

**TEACHERS' RETIREMENT SYSTEM
OF
OKLAHOMA**



RULES
(Effective beginning 7-1-2008)

Preface

Unless stated otherwise, the words and phrases used in this document shall have the meanings plainly required by the context. Where this is not the case, standard dictionary definitions shall be used. The rules and procedures in this book are to define the rules of the TRS Board of Trustees within the context of the law. If any conflicts arise between material in this book and the law, the law takes precedence.

Editions of the TRS *Rules and Laws* have been printed for each of the following school years, with each edition effective until the subsequent printing:

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Chapter 1. Administrative Operations

Section

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[**Authority:** 70 O.S., §§ 17-101 et seq.; 75 O.S., §§ 302, 305, and 307]
[**Source:** Codified 12/31/91]

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715:1-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with the provisions of the Administrative Procedures Act, 75 O.S., Section 250 et seq, and for establishing and explaining the internal and external administrative operations of the Teachers' Retirement System.

715:1-1-2. Board of Trustees

(a) The general administration and responsibility for the proper operation of the Teachers' Retirement System of Oklahoma, and effectively implementing the retirement statutes, are vested in the Board of Trustees. The statutory authority for the Board of Trustees is Title 70, Oklahoma Statutes, Section 17-106 [70 O.S. 17-106]. The board is comprised of 13 trustees, appointed as follows:

- (1) The State Superintendent of Public Instruction, ex-officio.
- (2) The Director of State Finance, ex officio.
- (3) The Director of the Oklahoma Department of Career and Technology Education, ex officio, or his or her designee.
- (4) A representative of a school of higher education in Oklahoma, appointed by the Governor and approved by the Senate.
- (5) A member of the System of the nonclassified optional personnel status, appointed by the Governor and approved by the Senate.
- (6) An active classroom teacher, appointed by the President Pro Tempore of the Senate.
- (7) A retired member of the System, appointed by the President Pro Tempore of the Senate.
- (8) An active classroom teacher, appointed by the Speaker of the House of Representatives.
- (9) A retired classroom teacher, appointed by the Speaker of the House of Representatives.
- (10) Four members appointed by the Governor.

- (b) Persons appointed to the Board of Trustees pursuant to (a) above, shall:
- (1) Have demonstrated professional experience in investment or funds management, public funds management, public or private pension fund management or retirement system management, or
 - (2) Have demonstrated experience in the banking profession and professional experience in investment or funds management, or
 - (3) Be licensed to practice law in Oklahoma and have demonstrated professional experience in commercial matters, or

(4) Be licensed by the Oklahoma State Board of Public Accountancy to practice in Oklahoma as a public accountant or as a certified public accountant.

(c) The Governor, in making appointments that conform to the above requirements, shall give due consideration to balancing the appointments among the listed criteria.

[Source: Amended at 10 Ok Reg 3877, eff 7-12-93; Amended at 19 Ok Reg 2726, eff 7-11-02]

715:1-1-3. Medical Board

A Medical Board of three physicians, licensed by the State of Oklahoma, approved by the Board of Trustees, is charged with the responsibility of certifying members for retirement under the disability retirement provisions.

715:1-1-4. Administrative office

The Teachers' Retirement System has office space located in the Oliver Hodge Education Building, 2500 N. Lincoln Boulevard, Oklahoma City, Oklahoma 73105. The mailing address for correspondence is TRS, P. O. Box 53524, Oklahoma City, OK 73152. The main telephone number is (405) 521-2387. The toll-free telephone number for calls originating outside the Oklahoma City local calling area is 1-877-738-6365. The Teachers' Retirement System's website is www.trs.state.ok.us. Members are encouraged to visit the Retirement Office, or make written inquiries regarding any matter pertaining to their retirement accounts.

[Source: Amended at 18 Ok Reg 49, eff 10-3-00 (emergency); Amended at 18 Ok Reg 3152, eff 7-12-01; Amended at 20 Ok Reg 2596, eff 7-11-03]

715:1-1-5. Executive Secretary

The Executive Secretary shall be the administrative officer for the Board of Trustees and shall be responsible for the general administration of the Retirement System.

(1) All employees shall be under the direct supervision of the Executive Secretary, and shall be recommended by the Executive Secretary with approval by the Board of Trustees.

(2) The Secretary-Treasurer shall be an employee of TRS.

(3) All vouchers drawn against TRS shall be signed by two members of the administrative staff: the Executive Secretary, the Assistant Executive Secretary, the Secretary-Treasurer, or the Comptroller.

(4) The Executive Secretary shall make reports to the Board of Trustees at its regular monthly meetings in regard to administrative

matters, funds and budgetary matters, and present statements showing the general condition of the System's finances.

715:1-1-6. Bonds (protective)

(a) Under supervision of the Board, the administration of the System is carried out by the Executive Secretary and the office staff. The State Treasurer, who is the custodian of the Teachers' Retirement funds, is under a \$50,000 bond to the Board of Trustees. A \$25,000 bond is required of the Executive Secretary.

(b) All persons employed by TRS, except the Secretary-Treasurer, shall be bonded by a blanket bond in an amount not in excess of \$20,000. The position of Secretary-Treasurer shall be covered by an individual bond in the amount of \$25,000. The amount of the bonds of the Executive Secretary and the State Treasurer is set by the Teachers' Retirement law.

(c) A cash and securities bond provides coverage on securities, \$10,000 inside the premises and \$30,000 outside the premises, and cash, \$500 inside the premises and \$1,000 outside the premises. A depositor's forgery bond in the amount of \$10,000 protects TRS and its members against forgery on checks.

715:1-1-7. Purchases

The Executive Secretary shall have authority to make such purchases of equipment and supplies as may be needed for the operation of TRS, subject to approval by the Board of Trustees.

