave days. Members who are currently on a leave of absence without pay, approved by the Preston County Board of Education, may join the Sick Leave Bank, but they cannot (while on leave) receive days from the Sick Leave Bank.

Employees may join the Sick Leave Bank by signing a Sick Leave Bank Enrollment Form on or before September 30 of the school year they choose to join. Days will be deducted within 30 days of the contribution.

Only those employees who donated days to the bank shall be eligible to participate in the program. An employee's membership will automatically continue from year to year unless the employee notifies the payroll department in writing by September 30 of the current school year or terminates their employment with the Preston County Board of Education. A member cannot retrieve days once they have been donated.

Contribution of Sick Leave Days

The first year of the establishment of the Sick Leave Bank, all members shall contribute two days. In every year thereafter, each member shall be assessed a donation of two days unless s/he notifies the payroll department s/he wishes to donate only one day. Such notice shall be given by September 30 the current school year.

The total of all days contributed from each professional and service member will comprise the Sick Leave Bank.

Surplus/Depletion of Bank

In the event the bank becomes depleted below 100 days, all members shall be notified that they must donate additional days. However, no employee may contribute more than two sick leave days per year.

In the event the Board of Trustees determine that there is a sufficient number of days accumulated in the sick leave bank, it may announce to its members from the previous year that they will not be required to contribute days to maintain their membership for the next plan year. However, employees choosing to join the Sick Leave Bank during a year in which members are not required to donate days because of a surplus of days must donate two days to be bank to establish their membership in the bank.

By donating days to the leave bank, the employee relinquishes all claims to all personal days donated to the Sick Leave Bank.

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R 8-12-2 Eligibility for Use of the Sick Leave Bank

- ❖ Sick Leave Bank days shall only be used by members who have donated days in the current plan year.
- ❖ Sick Leave-Bank days may be used only by an active member who has less than five days remaining of accumulated sick leave or vacation days who is absent from work owing to an accident or illness of the employee.
- ❖ A Sick Leave Bank Enrollment Form must be completed and submitted to the payroll department before any benefits can be awarded under this policy.

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R 8-12-3 Board of Trustees

The Board of Trustees will be composed of the Superintendent or designee who will serve as chairperson of the Board, a principal, two additional professional employees, and two service employees appointed by the Superintendent. No member can serve more than three consecutive years. The Board of Trustees duties shall include but are not limited to:

- ❖ Review and approve requests for withdrawals from the Sick Leave Bank;
- ❖ Review appeals from members whose requests have been denied; including the documentation they present to justify their appeal;
- ❖ Maintain a record of days available in the Sick Leave Bank;
- ❖ Determine the need for additional days in the Sick Leave Bank;
- ❖ Report abuses to the Board of Education and seek an investigation of the abuse.
- ❖ Make recommendations for revisions to these procedures to the Superintendent.

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R 8-12-4 Operation of the Sick Leave Bank

- ❖ Employees who wish to utilize the Sick Leave Bank must submit a Sick Leave Bank Withdrawal Form to the payroll department of Preston County Schools.
- ❖ A medical doctor's statement, which includes a diagnostic code and expected date of return to work, must accompany the Sick Leave Bank Withdrawal Form before the Board of Trustees can consider the request. A second opinion may be requested by the Board of Trustees at the employees' expense.
- ❖ The withdrawal request must be approved by the Board of Trustees. Upon approval by the Board of Trustees, a maximum of 20 days shall be deposited in the recipient's account. If extenuating circumstances merit additional days an extension may be granted upon submission of a reapplication of the request. The total number of withdrawal days annually may not exceed 100 days for any plan member. Once an employee has received 100 days of personal leave from the leave bank, that employee shall not be eligible to receive any additional days during the current school year (July 1 through June 30) notwithstanding any other provisions of these regulations.
- ❖ Unused bank days deposited in the recipient's account shall revert to the bank.
- ❖ The member may appeal to the Board of Trustees in the event an initial request or a renewal request is denied. The appeal will be considered if sufficient new data is provided.
- ❖ No member who is receiving payments from the West Virginia Worker's Compensation Fund shall be permitted to receive days from the Sick Leave Bank.
- ❖ Members who request and receive a leave of absence without pay, approved by the Preston County Board of Education, cannot (while on leave) receive days from the Sick Leave Bank.
- ❖ The Board of Trustees shall respond to a withdrawal request for days to be awarded to a member within five working days. All approved withdrawal requests for donations will then be forwarded to the payroll department.
- ❖ If an employee should become incapacitated, his/her application may be submitted to the committee by the employee's spouse, or if no spouse exists, then a member of the family on their behalf.

- ❖ The Board of Trustees reserves the right to request the Board of Education to investigate all alleged abuses of Sick Leave Bank privileges by a member of the Bank. Disciplinary actions shall remain the responsibility of the Superintendent and the Board.

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R 8-12-5 Limitations

- ❖ Contribution to the Sick Leave Bank shall not reduce sick leave days without cause nor have any effect on incentive pay to which an employee is entitled.
 - ❖ An employee is not required to reimburse the Bank for days they have used.
 - ❖ Normal pregnancies shall not constitute any eligibility for Sick Leave Bank days.
 - ❖ No employee may be compelled or coerced to enroll in the Sick Leave Bank.
 - ❖ If the Board of Trustees determines by a majority vote that revisions to these procedures are necessary; the revised procedures to be submitted to the Superintendent of schools. If the Superintendent agrees with the change, s/he will submit the recommend changes to the Board of Education for its consideration. Stakeholders shall be given the normal access to comment on policy and procedural changes as defined in Board policy regarding such changes. Comments shall be shared with the Board of Trustees for review and a final recommendation from that body prior the Board's adoption of any recommended changes.
 - ❖ Sick Leave Bank Days may not be used to:
 - Qualify for or add to service for any retirement system administered by the state; or
 - Extend insurance coverage pursuant to §5-16-13 of the code.
 - ❖ Each personal leave day contributed:
 - Is deducted from the number of personal leave days to which the donor employee is entitled;
 - Is not deducted from the personal leave days without cause to which a donor employee is entitled if sufficient general personal leave days are otherwise available to the donor employee;
 - Is credited to the receiving employee as one full personal leave day;
 - May not be credited for more or less than a full day by calculating the value of the leave according to the hourly wage of each employee; and
 - May be used only for an absence due to the purpose for which the leave was transferred. Any transferred days remaining when the catastrophic medical emergency ends revert back to the leave bank.
- (WVC §18A-4-10)**

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Adopted: August 9, 2010
Amended/Revised:

PRESTON COUNTY BOARD OF EDUCATION

FILE: 8 – PERSONNEL MANAGEMENT

File: 8-13 Personal Leave Donation Program

Last Reviewed: 8-9-10

Next Review: 7-1-12

West Virginia Code §18A-4-10(f) requires the Preston County Board of Education established a leave donation program pursuant to which a donor employee may transfer accrued personal leave to the personal leave account of another designated employee. This program is designed to offer assistance to employees who have exhausted all accrued personal (sick) leave, is not eligible receive leave (or any more leave) from the sick leave bank, and requires additional personal (sick) leave because of a medical or physical condition that incapacitates the employee or an immediate family member for whom the employee will provide care.

The Board may not limit the number of personal leave days a donor employee may transfer to a receiving employee who is his or her spouse, nor may it limit the total number of personal leave days an employee receives under the program. However, the Board may limit the number of days a donor employee transfers to a receiving employee who is not his or her spouse.

R 8-13-1 Definitions

For the purposes of these regulations, the following words have the meanings specified unless the context clearly indicates a different meaning:

- ❖ **"Catastrophic medical emergency"** means a medical or physical condition that:
 - Incapacitates an employee or an immediate family member for whom the employee will provide care;
 - Is likely to require the prolonged absence of the employee from duty; and
 - Will result in a substantial loss of income to the employee because the employee:
 - Has exhausted all accrued personal leave; and
 - Is not eligible to receive personal leave or has exhausted personal leave available from a leave bank established pursuant to this article;
- ❖ **"Employee"** means a professional educator or school service person who is employed by the Board and is entitled to accrue personal leave as a benefit of employment;
- ❖ **"Donor employee"** means a professional educator or school service person employed by the Board who voluntarily contributes personal leave to another designated employee; and
- ❖ **"Receiving employee"** means a professional educator or school service person employed by the Board who receives donated personal leave from another employee.

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R 8-13-2 Guidelines

The following conditions must be met in implementing the Personal Leave Donation Program:

- ❖ The donor employee voluntarily agrees to the leave transfer;
- ❖ The donor employee selects the employee designated to receive the personal leave transferred; and
- ❖ The receiving employee requires additional personal leave because of a catastrophic medical emergency.
- ❖ The donated leave may not be used to:
 - Qualify for or add to service for any retirement system administered by the state; or
 - Extend insurance coverage pursuant to §5-16-13 of the code;
- ❖ Each personal leave day contributed:
 - Shall be deducted from the number of personal leave days to which the donor employee is entitled;
 - Shall not be deducted from the number of personal leave days without cause to which the donor employee is entitled if sufficient general personal leave days are otherwise available to the donor employee;
 - Shall be credited to the receiving employee as one full personal leave day;
 - May not be credited for more or less than a full day by calculating the value of the leave according to the hourly wage of each employee; and
 - May be used only for an absence due to the purpose for which the leave was transferred.
 - Any transferred days remaining when the catastrophic medical emergency ends revert back to the donor employee.
- ❖ An employee may not be coerced or compelled to contribute to a leave donation program.

Special Note: Professional personnel who receive donations from service personnel shall receive pay at the professional personnel rate—not the service personnel rate. Likewise, service personnel who receive donations from professional personnel shall receive pay at the service personnel rate—not the professional personnel rate.

[WVC §18A-4-10(f)]

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Adopted: August 9, 2010
Amended/Revised:

PRESTON COUNTY BOARD OF EDUCATION

FILE: 8 – PERSONNEL MANAGEMENT

File: 8-14 Vacation Policy

Last Reviewed: 8-9-10

Next Review: 7-1-12

Vacations are viewed as an important element in maintaining vigor while at work as well as a reward for services performed. Employees are, therefore, expected to make use of the time granted for that purpose.

Accumulation of paid vacation days beyond the current fiscal year will be limited to twenty days; however, persons planning to resign at the end of the fiscal year may not carry over vacation beyond the current fiscal year. Unpaid vacation days may not be carried beyond the end of the fiscal year.

Employees are encouraged to use earned vacation time during the fiscal year which runs from July 1 to June 30. Employees hired before July 1, 1992 will be allowed to carry over a maximum of 40 days. Workers hired after July 1, 1992 will be limited to a maximum of 20 days of carry over. The Board recognizes that some employees may have accumulated vacation days beyond the defined limits; therefore, these employees shall have until June 30, 2010 to come into compliance with the newly established limits on vacation carry-over days.

The utilization of vacation days shall be subject to the following guidelines:

- ❖ Legal holidays and outside school environment days shall not be deducted from vacation time.
- ❖ Payment of salary in lieu of vacation time that is not used will not be permitted.
- ❖ Employees will be given their choice of vacation insofar as possible, subject to the approval of their immediate supervisor and the Superintendent or his designee. However, the Superintendent shall coordinate the vacation schedule in such a way as to minimize any interruption of normal operation of the schools and administrative offices. Employees having the longest service record will be given first choice of vacation time.
- ❖ In order to minimize the interruption of normal operations, no employee may take more than 20 days of vacation within any seven week period unless justification is presented and approval received from both the Superintendent and the persons designated in charge of administering the vacation policy. Taking college classes may be such a justification.
- ❖ The Superintendent or designated representative shall administer the vacation program and maintain appropriate records.
- ❖ If an employee terminates his/her services with the county schools, s/he may take as terminal leave any accrued vacation.
- ❖ Employees who resign or otherwise leave their position after working part of the year will be entitled to paid vacation on a prorata basis.
- ❖ If an employee should subsequently leave his employment and has used more vacation than entitled on a prorata basis, s/he shall be required to reimburse the board for the salary or wages paid to him for such accumulated vacation. The reimbursement shall be deducted from the final paycheck.

- ❖ Personnel who transfer from a position eligible for vacation days to a position not eligible for vacation days shall not be permitted to carry over any vacation days to the new position.
- ❖ Requests for paid or unpaid vacation should be submitted at least one week in advance.
- ❖ Employees shall be required to use their unpaid vacation days during the fiscal year. Employees who have not taken their vacation days by June 1 shall be scheduled by the immediate supervisor to take the required number of days during the period between June 15 and June 30.
- ❖ Unpaid vacation days must be taken during the summer or on other days when a substitute is not required.
- ❖ Substitutes shall not be provided for employees taking unpaid vacation unless absolutely necessary.
- ❖ The Superintendent and Assistant Superintendent shall be allocated twenty (20) days paid vacation per school year.
- ❖ Central office directors and service personnel employed from July 1 - June 30 on the basis of a 240-day contract shall be allocated twenty-one (21) unpaid vacation days per school year.
- ❖ Employees who are employed after July 1 on the basis of a 240 day contract shall be entitled to vacation prorated on the amount of the year worked.
- ❖ Employees who are employed after July 1 will have their number of days to be worked stated in their contract.
(WVC §18A-5-2)

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Adopted: May 23, 1994
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION**FILE: 8 – PERSONNEL MANAGEMENT****File: 8-15 Leave of Absence****Last Reviewed: 8-9-10****Next Review: 7-1-12**

Upon the recommendation of the Superintendent, the Preston County Board of Education may grant leaves of absence to permanent employees as it deems appropriate. The request for a leave of absence must be submitted to the Superintendent/Designee in writing in advance of the absence except where otherwise noted. Employees granted leaves under this policy shall, except where otherwise noted, receive no salary during the period of the leave; will not be eligible for any paid holidays or OSE days or snow days, etc., during the period of the leave; and will not be granted time toward experience credit for the period of the leave except where they are granted such by state or federal law.

An employee returning from a leave of absence of one year or less shall be reemployed with the right to be restored to the same position or duties held prior to the leave. The employee shall retain the rights, privileges, and benefits accrued at the time of the approved leave of absence. Seniority shall continue to accrue during a leave of absence. Any unpaid absence from work may be granted only in accordance with this policy.

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R 8-15-1 Military Leave

Any employee, who is a member of the National Guard or any military reserve unit of the United States armed services, shall be entitled to a leave of absence from his/her employment without loss of pay, status or efficiency rating on days during which s/he is ordered by properly designated authority, to be engaged in drills, parades, or other duty during business hours, field training or active service of the state for a maximum period of thirty working days in any one calendar year. The term “without loss of pay” means that the employee shall continue to receive his/her normal salary or compensation, notwithstanding the fact that the employee may have received other compensation from federal and state sources during the same period.

Employees who are called to active duty by the properly designated federal authority shall be entitled to military leave of absence without loss of pay, status or efficiency rating for a maximum period of 30 working days for a single call to active duty. Provided, that an employee who has not used all or some portion of military leave for the reasons defined above may add the number of unused days from that calendar year to the thirty working days up to a maximum of 60 days for a single call to active duty. Unused days for a military leave of absence may not be carried over and used in the next calendar year.

Employees who are called to active duty by the properly designated federal authority for a period of time that extends beyond the 60 days mentioned above shall be placed on unpaid leave for the duration of the activation period with the right to return to the position they held at the time of the activation. In order to be eligible for reemployment, employees shall:

- ❖ Satisfactorily complete the period of active duty and have a certificate to that effect;
- ❖ Be qualified to perform the duties of their former position. If they are disabled during military service and cannot perform the duties of their old job, they may be entitled to the nearest comparable job they are qualified to perform; and

- ❖ Make timely application for reemployment after release from military training or service or from hospitalization continuing after discharge or for a period of not more than one year. Application must be made within 31 days after completion of active duty or release from a medical facility.
(WVC §15-1F-1)

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R 8-15-2 Educational Leave

The Board may grant educational leave not to exceed one year to an employee for the purpose of attending school provided the employee meets one of the following conditions:

- ❖ The employee is enrolled in a defined program of studies and is carrying a course load of nine or more credit hours in each term of the school year for which a leave has been granted. The course work shall be such that it will better qualify him/her for the position in which s/he is employed;
- ❖ The employee seeks to qualify for employment in another position in the school system (documentation of the course load described above must be provided);
- ❖ Grade reports indicating satisfactory classroom performance must be submitted to the Superintendent at the conclusion of each semester of work;

Educational Leave may also be granted for the following reasons:

- ❖ The employee has been selected to participate in a visiting teacher program;
- ❖ Educational leave may also be granted for an employee to participate in State Department of Education programs if selected as West Virginia Teacher of the Year; or
- ❖ Employees may be granted leave to fulfill a required practicum.

Educational leave may not be extended beyond one year.
(WVC §18A-2-2a)

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R 8-15-3 Medical Leave

The Board may grant unpaid medical leave for personal illness to an employee who has exhausted all his/her personal leave and s/he has exhausted his/her rights as defined in File: 8-16 Family Medical Leave Benefits. Employee requests for medical leave must include written certification from a health care provider which specifies the nature and duration of the illness or temporary disability and should be presented prior to the initiation of the leave when possible.

Employees who have exhausted their rights as defined in *File: 8-16 Family Medical Leave Benefits* may also be granted unpaid medical leave to care for a spouse, parent, dependent or child who has a serious health or life threatening condition. Leave requests for this reason must include written certification from a health care provider which specifies:

- ❖ that the spouse, parent, dependent, or child has a life threatening illness or serious health condition;
- ❖ the date the life threatening illness or serious health condition commenced and its probable duration; and
- ❖ the medical facts regarding the life threatening illness or serious health condition.
(WVC §18A-2-2a; §21-5D-4 and Family and Medical Leave Act of 1993)

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R-8-15-4 Birth, Adoption, and Infant Bonding Leave

The *Hudok v. BOE of Randolph County* case requires the application of the “greater benefit” rule which allows Preston County employees to have 12 weeks of family leave following the exhaustion of all annual and personal leave, during any twelve-month period. The unpaid leave may be extended for a maximum of one school year plus the remainder of the school year in which the child was born or adopted.

- ❖ Requests for leave because of birth or adoption shall include documentation from a health care provider for a birth, and from an adoption agency for an adoption which certifies the birth or adoption. Leave for infant bonding shall be granted only in conjunction with birth or adoption.
- ❖ If the leave is foreseeable, the employee shall provide the Director of Personnel with two weeks written notice of such expected birth or adoption.
- ❖ The employee may take the twelve (12) weeks leave on a part-time basis on a part-time schedule, but the period during which the number of work weeks of leave may be taken may not exceed twelve consecutive months, and such leave shall be scheduled as not to disrupt unduly the operation of the Preston County Schools; any extended leave shall not be taken on a part-time schedule/basis.
(WVC §21-5D-4)

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R 8-15-5 Political Leave

The Board shall grant political leave to any employee serving in the Legislature. Political leave shall not be granted to an employee leaving the system to hold any other elective public office.
(WVC §18A-2-2a)

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R 8-15-6 Jury Service/Witness Subpoenas

Notwithstanding any other provision of law, school employees shall be required by law to serve on any jury during the period of their contract with the Preston County Board of Education unless excused by the Judge of the Court.

Any person employed by the Preston County Board of Education who is subpoenaed to appear as a witness, but not as a defendant, in any criminal proceeding in any court of law may make such appearance without any loss of pay.

The Preston County Board of Education is responsible to pay to such employee the difference between the jury fee/witness fee, exclusive of travel allowances payable for such an appearance by the court, and the amount of salary due the person for the time s/he is absent from employment by reason of answering such duty or subpoena.
(WVC §18A-5-3 and §18A-5-3a)

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R 8-15-7 Attendance at Association and/or Conference Meetings

With the approval of the Superintendent, two representatives from the Preston County Education Association, two representatives from the Preston County Professional Educators, and two representatives from the Preston County School Service Personnel Association may be released from school duties without loss of pay to attend association meetings. When substitutes are necessary the Board will pay for them. Except in case of emergencies, representatives must give the principal 10 days notice when substitutes must be employed. A separate request must be made for each meeting an individual desires to attend. Attendance request forms are available from the Central Office. They should be submitted at least 10 days in advance of the event.

The number of release days, without loss of pay, shall be restricted to two days per school year for each organization unless the local representative is on the agenda for the state organizational meeting, and if so, a copy of the agenda must accompany the "meeting attendance request."

A request for attendance of a teacher, principal or other employee at professional or educational meetings initiated by the Superintendent or by the Board of Education in the interest of the school system or the program shall be considered an integral part of employment, with time allowed and all necessary expenses borne by the Board.

All central administrative or supervisory staff whose employment, either stipulates or is understood through precedent to include all necessary expenses to attend professional meetings need only the approval of the Superintendent to attend meetings at Board expense. However, when such participation or attendance at meetings, conferences, etc., exceeds five employment days, Board approval is required.
(WVC §18A-2-2a)

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R 8-15-8 Short-Term Leave

An employee, upon recommendation of the Superintendent, may be granted leave for a period not to exceed 15 working days. Any absence without pay not covered by other sections of these regulations is considered a short-term leave.

(WVC §18A-2-2a)

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Adopted: July 22, 1996
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION**FILE: 8 – PERSONNEL MANAGEMENT****File: 8-16 Family Medical Leave Benefits****Last Reviewed: 8-9-10****Next Review: 7-1-12**

The federal Family and Medical Leave Act of 1993, the West Virginia Parental Leave Act, and West Virginia case law regulate family and Medical Leave benefits for Preston County employees. The FMLA was enacted for the purpose of helping employees balance the demands of the workplace with the needs of promoting the stability and economic security of families and preserving family integrity. To that end, the Preston County Board of Education shall make such leave available to all employees for medical reasons and for compelling family reasons on a gender-neutral basis. Because leave time is regulated by more than one agency, the employee is always entitled to the greater benefits when leave time is requested.

The following regulations are intended to guide employees and county administrators through the FMLA process.

R 8-16-1 Definitions

- ❖ Dependent means any person who is living with or dependent upon the income of any employee whether related by blood or not.
- ❖ Employee means any individual, hired for permanent employment, full or part-time, who has worked for at least 12 consecutive weeks performing services for remuneration within this state for any department, division, board, bureau, agency, commission or other unit of state government, or any county board of education in the state.
- ❖ Employee does not include the principal administrative officers of the county board of education.
- ❖ Employer includes any department, division, board, bureau, agency, commission or other unit of state government and any county board of education in the state.
- ❖ Employment benefits means all benefits, other than salary or wages, provided or made available to employees by the Board, and includes group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits and pensions, regardless of whether such benefits are provided by a policy or practice of an employer or by an employee benefit plan as defined in the federal Employee Retirement Income Security Act of 1974.
- ❖ The term "health care" or "health care services" means clinically related preventive, diagnostic, treatment or rehabilitative services whether provided in the home, office, hospital, clinic or any other suitable place, provided or prescribed by any health care provider or providers
- ❖ Health care provider means:
 - Doctors of medicine or osteopathy authorized to practice medicine or surgery by the state of West Virginia.
 - Podiatrists, dentists, clinical psychologists, optometrists and chiropractors (limited to manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice, and performing within the scope of their practice under state law.

- Nurse practitioners, nurse-midwives and clinical social workers authorized to practice, and performing within the scope of their practice, as defined under state law.
- Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts.
- Any health care provider recognized by the employer or the employer's group health plan benefits manager.
- ❖ Parent means a biological, foster or adoptive parent, a stepparent or a legal guardian.
- ❖ Serious health condition means an illness, injury, impairment, or physical or mental condition that involves either:
 - Any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical-care-facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or
 - Continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to:
 - A health condition (including treatment therefore, or recovery there from) lasting more than three consecutive days, and any subsequent treatment or period of incapacity relating to the same condition that also includes (1) treatment two or more times by or under the supervision of a health care provider, or (2) one treatment by a health care provider with a continuing regimen of treatment.
 - Pregnancy or prenatal care. A visit to the health care provider is not necessary for each absence.
 - A chronic serious health condition that continues over an extended period of time, requires periodic visits to a health care provider, and may involve occasional episodes of incapacity (e.g., asthma, diabetes). A visit to a health care provider is not necessary for each absence.
 - A permanent or long-term condition for which treatment may not be effective (e.g., Alzheimer's, a sever stroke, terminal cancer). Only supervision by a health care provider is required, rather than active treatment.
 - Any absences to receive multiple treatments for restorative surgery or for a condition which would likely result in a period of incapacity of more than three days if not treated (e.g., chemotherapy or radiation treatments for cancer).
 - Common ailments such as the common cold, flu, migraine, minor ulcers, routine dental treatment, etc. do not qualify for leave.
 - Restorative dental or plastic surgery, mental illness resulting from stress or allergies and treatment for substance abuse may qualify as serious health conditions if all other FMLA requirements are met.

- ❖ Son or daughter means an individual who is a biological, adopted or foster child, a stepchild or a legal ward, and is (1) under 18 years of age; or (2) 18 years of age or older and incapable of self-care because of mental or physical disability.
- ❖ Spouse as defined includes common law marriages if recognized by the state. Unmarried domestic partners or “significant others” are not intended by the FMLA to qualify for family leave care for their partner.

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R 8-16-2 Employees Eligible for FMLA

Under the guidelines of the federal and state codes, employees who have worked for the Board for a total of 12 months and who have worked at least 1,250 hours over the previous 12 months are eligible for family leave. Eligible employees who so request must be granted up to a total of 12 workweeks of unpaid leave during any 12-month period for one or more of the following reasons:

- ❖ For the birth and care (bonding) of a newborn child; or
- ❖ For placement with the employee of a son or daughter for adoption or foster care; or
- ❖ To care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- ❖ For medical leave when the employee is unable to work because of a serious health condition.

The Preston County Family Medical Leave Act year shall be from July 1 through June 30.

The *Hudok v. BOE of Randolph County* case requires the application of the “greater benefit” rule which allows Preston County employees to have 12 weeks of family leave following the exhaustion of all annual and personal leave, during any twelve-month period.

Spouses employed by the Preston County Board of Education are jointly entitled to a combined total of 12 workweeks of family leave for the first three reasons stated above.

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R 8-16-3 Intermittent or Reduced Leave Schedule

Under some circumstances, employees may take Family Medical Leave intermittently, which means taking leave in blocks of time or by reducing their normal weekly or daily work schedule.

- ❖ An employee taking leave for the birth and care or placement for adoption or foster care may take such leave intermittently or on a reduced leave schedule only if both the Board and the employee agree on the conditions.

