

1 **A. GENERAL PRINCIPLES**

2
3 It is the policy of the [Transylvania County Board of Education \(the “board”\)](#) to provide
4 all applicants for employment with equal employment opportunities and to provide
5 current employees with training, compensation, promotion, and other benefits of
6 employment without regard to race, color, religion, national origin, military affiliation,
7 genetic information, sex, age, or disability, except when sex, age, or physical
8 requirements are essential occupational qualifications. All candidates will be evaluated
9 on their merits and qualifications for positions. All employment decisions will be
10 consistent with the board’s objective of providing students with the opportunity to receive
11 a sound basic education, as required by state law.
12

13 The board also is committed to diversity throughout the programs and practices of the
14 school system. To further this goal, the recruitment and employment program should be
15 designed to encourage a diverse pool of qualified applicants.
16

17 **B. RECRUITMENT**

18
19 Recruitment for a specific vacancy will be undertaken only after the need and
20 qualifications for the position are established and proper authorization is obtained.
21

22 All vacancies must be adequately publicized within the school system so that employees
23 will be informed of opportunities for promotion or transfer to new jobs. Vacancies also
24 may be publicized externally to attract qualified applicants.
25

26 **C. CRIMINAL HISTORY**

27
28 Applicants must notify the ~~assistant superintendent~~ [director](#) of human resources
29 immediately if they are arrested, charged with, or convicted of a criminal offense
30 (including entering a plea of guilty or *nolo contendere*) other than a minor traffic
31 violation (i.e., speeding, parking, or a lesser violation). Notice must be in writing, must
32 include all pertinent facts, and must be delivered to the ~~assistant superintendent~~ [director](#)
33 of human resources no later than the next scheduled business day following the arrest,
34 charge, or conviction, unless the applicant is hospitalized or incarcerated, in which case
35 the applicant must report the alleged violation within 24 hours after his or her release.
36 Upon judicial action in the matter, the applicant must report the disposition and pertinent
37 facts in writing to the ~~assistant superintendent~~ [director](#) of human resources no later than
38 the next business day following adjudication.
39

40 A criminal history check and a check of sex offender registries must be conducted on all
41 final candidates for employment with the school system. Criminal history checks must
42 be conducted in accordance with state law and any procedures established by the
43 superintendent. School officials shall not require candidates to disclose expunged arrests,
44 charges, or convictions, and shall not ask candidates to voluntarily disclose such

45 information without first advising that disclosure is not required. The superintendent or
 46 designee shall report to the State Board of Education any licensed individual who is
 47 found to have a criminal history, as required by State Board policy.
 48

49 A final candidate for employment or for hiring as an independent contractor will be
 50 excluded from hiring on the basis of criminal conduct only when doing so is job-related
 51 and consistent with business necessity. If a final candidate is found to have been
 52 convicted of a criminal offense, other than a minor traffic violation, the superintendent
 53 shall determine whether the individual is qualified for employment despite the criminal
 54 history by considering, among other things, whether the individual poses a threat to the
 55 safety of students or personnel or has demonstrated that he or she does not have the
 56 integrity or honesty to fulfill the duties of the position. The following factors will be
 57 considered in making this determination: (1) the nature and gravity of the offense or
 58 conduct; (2) the time that has passed since the offense or conduct and/or completion of
 59 the sentence; and (3) the nature of the job sought. Before the superintendent may exclude
 60 a final candidate based on his or her past criminal convictions, the superintendent must
 61 give the candidate the opportunity to demonstrate that the exclusion does not properly
 62 apply to him or her.
 63

64 The board has determined that every position with the school system, regardless of
 65 whether the position is located in a school or elsewhere, potentially entails contact with
 66 students, either on a regular, occasional, or emergency basis. For that reason, no
 67 individual who is a registered sex offender subject to the provisions of policy 5022,
 68 Registered Sex Offenders, will be hired for any position with the school system.
 69

70 In addition, each contract executed by the board with an independent contractor or for
 71 services of independent contractors must require the contractor to check sex offender
 72 registries as specified in policy 5022, Registered Sex Offenders.
 73

74 **D. SELECTION**

75
 76 **1. Qualifications**
 77

78 Candidates for employment must be selected based upon their likely ability to
 79 fulfill duties identified in the job description as well as performance standards
 80 established by the board. In making the determination, the following information
 81 must be considered:
 82

- 83 a. application;
- 84 b. education and training;
- 85 c. licensure and certification (when applicable);
- 86 d. relevant experience;
- 87 e. personal interviews; and
- 88 f. references and/or background checks.

