



## ELIGIBILITY REQUIREMENTS FOR CONTINUED PARTICIPATION IN THE DISTRICT OF COLUMBIA TEACHERS' RETIREMENT PLAN AS A CHARTER SCHOOL EMPLOYEE

This document describes how former DCPS teachers may continue their participation in the District of Columbia Teachers' Retirement Plan (the "Teachers' Plan") if they were granted an extended leave of absence without pay from the District of Columbia Public School (DCPS) system for the purpose of accepting a position at a public charter school or if they left DCPS prior to retirement to work for a public charter school.

For purposes of the Teachers' Plan, "teacher" means a DCPS employee whose salary classification is an ET 1-15 under the DCPS system and participating public charter school teachers. The District of Columbia Retirement Board (DCRB) is the benefit administrator for the Teachers' Plan and custodian of the District of Columbia Teachers' Retirement Fund (the "Teachers' Fund").

The authority for the eligibility requirements is in D.C. Code § 38-1802.07(a) and (b) and outlined in the Memorandum of Agreement (MOA) Concerning Eligible Public Charter School Employee's Participation in the District of Columbia Employees Retirement System, dated February 15, 2002, as amended, signed by the Office of the Chief Financial Officer (OCFO), the D.C. Public Charter School Board (DCPCSB), the Board of Education, DCRB, and DCPS.

This document is specific to continued participation in the Teachers' Plan for former DCPS teachers and does not address continued participation in the 403(b) plan or continued participation for former DCPS employees in other District retirement systems (e.g., the defined contribution plan or 457(b) deferred compensation plan).

Charter schools are not deemed, considered or construed to be an entity of the District and employees of charter schools are not considered to be employees of DCPS or the District. D.C. Code §§ 38-1800.02(10)(b), 38-1800.02(12)(B), 38-1802.07(c).

Each charter school is responsible for its own personnel matters and may choose to establish its own retirement system for its employees. D.C. Code §§ 38-1802.04(b)(7), 38-1802.07(b)(2).

Excerpts from the MOA, followed by an outline of the eligibility requirements and procedures are provided below.

### **Relevant Excerpts from Memorandum of Agreement\***

*(\*for purposes of this document, the excerpts below have been edited and updated for clarification)*

*Whereas, pursuant to § 2207 of the School Reform Act (D.C. Code § 38-1802.07), upon election by an eligible employee to remain a participant in the Retirement System, charter schools are required to make a contribution to the appropriate retirement system as would have been required to be made by the District of Columbia if the person had continued to be an employee of DCPS. For the limited purposes of this MOA, the term "employee" shall include:*



- (a) former DCPS employees who become employees of a charter school within sixty (60) days after the date of termination of employment from DCPS and who elect to remain participants in the Retirement System at the commencement of their employment at the charter schools; or
- (b) an employee of a charter school who has been granted an extended leave of absence without pay by the DCPS Superintendent or Chancellor for the purpose of accepting a position at a charter school.

*An employee of a charter school who has received an approved leave of absence shall receive creditable service in accordance with the rules established under such Retirement System, for the period of the employee's employment at the charter school.*

*All data, records and accounts for participation in the Teachers' Plan used for valuations, plan adjustments, and other benefits administration functions including, but not limited to:*

- (a) calculations of retirement deduction refunds upon an employee's separation from service pursuant to D.C. Code § 38-2021.09;
- (b) computation of the retirement annuity amount based upon years of creditable service, average pay and other factors described in the Teachers' Plan; and
- (c) purchases of service described in D. C. Code § 38-2021.08, shall be maintained by DCRB or plan sponsor in order to carry out all provisions of the Teachers' Plan.

*Based upon continued participation in the Teachers' Plan, eligible employees shall be required to contribute a percentage of their annual salary in the manner prescribed by D.C. Code § 38-2021.01 (7% for Teachers hired by DCPS prior to November 16, 1996, and 8% for Teachers hired by DCPS on or after that date) to the Teachers' Fund by payroll deductions. A "Teacher" is defined as described in D.C. Code § 38-2021.13. Other employees not covered by the Teachers' Plan, but covered elsewhere in the Retirement System, may be required to submit contributions or deductions as otherwise provided under District law.*

## **Section 1. Eligibility Requirements for Continued Teacher Plan Participation**

I. Employees must fit in one of the following categories to be eligible for continued participation in the Teachers' Plan:

- A. Employee must be a former DCPS teacher who participated in the Teachers' Plan and who terminated his/her employment with DCPS before retirement. The employee's first date of service at a charter school must begin within sixty (60) days of his/her date of termination of employment from DCPS. Employee must elect to remain in the Teachers' Plan within thirty (30) days of beginning employment at the charter school.

If the Employee applied for or received a refund of their Teacher Plan contributions, the Employee cannot elect to remain in the Teachers' Plan.



- B. Employee must be a DCPS teacher who was granted an extended leave of absence without pay by DCPS in order to work at a charter school for a 2-year term (which may be extended as permitted). The employee must begin employment with a charter school within ninety (90) days of his/her last date of service with DCPS. Employee automatically remains in the Teachers' Plan during the extended leave period; no election is necessary.

