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Loudoun County School Board, Human Resources and Talent Development (HRTD) Committee Meeting, Thursday, February 22, 2024

Date Thursday, February 22, 2024
Place Loudoun County Public Schools / School Board meeting (see BoardDocs / LCPS-TV)
Length 40m (video)

- Official meeting video (Vimeo / LCPS-TV): <https://player.vimeo.com/video/915787462?rel=0>
- BoardDocs (School Board): <https://go.boarddocs.com/vsba/loudoun/Board.nsf/Public>

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[00:00:00] I'd like to call to order. That's okay. It is 3.30. We are here today for the HRTD meeting. I have been notified that Ann Donahue would like to be remote to participate today. So is Ann on?

[00:00:15] She is on. Okay, good, good. Please state your location and whether this is a medical or personal matter. Thank you, Mrs. Griffiths. I am in my bedroom in my home in the Leesburg area.

[00:00:33] My minor children are also at home, but they are in a different room. No one else is home with me at this time. And I am requesting remote participation today for a medical reason because I am sick. Thank you.

[00:00:50] And is anyone present at the... Oh, I already asked you that question. So all in favor, I'm fine with it. Aye. Thank you. Okay, so to start, this meeting is called to order.

[00:01:08] I'll put out there for public comment, but I'm not sure we have anybody for public comment today. Do we have anyone? Okay. So nobody here for public comment. Item number three, the minutes, approval of the minutes from October 26th, 2023.

[00:01:30] All in favor, have you had a chance to look at the minutes? Oh, I would be happy to make a motion to approve the minutes from the meeting on October 26th, 2023. Okay. And do you want to second it? I'm sure I will second. Can I ask one question, Mrs. Griffiths?

[00:01:50] Sure. Thank you. These minutes are from last fall, which was the prior committee members who have since completed their terms. So I just wanted to clarify if any of the members who were present at that meeting have reviewed and confirmed the accuracy of the minutes.

[00:02:16] I know I was not there myself. Thank you, Ms. Donoghue. These minutes were provided to the previous committee chair, Ms. Erica Ogadegbe, prior to the end of her term to review and or approve, which she did at that time.

[00:02:40] Thank you, Ms. Bolland. So if there are no other questions, we will approve the minutes from October, October 26, 2023. Aye. So approved. Item number four, information items, HRTD Committee Revision to Policy 7628 Retirement Benefits.

[00:03:06] I do have the red line here if you wanted to speak to that. Ms. Bowman? Yes, ma'am. Thank you. So this evening, a revision to School Board Policy 7628 Retirement Benefits is being brought before the committee as an information item.

[00:03:23] For awareness, this policy was reviewed by previous committee members on several occasions to include at a committee meeting in August and September, as such revisions to this policy have been made available for public comment, and that feedback has also been included for your review.

[00:03:41] Although the next step in the policy review process would indicate that this policy be brought before the committee as an action item, considering this is the first time any of you have reviewed it, we have brought it back as an information item. However, if the committee should agree, you could suspend the rules and decide to take action this evening to move policy 7628 retirement benefits to the full school board as an information item.

[00:04:09] And if I may, for this policy in particular, given the length of time this policy has been held up in the process due to the number of canceled committee meetings and or the inability to get the policy due to agenda length, it would be our hope that the committee would greatly consider this option.

[00:04:27] However, before such a decision is made, I would like to ask HRTD Director Jeanette Evans to give you an overview and highlight some of the revisions. Thank you, Mrs. Bowen. So, this policy, some of the revisions are simply grammar updates in language usage, but there were some significant changes in Section A. We added some information to clarify the eligibility by most recent hire date. This is not going to affect an employee who

[00:05:05] takes a long-term leave without pay, but for those who resign, who terminate their employment with LCPS and then return we also added language to address employees escrow benefits for those active employees who are who have been charged with a crime prior to retirement so if they're acquitted or the charges are otherwise disposed of the retirement benefits would then be released as of the date of the retirement application with LCPS in section B we just added some clarifying language relating to the hire date of an employee that has a break in service

[00:05:43] and took out the section it was just a little bit confusing about rehires and clarified that information as well if you are if you separate service and you return it is the most recent hire date that

your benefits are determined and And then in Section C, we clarified the language regarding health insurance eligibility for employees hired or rehired after July 1, 2013, that are approved for a disability retirement

[00:06:21] by the Virginia Retirement System. We also added clarifying language to indicate they have to apply within 90 days of the separation date. That is part of VRS as well, it's in the code. so we just updated that to comply with that rule.

