

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 necessary to comply with amendments to Title 70 of the Oklahoma Statutes passed in the 2022 legislative session and to otherwise effect the orderly administration of the System for the benefit of the System's members and to defray costs of administering the System.

TITLE 715. TEACHERS' RETIREMENT SYSTEM

CHAPTER 10. GENERAL OPERATIONS

SUBCHAPTER 1. MEMBERSHIP PROVISIONS

715: 10-1-5 is being amended to comply with 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 K-12 adjunct teachers from TRS membership when otherwise eligible.

SUBCHAPTER 5. ESTABLISHING OTHER SERVICE CREDITS

715: 10-5-33 is being reenacted to reflect TRS compliance with 70 O.S. §6-104.1, a statute which became effective July 1, 1998, and which grants TRS service credit for certain unpaid family leave.

715:10-5-34 is being amended to clarify the difference between adjunct teachers potentially eligible to earn service credit as TRS members under 70 O.S. §6-122.3 and Senate Bill 1119 passed in the 2022 legislative session and adjunct personnel under 70 O.S. § 17-116.16 who qualify to purchase service credit.

SUBCHAPTER 9. SURVIVOR BENEFITS

715:10-9-3 is being amended to clarify and reflect all statutory requirements for eligibility for a monthly annuity in lieu of the statutory death benefit under 70 O.S. §17-105(11).

715:10-9-8 is being amended to reflect TRS's forthcoming ability to accept beneficiary designations electronically and to set out TRS requirements for a valid beneficiary designation.

SUBCHAPTER 11. WITHDRAWAL FROM MEMBERSHIP AND REFUND OF DEPOSITS

715:10-11-4 is being amended to reflect Internal Revenue Service limitations on providing a refund, as opposed to a credit, to employers for excess contributions remitted due to mistake of law or fact.

SUBCHAPTER 13. CONTRIBUTIONS FOR MEMBERSHIP SERVICE

715:10-13-2 is being amended to clarify that TRS members must remit on all contribution from the date their qualifying TRS employment began and that full service credit will not be awarded until all eligible contributions are remitted.

715:10-13-3 is being amended to comply with 70 O.S. §17-108.2 and accurately reflect the impact of earning state credit will occur to an eligible employee's gross pay, rather than net pay.

SUBCHAPTER 15. SERVICE RETIREMENT

715:10-15-8 is being amended to reflect the ability of TRS to grant fractional service credit when calculating service credit at retirement consistent with prior amendments to the 715:10-3-1.

715:10-15-11 is being amended to reflect TRS's forthcoming ability to accept beneficiary designations electronically and to set out TRS requirements for a valid beneficiary designation.

715:10-15-12 is being amended to reflect updated clarified procedures for the Spousal Consent, and Internal Revenue Service requirement, as part of a member's retirement.

715:10-15-15 is being amended to reflect that TRS will accept additional sufficient documentation from the Social Security Administration to prove an award of disability benefits. This rule is also being amended to clarify the level of medical evidence necessary to adequately determine disability on behalf of the member.

715:10-15-22 is being amended to reflect that TRS may seek documentation from a disabled retiree regarding earnings in a calendar year if the disabled retiree is under 62 years of age and otherwise clarifying procedures if a retiree is earning excessive earnings or working in a position similar to the one working in when they were medically retired.

SUBCHAPTER 17. POST-RETIREMENT EMPLOYMENT

715:10-17-5 is being amended to clarify current TRS procedures relative to retired members seeking to work as an independent contractor.

715:10-17-7 is being amended to reflect that TRS may seek documentation from a disabled retiree regarding earnings in a calendar year if the disabled retiree is under 62 years of age and otherwise clarifying procedures if a retiree fails to provide such information.

715:10-17-9 is being amended to correct a typographical error.

715:10-17-13 is being amended to strike the requirement for a Personal Data Form consistent with TRS practice of obtaining such information via the Employer Portal rather than via a paper form and to otherwise clarify application to retired members.

