

**Teachers' Retirement System of Oklahoma
301 NW 63rd Street, Suite 500
Oklahoma City, OK 73116
405.521.2387**

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 2022 legislative session and to cure permanent rules promulgated in 2022 related to Oklahoma Statutes passed in the 2021 legislative session which, when amended, will operate more consistently with the intent of the legislature.

TITLE 715. TEACHERS' RETIREMENT SYSTEM

CHAPTER 10. GENERAL OPERATIONS

SUBCHAPTER 1. MEMBERSHIP PROVISIONS

715: 10-1-5 is being amended to reflect amendments to 70 O.S. Section 17-101 enacted by Senate Bill 1119 in the 2022 legislative session. This rule will now cease to exempt adjunct personnel from TRS membership when otherwise eligible.

SUBCHAPTER 17. POST-RETIREMENT EMPLOYMENT

715: 10-17-15 is being amended based on a compelling public interest in the permanent rule promulgated by TRS in the 2022 permanent rulemaking process operating to the benefit of eligible teachers when situations of good cause prevent their application for post-retirement employment from being timely and to ensure TRS rules are consistent with the intent of 70 O.S. Section 17-116.10 enacted by Senate Bill 267 in the 2021 legislative session, effective July 1, 2021, i.e., to capture and retain the participation of qualified active teachers in public education despite their prior retirement.

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 rule 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:

July 27, 2022.

715:10-1-5. Ineligible for TRS membership

The following employees are ineligible to be members of the Teachers' Retirement System. (Note: Ineligible employment cannot be combined with eligible employment.)

- (1) A non-classified employee working less than 20 hours per week.
- (2) A substitute, irregular, seasonal, graduate assistant, fellowship recipient, adjunct, supplemental or temporary employee. This provision does not apply to adjuncts as described in 70 O.S. § 6-122.3 who shall be considered non-classified employees and who may qualify for membership pursuant to OAC 715:10-1-4. (Note: Certain substitute and adjunct employment may qualify for service credit. See OAC 715:10-5-2 and OAC 715:10-5-34).
- (3) Persons employed as a consultant or persons contracting with a public school to transport students, to provide food service, or to provide any other services, who are not "regular" employees of the school. (NOTE: School bus drivers or food service personnel who are regular employees of the school are eligible for membership, subject to the requirements of OAC 715:10-1-2, 10-1-4, 10-1-5.)
- (4) An employee whose primary function at a school or institution is that of a student. If both the following conditions apply, a person employed in an Oklahoma public school, college or university shall be considered to be a student employee.
 - (A) The employment is conditional upon the employee's being enrolled as a student at the same institution; and
 - (B) The employee has no other employment during the same payroll period which is eligible for membership in TRS.
- (5) Any persons whose employment compensation comes from federal or other funds and is not administered by an Oklahoma public education employer. (Note: If the employee is not paid by the school on a state warrant, the employee is not considered to be an

employee of the school or the State of Oklahoma. Regular employees whose salaries are paid in part or in whole by federal or other funds are eligible for membership if they were hired by the school and paid by the school.)

(6) Any person employed by the public schools of Oklahoma after July 1, 1991, who is covered by another federal, state, county or local public retirement plan which will provide benefits on the employment service covered by the Teachers' Retirement System.

(7) Employees of employers that are not governmental employers within the definition of Internal Revenue Code Section 414 and 70 O.S. § 17-116.2J.

(8) Any person employed by the University of Oklahoma or Oklahoma State University or the entities of either comprehensive university who elects to participate in an alternative retirement plan provided by the comprehensive university as provided by the Alternate Retirement Plan for Comprehensive Universities Act.

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

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 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.

(A) The Executive Director of TRS may waive the sixty (60) day requirement for good cause shown.

(B) To petition for waiver, either the TRS member, the employer, or both if appropriate under the circumstances, must provide written documentation of good cause to TRS along with the properly executed TRS form establishing eligibility under this provision.