- ❖ An employee taking leave to care for a sick family member or to deal with the employee's own personal illness may take such leave intermittently or on a reduced leave schedule but only where medically necessary for:
 - A planned and/or unanticipated medical treatment of a related serious health condition by or under the supervision of a health care provider;
 - Recovery from treatment; or
 - Recovery from a serious health condition.
- ❖ An employee may take leave intermittently or on a reduced leave schedule to provide care or psychological comfort to an immediate family member with a serious health condition.
- ❖ An employee may take leave intermittently or on a reduced leave schedule for absences where the employee or family member is incapacitated or unable to perform the essential functions of his/her position because of a chronic serious health condition, even if s/he does not receive treatment by a health care provider.
- ❖ An employee may take family leave on a part-time basis and on a part-time leave schedule, but the period during which the number of workweeks of leave may be taken may not exceed 12 consecutive months, and such leave shall be scheduled so as not to disrupt unduly the operations of the Board.

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R 8-16-4 Notice Requirements for the Board

- ❖ Notice explaining the provisions of the FMLA and procedures for filing complaints of violations of the FMLA, shall be posted in conspicuous areas of the premises that are occupied by employees. This notice shall consist of the entire contents of *R 8-16 Family Medical Leave Benefits*.
- ❖ The Board shall also furnish to each employee a copy of the FMLA fact sheet, available from the Department of Labor, which explains the employee's entitlements and obligations under the FMLA.
- ❖ Once an employee notifies the Board of the need or the intent to take FMLA leave, the Board must provide him/her with information in writing regarding the particular expectations and obligations of the employee. The contents of such notice must include all of the following, if they apply:
 - The leave will be counted against their annual 12-week FMLA entitlement;
 - The requirement that the employee provide medical certification of a serious health condition, if that requirement exists;
 - The employee's right to exhaust his/her annual and personal leave prior to beginning 12 weeks of family leave;
 - Any requirement for the employee to make any premium payments to maintain health benefits and the arrangements for making such payments;

- Any requirement for the employee to present a fitness-for-duty certificate to be restored to employment (any such requirement must be job-related and consistent with business necessity);
 - Status as a 'key employee' and the potential consequence that restoration may be denied following FMLA leave, explaining the conditions required for such denial;
 - The employee's right to restoration to the same or an equivalent job upon return from leave; and
 - The employee's potential liability for payment of health insurance premiums paid by the employer during the employees unpaid FMLA leave if the employee fails to return to work after taking FMLA leave.
- ❖ The Board may also designate in the specific notice whether it will require the employee to periodically report back on status and intent to return to work or whether the employer will demand recertification of a serious health condition.

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R 8-16-5 Notice Requirements for Employees

- ❖ An employee is required to give the Board 30 days notice of intended leave, except if the date of the treatment requires that the leave begin in less than 30 days. If a 30-day notice is impracticable, the employee must give notice as soon as is practicable.
- ❖ The Board may also require the employee to provide certification form a health care provider to verify that leave is justified under the FMLA.
- ❖ The Board has the right to require an employee on leave to report periodically about the employee's status and the intent to return to work, and to request recertification of a serious medical condition no more often than every 30 days under most circumstances.
- ❖ If a leave under this section is foreseeable because of planned medical treatment or supervision, the employee:
 - Shall make a reasonable effort to schedule the treatment or supervision so as not to disrupt unduly the operations of the employer, subject to the approval of the health care provider of the employee's son, daughter, parent or dependent; and
 - Shall provide the Board with two weeks written notice of the treatment or supervision.
- ❖ To preserve instructional continuity, foreseeable medical leave may be limited to the time for medical treatment only. The employee shall provide a two-week written notice when the leave is foreseeable.
- ❖ If a leave because of birth or adoption is foreseeable, the employee shall provide the Board with two weeks written notice of such expected birth or adoption.

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R 8-16-6 Certification of Need for Family Leave

- ❖ If an employee requests family leave to care for a family member with a serious health condition as authorized in the code, the employer may require the employee to provide certification by a health care provider of the health condition.
- ❖ The certification shall be sufficient if it contains the following:
 - That the child, dependent, parent or employee has a serious health condition;
 - The date the serious health condition commenced and its probable duration; and
 - The medical facts regarding the serious health condition.

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R 8-16-7 Restoration to Position upon Return from leave

The position held by the employee immediately before the leave is commenced shall be held for a period not to exceed the twelve-week period of the parental leave and the employee shall be returned to that position: Provided that the Board may employ a temporary employee to fill said position for the period of the parental leave.

An employee returning from a leave who is unable to perform an essential function of the position due to a mental or physical condition is not entitled to be reinstated into another position under the FMLA. However, if such an employee is a qualified individual with a disability under the ADA, the Board may be required to place the employee in another vacancy as a reasonable accommodation.

The Board may not, because an employee received family leave or medical leave, reduce or deny any employment benefit or seniority that accrued to the employee before his/her leave commenced.

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R 8-16-8 Seniority and Employment Benefits

Employees who are granted leave shall continue to accrue seniority during the period of family leave. During any family leave by an employee, the Board shall continue group health insurance coverage for such employee: Provided that the employee shall pay the Board the premium costs of such group health insurance coverage if the employee fails to return to work following a family medical leave. The employee shall also be required to pay any employee's usual share of the premium cost.

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R 8-16-9 Denial of FMLA Leave or Reinstatement to Former Position

Under certain circumstances, the following may justify the Board refusing to allow or delaying FMLA leave to an otherwise eligible employee:

- ❖ The employee fails to provide timely notice; or
- ❖ The employee fails to timely provide medical certification.

Under certain circumstances, the following may justify an employer refusing to reinstate or delaying reinstatement of an employee on FMLA leave:

- ❖ Employee fails to provide a requested fitness-for-duty certification to return to work;
- ❖ Employee would not be employed had leave not been taken;
- ❖ Employee fails to give notice of intent to return to work;
- ❖ Reinstatement of key employee would cause substantial and grievous economic injury;
- ❖ Leave obtained by fraudulent means; and
- ❖ Employee's outside or supplemental employment violates uniformly applied policy.

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R 8-16-10 Special Rules for School Employees

- ❖ In order to minimize the impact on instruction, employees may not be able to schedule 12 weeks of leave if it coincides with the end of the school term.
- ❖ FMLA leave taken for a period that ends with the school year and begins the next semester is leave taken consecutively rather than intermittently. The period during the summer vacation when the employee would not be required to report for duty is not counted against the employee's FMLA leave entitlement.
- ❖ Instructional employees who are on FMLA leave at the end of the school year must be provided with any benefits over the summer vacation that employees would normally receive if they had been working at the end of the school year.
- ❖ When an instructional employee requests intermittent leave or a reduced leave schedule to care for a family member, or for the employee's own serious health condition, which is foreseeable based on planned medical treatment, and the employee would be on leave for more than 20% of the total number of working days in the period during which the leave will be taken, the Board may require the employee to choose one of the following:
 - Take leave for a "period of particular duration" of time (i.e., blocks of time) which does not exceed the duration of the planned treatment; or
 - Be transferred to an alternative position.

- ❖ If an instructional employee fails to give the required notice of foreseeable FMLA leave to be taken intermittently or on a reduced leave schedule, the employer may require the employee to take leave of a particular duration, or to transfer temporarily to an alternative position. Alternatively, the employer may require the employee to delay the taking of leave until the notice provision is met.
- ❖ Near the end of an “academic term”, there are several different scenarios adopted by Congress to minimize disruption of the classroom where the Board may require an instructional employee to continue taking leave until the school term ends.
 - When an instructional employee begins leave more than five weeks before the end of the term and the leave will last at least three weeks and the employee would otherwise return to work during the last three weeks of the term;
 - When an instructional employee takes leave for a reason other than the employee’s own serious health condition and the leave begins during the five weeks before the end of the term, and will last two weeks and the employee would otherwise return to work during the two-week period before the end of the term;
 - When an instructional employee takes leave for a reason other than the employee’s own serious health condition and the leave begins during the last three weeks of the term, and if the leave will last more than five working days.

If an employee is required to take leave until the end of an academic term as set forth above, only the period of leave until the employee is ready and able to return to work shall be charged against the employee’s 12-week FMLA leave entitlement. The Board has the option not to require the employee to stay on leave until the end of the term. Therefore, any additional leave required by the employee to the end of the school term is not counted as FMLA leave: however, the Board is required to maintain the employee’s group health insurance and restore the employee to the same or equivalent job including other benefits at the conclusion of the leave,

(WVC §18A-2-2a, §21-5D-4 and Family and Medical Leave Act of 1993)

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Adopted: August 9, 2010

Amended/Revised:

PRESTON COUNTY BOARD OF EDUCATION

FILE: 8 – PERSONNEL MANAGEMENT

File: 8-17 Transfer of Personnel

Last Reviewed: 8-9-10

Next Review: 7-1-12

Assignments and transfers of all personnel are made upon the recommendation of the Superintendent and the approval of the Board. Transfers may be made when the employee so requests or when, in the opinion of the Superintendent and the Board of Education, the best interests of the educational program demand such a change. Reasons for transfer of personnel may include the following: employee request, changes in enrollment patterns, reorganizations, vacancies in a teacher's field, promotion as a stimulus to professional growth, or to correct a maladjustment arising out of difficulties in a particular school or community.

(WVC §18A-2-7a)

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R 8-17-1 Notification/Employee Rights

An employee shall be notified in writing by the Superintendent on or before *February 1* if s/he is being considered for transfer or to be transferred. Any employee who desires to protest such transfer may request in writing a statement of the reasons for the proposed transfer. Such statement of reasons shall be delivered to the employee within 10 days of the receipt of the request. Within 10 days of the receipt of the statement of the reasons, the employee may make written demand upon the Superintendent for a hearing on the proposed transfer before the Board of Education. The hearing on the proposed transfer shall be held on or before *March 15*. At the hearing the reasons for the proposed transfer must be shown. If the reasons for the transfer are enclosed in the letter which notified the employee of the proposed transfer, the employee has 10 days within receipt of the letter to make written demand upon the Superintendent for a hearing before the Board.

(WVC §18A-2-7a)

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R 8-17-2 Limitations on Transfers

- ❖ Only those employees whose consideration for transfer or intended transfer is based upon known or expected circumstances that will require the transfer may be notified of an impending transfer.
- ❖ At a meeting on or before *March 15*, the Superintendent must provide the Board with a list of employees to be considered for transfer for the ensuing year. The list shall be included in the minutes of the meeting and all persons included in the list must be notified in writing by certified mail, return receipt requested, within 10 days of their having been recommended for transfer and reassignment and the reasons for the action.
- ❖ All other teachers and employees not so listed shall be considered as reassigned to the positions or jobs held at the time of this meeting.

- ❖ If prior to August 1 the reason for a particular transfer no longer exists as determined by the Board, the Board shall rescind the transfer and shall notify the affected employee in writing of his/her right to be restored to his/her position of employment.
- ❖ After the fifth day prior to the beginning of the instructional term, no person employed and assigned to a professional position may transfer to another professional position in the county during that instructional term unless the person holding the position does not have valid certification. Exceptions are as follows:
 - Such person may apply for any posted vacancies, and if successful, may assume the position at the beginning of the next instructional term.
 - Persons on an approved leave of absence may fill these positions upon their return from that leave.
 - The Superintendent may fill a position before the next instructional term if it is in the best interest of students. The Superintendent must notify the state board of such action.
- ❖ The code permits the principal of an elementary school to reorganize teaching assignments within a school without posting any positions under the following conditions:
 - Instructional need require the realignment of the number of teachers in one or more grade levels;
 - The total number of teaching positions in the school does not change from one year to the next; and
 - The Board and the employee mutually agree to the reassignment.
- ❖ An aide may transfer to another position of employment one time only during any one half of a school term, unless otherwise mutually agreed upon by the aide and the Superintendent, subject to Board approval. During the first year of employment as an aide, an aide may not transfer to another position of employment during the first one-half school term of employment unless mutually agreed upon by the aide and the Superintendent, subject to county board approval.
- ❖ After the fifth day prior to the beginning of the instructional term service personnel who are employed and assigned as an autism mentor or aide who works with students with autism, or as a paraprofessional, interpreter or aide who works with a student with an exceptionality whose IEP requires one-on-one services may not transfer to another position in the county during that instructional term, unless s/he does not have valid certification for the position currently held.

However, the autism aide, autism mentor or paraprofessional or interpreter or aide may apply for any posted vacant position and, if successful, assume the position at the beginning of the next instructional term. With the Superintendent's recommendation, the Board may allow the successful applicant to fill the position before the end of the instructional term, but only if it is determined to be in the best interest of the students. The Superintendent must notify the State Board of Education when such an exception is made.

It is understood that in the interest of school organization and student benefit, the principal may recommend a change in a teaching assignment so long as such change does not remove a teacher from his/her certification fields. Changes in teacher subject and/or grade level assignments shall be made only after conferring with the affected personnel in a timely manner. Employees who object to the change may be placed on the transfer list for the ensuing school term. (WVC §18A-2-7; §18A-4-7a and §18A-5-8)

Removal of Principal in a Low-Performing School:

Whenever a school is determined to be low performing and fails to improve its status within one year following state intervention in the operation of the school to correct the low performance, the principal may be removed by the State Board of Education. If the principal who was removed elects not to remain an employee of the Board, then the principal assigned by the West Virginia Board of Education shall be paid by the Board. If the principal who was removed elects to remain an employee of the county then the following procedure applies:

- ❖ The principal assigned by the West Virginia Board of Education shall be paid by the West Virginia Board of Education until the next school term, at which time the principal assigned by the West Virginia Board of Education shall be paid by the county board;
- ❖ The principal who was removed shall be eligible for all positions in the county including teaching positions, for which the principal is certified, by either being placed on the transfer list in accordance with WVC §18A-2-7 or by being placed on the preferred recall list in accordance with WVC §18A-4-7a; and
- ❖ The principal who was removed shall be paid by the Board and may be assigned to administrative duties, without the Board being required to post that position until the end of the school term.

The Board shall take no action nor refuse any action if the effect would be to impair further the school in which the West Virginia Board of Education has intervened. (WVC §18-2E-5; SBP 2320)

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R 8-17-3 Action by the Board

The Superintendent at a meeting of the Board, on or before *March 15*, shall furnish in writing to the Board a list of teachers and other employees to be considered for transfer and subsequent assignment for the ensuing school year. All other employees not so listed shall be considered as reassigned to their positions or jobs held at the time of the meeting. Persons approved on the transfer list will be notified by certified mail within ten days of their having been so recommended for transfer and subsequent reassignment and the reasons for the action.

Regular teaching contracts for teachers whose licensure is by permit shall not be executed before July 1. Applications for licensure of permit personnel will not be accepted by the West Virginia Board of Education prior to that date. (WVC §18A-2-7a)

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R 8-17-4 Intent Forms

The intent form which is to direct the Board during its March employment for the following school year shall be distributed to all employees no later than the second pay date in January. The goal of this form is to permit employees to express interest in changing their assignment for the following year if they so desire. Only those employees who are interested in assignment changes need return the intent form. The Board will interpret non-returned forms to mean the employee wants to be reassigned. The intent forms shall be signed and returned to the Director of Personnel by February 1. The Director of Personnel or his representative shall sign the forms and return a copy to the employee with the next check or through the school mail. Requests for assignment changes on intent forms will be kept until the beginning of the next school term.

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R 8-17-5 Transfers Owing to a Reduction of Staff in a School

Whenever the Board is required to reduce the number of professional personnel in a specific subject area in a particular school the employee with the least amount of seniority in the affected subject area shall be properly notified and placed on transfer pursuant to the provision of WVC §18A-2-7. Provided that such employee shall be transferred to any other professional position in that school in which he/she is certified and/or licensed if his/her seniority is greater than the seniority of any other employee in that area of certification and/or licensure. In which case the person with the least amount of seniority in that subject area shall be notified and placed on the transfer list pursuant to the provision of §18A-2-7.

R 8-17-6 Transfers Owing to a Reduction in the Number of Bus Operators in a Specific Attendance Area of the

Whenever the number of bus operators assigned to drive in a specific attendance area of the county is going to be reduced and bus runs within that area reorganized, the bus operator(s) in that specific area with the least amount of seniority shall be properly notified and placed on transfer pursuant to WVC §18A-2-7.

Notwithstanding any other provision of the code to the contrary, any remaining bus operators in the attendance area may be reassigned to recognizable runs without the position(s) being posted: Provided, that the bus operator(s) and the Preston County Board of Education mutually agree to the reassignment. A run shall be defined as recognizable if after reorganization it includes 50% or more of the bus operator's current run.

Provided further that, if the run is not recognizable or if the bus operator does not agree to the reassignment, s/he shall be properly notified and placed on transfer pursuant to WVC §18A-2-7 and the run(s) shall be posted in accordance with WVC §18A-4-8.

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Adopted: January 28, 1997
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-18 Reduction in Force</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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Reductions in the professional and the service personnel work force may be conducted in the event of a lack of funding, a lack of need, declining enrollments, the elimination of programs, the closing of schools, the consolidation of schools, or other factors beyond the control of the Board. Employees shall be terminated on the basis of their certification or job classification and seniority, provided that such employees shall be properly released according to West Virginia Code and employed in any other professional position where they had previously been employed or to any lateral area for which they are certified, licensed or both if their seniority is greater than the seniority of any other employee in that area of certification, licensure or both

R 8-18-1 Professional Personnel

If an employee subject to release holds certification, licensure or both in more than one lateral area and if his/her seniority is greater than the seniority of any other employee in one or more of those areas of certification, licensure or both, s/he shall be employed in the professional position held by the employee with the least seniority in any of those areas of certification, licensure or both. Additionally, any employee who holds a temporary permit in a certification area that is being reduced shall be laid off before any person who is fully certified regardless of their relative seniority.

Prior to *February 1* of the current year, affected professional employees shall receive written notice by certified mail, return receipt requested, advising them that the Superintendent intends to ask the Board on or before *February 1* to terminate their contract at the close of the school year for lack of need. However, written notification of teachers being considered for dismissal for lack of need shall be limited to only those teachers whose consideration for dismissal is based upon known or expected circumstances that require the action. The cause or causes for the termination shall be included in the notification letter. All employees who have received notice of the pending reduction in force have the right to request a hearing before the Board prior to the Board taking final action to complete the termination process.

If, prior to August 1, the reason for the reduction in force of any employee no longer exists, as determined by the Board, the Board shall rescind the reduction in force and restore the released employee to his/her former position of employment. Within five days of being so notified, the affected employee shall notify the board of his or her intent to return to his or her former position of employment or the right of restoration to the former position shall terminate. Notwithstanding any other provisions of WVC §18A-4-7a, if there is another employee on the preferred recall list with proper certification and greater seniority, that person shall be placed in the position restored as a result of the reduction in force being rescinded.

When a reduction in force becomes necessary, tenured professional employees shall be released from employment in the following manner:

- ❖ Teachers working on a permit shall be the first to be released.
- ❖ Teachers with the least seniority in a certification area shall be properly notified and released according to provisions of the code.

- ❖ Teachers holding more than one certification may move to another certification area if their seniority is sufficient to do so. (Lateral movement)
- ❖ Employees subject to a RIF must be notified prior to *February 1*, they must be given reasons for the action, and they must be afforded the opportunity of a hearing if so desired.
- ❖ The full membership of the Board must act upon all Reductions in Force on or before February 1.
- ❖ Those professional staff employees reduced in force shall have their seniority frozen and shall be placed on a preferred recall list.
(WVC §18A-2-2 and §18A-4-7a)

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R 8-18-2 Lateral Positions/Areas for Professional Personnel

For the purpose of a reduction-in-force, the following positions shall be considered lateral:

- ❖ All positions which meet the definition of classroom teacher as defined in §18A-1-1 of the WV Code shall be considered lateral.
- ❖ All positions which meet the definition of other professional employee as defined in §18A-1-1 of the WV Code shall be considered lateral if the positions are alike in terms of position title and nature of responsibilities.
- ❖ Central office administrative positions shall be considered lateral to other central office administrative positions if the positions are alike in terms of responsibilities, title, salary level, certification/licensure, and days in the period of employment.
 - During a reduction-in-force of central office administrators, the employee subject to release shall be employed in the position of the least senior central office administrator in a lateral area position if the employee's seniority is greater than the seniority of the least senior central office administrator in the lateral area;
 - If the employee's seniority is not greater or if no central office administrative position is lateral, the employee shall be employed in the position of the least senior central office administrator in any other area in which the employee has been previously employed, if appropriately certified/licensed for the position, and if more senior.
- ❖ Central office administrative positions shall be considered lateral to principal and assistant principal positions provided that:
 - If the central office administrator subject to release is not employed in another county office administrative position, the employee shall be employed in the position of the least senior principal in any area in which the employee has been previously employed, if appropriately certified/licensed for the position, and if more senior;
 - If the employee's seniority is not greater or if not previously employed in a principal position, the employee shall be employed in the position of the least senior principal, if appropriately certified/licensed for the position, and if more senior;

- If the employee's seniority is not greater or if not appropriately certified/licensed, the employee shall be employed in the position of the least senior assistant principal in any area in which the employee has been previously employed, if appropriately certified/licensed for the position, and if more senior; or
- If the employee's seniority is not greater, or if not previously employed in an assistant principal position, the employee shall be employed in the position of the least senior assistant principal, if appropriately certified/licensed for the position, and if more senior.
- ❖ High school principal positions shall be considered lateral to other high school principal positions and elementary/junior high/middle school principal positions shall be considered lateral to other elementary/junior high/middle school principal positions.
 - During a reduction-in-force of principals, the employee subject to release shall be employed in the position of the least senior principal in a lateral area position if the employee's seniority is greater than the seniority of the least senior principal in the lateral area. If the employee's seniority is not greater, the employee shall be employed in the position of the least senior principal in any other area in which the employee has been previously employed, if appropriately certified/licensed for the position, and if more senior.
 - If the employee's seniority is not greater, or if not previously employed in a principal position in any other area, the employee shall be employed in the position of the least senior principal if appropriately certified/licensed for the position, and if more senior.
- ❖ Principal positions shall be considered lateral to assistant principal positions provided that:
 - If the principal subject to release is not employed in a principal position, the employee shall be employed in the position of the least senior assistant principal in the same area as the employee, if appropriately certified/licensed for the position and if more senior;
 - If the employee's seniority is not greater or if not appropriately certified/licensed, the employee shall be employed in the position of the least senior assistant principal in any other area in which the employee has been previously employed, if appropriately certified/licensed for the position, and if more senior; or
 - If the employee's seniority is not greater or if not previously employed in an assistant principal position in any other area, the employee shall be employed in the position of the least senior assistant principal, if appropriately certified/licensed for the position, and if more senior.
- ❖ High school assistant principal positions shall be considered lateral to other high school assistant principal positions and elementary/junior high/middle school assistant principal positions shall be considered lateral to other elementary/junior high/middle school assistant principal positions.
 - During a reduction-in-force of assistant principals, the employee subject to release shall be employed in the position of the least senior assistant principal in a lateral area position if the employee's seniority is greater than the seniority of the least senior assistant principal in the lateral area;

- If the employee's seniority is not greater, the employee shall be employed in the position of the least senior assistant principal in any other area in which the employee has been previously employed, if appropriately certified/licensed for the position, and if more senior.
- If the employee's seniority is not greater or if not previously employed in an assistant principal position in any other area, the employee shall be employed in the position of the least senior principal, if appropriately certified/licensed, and if more senior.
- ❖ If a county office administrator, principal, or assistant principal subject to release is not employed in a lateral area position, the employee shall be employed in a classroom teaching position in accordance with §18A-4-7a of the West Virginia Code.

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R 8-18-3 Reductions of Classroom Teaching Positions in an Elementary School

When the total number of classroom teaching positions in an elementary school needs to be reduced, such reduction shall be made on the basis of seniority with the least senior classroom teacher being recommended for transfer; Provided, that if a specific grade level needs to be reduced and the least senior employee in the school is not in that grade level, the least senior classroom teacher in the grade level that needs to be reduced shall be reassigned to the position made vacant by the transfer of the least senior classroom teacher in the school without that position being posted: provided, however, that the employee is certified and/or licensed and agrees to the reassignment.

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R 8-18-4 Service Personnel

Prior to *February 1* of the current year, affected service employees shall receive written notice by certified mail, return receipt requested, advising them that the Superintendent intends to ask the Board before *February 1* to terminate their contract at the close of the school year. The cause or causes for the reduction in force shall be stated in the notification letter. All employees who have received notice of the pending reduction in force have the right to request a hearing before the Board prior to the Board taking final action to complete the termination process. All layoffs of service personnel must be made according to seniority. Seniority is determined by the length of time an employee has been employed within a certain classification.

- ❖ The following order of reduction in force for tenured employees shall be observed:
 - The employee with the least amount of seniority within a particular job classification or grades of classification shall be properly released and employed in a different grade of that classification if there is a job vacancy.

- If there is no job vacancy for employment within the classification or grades of classification, he or she shall be employed in any other job classification that he or she previously held with the county board if there is a vacancy. If no vacancy exists, the employee is subject to a RIF.
- Multi-classified employees are subject to reduction in force in any category of employment contained within their multi-classification title based upon the seniority accumulated within that category of employment. Multi-classified employees who are reduced in force in one classification category shall retain employment in any of the other classification categories that they hold within their multi-classification title. In such a case, the Board shall delete the appropriate classification title or classification category from the contract of the multi-classified employee.
- ❖ Rescinding a reduction in force: If, prior to the first day of August after a reduction in force is approved, the reason for any particular reduction in force no longer exists the board shall rescind the reduction in force and shall notify the affected employee in writing of his or her right to be restored to his or her former position of employment.
 - Within five days of being so notified, the affected employee shall notify the board of his or her intent to return to his or her former position of employment or the right of restoration to the former position shall terminate.
 - The board shall not rescind the reduction in force of an employee until all employees with more seniority in the classification category on the preferred recall list have been offered the opportunity for recall to regular employment as provided in the code.
 - If there are insufficient vacant positions to permit reemployment of all more senior employees on the preferred recall list within the classification category of the employee who was subject to reduction in force, the position of the released employee shall be posted and filled in accordance with §18A-4-8b of the code.
(WVC §18A-2-6, §18A-4-8b and §18A-4-8g)

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R 8-18-5 Preferred Recall List

Professional Personnel Preferred Recall List

Professional personnel who are affected by a RIF shall have their names placed on the Preferred Recall List according to the seniority they hold in a certification area licensure area or both. Persons on this list shall be recalled in the following manner:

- ❖ Individuals on a preferred recall list shall receive copies of all posted job vacancies for which they are eligible. The posted job vacancies shall be mailed to eligible reduced individuals by certified mail at their last known address. This notice shall apply to all positions known or expected to extend for twenty or more consecutive working days.
- ❖ Persons on this list shall be recalled on the basis of seniority to any position within an area where they were previously employed or to any lateral area for which they are certified, licensed or both.

