WEST VIRGINIA CODE: §18-7B-7

§18-7B-7. Participation in Teachers' Defined Contribution Retirement System; limiting participation in existing Teachers Retirement System.

(a) Beginning July 1, 1991, and except as provided in this section, the Teachers' Defined Contribution Retirement System shall be the single retirement program for all new employees whose employment commences on or after that date and all new employees shall be required to participate. No additional new employees except as may be provided in this section may be admitted to the existing Teachers Retirement System.

(b) Members of the existing Teachers Retirement System whose employment continues beyond July 1, 1991, and those whose employment was terminated after June 30, 1991, under a reduction in force are not affected by subsection (a) of this section and shall continue to contribute to and participate in the existing Teachers Retirement System without a change in plan provisions or benefits.

(c) Any person who was previously a member of the Teachers Retirement System and who left participating employment before the creation of the Teachers' Defined Contribution Retirement System on July 1, 1991, and who later returns to participating employment after the effective date of this section shall return to the existing Teachers Retirement System.

(d) Any person who was, prior to July 1, 1991, a member of the existing Teachers Retirement System who left participating employment before the creation of the Teachers' Defined Contribution Retirement System on July 1, 1991, and who later returned to participating employment after that date and who was precluded from returning to the existing Teachers Retirement System as a result of prior provisions of this section, may become a member of the Teachers Retirement System upon meeting the requirements provided in article seven-d of this chapter.

(e) Any employee whose employment with an employer was suspended or terminated while he or she served as an officer with a statewide professional teaching association, is eligible for readmission to the existing retirement system in which he or she was a member.

(f) An employee whose employment with an employer or an existing employer is suspended as a result of an approved leave of absence, approved maternity or paternity break in service or any other approved break in service authorized by the board is eligible for readmission to the existing retirement system in which he or she was a member.

(g) In all cases in which a question exists as to the right of an employee to readmission to membership in the existing Teachers Retirement System, the Consolidated Public Retirement Board shall decide the question.

(h) Any individual who is not a "member" or "employee" as defined by section two of this

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article and any individual who is a leased employee is not eligible to participate in the Teachers' Defined Contribution Retirement System. For purposes of this section, a "leased" employee means any individual who performs services as an independent contractor or pursuant to an agreement with an employee leasing organization or other similar organization. In all cases in which a question exists as to whether an individual is eligible for membership in this system, the Consolidated Public Retirement Board shall decide the question.

(i) Effective July 1, 2005 and continuing through January 1, 2006, any employee of River Valley Child Development Services, Inc., who is a member of the Teachers' Defined Contribution Retirement System may elect to withdraw from membership and join the private pension plan provided by River Valley Child Development Services, Inc.

(j) River Valley Child Development Services, Inc., and its successors in interest shall provide for their employees a pension plan in lieu of the Teachers' Defined Contribution Retirement System on or before July 1, 2005, and continuing thereafter during the existence of the River Valley Child Development Services, Inc., and its successors in interest. All new employees hired after June 30, 2005, shall participate in the pension plan in lieu of the Teachers' Defined Contribution Retirement System.

(k) The administrative body of River Valley Child Development Services, Inc., shall, on or before June 1, 2005, give written notice to each employee who is a member of the Teachers' Defined Contribution Retirement System of the option to withdraw from or remain in the system. The notice shall include a copy of this section and a statement explaining the member's options regarding membership. The notice shall include a statement in plain language giving a full explanation and actuarial projection figures, prepared by an independent actuary, in support of the explanation regarding the individual member's current account balance, vested and nonvested, and his or her projected return upon remaining in the Teacher's Defined Contribution Retirement System until retirement, disability or death, in comparison with the projected return upon withdrawing from the Teachers' Defined Contribution Retirement System and joining a private pension plan provided by River Valley Child Development Center, Inc., and remaining therein until retirement, disability or death. The administrative body shall keep in its records a permanent record of each employee's signature confirming receipt of the notice.

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