715:1-1-8. Payment of salaries and claims

(a) The Executive Secretary is authorized to approve and pay all payrolls for the regular personnel and extra help of TRS, as provided in the budget approved by the Board of Trustees. The Executive Secretary and the Secretary-Treasurer must comply with the law in making purchases of supplies, printing materials and equipment. Claims for all traveling expenses, utility bills, communications, bond premiums, rentals, payments of death claims to beneficiaries or estates, tax-sheltered annuity claims, and maintenance and repair of machines, when properly audited and approved by the Secretary-Treasurer or the Executive Secretary, may be paid before approval by the Board of Trustees. In the event of the absence of the Secretary-Treasurer or the Executive Secretary, the Assistant Executive Secretary may also sign for approval of claims.

(b) The retired member payroll shall be paid when approved by the Secretary-Treasurer and the Executive Secretary, or in the event of an absence, the Assistant Executive Secretary may approve for one. The Board of Trustees shall then make final approval at the next regular meeting following the date on which the checks were mailed to retired members.

715:1-1-9. Investment of funds

The Board of Trustees shall be the trustees of the several funds created by the Teachers' Retirement Act and shall have full power to invest and reinvest such funds subject to the provisions of 70 O.S. 17-106, other pertinent laws of the State of Oklahoma, and the investment policies that may be adopted by the Board of Trustees. In making investments, the Board shall exercise the judgment and care in the circumstances then prevailing that men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable safety of their capital. This shall not be construed to authorize the Trustees to buy or sell property and investments from or to themselves personally, or to commingle Trust Funds with their individual funds. (See OAC 715:10-21-1)

715:1-1-10. Grievances and complaints

Grievances and complaints are usually settled by correspondence or informal conference between the member or beneficiary and the staff of the Teachers' Retirement System.

(1) Any interested person with a grievance which cannot be settled in this manner may appeal the decision of the staff to the executive secretary of the Teachers' Retirement System. Request for an informal hearing before the executive secretary must be in writing and include a clear statement of the grievance or complaint. The executive secretary will provide a written response within thirty (30) days, stating the official position of Teachers' Retirement in the matter before appeal. The response will either grant or deny the appellant's request. If denied, the executive secretary shall provide to the member the applicable statutes, rules and administrative procedures used in reaching a decision to deny the appeal of the member. "Interested person" means any member of the Teachers' Retirement System; any beneficiary of a member; any retiree of the Teachers' Retirement System; any guardian, administrator, or executor of a member, retiree, or beneficiary; or any public school.

(2) Any decision of the executive secretary may be appealed to the Board of Trustees of the Teachers' Retirement System. The member must appeal the decision of the executive secretary within sixty (60) days of receipt of notification of denial by the executive secretary.

(3) All cases of appeals to the Board of Trustees will be assigned to an administrative hearing judge, who will conduct a hearing and prepare a proposed order to the Board of Trustees. The executive

secretary shall appoint the administrative hearing judge from a list of individuals previously employed by the Board of Trustees to act in this role. All hearings shall be conducted in the offices of the Teachers' Retirement System at a time and date agreed to by the parties. It is expected that any party to the hearing will provide timely notice to the other parties if a delay or failure to appear is anticipated.

(4) Hearings will be conducted under the provisions of the Administrative Procedures Act [75 O.S. 250 et. seq.]. Opportunity shall be afforded all parties to respond and present evidence and arguments on all issues involved. The administrative hearing judge will have the authority to conduct the hearing and rule on the admissibility of all evidence. Any party shall at all times have the right to counsel, provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that such counsel shall have the right to appear and act for and on behalf of the party he represents. Upon the completion of the hearing, the administrative hearing judge shall afford the appellant the opportunity to present a written brief and arguments to be included as part of the record. Legal counsel for Teachers' Retirement shall be provided an equal opportunity to respond to appellant's written brief and arguments if requested. Once all evidence, arguments and briefs are received by the administrative hearing judge the record shall be closed.

(5) At the close of the hearing, the administrative hearing judge shall, as soon as practical, prepare a proposed order to be delivered to the Board of Trustees. This proposed order shall include findings of fact, based exclusively on the evidence and on matters officially noted in the record of the hearing, conclusions of law and a recommended order to the Board of Trustees. A copy of this proposed order shall be provided to all parties by the executive secretary.

(6) The member shall have the right to file a written statement outlining any objections, exceptions and/or arguments he desires the Board of Trustees to consider in its consideration of the hearing judge's proposed order. This statement must be filed with the executive secretary within twenty (20) days of receipt of the hearing judge's proposed order. No additional evidence or materials may be introduced by the member which were not presented at the hearing. The executive secretary and/or TRS staff may prepare a written response in rebuttal to the member's statement. A copy of any

response by TRS will be provided to the member at least ten (10) days prior to the time the member's appeal is scheduled for consideration by the Board of Trustees. The member may waive the ten (10) day limit if it would delay scheduling the matter before the Board.

(7) The executive secretary may, prior to submitting the hearing officer's report to the Board of Trustees, settle any grievance or complaint in a manner agreeable to the appellant. In settling any grievance the executive secretary shall not exceed the authority previously granted to him or her by the Board of Trustees. The executive secretary shall report to the Board of Trustees any settlement which occurs after the hearing officer's report is filed.

(8) Consideration of the member's case will be scheduled before the Board of Trustees as soon as possible after the proposed order and any additional written materials have been filed with the Board in accordance with this section. Unless mutually agreed to by all parties, no hearing before the Board will be scheduled within ten (10) working days of such filings.

(9) At the meeting at which the Board of Trustees will consider the proposed order, the member will be afforded an opportunity to make a brief statement to the Board concerning the facts and any arguments he wishes to present and will be allowed to respond to questions from Trustees. Failure of the member to appear at the Board hearing without prior notification will result in the member relinquishing his right to be heard by the Board. If such absence was unavoidable, the member may petition the Board for a rehearing. The Chairman of the Board of Trustees will have final authority to set the amount of time any party may have to present information to the Board.

(10) After consideration of all evidence and arguments, both oral and written, the Board will make a final determination on the proposed order. The Board of Trustees may accept, reject or accept as-modified the proposed order. The Board may make its own conclusions and issue an order in concert with those findings; or re-open the case and hear evidence themselves. If the Board decides to hear the case, it will determine whether to review the complete record, including a transcript of the original hearing conducted by the administrative hearing judge and all documentary evidence, or open the case to receive new evidence and testimony. As in all matters before the Board, seven (7) votes are necessary to approve any motion, resolution or order under consideration. A copy of the Board's

final order will be delivered via mail to the member and his representative by the executive secretary of TRS.