715:10-17-14 is being amended to clarify its application to only those retired members who return to active contributing status and to maintain consistency with the actual timing of retirement benefit payments.

715:10-17-15 is being amended to operate 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 classes of person(s) affected by the proposed rules are employers and 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:

November 16, 2022.

715:10-1-5. Ineligible for TRS membership [AMENDED]

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 adjunct teachers 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.

715:10-5-33. Credit for family leave ~~[REVOKED]~~ [NEW]

(a) A full-time teacher who takes ninety (90) or fewer days of leave without pay to care for the teacher's child during the first year of the child's life shall receive retirement service credit for the days taken as leave without pay if:

(1) the employing district certifies to TRS that the employee's leave without pay was taken with the proper approval of the employing district's Board of Education; and

(2) TRS receives payment for the actuarial cost of the service credit for the days taken as leave without pay;

(b) The teacher shall notify their employer and TRS in writing within thirty (30) days from the date the teacher returns to work that the teacher will pay the actuarial cost of the service credit for the days taken as leave without pay.

(c) The teacher shall have up to twelve (12) months from the date they return to work to pay the actuarial cost for the days taken as leave without pay.

715:10-5-34. Credit for ~~adjunct service~~ Adjunct Service in Higher Education [AMENDED]

(a) Pursuant to 70 O.S. §116.16, A ~~Teachers' Retirement System~~ TRS member who was employed in an adjunct position in an institution under The Oklahoma State System of Higher Education before joining the Retirement System may purchase service credit for that employment.

(b) The member may purchase one year of service credit for each school year in which he or she worked a minimum of eighteen (18) credit hours in such an adjunct position, up to a maximum five (5) years. Such purchased service credit shall be considered contributing service for vesting and retirement.

(c) The purchase price for eligible adjunct 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; and must be completed before the member's effective retirement date. No person may purchase service credit for such adjunct employment after the member's death.

(d) 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 (9).

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

The designated beneficiary of an in-service member who qualified for service retirement and had ten (10) years or more of creditable service 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 sole beneficiary at the time of the member's death (see OAC 715:10-15-1 and 10-15-2 and 70 O.S. §17-105(11)). 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, provided ~~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].

715:10-9-8. Beneficiary Designation for Death Benefit [AMENDED]

A member may change or update his or her beneficiary designation for the statutory death benefit at any time in the manner prescribed by TRS. A beneficiary designation is valid for TRS purposes when properly executed and on file with TRS prior to the death of the member. TRS shall not be responsible for determining the competency of a member to designate a beneficiary except as otherwise provided by Oklahoma law.

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

(a) Refunds for overpayment of employer contributions shall be made upon request by the employing school if the payment of contributions was made based on mistake of fact or law, provided a refund shall only be given to the requesting employer for overpaid contributions when such refund occurs within 12 months of the overpaid contribution. Otherwise, the employer shall receive a credit from TRS against future employer contributions due.

(1) 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 no mistake been made.

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

(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.

715:10-13-2. Contributions required on all compensation [AMENDED]

Contributions shall be made on total compensation of each member. Total compensation means salary and benefits from all sources including federally-subsidized programs under the direct administration of a public school and salaries earned by an employee for extra duties. This includes pay to a teacher who also drives a school bus, members of TRS who are working part-time for another school and members employed on a regular basis who are employed by the same or different school in a summer school or night school program. All public schools shall treat the employee contributions as being picked-up under the provisions of Section 414(h)(2) of the Internal Revenue Code. 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~~ date their qualifying employment began. The membership date of such a member is the date the first payment is received, not the beginning of the school year. The member shall not receive full service credit ~~for a year of service~~ until the balance of contributions, including any contributions required by the employer, are received by TRS.

715:10-13-3. Employee contribution rates [AMENDED]

(a) Beginning with the 1996-97 school year, the maximum compensation level for all members, other than those members employed by a comprehensive university on or before June 30, 1995, shall be the member's regular annual compensation. This includes any employee of a comprehensive university who transfers to another school or university after June 30, 1996, or who terminates paid employment status with a comprehensive university and returns to employment at a later date.