- ❖ Persons on this list are entitled to recall provided no regular, full-time employee with greater seniority or no employee returning from a leave of absence with greater seniority desires the job.
- ❖ Failure on the part of the employee to apply shall not cause the employee to forfeit any right to recall.
- ❖ It is the responsibility of the employee to notify the school system of any change of address or of any change in certification, licensure or both.
- ❖ Persons on the preferred recall list are not eligible for any of the benefits or privileges of an employee except as expressed herein.
(WVC §18A-2-2, §18A-4-7a, §18A-4-8b and §18A-4-8g)

Service Personnel Preferred Recall List

All employees whose seniority with the county board is insufficient to allow their retention by the county board during a reduction in work force shall be placed upon a preferred recall list and shall be recalled to employment by the county board on the basis of seniority.

- ❖ An employee released from employment for lack of need as provided in the code shall be accorded preferred recall status on the first day of July of the succeeding school year if the employee has not been reemployed as a regular employee.
- ❖ Employees placed upon the preferred list shall be recalled to any position openings by the county board within the classification(s), where they had previously been employed, or to any lateral position for which the employee is qualified or to a lateral area for which an employee has certification and/or licensure.
- ❖ Employees on the preferred recall list shall not forfeit their right to recall by the Board if compelling reasons require them to refuse an offer of reemployment.
- ❖ The Board shall notify all employees on the preferred recall list of all position openings. The notice shall be sent by certified mail to the last known address of the employee.
- ❖ It is the duty of each employee to notify the county board of any change of address.
- ❖ The county board may fill no position openings, whether temporary or permanent, until all employees on the preferred recall list have been properly notified of existing vacancies and have been given an opportunity to accept reemployment.
- ❖ Full-time personnel or employees returning from a leave of absence with greater seniority may be placed in a position before an employee on the preferred recall list.
(WVC §18A-4-8b)

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Adopted: July 22, 1996
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-19 Employee Seniority Rights</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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The Preston County Board of Education shall make decisions affecting promotion, reduction, and recall of all personnel on the basis of seniority, qualifications and evaluation of past service. County employees may accrue employment seniority in the manner prescribed by state law as described in the procedures that follow.

R 8-19-1 Professional Personnel Seniority Rights

The Board shall compile and update annually, by July 1, a list of all professional personnel employed by the county, their areas of certification, and their seniority. Said list will be available by electronic or other means as deemed appropriate by the Board.

The Manner in Which Professional Personnel Seniority is Calculated:

- ❖ Seniority begins to accrue upon commencement of the employee’s duties.
- ❖ An employee shall accrue seniority for each day employed regardless of whether the employee receives pay for the day except that no employee shall receive credit for any day s/he is suspended without pay. Employees shall accrue seniority during the time they are on an approved leave of absence.
- ❖ Employment for a full term shall equal one year of seniority. Employment for less than the full employment term shall be prorated.
- ❖ Counselors, administrators, and other professional employees shall accrue seniority only for those years they serve in the specialty area.
- ❖ Persons employed for a full employment term but in a part-time position shall have their seniority prorated to the proportion of a full employment day the employee is required to work.
- ❖ The West Virginia Code requires that a full-time regular professional employee who servers in a part-time position (part day) which spans three and one-half or more hours per day shall be credited with a full day of seniority for each day employed by the Board.
- ❖ Professional employees whose employment has been terminated through reduction in force and have been placed on the preferred recall list shall retain all accumulated seniority for the purpose of seeking reemployment with Preston County.
- ❖ A professional employee whose employment is terminated through a reduction in force or voluntarily shall, upon reemployment with the Preston County Board in a full-time position, receive credit for all seniority previously accrued at the time the employment was terminated. (WVC §18A-4-7a; §18A-4-7b)

Professional Personnel Substitute Seniority:

Substitute professional personnel who work 133 days or more in an instructional term may earn seniority for employment purposes only. Seniority earned as a substitute may not be carried over to employment as a regular, full-time professional employee and all newly appointed professional employees begin with zero seniority. (WVC §18A-4-7a)

Professional Employees Holding Identical Seniority:

In the event of a reduction in force, a random selection system established by the employees and approved by the Board shall be used to determine the priority if two or more employees accumulate identical seniority. The order of priority established by this process shall be recognized for that personnel action season only. Identical seniority issues must be resolved on an annual basis when employment priority is in question.

When two or more principals have accumulated identical seniority, decisions on reductions in force shall be based on qualifications.
(WVC §18A-4-7a)

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R-8-19-2 Service Personnel Seniority Rights

The Board shall post a current list of all service personnel including their classification and seniority twice yearly (On or before September 1 and January 15).

The Manner in Which Service Personnel Seniority is Calculated:

- ❖ The seniority of service personnel is to be determined on the basis of the length of time the employee has been employed within a particular job classification in the following manner:
- ❖ Seniority begins to accrue upon commencement of the employee's duties.
- ❖ Employees shall accrue seniority for each day employed regardless of whether they receive pay for the day except that employees shall not receive seniority credit for any day they are suspended without pay or if they are in a concerted work stoppage or strike. Employees shall accrue seniority during the time they are on an approved leave of absence.
- ❖ Employment for a full term shall equal one year of seniority. Employment for less than the full employment term shall be prorated.
- ❖ Seniority acquired within different classification categories shall be calculated separately; however, when a school service employee makes application for a position outside of the classification category currently held, if the vacancy is not filled by an applicant within the classification category of the vacancy, the applicant shall combine all regular employment seniority acquired for the purposes of bidding on the position. Class titles having Roman numeral designations shall be considered a single classification for employment purposes.
- ❖ School service personnel who hold multi-classification titles shall accrue seniority in each classification category of employment which the employee holds and shall be considered an employee of each classification category contained within his or her multi-classification title.

- ❖ Unlike professional personnel, service personnel who leave employment and are subsequently reemployed by the same board of education are not entitled to reinstatement of their seniority credit earned when previously employed.

(WVC §18A-4-8b, §18A-4-8g)

Service Personnel Substitute Seniority:

Substitute service personnel earn substitute seniority from the time they begin their duties as a substitute until they either obtain regular employee status or lose their substitute contract.

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 §18A-4-8g)

Service Employees Holding Identical Seniority:

If two or more employees accumulate identical seniority, the priority shall be determined by a random selection system established by the employees and approved by the county board. The random selection process must be conducted within thirty days of the discovery of the tie. Employees with an identical seniority date within the same class title or classification category shall participate in the random selection. As long as the affected employees hold identical seniority within the same classification category, the initial random selection conducted by the board shall be permanent. However, if another employee subsequently acquires identical seniority, a second random selection will be held within 30 days to determine the priority of the new employee versus the existing group. Priority within the original group will not change.

(WVC §18A-4-8b, §18A-4-8g)

R-8-19-3 Service Personnel Request for Reclassification

State Code requires the Board to review each service employee's job classification annually and to reclassify all service employees whose job responsibilities have changed in accordance with the state defined job classifications.

Service personnel are also encouraged to review the seniority listing published twice annually as a reference resource for appropriate classification. Any service employee who believes s/he is incorrectly classified may complete a Request for Reclassification Form and submit it to the Assistant Superintendent in charge of personnel on or before January 20 of the current year. All requests for reclassification shall be reviewed by a committee which shall be composed of the members of the Service Personnel Staff Development Council and a recommendation shall be made to the Superintendent.

(WVC §18-4-8)

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Adopted: July 22, 1996
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION

FILE: 8 – PERSONNEL MANAGEMENT

File: 8-20 Separation of Personnel

Last Reviewed: 8-9-10

Next Review: 7-1-12

Separation of an employee from the school system is a sensitive matter and should be handled with as much dignity and discretion as possible.

R 8-20-1 Employees with Continuing Contracts

In all instances where the Board seeks to terminate the contract of a professional or service personnel or seeks to dismiss them under the provisions of WVC §18A-2-2 and §18A-2-6, the following procedure should be followed:

- ❖ Regarding the termination of a teacher's continuing contract, §18A-2-2 provides in pertinent part as follows:
 - “The continuing contract of any teacher shall remain in full force and effect except as modified by mutual consent of the school board and the teacher, unless and until terminated (1) by a majority vote of the full membership of the Board on or before **February 1** of the then current year, after written notice, served upon the teacher, 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 thereon, or (2) by written resignation of the teacher before that date. Such termination shall take effect at the close of the school year in which the contract is so terminated: Provided, however, that the contract may be terminated at any time by mutual consent of the school board and the teacher, and that this section shall not affect the powers of the school board to suspend or dismiss a principal or teacher pursuant to §18A-2-8. “
- ❖ Regarding the termination of continuing contracts of service personnel, WVC §18A-2-6 provides in pertinent part as follows:

“After three years of acceptable employment, each service employee who enters into a new contract of employment with the Board shall be granted continuing contract status. The continuing contract of any such 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 with written notice, stating cause or causes, and an opportunity to be heard at a meeting of the Board before **February 1** of the then current year, or by written resignation of the employee before that date. “

The power to terminate a professional employee or service employee’s continuing contract under this section is in addition to the power to dismiss for lack of need authorized by the reduction in force statute (see *File: 8-18 Reduction in Force*).

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R 8-20-2 Employees with Probationary Contracts

The Superintendent at a meeting of the Board on or before *March 15* of each year shall provide in writing to the Board a list of all probationary employees that he recommends to be rehired for the next ensuing school year. Any probationary employee who is not rehired by the Board at the meeting shall be notified in writing, by certified mail, return receipt requested, to such persons last known address within ten days following said Board meeting, of their not having been rehired or not having been recommended for rehiring.

Any probationary employee receiving such notice, may, within 10 days after receiving the written notice, request a statement of the reasons for not having been rehired. Such statement of the reasons shall be delivered to the teacher or employee within ten days of the receipt of the request. Within ten days of the receipt of the statement of reasons, the teacher or employee may make written demand upon the superintendent for a hearing. The hearing shall be held at the next regular board meeting or a special meeting called within 30 days of the request for the hearing. Reasons for not rehiring must be shown at the hearing.

The contract may also be terminated by mutual consent of both parties at any time. The board may exert its powers to suspend or dismiss an employee pursuant to the law.
(WVC §18A-2-1, §18A-2-7 and §18A-2-8a)

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Adopted: March 14, 1983
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-21 Employee Resignation</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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The Board shall accept any employee's resignation presented in writing prior to *February 1*, of the current year and effective at the end of the school year or fiscal year in which the contract is terminated. Employees who plan to leave the school system but have not resigned by February 1 should keep the Director of Personnel informed when they are contemplating resignation.

Resignations should be tendered to the Board early enough in the year to permit replacements to be secured. Resignations tendered between *February 1* and July 1 are subject only to Board approval.

In accordance with recommendations of the West Virginia State Board of Education, resignations submitted between July 1 and July 15 by teachers under contract for the ensuing year will be accepted; however, resignations received after July 15 shall be subject to acceptance or rejection by the Board upon the recommendation of the Superintendent.

Resignations after July 15 or during the school year may not be accepted unless recommended by the Superintendent. Decisions concerning such late resignations will be based upon securing highly qualified replacements and the disruption it would cause in the educational process for our students.

If an employee is not released and willfully fails to fulfill his/her contractual agreement, s/he will be terminated from employment and handled in the manner prescribed by law. West Virginia Code §18A-2-2 provides the following:

“Any teacher who fails to fulfill his 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 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 year for such violation: Provided, That marriage of a teacher shall not be considered a failure to fulfill, or violation of, the contract.”

All resignations presented to the Board must be in writing and state the reason for resigning and the last date the employee will work.

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Adopted: March 14, 1983
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-22 Employee Fringe Benefits</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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All professional and service personnel are entitled to the following fringe benefits that have been put into place by the State to enhance the working environment for school system employees

R 8-22-1 Workers’ Compensation

The Preston County Board of Education shall administer Workers' Compensation claims and employee leave in accordance with all applicable statutes, rules, regulations, procedures, and local policies. When an employee sustains a work-related injury, s/he must notify his/her principal or supervisor as soon as possible, but no later than the next workday. The employee’s principal/supervisor must submit an Employee Accident Report (State Department Form) to the Director of Finance as soon as possible, but later than the next workday. Accident forms are available in the Superintendent’s office and the local school office.

An employee who sustains a work-related injury and is eligible for Workers’ Compensation benefits must also submit an Election of Options form to the board of education's payroll office within three working days of the date of the injury. The Election of Option form will designate the employee's choice of receiving one of the three following options:

Election to Receive Temporary Total Disability (TTD) Benefits Only:

An employee may elect to receive TTD benefits only by selecting Option I on the Election of Option form. The employee will not receive leave compensation from the board of education, except for the initial period prior to receiving a benefit check from the Workers' Compensation Division.

- ❖ Employees of the Board shall continue to accrue seniority credit while receiving TTD benefits during absences from work due to a work-related, compensable injury, but do not accrue credit for years of experience.
- ❖ Personal leave shall accrue while an employee is absent from work receiving TTD benefits, pursuant to the provisions of West Virginia Code §18-4-10.
- ❖ Any legal school holidays, election days, other non-instructional days such as outside school environment (OSE), continuing professional development (CE), and teachers-pupil-parent conferences (TP), and inclement weather days occurring during the period when TTD benefits only are being received, will NOT be paid.
- ❖ When an employee elects to receive TTD benefits only, paid personal leave may be utilized only until the initial benefit check is received. When the initial TTD check is received, the employee must reimburse the Board the net value of personal leave benefits paid.

Election to Receive Leave Compensation Only:

An employee may elect to receive compensation for accumulated personal leave only, or annual leave if requested by the employee, instead of TTD benefits by selecting Option 2 on the Election of Option form. The employee is treated the same as any other employee granted personal leave pursuant to West Virginia Code §18-4-10.

- ❖ Employees of the Board continue to accrue seniority credit while receiving leave compensation during absences from work due to a work-related, compensable injury, and accrue credit for years of experience.
- ❖ Any legal school holidays, election days, other non-instructional days such as outside school environment (OSE), continuing professional development (CE), and teachers-student-parent conferences (TP), and inclement weather days occurring during the period when leave compensation is being received will be paid.

Election to Receive a Combination of TTD Benefits and Compensation for Accrued Leave:

An employee may elect to receive a combination of TTD benefits and compensation for accrued personal leave or accrued annual leave if requested, by selecting Option 3 on the Election of Option form. The employee shall receive leave compensation only to the extent the leave compensation is required, when added to the TTD benefits, to equal the amount of gross wages regularly paid the employee.

Personal leave compensation equal to the employee's regular gross pay may be paid prior to the award of TTD benefits.

- ❖ Employees of the Board continue to accrue seniority credit while receiving leave compensation during absences from work due to a work-related, compensable injury, and may accrue credit for years of experience by use of accrued personal leave.
- ❖ Personal leave shall accrue while an employee is absent from work receiving TTD benefits, pursuant to the provisions of West Virginia Code §18-4-10.
- ❖ Any legal school holidays, election days, other non-instructional days such as outside school environment (OSE), continuing professional development (CE), and teachers-student-parent conferences (TP), and inclement weather days occurring during the period when leave compensation is being received will be paid.

After an employee exhausts his/her accrued personal leave, and annual leave if requested, the employee may then receive TTD benefits only during the remaining absence from work due to the work-related, compensable injury, pursuant to West Virginia Code §23-4-6.

- ❖ Employees of the Board continue to accrue seniority credit while receiving TTD benefits during absences from work due to a work-related, compensable injury, but do not accrue credit for years of experience.
- ❖ Personal leave shall accrue while an employee is absent from work receiving TTD benefits, pursuant to the provisions of West Virginia Code §18-4-10.
- ❖ Any legal school holidays, election days, other non-instructional days such as outside school environment (OSE), continuing professional development (CE), and teachers-student-parent conferences (TP), and inclement weather days occurring during the period when TTD benefits only are being received, will **NOT** be paid.

R 8-22-2 Unemployment Compensation

Preston County Schools participates in the Unemployment Compensation program for public employees. This benefit, through the West Virginia Department of Employment Security, assures that an eligible claimant who is out of work through no fault of his/her own will have some income available to meet necessary expenses until new employment can be secured. This is made possible through employer contributions at no cost to the employee.

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R 8-22-3 Health Insurance Program

The Board provides employees health and basic life insurance benefits through the Public Employees Insurance Agency (PEIA). PEIA provides a general employee benefit insurance program, which includes hospital, surgical, major medical, prescription drug, and basic life and accidental death.

General Information Concerning PEIA:

Coverage under these programs is limited to \$1 million lifetime for health and \$10,000 of life insurance coverage. Employees may purchase up to an additional \$500,000 of life insurance coverage. Premiums are established by PEIA and paid monthly.

School Board employees are eligible to be covered under the plans offered if they are full-time employees (working regularly at least 20 hours per week). There are restrictions on how and when employees may enroll and make changes in coverage. Please read all parts of the PEIA Summary Plan Description carefully before you enroll.

Long-term substitutes shall be eligible to receive PEIA benefits. Long-term substitute" means a substitute employee who fills a vacant position that the Superintendent expects to extend for at least 90 consecutive days and is either:

- ❖ Listed in the job posting as a long-term substitute position of over 90 consecutive 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.

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.

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 he or she is actually employed as a long-term substitute.

[WVC § 5-16-2-(3); §18a-1-1(l)]

PEIA Coverage during a Leave of Absence:

Medical Leave (Non-Workers' Compensation): Any employee who is on a medical leave of absence due to an injury or illness that is not covered by Workers' Compensation is eligible to continue coverage subject to the following:

- ❖ The medical leave must be approved by the employer;
- ❖ The employee and employer must continue to pay their respective proportionate shares of the premium cost;
- ❖ The employer is obligated to pay its share only for a period of one year, after which the employee may be required to pay the full cost of coverage; and
- ❖ Each month the employee must submit to the employer a physician's statement certifying that the employee is unable to return to work.

Medical Leave (Workers' Compensation): Any employee who is on a leave of absence and is receiving temporary total disability benefits from Workers' Compensation is entitled to continue PEIA coverage until s/he returns to work.

The employer and employee must continue to pay their respective proportionate shares of the premium cost for as long as the employee receives temporary total disability benefits.

Personal Leave: An employee may continue insurance coverage while on a personal leave of absence approved by the Board. The employee shall be responsible for payment of both the employer and employee monthly premiums during such a personal leave. Teachers and service employees who are returning from an approved leave of absence of one year or less shall be restored to the same benefits, which they had at the time of the approved leave of absence

Family Leave: An employee may continue insurance coverage during an approved family leave. Employees should contact the benefit coordinator for further details regarding the federal Family and Medical Leave Act (FMLA).

Military Leave: Employees on military leave with pay, health and life insurance benefits will generally continue without interruption, as long as the employee is on the payroll.

An employee who is on an approved military leave of absence without pay, due to an active call of duty from a properly designated federal authority or a properly designated authority from a National Guard/Reserve unit is entitled to continue health and life benefit coverage for as long as premium payments are made. The employee is responsible for paying the employee share of the premium costs for each month during the military leave of absence, and the Governor's Executive Order No. 19-01 requires the Board to pay its share. Upon return from a military leave, if there has been a lapse in coverage, the employee may generally reinstate the same health and/or life insurance benefits without penalty.

Surviving Spouse and Dependent Participation.

A surviving spouse and dependents of a deceased employee, who was either an active or retired employee participating in the plan just prior to his or her death, are entitled to be included in any group insurance coverage provided under this article to which the deceased employee was entitled, and the spouse and dependents shall bear the premium cost of the insurance coverage. The finance board shall establish the premium cost of the coverage.

(West Virginia Public Employees Insurance Act)

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R 8-22-4 Retirement Plan

The 2008 Special Legislature Session resulted in a significant change in the retirement options available to school employees. Prior to that session, school employees were divided into two groups for retirement benefits: 1) The Teachers' Defined Benefit Retirement System (TDBS) and 2) The Teachers' Defined Contribution System (TDCRS). The new legislation allowed the merging of these two competing plans based upon the desires of school employees across the state. All school employees are now participating in one of the plans described in the following pages.

Employees shall be eligible to retire provided all conditions of the state retirement system have been met. Any employee taking retirement shall notify the superintendent or designee in writing of such intention in a timely fashion. A listing of the retirement plans currently in place follows.

(WVC §18-7A-13; §18-7A-13a; §18-7A-14; §18-7B-3; §18-7B-7; §18-7B-7a; §18-7B-8; §18-7D-1 thru 11)

TEACHERS' DEFINED BENEFITS RETIREMENT SYSTEM (TDBS)

The State Teachers' Retirement System (TRS) was established on July 1, 1941 for the purpose of providing retirement benefits for teachers and school service personnel. This plan remained in effect until July 1, 1991. The TRS was reopened for employees hired after July 1, 2005 and it was merged with TDCRS July 1, 2009. The current TDBS is a defined benefit plan in which an active member contributes 6% of his or her gross monthly salary into the retirement plan. The employer contributes an additional 15% of the member's gross monthly salary into the plan for employees hired before July 1, 2005 and 7.5% for employees hired for the first time on or after July 1, 2005.

Retirement Benefits

In order to qualify for regular retirement benefits, a member of TRS must meet eligibility requirements. A member who is currently in covered employment may:

Retire with full benefits at age 60 with 5 or more years of service.

Retire with full benefits at age 55 with 30 or more years of service.

Retire with full benefits at any age with 35 or more years of service.

Retire with reduced benefits before age 55 with at least 30 but less than 35 years of service.

A member with 5 or more years of contributing service who terminates employment prior to retirement, but does not withdraw his or her employee contributions, will be eligible for retirement benefits at age 62, or at age 60 with 20 years of contributing service.

Upon retirement in the TDBS plan, members must apply to the State Retirement Board for their benefits and select one of the benefit payment options available to them. Retirement benefits are based on two percent of the average of the member's five highest fiscal years of total earnings from covered employment during the member's last fifteen years of service.

Sick and Annual Leave at Retirement

A member may elect to use unused annual/vacation and/or sick leave toward an increase in retirement benefits, on the basis of two days of retirement service credit for each day of unused annual/vacation and/or sick leave. Such days will constitute additional service in the computation of the member's retirement annuity. The additional credited service shall not be used in meeting initial eligibility for retirement criteria. Lump sum payments of annual/vacation leave shall not be used in the computation of retirement benefits under TDBS.

In the alternative to increasing retirement benefits, any member who participates in a Public Employees Insurance Agency (PEIA) insurance plan may elect to use any unused annual/vacation and sick leave days at the time of retirement to purchase health insurance under the PEIA or to acquire additional credited service under TRS. Unused leave cannot be used for both options.

If an individual was enrolled in the PEIA insurance plan before July 1, 1988, and coverage has been continuous since that time, his or her unused annual/vacation and/or sick leave may be used to pay towards health insurance premiums. The retiree may purchase one month of single health coverage for every two days of unused annual/vacation and/or sick leave, or one month of family health coverage for every three days of used annual/vacation and/or sick leave. If an individual was enrolled in the PEIA insurance plan between July 1, 1988 and June 30, 2001, and coverage has been continuous since that time, the retiree may purchase one-half month of single health coverage for every two days of unused annual/vacation and/or sick leave, or one-half month of family health coverage for every three days of unused annual/vacation and/or sick leave. Members enrolled in the PEIA insurance plan on or after July 1, 2001 are not eligible to use unused annual/vacation and/or sick leave towards the purchase of health insurance.

TEACHERS' DEFINED CONTRIBUTIONS RETIREMENT SYSTEM (TDCRS)

All Board employees hired after July 1, 1991, and before July 1, 2005, were required to participate in the Teachers' Defined Contribution System (TDCRS) retirement program. All employee contributions are tax deferred. Members contribute 4.5% of their gross compensation and the Board contributes 7.5% of covered members' gross compensation to the retirement plan, for a total of 12% annually.

Each employee in the TDCRS system chooses investment options and may make changes throughout the year. Employees are eligible to participate from the date of employment.

Employees qualify for full benefits at age 55 with at least 12 years of service in the system. Employee contributions are fully vested and employer contributions and earnings vest with the member as follows:

- ❖ One-third after six years;
- ❖ Two-thirds after nine years;
- ❖ One hundred percent after twelve years; and
- ❖ Members are fully vested at death or disability.

Special Note: Members of this group were permitted to change to the TDBS plan during the window of opportunity provided by the legislative action mentioned previously. The deadline for members to change their retirement plan was June 30, 2009. Members who elected to remain in the TDCRS plan will continue on until retirement. No new members may be added to this group.

Sick and Annual Leave at Retirement

Members who participate in a Public Employees Insurance Agency (PEIA) insurance plan may elect to use any unused annual/vacation and sick leave days at the time of retirement to purchase health insurance under the PEIA

If an individual was enrolled in the PEIA insurance plan before July 1, 1988, and coverage has been continuous since that time, his or her unused annual/vacation and/or sick leave may be used to pay towards health insurance premiums. The retiree may purchase one month of single health coverage for every two days of unused annual/vacation and/or sick leave, or one month of family health coverage for every three days of used annual/vacation and/or sick leave. If an individual was enrolled in the PEIA insurance plan between July 1, 1988 and June 30, 2001, and coverage has been continuous since that time, the retiree may purchase one-half month of single health coverage for every two days of unused annual/vacation and/or sick leave, or one-half month of family health coverage for every three days of unused annual/vacation and/or sick leave. Members enrolled in the PEIA insurance plan on or after July 1, 2001 are not eligible to use unused annual/vacation and/or sick leave towards the purchase of health insurance.

Credit for Service in Public Employment in another State:

Members of the Public Employees Retirement System may substantiate that they have been employed in public employment in another state in which case they may receive credited service not to exceed five years for that employment. However, the employee may not receive credit if:

- ❖ S/he is vested or entitled to be vested in the retirement system of the other state and
- ❖ He/she is entitled to service credit in the other state for the period for which he/she seeks credited service in West Virginia.

Credit for service from another state may not be used to meet West Virginia eligibility requirements for retirement or vesting. Employees entitled to the credit must contribute to the Retirement System the actuarial equivalent of the amount, which would have been contributed, by the employee and employer if the employee had been covered during the period of retroactive service credit, plus earnings on that amount.

(WV Code §5-10-15b(a))

Purchasing Retirement Credit for Temporary Disability

Any member who was absent from work while receiving temporary total disability benefits as a result of a compensable injury received in the course of and as a result of his or her employment with the covered employer, may purchase credited service for that time period or those time periods the member was absent from work as a result of a compensable injury; provided, that the member returned to work within one year following the cessation of temporary total disability benefits.

