



**Request for Critical Shortage Waiver for Purposes of Employing a Retired Educator
(Teacher, Administrator or Professional Support Personnel)
Regulation 603 CMR 7.15 (13) (b)**

School District:

The above school district seeks to employ a retired educator due to a critical shortage of appropriately licensed personnel.

Please indicate the position and grade level: _____

Retiree Information:

Name: _____

Street Address: _____

City or Town, State, Zip _____

Date of Birth: ____/____/____ **Last 4 digits of Social Security #:** _____

License Number: _____ **Effective Date of Retirement:** ____/____/____

Does the retiree hold the appropriate license for this critical shortage position? YES_____NO_____

Has the retiree elected to participate under the RetirementPlus formula? YES_____NO_____

Please note: Retirement Plus retirees must complete a two year waiting period from the date of retirement before the earnings limitation is waived. In the first two years immediately following the effective date of retirement, the educator's earnings, including pension or retirement allowance, cannot exceed the salary that is being paid for the position from which he/she was retired or in which his/her employment was terminated.

District Information:

Contact Person: _____ **Title:** _____

Mailing Address: _____

Telephone: () _____ - _____ **Email Address:** _____

Waiver Considerations:

Critical shortage waivers are only effective within one of two time periods, July 1st – December 31st or January 1st – June 30th. Please choose the time period for this waiver request (please check one box):

- **July 1st – December 31st**

Waiver requests for July 1st – December 31st will not be submitted until May 1st.

- **January 1st – June 30th**

Waiver requests for January 1st – June 30th will not be submitted until November 1st.

Reason(s) for Waiver (please check the appropriate box(es):

- **Working in Excess of 960 Hours During the Calendar Year**

- If exceeding 960 hours during the calendar year, how many estimated hours will the educator work this calendar year? _____ **hours**

- **Will Exceed Earnings Limitation**

- To calculate earnings limitation:

\$ _____ (current salary of the job from which he/she retired)

- \$ _____ (annual pension amount)

+\$ 15,000 (this only applies if educator has been retired for one full calendar year)

= \$ _____ (total)

The educator cannot exceed the total during the calendar year without a critical shortage waiver. Please see the guidelines for an example.

- If exceeding the earnings limitation during the calendar year, what is the salary the educator will earn this calendar year? \$ _____

Required Evidence of Critical Shortage

The district must demonstrate that a good faith effort was made to hire appropriately licensed personnel who are not retired. For this purpose, please attach all required documentation of actions to recruit an appropriately licensed and qualified person for this position as in accordance with the attached guide. *Failure to provide the following will result in a processing delay or denial of the request.*

- 1) A cover letter explaining:
 - a. the district’s circumstances and need for the request;
 - b. a plan moving forward for hiring appropriately licensed personnel that do not require a critical shortage waiver; and
 - c. a description of the retired educator’s experience, knowledge, and/or abilities.
- 2) Hiring materials. Districts must advertise the position in at least two publicly accessible resources for at least two weeks, sometime within the six months preceding the waiver request. All copies of postings should be included with this request.

Posting Examples include:

- District website (publicly accessible) in a location on the website that is identified as a job posting site;
- Schoolspring -- <http://www.schoolspring.com/>; Education Week;
- Internet newspaper posting (local and/or statewide); Dated copies of mailings to placement offices;

- 3) Names of all appropriately licensed non-retired applicant(s) and reason(s) as to why the applicant(s) was not hired to fill the position. Please elaborate on what knowledge, skill, or ability you found lacking in their candidacy. Generally, ESE does not consider lack of experience to be a knowledge, skill, or ability.

An additional school year critical shortage waiver:

- Additional school year critical shortage waiver requests will in most instances be denied if there were any non-retired, appropriately licensed applicants responding to the job postings. Before requesting an additional school year critical shortage waiver, the retired educator and school district should make every effort to work within the post-retirement employment restrictions. If this is not possible then the retired educator should consider contacting the MTRS to arrange the suspension of his/her pension.
- If the district is requesting an additional school year critical shortage waiver for the same position, a new application and at least two separate searches (each with two advertisements and each for a two week period, sometime within the six months preceding the request) are required. This applies whether you are hiring the same retiree or a different one. For example, ESE would accept the posting for an additional school year critical shortage waiver when one unsuccessful search was conducted in early spring followed by a second unsuccessful search in late spring/early summer. When requesting additional waivers, the school district must provide the names of all appropriately licensed non-retired applicants and reasons why those applicants were not hired to fill the position for both searches. Additional school year critical shortage waivers would only be granted under extenuating circumstances.

