

**Teachers' Retirement System of Oklahoma
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Oklahoma City, OK 73116
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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 emergency rules are necessary to comply with amendments and new enactments to Title 70 of the Oklahoma Statutes passed in the 2021 legislative session.

TITLE 715. TEACHERS' RETIREMENT SYSTEM

CHAPTER 10. GENERAL OPERATIONS

SUBCHAPTER 1. MEMBERSHIP PROVISIONS

715: 10-1-4 is being amended to comply with amendments to 70 O.S. Section 17-103 enacted by Senate Bill 683 in the 2021 legislative session and effective July 1, 2021.

SUBCHAPTER 5. ESTABLISHING OTHER SERVICE CREDITS

715: 10-5-9 is being amended to comply with amendments to 70 O.S. Section 17-103 enacted by Senate Bill 683 in the 2021 legislative session and effective July 1, 2021. These amendments remove the one-year waiting period for optional personnel to join the System and also remove the ability for optional personnel to opt in and out of the System without terminating employment.

715:10-5-38 is being added to address the purchase of optional service to comply with amendments to 70 O.S. Section 17-103 enacted by Senate Bill 683 in the 2021 legislative session and effective July 1, 2021.

SUBCHAPTER 11. WITHDRAWAL FROM MEMBERSHIP AND REFUND OF DEPOSITS

715:10-11-2 is being amended to comply with amendments to 70 O.S. Section 17-103 enacted by Senate Bill 683 in the 2021 legislative session and effective July 1, 2021.

715:10-11-4 is being amended to comply with amendments to 70 O.S. Section 17-103 enacted by Senate Bill 683 in the 2021 legislative session and effective July 1, 2021.

SUBCHAPTER 13. CONTRIBUTIONS FOR MEMBERSHIP SERVICE

715:10-13-8 is being amended to comply with amendments to 70 O.S. Section 17-103 enacted by Senate Bill 683 in the 2021 legislative session and effective July 1, 2021.

SUBCHAPTER 17. POST-RETIREMENT EMPLOYMENT

715:10-17-15 is being amended to comply with amendments to 70 O.S. Section 17-116.10 enacted by Senate Bill 267 in the 2021 legislative session and effective July 1, 2021. These amendments allow certain retired persons to return to public education employment without being subject to earnings limitations.

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 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. 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:

June 2, 2021

CHAPTER 10. GENERAL OPERATIONS

SUBCHAPTER 1. MEMBERSHIP PROVISIONS

715:10-1-4. Optional TRS membership

The following employees are eligible to be members of the Teachers' Retirement System at their option:

(1) "Non-classified optional personnel" ~~employees~~ regularly employed by the public, state-supported educational institutions in Oklahoma for twenty (20) hours or more per week at a rate of compensation comparable to other persons employed in similar positions and receive payment for service by a school or state warrant, recorded on a warrant register with standard payroll deductions, and receive benefits generally provided to regular employees- provided,

(A) Any non-classified optional employee employed on July 1, 2021, shall make an irrevocable election on a form provided by TRS to participate in or opt out of the System. If the employee fails to make an election by July 31, 2021, the employee shall be deemed to participate in the System.

(B) A non-classified optional employee employed after July 1, 2021, shall have thirty (30) days from the date of hire to make a one-time written irrevocable election on a form provided by TRS to opt out of the System. If an eligible employee fails to make an election within the thirty-day period, the eligible employee shall be deemed to participate in the System.

(C) A non-classified optional employee who opts out of participation in the System shall be ineligible for future participation in the System; provided, however, that if the employee is hired for a classified position, he or she shall become a member of the System, but shall not be eligible for prior service credit for service performed while employed in a non-classified position during which time the employee opted out of participation in the System.

(2) Any member absent from the teaching service who is eligible to continue membership under special provisions of 70 O.S. 17-116.2, provided that such employee continues to be employed by a governmental agency.

(3) A visiting professor from another state or nation.