The member desiring to purchase such credited service may do so only by lump sum payment from personal funds within two years of the end of the disability period for which credit is sought to be purchased. The following conditions must be met:

- ❖ The member shall pay to the board his or her regular contribution and an equal amount that represents the employer's contribution, based on the salary the member was receiving immediately prior to having sustained such compensable injury: and
- ❖ The member purchasing service credit under the provisions of this section may not be charged interest.

The maximum number of years of service credit that may be purchased under this section shall not exceed two (2). Each year purchased under this section shall count as a year of experience for purposes of the increment.

(Teacher Retirement System Guidelines)

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R 8-22-5 Early Notification of Retirement Bonus

State code §18-2-2(g) provides for a \$500 bonus to classroom teachers who provide written notification to the Preston County Board of Education prior to the first day of *December* of their intention to retire from their positions at the conclusion of the current school year. Classroom teachers are defined in §18A-1-1 of the code as those professional educators who have a direct instructional or counseling relationship with students, spending the majority of their time in this capacity. This has been interpreted to mean teachers in elementary and secondary programs (pre-kindergarten through 12th grade), including speech language pathologists, counselors, school nurses and librarians.

"At the conclusion of the school year" has been interpreted to mean that the classroom teacher must complete his/her employment term for the current school year and not work the first day of the employment term of the following school year. They are **NOT** eligible for the bonus if they must work any days as a regular employee during the next school year to be eligible for retirement.

The position of a classroom teacher providing written notice of retirement pursuant to WVC 18-2-2(g) may be considered vacant and the 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 or her employment in that position. However, the retiring classroom teacher may be permitted to continue his or her employment in that position and forfeit the early retirement notification payment if, after giving notice of retirement in accordance with WVC 18-2-2(g), he/she 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 subsection does not prohibit a county school board from eliminating the position of a retiring classroom teacher.

This payment shall not be counted as part of the final average salary for the purpose of calculating retirement.

(WVC §18-2-2g)

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R 8-22-6 Employee Job-Sharing

Both professional and service personnel may enter into job sharing agreements with the Preston County Board of Education. Job sharing arrangements are subject to the following provisions:

- ❖ Job sharing arrangements must meet all the requirements relating to posting, qualifications and seniority.
- ❖ The agreement by which two or more employees share one full-time position must designate one employee only who is entitled to insurance coverage which includes all group plans. Employees not so designated are ineligible for Public Employees Insurance coverage regardless of the number of hours worked.
- ❖ Job-sharing agreements must be in writing on a form prescribed and furnished by the Board.
- ❖ The Board and the employees must consider appropriate issues such as retirement benefits and termination of the agreement. The job-sharing agreement may not cause the retirement system to incur a cost in excess of the cost that would be incurred if a single employee were filling the position.

(WVC §18-5-13)

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Adopted: March 14, 1983
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-23 Personnel Files</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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The Director of Personnel will be responsible for seeing that a complete file is kept on each employee. This file will contain the application, contracts, health records, certification for teachers, evaluations and other information deemed pertinent. These files shall be kept in fireproof filing cabinets except when they are in use. They should not be removed from the personnel office.

Accessibility to personnel files will be limited to county office supervisory personnel who work with or are responsible for the employee and central office employees who work with the employee's records.

All employees have a right to inspect their personnel file. To do so they must file a written request or complete the appropriate form. This form will be placed in the file. To eliminate time conflicts and unnecessary pressure on personnel staff, an appointment must be scheduled to examine a personnel file. All appointments will be scheduled as soon as possible within a maximum of two weeks. To insure that no document is altered or removed from the file, the examination will take place in the presence of one of the personnel staff.

The employee will not have access to confidential material for which they have waived the right to review, such as application references or promotional references.

If the employee disagrees with some material in the file, s/he has the right to attach a letter giving his/her explanation or comments.

Any personnel files maintained in schools or work locations will be considered confidential and will be accessible only to the supervisor and employee.

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R 8-23-1 Notification of Affected Employees of a Breach of Security of Consumer Information

West Virginia Code §46A-2A-101 thru 104 requires the Preston County Board of Education to give notice of any breach of the security of any computerized data that includes personal information about its employees giving rise to the reasonable belief that the breach has caused or will cause identity theft or other fraud to the individuals involved. Personal information is a person's first name (or first initial) and last name where the name is linked to a person's:

- ❖ Social security number; or
- ❖ Driver's license or state identification card number; or
- ❖ Financial account, credit card or debit card number in combination with any required security code, access code or password.

When such a breach occurs, the Board must, without unreasonable delay, give notice to any employee whose personal information is reasonably believed to have been accessed by an unauthorized person. The following must be included in the notice:

- ❖ A description of the kinds of information believed to be accessed or acquired;
- ❖ A telephone number or web address at which individuals can learn what kinds of information the Board maintained about them; and
- ❖ Contact information for the major credit reporting agencies, with information on how to place a fraud alert or security freeze.

Said notice may be by mail, telephone, or certain electronic means. Where the cost of providing notice will exceed \$50,000 alternative forms of notice are permitted.

The Board may postpone giving notice if a law enforcement agency advises that notice will impede a criminal or civil investigation, or homeland or national security. Moreover, if the accessed data was encrypted, notice need not be given unless the data was acquired in an unencrypted form or the security breach involved a person who had access to the encryption key and it is reasonably believed that the breach has caused or will cause identity theft or fraud to an employee.

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Adopted: March 14, 1983
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-24 Employee Suspension and Dismissal	Last Reviewed: 8-9-10 Next Review: 7-1-12
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R 8-24-1 General Guidelines

Notwithstanding any other provisions of law, a board may suspend or dismiss any person in its employment at any time for:

- ❖ Immorality,
- ❖ Incompetency,
- ❖ Cruelty,
- ❖ Insubordination,
- ❖ Intemperance,
- ❖ Willful neglect of duty,
- ❖ Unsatisfactory performance, or
- ❖ The conviction of a felony or a guilty plea or a plea of nolo contendere to a felony charge.

The charges shall be stated in writing and served upon the employee within two days of presentation of the charges to the Board by the Superintendent. The affected employee shall be given the right to request a Level Three grievance hearing or a hearing before the Board within five days of receiving the written notice of intent to terminate employment. Employees who choose to have a hearing before the Board retain the right to subsequently file a Level Three grievance. A dismissal for the conviction of a felony or a guilty plea or plea of nolo contendere to a felony charge is not by itself a grievable dismissal. An employee charged with the commission of a felony may be reassigned to duties that do not involve direct interaction with pupils pending final disposition of the charges. A charge of unsatisfactory performance shall not be made except as the result of an employee’s performance evaluation pursuant to Preston County personnel evaluation procedures.

The Superintendent has the authority to suspend school personnel for temporary periods of time pending a hearing upon charges filed by the Superintendent with the Board of Education. This temporary period of suspension shall not exceed 30 days unless extended by the Board and may be with or without pay.

In all cases of suspension, termination or dismissal, the employee's rights to substantive and procedural due process shall be safeguarded by the Board of Education.
(WVC §18A-2-6, §18A-2-7 and §18A-2-8)

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R 8-24-2 Due Process Rights of School Personnel

All employees who have been charged with misconduct leading to a suspension or dismissal action by the Board are guaranteed due process rights under the Fourteenth Amendment of the United States Constitution and §18A-2-8 of the West Virginia Code. Those rights include the following:

- ❖ Fair and reasonable notice of the charges in writing within two days of the charges being presented to the Board;
- ❖ Within five days of receiving the notice, the employee may request a hearing before the Board or he/she may request a Level IV grievance hearing;
- ❖ Fair opportunity to prepare for a hearing;
- ❖ Prompt and fair hearing;
- ❖ Impartial tribunal (Board is presumed impartial unless the defendant can prove otherwise);
- ❖ Legal Counsel;
- ❖ Cross examination of all witnesses;
- ❖ Call witnesses;
- ❖ Access to evidence;
- ❖ Right to an official record of proceedings (for appeals);
- ❖ The right of appeal.

(14th Amendment and WVC §18A-2-8)

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Adopted: March 14, 1983
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-25 Employee Strikes	Last Reviewed: 8-9-10 Next Review: 7-1-12
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Strikes or employee work stoppage or slowdowns, by whatever name, against the Board of Education are illegal under West Virginia law. The Preston County Board of Education does not condone illegal strikes no matter how noble the end that the strikers hope to achieve.

Employees who participate in a strike may be subject to dismissal under §18A-2-8 of the West Virginia Code for insubordination and willful neglect of duty. It shall be the policy of the Preston County Board of Education to keep the schools open so long as the health and safety of the students and staff can be assured.
(WVC §18A-2-8)

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Adopted: March 14, 1983
Amended/Revised:

PRESTON COUNTY BOARD OF EDUCATION

FILE: 8 – PERSONNEL MANAGEMENT

File: 5-22

File: 8-26 Travel Regulations

Last Reviewed: 8-9-10

Next Review: 7-1-12

Employees shall only be eligible for mileage reimbursement after they have reported to their assigned work station within the county. Should their duties and responsibilities require them to travel to additional locations in the county; they will be reimbursed for the mileage to that work station(s) and back to their assigned work station.

The standard form "Traveling Expense Account" will be used for all claims for traveling expense. All expenses shall be itemized in detail, and no items shall be designated as miscellaneous. Expense accounts must be signed by the employee and approved by the employee's supervisor before submission to the Treasurer's Office for payment. The Superintendent or designee shall approve all expenditures.

The Board shall reimburse any school personnel, or Board Member, for each mile traveled when s/he is required to use a personal motor vehicle in the course of employment or Board business. The Board shall reimburse at the same rate for all persons eligible for reimbursement. The rate of reimbursement shall be at least the lesser of, and not more than the greater of, the federal standard mileage rate or the rate authorized by the Travel Management Office.

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R 5-22-1

R 8-26-1 Travel within the County

- ❖ The rate of mileage reimbursement for the use of privately owned vehicles shall be at least the lesser of, and not more than the greater of, the federal standard mileage rate or the rate authorized by the Travel Management Office. Detailed itemization of places visited and reasons therefore must be shown.
- ❖ Members of the Central Office Staff (Professional and service employees) shall be reimbursed for their necessary travel expenses. All mileage is paid round trip from Kingwood except that a person leaving directly from his home for a work location will be paid mileage to or from his home or to or from Kingwood, whichever is lesser.
- ❖ Employees who are assigned to more than one school will be paid mileage as indicated below:
 - No mileage will be paid to employees who spend an entire day in the same school.
 - Employees serving more than one school in a day shall be reimbursed for the extra mileage he/she incurs in serving schools other than his/her base school.
 - The base school shall be the school in which the employee is assigned for the major portion of the school day.
 - In the event certain specialist spend an entire school day at different schools on different days during the school week, those employees shall submit a schedule of their work week to their supervisor and their assigned work station for any work day shall be the location shown on their schedule for that day.

- Only one trip per employment day will be paid by the Board of Education for those days when more than one school is served during the same day.
- ❖ Vocational teachers will be reimbursed for county travel that is part of their vocational work. All mileage will be paid round trip from the home school except that a person leaving directly from his home for a work location or returning directly to his home from a work location will be paid mileage to or from his home or to and from his school, whichever is less.
- ❖ Instructional personnel will be reimbursed for home visits made to the home of their students for instructional purposes. The mileage will be calculated from the work station to the student's home and back.
- ❖ No reimbursement will be made for meals or lodging incurred within Preston County.

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R 5-22-2

R 8-26-2 Travel outside of Preston County

- ❖ **Authorization**
 - Request for out-of-county travel for attendance and participation in meetings should be in the Superintendent's or Superintendent's designee's office 10 work days prior to the event.
 - The Preston County Board of Education shall pay the reasonable travel expense incurred by board members and employees in the execution of duties previously authorized by the Superintendent or Board of Education.
 - The Superintendent shall have the authority to approve out-of-county travel including adjoining states within a 100 mile radius.
 - Vocational teachers may travel within their trading areas with approval of the Director of Vocational Education.
 - Board of Education must approve all travel outside the state of West Virginia except for travel to adjoining states within a 100 mile radius.
 - Copies of approved authorizations must be attached to the "Traveling Expense Account" claim form.
- ❖ **Reimbursable Items**
 - **Ground Transportation**

When a personal car is used, expenses are allowed at the designated rate per mile. Turnpike and bridge tolls are allowable as well as parking expenses. To claim turnpike and bridge tolls, receipts must be attached to the expense sheet.
 - **Air Transportation**

Expense for air transportation is allowable only for tourist or coach fare. The passenger coupon from the airline ticket and the purchaser's receipt must be attached to the expense sheet.

➤ **Lodging**

The maximum expense allowable for lodging is the rate of a single occupancy. When a Preston County Board of Education employee is accompanied by a non-employee, none of the expenses for a non-employee are allowable expenses. When a Board of Education employee is lodged in a room with a non-employee, the maximum allowable expense is for the cost of a single occupancy. Whenever two employees of the Board are lodged in the same room, each employee shall request a bill for one-half of the total cost. A hotel/motel receipt or invoice must be submitted with the travel claim.

➤ **Authorized daily meal allowances**

- Over night trips within the state – The authorized daily rate for meals shall be as follows: Breakfast - \$9.00, Lunch - \$10.00 and Dinner – \$27.00 for a maximum reimbursement of \$46.00 per day.
- Over night trips outside the state -- The rate of reimbursement for out-of-state meals shall be at least the lesser of, and not more than the greater of, the federal standard rate per meal as authorized by the Travel Management Office of the WVDE.

➤ **Registration Fees**

Fees or charges for the attendance at conferences, meetings, seminars, and/or workshops, as well as event related materials, are reimbursable expenses to the traveler.
(WVC §18A-2-14; §18A-5-4)

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Adopted: June 23, 1999
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-27 Staff Political Activities	Last Reviewed: 8-9-10 Next Review: 7-1-12
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The Board recognizes that employees of the Preston County Schools have the same fundamental civic responsibilities and privileges as other citizens. Recognized political activities include, but are not limited to, campaigning for an elective public office and holding an elective or appointive public office. Short term leaves will be available to candidates seeking political office.

In connection with campaigning for any election, it shall be considered contrary to policy for school system equipment, supplies, or school communication equipment to be used at any time; for there to be any active involvement of system personnel during the work day; or for there to be any encroachment on the time of the work day.

No employee will use his/her position to influence or enlist the services of students for political purposes.

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Adopted: November 28, 1983
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-28 Employee Contracts and Compensation Guidelines</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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Pursuant to state statutes and Preston County Board of Education regulations, before entering upon their duties all personnel shall execute with the Board of Education a written contract on the proper form. Initial contracts of employment shall be designated as probationary contracts that shall be one-year contracts during the three-year probationary period. Contracts awarded following the probationary period are continuing contracts.

It should also be noted that WVC §18A-2-2 has authorized the Board, when necessary to facilitate the employment of employable professional personnel and prospective and recent graduates of teacher education programs who have not yet attained certification, to execute a contract with such persons upon the condition that the certificate is issued to the employee prior to the beginning of the employment term in which the employee enters upon his or her duties.

Any teacher who fails to fulfill his/her contract with the Board, unless prevented from doing so by personal illness or other just cause or unless released from his/her contract by the Board, or who violates any lawful provision of the contract, is 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 the teacher on file for a period of one year for the violation: Provided, That marriage of a teacher is not considered a failure to fulfill, or violation of, the contract.
(WVC §18A-2-2 and §18A-2-6)

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R 8-28-1 Contract Procedures

Probationary Contracts:

Consistent with West Virginia Code, all new employees serve a probationary period during their first three years of employment. A probationary teacher's contract shall be for a term of not less than one nor more than three years, one of which shall be for completion of a beginning teacher internship pursuant to the provisions of WVC §18A-3-2b, if applicable. For those employees who will receive a probationary contract for the second or third years the following steps are to be completed:

- ❖ The immediate supervisor should recommended the employee to the Superintendent;
- ❖ The Superintendent recommends the employee to the Board; and
- ❖ The Board approves the employee.
- ❖ If a person severs his/her connection with the Board of Education and returns at a later date, the probationary period must be served again.

Employees who wish to resign as of the close of the school year may do so by delivering a written resignation to the Board on or before February 1.
(WVC §18A-2-2)

Professional Continuing Contracts; How Terminated:

If, after three years of successful employment, the teacher who holds a professional certificate, based on at least a bachelor's degree, has met the qualifications for a bachelor's degree and the county board enter into a new contract of employment, it shall be a continuing contract, subject to the following:

- ❖ Any teacher holding a valid certificate with less than a bachelor's degree who is employed in Preston County beyond the three-year probationary period shall upon qualifying for the professional certificate based upon a bachelor's degree, if reemployed, be granted continuing contract status; and
- ❖ A teacher who has received a continuing contract in another county shall be granted a continuing contract in Preston County upon completion of one year of acceptable employment if such employment is during the next succeeding school year or immediately following a leave of absence of one year or less.
- ❖ The employee should be recommended by the employee's immediate supervisor to the Superintendent.
- ❖ The employee must receive the recommendation of the Superintendent to the Board and the employee must receive the approval of the Board.
- ❖ Tenure contracts are awarded only for employment, not position.
- ❖ The teacher must have successfully completed a beginning teacher internship.
- ❖ A person on a legal leave of absence maintains contract status in existence at the time of granting the leave if the leave extends for one year or less.

The continuing contract of any teacher shall remain in full force and effect except as modified by mutual consent of the school board and the teacher, unless and until terminated, subject to the following:

- ❖ A continuing contract may not be terminated except:
 - By a majority vote of the full membership of the Board on or before February 1 of the then current year, after written notice, served upon the teacher, 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 on the termination issue; or
 - By written resignation of the teacher on or before February 1 to initiate termination of a continuing contract.
- ❖ The termination shall take effect at the close of the school year in which the contract is terminated; and
- ❖ The contract may be terminated at any time by mutual consent of the Board and the teacher.

Nothing in the law affects the powers of the Board to suspend or dismiss a principal or teacher pursuant to WVC §18A-2-8.

A continuing contract does not operate to prevent a teacher's dismissal based upon the lack of need for the teacher's services pursuant to the provisions of law relating to the allocation to teachers and pupil-teacher ratios
(WVC §18A-2-2)

Continuing Contract Status for Service Personnel; Termination

After three 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: Provided, That a service personnel employee holding continuing contract status with one county shall be granted continuing contract status with any other county upon completion of one 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 year.

The continuing contract of any such employee shall remain in full force and effect except as modified by mutual consent of the Board and the employee, unless and until terminated with written notice, stating cause or causes, to the employee, by a majority vote of the full membership of the Board before February 1 of the then current year, or by written resignation of the employee on or before that date.

The affected employee has the right of a hearing before the board, if requested, before final action is taken by the board upon the termination of such employment.
(WVC §18A-2-6)

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R 8-28-2 Compensation Guidelines

The salary schedule for regular teachers and service personnel shall be the current State basic mandated schedule. All regular teachers and service personnel shall be placed on the appropriate level and step for their job classification and experience. However, personnel will not be paid for years of experience and degree level until such experience and degree level have been verified and a certificate has been received from the West Virginia Department of Education.

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 80% 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 day 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.

Service Substitute Pay Scale:

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 and shall be in accordance with the salary of persons regularly employed in the same position in the county in which s/he is employed. 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.

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R 8-28-3 Pupil/Teacher Ratio Supplemental Pay

The legislature has established the following pupil teacher ratios for the public schools of West Virginia:

Pre-K-----20 -2*

Kindergarten -----20-1 (up to three exceptions are allowed)

Grades 1-3 ----- 25-1 (no exceptions allowed)

Grades 4-6 ----- 25-1 (up to three exceptions are allowed)

** Pre-k classrooms shall limit class size to no more than twenty children per classroom. Ratios shall be two staff: 20 children with one of the staff being a teacher. At naptime the allowable ratio is 1 staff member: 20 children. Caseloads for teachers of classrooms with children who have IEPs shall meet the requirements of WVBE Policy 2419. Teachers with no children who have IEPs shall not have more that 30 children for whom they are responsible. (SBP 2525)*

One aide is assigned to a pre-k or kindergarten class if the class enrollment exceeds 10 students. (SBP 2510)

Classes in chorus, band, and orchestra are excluded from the pupil teacher ratio requirements.

The number of split-grade classrooms may not exceed the number in existence as of January 1, 1983.

Any kindergarten teacher who has more than 20 students per session and any classroom teacher of grades four through six who has more than 25 students shall be paid additional compensation based on the affected classroom teacher's average daily salary divided by twenty for kindergarten teachers or twenty-five for teachers of grades four through six for every day the additional pupils are enrolled in the

teacher's classroom. All such additional compensation shall be paid from county funds exclusively. For each additional student, the teacher shall receive 1/20 or 1/25 (whichever is appropriate) for each student over the ratio up to 3/20 or 3/25 of the daily rate of pay.

The Preston County Board of Education shall utilize the following guidelines to implement the requirements of §18-5-18a:

- ❖ A teacher entitled to such pay shall begin receiving the pay on the first day that the enrollment exceeds the ratios established by the state code.
- ❖ Such extra pay shall be applied to personal leave days, holidays, and other non-instructional days.
- ❖ Teachers are not eligible for extra pay when class rosters fall within state guidelines but the teachers unilaterally combine students for team teaching or large group sessions that leads to an instructional session that exceeds the ratio limits.
- ❖ Art teachers, general music teachers, physical education and library-media specialists are also entitled to extra compensation when student enrollments exceed the state mandated maximums.
- ❖ Teachers will be paid extra compensation when special education students are included in the classroom and that inclusion causes the enrollment to exceed the mandated pupil-teacher ratios. The teacher's extra pay will be prorated on the basis of the number of class periods the pupil-teacher ratio exceeds the mandated level.
- ❖ Teachers will be compensated only for those classroom "sessions" that exceed the maximum pupil-teacher ratio which means that the extra compensation will be prorated according to the number of class session that exceed the limit. (Departmentalized situation)
- ❖ Moving the fifth and sixth grade classes from a self-contained configuration to a middle or junior high school configuration does not exempt those grades from the pupil-teacher ratio requirements of §18-5-18a.
- ❖ Teachers of a self-contained classroom will be compensated when the maximum pupil-teacher ratio is exceeded even if pullouts throughout the day keep the actual number of students at any one time in the classroom within the limits set by the state code.
- ❖ Student absences on any given day do not affect the compensation of the classroom teacher. Enrollment, not attendance is the determinant.
- ❖ Teachers will not be compensated while on an unpaid leave of absence.
- ❖ The legislature has not set and pupil-teacher ratio standards for grades 7-12.

Substitute teachers will not receive the extra compensation for working in a classroom that exceeds the pupil-teacher ratio for the first 30 days of such an assignment. However, they will receive the extra compensation beginning on the 31st day.

R 8-28-4 Service Personnel Salary Supplement for Training beyond a High School Diploma or a G.E.D.

Preston County Schools will add a supplement to the monthly pay scale of each service employee who earns college hours or comparable credit obtained in a trade or vocational school as approved by the State Board of Education. The supplement for additional training beyond a high school or a G.E.D. shall be awarded according to the language contained in §18A-4-8a of the WV Code. The supplement shall be granted to any service employee who obtains either or a combination of the following:

- ❖ College hours from an accredited institution of higher education, verified by an official transcript of course work completed. An accredited institution is a college or university accredited: (1) by the official accrediting agency of the state, in which the institution is located, and: (2) by one of the six regional accrediting agencies recognized by the national Commission on Accrediting (Middle States, New England, Northwest, North Central, Southern, and Western associations), the American Association of Bible Colleges, the Association of Independent Colleges and Schools or the Association of Theological Schools, to award degrees at a stipulated level (i. e., bachelor's degree, master's degree, and/or doctorate degree).
- ❖ Equivalent contact hours of training from an approved trade, vocational technical, business or similar institution approved by a state or national institutional or specialized accrediting agency or the Bureau of Apprenticeship and Training, U S Department of Labor. (Each fifteen contact hours or training obtained from an approved trade, vocational, technical, business or similar institution shall be equivalent to one semester hour of college credit.

Transcripts or grade reports should be sent to the county board of education office for verification of training and assignment of credit.

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R 8-28-5 Salary Increments for Central Office and School Level Administrators

The minimum salary increments for principals and assistant principals are established by the legislature. These salary increments are based on the number of teachers supervised by these individuals. Assistant principal increments are fifty percent of those granted to the principal. Salaries for administrative personnel who are employed beyond the minimum employment term shall be at the same daily rate as the salaries for the minimum employment period. Salary increments for central office administrators shall reflect their job responsibilities.

(WVC §18-5-18a, §18A-2-13, §18A-4-2, §18A-4-2a, §18A-4-3, §18A-4-4, §18A-4-5 and §18A-4-7, §18A-4-8a)

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R 8-28-6 Employees Separated from Payroll before Paydays

Whenever the Preston County Board of Education discharges an employee, it shall pay the employee's wages in full within 72 hours.

In the event an employee resigns, the Board shall pay the employee's wages no later than the next regular payday, either through the regular pay channels or by mail if requested by the employee, except that if the employee gives at least one pay period's notice of intention to quit the Board shall pay all wages earned by the employee at the time of quitting.

In the event an employee intends to resign his/her position at the conclusion of the school term, and such employee wishes to submit an early letter of resignations as a courtesy to the Board of Education, he/she shall be instructed to indicate the effective date of the resignation as June 30 of the current year. June 30 shall be recognized as the day of separation and all wages due the employee shall be dispersed as prescribed by law.

If the Board fails to pay an employee wages as required under WVC §21.5-4, it shall, in addition to the amount which was unpaid when due, be liable to the employee for three times that unpaid amount as liquidated damages. Every employee shall have such lien and all other rights and remedies for the protection and enforcement of such salary or wages, as s/he would have been entitled to had s/he rendered service therefore in the manner as last employed.

(WVC §21-5-4)

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R 8-28-7 Supplement for Classroom Teachers with National Board Certification

Preston County teachers who have completed requirements for certification by the National Board for Professional Teaching Standards (NBPTS) shall receive an annual bonus in accordance with the following provisions:

- ❖ Three thousand five hundred dollars shall be paid annually to each classroom teacher who holds a valid certificate issued by the National Board of Professional Teaching Standards for the life of the certification, but in no event more than 10 years for any one certification.
- ❖ The payments:
 - Shall be in addition to any amounts prescribed in the applicable state minimum salary schedule;
 - Shall be paid in equal monthly installments; and
 - Shall be considered a part of the state minimum salaries for teachers.

