

# WEST VIRGINIA CODE: §18A-3-11

## §18A-3-11. Fellowship for 21st Century Learners.

(a) The Legislature finds that:

- (1) There are instances, especially for the purpose of professional development, where it would be beneficial for persons who are members of the Teachers' Retirement System or the Teachers' Defined Contribution System to be employed by state institutions of higher education or research corporations;
- (2) Members of the Teachers' Retirement System are discouraged from terminating their membership to that system because their annuity is based on their final average salary and their total service credit;
- (3) A member of the Teachers' Defined Contribution System may be discouraged from terminating his or her membership to that system because the member may be completely vested in that system or have made substantial progress toward being vested;
- (4) These members also are discouraged from leaving employment that allows them to participate in the Public Employees Insurance Program pursuant to article sixteen, chapter five of this code; and
- (5) An example of this beneficial arrangement would be the employment of a member of the Teachers' Retirement System or a member of the Teachers' Defined Contribution System by an entity that otherwise would not be considered an employer under article seven-a, chapter eighteen of this code or article seven-b, chapter eighteen of this code for the purpose of working on a joint professional development project between higher education and public education.

(b) For the purposes of this section only, unless the context clearly indicates otherwise:

- (1) "Employer" means either the state institution of higher education or the research corporation employing a 21st Century Learner Fellow;
- (2) "Research corporation" means a corporation meeting the description set forth in section three, article twelve, chapter eighteen-b of this code; and
- (3) "State institution of higher education" means the same as defined in section two, article one, chapter eighteen-b of this code.

(c) The State Superintendent is authorized to designate up to twenty-five professional educators who are currently employed and who are members of either the Teachers' Retirement System set forth in article seven-a, chapter eighteen of this code or the Teachers' Defined Contribution System set forth in article seven-b, chapter eighteen of this code as

21st Century Learner Fellows, subject to the following:

- (1) Before designating a person as a 21st Century Learner Fellow, the state Superintendent shall consult with the state institution of higher education or the research corporation that would employ the member if designated;
- (2) In determining whether or not to designate a person as a 21st Century Learner Fellow, the state Superintendent shall give preference to a person who:
  - (A) Is certified by the National Board for Professional Teaching Standards; and
  - (B) Demonstrates leadership within his or her content field in the county, regional education service agency area or the state;
- (3) The duration of the person's designation as a 21st Century Learner Fellow shall be for the period in which the specific project to be undertaken by the person will last as determined by the state Superintendent at the time he or she designates the person; and
- (4) Only the employer may terminate the employment of a person designated as a 21st Century Learner Fellow prior to the end of the duration of the person's designation as set forth in subsection (3) of this subsection.

(d) Notwithstanding any other provision of the code to the contrary, the professional educators designated as 21st Century Learner Fellows may elect to remain a member of the retirement system in which they were a member of immediately preceding their designation while they are employed by either a state institution of higher education or a research corporation, subject to the following:

- (1) This authorization to remain a member of the retirement system in which they were a member of immediately preceding their designation only applies to authorization to remain a member of either the Teachers' Retirement System set forth in article seven-a, chapter eighteen of this code or to the Teachers' Defined Contribution System set forth in article seven-b, chapter eighteen of this code, but not both;
- (2) Both the employer and the member each shall contribute their share as required by article seven-a, chapter eighteen of this code or article seven-b, chapter eighteen of this code, as applicable;
- (3) If a 21st Century Learner Fellow elects to remain a member of either the Teachers' Retirement System set forth in article seven-a, chapter eighteen of this code or the Teachers' Defined Contribution System set forth in article seven-b, chapter eighteen of this code, he or she may not participate in any retirement plan offered by the employer; and
- (4) Notwithstanding any other provision of law to the contrary, the employer does not assume any liability for benefits accrued by the 21st Century Learner Fellow while he or she was employed by any other entity.

(e) Notwithstanding any other provision of code to the contrary, each 21st Century Learner Fellow also qualifies as an employee for the purposes of being authorized to participate in the Public Employees Insurance Program pursuant to article sixteen, chapter five of this code and the state institution of higher education or the research corporation, as applicable, shall be considered an employer under that program, subject to the following:

- (1) The state institution of higher education or the research corporation, as applicable, is not considered an employer with respect to any employee other than a 21st Century Learner Fellow;
- (2) For any employee that elects to participate in the program pursuant to this subdivision, the employer shall pay their share of the premium and the employee shall pay his or her share of the premium pursuant to article sixteen, chapter five of this code; and
- (3) Notwithstanding any other provision of law to the contrary, the employer does not assume any liability for benefits accrued by the 21st Century Learner Fellow while he or she was employed by any other entity.

(f) Notwithstanding any other provision of law to the contrary:

- (1) The employer is not responsible for any accrued annual leave, sick leave or both that a 21st Century Learner Fellow has accumulated during any prior employment; and
- (2) If a 21st Century Learner Fellow has accumulated sick leave from prior employment, and if not for this subsection that sick leave obligation or any part of that obligation otherwise would have been transferred to the employer, after expending all sick leave accrued with the employer, the 21st Century Learner may expend the sick leave accumulated with the prior employer, and the prior employer is responsible for paying the cost of the sick leave expended by the 21st Century Learner Fellow at a rate equivalent to the salary and benefits paid to the 21st Century Learner Fellow at the time his or her employment with the prior employer ended.