

# REFERENCE COPY

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Critical

## EXPLANATION: PART-TIME AND SUBSTITUTE EMPLOYMENT

MSBA has recoded and modified this policy so that it applies to both professional and support staff. Many of the laws and recommended policy language regarding part-time and substitute employment are applicable to all employees, not just certificated staff.

1. **Job Sharing.** This section of the policy is based on § 168.303, RSMo., and state regulation 5 C.S.R. 20-400.100. These laws essentially require the district to provide pro rata leave to part-time employees if they meet the requirements of "job sharing." However, they exclude some employees. Previously, these employees were not listed. MSBA has added the list of excluded employees in this version.

In reality, many districts provide paid leave to regular part-time employees on a pro rata basis anyway, including part-time employees serving in the positions excluded under the job sharing statute (see policies GCBDA and GDBDA). If this is the case in your district, this section is meaningless and can be deleted.

2. **Substitute Employees.** State statute requires a majority of the Board to approve employment of all persons. § 162.301, RSMo. Substitute teachers and other substitutes are district employees and must likewise be approved by the Board. Many districts obtain this approval through a consent agenda item. While Board approval is necessary, MSBA recommends that the Board carefully read lists of substitute teachers before voting to avoid illegal nepotism.
3. **Employing Retired Employees.** MSBA has expanded this section to apply to all retirees, not just those under the Public School Retirement System (PSRS). The laws regarding re-employment of retirees are identical under PSRS and the Public Education Employee Retirement System (PEERS) with the exception of compensation. The laws restricting compensation for persons receiving allowances under PSRS are quite strict but are nonexistent under PEERS.

MSBA has added a few additional points under this section based on revised PSRS and PEERS regulations. New regulations now require retirees to prorate the 550 hours they are able to work throughout the school year. The retiree may only work a total of 550 hours if the employee works the entire school year. If a retiree returns to work in a school district in January, for example, the retiree may only work 275 hours in the remainder of the school year. In addition, retirees are now required to keep a log of the days and hours worked for the district, and the district needs to maintain a copy of that log to present to PSRS or PEERS upon request to prove that the district and the employee are in compliance with the 550-hour limitations.

PSRS and PEERS have recently revised state regulations to put additional restrictions on the re-employment of retirees soon after they have retired. A retiree cannot reach an agreement to work for the district, whether written or unwritten, until the retiree has received his or her first retirement benefit payment. *See 16 C.S.R. 10-5.010, 16 C.S.R. 10-6.060.* While the consequences are primarily on the employee, as they will be required to repay any retirement benefit received, MSBA has added language to the policy as well. Most districts do not want to do anything that would put an employee's retirement at risk.

4. Affordable Care Act and Part-Time Employees. Many districts have become concerned about the impact of the Affordable Care Act (ACA) on the re-employment of district employees who have retired. The ACA does not impact most retirees, but if the district uses the look-back measurement method, it could have implications for persons who worked full-time for the district, retired, and are immediately re-employed on a part-time basis the following year. See the explanation and revisions to GCBC-AP1 and GDBC-AP1 in this update.

The look-back measurement method works prospectively. If an employee works for the district full-time during the district's measurement period, then the district must offer the employee insurance during the stability period, even if the employee's hours are reduced, as long as the employee is still on the district's payroll. Even if the employee retires or resigns, if there has not been a 26-week break in service before the employee is re-employed, the district cannot consider the employee as "new," and the employee is entitled to be offered insurance during the stability period. There is an exception that is discussed more thoroughly in the explanation and revisions to GCBC-AP1 and GDBC-AP1, but even if that exception applies, the district is required to offer insurance for at least three calendar months. This is a problem because most districts do not offer and have not budgeted for insurance costs for part-time employees.

Although most districts are primarily concerned about the ACA's impact on rehiring retirees, the reality is that the ACA regulations have a similar impact on any full-time employee who moves to a part-time position if the district uses the look-back measurement method to determine the full-time status of an employee.