Please note: Submittal of the critical shortage waiver request form does not guarantee the waiver will be granted. It is the retired educator's responsibility to keep track of his/her hours and earnings. Once ESE completes the review of your critical shortage waiver application, the district, the retiree and the Mass. Teachers' Retirement System will receive written notification of the decision from the Commissioner of Elementary and Secondary Education. Estimated time for a response is 2 weeks.

Superintendent Information

I certify by my signature below that my district has made a good-faith effort to hire appropriately licensed personnel who are not retired and have been unable to do so for this position. Both the district and educator have made all reasonable efforts to hire a non-retired licensed candidate or work within their post-retirement employment limitations. Based on the evidence attached, I request that my district be deemed to have a critical shortage of appropriately licensed personnel in this field.

*Superintendent Signature	Date	Position (Other than Superintendent)
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***If the critical shortage waiver is for a Superintendent position then this form must be signed by a School Committee Chairperson, a Town Selectman, or Mayor/Town Manager.**

Please return this request, along with all supporting documentation via email to donavin.bentley@doe.mass.edu or mail to:
Donavin Bentley
Office of Educator Licensure
Department of Elementary and Secondary Education
75 Pleasant Street
Malden, MA 02148-4906

GUIDE FOR CRITICAL SHORTAGE WAIVERS

The Commissioner may deem a district to have a critical shortage of licensed educators after demonstration of a good faith effort to hire personnel who have not retired. The Commissioner and ESE review critical shortage requests with great scrutiny and expect that both the district and educator have made all reasonable efforts to hire a non-retired licensed candidate or work within their post-retirement employment limitations. The following guidance aims to clarify when and for whom a critical shortage waiver might be needed.

What is new with this application?

- Since limitations (earning and hours) are based on a calendar year, ESE will grant waivers valid for six month periods (7/1-12/31 & 1/1-6/30).
- If a waiver is requested for a second school year, the waiver will generally not be approved if there are any applicants that hold the appropriate Massachusetts license for the position. In such cases, options for hiring a retired educator are either restructuring the position to stay within the post-retirement limits or requesting MTRS to suspend the educator's retirement benefits for the duration of the employment.

- The purpose of a critical shortage waiver is to remove or waive the two post-retirement employment restrictions, hours and earnings. If the retired educator is able to stay within both restrictions then the critical shortage waiver is unnecessary.
- A school district must make a good faith effort to hire an appropriately licensed non-retired educator. If the retired educator is the chosen applicant for the position then a sufficient effort must be made to determine the likelihood that he/she can stay within the restrictions mentioned earlier.
- ESE will evaluate the requests on both a calendar year and school year basis because the post-retirement employment restrictions are based on the calendar year.
- The two post-retirement employments restrictions are:
 - Cannot work more than 960 hours during the calendar year
 - For 12-month positions, there are usually 26 weeks between July 1st & December 31st. For 10-month positions, there are usually 17 weeks between September 1st & December 31st. Moreover, there are 26 weeks between January 1st and June 30th.
 - 960 hours divided by 26 weeks is 36.9 hours worked per week. 960 hours divided by 17 weeks is 56.5 hours worked per week.
 - Depending on the position, it is highly likely that the retired educator could stay within the hours restriction.
 - Earnings cannot exceed the difference between the current salary being paid for the position from which the member retired, and the amount of his or her annual pension. **After the member has been retired for at least one full calendar year (one full January-through-December year), this earnings limit is increased by \$15,000.**

- **EXAMPLE WHEN A CRITICAL SHORTAGE WAIVER IS NECESSARY:**
A retired educator is hired as a Superintendent starting July 1st. The position is for 40 hours per week (1,040 hours total for July 1st – December 31st). The 1,040 hours exceeds his/her 960 hours restriction for the calendar year.
- **EXAMPLE WHEN A CRITICAL SHORTAGE WAIVER IS NOT NECESSARY:**
A retired educator is hired as a .5 Physics teacher and will be starting on the first day of school. Assuming the educator worked 20 hours a week between September 1st and December 31st, the educator would have worked 340 hours, well below the 960 hours they are permitted to work.
- Please note that exceeding one of the limitations will require a critical shortage waiver. For example, a retiree that stays within the ability to work 960 hours in a calendar year but exceeds their earning limitation would require a critical shortage waiver.
- We recognize the value that districts place on retired educators' many years of experience. This may be a legitimate consideration particularly for short-term, interim administrative appointments, where there are pressing issues to be addressed. But for permanent appointments, the critical shortage waiver process is not intended to allow districts to pass over licensed, non-retired educators simply because a retired educator has more experience or appears more qualified.
- With limited exceptions, Commonwealth charter schools are not eligible for critical shortage waivers because state law does not require a license for most educators in those schools.