(b) Beginning with the 1996-97 school year, the maximum compensation level for those employees of a "comprehensive university", defined in statutes as the University of Oklahoma and all of its constituent agencies, including the University of Oklahoma Health Sciences Center, the University of Oklahoma Law Center and the Geological Survey, and Oklahoma State University and all of its constituent agencies, including the Oklahoma State Agricultural Experiment Station, the Oklahoma State University Agricultural Extension Division, the Oklahoma State University

College of Veterinary Medicine, the Oklahoma State University Center for Health Sciences, the Technical Branch at Oklahoma City the Technical Branch at Okmulgee and Oklahoma State University-Tulsa, who were employed on or before June 30, 1995, shall contribute the following:

- (1) for members who, prior to June 30, 1995, elected to contribute on a maximum compensation level not to exceed \$25,000:
 - (A) \$32,500 for service between July 1, 1996 and June 30, 1997,
 - (B) \$37,500 for service between July 1, 1997 and June 30, 1998,
 - (C) \$42,500 for service between July 1, 1998 and June 30, 2000,
 - (D) \$47,500 for service between July 1, 2000, and June 30, 2001,
 - (E) \$52,500 for service between July 1, 2001, and June 30, 2002,
 - (F) \$57,500.00 for service between July 1, 2002, and June 30, 2003,
 - (G) \$62,500.00 for service between July 1, 2003, and June 30, 2004,
 - (H) \$67,500.00 for service between July 1, 2004, and June 30, 2005,
 - (I) \$72,500.00 for service between July 1, 2005, and June 30, 2006,
 - (J) \$77,500.00 for service between July 1, 2006, and June 30, 2007, and
 - (K) the full amount of regular annual compensation for service authorized and performed after June 30, 2007, and
- (2) for members who, prior to June 30, 1995, elected to contribute on a maximum compensation level in excess of \$25,000, or who did not make an election prior to June 30, 1995, because their annual salary was less than \$25,000:
 - (A) \$49,000 for service between July 1, 1996 and June 30, 1997,
 - (B) \$54,000 for service between July 1, 1997 and June 30, 1998,
 - (C) \$59,000 for service between July 1, 1998 and June 30, 2000,
 - (D) \$64,000 for service between July 1, 2000, and June 30, 2001,
 - (E) \$69,000 for service between July 1, 2001, and June 30, 2002,
 - (F) \$74,000 for service between July 1, 2002, but not later than June 30, 2003,
 - (G) \$79,000 for service between July 1, 2003, and June 30, 2004,
 - (H) \$84,000 for service between July 1, 2004, and June 30, 2005,
 - (I) \$89,000 for service between July 1, 2005, and June 30, 2006,
 - (J) \$94,000 for service between July 1, 2006, and June 30, 2007, and
 - (K) the full amount of regular annual compensation for service authorized and performed after June 30, 2007.
- (c) A person employed by any school district or technology center school district who holds a valid certificate issued by the State Department of Education or the State Board of Career and Technology Education and is employed on a full-time basis as a teacher, principal, supervisor, administrator, superintendent, counselor, librarian, or certified or registered nurse shall have a specific amount credited against the employee's contribution amount to TRS. The State of Oklahoma shall pay an annual amount as set forth in 70 O.S. §17-108.2 for each fiscal (or plan) year.
- (d) Each school district or technology center school district shall adjust each eligible employee's monthly contribution to TRS in accordance with statutory provisions and shall cause the annual amount paid by the State of Oklahoma as provided in the preceding paragraph to be deducted from the monthly remittance to each eligible employee's retirement account and a like amount added to the ~~net~~gross pay of the eligible employee.
 - (1) If the school district pays the retirement contribution in addition to the employee's total compensation, the employer must reduce the employee's annual retirement

contribution which the school pays to TRS by the appropriate amount and add that amount to each eligible employee's ~~net~~gross pay.

