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**A. GENERAL PRINCIPLES**

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

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

**B. RECRUITMENT**

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

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

**C. CRIMINAL HISTORY**

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

A criminal history check and a check of sex offender registries must be conducted on all final candidates for employment with the school system. Criminal history checks must be conducted in accordance with state law and any procedures established by the superintendent. School officials shall not require candidates to disclose expunged arrests, charges, or convictions, and shall not ask candidates to voluntarily disclose such information without first advising that disclosure is not required. The superintendent or

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

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

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

73 **D. SELECTION**

74 **1. Qualifications**

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

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

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

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

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

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

104 b. Before any immediate family of any board of education member or central  
105 office staff administrator is employed by the board or engaged in any  
106 capacity as an employee, independent contractor, or otherwise, (1) the  
107 board member or central office staff administrator must disclose the  
108 familial relationship to the board and (2) the prospective employment or  
109 engagement must be approved by the board in a duly called open session  
110 meeting.  
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112 i. An employee who knowingly fails to disclose a familial  
113 relationship to the board as required will be subject to disciplinary  
114 action up to and including dismissal.  
115

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

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

128 d. No administrative or supervisory personnel may directly supervise a  
129 member of his or her immediate family.  
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## 131 3. Employment Procedures

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

138  
139 State guidelines must be followed in selection and employment procedures. The  
140 superintendent shall develop any other procedures necessary to implement this  
141 policy.

142  
143 The superintendent shall develop procedures for verifying new employees' legal  
144 status or authorization to work in the United States as required by law.

145  
146 Legal References: Age Discrimination in Employment Act of 1967, 29 U.S.C. 621 *et seq.*;  
147 Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*; Equal Educational  
148 Opportunities Act of 1974, 20 U.S.C. 1703; Equal Pay Act of 1963, 29 U.S.C. 206; Fair Credit  
149 Reporting Act, 15 U.S.C. 1681 *et seq.*; Genetic Information Nondiscrimination Act of 2008, 42  
150 U.S.C. 2000ff *et seq.*; Military Selective Service Act, 50 U.S.C. Appx. 453; Rehabilitation Act of  
151 1973, 29 U.S.C. 794; Title VII of the Civil Rights Acts of 1964, 42 U.S.C. 2000e *et seq.*; Title IX  
152 of the Education Amendments of 1972, 20 U.S.C. 1681 *et seq.*; Uniformed Services Employment  
153 and Reemployment Rights Act of 1994, 38 U.S.C. 4301 *et seq.*; 8 U.S.C. 1101 *et seq.*; *Green v.*  
154 *Missouri Pacific Railroad* (8<sup>th</sup> Cir. 1975); *Enforcement Guidance on the Consideration of Arrest*  
155 *and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of*  
156 *1964*, U.S. Equal Employment Opportunity Commission (April 25, 2012) available at  
157 [http://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm); G.S. 14-208.18; 15A-153; 115C-  
158 12.2, -36, -47, -276(j), -332; 126-7.1(i), -16; 127A-202.1 *et seq.*; 127B-10, -12, -14; 143B-421.1,  
159 -931; *Leandro v. State*, 346 N.C. 336 (1997); 16 N.C.A.C. 6C .0313; State Board of Education  
160 Policies ~~BENF-009TCP-C-017~~ and ~~TCP-D-009NCAC-6C.0313~~

161  
162 Cross References: Board Authority and Duties (policy 1010), Registered Sex Offenders (policy  
163 5022)

164  
165 Adopted: January 19, 2016

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167 Revised: [DATE] (legal references only)