One-half the certification fee shall be paid for reimbursement once to each teacher who enrolls in the program for the National Board for Professional Teaching Standards certification and one-half the certification fee shall be paid for reimbursement once to each teacher who completes the National Board for Professional Teaching Standards certification. Completion shall be defined as the completion of 10

scorable entries, as verified by the National Board for Professional Teaching Standards. Teachers who achieve National Board for Professional Teaching Standards certification may be reimbursed a maximum of \$600.00 for expenses actually incurred while obtaining the National Board for Professional Teaching Standards certification.

The state board shall limit the number of teachers who receive the initial reimbursements of the certification fees to 200 annually. The state board shall establish selection criteria for the teachers to receive reimbursement.

Professional personnel may not be paid a salary supplement pursuant to the provisions of both WVC §18A-4-2a and §18A-4-2b. Employees are entitled to only one \$3,500 supplement regardless of the number of Board Certifications.
(WVC §18A-4-2a)

Preston County Schools will pay a one-time incentive supplement of \$2500 for teachers who complete and document their National Board Professional Teaching Certification.

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R 8-28-8 Supplement for Professional Personnel with Recognized National Certification in Their Field of Expertise

In addition to any amounts prescribed in the applicable state minimum salary schedule, effective the first day of July, 2008 any professional personnel who hold national certification or other credential as provided in WVC §18A-4-2b must be paid an annual salary supplement of \$2,500. The payment is:

- ❖ To be made in equal monthly installments;
- ❖ To be considered a part of the state minimum salaries for teachers; and
- ❖ To continue for the life of the certification, or for ten years for any one certification, whichever first expires.

Effective the first day of July, 2008, professional personnel employed as speech-language pathologists, audiologists, counselors, school psychologists or school nurses are eligible upon enrollment for reimbursement for one-half of the fee for certification in accordance with this section. In addition, these personnel are eligible upon attainment of the certification for reimbursement of the remainder of the application fee plus other expenses actually incurred toward attainment of the certification, not exceeding \$600.00, upon approval by the Department of Education. No more than a combined total of 115 persons from these groups will be eligible for reimbursement in any one fiscal year. The state board shall establish selection criteria for the teachers to receive reimbursement.

Payment of the supplement and reimbursement provided in WVC §18A-4-2b is subject to legislative appropriation; therefore nothing in the code requires any appropriation, or any specific level of appropriation, by the Legislature.

Professional personnel may not be paid a salary supplement pursuant to the provisions of both WVC §18A-4-2a and §18A-4-2b. Employees are entitled to only one \$2,500 supplement regardless of the number of Board Certifications.

(WVC §18A-4-2b)

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R 8-28-9 College Tuition Assistance for Instructional Personnel (Federal Funds)

Preston County Schools, based upon the availability of federal funds, may assist in the payment of college tuition for instructional personnel who qualify to receive benefits under federal guidelines. Reimbursement will not be granted for courses that are Pass/Fail or Satisfactory/Unsatisfactory. Reimbursement will only be issued for courses issuing a letter grade. Preston County may enter into agreements with institutions of higher learning to offer courses, at a reduced tuition.

In order to be eligible to receive tuition assistance, the course(s) shall:

- ❖ Increase the individual's subject matter knowledge; or
- ❖ Assist the individual's in becoming "highly qualified."

The Preston County Board of Education shall disburse tuition assistance funds to applicants for the following reasons only:

- ❖ The applicant has submitted an application to the state for tuition reimbursement as provided under W.Va. Code §18A-3.3a and has been approved as having all of the documentation required for reimbursement through the state tuition reimbursement funding system, but no state funds remain for reimbursement and the applicant has received an "Out of Funds" letter from the WVDE Office of Professional Preparation. This letter may be taken to the county Title I, Title II or RESA VIII Special Education programs Director/s for possible reimbursement.
- ❖ The applicant has submitted all required documentation to the state for coursework that had an official ending date during the month of June, but the application was not received by the annual June 15 fiscal year deadline. However, if the application was received before the end of the next fiscal year, then the applicant will receive a "Coursework Ending in June" letter from the WVDE Office of Professional Preparation. This letter may be taken to the county Title I, Title II or RESA VII Special Education programs for possible reimbursement.

The amount of funding available from funded Title I, Title II or RESA VII Special Education county programs for assistance for tuition shall be dependent upon the amount of available funding received by Preston County and RESA VII and may vary from year to year.

(WVC §18A-3-3a)

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Adopted: August 9, 2010
Amended/Revised:

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-29 Extracurricular Assignments</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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General Guidelines

Extracurricular assignments shall mean, but are not limited to, any activities that occur at times other than regularly scheduled working hours and occur on a regularly scheduled basis. Such activities include coaching, chaperoning, escorting, providing support services or caring for the needs of students. All service personnel assignments except those regular position assignments defined in §18A-4-8 and extra-duty assignments defined in §18A-4-8b shall be considered extracurricular assignments.

Extracurricular duties that occur at times other than regularly scheduled working hours and breakfast duties shall be compensated according to a schedule adopted by the Preston County Board of Education. Personnel performing these duties shall enter into a separate contract by mutual agreement of the employee and the superintendent subject to board approval prior to the beginning of such duties. All contracts for extracurricular assignments shall be governed by West Virginia Code §18A-4-16. It is also recognized that certain extracurricular activities may be scheduled within regularly scheduled working hours and will be considered professional obligations.

The employee's contract of employment shall not be conditioned upon the employee's acceptance or continuance of any extracurricular assignment proposed by the Superintendent, his/her designee or the Board.

All extracurricular assignment contracts are for one year duration only. As stated in West Virginia Code §18A-4-16 they have to be mutually agreed upon each year.

The employee and the Superintendent or his/her designee subject to Board approval, shall mutually agree upon the maximum number of hours of service to be performed in each school year for each extracurricular assignment. The terms and conditions of the agreement shall be in writing and signed by both parties.

A written statement from the principal of each school will be submitted to the Superintendent when the assignments are completed verifying that a coach, or other employee, has completed his/her assignment for the year and requesting payment for these services.

Generally, coaches whose teams are not competing in tournament games will not be permitted to be absent from their teaching assignment to attend any such games without use of personal leave time. However, the head coach of a sport may attend State tournaments without the use of personal leave provided they secure coverage for their classes without cost to the Board of Education. In all situations the principal must approve the absence.

Special Conditions for Service Personnel Assignments

All service personnel assignments except those regular position assignments defined in §18A-4-8 and extra-duty assignments defined in §18A-4-8b shall be considered extracurricular assignments.

Service personnel extracurricular assignments shall be made on the basis of seniority in a particular category of employment. The employee with the greatest seniority will be given priority in accepting extracurricular assignments followed by fellow employees on a rotating basis, according to their seniority, until all employees have had an opportunity to perform similar assignments. Alternative procedures approved by the Board and two thirds of the employees in the affected classification may be utilized to make extracurricular assignments.

Service personnel fulfilling an extracurricular assignment during the previous school year shall have the option of retaining the assignment if it continues to exist in succeeding years.
(WVC §18A-4-16)

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Adopted: May 23, 1994
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-30 Service Personnel Extra Duty Assignments	Last Reviewed: 8-9-10 Next Review: 7-1-12
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Extra-duty assignments are defined as irregular jobs that occur periodically or occasionally such as, but not limited to, field trips, athletic events, proms, banquets and band festival trips. The minimum hourly rate of pay for extra duty assignments shall be no less than one seventh of the employee’s daily total salary for each hour the employee is involved in performing the assignment and such payment shall be from local funds.

Service personnel extra duty assignments shall be made on the basis of seniority in a particular category of employment. The employee with the greatest seniority will be given priority in accepting extra duty assignments followed by fellow employees on a rotating basis, according to their seniority, until all employees have had an opportunity to perform similar assignments. Alternative procedures approved by the Board and two thirds of the employees in the affected classification may be utilized to make extracurricular assignments.
(WVC §18A-4-8a and §18A-4-8b)

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Adopted: August 9, 2010
Amended/Revised:

PRESTON COUNTY BOARD OF EDUCATION**FILE: 8 – PERSONNEL MANAGEMENT****File: 8-31 Service Personnel Time Schedules****Last Reviewed: 8-9-10****Next Review: 7-1-12**

The Preston County Board of Education has adopted the policy that the normal workday for all service personnel except bus operators shall be eight hours. Special attention shall be given to the following service personnel work schedule issues:

- ❖ Service personnel who work three and one-half hours or less per day shall be paid one-half the amount indicated in the state minimum pay scale. Those who work more than three and one-half hours per day shall be paid the full amount required by state minimum pay scale if the employee's supervisor pre-approved the work.
- ❖ Service employees whose daily shift is from 6:00 p.m. to 5:00 a.m. shall be paid at least an additional ten dollars (\$10) per month and one-half of that sum shall be paid with local funds.
- ❖ Custodians, aides, maintenance, office and school lunch employees required to work an interrupted work schedule shall be paid an additional amount equal to one-eighth of their salary as provided by their state minimum salary and any county supplement. Such additional salary shall be paid entirely from county funds.
- ❖ A service employee's schedule is considered to be interrupted if s/he does not work a continuous period in one day. Aides are not regarded as working an interrupted schedule when engaged exclusively in the duties of transporting students.
- ❖ Service employees required to work on a legal holiday shall be paid at the time and one-half rate.
- ❖ Service employees who work in excess of 40 hours in any week that contains a paid holiday shall be paid time and one-half for the additional time and such extra pay shall come from county funds.
- ❖ Regular service employees who agree to extend their work week by working on a Saturday or Sunday shall be paid for at least one-half day of work and if the employee works more than three and one-half hours, s/he shall be paid for a full day if the work was preapproved by the employee's supervisor.
- ❖ No service personnel may have his/her daily work schedule changed during the school year without the employee's written consent. Likewise, the employee's daily work hours may not be changed to avoid the payment of time and one-half wages or the employment of an additional employee.
- ❖ A daily lunch recess of not less than 30 consecutive minutes shall be included in the normal eight-hour workday for all service employees if employed more than one-half time.
- ❖ Service personnel who are requested by a supervisor to work beyond the 40-hour workweek may choose to perform the work for paid overtime and/or compensatory time.

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R 8-31-1 Custodians Schedules

Custodians are responsible to the building principal and shall receive their instructions from him/her. Appropriate Central Office staff may also provide supervision and guidance. Custodians shall cooperate with the principal and teachers at all times, and shall employ tact and courtesy in all relationships. The principal and custodian shall develop and follow a regular cleaning schedule. The principal and custodian shall also determine said custodian's duties and responsibilities and they shall form the basis for supervision and evaluation of the custodian's performance.

The term of employment for custodians is determined by the tasks to be performed and the size of the school. Employment terms may range from ten to twelve months per year.

Custodians are expected to be present to unlock and lock and generally supervise the care of the building at all extracurricular activities, whether they are school activities or outside group activities. They shall be compensated for time and work performed for outside groups.

Assignment of a custodian to work shifts in a school or work site is based on seniority within the custodian classification category. (See *File: 8-2 Employment of Professional and Service Personnel*).

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R 8-31-2 Service Personnel - Time Reporting

All service personnel of Preston County Schools shall report accurately time worked each 10 day work period. Time worked shall be recorded on the daily sign-in sheets provided for all service personnel at their work location.

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Adopted: August 9, 2010
Amended/Revised:

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-32 Workday for Bus Operators and Multi-Classified Bus Operators</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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Bus operators will be expected to devote the time necessary to perform their daily scheduled activities that include trips during the normal workday on a rotating basis. The Superintendent or his/her designee may assign extra trips. Bus operators must allow the extra time necessary to perform other duties relative to daily runs, inclement weather, preventative maintenance, and the regular cleaning of buses, etc.

The regular run shall include the trips which a bus operator makes on a daily basis along routes established for his/her employment in the A.M., mid-day, and P.M.

The A.M. trip(s) shall begin with the first on-loading of students at home or other designated bus parking facility and end with the final off-loading of students at school.

A one-half hour bus inspection/preparation period shall occur immediately prior to the A.M. trip(s) and shall be included as part of the workday.

In the event they become a necessary service for students, the mid-day trip(s) shall begin with the on-loading of students at one area of a school campus or other educational site and end after the final off-loading of students at another area of a school campus or at another educational site. The mid-day trip(s) shall be considered as part of either the A.M. or P.M. trip(s). The purpose of the mid-day trip(s) is to provide students transportation between the school campus and another educational site.

The P.M. trip(s) shall begin fifteen minutes prior to the first on-loading of students at school and end after the final off-loading of students at home or other designated bus parking facility.

A one-half hour bus cleanup period shall occur immediately following the P.M. trip(s) and shall be included as part of the workday.

The time required for bus operators to travel the bus from/to the designated parking area prior to and after the A.M. and P.M. trip(s) shall be included as part of the workday. The parking areas for buses shall be designated by the Director of Transportation. The bus garage shall be the designated parking area for the mid-day trip(s).

A one-half hour lunch period shall be included as part of the workday for bus operators who have a workday which exceeds three and one-half hours.

A 15 minute period for fueling the bus and for performing other miscellaneous job related activities (reports, etc.) shall be included as part of the workday.

The time periods between the A.M. and P.M. trip(s), or between the A.M. and mid-day trip(s), or between the mid-day and P.M. trip(s) shall not be considered part of the workday. However, bus operators are expected to be on call during these time periods for emergency conditions, early dismissals, or unexpected situations.

Workdays at the beginning and end of the school year on which bus operators are not required to report for work shall be considered in-lieu for the time required during the school year when bus operators bring buses to the bus garage for inspection and maintenance, for unexpected breakdowns, and for other irregular occurrences.

Bus operators shall be on call during workdays on which school has been called off because of inclement weather or other unexpected situations.

Multi-classified bus operators shall have an eight-hour workday. The workday shall include the time required for the performance of bus operator duties, the time required for the performance of other work duties, and a one-half hour lunch period.

The workday, once established for the school year, shall not be changed without the mutual agreement of the bus operator or the multi-classified bus operator and the Director of Transportation. However, reasonable extension or shortening of the regular run may be made by the Director of Transportation, if required to provide transportation for one or more students, or if required to improve the efficiency of the time-in-transit for one or more students. In addition, the workday may be adjusted for emergency conditions, early dismissal, or unexpected situations.

Bus operators and multi-classified bus operators who work in excess of a 40 hour week shall be compensated in accordance with Sections §18A-4-8b and §21-5C-3 of the West Virginia Code and with Federal Wage and Hour Laws.

Extra-curricular and extra duty trips shall be compensated in accordance with Sections §18A-4-16 and 18A-4-8 of the West Virginia Code and with Preston County Board of Education policy.

The Board may not establish the beginning work station for a bus operator or transportation aide at any site other than a county board-owned facility with available parking without the written consent of the service person. The workday of the bus operator or transportation aide commences at the bus at the designated beginning work station and ends when the employee is able to leave the bus at the designated beginning work station, unless s/he agrees otherwise in writing. The application for or acceptance of a posted position may not be construed as the written consent referred to above.

Because of the rural nature of Preston County, certain bus operators (who volunteer to do so) may be granted permission to take their buses home with them at the end of their assigned routes. In such instances, it is understood by both the Preston County Board of Education and the employee that the Board of Risk and Insurance Management liability coverage on the bus shall remain intact during the time it is parked at the employee's residence in the same manner it would be on Board property.
(WVC §18A-4-8 and §18A-4-8a)

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Adopted: August 9, 2010
Amended/Revised:

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-33 Guidelines for Overtime and Compensatory Time</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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Overtime pay for any eight-hour employee is permissible provided it is cleared through the Superintendent or his/her designee. Overtime must be paid at a rate of at least one and one-half times the employee’s regular rate of pay for each hour worked in a workweek in excess of 40 hours. Generally, the regular rate includes all payments made by the Board to or on behalf of the employee. Sick, personal, vacation, and outside school environment days are not counted as hours worked.

Under clearly defined and mutually agreed upon circumstances, employees may agree to accept compensatory time for hours worked beyond the standard workday or workweek.

R 8-33-1 Guidelines for Overtime Work and Overtime Pay

The purpose of these procedures is to ensure that the Preston County Board of Education complies with the overtime provisions of the Fair Labor Standards Act (FLSA), regulations of the U.S. Department of Labor, Wage and Hour Division, and all applicable state statutes and regulations related to the compensation of full-time and part-time employees.

General:

- ❖ All employees of the Board are expected to work a forty-hour workweek each week.
- ❖ Board employees may regularly and routinely be scheduled to work less than a 40-hour workweek; however, the Board retains the right to request an employee to perform additional duties up to 40 hours during a workweek without additional compensation.
- ❖ The length of the school day for licensed and professional staff will be a minimum of seven and one-half hours and will continue until professional responsibilities to students are completed. Administrative meetings, curriculum development, pupil supervision, assigned duties, parent conferences, group or individual planning and extra-curricular activities may require hours beyond the stated minimum.
- ❖ Work schedules for all non-professional employees will be defined by the Superintendent or, his/her designee and will be consistent with the Fair Labor Standards Act, West Virginia statutes, and provisions of this policy.
- ❖ Non-exempt employees are not permitted to volunteer to perform services for or on behalf of the school system if the volunteer duties involve the same types of duties that the employees normally perform as a part of their regular duties for the school district.

Workweek:

For purposes of the Fair Labor Standards Act, the workweek for all employees of the Board is defined as beginning at 12:00 a.m. Monday and ending at 11:59 p.m. Sunday.

Working hours for all non-exempt employees of the Board under the Fair Labor Standards Act, including paraprofessionals, aides, secretaries, bus operators, and cafeteria, janitorial and maintenance personnel, will conform to federal and state regulations. The classification of all employee positions of

the Board, as to whether they are exempt or non-exempt for the provision of the Fair Labor Standards Act, are shown at the end of these procedures.

Attendance Expectations:

All employees are expected to be present during their scheduled working hours. Absence without prior approval, chronic absences, habitual tardiness or abuses of designated working hours are all considered neglect of duty and will result in disciplinary actions, up to and including dismissal.

Non-exempt employees who have not been granted prior approval by appropriate authority to work overtime may not arrive at their workstations earlier than their scheduled starting time and must leave their workstations at their scheduled ending time. Failure to comply with this requirement may result in disciplinary actions, up to and including dismissal.

Time and Attendance Reports:

Every employee classified as service personnel is required to complete a time sheet for each week worked during the employee's employment term, reflecting the actual starting and ending times for each day worked and the total time worked. The employee and the employee's immediate supervisor will each sign the time sheet prior to its submittal in a timely manner to the payroll office.

Employees classified as professional personnel are not required to file weekly time sheets, but must indicate days present and absent on the payroll report and initial the report.

Overtime:

- ❖ The Board discourages overtime work by non-exempt employees unless absolutely necessary.
- ❖ A non-exempt employee shall not work overtime without the expressed written approval of his/her supervisor. The request must be submitted in writing using the appropriate form. In an emergency situation, verbal approval may be granted; however, a written request must be submitted within 24 hours following the verbal approval.
- ❖ Supervisory personnel must monitor overtime use on a weekly basis to ensure that all overtime worked is necessary. With the mutual agreement of the employee and the immediate supervisor, as required by the provisions of West Virginia Code §§18A-4-8a (8) and 18A-4-8(d), work schedules may be adjusted within a workweek to preclude the need for overtime. This is considered an adjusted workweek and would not be recorded as compensatory time, as long as the hours worked during the workweek do not exceed 40. Approval of overtime shall be granted as follows:
 - School secretaries/custodians/aides/cooks:
 - Up to five (5) hours per week, approved by the principal.
 - Over five (5) hours per week, approved by the Superintendent.
 - Transportation/maintenance supervisors/assistants/bus operators:
 - Approved by the Superintendent.

- Central office secretaries/coordinators:
 - Up to five (5) hours per week, approved by the immediate supervisor.
 - Over five (5) hours per week, approved by the Superintendent.
- ❖ In computing the 40-hour workweek for overtime purposes, only actual hours worked will be counted. Time taken off work on paid or unpaid leave, including personal, sick, or military leave, vacation, time off without pay, jury duty, or other absences from work, whether approved or unapproved, outside school environment days, and days canceled due to inclement weather (snow days) will not be counted as hours worked.
- ❖ Pursuant to the provisions of West Virginia Code §18A-4-8a(6), any service personnel who is required to work on any legal school holiday as described in West Virginia Code §18A-5-2, shall be paid at a rate of one and one-half times the employee's usual hourly rate.
- ❖ Pursuant to the provision of West Virginia Code §18A-4-8a (7), any full-time service personnel who is required to work in excess of his/her normal working day during any week which contains a school holiday shall be paid at a rate of one and one-half times the employee's usual hourly rate for the additional hours or fraction of additional hours worked.
- ❖ Pursuant to the provision of West Virginia Code §18-4-8(e), an employee whose regular work week is scheduled from Monday through Friday and agrees to perform any work assignments on a Saturday or Sunday is to be paid for at least one-half day of work for each day he or she reports for work, and if the employee works more than three and one-half hours on any Saturday or Sunday, the employee is to be paid for at least a full-day of work.

Note: In computing the overtime rate for a workweek in which this provision applies, only the actual hours worked on a Saturday or Sunday and the pay related to those hours will be included in the overtime computations. The pay for hours not actually worked will be paid at the employee's regular rate.

Computation of Overtime Pay:

- ❖ Overtime compensation will be paid for actual hours worked in excess of 40 during a given workweek.
- ❖ In computing the total number of overtime hours worked, time worked will be rounded to the nearest fifteen-minute increment. For example, one hour and 5 minutes will be rounded to one hour (1.0 hour) and one hour and 10 minutes will be rounded to 1 hour and 15 minutes (1 and ¼ hour).
- ❖ Overtime compensation will be paid at the rate of one and one-half times the employee's regular rate of pay for each hour worked in excess of 40 during a workweek. Generally, the regular rate will include all compensation earned by the employee during the workweek divided by the total number of hours worked.
- ❖ In situations where an employee performs two or more different duties during the workweek with differing regular compensation rates, such as his/her regular duty and an extra-curricular and/or extra-duty assignment, overtime compensation will be computed using one of the following methods:

- Weighted average method – This involves calculating the employee’s regular rate of pay for the workweek by taking the weighted average of all jobs performed during the workweek. To find the weighted average, determine the employee’s total earnings for the week and divide this total by the total number of hours worked on all jobs. Once the weighted average has been determined, overtime will be calculated at one and one-half times this average.
- Separate rates method – Pursuant to the provision of West Virginia Code §18-4-8(e), an employee whose regular work week is scheduled from Monday through Friday and agrees to perform any work assignments on a Saturday or Sunday is to be paid for at least one-half day of work for each day s/he reports for work, and if the employee works more than three and one-half hours on any Saturday or Sunday, the employee is to be paid for at least a full-day of work.

Violations:

Any exempt or non-exempt employee, who violates any provision of the Board’s overtime policy, or any regulations or procedures related thereto, may be subject to disciplinary actions, up to and including dismissal.

Exempted Employees:

Superintendent	Associate/Assistant Superintendent
Directors, Coordinators	Treasurer/CSBO
Administrative Assistant	Principals
Assistant Principals	Head Teacher
Teacher	Psychologist
School Nurse	Attendance Officer
Social Worker	Physical/Occupational Therapist
Audiologist	

Non-Exempt Employees:

Aide	Paraprofessional
Autism Mentor	Accountant/Auditor
Braille or Sign Language Specialist	Clerk
Secretary	Receptionist
Computer Technicians	Media Worker
Accounts Payable Supervisor	Payroll Supervisor
Audio Visual Technician	Maintenance Worker
School Bus Operator/Truck Driver	

(Fair Labor Standards Act; WVC §18A-4-8a)

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R 8-33-2 Compensatory Time

If it is agreeable with the employee, overtime work may be substituted for regular working hours during the normal workweek (compensatory time). However, compensatory time may only be granted in those instances when the employee's supervisor obtains prior approval from the Superintendent or his/her designee. Guidelines for granting and using compensatory time are as follows:

- ❖ Approved compensatory time shall be granted at the rate of one and one-half hours of compensatory time for each hour of overtime worked.
- ❖ A written agreement between the Board and employee exist prior to the performance of work and that agreement must be recorded in the employer's record of hours worked.
- ❖ Employees may accumulate a maximum of 40 hours of compensatory time at any particular time during the fiscal year.
- ❖ Employee shall schedule the use of compensatory time with the supervisor granting the compensatory time.
- ❖ Compensatory time may not be redeemed during the opening and closing two weeks of school.
- ❖ Compensatory time must be taken before an employee may use any personal leave, annual leave, or leave without pay.
- ❖ Employee shall schedule the use of compensatory time with the supervisor granting the compensatory time.
- ❖ Compensatory time may not be redeemed during the opening and closing two weeks of school.
- ❖ Compensatory time must be taken before an employee may use any personal leave, annual leave, or leave without pay.
- ❖ The Board reserves the right to refuse the use of compensatory time if such use would unduly disrupt the employee's job duties.
- ❖ Employees may be disciplined for failure to comply with the Board's compensatory time procedures.
- ❖ In all cases, compensatory time must be used prior to the end of the fiscal year (June 30). If an employee is unable to use all compensatory time earned during the allotted time due to the work requirements, s/he will receive compensation for the unused compensatory time at his/her current regular hourly rate of pay,
- ❖ At the termination of employment, unused compensatory hours will be paid at a rate of compensation not less than:
 - The average regular rate received by such employee during the last three years of service; or
 - The final regular rate received by such employee, whichever is higher.

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Adopted: August 9, 2010
Amended/Revised:

PRESTON COUNTY BOARD OF EDUCATION**FILE: 8 – PERSONNEL MANAGEMENT****File: 8-34 Professional Personnel Work Day****Last Reviewed: 8-9-10****Next Review: 7-1-12**

The Board of Education has established an eight (8) hour work day for professional instructional personnel. The specific starting and ending times in each school shall be determined by the principal and teachers at the beginning of each school term. It is recognized that many teachers exceed an eight (8) hour work day and nothing in this policy shall be construed to prevent this.

Every public school employee (professional and service) employed more than one-half time shall be provided a daily lunch break of not less than 30 consecutive minutes. No employee shall be assigned any responsibilities or duties during this recess.

Every teacher shall also be provided at least one planning period within each instructional day to be used to complete necessary preparation for the instruction of students. Such planning period shall be the length of the usual class period in the school to which the teacher is assigned, and shall not be less than 30 minutes. No teacher shall be assigned any responsibilities during this period. Substitute teachers who teaches two or more consecutive days in the same position shall, from the second day forward receive the same planning period as that received by the regular teachers s/he is replacing.