(11) Any member receiving an adverse ruling from the Board retains certain rights under the Administrative Procedures Act. The member may file an action for judicial review in District Court in Oklahoma County. Such action must be filed within thirty (30) days after the aggrieved party is notified of the Board's order. The member may also petition for a rehearing, reopening or reconsideration of the appeal by the Board. Such petition must be filed with the executive secretary of TRS within ten (10) days from the date of the Board's decision and must be based on 75 O.S. 317.

(12) The Administrative Procedures Act prohibits direct or indirect communications by members and/or the representatives of members with the Board of Trustees in connection with any issue of fact or law regarding an appeal before the Board, except upon notice which provides an opportunity for all parties to participate. The Board of Trustees will not consider any evidence or statements made to them by members in connection with a pending appeal.

[Source: Amended at 9 Ok Reg 1331, eff 2-28-92 (emergency); Amended at 10 Ok Reg 3877, eff 7-12-93; Amended at 17 Ok Reg 202, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3068, eff 7-13-00; Amended at 19 Ok Reg 2726, eff 7-11-02]

715:1-1-11. Information requests

From time to time, many professional organizations seek information from the Teachers' Retirement System for improving benefits. It is the desire of the Board of Trustees that the staff work with groups in an advisory capacity or to supply factual data. Requests for technical data that would require the services of the Board's consulting actuary are to be made in writing and will be reviewed by the Board before appropriate action is taken. Because there are a large number of professional organizations and affiliate groups which represent various segments of the teacher retirement membership, the Board encourages organizations to coordinate their efforts through their parent organization.

715:1-1-12. Public participation in adoption of rules

The Board encourages members to participate in the review and promulgation of rules governing the Teachers' Retirement System.

(1) Any interested person may informally request adoption of a rule by correspondence or conference with Teachers' Retirement System staff members. If satisfactory results cannot be achieved in this manner, any interested person may petition the Teachers'

Retirement System to adopt, amend, or repeal a rule by filing a clear, written request to initiate rulemaking procedures with the executive secretary. The petition shall set forth the exact text of the proposed rule and the petitioner's name and address, and the name, business address, and telephone number of petitioner's counsel, if any. The petition may also include written documents in support of the petition.

(2) "Interested person" means any member of the Teachers' Retirement System; any beneficiary of a member; any retiree of the Teachers' Retirement System; any guardian, administrator, or executor of a member, retiree, or beneficiary; or any public school.

(3) The executive secretary shall grant or deny the petition within 60 days of its receipt. The executive secretary may consult informally with staff members and the petitioner in reaching a decision. The petition may be amended with consent of the petitioner at any time before a final decision is rendered.

(A) Upon granting the petition in writing, the executive secretary shall inform the Board and request authority to initiate rulemaking proceedings pursuant to the Administrative Procedure Act and the rules and regulations of the Teachers' Retirement System.

(B) Denial of the petition by the executive secretary, and reasons therefore, shall be in writing. The petitioner may appeal this decision to the Board of Trustees provided that a written notice of appeal is filed with the executive secretary within sixty (60) days after the decision of the executive secretary is issued. If no such notice of appeal is timely filed, or if the next regularly scheduled meeting of the Board of Trustees will occur more than sixty (60) days after receipt of the petition by the executive secretary, and the petitioner is unwilling to waive the deadline for a final decision until that meeting, the decision of the executive secretary shall be the final decision of Teachers' Retirement System. The final decision of the Board shall be based on the written petition and written decision of the executive secretary unless the Board orders a hearing on the petition. If the Board approves the petition, the executive secretary shall initiate rulemaking proceedings pursuant to the Administrative Procedure Act and the rules and regulations of the Teachers' Retirement System.

(4) Oral and written data, views, and arguments on a proposed rule may be submitted informally to the executive secretary by informal conference or correspondence within twenty (20) days after

publication of notice of the proposed rule is filed with the Department of Libraries.

(5) A written request for a public hearing on a proposed substantive rule may be submitted to the executive secretary within ten (10) days after publication of notice of the proposed substantive rule provided that the request is made by 25 persons, a governmental subdivision or agency, or an association having at least 25 members. The request shall contain the name and address of each person requesting the hearing and shall clearly specify the proposed rule for which a hearing is requested.

(6) The executive secretary shall schedule the proposed rule for hearing on a date no earlier than seven days after notice of the hearing date is published and no later than 20 days after receipt of the written request. The executive secretary or the Board of Trustees may reschedule the hearing in the interest of justice or administrative necessity or for good cause; however, the proposed rule shall not be adopted prior to the requested hearing.

(7) The executive secretary shall designate himself, a Teachers' Retirement System employee, or a specially appointed person as hearing officer to take the testimony of any interested person in support of or in opposition to the rule. The hearing officer shall designate the order of taking testimony and may establish reasonable time limits on oral testimony, provided that reasonable opportunity is given to amplify oral testimony in writing. All hearings will be held in the offices of Teachers' Retirement System, unless for good cause Teachers' Retirement System shall designate another place of hearing.

715:1-1-13. Change of address, name or district

When a member moves to a new address, or if there is a change of surname, TRS should be notified of such change in writing. Please include the new name, the former name and the Social Security number. This procedure also applies to retired members whose checks are directly deposited to their banking accounts. Also, when an employee moves from one school district to another, it is important that TRS be notified of this change at once. *Personal Data Form TRS 1-A* may be secured for this purpose from the fiscal officer of the member's employer.

[Source: Amended at 19 Ok Reg 2726, eff 7-11-02]

715:1-1-14. Definition of IRS Code

The retirement system shall satisfy the applicable qualification requirements for governmental plans as specified in Sections 401 and 414(d)

of the Internal Revenue Code of 1954 or 1986, as amended from time to time and as appropriate for a governmental plan (hereinafter referred to as the “Internal Revenue Code”).