(4) Classified and Non-Classified members employed after retirement. (See OAC 715:10-17-13).

(5) Full-time, non-classified optional personnel who previously have opted out of TRS without terminating employment prior to July 1, 2021 ~~under OAC 715:10-11-2~~ may revoke their election and return to TRS participation by filing a written irrevocable election on a form provided by TRS with the System no later than July 31, 2021, electing to opt in and return to TRS participation. Providing, however, that such member is not eligible to redeposit the account withdrawn under OAC 715:10-11-2 or purchase credit for service performed after termination of membership and re-instatement of membership.

SUBCHAPTER 5. ESTABLISHING OTHER SERVICE CREDITS

715:10-5-9. Re-establishing withdrawn service [Amended]

After returning to employment in the public schools of Oklahoma a member may redeposit a withdrawn account to re-establish service previously withdrawn from the system. For purposes of this section the following shall apply:

- (1) A "classified" and "non-classified" member (except as noted in paragraph 2 of this section) who has returned to public education employment and has established one full year (twelve calendar months) of creditable Oklahoma service, is eligible to redeposit withdrawn contributions. A redeposit of withdrawn contributions must include all applicable interest, which shall be computed at a simple interest rate of ten percent (10%) per annum from the date of the withdrawal to the date repayment is made.
- (2) Non-classified members who voluntarily withdrew from membership in TRS, ~~between July 1, 1984 and June 30, 1990~~, without terminating employment in the public schools of Oklahoma, are not eligible to redeposit or purchase past service for any period of employment between the date of the membership period covered by the withdrawn account and the date of return to membership in TRS.
- (3) Non-classified members who voluntarily cease monthly contributions to TRS while continuing to be employed in an eligible position shall be considered to have withdrawn from membership.
- (4) Requests for redeposits should be made to TRS in writing. The request must include the name in which the service was rendered, the TRS Member ID number or Social Security number, and the number of years withdrawn.
- (5) Documentation of this service is on file with TRS and will be verified by the staff. Service that cannot be verified must be purchased under the rule for establishing service prior to membership.
- (6) Repayments of withdrawn accounts may be made by active contributing members of TRS in a single lump sum, which includes the withdrawn contributions and all applicable interest, or in installment payments. Such installment payments may be paid in 12-month increments but shall be completed within 60 months. The member shall be responsible for maintaining the payment schedule. Payments are due on the first day of each month. A monthly installment not paid within sixty (60) days of the due date will result in termination of the installment payment schedule. The member will be given the option of paying the remaining balance within six (6) months. If the balance is not paid in full in the remaining six (6) month period, the redeposit will be canceled. Installment payments shall include interest based upon actuarial assumptions adopted by the TRS Board of Trustees. Such installment payments shall be completed before the member's effective retirement date. No proration is allowed for partial payments. If payments terminate prior to completion of the installment agreement, the amount paid by the member shall be refunded without interest.
- (7) Redepositing of withdrawn accounts must be completed, and payment made to TRS, ninety (90) days prior to the effective date of a member's official retirement date.
- (8) No person may make a redeposit to a member's account after the death of the member.

715:10-5-38. Credit for service as an optional employee prior to July 1, 2021 [NEW]

Non-classified optional personnel who were employed prior to July 1, 2021, and who make an election to join the System by July 31, 2021, or within thirty (30) days of their date of hire, or

who become classified mandatory personnel, may obtain service credit for qualified employment in public educational institutions in the State of Oklahoma for work performed as an optional, non-classified employee, prior to July 1, 2021, under certain circumstances.

(1) The member shall not be eligible to purchase withdrawn service as described in OAC 715:10-5-9(2) or service for which the member had ceased monthly contributions on at any prior date as described in OAC 715:10-5-9(3).

(2) The member is not receiving and is not eligible to receive retirement credit or benefits from the service in any other public retirement system of this state, the United States government, or any other state or territory of the United States.