A teacher may exchange the right to a duty free lunch or planning period for compensation or benefit mutually agreed upon by the teacher and the building principal. The parties may not agree to terms that are different from those available to any other teacher within the individual school or which discriminate among teachers within the individual school. Likewise, service personnel may exchange their lunch recess for any compensation or benefit mutually agreed to by the employee and the Superintendent.

During the workday the professional staff shall be expected to be at their assigned work site unless prior approval has been obtained from the principal or their immediate supervisor. This is to ensure that the administration is knowledgeable of a person's whereabouts in case of need or emergency, and it protects the teacher against possible criticism.

Teachers may be assigned bus duty or supervision within the eight-hour day.
(WVC §18-5-15, §18A-4-14, 2510 and 5210)

R 8-34-1 Coaches' Teaching Load

Teachers who also serve as coaches and who receive extra pay for coaching shall be full-time teachers as defined by the State Department of Education. The State Department of Education has ruled that the coach in a West Virginia high school must carry the same regular teaching load as any teacher in the school. These may include regular class periods, study hall periods, or any other regular full-time period to which some other teacher may have to be assigned to carry on the regular and necessary work of the school. The ruling is based on the premise that the coach receives his/her extra pay for extra services. Athletic coaching cannot be counted as one of the required full-time periods.

Coaching shall be interpreted to mean instruction or direction of members of athletic teams, individually or as a group for the purpose of developing ability or skill to perform in athletic contests.

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Adopted: October 19, 1989
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-35 Prevention of Racial, Sexual, Religious, Ethnic Harassment and Violence against School Employees and Students</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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The purpose of this policy and the regulations that follow is to prevent racial, sexual, religious and ethnic harassment or violence, toward students and staff, to protect the academic environment, and to assure that our employees respond to harassment and/or violence incidents when they occur in a manner that effectively deters future incidents and affirms respect for individuals.

Racial, sexual, religious/ethnic harassment and violence is a form of discrimination which violates Sections 703 of title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000C, et. seq., Title IX of the Educational Amendments of 1972, 20 U.S.C. §1681, et. seq., WV Code §5-11-1, §18-2-5, §18-2-5a and §18-2-7b, et. seq., West Virginia Constitution, Art. XII, §2, SBP 2421, and the West Virginia Human Rights Act.

It shall be a violation of this policy for any student, volunteer, outside group, or third party using school facilities, or any employee of the Preston County School District to harass a student, any person, or an employee through conduct or communication of a racial, sexual or religious/ethnic nature.

Preston County School officials will investigate all complaints of harassment or violence and discipline any student or employee who harasses a student or employee of Preston County Schools.

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R 8-35-1 Procedures for implementing the Policy

Definitions:

- ❖ **Sexual Harassment:** Unwelcome sexual advances, request for sexual favors, sexually motivated physical conduct or communication of a sexual nature when:
 - Submission to that conduct or communication is made a term or condition, either explicitly or implicitly, of obtaining or retaining employment, or of obtaining an education; or
 - Submission to or rejection of that conduct or communication by an individual is used as a factor in decisions affecting that individual's employment or education; or
 - That conduct or communication has the purpose or effect of substantially or unreasonably interfering with an individual's employment or education, or creating an intimidating, hostile, or offensive employment or educational environment.
 - Sexual harassment may include but is not limited to:
 - Verbal harassment or abuse (i.e. graphic verbal commentary relating to an individual's body, sexual prowess or sexual deficiencies;
 - Unwelcome or inappropriate letters, telephone calls, e-mails, pictures, cartoons, computer images, or other materials of a sexual nature;

- Sexual teasing, jokes, remarks, or questions;
 - Commenting upon an individual's body or clothing in a sexually offensive manner;
 - Sexually suggestive looks or gestures;
 - Pressure, subtle or overt, for sexual activity;
 - Unwelcome or inappropriate patting, pinching, or contact;
 - Intentionally brushing against another's body;
 - Attempted or actual rape or sexual assault;
 - Requesting or demanding sexual favors accompanied by implied or overt threats concerning an individual's employment or education status;
 - Requesting or demanding sexual favors accompanied by implied or overt promises of preferential treatment with regard to an individual's employment or educational status; or
 - Any unwelcome sexually motivated touching.
- ❖ **Racial or Religious/Ethnic Harassment:** Racial and religious/ethnic harassment consists of physical, verbal or written conduct relating to an individual's race, religious background, or ethnic background when the conduct:
- Has the purpose or effect of creating an intimidating, hostile, or offensive working or academic environment (i.e. degrading words to describe an individual's race, age, sex, religion, ancestry or disability); ;
 - Has the purpose or effect of substantially or unreasonably interfering with an individual's work or academic performance; or
 - Otherwise adversely affects an individual's employment or academic opportunities.
- ❖ **Racial or Religious/Ethnic Violence:** Racial or religious/ethnic violence is a physical act of aggression or assault upon another because of race, or in a matter reasonably related to, race, religion, or ethnicity.
- ❖ **Assault is:**
- An act done with intent to cause fear in another of immediate bodily harm or death; or
 - The threat to do bodily harm to another by a person possessing the ability to carry out the threat.
- ❖ **Amorous Relationships:** Amorous relationships between staff members and non-adult students of the educational agencies served by Preston County Schools are prohibited. Staff members found to have violated this prohibition shall be subject to the disciplinary actions outlined in these procedures.

Reporting Procedures:

Any person who believes s/he has been victim of harassment or violence by a student or an employee of Preston County Schools, or any third person with knowledge or belief of conduct which may constitute harassment, should report the alleged acts immediately to an appropriate official as designated

by these procedures. Preston County Schools encourages the reporting party or complainant to use the report form available from the Human Rights Officer.

❖ In Each School Building

The building principal is the person responsible for receiving oral or written reports of sexual harassment at the building level. Upon receipt of a report, the principal must notify the Board's Human Rights Officer immediately without screening or investigating the report. A written report will be forwarded simultaneously to the Human Rights Officer. If the report was given to the building principal verbally, s/he shall reduce it to written form before the close of the next working day and forward it to the Human Rights Officer. Failure to forward any sexual harassment report or complaint as provided herein will result in disciplinary action. If the complaint involves the building principal, the complaint shall be made directly to the Human Rights Officer.

For school buildings/facilities that do not have a building principal, the Director of such building or facility will be the person responsible for receiving oral or written reports of sexual harassment. All other provisions of the paragraph above apply to such situations, except that the term "Director" shall be substituted for the term "building principal".

❖ District-Wide

The Board designates its Title IX Coordinator as the Human Rights Officer to receive reports or complaints of sexual harassment from any individual, employee or victim of sexual harassment and also from the building principals as outlined above. If the complaint involves the Human Rights Officer, the complaint or report shall be filed directly with the Superintendent, who shall then be responsible for the investigation and recommendation described in these procedures. The name of the Human Rights Officer, including mailing address and telephone number, shall be conspicuously posted in the office of each school building and in other buildings to which employees of the Board are assigned to work.

❖ Submission of a Complaint or Report

Submitting a complaint or report concerning sexual harassment will not affect the future employment, grades, or work assignments of the person who submits the complaint or report. The use of formal reporting forms is not mandatory. Preston County Schools will respect the confidentiality of the complainant and the individuals against whom the complaint is filed as much as possible, consistent with the agency's legal obligations and the necessity to investigate allegations of harassment and violence and take disciplinary action when the conduct has occurred.

Investigation and Recommendations:

By authority of the Board, the Human Rights Officer, upon receiving a written report or complaint alleging racial, sexual, religious/ethnic harassment or violence will immediately authorize an investigation. Upon receipt of a complaint alleging racial, sexual, religious, ethnic harassment or violence; the Human Rights Officer will inform the affected parties of the investigative procedures that will occur. The investigation may be conducted by officials of the school district or by third parties designated by the Superintendent of Schools. In the event the alleged complaint involves a school employee, the Human Rights Officer will inform such employee that a third party investigative official

will be authorized to investigate and report. Additionally, the rights of such employee will be fully explained by the Human Rights Officer. The investigating party will provide a written report of the status of the investigation within 10 working days to the Superintendent and the Human Rights Officer. If the Superintendent is the subject of the complaint, the report will be submitted to the Human Rights Officer and the President of the Board.

In determining whether alleged conduct constitutes harassment or violence, consideration will be given to the surrounding circumstances, the nature of the racial, sexual, religious/ethnic advances, relationships between the parties involved, and the context in which the alleged incidents occurred.

The investigation must at a minimum consist of personal interviews with the complainants, the individuals against whom the complaints are filed, and others who may have knowledge of the alleged incidents or circumstances generating the complaints. Signed statements shall be obtained from witnesses or other persons having pertinent information about the incident. The investigation may also consist of any other methods and documents deemed pertinent by the investigators.

In addition, school officials may, in their discretion, take immediate steps to protect the complainant, students, and employees pending completion of an investigation of alleged harassment and violence.

Upon completion of the investigation, the Board's Human Rights Officer will issue a report to the Superintendent. The report will include a recommendation concerning the validity of the complaint. If the Superintendent is the subject of the complaint, the report will be made to the President of the Board.

❖ Action

Upon receipt of a recommendation that the complaint is valid, officials of the Preston County Schools will take such action as appropriate based on the results of the investigation. The results of the investigation of each complaint filed under these procedures will be reported in writing to the complainant or his/her legal guardian by the Superintendent of Schools or, if the Superintendent is the subject of the complaint, by the President of the Board. The report will document any disciplinary action taken as a result of the complaint.

The Superintendent (or the President of the Board if the Superintendent is the subject of the complaint) shall immediately file a report with the West Virginia Department of Education when an investigation shows that harassment or violence did occur and all actions taken in response to the incident.

❖ Reprisal

The Preston County Board of Education will discipline any individual who retaliates against any person who reports alleged harassment or violence or who retaliates against any person who testifies, assists, or participates in an investigation proceeding or hearing relating to a harassment or violence complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

❖ Non-Harassment

The Board recognizes that not every advance or comment of a racial, sexual, or religious/ethnic nature constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory employment effect requires a determination based on all the facts and surrounding circumstances. False accusations of harassment can have a serious detrimental effect on innocent parties and students and employees who falsely report religious/ethnic, racial, or sexual harassment shall also face appropriate disciplinary actions.

The confidentiality of complainants, subjects, witnesses, and investigators will be vigorously protected and only persons essential to the investigation will be given information about it.

Right to Alternative Complaint Procedures:

These procedures do not deny the right of any individual to pursue other avenues of recourse that may include filing charges with the West Virginia Human Rights Commission, filing an employee grievance under WV Code §6C-2-1, et. seq., filing a citizen's appeal under West Virginia Board of Education Policy 7211, filing a Title IX grievance under the appropriate procedures, initiating civil action, or seeking redress under state criminal statutes and/or federal law.

Disciplinary Actions

Disciplinary action taken pursuant to these procedures for students may include, but are not limited to, warning, suspension or expulsion depending upon the severity of the offenses.

Disciplinary actions for employees may include, but are not limited to warning, suspension, immediate discharge and revocation of licensure.

Special note: If an investigation reveals that an employee or student making the complaint has falsely (and in bad faith or out of malice) accused another employee or student of harassment as defined in this policy, the complaining individual shall be subject to discipline, including but not limited to oral or written reprimand, suspension, termination of employment, and/or discipline under the Student Code of Conduct.

Parents and/or other members of the public who falsely (and in bad faith or out of malice) accuse an employee or student of harassment as defined in this policy, are advised that they may be subject to civil action in the court system and may be referred to the appropriate law enforcement agency for possible criminal action.

Dissemination of Regulations:

These regulations or a summary of them shall be posted in each of the agency facilities in areas accessible to students and staff members.

- ❖ A complete copy of these regulations can be found in the Preston County Schools Policy Manual.

- ❖ Preston County Schools will develop and implement training for students and staff on these regulations and on means of effectively promoting them.
- ❖ Prevention programs that develop training and awareness of racial, sexual, religious/ethnic harassment and violence will be presented annually through the Preston County Schools Staff Development Program.

Prevention Programs:

For each programmatic level, K-5, 6-8, 9-12, adult students, faculty and staff, the Superintendent or his/her designee shall develop prevention programs that, at a minimum, raise awareness of the different types of discrimination, how it maintains itself, its devastating emotional and educational consequences and its legal consequences.

In addition, the Superintendent or his/her designee shall develop and implement multi-cultural education programs for faculty, staff and students that foster an attitude of understanding and acceptance of individuals from a variety of cultural, ethnic, racial and religious backgrounds and national origins.

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R 8-35-2 Reporting Suspected Child Abuse and Neglect

The purpose of these procedures is to protect the best interests of any child who may be subjected to abuse or neglect in the home, the school, or any other environment. West Virginia's abuse and neglect laws are very specific about the duties and responsibilities of all school personnel regarding the reporting of suspected incidents of abuse or neglect. The following is a summary of these laws and regulations as they relate to school personnel:

- ❖ School personnel who have reason to suspect a child is suffering from abuse or neglect shall immediately report the circumstances to their immediate supervisor or principal.
- ❖ The supervisor or principal shall immediately and not more than 48 hours after suspecting this abuse, report or cause a report to be made to the Department of Health and Human Services.
- ❖ Reports of child abuse or neglect pursuant to the law shall be made immediately by telephone to the local Department of Health and Human Services and shall be followed by a written report within 48 hours if so requested by the agency.
- ❖ Personnel, who in good faith, submits a report of suspected abuse or neglect shall be immune from any civil or criminal liability that might otherwise arise from their actions.
- ❖ Prior to January 1, 2006, The Department of Health and Human Resources shall develop and implement a procedure to notify any person mandated to report suspected child abuse and neglect under the provisions of §49-6A-2a of whether an investigation into the reported suspected abuse or neglect has been initiated and when the investigation is completed.

- ❖ Any person required by law to report abuse or neglect and who knowingly fails to do so shall be guilty of a misdemeanor and upon conviction shall be confined in jail for not more than 10 days or fined not more than \$100 or both.
- ❖ Nothing in the law prevents individuals from reporting abuse and neglect on their own behalf if circumstances dictate such an action.
(WVC §49-6A-1; §49-6A-2; §49-6A-5; §49-6A-6; §49-6A-8)

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Adopted: August 9, 1995
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>FILE: 8 – PERSONNEL MANAGEMENT</p> <p>File: 8-36 Prevention of Sexual Abuse and/or Molestation of Students</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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The purpose of this policy and the regulations that follow is to prevent sexual abuse and/or molestation of students, to protect the school environment and to assure that our employees respond to such acts, should they occur, in a manner that effectively deters future incidents. Employee response to such incidents shall be an affirmation of the Board of Education’s zero tolerance policy regarding this type of behavior.

Sexual violence (sexual abuse or molestation) in our society has become such an issue that the West Virginia Board of Risk and Insurance Management (BRIM) can no longer find an insurance carrier who is willing to provide excess coverage for employees beyond the one million dollars provided by the state. As of July 1, 2005, school employees may only rely on the one million dollars of coverage for acts involving sexual violence. BRIM will continue to provide five million dollars of excess liability coverage for other types of allegations lodged against school employees.

Sexual violence is a form of discrimination which violates Section 703 of title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000C, et.seq.; Title IX of the Educational Amends of 1972, 20 U.S.C. §1681, et. seq; WV Code §5-11-1, §18—2-5, §18-2-5a and §18-2-7b, et. Seq.; West Virginia Constitution, Art. XII, §2; SBP 2421 and the West Virginia Human Rights Act.

It has always been the responsibility of school employees to protect students from such abhorrent acts, and with the adoption of this policy the Board is strongly reaffirming its commitment to this responsibility. Employees who violate this policy shall be granted full procedural due process, but in the event the allegations are substantiated they shall be summarily suspended and/or terminated. In addition, criminal charges shall be pursued.

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R 8-36-1 Procedures for Implementing the Policy

Definitions:

- ❖ **Sexual Violence (Sexual Abuse or Molestation):** Sexual violence is a physical act of aggression or force or the threat of such action that involves the touching of another’s intimate parts, or forcing a person to touch any person’s intimate parts. Intimate parts include the primary genital area, groin, inner thigh, buttocks or breast as well as the clothing covering these areas. Sexual violence may include but is not limited to:
 - Touching, patting, grabbing or pinching another person’s intimate parts, whether that person is of the same sex or the opposite sex;
 - Coercing, forcing or attempting to coerce or force the touching of anyone’s intimate parts;

- Coercing, forcing or attempting to coerce or force sexual intercourse or a sexual act on another;
 - Threatening to force or coerce sexual acts, including the touching of intimate parts or intercourse on another; or
 - Threatening or forcing exposure of intimate apparel or body parts by removal of clothing.
- ❖ **Sexual Harassment as Abuse:** Under certain circumstances, sexual harassment may constitute child and/or sexual abuse under Chapter 49 of the West Virginia Code. In such situations, the school district will comply with the provisions of law for reporting such abuse.
- Legislation in 2005 expanded the crime of sexual exploitation to include acts by a “person in a position of trust to a child.” A person in a position of trust to a child is defined as any person who is acting in the place of a parent and is charged with any of the parent’s rights, duties or responsibilities concerning a child or someone responsible for the general supervision of a child’s welfare, or any person who by virtue of their occupation or position is charged with any duty or responsibility for the health, education, welfare, or supervision of the child. This definition clearly applies to school personnel.
 - A person in a position of trust to a child is now treated the same as a child’s parent, guardian, or custodian for purposes of the felony criminal penalties for abuse of a child and for allowing sexual abuse to be inflicted upon a child. However, these provisions do not apply to a person in a position of trust if that person’s age exceeds the child’s age by less than four years.
(WVC §61-8D-1; §61-8D-5)

Reporting Procedures:

Any person who believes s/he has been a victim of sexual violence (sexual abuse or molestation) by an employee of Preston County Schools, or any third person with knowledge or belief of conduct which may constitute such acts, should report the alleged acts immediately to an appropriate official as designated by these procedures. Preston County School authorities encourage the reporting party or complainant to use the report form available from the Human Rights Officer.

❖ **In Each School Building**

The building principal is the person responsible for receiving oral or written reports of sexual violence at the building level. Upon receipt of a report, the principal must notify the Board's Human Rights Officer immediately without screening or investigating the report. A written report will be forwarded simultaneously to the Human Rights Officer. If the report was given to the building principal verbally, s/he shall reduce it to written form before the close of the next working day and forward it to the Human Rights Officer. Failure to forward any sexual violence act or complaint as provided herein will result in disciplinary action. If the complaint involves the building principal, the complaint shall be made directly to the Human Rights Officer.

For school buildings/facilities that do not have a building principal, the Director of such building or facility will be the person responsible for receiving oral or written reports of sexual violence. All other provisions of the paragraph above apply to such situations, except that the term "Director" shall be substituted for the term "building principal".

❖ District-Wide

The Board designates its Title IX Coordinator as the Human Rights Officer to receive reports or complaints of sexual violence from any individual, employee or victim of sexual violence and also from the building principals as outlined above. If the complaint involves the Human Rights Officer, the complaint or report shall be filed directly with the Superintendent, who shall then be responsible for the investigation and recommendation described in these procedures. The name of the Human Rights Officer, including mailing address and telephone number, shall be conspicuously posted in the office of each school building and in other buildings to which employees of the Board are assigned to work.

❖ Submission of a Complaint or Report

Submitting a complaint or report concerning sexual violence will not affect the future employment, grades, or work assignments of the person who submits the complaint or report. The use of formal reporting forms is not mandatory. Preston County Schools will respect the confidentiality of the complainant and the individuals against whom the complaint is filed as much as possible, consistent with the agency's legal obligations and the necessity to investigate allegations of sexual violence and take disciplinary action when the conduct has occurred.

Investigation and Recommendations:

By authority of the Board, the Human Rights Officer, upon receiving a report or complaint alleging racial, sexual, religious/ethnic harassment or violence will immediately authorize an investigation. Upon receipt of a complaint alleging racial, sexual, religious, ethnic harassment or violence; the Human Rights Officer will inform the affected parties of the investigative procedures that will occur. The investigation may be conducted by officials of the school district or by third parties designated by the Superintendent of Schools. In the event the alleged complaint involves a school employee, the Human Rights Officer will inform such employee that a third party investigative official will be authorized to investigate and report. Additionally, the rights of such employee will be fully explained by the Human Rights Officer. The investigating party will provide a written report of the status of the investigation within 10 working days to the Superintendent and the Human Rights Officer. If the Superintendent is the subject of the complaint, the report will be submitted to the Human Rights Officer and the President of the Board.

In determining whether alleged conduct constitutes sexual violence, consideration will be given to the surrounding circumstances, the nature of the act, relationships between the parties involved, and the context in which the alleged incidents occurred.

The investigation must at a minimum consist of personal interviews with the complainants, the individuals against whom the complaints are filed, and others who may have knowledge of the alleged incidents or circumstances generating the complaints. The investigation may also consist of any other methods and documents deemed pertinent by the investigators.

In addition, school officials may, in their discretion, take immediate steps to protect the complainant, students, and employees pending completion of an investigation of alleged sexual violence.

Upon completion of the investigation, the Board's Human Rights Officer will issue a report to the Superintendent. The report will include a recommendation concerning the validity of the complaint. If the Superintendent is the subject of the complaint, the report will be made to the President of the Board.

❖ Action

Upon receipt of a recommendation that the complaint is valid, officials of the Preston County Schools will take such action as appropriate based on the results of the investigation. The results of the investigation of each complaint filed under these procedures will be reported in writing to the complainant by the Superintendent of Schools or, if the Superintendent is the subject of the complaint, by the President of the Board. The report will document any disciplinary action taken as a result of the complaint.

The Superintendent shall immediately file a report with the West Virginia Department of Education when an investigation shows that harassment or violence did occur and all actions taken in response to the incident.

❖ Reprisal

The Preston County Board of Education will discipline any individual who retaliates against any person who reports alleged harassment or violence or who retaliates against any person who testifies, assists, or participates in an investigation proceeding or hearing relating to a harassment or violence complaint. Retaliation includes, but is not limited to, any form of intimidation, reprisal or harassment.

❖ Non-Harassment

The Board recognizes that not every advance or comment of a racial, sexual, or religious/ethnic nature constitutes harassment. Whether a particular action or incident is a personal, social relationship without a discriminatory employment affect requires a determination based on all the facts and surrounding circumstances. False accusations of harassment can have a serious detrimental effect on innocent parties and students and employees who falsely report religious/ethnic, racial, or sexual harassment shall also face appropriate disciplinary actions.

The confidentiality of complainants, subjects, witnesses, and investigators will be vigorously protected and only persons essential to the investigation will be given information about it.

Right to Alternative Complaint Procedures:

These procedures do not deny the right of any individual to pursue other avenues of recourse that may include filing charges with the West Virginia Human Rights Commission, filing an employee grievance under WV Code §6C-2-1, et. seq., filing a citizen's appeal under West Virginia Board of Education Policy 7211, filing a Title IX grievance under the appropriate procedures, initiating civil action, or seeking redress under state criminal statutes and/or federal law.

Disciplinary Actions:

Employees who violate this policy shall be granted full procedural due process, but in the event the allegations are substantiated the offending employee shall be summarily suspended and/or terminated. In addition, criminal charges will be pursued.

Dissemination of Regulations:

These regulations or a summary of them shall be posed in each of the agency facilities in areas accessible to students and staff members. A complete copy of these regulations can be found in the Preston County Schools Policy Manual.

Prevention Programs:

For each programmatic level, K-5, 6-8, 9-12, adult students, faculty and staff, the Superintendent or his/her designee shall develop prevention programs that, at a minimum, raise awareness of sexual violence, how it maintains itself, its devastating emotional and educational consequences and its legal consequences.

- ❖ Preston County Schools will develop and implement training for all employees and volunteers on these regulations and on means of effectively promoting them.
- ❖ Prevention programs that develop training and awareness of sexual violence will be presented annually through the Preston County Schools Staff Development Program.

The prevention program may be combined with other training programs related to cultural, ethnic, racial and religious discrimination.

R 8-36-2 Supervision of Students

To minimize the opportunity for unacceptable behavior to occur, the Preston County Board of Education requires that at least two adult supervisors shall be present at all times during school sponsored activities. At least one of the supervisors shall be a school employee who has been approved by the Board to act in the capacity of a supervisor.

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Adopted: August 9, 2010
Amended/Revised:

PRESTON COUNTY BOARD OF EDUCATION**FILE: 8 – PERSONNEL MANAGEMENT****File: 8-37 Substance Abuse and Tobacco Control****Last Reviewed: 8-9-10****Next Review: 7-1-12**

The Preston County Board of Education concurs with the State Board of Education that it has a responsibility to foster a program that addresses the health and safety of all students.

The purpose of this policy is to provide preventive and protective measures for addressing substance abuse and prohibiting the use or distribution of alcohol, tobacco and other drugs within school settings and activities. This policy is intended to promulgate a positive, pro-active approach to the control of alcohol, tobacco and other drugs. A companion policy for students may be found in *File: 11-18 Substance Abuse and Tobacco Control*.

The regulations set forth in this policy apply to any person present in or upon any property owned, leased or operated by the Preston County Board of Education. All regulations apply to any person present at any education-sponsored event; to any person present on a school bus or other vehicle used for a school related event or other school/county; to any person present at any school-sponsored activity or event, whether the activity or event is held on school grounds, in a building or other property used or operated by the Preston County Board of Education or in any other facility or upon any other property being used by the school system. General guidelines for employees, students, and the public at large include the following:

- ❖ No person shall at any time possess, distribute or use any alcohol product or illegal substance in any area defined above;
- ❖ No person shall, at any time, possess drug paraphernalia as defined in W. Va. Code §47-19-3, in any area defined above. In addition, students shall not, at any time, possess tobacco paraphernalia in these areas;
- ❖ No person shall at any time distribute or use any tobacco product in any area defined above. In addition, students shall not possess at any time any tobacco product in these areas or at any school or county sponsored event or school-related event;
- ❖ Individuals supervising students off school grounds are prohibited from distributing or using alcohol, tobacco products or illegal substances in the presence of students and/or at any time while engaged in activities directly involving students;
- ❖ No school or board of education property, as defined above. or school, or county publication may be used for the advertisement of any tobacco or alcohol product;
- ❖ Groups using areas described above shall sign agreements with the Board of Education agreeing to comply with this policy and to inform students, parents and spectators by public address systems that this policy remains in force on evenings, weekends and any other time that school is not in session. A summary of this policy shall be attached to all requests for use of school facilities;
- ❖ Students who behave in a manner that does not promote a nurturing, orderly and safe environment conducive to learning or who violate the terms of this policy will be subject to the disciplinary actions as outlined in *SBP 4373 - Student Code of Conduct*;
- ❖ This policy does not supersede any rights granted to special education students by federal or state law or other West Virginia Board of Education policies.