[Source: Added at 11 Ok Reg 4783, eff 9-12-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3283, eff 7-27-95]

715:1-1-15. Distribution Rules

(a) Notwithstanding any other provision of the administrative code, all benefits paid from the retirement system (other than the tax-sheltered annuity program) shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and Treasury Regulations § 1.401(a)(9)-1 through § q.401(a)(9)-9, even if the member has not submitted the appropriate notice. These provisions override any distribution options that are inconsistent with Internal Revenue Code Section 401(a)(9).

(b) In furtherance of this section, the Board of Trustees and its designee will apply the following provisions:

(1) The entire interest of each member:

(A) will be distributed to such member not later than the required beginning date; or

(B) will be distributed beginning not later than the required beginning date, in accordance with Treasury regulations over the life of such member or over the lives of such member and a designated beneficiary (or over a period not extending beyond the life expectancy of such member or the life expectancies of such member and a designated beneficiary).

(2) If distribution of the member’s interest has begun in accordance with subparagraph (1)(B) and the member dies before his or her entire interest has been distributed to the member, the remaining amount shall be distributed at least as rapidly as under the method of distribution being used under subparagraph (1)(B) as of the date of the member’s death.

(3) If a member dies before distribution of the member’s benefits begins under subparagraph (1)(B), and if any portion of the member’s interest is payable to or for the benefit of a designated beneficiary for the beneficiary’s lifetime or for a period not to exceed the beneficiary’s life expectancy, the distribution must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died. However, if the designated beneficiary is the surviving spouse of the member:

(A) the date on which the distribution is required to begin shall not be earlier than the date on which the member would have attained age 70 1/2, and

(B) if the surviving spouse dies before the distribution to such spouse begins, subparagraph (1)(B) shall be applied as if the surviving spouse were the member.

(4) For benefit payments to beneficiaries that are not covered by paragraph (3), if the member dies before distribution of the member's interest has begun in accordance with subparagraph (1)(B), the member's entire interest must be distributed within 5 years after the member's death.

(5) For purposes of this section, the term "required beginning date" means April 1 of the calendar year following the later of:

(A) the calendar year in which the employee reaches age 70 1/2 or

(B) the calendar year in which the employee retires.

(6) For purposes of determining benefits, the life expectancy of a member, a member's spouse or a member's beneficiary shall not be recalculated after benefits commence.

(7) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Internal Revenue Code Section 401(a)(9)(G).

[Source: Added at 11 Ok Reg 4783, eff 9-12-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3283, eff 7-27-95; Amended at 22 Ok Reg 2649, eff 7-11-05]

715:1-1-16. General IRS Qualification Rules

In addition to other Code provisions otherwise noted, and in order to satisfy the applicable requirements under the Code, the retirement system shall be subject to the following provisions, notwithstanding any other provision of the retirement system law:

(1) The Board of Trustees shall distribute the corpus and income of the retirement system to the members and their beneficiaries in accordance with the retirement system law.

(2) Forfeitures arising from severance of employment, death, or for any other reason may not be applied to increase the benefits any member would otherwise receive under the retirement system law.

(3) The Board of Trustees or its designee may not:

(A) determine eligibility for benefits,

(B) compute rates of contribution, or

(C) compute benefits of members or beneficiaries

in a manner that discriminates in favor of members who are considered officers, supervisors, or highly compensated, as prohibited under Code Section 401(a)(4).

(4) The Board of Trustees may not engage in a transaction prohibited by Code Section 503(b).

[Source: Added at 11 Ok Reg 4783, eff 9-12-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3283, eff 7-27-95]

715:1-1-17. Inspection, copy and/or reproduction fees

(a) Any request for a copy of a record not deemed confidential under 70.O.S. §17-109.1 from the Teachers' Retirement System of Oklahoma shall be granted upon payment of the following fees:

- (1) First six (6) pages - Free
- (2) Additional pages - \$0.25 per page
- (3) Certified Copies - \$1.00 per page
- (4) Facsimiles (Fax) - \$1.00 per page
- (5) Magnetic tapes or other electronic media - Actual cost

(b) These fees shall not apply to copies of the System's Rules and Laws books, Annual Reports, Plan Summaries or other publications sent to System members, scholars, authors, news media, or taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants. These fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information. If the request for a record is solely for commercial purposes or clearly causes excessive disruption of the System's essential functions, the Teachers' Retirement System of Oklahoma may charge a reasonable fee to recover the direct cost of the document search, as provided by 51 O.S., §24A.5 (3). Said reasonable fee shall be the equivalent of the applicable pro rata hourly wage of the System employee who performs the search multiplied by the total search time expended by that employee.

[Source: Added at 13 Ok Reg 3521, eff 8-26-96; Amended at 19 Ok Reg 2726, eff 7-11-02]

715:1-1-18. Retirement benefit reduction to pay a judgment or settlement as an offset

The Board of Trustees may approve an offset of a member's benefit to pay a judgment or settlement against the member for a crime involving the System, for a breach of the member's fiduciary duty to the System, or for funds or monies incorrectly paid to a member or a beneficiary by mistake. Such offsets will be made in accordance with any applicable state statutes and requirements of Section 401(a)(13) of the Internal Revenue Code of 1986.

[Source: Added at 17 Ok Reg 202, eff 9-8-99 (emergency); Added at 17 Ok Reg 3068, eff 7-13-00]

Chapter 10. General Operations

Subchapter

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[Authority: 70 O.S., §§ 17-101 et seq.]

[Source: Codified 12/31/91]

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Subchapter 1. Membership Provisions

Section

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715:10-1-1. Purpose

The rules of this Chapter have been adopted for the purpose of complying with and implementing the provisions of 70 O.S., Section 17-102 et seq, which establish the Teachers' Retirement System of Oklahoma and place it under the management of the Board of Trustees.

715:10-1-2. TRS membership eligibility

Except as provided in the Alternate Retirement Plan for Comprehensive Universities Act (70 O.S. § 17-201, et seq.), all "regular" employees of the public schools operated by and for the State of Oklahoma are eligible to become members of the Teachers' Retirement System, subject to the restrictions in paragraphs 1 through 3 of this section.

