

## **Regulation HRS - 40 Classified Staff Hiring**

*February, 2019*

### **I. General.**

- A. The Superintendent shall hire classified staff within annual budgetary limits.
- B. The BCSD shall provide equal employment opportunities to all persons without regard to race, color, creed, sex (including pregnancy, childbirth, or any related medical conditions), disability, age (40 or older), genetic information, religion, national origin, or any other applicable status protected by state or federal law. The BCSD shall make reasonable accommodations for an individual who is otherwise qualified for a position unless the accommodation would impose an undue hardship. Applicants for classified staff positions shall be considered for employment based on BCSD needs and their merits and qualifications.
- C. The Chief Administrative and Human Resource Services Officer ("CAHRO") shall ensure all persons recommended to the Superintendent for employment in classified staff positions meet the requisite job qualifications.
- D. The BCSD shall conduct a criminal record history check of all new employees prior to their initial employment in accordance with BCSD Administrative Regulation HRS-47. The costs for the background checks for new employees shall be paid by the BCSD.
- E. The BCSD shall consider the results of all criminal record history checks on an individual basis and shall determine how the information obtained impacts the individual's ability to be an effective employee. When determining the appropriateness of offering employment to an individual, the BCSD shall consider such things as severity of offense, age of the individual, direct impact of the offense on children, length of time since conviction or plea, restitution, conduct or remedial actions during probation, and participation in pretrial intervention and/or expungement.
- F. At a minimum, the BCSD shall not employ individuals who have been convicted of or plead guilty to a violent crime as defined in [S.C. Code Ann. § 16-1-60](#).
- G. The BCSD shall ensure all potential hires are not listed on the National Sex Offender Registry, regardless of whether such person will be employed on a full-time, part-time, regular, interim or temporary basis, be hired as a volunteer, coach, be authorized as a mentor or chaperones, or be hired in any other capacity resulting in direct interaction with one (1) or more students.
- H. A potential hire who is listed on the National Sex Offender Registry shall not be permitted to serve in the BCSD in any capacity. The BCSD shall not employ individuals or allow individuals to volunteer in any capacity, who have been required to register as sex offenders pursuant to [S.C. Code Ann. § 23-3-430](#). Should an individual whose name appears on the National Sex Offender Registry wish to provide additional information relevant to his/her designation on said registry, the BCSD shall consider the matter on a case by case basis.

### **II. Vacancies.**

- A. The Office of Human Resource Services shall establish procedures for interviewing and selecting the top candidates for vacancies. Such procedures shall ensure all applicants are thoroughly screened.

B. The Superintendent may, under circumstances as determined by him/her, directly appoint a current certified staff employee to fill another certified staff position. Direct appointments do not require advertising or interviews.

C. The BCSD shall generally advertise certified staff vacancies within the BCSD unless otherwise determined by the Superintendent or the CAHRO.

### **III. Mid-year and/or At-Will, Working Retirees.**

A. Should a vacancy occur in a position during the year, the Superintendent may fill such vacancy for the remainder of the school year in which the vacancy occurs pursuant to an at-will, working retiree letter of agreement. A retired employee may be employed for the current school year to fill the vacancy his/her retirement created; however, the BCSD has no obligation to employ the individual for subsequent years. In such cases, the Office of Human Resource Services shall notify the working retiree of the at-will status of his/her employment.

B. The continued employment of at-will, working retirees shall be at the discretion of the Superintendent, who will make such decisions in the best interests of the BCSD.

C. The decision to employ or not employ retired employees is not subject to the BCSD grievance procedures.

### **IV. Probationary Period.**

A. Newly hired classified staff members are considered to be on probation during their first 90 working days of employment. The provisions of BCSD Administrative Regulation HRS-45, Classified Staff Discipline and Dismissal, do not apply during the probationary period. During the probationary period, the Superintendent may terminate a probationary classified employee's employment based on a recommendation from the Principal or District Office supervisor and as approved by the CAHRO.

B. Prior to a classified staff member moving from probationary to regular employment status, s/he must receive a "Satisfactory" evaluation rating from his/her Principal or District Office supervisor.