The Preston County Board of Education will permit the use of prescription medications if a licensed physician prescribes such in writing to a student attending school. The parents of such student must make the necessary arrangements with the building administrator as per Preston County *File: 11-32 Accidents, Emergencies and Medications*. Only school personnel designated in the aforementioned policy shall be authorized to administer non-prescription medication (aspirin, cough syrup, etc.).

(WVC §16-9A-4, 16-9A-9, 18-2-5, 18-2-5a, 18-2-7b, 18-2-9, 18-5-13, 18A-1-1, 18A-5-1, 18A-5-1a, and 61-7-2; and SBP 2422.5)

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R 8-37-1 Definitions:

- ❖ **"Alcohol"** means any substance containing an intoxicating element;
- ❖ **"ATOD"** means Alcohol, Tobacco and Other Drugs. ATOD is used to refer to the use of all substances including, but not limited to, alcohol, tobacco, inhalants, marijuana, cocaine, LSD, PCP, amphetamines, heroin, steroids, pyrovalerone, look-alikes and/or any other of those substances commonly referred to as designer drugs;
- ❖ **"Distribution"** means the sale, giving, transfer, delivery, trade or exchange in any manner of any ATOD;
- ❖ **"Drug"** means any substance that acts on the central nervous system to alter behavior(s) and/or thought processes;
- ❖ **"Illegal substance"** means any drug which is not legally obtained and/or any drug being used by a person other than the person for whom it was prescribed and/or for a purpose contrary to which the drug was intended for medical therapy and/or against the recommendation(s) of the manufacturer;
- ❖ **"Paraphernalia"** means drug paraphernalia as defined by W. Va. Code §47-19-3 and any item, thing or device used for the facilitation or administration of tobacco products or other illegal substances;
- ❖ **"Possession"** means the presence of ATOD or paraphernalia, in any amount, on the person or body, or under the general direction or control, of an individual found in or upon the premises described in the policy. Possession shall include, but is not limited to, presence of ATOD or paraphernalia in a school locker or backpack or in or on any other item owned or under the general direction or control of any individual found in or upon the premises described in the policy;
- ❖ **"Public"** means any individual accessing school property or programs for business, activities, conferences, visitation or other activities as defined in the policy;
- ❖ **"School"** means any building, ground(s) or other property including automobiles or other vehicles owned or operated by the Board;
- ❖ **"School staff"** means those individuals employed full time, part time or on contract with the Board;
- ❖ **"Student"** means anyone who is enrolled in a Preston County school or enrolled in an educational program on board of education property;

- ❖ **"Tobacco product"** means any items containing the leaves of cultivated tobacco plants, in any form or amount, dried and processed. Products include, but are not limited to cigarettes, cigars, snuff, spit tobacco, smokeless tobacco or pipe tobacco;
- ❖ **"Use"** means ingestion, injection, absorption or inhalation of an illegal substance or being under the influence of said substance.

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R 8-37-2 Maintaining a Safe and Healthy ATOD Free Environment

Responsibilities of Administrators:

School administrators have the following responsibilities in the implementation of these regulations:

- ❖ Implement provisions of these regulations, specifically education, communication and enforcement provisions;
- ❖ Develop clear procedures for identification, intervention and referral of students with tobacco-related problems; and
- ❖ Maintain an environment for students, staff and visitors that present no physical harm, discomfort or unsanitary condition resulting from tobacco product use.

Communication of Regulations to Constituents:

These regulations shall be communicated to students through student handbooks, other school publications, announcements, student groups, classroom discussions, bulletin boards, etc. They shall be communicated to employees through staff development, announcements, bulletin boards, employee handbooks, and other school publications. They shall be communicated to parents or families, visitors, and the community at large through school newsletters, signs, announcements at school events, sharing a summary of the policy and regulations with persons or groups utilizing school facilities, and through student/parent handbooks.

Prevention Education:

Age appropriate instructional goals and objectives are included in Health Education for every grade level, K-12, with regard to tobacco, alcohol, and drug use, as listed in WV State Board of Education Policy 2520, Health Education. Objectives contained in this policy address knowledge, skills, and behaviors that relate to preventing the use of tobacco and tobacco products. Teachers in all disciplines shall be encouraged and directed to include discussion of the social and physical risks associated with the ATOD abuse as appropriate in classroom presentations. All Safe and Drug-Free Schools program guidelines will be followed.

As appropriate, the principal and staff at each school shall draw upon resources such as the curriculum team, faculty senate, Local School Improvement Council, the developmental guidance program, advisor-advisee programs, peer tutoring, and after school programs as a means to foster an ATOD free school environment.

Cessation Support Program:

Any student or employee who desires it will be provided an opportunity to participate in a voluntary cessation education and support program which addresses the physical, psychological and social issues associated with nicotine addiction. S/he will be provided ongoing support and reinforcement necessary for desired behavioral change.

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R 8-37-3 Enforcement Provisions for Staff and Public

Drugs and Alcohol

Employees who are in violation of the provisions of the Drug-Free Workplace Act and the provisions of Preston County Board of Education ATOD policies shall be subject to disciplinary action up to and including dismissal and/or may be required to satisfactorily participate in a drug rehabilitation or assistance program. Rehabilitation will be provided according to the guidelines of the Public Employees Insurance Agency.

Disciplinary actions shall be in accordance with the disciplinary procedures outlined in *File: 8-24 Employee Suspension and Dismissal*. When an offense is of a magnitude to warrant it, an employee may be suspended without pay or may be dismissed from employment. Suspension may be effective immediately, and a recommendation for dismissal may ensue. In all cases, action shall be taken within ten workdays of knowledge of the offense.

Tobacco

Employees who deliberately violate tobacco regulations are subject to disciplinary action up to and including dismissal.

- ❖ A first offense shall result in a one-day suspension from duty without pay. A conference will be held with the immediate supervisor in which the offending employee will be advised of the remedial programs available to treat this problem. Further, the offending employee will be advised of the consequences of subsequent offenses.
- ❖ A second offense shall result in a 10 day suspension from duty without pay. The employee will once again be advised of remedial programs available to assist him/her in correcting the problem and will be encouraged to take advantage of treatment available.
- ❖ A third offense shall result in a recommendation by the Superintendent to the Board for termination of the employee for willful insubordination.
- ❖ Charges will be filed with Magistrate's Court under §16-9A-4.

Any employee who desires it will be provided an opportunity to participate in a voluntary cessation education and support program which addresses the physical, psychological and social issues associated with nicotine addiction. S/he will be provided ongoing support and reinforcement necessary for desired behavioral change.

Individuals or groups using any facility, grounds, or property of the Preston County Board of Education shall sign statements with the Board of Education agreeing to comply with these regulations and to inform students, parents, and spectators that they remain in force on evenings, weekends, and other times even when school is not in session. Individuals or groups who violate the provisions of *File: 8-37 Substance Abuse and Tobacco Control* shall be requested to stop use or leave the premises. In some cases, they may be denied further access to school activities. Law enforcement officials will be notified, as appropriate.

R 8-37-4 Policy Review

File: 8-37 Substance Abuse and Tobacco Control shall be reviewed every two years, and appropriate modifications will be made as required by the State Board of Education. A copy of the county regulations will be submitted to the office of Student Services and Assessment in the West Virginia Department of Education for approval.

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Adopted: September 19, 1999
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION</p> <p>Personnel Management</p> <p>File: 8-38 Drug-Free Workplace</p>	<p>Last Reviewed: 8-9-10</p> <p>Next Review: 7-1-12</p>
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The West Virginia Board of Education has taken the proactive step of enacting *SBP 1461 – Drug-Free Workplace* as a means of assuring a safe, healthy and drug-free work environment for the employees and students at all school sites in West Virginia.

This policy applies to all employees of the Preston County Schools. In addition, those employees who operate a commercial motor vehicle (i.e., bus, truck, etc.) will also be subject to the provisions of *File: R 8-8-1 Transportation Employees’ Alcohol and Controlled Substance Testing*

The authority for this policy is derived from: The Drug- Free Workplace Act 1988 (P.L. 100-690). West Virginia Code 18-2-5 and Section 5145 of the Drug-Free Schools and Communities Act (P.L. 101-226).

Definitions:

- ❖ Drug-Free Workplace - a work site where work is performed in connection with the employee's contract with the Preston County Board of Education. This workplace shall include facilities, property, buildings, offices, structures, automobiles, trucks, trailers, other vehicles, and parking areas, whether owned or leased by the Preston County Board of Education.
- ❖ Employee - any person who works full-time, part-time, or under contract, including management or temporary staff who is directly engaged in the performance of work pursuant to the mission of the Preston County Board of Education.
- ❖ Controlled Substance - any substance that is designated as a controlled substance under state or federal laws.
- ❖ Conviction - a finding of guilt (including a plea of nolo contendere) or the imposition of a sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal or state criminal drug statutes.
- ❖ Criminal Drug Statute: a criminal statute involving the manufacture, distribution, dispersion, use, or possession of any controlled substance.
- ❖ Grantee - any department, division, unit, or any person responsible for the performance of work under the provisions of a federal grant.
- ❖ Contractor - any department, division, unit, or any person responsible for the performance or work under a contract.
- ❖ Federal Agency - any agency as that term is defined in Section 552 (f) of Title IV, United States Code.
- ❖ Alcohol - ethyl alcohol whatever its origin and shall include synthetic ethyl alcohol but not denatured alcohol.

- ❖ Drug - means:
 - articles recognized as drugs in the USP-DI, Facts and Comparisons, Physicians Desk Reference or supplements thereto, for use in the diagnosis, cure, mitigation, treatment or prevention of disease in human or other animals;
 - articles, other than food, intended to affect the structure or any function of the body of human or other animals; and
 - articles intended for use as a component of any articles specified in the first two subsections.
- ❖ Legal Drug - nonprescription medication (medication that may be sold without a prescription and which is labeled for use by the consumer in accordance with the requirements of the laws and rules of this state and federal government) and prescription medication (medication, including any controlled substance under state or federal law, that is required prior to being dispensed or delivered, to be labeled with either of the following statements: (1) "Caution: Federal law prohibits dispensing without prescription"; (2) "Caution: Federal law restricts this drug by, or on the order of a licensed veterinarian"; or a drug which is required by any applicable federal or state law or rule to be dispensed only to a prescription drug order is restricted to use by practitioners only).
- ❖ Illegal Drug - any drug which is not legally obtainable and/or is being used in a manner or for a purpose other than as prescribed.
- ❖ Look-Alike Drugs - tablets or capsules that are made to look like real drugs and roughly imitate their affects. They usually contain varying amounts of legal substances such as caffeine, ephedrine, phenylpropanolamine, or aspirin and other non-controlled ingredients.
- ❖ Work Day - the work day includes all times when an employee is engaged in any work related activity which includes performance of business during a regularly scheduled work day, meal break and/or any occasion having a connection with the Board of Education and/or the employee's duties, and at all times the employee is on the job site.
- ❖ Intoxicants - any intoxicating substances such as inhalants.
- ❖ Covered Employees - A covered employee means "any person who operates a commercial motor vehicle. This includes, but is not limit to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers and independent, owner operated contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer."

It is the policy of the Preston County Board of Education to ensure that its workplaces are free of illegal drugs and controlled substances by prohibiting the unlawful manufacture, distribution, possession or use of illegal drugs or non-medically prescribe controlled substances or alcohol; the reporting to work under the influence of a non-medically prescribed controlled substance, intoxicants, look-alike drugs or alcohol; or possession of non-medically prescribed paraphernalia.

The policy is applicable while employees are engaged in any work-related activity which includes performing business during regularly scheduled work days, meal breaks, and/or occasions having a connection with the Board of Education. In addition, this policy is applicable at any and all times when employees are on Board property, in attendance at any school or school board activity/function. It is

further applicable during the performance of any and all job related activities, and/or while traveling in any vehicle owned, leased, or rented by the Board or Education.

The policy's primary goal is to ensure that alcohol, intoxicants, look-alike drugs, and illegal drug and/or medically non-prescribed controlled substance use is eliminated and that the Preston County Board of Education workplace is safe, healthful, productive, and secure for its employees, students, and citizens.

Prohibited Conduct:

The following shall be considered "prohibited conduct" for purposes of this policy:

- ❖ No employee shall unlawfully manufacture, distribute, possess or use, illegal drugs or medically non-prescribed controlled substances and/or alcohol; the reporting to work under the influence of illegal drugs, non-medically prescribed controlled substance, intoxicant, look-alike drugs or alcohol; or possession of non-medically prescribed paraphernalia is prohibited.
- ❖ No employee shall report for duty or remain on duty while having an alcohol concentration of .04 or greater.
- ❖ No employee shall report for duty or remain on duty while abusing legal (prescription or over-the-counter) drugs or alcohol.
- ❖ No employee shall consume or possess open containers of alcohol on Preston County Board of Education property, in a Board of Education vehicle or vehicles rented by the Preston County Board of Education
- ❖ No employee shall refuse to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol or drug test.
- ❖ No employee shall report for duty or remain on duty when the employee uses any controlled substance, except when use is pursuant to the instruction of a physician who has advised employee that the substance does not adversely affect the employee's ability to perform assigned duties.
- ❖ If an employee engages in prohibited conduct as a result of legal medications, the employee is not qualified to perform assigned duties and shall be immediately removed from assignment.

Consequences of Misconduct:

Consequences if any employee who engages in conduct prohibited by this policy shall be subject to the following:

- ❖ Notification of law enforcement agency.
- ❖ Notification, by certified mail, to the WV Department of Education.
- ❖ Suspension for up to 15 days with pay pending investigation and opportunity to respond to charged violation.
- ❖ Written notification of charge; opportunity for hearing before the Board.
- ❖ Upon a determination of guilt by the suspension for up to 90 days without pay.

- ❖ Required enrollment in a substance abuse counseling program at the employees' expense. Failure to enroll shall be grounds for termination of employment.
- ❖ Return to duties from a period of suspension without pay shall be conditioned upon the following:
 - Employee furnished written verification of successful completion of a substance abuse counseling program.
 - Employee furnished physician's statement verifying the employee is drug/alcohol free.
 - Restoration and/or maintenance of any certification or license that is requisite to the ability of an employee to perform his or her duties.
 - Failure of an employee to meet the forgoing conditions for return to work within 20 days prior to the end of a suspension without pay shall be grounds for termination of employment.
- ❖ Submission to a random drug test on a monthly basis for a period of 6 months following a return to duty.
- ❖ In the event an employee is determined to be guilty of a violation of this policy and related actions of the employee are determined to have caused significant property damage, serious injury or death, the Superintendent may recommend termination of employment in lieu of a suspension without pay.

Second Offense:

- ❖ Notification of law enforcement.
- ❖ Notification, by certified mail, to the WV Department of Education.
- ❖ Suspension for up to 15 days with pay pending investigation and opportunity to respond to charged violation.
- ❖ Written notification of charge; opportunity for hearing before the Board.
- ❖ Upon a determination of guilt by the Board, termination of employment.

Reasonable Suspicion Testing:

Reasonable suspicion for requiring an employee to submit to drug and/or alcohol testing shall be deemed to exist when an employee, while on the job or on school premises, manifests physical or behavioral symptoms or reactions commonly attributed to the use of controlled substances, lookalike drugs, intoxicants, illegal drugs or alcohol. Such employee conduct must be witnessed by at least one supervisor trained in compliance with this policy. Should a supervisor observe such symptoms or reaction, the employee must submit to testing. An employee who observes suspicious behavior by a supervisor should report this to the superintendent.

Refusal to Test:

Refusal to submit to the types of drug and alcohol tests employed by the Preston County Board of Education will be grounds to terminate employment of existing employees. A refusal to test would include behavior which is intended to obstruct the proper administration of a test. Unreasonable delay in providing urine or breath specimen could be considered a refusal. In the event that an employee cannot provide sufficient urine specimen, the Preston County Board of Education may direct the individual to a physician for purposes of evaluation. If the physician cannot find a legitimate medical explanation for the employee's inability to provide a specimen, either urine or breath, it will be considered a refusal to test.

Post-Accident Testing:

An employee must submit to drug and alcohol testing any time s/he is involved in an accident while on duty as an employee of the Preston County Board of Education and involving damage to Board of Education property or injury to personnel or students. Following any accident, the employee must contact the Employer as soon as possible and follow instructions for post-accident drug and alcohol testing.

Any time a post-accident drug or alcohol test is required, it must be performed as soon as possible following the accident. If no alcohol test can be made within eight (8) hours, attempts to perform an alcohol test shall cease. If no urine collection can be obtained for purposes of post-accident drug testing within thirty-two (32) hours, attempts to make such collection shall cease.

In the event that federal, state, or local officials conduct breath or blood tests for the use of alcohol and/or urine tests for the use of controlled substances following an accident, these tests may meet the requirements of this section, provided the tests conform to applicable federal, state, or local requirements. The Employer may request testing documentation from such agencies, and may ask the employee to sign a release allowing the Employer to obtain such test results.

In the event an employee is so seriously injured that the employee cannot provide a sample of urine, breath or saliva at the time of the accident, the employee may provide necessary authorization for the Employer to obtain hospital records or other documents that would indicate the presence of controlled substances, intoxicants or alcohol in the employee's system at the time of the accident.

School System's Obligation as a Contractor or Grantee:

The school system acknowledges that if it is a contractor or grantee under the terms of a federal contract or grant in the amount of \$25,000.00 or more, it shall be subject to suspension of payments and termination of the contract or grant if it makes an initial false certification or if the number of employee drug-related convictions indicates that it has not made a good faith effort to maintain a drug-free workplace.

Employee Conditions:

As a condition of employment with the Preston County Board of Education, employees shall:

- ❖ Abide by the terms of this policy; compliance is mandatory.

- ❖ Notify their supervisor or department head of any criminal drug statute conviction for a violation occurring in the workplace, no later than five (5) days after such conviction.
- ❖ Sign a statement indicating the employee is aware of the policy and shall abide by the terms of the policy.

Education:

It shall be the responsibility of the Preston County Board of Education to establish a drug awareness program for Preston County Board of Education employees to provide information on the following:

- ❖ Referral Services
- ❖ The establishment and maintenance of a drug-free workplace
- ❖ The penalties for workplace drug-abuse
- ❖ Available drug-free literature including dangers of drug abuse.

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Adopted: January 13, 2003
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-39 Substitute Employees</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</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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Adopted: September 14, 1998
Amended/Revised: August 9, 2010

PRESTON COUNTY BOARD OF EDUCATION**FILE: 8 – PERSONNEL MANAGEMENT****File: 8-40 Employee Exposure to Blood or Body Fluids****Last Reviewed: 8-9-10****Next Review: 7-1-12****Purpose**

School personnel in Preston County Schools are at risk of contracting potentially fatal communicable disease in the work place through exposure of contaminated blood and body fluids. The purpose of this policy is to minimize risk of infection through employee education, preventative measures, early intervention and proper medical diagnosis and treatment.

Responsibility

School personnel will use ‘universal blood and body fluid precautions’ in the care of all students and staff. Irrespective of the disease presence, routine procedures shall be used and adequate sanitation facilities will be available for handling blood or body fluids within the school setting and on school busses. School personnel will be trained in the proper procedures for handling blood and all school personnel will adhere to these procedures. If an employee of Preston County Schools is identified as ‘at risk’ for exposure to blood and body fluids, the Hepatitis B vaccine will be offered to those employees. If an exposure does occur, the staff member will report to the administrator, who is responsible for referring the person to the school nurse. The nurse will ensure that the post-exposure guidelines are followed.

The Preston County Board of Education follows the established guidelines and procedures to minimize exposure to blood and body fluids and in the event such exposure does occur to respond appropriately. Any employee who has an exposure incident must follow the guidelines and procedures.

Guidelines

- ❖ School employees should consider that all individuals are potentially infected with HIV and other blood-borne pathogens and should adhere rigorously to infection control precautions in order to minimize the risk of exposure to blood and body fluids of all individuals.
- ❖ Transmission of communicable diseases is more likely to occur from contact with infected body fluids of unrecognized carriers than from contact with fluids from recognized individuals because simple precautions are not always carried out. Thus, “universal blood and body fluid precautions” should be used in the care of all individuals.
- ❖ Work practice controls and careful performance of tasks should be exercised to minimize the likelihood of exposure.
- ❖ Contact with body fluids presents a risk of infection with a variety of germs. The Transmission Concerns and Body Fluids Table, 7- 06-G5, provides examples of particular germs that may be found in body fluids and the respective transmission concerns. It must be emphasized that individuals who have no symptoms of illness may carry many germs.

- ❖ School nurses will conduct training with all new employees and annual training with all staff members and have them complete the Employee Education Record.

Note: For purpose of this policy, the term “body fluid” includes blood (serum, plasma, and whole blood), vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids.

Federal Register, Department of Labor, Occupational Safety and Health Administration Occupational Exposure to Blood borne Pathogens, Final Rule (29 CFR Part 191031030) and State Board Policy 2423

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R 8-40-1 Procedures

Personal Protective Equipment Guidelines

All school employees should routinely use appropriate personal protective equipment to prevent skin and mucous membrane exposure when contact with blood or other body fluids of an individual is anticipated. The exposure may require gloves alone, as in handling items soiled with blood or equipment contaminated with blood or other fluids, or may also require gowns, masks, and eye coverings when performing procedures involving more extensive contact with blood or potentially infective body fluids. These supplies will be kept in the first aid kits and/or nurses’ office in each school.

Glove Guidelines:

- ❖ Personnel must guard against gloves providing them with a false sense of security. Gloves reduce the incidence of contamination of hands, but do not prevent penetrating injuries due to needles or sharp instruments. Wearing them is no excuse for careless handling of infectious materials.
- ❖ Latex glove guidelines – Gloves must be:
 - Worn by all personnel who are at risk of hand contact with blood, body fluids, or any source of contamination from an infectious agent.
 - Removed before handling telephones, doorknobs, student records, computer keyboards, etc.
 - Worn with all phlebotomy procedures including finger sticks (only if school personnel actually performing procedure), and change when visibly contaminated. Hands must be washed after each removal, unless immediately regloving (antiseptic cleaners and towelettes will be used when soap and water not available).
 - Worn while performing maintenance procedures on laboratory equipment, which is likely to be contaminated (glucometers, inhalers, spacers, etc.).
 - Disposal and changed frequently. They should be changed if they become visibly contaminated. If a puncture of the glove occurs, remove glove immediately. Wash hands before putting on new gloves.

General Recommendations:

- ❖ Hands and skin surfaces must always be washed thoroughly after glove removal, even if the gloves “appear” to be intact.
- ❖ Double gloving is recommended in situations where a gross or large amount of direct contamination of gloves with blood, body fluids, or any infectious material is anticipated.

Guidelines for Handling Sharp Items: Sharp items (needles, scalpel blades, and other sharp instruments) should be considered potentially infective and be handled with extraordinary care to prevent accidental injuries.

- ❖ Contaminated disposable sharps, which include (1) syringes, (2) vaccination needles, (3) finger stick lancets, (4) contaminated broken glass, and (5) anything that is capable of puncturing a biohazard bag, must be placed in a puncture-resistant, non-spillable, properly labeled bio-hazardous sharps container for disposal.
- ❖ The biohazard sharps containers must be situated in convenient locations when necessary so that they are immediately accessible.
- ❖ These containers should also be closeable with a lid, leak proof on sides and bottom, red in color or labeled with the biohazard symbol, replaced routinely and not allowed to over-fill (no more than 2/3 full), and maintained in an upright position during transport. A system for transport will be provided.
- ❖ To prevent needle stick injuries, needles should NEVER be recapped, bent, broken, removed from disposable syringes or vaccination needles, or otherwise manipulated by hand.
- ❖ Never use an automatic finger-sticking device in which the parts that come in contact with the individual’s skin cannot be changed between individuals (i.e. automatic lancet).

Pre-Exposure Guidelines

Hepatitis B is a blood borne pathogen. That means the virus is transmitted from person to person when blood, semen, or vaginal fluids of an infected person comes into direct contact with another’s blood through a break in the skin or absorption through mucous membranes such as in the eye or the mouth. An infected person’s saliva also carries the virus but at 1000 fold lower concentration than the other body fluids. It is only prolonged and frequent contact with the saliva of HBV carriers that may increase the risk of transmission.

- ❖ Hepatitis B vaccine will be administered to “at risk” employees of the Preston County Schools. This vaccine will not be administered if the employee had previously received the vaccine series, or if the vaccine is contraindicated for medical reasons.
- ❖ “At risk” employees are defined as all school health nurses and any other employee who regularly give injections and handle contaminated needles as a part of their job duties. Teachers and other school personnel who deal directly with students who have disruptive behaviors that include biting (hard enough to break the skin) and forceful spitting, have students who have bleeding episodes during the school day, and have students with excessive and continuous drooling are at higher risk.

- ❖ After being identified by the school nurse as being in an “at risk” category, these employees will be offered the vaccine. Information will be given to the employee on Hepatitis B Vaccine, its safety, efficacy and method of administration, the benefits of being vaccinated, and any adverse side effects or contraindications. As with all vaccines, vaccination with the Hepatitis B vaccine does not guarantee immunity.
- ❖ At this time, routine booster doses of HBV are not recommended. However, if a booster dose is recommended at a later date, this will be made available to those employees originally vaccinated and currently employed with Preston County Schools.
- ❖ Pregnancy is not a contraindication to the use of this vaccine for persons who are identified as at “risk”. However, since data are not available on the safety of Hepatitis B Vaccine for the developing fetus, the employee’s attending physician will make the determination as to benefits versus risks of immunization during pregnancy. Documentation from the physician will be required.
- ❖ Employees are under no obligation to get the vaccine. If an “at risk” employee is informed of the possible risk and chooses to decline the Hepatitis B Vaccine, s/he will be required to sign a declination statement, R 8-40-3. If s/he decides to accept the vaccine at a later date, it shall be made available at that time if s/he is still considered to be “at risk”.
- ❖ If an employee leaves prior to the completion of the Hepatitis B Vaccine series, such completion will be the responsibility of the employee.
- ❖ Information regarding the employee’s Hepatitis B Status, including if the vaccine is indicated, and if so, the date of administration of the vaccine, will be placed in the employee’s medical personnel file. All other health findings and diagnosis will remain confidential.