(2) If the school district deducts the retirement contribution from each employee's total compensation, whether as a salary reduction to pay the retirement contribution as a fringe benefit or as a deduction on an after-tax basis, the employer must adjust the employee's annual retirement deduction in accordance with the amount to be paid by the State. The adjustment in the retirement deduction will result in an increase to the eligible employee's ~~net~~gross pay.

(3) The State contribution to each eligible employee's retirement account is determined by the total experience of each employee as verified by the State Department of Education or the Oklahoma Department of Career and Technology Education.

(4) The State contribution must be calculated and paid in equal monthly installments as determined by the eligible employee's contract, i.e., ten months, eleven months or twelve months. Eligible employees who work full-time for less than a full contract year shall have the prescribed State contribution prorated proportionately based on the employee's full-time employment during the relevant contract period.

715:10-15-8. Age, creditable service determination [AMENDED]

The member's age, and the age of a member's designated beneficiary, at retirement shall be determined as the age attained as of the last birthday. Total creditable service shall be determined to the ~~nearest whole number with any-tenth of fractional part of a year rounded down~~. Age shall be determined as of the date of retirement in the following manner:

(1) If the member's date of birth is on or before the tenth (10th) day of the month of retirement, the age shall be the age of the member on the tenth (10th) day of the month.

(2) If the member's date of birth is after the tenth (10th) day of the month of retirement, the age shall be the age of the member on the first day of the month.

715:10-15-11. Designation of beneficiaries or joint annuitant for retirement options [AMENDED]

A designation of beneficiary or joint annuitant must be made when the retirement contract is completed. A member who selects the Maximum, Option 1 or Option 4 retirement plan may name more than one beneficiary. Once the member has been retired for more than sixty (60) days or if no change in the member's retirement plan occurs, beneficiaries named for the Maximum, Option 1, or Option 4 retirement plan may be changed by the member at any time using a form in the manner prescribed by TRS. The joint annuitant for the Option 2 or Option 3 retirement plan cannot be changed even if the joint annuitant dies before the member, providing, however, the retired member may designate a beneficiary different from the joint annuitant to receive the \$5,000 death benefit. The member who elects the Option 4 retirement plan must name a beneficiary, who can be any living person or persons, or a trust. The beneficiary does not have to be a spouse or dependent. In the case of a divorce the retirement contract remains in force and the member's joint annuitant (ex-spouse) will receive the member's monthly benefit after the member's death (if named as a joint annuitant) unless a Court, acting through a Qualified Domestic Relations Order, directs otherwise. A beneficiary designation is valid for TRS purposes when properly executed and on file with TRS prior to the death of the member. TRS shall not be responsible for determining the competency of a member to designate a beneficiary except as otherwise provided by Oklahoma law.

715:10-15-12. Spousal consent [AMENDED]

When selecting a retirement option, a TRS Acknowledgment of Spousal Consent shall be completed. If the member is married at the time of retirement, the retiring member's spouse must ~~complete Part A, acknowledging~~ acknowledge that the retirement options available to the member have been explained to the spouse and the spouse concurs with the retirement option selected by the retiring member. If the member is unmarried or unable to locate their spouse at the time of retirement, the member must ~~complete Part B, certifying~~ certify that he or she is unmarried or that at the time of retirement the whereabouts of the spouse are unknown and the spouse cannot be located. ~~The Spousal Consent form~~ is an integral part of the application for retirement and must be ~~filed with the retirement contract~~ filed with TRS before the member's retirement becomes effective.

715:10-15-15. Disability retirement; application; effective date [AMENDED]

(a) Any member who is actively employed in the public schools of Oklahoma and is regularly contributing to TRS may be retired due to a medical disability, which renders the member unable to perform regular employment duties, provided such member:

- (1) has at least ten (10) years of Oklahoma contributory membership service,
- (2) submits a complete application for disability retirement, and,
- (3) is found by the Medical Board of TRS, to be medically disabled to continue regular duties, or
- (4) meets the requirements of paragraphs (1) and (2) of this subsection, and files a Social Security Award Notice or other sufficient written documentation from the Social Security Administration certifying the member has been approved for disability benefits by the Social Security Administration, U. S. Department of Health and Human Services,
- (5) however, a member who is eligible for unreduced regular retirement is not eligible for disability retirement benefits.