Now that districts are realizing the impact of using the look-back measurement method, many have asked MSBA for sample policy language. MSBA has not put language directly into its sample policies because not all districts are using the look-back measurement method. Further, some districts have such a difficult time finding qualified teachers that they do not want policy language that would limit the administration's ability to secure qualified staff, even if it means paying for a few additional months of insurance. Finally, policy language is not absolutely necessary.

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The district's administration can contemplate impact on the budget when assigning or hiring staff to part-time positions in the district without a Board directive. Nevertheless, many districts have requested some sample language. For that reason, MSBA has created the following language, which can be inserted into this policy:

## Restrictions on Employment and Transfer

The district does not offer health coverage for part-time or substitute employees, unless required by law to do so. Therefore the district will not consider re-employing in a part-time or substitute capacity a recently retired or former employee if the person would be entitled by law to district-paid health coverage. However, the district will consider an application once the person has gone 26 weeks without being credited for an hour of service with the district.

Likewise, the district will not consider transferring a full-time employee to a part-time position if the employee would be entitled by law to district-paid health coverage.

*MSBA recommends that copies of this document be routed to the following areas because the content is of particular importance to them. The titles on this list may not match those used by the district. Please forward copies to the district equivalent of the title indicated.*

	Board Secretary	X	Business Office		Coaches/Sponsors
	Facility Maintenance		Food Service		Gifted
X	Human Resources	X	Principals		Library/Media Center
	Health Services		Counselor		Special Education
	Transportation		Public Info/Communications		Technology

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## **PART-TIME AND SUBSTITUTE ~~PROFESSIONAL STAFF~~ EMPLOYMENT**

The district may employ part-time employees and employees who will work on a substitute basis in the district. These employees must meet the same qualifications as full-time staff, must be appropriately certified or licensed when necessary, and are subject to the same policies, procedures and other rules as full-time employees. Part-time and substitute employees must satisfactorily complete the same background checks and screenings required of full-time employees.

### **Part-Time Teachers**

Part-time teachers shall meet the qualifications required of full-time teachers in the district as well as the requirements for teachers under state law and/or state regulations. Part-time teachers must satisfactorily complete the same background checks and screenings required of full-time teachers by the district.

The contracts of all professional staff employed on a regular, part-time basis must explicitly state the percentage of full-time employment (FTE) that the employee is contracted to work so that the district may accurately calculate the accumulation of tenure.

### **Job Sharing**

The district may employ classroom teachers through a job-sharing arrangement, in accordance with law. Classroom teachers in a job-sharing position shall receive paid legal holidays and paid leave applicable to all classroom teachers on a pro-rata basis.

A job-sharing position shall mean any position that is shared with one other employee, requires employment of at least 17 and no more than 20 hours per week on a regular basis and requires at least 70 percent of all time spent in classroom instruction. Instructional support or school services positions such as guidance counselors, media coordinators, psychologists, social workers, audiologists, speech and language pathologists, and nursing positions are not eligible for job sharing under state law but may still be employed on a part-time basis.

### **Substitute Employees**

In accordance with law, a majority of the whole Board must approve the employment of all employees, which includes substitute employees. The superintendent will present an initial list of substitute employees to the Board for approval. If substitute employees are added to or removed from the list, the superintendent will submit the revised list or the individual changes to the Board for approval.

Substitute teachers are called to teach for a day or a week or for longer periods to fill vacancies caused by the absence of regular teachers.

### ***Application***

In addition to meeting all application and certification requirements of DESE, a person interested in substitute teaching must file a formal application with the office of the assistant superintendent. A personal interview is required with a building principal of any applicant who has not previously taught or substituted in the Camdenton Schools.

A list of approved substitutes shall be sent to all principals and principals shall select employee substitutes only from this list.

### ***Rate of Pay for Substitutes***

Substitute teachers on a day-to-day assignment in either the elementary or secondary schools will be paid a standard daily rate as fixed by the Board of Education. However, if a substitute teacher continues teaching for the same teacher for ten consecutive school days, the substitute will be placed on a beginning teacher salary scale for each day taught beyond the first ten days as long as the days are consecutive and uninterrupted. If it is necessary for the substitute teacher to be absent due to his or her personal illness, the count for consecutive days will not be interrupted as long as the number of days absent is three or less. A doctor's excuse must be provided. This illness absence will be allowed for a maximum of three days with no pay for missed days. Absences for other reasons or that exceed the three days allowed will result in the teacher having to requalify for the beginning teacher salary. A substitute teacher may request that an exception be made to the three-day limit by submitting the request in writing to the human resources department. The superintendent or designee has the discretion to approve such requests due to extenuating circumstances.