Exposure Incident Guidelines

An exposure incident is defined as a specific eye, mouth, other mucous membrane, no intact skin, or parenteral contact with blood or other potentially infectious materials that results from the performance of an employee’s duties. If an employee reports an exposure incident, a confidential medical evaluation and follow-up will immediately be made available to such employee according to the following procedure:

- ❖ The area of exposure will be immediately cleansed with soap and water, if possible. If soap and water are not available, the use of another disinfectant, such as alcohol, is recommended.
- ❖ The employee’s immediate supervisor will be notified. The supervisor will notify the school nurse, or for non-school based personnel, the Supervisor of School Health, who will make an assessment of the incident to determine if an immediate referral to a health care provider is necessary. The route of exposure and circumstances under which the exposure incident occurred will be documented on the employee’s Exposure Record.

- ❖ The exposed employee will be given appropriate counseling concerning precautions to take during the exposure incident, as well as information on potential medical conditions resulting from exposure to blood or other potentially infectious materials which may require further evaluation or treatment. If necessary, the exposed employee will be referred to Ruby Hospital or his or her own physician. The employee will sign the Employee Referral Form.

TRANSMISSION CONCERNS AND BODY FLUIDS TABLE

<p>BLOOD Cuts/Abrasions Nosebleeds Menses Contaminated Needle</p>	<p>Hepatitis B Virus HIV virus Cytomegalovirus Hepatitis D Hepatitis C</p>	<p>Blood stream Inoculation Through cuts and abrasions on hands</p>
<p>*FECES Incontinence</p>	<p>Salmonella Shigella Rotavirus Hepatitis A</p>	<p>Oral inoculation from contaminated hands</p>
<p>*URINE Incontinence</p>	<p>Cytomegalovirus</p>	<p>Blood stream and possible oral inoculation from contaminated hands</p>
<p>RESPIRATORY SECREATIONS Saliva Nasal Discharges</p>	<p>Mononucleosis Common cold virus Influenza virus HIV virus Hepatitis B Hepatitis D</p>	<p>Oral inoculation from contaminated hands Blood stream inoculation through cuts and abrasions on hands Bites</p>
<p>*VOMITUS</p>	<p>Gastrointestinal virus</p>	<p>Oral inoculation from contaminated hands</p>

Note: Possible transmission of HIV and Hepatitis B is of little concern from these sources. There is no evidence at this time to suggest that these viruses are present in these fluids.

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R 8-40-2 Glossary of Terms

Blood	Human blood, human blood components, and products made from human blood.
Blood-Borne Pathogens	Pathogenic microorganisms that are present in human blood and can cause disease in humans. These pathogens include, but are not limited to, human immunodeficiency virus (HIV), acquired immunodeficiency syndrome (AIDS), hepatitis B virus (HBV) and hepatitis C virus (HCV).
Contaminated	The presence of the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.
Contaminated Sharps	Any contaminated object that can penetrate the skin including, but not limited to, needles, scalpels, and broken glass.
Decontamination	The use of physical or chemical means to, remove, inactivate, or destroy blood-borne pathogens on a surface or item to the point where they are no longer capable of transmitting infectious particles and the surface of the item is rendered safe for handling, use, or disposal.
Exposure Incident	A specific eye, mouth, other mucous membrane, non-intact skin, or parenteral contact with blood or other potentially infectious material that results from the performance of an employee's duties.
Licensed Health Care	A person who's legally permitted scope of practice Professional allows him or her to independently perform the activities related to Hepatitis B Vaccination and post-exposure evaluation and follow-up.
HBV	Hepatitis B Virus.
HCV	Hepatitis C Virus.
HIV	Human Immunodeficiency Virus.
Occupational Exposure	Reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties
Other Potentially Infectious Materials	The following human body fluids -- semen, vaginal secretions, cerebrospinal fluid, synovial fluid, pleural fluid, pericardial fluid, peritoneal fluid, amniotic fluid, saliva in dental procedures, any body fluid that is visibly contaminated with blood, and all body fluids in situations where it is difficult or impossible to differentiate between body fluids.
Parenteral	Piercing mucous membranes or the skin barrier through such events as needle sticks, human bites, cuts, and abrasions.
Personal Protective Equipment	Specialized clothing or equipment worn by an employee for protection against a hazard. General work clothes (e.g., uniforms, pants, shirts, or blouses) not intended to function as protection against a hazard are not considered to be personal protective equipment.

Infectious Waste	Liquid or semi-liquid blood or other potentially infectious material in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials and are capable of releasing these materials during handling; contaminated sharps.
Universal Precautions	An approach to infection control in which all-human blood and certain human body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

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Adopted: June 7, 1988
Amended/Revised: August 9, 2010

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-41 Employee Protections from Physical Threat and Assault</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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Recognizing the increasing possibility of physical threat or actual physical assault upon Board of Education employees, the West Virginia State Legislature has enacted appropriate protective legislation. The essence of the act is as follows:

Assault:

Any person who unlawfully attempts to commit a violent injury to the person of a government representative (school employee) or health care worker acting in his or her official capacity, or unlawfully commits an act which places that person acting in his or her official capacity in reasonable apprehension of immediately receiving a violent injury, is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than 24 hours nor more than six months, fined not more than \$200, or both fined and confined. An assault may occur:

- ❖ While employees are engaged in the performance of their duties; or
- ❖ Are commuting to or from work; or
- ❖ As a result of retaliation for some action taken by the employee to supervise or discipline a student; or
- ❖ By exhibiting behaviors that place a school employee in reasonable apprehension of immediately receiving a violent injury.

Malicious Assault:

Any person who maliciously shoots, stabs, cuts or wounds or by any means causes bodily injury with intent to maim, disfigure, disable or kill a government representative (school employee) or health care worker acting in his or her official capacity, and the person committing the malicious assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than three nor more than 15 years.

Unlawful Assault:

Any person who unlawfully but not maliciously shoots, stabs, cuts or wounds or by any means causes a government representative (school employee) or health care worker acting in his or her official capacity bodily injury with intent to maim, disfigure, disable or kill him or her and the person committing the unlawful assault knows or has reason to know that the victim is acting in his or her official capacity is guilty of a felony and, upon conviction thereof, shall be confined in a correctional facility for not less than two nor more than five years.

Battery:

Any person who unlawfully, knowingly and intentionally makes physical contact of an insulting or provoking nature with a government representative (school employee) or health care worker acting in his or her official capacity, or unlawfully and intentionally causes physical harm to that person acting in such capacity, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 or confined in jail not less than one month nor more than 12 months or both fined and confined. If any person commits a second such offense, he or she is guilty of a felony and, upon conviction thereof, shall be fined not more than \$1,000 or imprisoned in a state correctional facility not less than one year nor more than three years, or both fined and imprisoned. Any person who commits a third violation of this subsection is guilty of a felony and, upon conviction thereof, shall be fined not more than \$2,000 or imprisoned in a state correctional facility not less than two years nor more than five years, or both fined and imprisoned. . A battery may occur:

- ❖ While employees are engaged in the performance of their duties; or
- ❖ Are commuting to or from work; or
- ❖ As a result of retaliation for some action taken by the employee to supervise or discipline a student.

For purposes of this section, "school employee" means a person employed by a county board of education whether employed on a regular full-time basis, an hourly basis or otherwise. Also, for the purpose of this section, student teachers shall be considered "school employees".
(WVC §61-2-10b; §61-2-15)

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Adopted: August 9, 2010
Amended/Revised:

PRESTON COUNTY BOARD OF EDUCATION

FILE: 8 – PERSONNEL MANAGEMENT

File: 8-42 Employee Cell Phone Use

Last Reviewed: 8-9-10

Next Review: 7-1-12

Employees are expected to lead by example as well as promote student achievement and safety. Employees are not to use cell phones and/or hands free cell phone equipment or other personal electronic devices under the following conditions:

- ❖ When a county vehicle transporting students, (bus, van, or car), is in motion and the employee is driving the vehicle.
- ❖ In a classroom during instructional time when students are present, (unless an emergency situation arises).
- ❖ Employees whose job responsibilities do not specifically include driving as an essential function, but who are issued a cell phone for business uses are also expected to refrain from using cell phones when driving.

Employees are encouraged to pull off the road to make or receive a phone call. Under no circumstances are employees allowed to place themselves or others at risk to fulfill business needs.

Employees who are charged with traffic violations resulting from the use of their phone while driving will be solely responsible for all liabilities that result from such actions.

Annual bus operator training will include information related to the hazards associated with the use of cell phones while operating a school bus.

Violations of this policy will be subject to the highest forms of discipline, including termination.

(SBP 4336, Section 13.20 – Cellular Phones)

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Adopted: August 9, 2010
Amended/Revised:

<p>PRESTON COUNTY BOARD OF EDUCATION FILE: 8 – PERSONNEL MANAGEMENT File: 8-43 Endnotes</p>	<p>Last Reviewed: 8-9-10 Next Review: 7-1-12</p>
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Endnotes

File: 8 Personnel Management

U.S. Constitution:

Fourteenth Amendment: Guarantees equal protection of all citizens under the existing laws and guarantees due process regarding all legal proceedings.

West Virginia Constitution:

The several sections of Article XII require that each county provide a thorough and efficient system of free schools.

West Virginia Codes:

- § 5-11-1 thru §5-11-19 -- Human rights legislation.
- § 6C-2-1 thru 7----- Public employees grievance procedure
- § 8-4-11 ----- Special election and special municipal election officials.
- § 15-1F-1 ----- Leave of absence for public officials and employees for drills, parades, active duty.
- § 15-1F-1b ----- Tolling of license and registration requirements.
- § 15-2C-1 ----- Providing qualified entities access to the West Virginia Central Abuse Registry.
- § 16-3D-3----- Compulsory testing for tuberculosis of school children and school employees, x-rays required for reactors, etc.
- § 16-9A-1----- Legislative intent
- § 16-9A-2----- Sale or gift of cigarette, cigarette paper, pipe, cigar, snuff, or chewing tobacco to persons under eighteen; penalties for first and subsequent offense.
- § 16-9A-3----- Use or possession of tobacco or tobacco products by persons under the age of eighteen years; penalties.
- § 16-9A-4----- Use of tobacco or tobacco products in certain areas of certain public schools prohibited; penalty.
- § 18-1-1 ----- Definitions.
- § 18-2-5----- Powers and duties of state board, public school entrance age.
- § 18-2-5a ----- State board rules to be filed with Legislature.
- § 18-2-7b ----- Programs in drug prevention and violence reduction.
- § 18-2E-4----- School report cards
- § 18-2E-5----- Process for improving education; office of education performance audits; education standards; school accreditation and school systems approval; etc.
- § 18-2E-6----- Falsifying reports; penalty.
- § 18-2E-8----- Creating jobs through education.
- § 18-3-4----- Proceedings to enforce school laws; removal of school officials; etc.
- § 18-4-1 ----- Election and term of superintendent; interim superintendent; acting superintendent
- § 18-4-2----- Qualifications of county superintendent; health certificate; disability;
- § 18-4-4----- Compensation of superintendent
- § 18-4-10 ----- Duties of the superintendent

- § 18-5-1a ----- Eligibility and training of board members
- § 18-5-5 ----- Corporate character of county board; general powers; etc.
- § 18-5-13 ----- Authority of boards generally
- § 18-5-15 ----- School term; exceptions; levies; ages of persons to whom schools are open.
- § 18-5-15a ----- Study of multicultural education for school employees.
- § 18-5A-5 ----- Public school faculty senate established; election of officers; powers and duties.
- § 18-5A-6 ----- Establishment of school curriculum teams.
- § 18-5B-4 ----- Innovation zones; required plans; plan approval; state board rule.
- § 18-5B-5 ----- Approval of innovation zone plans; waiver of statutes, policies, rules or interpretations.
- § 18-5B-6 ----- Employee approval of innovation plan application and plan; transfer of employees.
- § 18-5B-8 ----- Teacher vacancies in an innovation zone; job postings exceeding certain qualifications and requirements; approval of postings.
- § 18-7A-14b ----- Purchasing retirement credit for temporary disability.
- § 18-7A-38 ----- Employment of retired teaches as substitutes.
- § 18-7B-7 ----- TDCR plan
- § 18-7B-a ----- TDCR plan closed June 30 2005
- § 18-7B-8 ----- Voluntary participation in TDCR
- § 18-7d-1 thru 11 ----- Retirement merger legislation
- § 18-9A-2 ----- Public school support definitions.
- § 18-9A-9 ----- Foundation allowances for regional educational service agencies.
- § 18-20-2(d) ----- Annual training for aides who deal with violent students.
- § 18A-1-1 ----- School personnel definitions.
- § 18A-2-1 ----- Employment in general.
- § 18A-2-2 ----- Employment of teachers; contracts; continuing contract status; how terminated; dismissal for lack of need; released time; etc.
- § 18A-2-2a ----- Leaves of absence for teachers and service personnel.
- § 18A-2-3 ----- Employment of substitute teachers and retired teachers as substitutes in areas of critical need and shortage; employment of prospective employable professional personnel.
- § 18A-2-4 ----- Commercial driver's license for school personnel; reimbursement of costs.
- § 18A-2-5 ----- Employment of service personnel limitations.
- § 18A-2-6 ----- Continuing contract status for service personnel; termination.
- § 18A-2-7 ----- Assignment, transfer, promotion, demotion, suspension, recommendation for dismissal of school personnel by superintendent; hearing on the transfer.
- § 18A-2-7a ----- Statewide job bank.
- § 18A-2-8 ----- Suspension and dismissal of school personnel by board; appeal.
- § 18A-2-8a ----- Notice to probationary personnel of rehiring or nonrehiring; hearing.
- § 18A-2-10 ----- Physical examinations as condition of employment.
- § 18A-2-11 ----- Employees' rights to attorney's fees and costs.
- § 18A-2-12 ----- Performance evaluations of school personnel; professional personnel evaluation process.
- § 18A-3-1 ----- Teacher Preparation Program
- § 18A-3-3 ----- Renewal of certificates; permanent certification
- § 18A-3-2a ----- Authority of state superintendent to issue certificates; kinds of certificates.
- § 18A-3-2b ----- Beginning teacher internship.
- § 18A-3-2c ----- Training through the principal's academy.
- § 18A-3-2d ----- Beginning principal's internship.
- § 18A-3-3 ----- Renewal of certificates; permanent certification.
- § 18A-3-3a ----- Reimbursement for coursework.
- § 18-3-6 ----- Revocation of teaching certificates.
- § 18A-3-8 ----- County professional staff development councils.
- § 18A-3-9 ----- County service personnel staff development councils.
- § 18A-3-10 ----- Criminal history check of applicants for licensure by the state department of education.
- § 18A-3A-6 ----- Attendance of professional development programs outside the employment term.
- § 18A-4-2b ----- National Board for professional teaching certificates.
- § 18A-4-5 ----- Salary equity among the counties; state salary supplement.
- § 18A-4-7 ----- Substitute teachers pay.
- § 18A-4-7a ----- Employment, promotion and transfer of professional personnel; seniority.

- § 18A-4-7b ----- Calculation of seniority for professional personnel.
- § 18A-4-7c ----- Selecting professional educators for summer program.
- § 18A-4-8 ----- Employment term and class titles of service personnel; definitions; beginning work station.
- § 18A-4-8a ----- Service personnel minimum monthly salaries.
- § 18A-48b ----- Seniority rights for school service personnel; posting positions on web.
- § 18A-4-8c ----- Seniority rights for personnel employed by multi-county vocational centers.
- § 18A-4-8e ----- Competency testing for service personnel.
- § 18A-4-8f ----- Seniority rights, school consolidation.
- § 18A-4-8g ----- Determination of seniority for service personnel.
- § 18A-4-10 ----- Personal leave for illness and other causes; leave banks; substitutes; leave donation.
- § 18A-4-10a ----- Bonus for unused days of personal leave.
- § 18A-4-10c ----- Personal leave banks for care givers.
- § 18A-4-10d ----- Use of personal leave days by surviving spouse in certain circumstances.
- § 18A-4-14 ----- Duty-free lunch and daily planning period for certain employees.
- § 18A-4-15 ----- Employment of service personnel substitutes.
- § 18A-4-16 ----- Extracurricular assignments.
- § 18A-4-21 ----- Ten day waiting period before a board may post a position following the death of an employee.
- § 18A-5-1 ----- Authority of teachers and other school personnel; exclusion of pupils having infectious diseases; suspension or expulsion of disorderly pupils; corporal punishment abolished.
- § 18A-5-1a ----- Possessing deadly weapons on premises of educational facilities; possessing a controlled substance on premises of educational facilities; assaults and batteries committed by pupils upon teachers or other school personnel; temporary suspension, hearing; procedure, notice and formal hearing; extended suspension; sale of narcotic; expulsion; exception.
- § 18A-5-1c ----- Bill of Rights for students and employees.
- § 18A-5-2 ----- Holidays; closing of schools; time lost because of such; special Saturday classes.
- § 18A-5-3 ----- Exemption from jury service.
- § 18A-5-3a ----- Answering witness subpoenas.
- § 18A-5-4 ----- Educational Meetings.
- § 18A-5-5 ----- Records; reports by professional and other personnel.
- § 18A-5-8(g) ----- Restrictions on the transfer of mentors and aides who work with autistic students and those who require one-on-one service.
- § 21-3-17 ----- Employers not to require payment of fees for medical examination as condition of employment; enforcement.
- § 21-5-4 ----- Payment of employee wages at the time of separation from county.
- § 21-5D-4 ----- Family leave.
- § 23-2-1 ----- Workers compensation.
- § 23-4-6 ----- Classification of and criteria for disability benefits.
- § 29-12-5a ----- Liability insurance for county boards of education, their employees and members, the county superintendent, etc.
- § 29-6-28 ----- Leave time for organ donation.
- § 46A-2A-101 ----- Requiring consumers' notification of information security breach.
- § 49-1-3 ----- Definitions relating to abuse and neglect.
- § 49-6A-2 ----- Persons mandated to report suspected abuse and neglect.
- § 49-6A-5 ----- Reporting procedures.
- § 49-6A-6 ----- Immunity from liability.
- § 49-6A-8 ----- Failure to report penalty.
- § 49-6A-9 ----- Establishment of child protective services; general duties and powers; cooperation of other state agencies.
- § 49-6A-10 ----- Educational programs.
- § 49A-6-1, 2, 5, 6, 8 ----- All of these codes relate to child abuse and neglect.
- § 55-7-18a ----- Qualified immunity for disclosing adverse job-related employee information
- § 60A-2-201 thru
- § 60A-2-1213 ----- Uniform Controlled Substances Act; standards and schedules.

§ 60A-4-412(a)(b) ----- Defeating Drug and Alcohol Screening Tests; Penalties
§ 61-2-10b----- Penalties for certain crimes against school employees
§ 61-2-15 ----- Assault, battery on school employees; penalties.
§ 61-8D-1----- Child sexual exploitation
§ 61-8D-5----- Sexual abuse or exploitation of children
§ 61-10-15----- Pecuniary interest of county and district officers, teachers, and school officials in contracts; exceptions; offering or giving compensation; penalties.

Relevant Court Cases:

Bledsoe v. BOE, 394 S.E.2d 885 (1990) – Where school board employee commits criminal act involving employee's occupational responsibilities, rational nexus (reasonable relationship) exists and employees may be dismissed.

BOE v. Bowers, 396 S.E.2d 166 (1990) – Central office administrators do not accrue seniority while occupying administrative positions that are separate and distinct from their overall seniority as professional personnel unless an administrative certificate with a specific endorsement is required for the specific central office position being held.

BOE v. Jefferson County Educ. Assoc., 393 S.E.2d 653 (1990) – Public employees have no right to strike, in absence of express legislation or, at the very least, appropriate statutory provisions for collective bargaining, mediation, and arbitration.

BOE OF Mercer County v. Owensby, 526 S.E.2d 831 (1999) – No non-employee shall be employed for a teaching position by a hiring board of education until each qualified permanent employee and each qualified teacher on the preferred recall list shall have been offered the opportunity for re-employment in position for which they are qualified (West Virginia code, 18A-2-2).

BOE v. Wirt, 453 S.E.2d 402 (1994) – Elementary school custodian was entitled to a hearing prior to his termination for alleged incidents of improper touching of students.

Bolyard v. B.O.E. Grant Count, 589 S.E.2d 523 (2003) – A teacher does not have a clear legal right to resign from her contract with the board if she does not tender her resignation before the first Monday in April of the then current year. Nor does the board have a legal duty to accept a teacher's resignation submitted after that date.

Breza v. BOE, 497 S.E.2d 548 (1997) – Teacher was entitled to out-of-state experience for salary purpose. School personnel laws and regulations are to be strictly construed in favor of the employee.

Brown v. Wood County BOE, 400 S.E.2d 213 (1990) – A local board of education may utilize indicators of performance with respect to a given standard other than indicators expressly delineated in local policy if the board promptly notifies the teacher of the use of any such "employee-specific" indicator and provides the teacher with an opportunity to improve before taking any employment action.

Crow v. Wayne County B.O.E. No. 31626 (June 17, 2004) – The legislature contemplated that school jobs be either professional or of a service type and they cannot be both. The melding of professional and service duties into one job, regardless of whether it is formally designated "professional" or "service," is counter to the legislative design of the classification system. Positions must be described as either when posted as either "professional" or "service".

DeVito v. BOE, 317 S.E.2d 159 – The authority to dismiss an employee under §18A-2-8 must be based on just cause listed within the code and must be exercised reasonably, not arbitrarily or capriciously.

Hall v. Pizzino, 263 S.E.2d 886 (1980) – A county superintendent is a public officer and may only be removed by laws pertaining to public officers including court action.

Harry v. BOE, 506 S.E.2d 319 (1998) – Misconduct by a school employee that can be characterized as sexual harassment can constitute a basis for the termination of the offending employee's employment.

Hazelwood v. Mercer County BOE, 488 S.E.2d 480 (1997) – Service personnel do not retain seniority rights when service is interrupted voluntarily.

Hudok v. Randolph County BOE, 415 S.e.2d 897 (1992) – The plain language of WV Code §21-5D-4 mandates unpaid parental leave for up to twelve weeks, after the exhaustion of all annual and personal leave, during any twelve-month period, because of the birth or adoption of a child of an employee covered by the Parental Leave Act.

Keatley v. BOE, 490 S.E.2d 306 – The certification requirements for professional personnel (WV Code 18A-4-7a) permits interviewing or hiring an applicant who does not physically possess the required certification, but who has completed the requirements for certification at the time of the interview or date of hiring and is waiting for the certification results.

Napier v. B.O.E. Mingo County, 591 S.E.2d 106 (2003) – WVC §18A-4-8a(7) permits a county board of education to modify the daily work schedule of a special education transportation aide after the school year begins and without the employee’s consent in order to reflect the daily schedule of the bus to which she is assigned and to accommodate fewer or greater numbers of students as their needs dictate.

State ex rel. Melchiori v. BOE, 425 S.E.2d 251 (1992) –Where boards of education seek to transfer teachers to positions for which they are certified, but have no practical experience, as the result of a reduction-in-force, the court held that a county board of education must make a showing that its assignment of a displaced teacher is sound when the teacher is assigned to instruct in an area for which she is certified, abut has not been employed to teach, where an alternative assignment in an area in which the teacher has previously been employed to teach is available under the seniority framework.

State ex rel. Serdich v. Preston County BOE, 488 S.E.2d 34 (1997) – When a board of education receives information which leads it to know, or reasonably expect, that a teacher’s absence will prospectively extend for twenty consecutive employment days, then there is an opening (WV Code 18A-4-7a), and the board is required to notify qualified personnel on the recall list referred to in the statute.

State ex rel. Wilson v. Truby, 281 S.E.2d 231 (1981) – School personnel regulations and laws are to be strictly construed in favor of the employee.

Townshend v. BOE, 396 S.E.2d 185 (1990) – Board of education policy which prohibited one spouse from supervising the other spouse within a county school system was reasonable exercise of board's supervisory authority to prevent favoritism, conflict of interest, or appearance of either.

Webster County BOE v. Johns, 447 S.E.2d 599 (1994) – Employee applied for and was qualified for kindergarten aide position; thus, employee was entitled to position, rather than the individual who did not apply for but received the position.

West Virginia Educ. Assoc. v. Preston County BOE, 297 S.E.2d 444 (1982) – County school superintendent’s nomination of his wife for a central administrator’s position violates criminal statute §61-10-15 against self-dealing and nepotism by public employees.

Wines v. Jefferson County B.O.E., 582 S.E.2d 826 (2003) –School personnel regulations and laws are to be strictly construed in favor of the employee.

Woo v. BOE, 504 S.E.2d 644 (1998) -- In order to dismiss a school board employee for acts perform at a time and place separate from employment, the board must demonstrate a “rational nexus” between the conduct performed outside of the job and the duties the employee is to perform. This “rational nexus” exists in at least two circumstances: (1) If the conduct directly affects the performance of the occupational responsibilities of the teacher; or (2) if, without contribution on the part of the school officials the conduct has become the subject of such notoriety as to significantly and reasonably impair the capability of the particular teacher to discharge the responsibilities of the teaching position. (Woo was involved in drug use)

State Board Policies:

<u>Policy</u>	<u>Topic of the Policy</u>
SBP 1461	Drug-Free Workplace Policy
SBP 2320	A Process for Improving Education Performance Based Accreditation System
SBP 2421	Racial, Sexual, religious/Ethnic Harassment and Violence Policy
SBP 2510	Assuring the Quality of Education: Regulations for Education Programs
SBP 4336	West Virginia School Transportation Regulations
SBP 5202	Minimum Requirements for the Licensure of Professional/Paraprofessional Personnel and Advanced Salary Classifications
SBP 5300	Board of Education Relations with School Personnel
SBP 5310	Performance Evaluation of School Personnel
SBP 5500	County Professional Staff Development Councils
SBP 5500.02	County Service Personnel Staff Development Councils
SBP 5500.03	Skills for Principals
SBP 5612	Use of Personal Leave Benefits with Workers' Compensation Benefits
SBP 5899	Beginning Principal Internships
SBP 5900	Beginning Educator Internship Program
SBP 5902	Employee Code of Conduct

Federal References:

Age Discrimination Act, 29 U.S.C.A. §621
Civil Rights Act of 1964, Title VII, 42 U.S.C.A. §2000E-2
Controlled Substance Act, 21 U.S.C. §802
Discrimination Based on Sex, Title IX, 20 U.S.C.A. §1681
Equal Pay Act, 29 U.S.C.A. §206
Family Medical Leave Act, 29 u.s.c. §§2601, 2611, and 2612
Omnibus Transportation Employee Testing Act of 1991
Rehabilitation Act of 1973 (Amended 1990), 29 U.S.C. §794
Fair Labor Standards Act

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