(b) A member who has terminated employment or is on leave without pay status shall be eligible for disability retirement by meeting the provisions of paragraph (a) of this rule, providing the disability existed at the time the leave without pay status commenced or the termination of employment from the public schools of Oklahoma occurred, and the disability was the reason for the leave status or termination of employment.

(c) The application for disability retirement required in paragraph (2) of subsection (a) of this section must include:

- (1) a detailed statement by the member as to the nature of the disability and the reasons the disability prevents the member from performing the regular duties of the member's current position.
- (2) a detailed statement by the member's employer (chief administrative officer or personnel officer) as to the nature of the disability and the reasons the disability prevents the member from performing the regular duties assigned to the position of employment, and
- (3) a detailed report by the member's physician giving the medical nature of the disability. The attending physician's report should certify that the member, in the physician's judgment, is mentally or physically incapacitated from further performance of duty, that such incapacity is likely to be permanent and that the member should be retired. Any examination required to complete this report must be at the expense of the member. The physician must be a Doctor of Medicine or Doctor of Osteopathy and in good standing.

In conditions related to the eye(s), the physician must be an ophthalmologist in good standing. In conditions related to hearing, the physician must be an otolaryngologist or Doctor of Audiology and in good standing. For mental health conditions, the physician must be a Doctor of Clinical Psychology or Doctor of Psychiatry and in good standing.

- (d) TRS must receive the complete application for disability retirement by the first day of the month in which the Medical Board is scheduled to meet.
- (e) The effective date for disability retirement is the later of (1) or (2) below:
- (1) the first day of the month in which the disability application is approved by the Medical Board, and subsequent to termination of employment in the public schools, or
 - (2) the date determined by the Board of Trustees after an administrative review, if such review is requested by the member pursuant to the Administrative Procedures Act 75 O.S. 250 et seq., but in no instance will the effective date be prior to the first day of the month following receipt of the complete disability retirement application.
- (f) The disability retirement becomes binding on the effective date specified in subsection (e) of this section and cannot be revoked except by written request from the member prior to the effective retirement date as provided by OAC 715:10-15-5 or by returning to employment as provided in OAC 715:10-15-21.
- (g) The disability retirement benefit shall be calculated in the same manner as regular retirement benefits described in OAC 715:10-15-7, with the exception that no reduction will be made due to the age of the member. Providing that any member who qualifies for disability benefits after June 30, 2003, who is married at the time his or her disability benefits commence, may elect an actuarially reduced 100% joint survivor retirement benefit based on factors provided by the System's consulting actuary.
- (h) The disability retirement benefit is payable under the same provisions as the Maximum Retirement Plan or Retirement Option 2 explained in OAC 715:10-15-10. Payments are made monthly for the life of the retiree or until the member is able to return to employment (See OAC 715:10-15-21). The only survivor benefits available to a disabled member's beneficiaries or estate is a return of member contributions not paid to the member in the form of monthly benefits and the \$5,000 death benefit provided per statute, unless the disabled member elected the reduced benefit option to provide the spouse a monthly benefit as described in subparagraph (g) of this section.
- (i) If the disabled member elects to receive an actuarially reduced 100% joint survivor retirement benefit, the surviving spouse will continue to receive the disabled member's monthly benefit for life. At the death of the disabled member, the surviving spouse will receive the \$5,000 death benefit provided by statute. If the disabled member's spouse should die before the disabled member, the disabled member's monthly disability benefit will be increased to the amount the disabled member would have been entitled to receive if the disabled member had elected the maximum disability benefit. The increased monthly benefit will become effective the first day of the month following the death of the disabled member's spouse providing proper notice is received by TRS, as provided in OAC 715:10-15-10.1.