[00:06:42] Then in Section B10, we added the information about the Medicare Supplement Plan being a Medicare Advantage Plan, and clarifying that employees or retirees must apply for Part A and Part B, and their effective date and the submission of the Medicare card to employee benefits, whichever is later, that's when the Medicare Advantage Plan will go into effect.

[00:07:07] Then we also added some information in section B 11 about employees who are in critical shortage position So that they can maintain their retiree health insurance when they go when they're rehired in section C1 again clarifying just the language and the date for rehire and Clarifying who is for disability retirement. I'm sorry. I was looking at the wrong section

[00:07:43] We already did that one section D salary supplement We were updating the language here to indicate that it's cumulative ten years of full-time service to LCPS And the maximum is still twenty five hundred dollars and then as of July 1 2022 if an active employee were to pass away and is eligible for Retirement under the Virginia retirement system their spouse is awarded that retirement. We would allow that individual to the spouse to also receive the

[00:08:21] retirement salary supplement and then if Someone returns to LCPS having retired previously they they're not going to be eligible again for another supplement so that's in section 3 and then for section e the Same language for an employee who dies in active service allowing their spouse to Receive these salaries supplement sickly payout if they are eligible for VRS retirement and then the same

[00:09:00] Language about not being eligible for another sickly payout if they return after retiring and receiving the benefit from LCPS I'm available answer any questions. Thank you. Miss Evans. Did you did?

[00:09:16] Do you guys have questions? Anne? Oh, Anne, thank you. Yes. Thank you, Mrs. Griffiths. Thank you, Ms. Evans, for putting this information together, which is very helpful. I do have a couple of questions. My first question regards Section A, lines 15 to 16, I believe.

[00:09:45] says if criminally convicted the retiree may not be eligible to otherwise receive their retirement benefits is that discretionary and if so who makes the decision and if it is not discretionary can we consider changing that language to shall not be eligible or is not eligible um so i have i have other questions but i don't know if you would like to address that first before I move on? Sure, so maybe, so let me back up, any benefits for which they may

[00:10:20] be eligible will be held in escrow, and if they're convicted they may not be eligible to otherwise receive their retirement benefits, so that's your question. There may be situations where someone's conviction is a misdemeanor, it's changed to a misdemeanor, so then they may, we would allow them to be eligible. If it was a felony, then they would not be eligible. If it's against LCPS, they would not be eligible. So that was the reason for that language.

[00:10:52] Okay. I don't, I am curious what my fellow committee members think, but I would suggest adding some language there to make it more clear that if the crime, if the person is convicted of a felony or is convicted of a crime against lcps that they are not eligible for retirement benefits um and then i guess following up on um on my question if the person is convicted of a misdemeanor

[00:11:24] and it is not it is not against and it is not against lcps um would the person same question apologize dogs um would the would the person be um if convicted of a misdemeanor that is not against lcps would a retiree automatically receive retirement benefits or would that be

[00:11:57] at the discretion of someone to decide whether that retiree receives uh their benefits they would be eligible to receive their benefits if it was not against lcps or if there was not And I guess the best way to say it is if it was not against LCPS, then they would be eligible.

[00:12:20] Okay. Thank you. So my other question, I'm trying to find where it was.

[00:12:45] Oh, so in parts D and E, the paragraphs about if an active employee dies prior to retirement but is eligible for benefits, the benefits can go to a spouse. I was wondering if there had been consideration of, or if my fellow members would support considering whether to make an amendment that would include a spouse or surviving children, if there is no spouse

[00:13:18] or some other family member chosen by the retiree. So are you asking the board members to?

[00:13:36] I apologize. I'm asking you, Ms. Evans, if that idea of additional language has already been considered by HRTD, and if so, what were your thoughts? So this is based on VRS's language for the surviving spouse. They specifically state the surviving spouse, the beneficiary, can receive the pension if they've died in active service. We basically copied that. We could do the

[00:14:10] beneficiary, but if there's multiple beneficiaries or, um, beneficiaries are not children, for example. So let's say I didn't have children and the beneficiary is, um, someone else, sorry, cousin. Um, you know, it's, it really, we were looking to not put the spouse in a negative situation. That makes sense. Um, if there is no spouse, what would happen to an individual's

[00:14:45] retirement benefits? So if they've named a beneficiary, then it's going to go to their beneficiaries. If they did not name a beneficiary under the Code of Virginia, first it goes to the spouse, then to surviving children, then to the estate, I believe. And if there's no estate, then it just goes into the coffers. Okay. So I'm sorry, I guess I'm a little confused.

