

Title 154
Legislative Rules

HC 60

~~WEST VIRGINIA ADMINISTRATIVE RULES~~ ①

TEACHERS RETIREMENT BOARD

~~Chapter 18-7A~~
Series ~~EVER~~

Title: Eligibility Rules

Section 1.2 Definitions

1.01. Money Purchase Annuity-- That portion of total monthly benefits derived from the member's contributions plus state matching plus interest, times the actuarial factor for attained age.

1.02. Average Final Salary - (For calculation of Benefits) The average of the five highest years salaries within the last fifteen (15) years. In the event the member does not have fifteen years of service, the average shall be the average of the five (5) highest years of service credit. (18-7A-3). In either event, only salaries earned in West Virginia shall apply. (18-7A-17)

(a) If the 5th year salary is needed to calculate final average salary, the salary shall be equivalent to the actual salary earned during the 1st full year of membership in the Teachers Retirement System after discharge from military service.

1.03. Board - The West Virginia Teachers Retirement Board. (18-7A-4)

1.04. Disabled - The inability to do substantially all the material acts necessary in the performance of assigned duties, by reason of physical or mental impairment in the usual or customary manner for a period of 6 months beginning with the last day of service.

1.05. Earnable Compensation - Full compensation actually received by members for service as teachers whether or not a part of such compensation is received from other funds, federal or otherwise, than those provided by the State or its subdivisions. Allowances from employers for maintenance of

members shall be deemed a part of earnable compensation of such members whose allowances were approved by the Teachers Retirement Board and contributions to the Teachers Retirement System were made in accordance therewith on or before 7-1-80.

1.06. Option - Actuarial method by which a member chooses to have his monthly benefit calculated and paid. (18-7A-28)

1.07. Monthly benefit - The total monthly payment, including members money purchase annuity, received by a retiree based upon option chosen.

1.08. Prior Service - Service performed before the date the member became eligible to make contributions.

1.09. Refund Interest - Interest compounded annually at the rate of three (3) percent. (18-7A-3)

1.10. Regular Interest - Interest compounded annually at the rate of seven (7) percent or at a rate to be set by the Board. (18-7A-3)

1.11. Schools - All educational units supported by monies appropriated by the West Virginia Legislature.

1.12. Substitute Teaching - Any teacher who is assigned any of the following duties; (a) to fill the temporary absence of any teacher or unexpired school term made vacant by resignation, death, suspension or dismissal; (b) to fill a teaching position of a regular teacher on leave of absence, and (c) to perform instructional services of any teacher who is authorized by law to be absent from class without loss of pay, providing such absence is approved by the board of education in accordance with the law. Such substitute shall be a duly certified teacher. (18A-2-3)

1.13. System - The total of the membership covered by the Board.

1.14. PERS - Public Employees Retirement System.

Section 2 Membership Eligibility

3

2.01. Membership Eligibility - is subject to two categories: (A) Teaching Members - (B) Nonteaching Members.

2.02. Teaching Members - Membership is compulsory for all Teaching Members if regularly employed for at least half-time service (18-7A-3). "Half-time Service" shall mean regularly employed in an established position, or job, a minimum of one-half the number of hours allotted to that post by the Employer. Teaching Members shall include the following persons:

- (a) (i) Any person employed for instructional service in the public schools of West Virginia; (ii) principals; (iii) public school librarians; (iv) superintendents and assistant county superintendents of schools; (v) county school attendance directors holding a West Virginia teacher's certificate; (vi) the executive secretary of the retirement board; (vii) members of the research extension, administrative or library staffs of the public schools; (viii) the State superintendent of schools and the heads and assistant heads of the divisions under his supervision of an educational nature; (ix) employees of the State Board of Education who are performing services of an educational nature; (x) all classroom teachers, principals and educational administrators in schools under the supervision of the Commissioner of Corrections. (18-7A-3)
- (b) Permanent Substitute Teachers whose regular, full-time occupation is to serve as a substitute teacher for the county system as a whole, is automatically a member and Membership is compulsory. Service credit will be granted at the end of the school year based upon the number of days actually taught. Total number of days taught must equal or exceed at least half-

- time, as defined in "A" of this Section. Otherwise, contributions to the system will be refunded as erroneous deductions and no service credit will be allowed for that particular year.
- (c) Itinerant Substitute Teacher (one not employed on a regular basis) is not a regularly employed employee and is, therefore, not eligible for membership.
- (d) Adult education teachers, homebound teachers and any teacher member employed on an hourly basis must work at least 15 hours a week, or 60 hours a month, on a regular basis, in order to be eligible to claim service credit. The calculation of service credit will be made according to the number of contract months required for full-time employment by such employer.
- (e) In no event shall an employer deduct retirement contributions for a Substitute Teacher unless said teacher is "regularly employed for at least half-time service."