(3) The purchase price for eligible non-classified optional service credit shall be based upon actuarial cost as defined in OAC 715:10-5-4. All payments for such service credit must be made while the member is an active contributing member or within sixty (60) days after the end of the member's employment in the public schools in Oklahoma. No person may purchase service credit for such employment after the member's death.

(4) The payments for such service credit may be made in one lump sum or in equal monthly installments for up to sixty (60) months, as provided in OAC 715:10-5-4 and may be made as a picked-up service credit purchase in compliance with OAC 715:10-5-35.

(5) The purchase of service must be completed, and payment made to TRS, no later than ninety (90) days prior to the effect date of a member's official retirement date.

SUBCHAPTER 11. WITHDRAWAL FROM MEMBERSHIP AND REFUND OF DEPOSITS

715:10-11-2. Withdrawal of optional membership while still employed [Amended]

Prior to July 1, 2021, a ~~A~~ non-classified optional member may voluntarily terminate TRS membership while continuing employment in the public schools of Oklahoma, if:

(1) Proper application is made to TRS. Withdrawal may be made no earlier than two (2) months after date of application and no earlier than the receipt by TRS of the final deposit to the member's account.

(2) The financial officer of the employing school certifies the member's election to stop contributions and the date the member's last contributions will be remitted to TRS.

(3) Any member who withdraws under the conditions listed here may rejoin the Teachers' Retirement System, under the provision of OAC 715:10-1-4~~(8)~~ (5). A member who terminates membership under this section cannot redeposit contributions withdrawn under this section at a later date, even if the individual returns to membership in TRS. The member will also forfeit any right to purchase service performed from the date of termination of membership under this section and prior to the re-entry date, and will forfeit any unused sick leave accumulated from the date of termination of membership under this section and prior to the re-entry date.

(4) A member's contributions cannot be terminated, by either the member or the employer, without termination of TRS membership. Any member who ceases contributions while still employed in an optional position shall be deemed to have

become an ineligible member of TRS and will have forfeited all rights to retirement benefits provided by TRS for the service prior to the date the member ceased contributions.

(5) An employer may prevent its employees from withdrawing, under this rule, if the employer has a negotiated labor agreement, or formalized IRS plan, prohibiting such terminations and withdrawals.

(6) After-tax contributions can be refunded to an optional member prior to separation from service. Pre-tax contributions cannot be refunded until the member terminates employment or turns 62. Following termination of employment, TRS should be contacted for the proper form to be completed for return of pre-tax contributions. Upon completion of mandatory four-month waiting period, payment of the balance of the account will be made at the same time as regular withdrawals.

715:10-11-4. Refunds of contributions [Amended]

~~(a) Refunds for overpayment of employer annual contributions, ineligible service purchases, and membership service contributions of less than six (6) months shall be made upon request by the employing school if the payment of contributions or service purchase was made based on mistake of fact or law.~~

~~(1) Refunds to members who are terminating accounts will not be made until the final contributions of the withdrawing member is received and posted to his account. The required application must be completed and on file. The amount to be returned to the employer is the excess of the amount contributed or paid over the amount that would have been contributed or paid had not mistake been made.~~

~~(2) No interest shall be paid on refunds for this purpose.~~

~~(3) Contributions reported by the employer as "pre-tax" contributions will be refunded to the employer.~~

~~(b) Refunds of excess employee contributions shall be distributed to the member as soon as practical through a lump sum payment for all past overpayments with appropriate interest under OAC 715:10-11-1. The distribution shall be reported on IRS Form 1099-R for the year of the distribution.~~

SUBCHAPTER 13. CONTRIBUTIONS FOR MEMBERSHIP SERVICE

715:10-13-8. Procedure for making contribution deductions [Amended]

The Teachers' Retirement System contribution deduction shall start with the payment for the first month of a "classified" employee's contract, or the first month of membership for an optional "non-classified" member. This contribution shall be based on the total compensation for the month, but shall not apply to the compensation of a substitute teacher or any employee working on a less than one-half time basis. Individuals who join the ~~Teachers' Retirement~~ System during the school year, and who have been employed prior to becoming a member, must make retroactive contributions from the beginning of that school year. The membership date of such a member is the date of first payment not the beginning of the school year. The member shall not receive credit for a year of service until the balance of contributions, including any contributions required by the employer, are received by TRS. Interest compounded annually at ten percent (10%) per annum shall be levied against the balance due until paid.