[00:15:25] So this is what happens currently with, is this what happens now with VRS benefits and we're just trying to have LCPS benefits follow in the same way? Donahue, if I may just simplify, that's exactly what we're trying to do.

[00:15:43] Previously, we did not mirror VRS's acknowledgement of retirement benefit payouts to a spouse. And this is an effort for us to mirror what they're doing.

[00:15:59] So we wouldn't need to necessarily add the additional language because we would follow code after that, but we are essentially trying to provide the same benefit to an employee that VRS provides that we have not historically done.

[00:16:17] Thank you, Ms. Bollin. That is helpful. And is it the case that the VRS benefits, and if we approve this language in this proposed policy revision um that these benefits would not go through probate they would simply go directly to um the decedent's spouse yes just like they would if they had

retired okay thank you um that is helpful i i would still i would still suggest to my committee members considering adding some

[00:16:57] language, that the benefits of a decedent, if there is no spouse, that the benefits could go directly to the employee decedent's child or children. And I have no other questions or comments. Thank you. Thank you, Ms. Doniou. I tend to agree. I did want to go back to the other question Ms. Doniou had about the benefits for somebody that may or may not have been convicted

[00:17:29] of a crime. Can we use language that's case-by-case basis, even if they were not convicted, depending on what the issue was? Can you include language that's case-by-case basis as well?

[00:17:49] So I think the concern here and what the attempt was to do was to do that, right? This language allows for a case-by-case basis with those parameters in mind that if it is a felony or if it is against LCPS, it's absolutely denied.

[00:18:11] There are many times where an employee could be charged with a felony and then later, months down the line, it's changed to a misdemeanor. And so this guidance allows for that flexibility for that to change based on whatever the court charges change once they're actually convicted. If we get into adding additional language, we could end up tying our hands and ultimately not including all possibilities and having

[00:18:47] loopholes, if that makes sense. So I do hesitate to continue to add specific language because I do think there will be cases where it's not covered. And this does allow for that case-by-case basis to allow that flexibility and to allow Division Council to make those decisions based on what those ultimate charges could be.

[00:19:13] And if I may, if I may go back to the spouse to children and/or child, I also have concerns there. want to recognize that if someone passes away and they haven't had the ability to retire yet due to the restrictions of the the number of days out we do want to still honor them the way that VRS does and pay out their spouse I think the problem is when we get into adding language in policy that says if if there is no spouse or the spouse is deceased we give it to their child or children

[00:19:51] And then we get into the, is it split evenly between all the children? How do we direct it? What are we doing type thing? And what if only one of the children is named as a beneficiary and the others aren't?

[00:20:08] So I get nervous about adding that language in rather than just following the code language as it is prescribed. And if I may add, I have a TIAA CREF account that you can have the language in there where it's your spouse and then 50% for one child, 50% for the other.

[00:20:32] So as long as that's clear when they are filling out their paperwork and they are selecting a certain percentage per child, I think it can be done. So that's something we may have to look into, or is there any other discussion you would like to have?

[00:20:53] Go ahead, April. Thank you, Madam Chair. Thank you guys so much for bringing this forward and for working with us as we start out on this process, and given that we haven't necessarily had the benefit of previous conversations, we appreciate your patience as well.

[00:21:13] I did want to follow up on both of my colleagues' questions in Section A. I do appreciate the nuance and wanting to have the flexibility there. I'm just, for my own clarification, would like to know if

this is modeled on some other policy like BRS or if there's some standard in the code that sort of gives us clarification on how other divisions might do this.

[00:21:48] So some of it did come from VRS, and some of it was language that I worked with our legal teams on to put in to cover those non-VRS situations where something has occurred against LCPS.

[00:22:06] Thank you for that clarification. I do have one more question. I'd love to hear a little bit more about how the language came to be in Section B around the rehire date, I notice in the policy that exists or is currently in effect now, you know, the July 1, 2013 date, but I would like to better understand how the decision was

[00:22:44] made to use the, if someone is coming back to work for us, why is it beneficial to use their most recent rehire date? So for this, the intent when the school board put in the July 1, 2013 hire date was to have a date that as of that date, anybody hired after that date is not eligible for retiree health insurance, and that's budget, business, and finance, okay.

[00:23:21] So if somebody works 10 years and they leave, they were hired prior to 2013, and they leave, They terminate their employment with us, and then they return at a later date. The discussion has been that they feel that they're owed retiree health insurance because they were here before 2013, but they didn't meet the criteria for retiree benefits, and that's what we're trying to clarify because they've left, they've worked somewhere else, they've done whatever, and they've returned.