715:10-15-22. Reduction of disability benefits for excess earnings [AMENDED]

~~All persons~~ TRS may require a disabled retiree under 62 years of age ~~who are retired on a TRS disability must file by April 15 of each year to make~~ a report of earnings received from gainful employment for the previous calendar year ~~on a form in a manner~~ provided by TRS. Failure to timely submit a timely required report may result in TRS mandating a ~~requirement for medical re-~~

examination or suspension of benefits until the report is filed. If ~~it is~~ TRS determined ~~that determines~~ the ~~person~~ retiree is receiving excessive earnings or is employed in a position ~~requiring~~ consisting of duties similar to those required in the position held before having been granted disability benefits, TRS may demand a medical re-examination ~~may be required to~~ determine if the ~~person~~ retiree ~~is still~~ remains qualified for disability retirement.

715:10-17-5. Permissible employment [AMENDED]

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) and which is approved by TRS within sixty (60) days of the contract's effective date. TRS will follow guidelines in ~~Subsection B of Section 6.101.2 of Title 70 O.S. §6-101.2(B)~~ 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.

715:10-17-7. Employment by a disabled retiree [AMENDED]

A member retired under the disability retirement provisions of TRS is not eligible to be employed, in any capacity, by any school, public or private, in Oklahoma or in other state, from the date of retirement to age 62. After age 62, a member receiving disability retirement shall be eligible for post-retirement employment under the same conditions outlined above for other retired members.

(1) A disabled retiree who returns to Oklahoma public education employment at an annual salary equal to or greater than the annual salary received at the time of disability shall again become a contributing member of TRS. Disability retirement payments shall be suspended until the member has qualified to be restored to active service. Upon completion of six (6) months of membership service, the member shall be considered as having met the requirements to be restored to active service. At such time, disability retirement shall be terminated and the unused portion of the accumulated contributions shall be re-established in the member's active retirement account. If the member again retires under a regular retirement allowance, eligibility to receive a monthly retirement allowance shall be based on total years of creditable service (see OAC 715:10-15-21).

(2) ~~Each retired member~~ Members, who have not attained age 62, receiving disability retirement from TRS who have not attained age 62 shall ~~may be required by TRS to~~ complete a TRS Report of Earned Income by Disabled Member Form ~~report of earnings received from gainful employment for the previous calendar year in the manner provided by TRS and file such form~~ provide such information with ~~to~~ TRS by April 15 each year. The report will list all "earned" income from all sources. Failure to ~~complete~~ provide a TRS Report of Earned Income by Disabled Member Form ~~this information upon request~~ may result in suspension of monthly benefits if the executive director of TRS deems such action necessary and appropriate (see OAC 715:10-15-22).

715:10-17-9. Annual W-2P tax statements [AMENDED]

TRS will not adjust W-2P, or other year-end tax statements, to reflect ~~re-~~~~payment~~~~repayment~~ of benefits received after December 31. Any adjustment in retirement income required because of repayments received after December 31 will be shown in the calendar year in which the transaction was completed.

715:10-17-13. Election to return to qualifying employment [AMENDED]

Any retired member who returns to employment in the public schools of Oklahoma and is employed half-time or more as defined in OAC 715:10-3-2 and OAC 715:10-3-3 may return to post-retirement employment or active contributing status under the following conditions:

- (1) Active Contributing Status. The retired member must file an irrevocable election to discontinue retirement benefits for the period of such employment. The return to membership contributing status must coincide with the beginning of a school year or the member must refund all benefit payments received from the beginning of the school year in which employment begins and make employee contributions on any compensation earned from the beginning of the school year to the date of the election to return to contributing status.
- (2) The election ~~form~~ must be completed by the employing school and signed by the retired member and an official who has authority to employ or pay regular employees of the school. ~~In addition, a new Personal Data Form shall be completed and submitted to TRS to return a member to work status.~~
- (3) The ~~form~~election must include the nature of the position held and the beginning date of employment. Retirement payments shall not be resumed during the summer months between consecutive years of this type of employment.
- (4) The retired member and the employing public school shall remit employee and employer contributions in the same manner as active contributing employees.
- (5) The retired member shall accumulate service credit in the same manner as active contributing employees of the system.
- (6) Upon termination of employment, the retired member's monthly retirement benefits will resume with an adjustment to reflect credit for the additional employment as follows:
 - (A) The initial benefit calculated at the time of retirement will not be affected by the additional employment.
 - (B) Service credits will be accumulated and credited to the member's record in accordance with Subchapter 3 of this Chapter.
 - (C) A supplemental benefit for the year(s) of additional service will be calculated using the standard retirement benefit formula and the retirement plan and other options selected by the retiree when the member first retired (See OAC 715:10-15-7 and 715:10-15-7.1).
 - (D) The average salary used in calculating the supplement benefit will be the average of the salaries earned during this period of employment. In the event the member is employed for less than the number of years required to determine the appropriate average salary, the average will be determined by the number of years employed. Annual salaries will be based on contributions made and determined on a school year basis.
- (7) If the retired member is employed for a period of time which does not qualify for additional service credit, the employee contributions remitted by the ~~employee~~retired member or by the employer on the retired member's behalf will be refunded to the retired

member without interest. Employer contributions as provided by OAC 715:10-13-3 will not be refunded.

(8) The employer shall provide written notice to TRS when the retired member's employment is terminated. The retired member cannot resume benefit payments under this rule and remain employed. The retired member must comply with the sixty (60)-day non-employment rule that applies to a member who elects normal retirement. Retirement payments will be resumed effective the first of the following month, provided the necessary retirement paperwork is received within the prescribed timelines, otherwise benefits will be resumed the first of the next succeeding month. Any supplemental benefit determined pursuant to this section shall commence at the same time.

(9) If the retired member dies while engaging in half-time or more employment as provided in this section, the retired member's beneficiaries will receive any survivor benefits specified in the terms of the retirement contract elected by the member, the \$18,000 death benefit provided by OAC 715:10-9-2, if applicable, and a return of employee contributions, plus interest accumulated during the current employment, as defined in OAC 715:10-9-1. The beneficiaries of the deceased retired member will not be entitled to both the \$18,000 death benefit and the \$5,000 death benefit described in 70 O.S. §17-105(11) and (12).

(10) If a retired member does not file an election to discontinue monthly benefits while employed by the public schools of Oklahoma, he or she waives the accrual of service credit and the right to any supplemental benefit from service in the position. The retired member will, however, be subject to the earnings limits outlined in ~~Title 70, Oklahoma Statutes, Section 17-116.10~~ [70 O.S. §17-116.10].

(11) Retired members returning to half-time or more employment under this subchapter and section shall not be considered "active members" for purposes of purchasing or transferring any form of prior service credit of whatever nature.

(12) A retiree having received a partial lump-sum payment, who is re-employed and returns to membership contributing status pursuant to OAC 715:10-17-13, shall have his or her subsequent retirement benefit calculated taking into consideration that a partial lump-sum payment has been received.

715:10-17-14. Termination and Resumption of Benefit Payments [AMENDED]

When a retired member returns to active contributing status employment ~~in a position that requires suspension of benefit payments pursuant to OAC 715:10-17-13~~, the following will apply:

(1) If the member commences employment after the 15th of the month, the benefit payment for that month will be paid ~~at the end of the month~~ as regularly scheduled.

(2) If the member commences employment on or before the 15th of the month, the benefit payment for that month will not be due and must be refunded if paid to the member.

(3) If the member terminates employment on or before the 15th of a month and ~~the Teachers' Retirement System~~ TRS is notified prior to the 20th of the month, the benefit payment for that month will be paid ~~at the end of the month~~ as regularly scheduled.

(4) If the member terminates employment after the 15th of a month, the benefit payment for ~~that~~ that month will not be due and must be refunded if paid to the member.

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

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~~ in a manner 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 documentation establishing eligibility under this provision.