- (1) The total deductions in any one school year shall not exceed the maximum limit prescribed by statutes as defined in OAC 715:10-13-3.
- (2) In determining the amount of the contribution for a member in any payroll period, the employer shall consider the total compensation earned from all sources. The contribution shall be calculated on the gross compensation before any deductions, such as tax-sheltered annuity, income taxes, Social Security, etc. Deductions shall be made at the statutory contribution rate on each month's compensation until the maximum annual compensation level is reached. Total monthly compensation shall be reported in the monthly salary column of the remittance report. Monthly compensation includes gross wages and fringe benefits paid or provided by the remitting agency.
- (3) Monthly contributions for employees of a comprehensive university, whose maximum compensation level is less than the member's regular annual compensation, may be remitted in twelve equal payments to the member's account during the school year. It shall be the responsibility of the employer to insure any required adjustment in contributions is made if a member terminates employment or the member's salary changes during the school year.
- (4) Contributions must be remitted monthly as long as the individual is employed in a position for which membership is a condition of employment. No member, including non-classified optional employees, may terminate contributions and retain membership in Teachers' Retirement System; ~~except as expressly provided elsewhere in the statutes or TRS rules.~~
- (5) As of July 1, 1979, members who signed a waiver to contribute on a maximum annual salary of \$7,800 are required by law to contribute on their total compensation not to exceed any current maximum contribution level.
- (6) The Department of Corrections shall contribute the employer's share to the Teachers' Retirement System. The contribution shall be the same dollar amount required of the member.

SUBCHAPTER 17. POST-RETIREMENT EMPLOYMENT

715:10-17-15. Salary limitations for certain returning classroom teachers [Amended]

~~Legislation enacted during the 2017 legislative session allows members teachers who retired on or before July 1, 2017 to return to employment as a classroom teacher for a public school or career technology district with no earnings limitations in certain circumstances. Members seeking to return to employment as a classroom teacher under this provision must meet all of the following requirements:~~

- ~~(1) — The member must have been employed as an active classroom teacher as is defined in 70 O.S. § 17-101(27) for at least one full school year immediately prior to their date of retirement. Members employed as superintendents, administrators, or in other non-classroom teacher positions during the school year immediately preceding retirement are ineligible;~~
- ~~(2) — The member can only be employed as an active classroom teacher as defined in 70 O.S. § 17-101(27) when they return to employment;~~
- ~~(3) — The member must have been retired and drawing a TRS retirement benefit and not be employed by any public school or career technology district in any capacity for the~~

~~twelve (12) consecutive months immediately following the last day of employment prior to their retirement date; and~~

~~(4) — Prior to the member's return to employment the member must provide to TRS on forms prescribed by TRS, documentation establishing their eligibility under this provision. This documentation must be accepted by and approved by TRS prior to the member commencing employment under this provision.~~

Legislation enacted during the 2021 legislative session allows members who retired on or before July 1, 2020, to return to employment as an active classroom teacher for a public school or career technology district with no earnings limitations in certain circumstances. Members seeking to return to employment as an active classroom teacher under this provision must meet all of the following requirements:

(1) The member must have been retired as of July 1, 2020;

(2) The member must have been retired and drawing a TRS retirement benefit and not be employed by any public school or career technology district in any capacity for a period of twelve (12) consecutive months immediately following the last day of employment prior to their retirement date;

(3) The member can only be employed as an active classroom teacher as defined in 70 O.S. § 17-101(27) when they return to employment; and

(4) Within sixty (60) days of the member's return to employment the member's employer must provide to TRS on a form prescribed by TRS, documentation establishing the member's eligibility under this provision.