[00:23:55] Now, we are, you know, we do count the long-term leave without pay as not a not a break-in service because that's not an active employee, but it's also not a terminated employee, right? So that's the reason for the clarification, just to make it clear and transparent to everybody exactly what we're looking at.

[00:24:13] Okay, so just to make sure I understand, the key phrase really in this section is tied to that July 1, 2023 date. And I'm trying to think through scenarios, and I guess I could see if a retiree wanted to come back to fill a high-needs position and they had worked before 2023, this is going to apply to their situation.

[00:24:40] But if someone was hired in 2014, how are they impacted? So it's 2014, nobody would be impacted because they weren't eligible, right? So it's really just addressing that. So at some point, this will take care of itself.

[00:24:59] Okay. Thank you for that clarification. And just to discuss that a little bit more, I assume you're taking employee retention into account?

[00:25:15] So, to the extent that, yes, we're offering retirement -- retiree health insurance benefits for those hired prior to July 1, 2013, yes, but anybody hired after that date is not eligible for retiree health insurance.

[00:25:35] The reason why I bring it up is because we need teachers, so I'm thinking anything Anything we can offer to bring people back, somebody that's in retirement, would be helpful. So that's why I bring it up.

[00:25:52] This doesn't necessarily impact those that have already retired. If they've already retired and they're eligible, this would not remove their eligibility or remove their -- there are guidelines put forth by VRS by which a retired employee could return under specific -- whether it's the number of hours they work or if it's in a high-needs position, then those limitations are removed.

[00:26:24] So this wouldn't necessarily apply to those that have already retired with those benefits or who were eligible. This only impacts those that have not yet retired. Do we have any other questions, Ms. Tony?

[00:26:42] Thank you very much. I guess we will move on to 4.02 -- oh, yes. Sorry. So, before we move on, it would be my hope that this committee may allow us to be prepared with language or with discussion in the areas that this committee has been brought forth in regards to the -- when they're ineligible, whether it's felony and misdemeanor, and potential responses to questions about adding language around if there is no

[00:27:21] spouse children and this committee would suspend the rules and take an action to move it to the school board as an information item well I think we do we do want to rework the language so again I don't know that we can bring it yet it would be worked on correct so it's really your call it could be worked on and new language could be brought bring it back will not we could bring it back here in March and then potentially take it to the school board in April or

[00:27:59] we could rework the language and bring it to the school board when we take it as an information item well I would like to ask April Miss Donahue would you like the language reworked um thank you miss Mrs. Griffiths I would like them to work on some language changes but um subject to your and ms chandler's agreement i have i i don't feel a particular need for them to bring it back to this committee um in some other committees i have

[00:28:37] seen where staff has agreed to implement edits um from the committee to incorporate into their presentation to the full board so if you and ms chandler were to agree with that approach I would be fine with staff assuring that they will input our requested edits as part of the version that they present to the full board as an information item.

[00:29:05] Thank you, Ms. Donahue. Ms. Chandler? I would agree with Ms. Donahue. So all agreed. Thank you. So I think you have to suspend the rules and take action. I suspend the rules, take action. So move.

[00:29:26] Right, I'll make a motion to suspend the rules so that we can move this item to action at the next school board meeting. Second. Thank you. Motion moved. Now we can move on to 4.02, the revisions to policy 7022, employee classification.

[00:29:50] Thank you so much. So a revision to school board policy 7022, employee classification, is being brought before the committee this afternoon as an information item. Again, for awareness, this policy was reviewed by previous committee members as an information item during the October 26 HRTD committee meeting.

[00:30:09] Following that meeting, the revised policy was made available for public feedback, and that feedback has been included for your review. Although the next step in the policy review process would indicate that the policy be brought before the committee as an action item, again, considering this is the first time any of you have reviewed it, we have brought it back as an information item.

[00:30:30] Like mentioned for the previous policy, if the committee should agree, you can suspend the rules and decide to take action this evening to move policy 7022 employee classification to the full school board as an information item. Before you make any decision, I would like to ask HRTD Director Nicole Davis to highlight the proposed revisions to committee members.

[00:30:52] All right. Good afternoon. So I'm going to be working off of the red line version for employee classification. And so just a little bit about an overview of the revisions, anything that we're recommending to the policy did not change the intent of the policy, but rather focused on adding clarifying language and references to supporting resources.

[00:31:15] Additionally, as you can see throughout the document, the term "personnel" was changed to "employees" throughout the policy. For specific changes, lines five through six, we added language to specify that exemption status will be included on CMAs, contracts, memos, and assignment letters, and this was to ensure transparency to employees so that they were fully aware of where they stood with their exemption status.