C. Should a probationary classified employee be absent for any reason for five (5) or more consecutive days, the BCSD will extend his/her period of probation by the length of such absence.

D. Newly hired classified staff shall execute an acknowledgement of this probationary employee policy prior to performing any work for the BCSD.

### **V. Eligibility for Employment.**

A. The Immigration Reform and Control Act of 1986 prohibits employers from hiring individuals not legally eligible to work in the United States. The BCSD shall comply with the provisions of the United States Immigration and Customs Enforcement Agency (ICE) Regulations by requiring BCSD employees complete Form I-9. All newly hired employees must complete the form no later than three (3) business days following their first working day. If an individual is unable to provide the required document or documents to complete the Form I-9 within the three (3) day period, the individual must present a receipt for the application of the document or documents within three (3) days of the hire and present the required document or documents within 21 days of the hire.

B. The BCSD shall maintain the completed Form I-9 in a file separate from other personnel records to prevent unauthorized review of personnel files and retain the Form I-9 for three (3) years after the date of hire or one (1) year after the date the individual's employment is terminated, whichever is later.

C. The BCSD participates in the federal E-Verify program and will verify the employment authorization of each new employee through this federal program.

Adopted: July 1, 2001

Revised: June 11, 2002; May, 2005; December 19, 2005; August, 2010; May, 2018; February, 2019

Legal References:

Federal Law:

Age Discrimination in Employment Act, [29 U.S.C.A. Section 621](#), *et seq.* -  
Nondiscrimination on the basis of age in employment

Americans with Disabilities Act of 1990, [42 U.S.C.A. Section 12101](#), *et seq.* - Prohibits  
employment discrimination on the basis of disability

Every Student Succeeds Act, [Pub. L. No. 114-95](#) - Requisite teacher qualifications

Genetic Information Nondiscrimination Act of 2008, [42 U.S.C.A. Section 2000ff](#), *et seq.* -  
Prohibits discrimination on the basis of genetic information

Illegal Immigration Reform and Immigrant Responsibility Act of 1996, [8 U.S.C.A. Section 274a.2](#) and [1324a](#) - Requires verification of immigration status of all new employees

Rehabilitation Act of 1973, Section 504, [29 U.S.C.A. Section 794](#) - Prohibits  
discrimination on the basis of disability

Title VII of the Civil Rights Act of 1964, [42 U.S.C.A. Section 2000e](#), *et seq.* - Prohibits  
discrimination in hiring based on race, color, national origin, religion or sex.

Title IX of the Education Amendments of 1972, [20 U.S.C.A. Sections 1681-86](#) - Prohibits  
discrimination on the basis of sex

The Uniformed Services Employment and Reemployment Act of 1994, [38 U.S.C.A. Sections 4301-4334](#)

South Carolina Code, 1976, as amended

[Section 1-1-550](#) - Honorably discharged veterans shall have preference for public  
employment.

[Section 8-14-10](#), *et seq.* - Illegal Immigration Reform Act of 2008.

[Section 9-1-1790](#) - Amount that may be earned upon return to covered employment.

[Section 9-1-2210](#) - Teacher and Employee Retention Incentive Program

[Section 16-1-60](#) - Violent crimes defined.



[Section 23-3-115](#) – Fees for criminal record searches conducted for charitable organizations.

[Section 23-3-130](#) – Determination of information to be supplied and methods of evaluation and dissemination; promulgation of rules and regulations.

[Section 23-3-430](#) – Sex offender registry; convictions and not guilty by reason of insanity findings requiring registration.

[Section 59-1-510](#) – Guidelines and regulations for recruitment and hiring staff in professional areas

[Section 59-1-520](#) – Intervention by State Department of Education for noncompliance

[Section 59-18-1300](#) – Principals should be actively involved in the selection, discipline, and dismissal of personnel in their particular school

[Section 59-19-80](#) – Requirements as to purchases and teacher employment

[Section 59-19-117](#) – Criminal record search for individuals hired by district; National Sex Offender Registry check on certain district employees

[Section 59-25-160](#) – Revocation or suspension of certificate; “just cause” defined

[Section 59-26-40\(M\)](#) –State Law Enforcement Division criminal history check

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### **Beaufort County Schools**

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