2.03. Nonteaching Members - shall mean and include all persons except those designated in part "A" of this Section as being teacher members, who are regularly employed for full-time service by the following educational agencies: (i) any county board of education; (ii) the state board of education; (iii) the West Virginia Board of Regents; (iv) the Teachers Retirement Board.
(18-7A-35)

- (a) Full-time Service shall mean - performing the duties of a regular established position, or job, throughout an employment term irrespective of the number of hours worked or the method or amount of pay; providing, the hours worked are equal to the number of hours allotted to that position by his employer.
- (b) A person not regularly employed for full-time service is one who (a) does not hold a regular, established position or job,

irrespective of the number of hours worked or method or amount of pay, or (b) holds a regular, established position or job but works less than the number of hours allotted to that post by his employer.

- (c) One or more assigned duties may constitute full-time employment.

³2.04. When considering an applicant's eligibility for membership - in the Teachers Retirement System, the employer should certify that the applicant meets the requirements as defined in part "A" of this section, if applicant is a teacher, or as defined in part "B" of this Section if a non-teaching applicant is involved.

2.05. Employees of the Board of Regents - shall elect membership in the Teachers Retirement System or, elect to participate in a supplemental system sponsored by the Board of Regents as outlined in 18-7A-14a, school laws of West Virginia. However, once the individual elects to join a system, he may not change that option (18-23-4a).

²2.06. Federal Programs - in order to qualify the holder of a position funded by the federal government for membership in the Teachers Retirement System, such position must be included in the definition of "teaching members" or "nonteaching members" as the same are set forth in parts of "A" and "B," of this Section, whichever shall be applicable, and, further, the holder of any such position shall, at the time of his application, present in writing the consent of the federal administrator of such program to membership on the part of such person in the Teachers Retirement System.

The Board shall set the employer rate which all federally funded programs shall contribute to the system, and in no case shall the employer rate be less than the employee rate of contribution.

2.07. Individuals - employed by West Virginia Cooperative Extension Service after June 5, 1955, who are eligible for membership in the federal civil service retirement system, shall not be permitted to join the Teachers Retirement System. (18-7A-13b)

2.08. Membership Shall Cease (18-7A-24):

- (a) Upon death of member;
- (b) Upon retirement of member;
- (c) Upon withdrawal by member;
- (d) When service amounts to less than five (5) years in any ten (10)

consecutive year period.

2.09. Beneficiary (18-7A-23):

- (a) Each member may name a refund or surviving beneficiary(s);
- (b) Beneficiary(s) may be changed by the Member prior to retirement by filing proper record with the Board;
- (c) Beneficiary(s) changes after retirement are subject to the terms of the retirement option chosen.

2.10. In no event - will a "teacher employee" working less than half-time or a "nonteaching employee" working less than full-time be eligible for membership. (18-7A-3 & 18-7A-35)

Section 2.4 Service Credit

3.01. One year service credit. -- A member of the system shall receive one (1) year of service credit for each school term or fiscal year completed. The Board shall determine in each case what part of a year taught shall constitute a year of credit.

- (a) Summer teaching shall not generate additional service credit when the time taught is included in the year of service credit already granted and salaries shall be subject to regular contributions and

included in fiscal year salary.

3.02. Prior Service Credit-- The member shall be granted prior service as follows: (18-7A-35a)

- (a) Teachers and professional employees as distinguished from nonteachers for service prior to July 1, 1941.
- (b) Nonteaching, former teachers for service prior to March 9, 1945.
- (c) Financial secretaries and county agents, agricultural extension at West Virginia University, except secretaries and clerks, for service prior to March 9, 1945.
- (d) School nurses for service prior to June 30, 1945.
- (e) Nonteaching employees (except cooks) for service prior to July 1, 1947.
- (f) Employees of Board of School Finance for service prior to October 1, 1952, if formerly employed as a teacher in the public school system.
- (g) Department of Education, if classified as a present teacher, for service rendered prior to November 4, 1958.
- (h) Cooks shall receive prior service for service rendered prior to July 1, 1962, or according to the date on which the employer became responsible for the salary of the employee. The list of effective dates is posted in the Retirement Board Office.

3.03. Nonteaching Assignment-- Any member placed on a special assignment (such as a sabbatical) by an employer shall be considered regularly employed for the purpose of these Rules and Regulations. It will be the duty of the employer to collect and remit to the Board the member's contributions to ensure proper credit for a nonteaching assignment.

3.04. Credit for Leave Time-- Any member shall be considered employed as long as said member remains on the payroll of any employer and contributes on salary earned. For purposes of determining service credit, annual or vaca-

tion leave, and sick leave paid by the employer shall be counted as service credit.

- (a) When computing service credit for annual or personal leave, last day of service shall be verified as last day paid for leave. Effective date of retirement shall be the first day of the following month.

(18-7A-26a)

⁴3.05. Maximum Yearly Service Credit-- Under no circumstances shall a member of the System receive more than one (1) year of service credit for any one fiscal year even though he may have reciprocal service with both Public Employees Retirement System and Teachers Retirement System, which under the Rules and Regulations of both systems could conceivably entitle him to more than one year service credit. (18-7A-17)

⁴3.06. Service Credit - Fractional Part of Year-- Fractional credit for service as a teacher shall be given for teaching parts of school terms and for teaching at least half-time throughout the term. Such fractional parts may be combined to form one year credits, and all fractions shall be included in the final statement of total credits.