[00:31:43] The language on introductory period, lines 25 through 55, was moved after the section titled Exempt Employees and revised to ensure the introductory period included both exempt and non-exempt personnel with the exception of those covered in code line 60 to 63 an additional crop from references were added to include Virginia code and LCPS policies on lines 119 through 124 thank

[00:32:14] you thank you miss Davis do we have discussion yes miss Donahue thank you mrs. Griffiths and thank you miss Davis I just have a couple of questions first First, could you tell us some examples of what count as auxiliary employees and what are some categories of auxiliary employees and categories of non-exempt employees?

[00:32:55] Sure. So for auxiliary employees, some examples are psychologists, athletic trainers, advanced interpreters for the deaf and hard of hearing. And then for non-exempt, it's really a wide variety, our custodial staff, we have some facilities, school nutrition, anything that is non-administrative, and those are all mostly included on our universal scale.

[00:33:21] So teacher assistance would also be included, but there are several positions that would fall under non-exempt. Thank you. And to the extent that this policy identifies teachers and auxiliary employees as exempt and therefore not eligible for overtime pay, if I am understanding this correctly, has HRTD thought about the ramifications of potential collective bargaining discussions?

[00:34:03] So thank you for that question, Ms. Donahue. Actually, if I could just clarify, it's not actually LCPS that identifies teachers and/or these categories as exempt or non-exempt. It's actually FLSA standards. It's the federal law that sets a criteria by which positions are identified whether or not they're eligible for overtime.

[00:34:31] And teachers currently are specifically listed as professional employees that are identified under FLSA law as exempt level positions. So, as far as collective bargaining is concerned, I'm not sure how that would impact exemption status in regards to eligibility for overtime.

[00:34:58] We do use, like I said, FLSA standards. Thank you. And if I may, for overtime, they'd have to be over 40 hours. So they wouldn't be considered part-time at that point, right?

[00:35:17] Correct. Part-time, any time, eligibility for overtime is over 40 hours a week. Thank you. Any other discussion? So I do motion to suspend the rules and send it to the full school board.

[00:35:37] I'll second it. Second. Thank you, Ms. Duny. I'm sorry. I know that you've taken a second. think you took a second on the first one too can can you just move to take action to move both of those policies

to the full school board as information items sure thank you so move I move to suspend the rules by making a motion to move

[00:36:10] policy 7022 to the full school board as an action item at the next school board meeting information item at the next school board meeting thank you can we sorry i was going to ask if we can include the other policies 7628 and 7022 yes second well we discussed 7628 um previously

[00:36:53] yes right we discussed i i'm i apologize i did not think that we had officially voted to send it to the board for information so if we we were discussing it was an action item so um Ms. Donahue is correct you you will need to include both of those items to then send them to the full school board as information items and we are reworking the language on 7628 that's correct okay so um

[00:37:23] we'll move it to the board we will move it to the full board thank you um i will move on to 4.03 um Revisions to 7.318, resignation of staff members.

[00:37:48] Okay. Revisions to policy 7.318, resignation of staff members is being brought before the committee this evening as an information item, a true information item. Unlike the previous two policies, this is the first time these revisions have been brought to committee, and therefore feedback from the community has not yet been received.

[00:38:08] Feedback will be brought back with this policy as an action item at the March committee meeting. At this time, I will again ask HRTD Director Nicole Davis to provide an overview of the recommended revisions. Thank you. So for 73-18 resignation of staff members, you'll notice that we essentially struck the entire policy and created a new clean version to avoid confusion with trying to follow the changes that we have made.

[00:38:36] The revisions were recommended by council to simplify and clarify the separation process. To do so, the old policy was struck due to the number of changes being recommended, and the policy focuses on clearly outlining the three main types of separation for employees, which includes retirement, resignation, and dismissal, as well as updates the procedure in which a staff member can separate from employment.

[00:39:03] The new policy includes definitions of the three types of separation, as well includes references to other policies that are related to each. This mirrors VSBA and other districts. Throughout the rewritten policy, references again were clearly identified to refer employees to applicable policies so it's easily accessible for staff.

[00:39:27] Thank you. Thank you, Ms. Davis. Do we have a discussion? Any questions? If there are no questions, I move it as an action item. for march our next march meeting is that correct second thank you we'll move it you just need to take a vote we did we we kind of did uh yes all right so we'll move it to march as an action item

[00:40:03] thank you um and that's all we have this evening unless you have new business you do not have new business okay i guess we will adjourn thank you thank you



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