89
90 When several applicants for the same position are equally qualified and suitable
91 for the position, employees within the school system will be given priority.
92

93 2. Nepotism

94
95 a. For purposes of this subsection, the following definitions apply.

96
97 i. “Immediate family” means spouse, parent, child, brother, sister,
98 grandparent, or grandchild. The term includes the step, half, and
99 in-law relationships.

100
101 ii. “Central office staff administrator” includes directors, supervisors,
102 specialists, staff officers, assistant superintendents, area
103 superintendents, superintendents, and principals.

104
105 b. Before any immediate family of any board of education member or central
106 office staff administrator is employed by the board or engaged in any
107 capacity as an employee, independent contractor, or otherwise, (1) the
108 board member or central office staff administrator must disclose the
109 familial relationship to the board and (2) the prospective employment or
110 engagement must be approved by the board in a duly called open session
111 meeting.

112
113 i. An employee who knowingly fails to disclose a familial
114 relationship to the board as required will be subject to disciplinary
115 action up to and including dismissal.

116
117 ii. Notification by the employee to the ~~assistant superintendent~~
118 **director** of human resources will be deemed disclosure to the
119 board. The ~~assistant superintendent~~ **director** of human resources is
120 responsible for conveying the disclosure to the board before the
121 board takes action on the prospective employment or engagement.
122

123 c. When making recommendations for the selection and assignment of
124 personnel, the superintendent shall attempt to avoid situations in which
125 one employee occupies a position in which he or she has influence over
126 the employment status, including hiring, salary, and promotion, of another
127 employee who is a member of the first employee’s immediate family.
128

129 d. No administrative or supervisory personnel may directly supervise a
130 member of his or her immediate family.
131

132 3. Employment Procedures

133
134 All applicants selected for employment must be recommended by the
135 superintendent and approved by the board. In situations in which the employee
136 must be hired between board meetings, the superintendent is authorized to
137 approve hiring such personnel, contingent upon approval by the board at its next
138 scheduled board meeting.

139
140 State guidelines must be followed in selection and employment procedures. The
141 superintendent shall develop any other procedures necessary to implement this
142 policy.

143
144 The superintendent shall develop procedures for verifying new employees' legal
145 status or authorization to work in the United States as required by law.

146
147 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*;
148 Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*; Equal Educational
149 Opportunities Act of 1974, 20 U.S.C. 1703; Equal Pay Act of 1963, 29 U.S.C. 206; Fair Credit
150 Reporting Act, 15 U.S.C. 1681 *et seq.*; Genetic Information Nondiscrimination Act of 2008, 42
151 U.S.C. 2000ff *et seq.*; Military Selective Service Act, 50 U.S.C. Appx. 453; Rehabilitation Act of
152 1973, 29 U.S.C. 794; Title VII of the Civil Rights Acts of 1964, 42 U.S.C. 2000e *et seq.*; Title IX
153 of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*; Uniformed Services Employment
154 and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*; 8 U.S.C. 1101 *et seq.*; *Green v.*
155 *Missouri Pacific Railroad* (8th Cir. 1975); *Enforcement Guidance on the Consideration of Arrest*
156 *and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of*
157 *1964*, U.S. Equal Employment Opportunity Commission (April 25, 2012) available at
158 http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm; G.S. 14-208.18; 15A-153; 115C-
159 12.2, -36, -47, -276(j), -332; 126-7.1(i), -16; 127A-202.1 *et seq.*; 127B-10, -12, -14; 143B-421.1,
160 -931; *Leandro v. State*, 346 N.C. 336 (1997); 16 N.C.A.C. 6C .0313; State Board of Education
161 Policies TCP-C-017 and TCP-D-009

162
163 Cross References: Board Authority and Duties (policy 1010), Registered Sex Offenders (policy
164 5022)

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166 Adopted: