

Teachers' Retirement System of Oklahoma
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RULE IMPACT STATEMENT

A. BRIEF DESCRIPTION OF PURPOSE OF PROPOSED EMERGENCY RULES:

These rules are proposed to comply with the statutory responsibility of the Board of Trustees in establishing rules and regulations for the administration of the System and the transaction of its business (70 O.S. § 17-101 et seq.). These rules are being amended and implemented to comply with amendments and new enactments to Title 70 of the Oklahoma Statutes passed in the 2016 and 2019 legislative sessions and for efficiency of day to day operation of TRS.

TITLE 715. TEACHERS' RETIREMENT SYSTEM

CHAPTER 10. GENERAL OPERATIONS

SUBCHAPTER 1. MEMBERSHIP PROVISIONS

715:10-1-6 is being amended to clarify that only members who join the System prior to July 1, 1996, may be considered an "eligible participant" under O.A.C. 715:10-15-27.

SUBCHAPTER 5. ESTABLISHING OTHER SERVICE CREDITS

715: 10-5-7 is being amended to clarify that only members who join the System prior to July 1, 1996, may be considered an "eligible participant" under O.A.C. 715:10-15-27.

SUBCHAPTER 9. SURVIVOR BENEFITS

715:10-9-3 is being amended pursuant to amendments to 70 O.S. §17-105 in the 2016 legislative session (HB 2263) providing that a member's spouse, another person, or the beneficiary of a Special Needs Trust may select Option 2 retirement in lieu of death benefits under certain specific circumstances.

SUBCHAPTER 13. CONTRIBUTIONS FOR MEMBERSHIP SERVICE

715:10-13-15 is being amended pursuant to amendments to 70 O.S. §17-120 in the 2019 legislative session (SB 772) which now allows the System, rather than the Board of Trustees, to waive employer late fees for good cause shown.

SUBCHAPTER 15. SERVICE RETIREMENT

715:10-15-3 is being amended to reflect the first retirement benefit payment is to be made on the first day of the month following the effective retirement date to be consistent with all companion rules and statutes.

SUBCHAPTER 17. POST-RETIREMENT EMPLOYMENT

715:10-17-5 is being amended to reflect an exception to post retirement earnings limitations for retired members who become State Department of Education employees on or after November 1, 2019, granted by an amendment to 70 O.S. § 17-103 in the 2019 legislative session (HB 1246).

715:10-17-16 is being implemented to establish guidelines for the application of the exception to post retirement earnings limitations for retired members who become State Department of Education employees on or after November 1, 2019, granted by an amendment to 70 O.S. § 17-103 in the 2019 legislative session (HB 1246).

B. CLASS OF PERSON(S) AFFECTED (CLASS BEARING COST OF RULES):

The class of person(s) affected by the proposed rules is the membership of the Teachers' Retirement System of Oklahoma.

C. CLASS OF PERSON(S) BENEFITTED BY PROPOSED RULES:

The class of person(s) benefitted by the proposed rules is the membership of the Teachers' Retirement System of Oklahoma.

D. DESCRIPTION OF PROBABLE ECONOMIC IMPACT UPON AFFECTED CLASS OF PERSONS OR POLITICAL SUBDIVISIONS:

The proposed rules will provide a more efficient administration of the System, resulting in a positive economic impact upon affected classes of persons or political subdivisions. The proposed rules will not have an adverse effect on small business.

E. PROBABLE COST TO AGENCY, EFFECT ON STATE, INCLUDING A PROJECTED NET LOSS OR GAIN IN SUCH REVENUES:

None.

F. ECONOMIC IMPACT THAT IMPLEMENTATION OF THE RULES WILL HAVE ON POLITICAL SUBDIVISIONS AND WHETHER THE IMPLEMENTATION WILL REQUIRE THE SUBDIVISION'S COOPERATION IN IMPLEMENTING OR ENFORCING THE RULE:

None. The proposed rules will not have an adverse effect on small business.

G. LESS COSTLY OR INTRUSIVE METHODS:

None.

H. DATE IMPACT STATEMENT PREPARED:

October 17, 2019.

715:10-1-6. Date of Membership

Date of membership is the date the initial contribution is made to TRS under the current membership account. Any former member of TRS who has previously withdrawn contributions and

who redeposits said withdrawn contributions as permitted by law shall have his or her initial date of membership reinstated. Any person who transfers service from the Oklahoma Public Employees Retirement System in accordance with 70 O.S., Section 17-116.2(L), shall be eligible to use his or her initial entry date into the Oklahoma Public Employees Retirement System as his or her date of membership in TRS for all purposes except the member shall not be considered an “eligible participant” under O.A.C. 715:10-15-27 unless the member first joined TRS prior to July 1, 1996. If a current member purchases non-contributory service for those years of qualified employment prior to the current date of membership, the official date of membership will remain the date the member's current membership account was opened. If a member purchases adjunct service that was performed prior to current date of membership, such purchased service shall be considered contributing service for purposes of vesting and membership date.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 12 Ok Reg 295, eff 10-14-94 through 7-14-95 (emergency); Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 25 Ok Reg 2598, eff 7-11-08; Amended at 29 Ok Reg 856, eff 8-1-12]

715:10-5-7. Credit for service in other Oklahoma public retirement systems

A member of the Teachers' Retirement System of Oklahoma may receive credit for employment covered by the following Oklahoma public retirement systems: the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, the Uniform Retirement System for Justices and Judges, the Oklahoma Law Enforcement Retirement System, Oklahoma Department of Wildlife, and the Oklahoma Public Employees Retirement System (OPERS). Such service must meet the minimum Teachers' Retirement System membership requirements. (See Subchapter 3)

- (1) After one full year (twelve calendar months) of Teachers' Retirement System TRS contributory service, a member is eligible to purchase service credited in another State retirement system. A certification of service form must be completed by the member's former State retirement system. The certification must show: the date of withdrawal, the salary by fiscal school year, and the total amount of credited service. It shall be the responsibility of the member to notify TRS of intent to claim such service and obtain proper documentation from the member's former State retirement system.
- (2) Employment which did not qualify for membership in the former State retirement system shall not qualify for credit in TRS.
- (3) Employment performed prior to the establishment of the State retirement system for the employment class shall not cause membership in TRS to be denied, however, the type of service rendered must be accepted by the appropriate State retirement system if the member were now enrolled in that retirement system.
- (4) The purchase price for each year of such service shall be based on the actuarial cost of the incremental projected benefits being purchased (see OAC 715:10-5-4).
- (5) Under no circumstances can the purchased creditable service exceed the total service verified or the amount of credit given by the former retirement system.
- (6) Once purchased, the other State service counts towards vesting, eligibility for retirement, and final average salary. Notwithstanding, the Internal Revenue Code Section 401(a)(17) limits shall apply and the member shall not be considered an “eligible participant” under O.A.C. 715:10-15-27 unless the member first joined TRS prior to July 1, 1996. However, the last year in the member's account immediately preceding retirement must be with a public education employer that participates in Teachers' Retirement System TRS.
- (7) The member shall not be receiving, or be eligible to receive, retirement credit or benefits from said service in any other public retirement system.

[Source: Amended at 18 Ok Reg 50, eff 10-3-00 (emergency); Amended at 18 Ok Reg 3152, eff 7-12-01; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-9-3. Monthly annuity in lieu of death benefit

The designated beneficiary of an ~~active-contributing in-service~~ member, who qualified for service retirement, may elect to receive-in lieu of the return of contributions and the \$18,000 death benefit the retirement benefit to which the deceased member would have been entitled at the time of death under the Option 2 retirement plan. To qualify for this option, the designated beneficiary must have been named as the primary beneficiary at the time of the member's death (see OAC 715:10-15-1 and 10-15-2). This option is only available when the member has designated one individual as the designated beneficiary, and the beneficiary is the member's spouse, another person, or the beneficiary of a Discretionary and Special Needs Trust or someone who is not more than 10 years younger than the member. If the designated beneficiary is not the member's spouse, IRS Regulations require that the adjusted member/beneficiary age difference cannot be more than ten (10) years. [See OAC 715:10-15-10, to determine the adjusted member/beneficiary age difference]. [See also OAC 715:10-9-7, if the member and beneficiary were divorced before death].

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency); Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 16 Ok Reg 3567, eff 9-13-99; Amended at 17 Ok Reg 3071, eff 7-13-00; Amended at 29 Ok Reg 861, eff 8-1-12]

715:10-13-15 Board waiver Waiver of employer late fees

(a) TRS statutes provide that all employer and employee contributions must be remitted to TRS within 30 days after the end of the month in which the work was performed. If they are remitted after the deadline they are assessed a 1 ½% late charge, compounding monthly. The Board of Trustees may waive the late fee for good cause shown but may delegate this authority to staff. The Executive Director is authorized to waive these late fees. Good cause is generally shown in cases of an unforeseen circumstance such as a death or illness, acts of nature, or other unforeseen and unavoidable circumstance rendering the timely payment of late fees contributions impossible.

(b) The Board of Trustees System will automatically waive, ~~without presentation to the Board,~~ late fees assessed for any contributions received late due to the late receipt of federal funds or workers' compensation payments.

(c) The Board of Trustees System will automatically waive, ~~without presentation to the Board,~~ any late fees assessed in the amount of \$50 or less, provided the requesting employer has had one or less late remittances in the past 12 months.

(d) All other requests for waiver of late fees shall be presented to the Board System for review and determination of good cause shown for waiver at their next regularly scheduled meeting, provided that the waiver request is received by TRS at least 7 days in advance of the Board meeting. All waiver requests must be made on district/employer letterhead and signed by the Superintendent, CEO, or CFO.

[Source: Added at 335 Ok Reg 2122 eff 9-14-18]

715:10-15-3. Date of retirement; making application

The earliest effective date of retirement for any eligible member is the first day of the month following the one in which employment ceases, with the first annuity payment ~~due the last day of that month to be paid on the first day of the month following the effective date of retirement.~~

(1) It is the member's responsibility to notify, by filing a retirement contract as outlined in paragraphs 4 and 5 of this section, the TRS Board of Trustees of the date on which retirement is to begin.

- (2) Payments for all years of service, for which a member wants to receive credit, must be made no less than 90 days prior to the date of retirement.
- (3) State law does not permit TRS to make retroactive retirement payments. Members should ensure that their creditable service record is up-to-date and accurate before they retire.
- (4) Not less than ninety (90) days prior to retirement, the member must submit to TRS a Pre-Retirement Information Verification, copy of the member's proof of birth, copy of marriage certificate or license if married to joint annuitant, and verification of 120 days of accrued/unused sick leave for calculation of sick leave credit. The Pre-Retirement Information Verification and support pre-retirement documentation must be on file with TRS to enable TRS to prepare a complete Application to Retire.
- (5) After submitting all required pre-retirement documentation, the member will receive an Application to Retire. This form must be returned to TRS no less than sixty (60) days prior to the effective date of retirement. Upon receipt of the completed Application to Retire the member will receive a final contract for retirement.
- (6) The Final Contract for Retirement, properly executed before a notary, is required by statutes to be filed with TRS no less than thirty (30) days before the date of retirement. Therefore, the final contract for retirement must be completed and on file with TRS by the first day of the month immediately preceding the retirement date. The first retirement benefit payment will be made on the first day of the month following the effective date of retirement.
- (7) For example, a retirement contract must be on file by May 1, for a retirement date of June 1, in order to process the first retirement benefit payment on July 1.

[Source: Amended at 30 Ok Reg 1476, eff 7-1-13; Amended at 33 Ok Reg 1108, eff 8-25-16; Amended at 34 Ok Reg 513, eff 2-3-17 through 9-14-17 (emergency); Amended at 34 Ok Reg 2104, eff 9-14-17]

715:10-17-5. Permissible employment

Post-retirement employment in the public schools, institutions, and agencies covered by TRS is allowed after the break in employment outlined in OAC 715:10-17-2 has been met. Employment subject to this section shall include any services performed by a retired member, as defined in this subchapter, except for payments received as an employee of the State Department of Education pursuant to 70 O.S. § 17-103(7) or as an independent contractor or consultant, pursuant to a lawful contract that complies with the requirements of 70 O.S. § 6-101.2(B). ~~The Teachers' Retirement System TRS~~ will follow guidelines in subsection B of Section 6-101.2 of Title 70 and federal guidelines from the Department of Labor and the Internal Revenue Service in determining when a retired person qualifies as an independent contractor or consultant.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 20 Ok Reg 384, eff 12-9-02 (emergency); Amended at 20 Ok Reg 2596, eff 7-11-03]

715:10-17-16. Post retirement employment with the State Department of Education [NEW]

A retired member of TRS who becomes employed by the State Department of Education (SDE) for the first time on or after November 1, 2019 ("eligible employee"), shall have the option to remain a member of TRS subject to any applicable post retirement limitations placed on retired members returning to work or may choose to participate in the Oklahoma Public Employees Retirement System (OPERS) as an active member with such eligible employee's participation in OPERS being subject to the laws governing OPERS.

- (1) An eligible employee shall have thirty (30) days from such eligible employee's initial date of hire with SDE to make a one-time irrevocable written election to remain a

member of TRS subject to post retirement limitations or to participate in OPERS as an active member. If an eligible employee fails to make an election within the thirty-day period such eligible employee shall be subject to post retirement earnings limitations prescribed by laws governing TRS. If an eligible employee elects to participate in TRS, then SDE shall pay both the employee and employer contributions to TRS as required by law.

(2) If an eligible employee makes the election to participate in OPERS such eligible employee shall not participate in TRS as an active member nor make employee contributions to TRS. In addition, SDE shall not make employer contributions to TRS. The eligible employee and SDE shall pay the applicable contribution rates as provided by the laws governing OPERS.

(3) An eligible employee who elects to participate in OPERS shall be ineligible for participation in TRS so long as such eligible employee remains employed by SDE. If such eligible employee assumes a different position, which is governed by a state retirement system other than OPERS or TRS, the eligible employee shall be subject to the retirement system rules applicable to that new position. However, such eligible employee shall not be eligible for service credit in TRS for service performed while participating in OPERS.