(1) Regular employee means an employee working twenty (20) hours or more per week, who has assigned duties and responsibilities, and who is treated by all standard conventions as an employee of the school; and, who receives compensation commensurate with the responsibilities of the position. Temporary, seasonal, supplemental and other employees employed on a limited or short term basis are not regular employees, and are thus ineligible.

(2) Regular employees 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 other "regular" employees.

(3) The minimum requirement of twenty (20) hours per week shall be determined by the actual time the employee is required to be present at the place of employment.

[Source: Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-1-3. Mandatory TRS membership

Except as provided in the Alternate Retirement Plan for Comprehensive Universities Act, the following employees are required by 70 O.S. 17-103 to be members of the Teachers' Retirement System as a condition of employment:

- (1) "Classified" employees employed by 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.
- (2) An administrative or supervisory employee of the State Department of Education, or other state agency whose function is primarily devoted to public education and who works twenty (20) hours or more per week at a rate of compensation comparable to other persons employed in similar positions.
- (3) A county superintendent of schools. (This paragraph will become obsolete January 1, 1993, when provisions of H.B. 1017 abolish the office of county superintendent)

[Source: Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-1-4. Optional TRS membership

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

- (1) "Classified" employees regularly employed in the public, state-supported educational institutions of Oklahoma at any time during the five-year (5-year) period from July 1, 1938 to June 30, 1943.
- (2) "Non-classified" employees 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.
- (3) "Classified" employees regularly employed in the public, state-supported educational institutions who have reached age fifty-five (55) at the time of employment.
- (4) "Classified" employees regularly employed by a comprehensive university, as defined in 70 O.S. § 17-101, who have reached age forty-five (45) at the time of employment, providing the employee is not currently a member of the Teachers' Retirement System.
- (5) An employee on official sabbatical leave receiving at least one-half pay from the employing school or institution. Contributions for such employment shall be at a rate commensurate with the salary earned as a regular full-time employee in the last preceding school year. "Official sabbatical" means paid leave granted by the governing

board of the employing school or institution. The member must elect to participate and make contributions to TRS at the time of the sabbatical. Sabbatical leave cannot be purchased by the member at a later date.

(6) 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.

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

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

(9) Full-time, non-classified optional personnel who previously have opted out of TRS under OAC 715:10-11-2 may revoke their election 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.

[Source: Amended at 11 Ok Reg 4785, eff 9-12-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)²; Amended at 16 Ok Reg 3567, eff 9-13-99; Amended at 20 Ok Reg 2247, eff 3-5-03 (emergency); Amended at 20 Ok Reg 2596, eff 7-11-03; Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)³; Amended at 21 Ok Reg 3099, eff 8-12-04]

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) An employee working less than 20 hours per week.

(2) A substitute, irregular, seasonal, graduate assistant, fellowship recipient, adjunct supplemental or temporary employee. (*Note: Certain substitute and adjunct employment may qualify for service credit. See OAC 715:10-5-2 and OAC 715:10-5-34.*)

(3) "Non-classified" employees who withdrew from membership in the Teachers' Retirement System after July 1, 1990, under provisions of OAC 715:10-11-2.

(4) 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.)

(5) 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.

(6) A regular employee who earns less than \$2,000 per year.

(7) 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.)

(8) 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.

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

(10) 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.

[Source: Amended at 11 Ok Reg 4785, eff 9-12-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; 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; Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-1-6. Date of Membership (Amended 2008)

Date of membership is the date the initial contribution is made to TRS under the current membership account. (TRS Form 1-A must be completed and on file with TRS and membership approved by the Board of Trustees.) 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. 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.

[Source: Amended at 11 Ok Reg 4785, eff 9-12-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; 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; Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-1-7. Membership in education associations

Any member absent from employment in the public schools of Oklahoma because of election or appointment as a local, state or national education association officer shall be allowed to retain membership in TRS by making the contribution required of such member by Title 70 Okla. Stat. Section 17-116.2 and any other applicable statute. For purposes of this section the following shall apply:

(1) An education association is defined as an organization of educators established for the sole purpose of promoting the advancement of educational goals in Oklahoma or at the national level. A local or state association must be duly organized under the laws of the state of Oklahoma with a charter or articles of incorporation filed with the appropriate state agency and must comply with all applicable laws of the state of Oklahoma. A national association must be duly registered or chartered for the purpose of furthering educational goals at the national level.

(2) An "officer in an association" is a current member of TRS who is elected or appointed to an employment position within the association commensurate with a position in the public schools of Oklahoma defined as "classified" personnel by 70 O.S. § 17-101. The officer must receive compensation for services rendered commensurate with compensation received for similar services in the public schools of Oklahoma.

(3) A member must notify TRS in writing on the form provided by TRS the member's intent to elect to continue membership in TRS within thirty (30) days of becoming employed by an eligible association. In making this election, the member shall agree to make

payment in accordance with 70 O.S. § 17-116.2 for the period of employment that qualifies for continued membership and to comply with all statutes and rules of TRS in maintaining membership.

(4) The maximum years of creditable service a member may receive for one such absence shall not exceed twelve (12) continuous years. A member may again qualify for creditable service in an educational association provided that the member returns to employment in the public schools of Oklahoma for a minimum of the same number of years received as credit in the former education association.

(5) On the recommendation of the Executive Secretary, the Board of Trustees may deny eligibility to any local state or national association, when it is judged not to conform with the intent of 70 O.S. § 17-116.2 or when it is determined that the association was not established for the sole purpose of promoting the advancement of education.