### ***Holidays, Sick Leave***

Substitute teachers are not entitled to pay for holidays that occur during their period of teaching; neither are they entitled to sick leave.

### ***Position***

The substitute teacher shall be responsible to the administrator of the teacher for which substitution is made.

### ***Duties***

The substitute teacher shall perform those duties done normally by the absent teacher.

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## **Previously Retired TeachersEmploying Retirees**

~~Any~~ The district may employ persons retired and currently receiving a retirement allowance other than for disability under the Missouri Public School Retirement System ~~may be employed~~ (PSRS) or the Public Education Employee Retirement System (PEERS) in any capacity on either a part-time, ~~or temporary~~ or substitute basis. As long as these employees do not work in excess of ~~not to exceed~~ a total of 550 hours in any one school year as prorated by state law, these employees will not contribute to PSRS or PEERS.

The district may employ a retiree for more than 550 hours or even employ a retiree full-time with the mutual understanding that this will result in a new retirement account being established and that the employee will not be eligible to receive his or her retirement allowance for any month during which he or she is employed by the district unless the district can demonstrate that it has a critical shortage of qualified employees as required under state law.

In accordance with law, the district will not reach a written or unwritten agreement for future employment with a person who has retired or is going to retire under PSRS or PEERS until the person has received his or her first retirement benefit payment.

All persons employed by the district who are receiving a retirement allowance from PSRS or PEERS are required to provide the district an accurate record of the dates and hours they work for the district. Such records will be maintained by the district.

## ***Limits on Compensation for Retirees under PSRS***

~~and, through such employment,~~ Retirees receiving a retirement allowance under the PSRS who are employed by the district may earn up to 50 percent of the annual compensation payable under the employing district's salary schedule for the position or positions filled by the retiree, given such person's level of experience and education, without a discontinuance of the person's retirement allowance. If the position in question is not subject to the district's salary schedule, an employed retiree may earn up to 50 percent of the annual compensation paid to the person or persons who last held such position or positions. If the position or positions did not previously exist, the compensation limit shall be determined in accordance with rules of the Board of Trustees of the retirement system provided that it shall not exceed 50 percent of the annual compensation payable for the position in the school district that is most comparable to the position filled by the retiree.

In any case where a retiree under PSRS fills more than one position during the school year, the 50 percent limit on permitted earnings shall be based on the annual compensation of the highest-paid position occupied by the retiree for at least one-fifth of the total hours worked during the year. ~~Such a person shall not contribute to the retirement system or to the Public Education Employee Retirement System because of earnings during such period of employment.~~

A retired teacher may be employed for more than 550 hours, but this will result in a new retirement account being established pursuant to law, and he or she shall not be eligible to receive his or her retirement allowance for any month during which he or she is so employed.

### Contracts

The contracts of all teachers employed on a regular, part-time basis must explicitly state the percentage of full-time equivalent (FTE) work for which they are contracted so that the district may accurately calculate the accumulation of tenure.

### Substitute Teachers

All substitute teachers must be certified by the Department of Elementary and Secondary Education (DESE) through an application submitted in accordance with state law. The superintendent will present an initial list of substitute teachers to the Board for approval. If substitute teachers are added to or removed from the list, the superintendent will submit the revised list or the individual changes to the Board for approval.

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***Note: The reader is encouraged to check the index located at the beginning of this section for other pertinent policies and to review administrative procedures and/or forms for related information.***

Adopted: 08/08/1994

Revised: 09/19/2002; 06/13/2005; 01/08/2007; 05/09/2011; 09/12/2011;

Legal Refs: §§ 162.301, 168.101 - .130, .303, 169.560, .596, .660, RSMo.  
5 C.S.R. 20-400.110, .220  
16 C.S.R. 10-5.010, -6.060

Camdenton R-III School District, Camdenton, Missouri