WEST VIRGINIA CODE: §18-7A-25

§18-7A-25. Eligibility for retirement allowance.

(a) Except for a person who first becomes a member of the retirement system on or after July 1, 2015, any actively contributing member who has attained the age of 60 years or any member who has 35 years of total service as a teacher or nonteaching member in West Virginia, regardless of age, is eligible for an annuity. No new entrant nor present member is eligible for an annuity, however, if either has less than five years of service to his or her credit: *Provided*, That on and after July 1, 2013, any person who becomes a new member of this retirement system shall, in qualifying for retirement under this section, have five or more years of contributory service, all of which shall be actual, contributory ones.

(b) Except for a person who first becomes a member of the retirement system on or after July 1, 2015, any member who has attained the age of 55 years and who has served 30 years as a teacher or nonteaching member in West Virginia is eligible for an annuity.

(c) Except for a person who first becomes a member of the retirement system on or after July 1, 2015, any member who has served at least 30 but less than 35 years as a teacher or nonteaching member in West Virginia and is less than 55 years of age is eligible for an annuity, but the annuity shall be the reduced actuarial equivalent of the annuity the member would have received if the member were age 55 at the time the annuity was applied for.

(d) The request for any annuity shall be made by the member in writing to the retirement board, but in case of retirement for disability, the written request may be made by either the member or the employer.

(e) A member is eligible for annuity for disability if he or she satisfies the conditions in either subdivision (1) or (2) of this subsection and meets the conditions of subdivision (3) of this subsection as follows:

(1) His or her service as a teacher or nonteaching member in West Virginia must total at least 10 years and service as a teacher or nonteaching member must have been terminated because of disability, which disability must have caused absence from service for at least six months before his or her application for disability annuity is approved.

(2) His or her service as a teacher or nonteaching member in West Virginia must total at least five years and service as a teacher or nonteaching member must have been terminated because of disability, which disability must have caused absence from service for at least six months before his or her application for disability annuity is approved and the disability is a direct and total result of an act of student violence directed toward the member.

(3) A medical examination by a physician or physicians selected by the retirement board must show that the member is at the time mentally or physically incapacitated for service as

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a teacher or nonteaching member, that for that service the disability is total and likely to be permanent and that he or she should be retired in consequence of the disability.

(f) Continuance of the disability of the retirant shall be established by medical examination, as prescribed in subdivision (3), subsection (e) of this section, annually for five years after retirement, and thereafter at such times required by the retirement board. Effective July 1,1998, a member who has retired because of a disability may select an option of payment under the provisions of §18-7A-28: *Provided*, That any option selected under the provisions of §18-7A-28 shall be in all respects the actuarial equivalent of the straight life annuity benefit the disability retirant receives or would receive if the options under said section were not available and that no beneficiary or beneficiaries of the disability retirant may receive a greater benefit, nor receive any benefit for a greater length of time, than the beneficiary or beneficiaries would have received had the disability retirant not made any election of the options available under said section. In determining the actuarial equivalence, the retirement board shall take into account the life expectancies of the member and the beneficiary: *Provided, however*, That the life expectancies may at the discretion of the retirement board be established by an underwriting medical director of a competent insurance company offering annuities. Payment of the disability annuity provided in this article shall cease immediately if the retirement board finds that the disability of the retirant no longer exists, or if the retirant refuses to submit to medical examination as required by this section.

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