(6) Effective July 1, 1994, a member may elect to continue membership as provided in paragraph (3) above only if the member has ten (10) years of contributory Oklahoma service prior to July 1, 1994.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 11 Ok Reg 4785, eff 9-12-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 20 Ok Reg 380, eff 10-16-02 (emergency); Amended at 20 Ok Reg 2596, eff 7-11-03; Amended at 23 Ok Reg 640, eff 9-1-05 through 7-14-06 (emergency)²; Amended at 23 Ok Reg 3073, eff 7-27-06]

715:10-1-8. Membership of Employees of Charter Schools

Employees of charter schools created pursuant to 70 OS § 3-130 et seq. are eligible for membership in the Teachers' Retirement System providing the governing board of the charter school applies for membership for its regular employees. Upon approval of the application for membership by the Board of Trustees all employees of the charter school shall join the Teachers' Retirement System under the same membership eligibility rules applying to employees of other public schools. Employees of charter schools shall in all circumstances follow the rules applicable to other members of the Teachers' Retirement System. Employees of charter schools that do not apply or are not approved for membership in the Teachers' Retirement System shall not be eligible for retirement service credit for years of employment performed in a non-member status and such employees shall not be eligible to purchase service at anytime subsequent to such employment. [Source: Added at 17 Ok Reg 204, eff 9-8-99 (emergency); Added at 17 Ok Reg 3071, eff 7-13-00]

Subchapter 3. Service Eligibility

Section

- 715:10-3-1. Requirements for creditable service
- 715:10-3-2. Requirements for fulltime service
- 715:10-3-3. Requirements for halftime service
- 715:10-3-4. Combining fractional years of service
- 715:10-3-5. Minimum compensation requirements

715:10-3-1. Requirements for creditable service

All members of Teachers' Retirement System must be employed a specified amount of time as related to their educational employment position, and earn a minimum salary, before creditable service will be awarded. Membership service credit shall be granted only when employment is performed on at least a half-time basis. No service performed as a unpaid volunteer shall be counted as service credit.

715:10-3-2. Requirements for fulltime service

A member employed at least six (6) hours per day (30 hours per week) shall be considered a full-time employee.

- (1) A full-time employee may receive one (1) year of creditable service after completing six (6) months or more of employment in a school year.
- (2) No member shall receive one (1) year of service credit for less than 720 hours of employment. (This does not mean that a member working 720 hours is automatically entitled to one (1) year of creditable service.)

715:10-3-3. Requirements for halftime service

A member employed at least four (4) but less than six (6) hours per day (at least 20 but less than 30 hours per week) shall be considered a half-time employee.

- (1) A half-time employee may receive one-half (1/2) year of creditable service after completing six (6) months or more of employment in a school year.
- (2) No member shall receive one-half (1/2) year of service credit for less than 480 hours of employment. (This does not mean that a member working 480 hours is automatically entitled to one-half (1/2) year of creditable service.)
- (3) A member who is employed one-half (1/2) the standard workload of other persons employed in similar positions shall not

receive more than one-half (1/2) year of service credit even if total hours worked exceed 720 hours.

(4) Members who joined TRS prior to July 1, 1991, may receive one-half (1/2) credit for a minimum of three (3) hours per day (540 hours per school year) as long as they remain employed in the same or similar position for the same employing school. Any break in employment shall end this special provision and the member will be required to qualify for full-time or half-time credit as provided for in Subchapters 1 and 3 of this chapter.

715:10-3-4. Combining fractional years of service

Fractions of school terms performed as an active contributing member of TRS of at least one (1) school month, in different school years, may be combined to make a total of six (6) months for one (1) year of creditable service. It is not permissible to divide service rendered in one (1) year into fractional parts and combine these fractions with service rendered in two (2) or more years in order to gain additional years of service. All fractional service must be combined together before days of unused sick leave are applied to fractional service to obtain service credit. No more than one (1) year of credit will be given for all employment in any one (1) school year. However, if the member has one hundred twenty (120) or more days of unused sick leave and has ninety (90) or more days of combined work experience at the end of the school year when the member retires, TRS will grant one (1) year of service credit for the 120 days of unused sick leave and round the 90 days of work experience to count as one (1) year of service.

[Source: Amended at 23 Ok Reg 3073, eff 7-27-06]

715:10-3-5. Minimum compensation requirements

In addition to the above, the following chart outlines the minimum salary levels which constitute membership service credit for the time periods indicated:

Period	Minimum Time Worked	Required Annual Salary	Allowable Credit	
			Monthly	Annually
7/1/43 - 6/30/61	9 months	\$900	-----	1 year
7/1/61 - 6/30/64	10 months	Less than \$1,000 \$1,000	Not Eligible -----	1 year
7/1/64 - 6/30/84		Less than \$1,000	Not Eligible	
		\$1,000-\$1,500	1-1/2 months	1/4 year
		\$1,501-\$1,750	3 months	1/2 year
		\$1,751-\$1,999	4-1/2 months	3/4 year
		\$2,000 and over	6 months	1 year

07/01/84 - Present

Less than \$2,000	Not Eligible	
\$2,000-\$3,000	1-1/2 months	1/4 year
\$3,001-\$3,500	3 months	1/2 year
\$3,501-\$3,999	4-1/2 months	3/4 year
\$4,000 and over	6 months	1 year

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 (emergency); Amended at 16 Ok Reg 3567, eff 9-13-99]

Subchapter 5. Establishing Other Service Credits

Section

- 715:10-5-1. Oklahoma service credit after July 1, 1943
- 715:10-5-2. Employment as a substitute teacher in Oklahoma schools
- 715:10-5-3. Official sabbatical leave from an Oklahoma school
- 715:10-5-4. Cost to purchase Oklahoma service
- 715:10-5-4.1 Payment of contribution deficit for the Education Employees Service Incentive Plan (Added 2006)
- 715:10-5-5. Oklahoma service performed prior to July 1, 1943 [REVOKED]
- 715:10-5-6. Verification of Oklahoma service before membership
- 715:10-5-7. Credit for service in other Oklahoma public retirement systems
 - 715:10-5-7.1. Transfer of service credit from the Oklahoma Public Employees Retirement System
 - 715:10-5-7.2. Transfer of service credit to the Oklahoma Public Employees Retirement System
 - 715:10-5-7.3. Service credit transfers for TRS members who are CLEET-certified employees of the University of Oklahoma and Oklahoma State University
- 715:10-5-8. Revocation of \$7,800 waiver
- 715:10-5-9. Re-establishing withdrawn service
- 715:10-5-10. Military service credit
- 715:10-5-11. Military service limited to maximum of five years
- 715:10-5-12. Military service performed prior to July 1, 1943 [REVOKED]
- 715:10-5-13. Military service performed after July 1, 1943
- 715:10-5-14. Military service combined with Oklahoma service
- 715:10-5-15. Application for military service
- 715:10-5-16. Cost to purchase military service
- 715:10-5-17. Adjustment for military service after retirement
- 715:10-5-18. Other restrictions on military service
- 715:10-5-19. Out-of-state service credit
- 715:10-5-20. Out-of-state service performed prior to July 1, 1943 [REVOKED]
- 715:10-5-21. Out-of-state service performed after July 1, 1943
- 715:10-5-22. Out-of-state service limited to maximum of five years
- 715:10-5-23. Out-of-state service combined with Oklahoma service
- 715:10-5-24. Continuous, consecutive out-of-state service

