

# WEST VIRGINIA CODE: §5-10A-3

## **§5-10A-3. Notice of intention to terminate benefits; waiver; failure to reply.**

(a) Whenever a supervisory board, upon receipt of a verified complaint or otherwise, has reasonable cause to believe that a participant or former participant rendered less than honorable service as defined in section two of this article, it shall notify the affected participant, former participant or beneficiary that it believes that the participant or former participant rendered less than honorable service and that the participant, former participant or beneficiary is thereby ineligible to receive benefits. A supervisory board may not issue a notice:

- (1) If more than two years have elapsed since the judgment of conviction upon which the notice is based became final; or
- (2) In cases described in subdivision (3), subsection (f), section two of this article, if more than two years have elapsed since, as the case may be: The plea bargaining agreement or the grant of immunity; or
- (3) With respect to conduct which occurred prior to the effective date of this article.

(b) The notice shall contain a concise statement of the reasons why the board believes that the participant or former participant rendered less than honorable service and shall be made either by personal service or by certified mail, return receipt requested, to the address which the participant, former participant or beneficiary maintains for purposes of corresponding with the board. If notice is made by certified mail, service shall be considered complete upon mailing and a completed receipt constitutes proof of the receipt of the notice. The notice shall inform the participant, former participant or beneficiary that he or she has the right to demand that the board seek a determination in circuit court of his or her eligibility for benefits and membership in the retirement plan by notifying the board of the demand within forty days. The notice shall also inform the participant, former participant or beneficiary that the board will terminate the benefits in accordance with section four of this article and refund the participant's or former participant's contributions with interest, less benefits previously paid as provided in section six of this article if the participant, former participant or beneficiary either waives the right to demand that the board take the matter before the circuit court or fails to respond to the board's notice within forty days after service.