For Employees to continue to receive creditable service under the Teachers' Plan towards their retirement for their charter school service, both the Employee and charter school must make the required Teacher Plan contributions to the Teachers' Fund as explained below.

## Section 2. Procedures

I. Employees must sign and submit a *Continuation of Teacher Plan Participation Form* to their charter school to identify their Teacher Plan participation eligibility and continue their Teacher Plan contributions. The Form contains the following information with supporting documentation from the DCPS Office of Human Capital and charter school administrative offices:

- A. Employee information;
- B. Beginning date of hire with charter school;
- C. Beginning date of hire and date of separation of employment from DCPS;
- D. Past Teacher Plan participation and status;
- E. Leave of absence status from DCPS; and
- F. A formal election to continue participation in the Teachers' Plan (only applies to Employees who are former DCPS teachers who voluntarily resigned from DCPS).

Employees who do not elect to continue participation in the Teachers' Plan may elect to participate in the charter school's retirement system. Employees cannot elect to continue participation in the Teachers' Plan if they elect to participate in the charter school's retirement system (e.g., 401(a) defined contribution or benefit plan; cash balance plan) and cannot change their elections. Employees' participation in a 403(b) plan, 457(b) plan or a 401(k) plan or similar plan does not impact their participation in the Teachers' Plan.

Employees who do not elect to continue participation in the Teachers' Plan, or do not make a timely election, may choose to leave their mandatory contributions in the Teachers' Plan and receive a deferred retirement annuity beginning at age 62, or receive a lump-sum refund of their contributions, or rollover their contributions into another eligible retirement plan including the charter school's retirement system.

II. Charter schools must sign a formal agreement with the DCPCSB to adhere to all requirements dictating the calculation of contributions to the Teachers' Fund and the method by which these contributions are to be transferred to the Teachers' Fund (see DCPCSB Guidelines). The charter school shall present to the District of Columbia Board of Education the following information:



1. Beginning date of service for the eligible Employee.
2. Employee's acknowledgment that charter school will make appropriate and exact payroll deductions of 7% or 8% of gross pay for the purpose of transfer to the Teachers' Fund. All deductions to an employee's pay will be on a pre-tax basis and accounted for accordingly. Social Security taxes will not be deducted except for Medicare taxes.
3. Copy of *Continuation of Teachers' Plan Participation* Form.

An addendum to the school's charter may need to be developed to assure that the Teachers' Plan participation for eligible Employees is maintained and monitored.

### **Section 3. Charter Schools Responsibilities**

Employees must have continued their mandatory contributions to the Teachers' Plan at the same rate (either 7% if hired by DCPS prior to November 16, 1996 or 8% if hired by DCPS after on or after November 16, 1996) based on Employee's date of hire on record with DCPS. Charter schools must make any required employer contributions to the Teachers' Plan on behalf of Employees. These contributions generally must continue as long as the Employee is working at the charter school.

**Note:** Employees continuing participation in the Teachers' Plan cannot receive a refund of their contributions prior to termination from the charter school and cannot elect to stop making contributions during their Teacher Plan participation. There are no hardship distributions of employee contributions under the Teachers' Plan.

Employees and charter schools must agree to adhere to the laws and regulations governing eligibility, recordkeeping, benefits calculation, and transfer of contributions to the Teachers' Fund. Charter schools are responsible for determining retirement eligibility, including disability, and are responsible for providing DCRB with all the data and records needed by DCRB to fulfill its responsibilities and carry out the terms of the Teachers' Plan.

Program information and forms required are listed below:

1. DC OCFO – Memorandum of Understanding (to be updated)
2. DCPSB – Compliance Instructions Memorandum to Charter Schools
3. DCPS - Leave of Absence Notification Approval Letter
4. DCPSB Form - Continuation of Participation in Teachers' Retirement Plan Form
5. DCPSB Form - Continuation of DC Sponsored Other Retirement Plan Enrollment Form
6. DC CFO – Payroll Report of Withholdings for Public Charter School Employees
7. DC CFO – Yearly Report of Contributions for Public Charter School Employees
8. Teachers' Plan Summary Description (*see* [dcrb.dc.gov](http://dcrb.dc.gov))



Those charter schools who do not adhere to such requirements will be held independently responsible, and where appropriate, subject to legal action. This requirement is in accordance with the D.C. School Reform Act (D.C. Code §§ 38-1800.02 *et seq.*).

Employees, Charter Schools, and DCPCSB are responsible for knowing the terms of the Teachers' Plan (D.C. Code §§ 38-2021.01 *et seq.*). The Teachers' Plan is deemed a "governmental plan" as defined in § 414(d) of the Internal Revenue Code of 1986, as amended, and intended to be a tax-qualified § 401(a) defined benefit plan.

Any questions about the Teachers' Plan, benefits, and contributions should be directed to DCRB Member Services at (202) 343-3272.