- 715:10-5-25. Application for out-of-state service
- 715:10-5-26. Cost to purchase out-of-state service
- 715:10-5-27. Other restrictions on out-of-state service
- 715:10-5-28. Sick leave service credit
- 715:10-5-29. Verification of accumulated sick leave
- 715:10-5-30. Ten-year averaging of sick leave
- 715:10-5-31. Documentation of service
- 715:10-5-32. Rollovers from other qualified plans or conduit IRAs
- 715:10-5-33. Credit for family leave
- 715:10-5-34. Credit for Adjunct Service
- 715:10-5-35. Employer pick-up of purchase of service credit

715:10-5-1. Oklahoma service credit after July 1, 1943

Members may purchase credit for years of employment from July 1, 1943, to date of membership in the public schools of Oklahoma on which contributions were not remitted. One (1) full year (twelve calendar months) as a contributing member of TRS must be completed before a member may make such purchases. All purchased service must meet Teachers' Retirement System minimum requirements for eligibility, in effect at the time of purchase, and be properly documented before purchase is allowed. Payment shall not be allowed for any employment during a school year that was less than one-half (1/2) time, and no credit is allowed for periods of employment when a member participated in an alternate retirement plan as provided for by the Alternate Retirement Plan for Comprehensive Universities Act.. All payments for past service must be made while an active contributing member of the Teachers' Retirement System or within sixty (60) days of termination of employment in the public schools of Oklahoma. Payment for service credit must be completed prior to the effective date of retirement and cannot be purchased by any person after the death of the member. (See OAC 715:10-5-4 for cost and method of payment)

[Source: Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00; Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-5-2. Employment as a substitute teacher in Oklahoma schools

A member of Teachers' Retirement System who was employed as a substitute teacher may purchase credit for such employment provided they were employed for 120 days in one school year. Such service shall be considered the equivalent of one (1) year of service. Members claiming credit for such service, and who have such service documented through Teacher Personnel, State Department of Education, must pay the actuarial cost of such service as defined by OAC 715:10-5-4. The maximum

creditable service granted for substitute teaching shall be five (5) years. Under no condition may substitute teaching service from one school year be combined with substitute teaching service or any other employment from another school year to obtain 120 days of substitute teaching credit. The payment for such service credit may be made in one lump sum or in equal monthly installments up to sixty (60) months, as provided in OAC 715:10-5-4(9).

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

715:10-5-3. Official sabbatical leave from an Oklahoma school

(a) A member may purchase credit for an official sabbatical leave performed prior to July 1, 1990, provided the member received at least one-half (1/2) pay from the employing school and the governing Board of the employing school or institution granted such leave in its official records or minutes as an “official sabbatical”. Payment shall be based on the actuarial cost of such service as defined by OAC 715:10-5-4.

(b) A member may receive credit for an official sabbatical leave performed after July 1, 1990, providing the member receives at least one-half (1/2) pay from the employing school, the governing Board of the employing school or institution designates such leave as an “official sabbatical,” and the member notifies the Teachers’ Retirement System in writing of his or her intent to make contributions for sabbatical leave credit. To qualify, the member must receive at least one-half pay from the employing school. Compensation from other entities will not qualify in meeting the one-half pay requirement. Contributions for such employment shall be at a rate commensurate with the salary earned as a regular full-time employee in the last preceding school year. “Official sabbatical” means paid leave granted by the governing board of the employing school or institution. The member must elect to participate and make contributions to TRS at the time of the sabbatical. Sabbatical leave cannot be purchased by the member at a later date.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99]

715:10-5-4. Cost to purchase Oklahoma service (Amended 2008)

The purchase price for each year of Oklahoma service, unless otherwise specified, shall be based on the actuarial cost of the incremental projected benefits being purchased.

- (1) The actuarial cost and any tables formulated for the purpose of determining such cost, shall be based on the actuarial assumptions adopted by the Board of Trustees to be utilized in the actuarial

valuation report for the Fiscal Year beginning each July 1. New actuarial assumptions approved by the Board subsequent to January 1, 1991, shall be incorporated into such tables with an effective date of the next January 1st.

(2) The actuarial value shall be based upon the member's age, full-time equivalent salary and contribution level at the time of purchase (or the annual salary of the previous year, if greater), together with the earliest age for retirement with maximum benefits and actuarially assumed salary at time of retirement. If purchase is not made by the due date on the billing statement, the purchase must be recalculated and the actuarial cost may increase.

(3) For purposes of this actuarial cost, the member's age shall be determined as the age at last birthday.

(4) For purposes of this actuarial cost, the mortality tables shall be formulated as a unisex table assuming a 40% male and 60% female population, based on the actuarial assumptions in paragraph (1) of this section.

(5) The actuarial cost shall not be less than the contributions required of the member at a rate commensurate with the salary earned as a regular full-time employee the last preceding school year prior to the purchase. Individuals employed on a less than full-time basis shall have their salary adjusted upward, in a prorata manner, to the amount that would be earned if employed full-time.

(6) Payment may be made in a lump sum for all eligible years of service or in installments equal to establishing one (1) year of creditable service.

(7) A billing statement will be issued at the request of the member. The due date of payment shall be the date prior to the member's next birthday or June 30th, whichever occurs first.