- (a) Teachers absent from teaching for more than one month in a school year shall be given a fractional credit for service that year; the numerator of the fraction shall be the number of months taught, and the denominator shall be the number of months, minus one, that the school was open for pupil attendance.

⁴3.07. When service verification records or other legal documents are not available and the Teachers Retirement Board has contributions credited to the account of a member for such service, the service may be proven by affidavits from two persons with knowledge of the employment; official minutes; educational directories or other records showing proof of employment.

3.08. Public Employee Service— (18-7A-17) The Board shall grant prior service credit to a member for service in a position which would not be covered by PERS if such service was rendered prior to July 1, 1947, and said member never became a member of PERS.

- (a) In giving credit for service as a public employee, such service shall be deemed "nonteaching service" as defined in the Teachers Retirement Act, and the Rules and Regulations of the Board.
- (b) A member must have completed more than three (3) years of contributory service before any service from another department or agency of West Virginia covered by PERS may be transferred to the Teachers Retirement System.
- (c) Members transferring service from another department or agency of West Virginia to the Teachers Retirement System shall make payments for services performed between July 1, 1947, and the date the member became a contributing member of the PERS.
- (d) When transferring PERS service which was performed prior to the establishment of the PERS System, and salaries are not available, the TRB shall charge contributions equal to the maximum contribution in effect at the time said services were performed.

3.09. Credit for Military Service— Prior service credit for service in the Armed Forces of the United States shall be allowed as follows:

- (a) A member will be considered to have been on active duty who was regularly enlisted in the Armed Forces of the United States during a period of National Emergency, within which a Federal Selective Service act was in effect and said member was separated from such Armed Forces by an Honorable Discharge. (18-7A-17)
- (b) Twenty-eight (28) days in the armed services shall be deemed one month (1)

of service as a "teacher."

- (c) Length of term in months shall be the legal minimal term in West Virginia at the time of the occurrence of said service.
- (d) Not more than one year shall be credited for each year of service in the Armed Forces.
- (e) Military service credit shall not exceed ten (10) years nor shall it exceed 25% of the member's total service as a teacher in West Virginia. (18-7A-17)
- (f) Members who are eligible for fractional credits for military service and for actual teaching within the same fiscal year shall receive credit in the following order of preference:
 - (i) credit for actual teaching
 - (ii) prior service credit for military service.
- (g) Military service cannot be duplicated by the Teachers Retirement System when same has been credited by an out-of-state Teachers Retirement System, Public Employees Retirement System, West Virginia Department of Public Safety or West Virginia Judges Retirement System.

3.10. Out-of-State Service Credit-- Out-of-state service credit shall be granted for service performed while in the employment of the federal government, or state or territory of the United States, or a governmental subdivision of such state or territory. (18-7A-17) provided:

- (a) The service performed was in a school related job position our system would recognize if that service had been performed in West Virginia.
- (b) The member shall pay to the system double the amount he contributed during the first full year of service performed in West

Virginia following the out-of-state service to be purchased, plus interest at a rate to be determined by the Retirement Board from the date of said first full year membership to the date of payment times the number of years for which credit is granted.

(18-7A-17)

- (c) Interest paid for the purchase of out-of-state service shall be deposited in the Reserve Fund. (18-7A-17)
- (d) For every one year of out-of-state service granted the member must have completed two years of service in West Virginia and in no event shall credited out-of-state service exceed ten (10) years. (18-7A-17)
- (e) Out-of-state service shall be credited as additional service only and shall not be used to establish eligibility allowance. (18-7A-17)
- (f) Salaries paid to members for service prior to entrance into the retirement system shall not be used to compute the average final salary of such member under the system. (18-7A-17)
- (g) The purchase of out-of-state service shall be prohibited unless the member has formerly relinquished all current and future rights to said service under the system so involved. (18-7A-17)
- (h) Any service that is fully vested, eligible to be fully vested without further service, or from which the member is currently receiving benefits shall not be subject to purchase.
- (i) After the member has been advised in writing, by the Retirement Board, of the cost to purchase any creditable out-of-state service, said member will have one calendar year from the date of the official cost notification to effect the purchase, otherwise,

the cost must be recalculated.

3.11. Retroactive Contributions by a Surviving Spouse- The surviving spouse of a deceased member may elect, within one hundred twenty (120) days following the death of said member, to make retroactive contributions for service rendered under an agency now covered by the PERS.

3.12. Individual Payments- Unless provided for by specific legislation or prohibited by law, payments, other than loans, due the system may be paid in the following manner:

- (a) A Member: (i) payment in full (ii) by borrowing from the individual's account.
- (b) A Retiree: (i) payment in full (ii) designation, by the Board, of an amount to be deducted from the monthly benefit to be applied to the debt until such debt is deleted. (iii) At death, should a debt balance exist, such balance shall be deducted from the final payment, if any, due the beneficiary or estate.