(8) A member may request payment of past service credits billed in accordance with provisions of 70 O.S., Section 17-116.8, as amended, to be amortized in monthly installments of not more than sixty (60) months. A payment schedule may be established allowing the member to make monthly payments directly to Teachers' Retirement or through payroll deductions by the member's employer if the employer agrees to make the deductions and remit payments to Teachers' Retirement. Payments remitted by an employer for its employees must be kept separate from the employer's regular retirement contributions and tax sheltered annuity deposits. Effective January 1, 2002, installment payments made through employer

payroll deductions qualify for special tax treatment. (See OAC 715:10-5-35.)

(9) The installment payment schedule provided for in this section must be in equal monthly increments of twelve-month periods not to exceed sixty (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 with the member given the option of paying the balance of the actuarial cost or receiving partial credit for payments made under the installment schedule as provided for in paragraph (11) of this section.

(10) The monthly payment will be determined by amortizing the total amount due for the service to be purchased over the period of the installment schedule using an interest rate equal to the actuarially assumed interest rate adopted by the Board of Trustees for investment earnings each year. The current interest rate is eight percent (8%).

(11) If the installment payment is terminated for any reason, including termination of employment, death of the member or by cessation of payments, the member or his beneficiary will have the option of paying the remaining balance within six (6) months. If the balance is not paid, the member will receive credit for service prorated in whole years for only the principal amount paid. Any payment balance that is not used in crediting whole years will be refunded to the member.

(12) Credit will not be awarded for partial years of service unless the member's employment record is such that one-half (1/2) year of credit is included in the original service to be purchased.

(13) Credit for service purchased on an installment schedule will not be added to the member's account until the entire balance is paid, except as provided for in paragraph (11) of this section. All payments must be completed one (1) month prior to the effective retirement date of the member.

[Source: Amended at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Amended at 11 Ok Reg 4251, eff 7-25-94; Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)²; Amended at 16 Ok Reg 3567, eff 9-13-99; 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]

715:10-5-4.1. Payment of Contribution Deficit for Education Employees Service Incentive Plan

(a) A member whose Regular Annual Compensation, as defined in 70 O.S. § 17-101, was greater than \$40,000 during the school years 1987-88 through 1994-95, must make an additional contribution based on his or her Regular Annual Compensation in excess of \$40,000 to qualify for the provisions of OAC 715:10-15-7.2. A member who chooses not to make the additional contribution payment will not qualify for the EESIP formula.

(b) The payment required for any school year between 1987-88 and 1994-95 is the contribution rate in effect for each year applied to the difference between the member's total Regular Annual Compensation and the amount contributed by or on behalf of the member during the school year. This may include compensation in excess of \$25,000, when the member elected not to contribute on earnings between \$25,000 and \$40,000 for these school years or when the school failed to contribute on the member's total compensation up to \$40,000 for any school year during this period. In addition to the contribution balance, compound interest of ten percent (10%) per annum will be included in the balance due for each year. The interest rate will be applied from June 30 of the school year to the date payment is made to the Teachers' Retirement System.

(c) To qualify for the movement of the first two (2) years of service credits performed before July 1, 1995, the member must make any payment due for the 1993-94 and 1994-95 school years. To qualify for the next two (2) years of service performed prior to July 1, 1995, the member must make any payment due for the 1991-92 and 1992-93 school years. Payment for additional years of service performed prior to July 1, 1995, will be required in descending order back to the 1987-88 school year.

(d) Payment must be made in accordance with existing Internal Revenue Service regulations in effect at the time of payment. TRS will accept after-tax contributions and pre-tax direct or indirect rollovers and transfers from 401(a), 401(k), 403(b), 457 and IRA plans, when allowed by IRS regulations, and installment payment arrangements as provided under OAC 715:10-5-35. Payments may be a combination of any of the available payment methods. (Also see OAC 715:10-5-32. Roll-overs from other qualified plans or conduit IRAs.)

(e) Any payment balance(s) required for a member to qualify for the EESIP formula must be completed at least thirty (30) days before the member's retirement date.

(f) TRS staff will calculate each member's contribution deficit for any year(s) based on payroll records as reported by the employing school. When existing payroll records are not sufficient to accurately determine the

member's contribution deficit, TRS has the right to request additional information from the member and/or the employing school. If additional records are required, it is the member's responsibility to obtain or cause records to be forwarded to TRS from the employing school.

(g) If a member retires on or after July 1, 2006, and before June 30, 2007, the member will be required to pay 50% of the total contribution deficit balance.

(h) If a member retires on or after July 1, 2007, and before June 30, 2008, the member will be required to pay 75% of the total contribution deficit balance.

(i) If the member retires on or after July 1, 2008, the member will be required to pay 100% of the total contribution deficit balance.

(j) TRS will accept EESIP contribution deficit payment(s) from the member at any time prior to the member's retirement. However, if at retirement it is determined that an additional balance is due, the member will be required to make the additional payment, including interest, before his or her first retirement benefit payment is due. If it is determined the member has paid more than the required balance, any difference will be refunded to the member, but no interest will be paid by TRS on the deposits, regardless of the length of time such deposits have been held by the Teachers' Retirement System.

[Source: Added at 24 Ok Reg 220, eff 10-31-06 (emergency); Amended at 24 Ok Reg 1692, eff 6-11-07]

**715:10-5-5. Oklahoma service performed prior to July 1, 1943
[REVOKED]**

715:10-5-6. Verification of Oklahoma service before membership

All requests for previous or prior Oklahoma service must be properly documented. Verification of such service is the responsibility of the member. Teachers' Retirement System "Verification of Oklahoma Service" form must be completed by the current superintendent, business manager, secretary of the school board or treasurer of the school board of the school where the service was performed.

(1) An application for past Oklahoma service must be accompanied by documentation consisting of one of the following:

(A) Actual Payroll Registers — which must show names of employer/employee; employee's Social Security Number; and monthly salary.

(B) A Social Security Detailed Earnings Information Record — which must include employer and salary by calendar year.

- (C) W-2 Tax Records — Actual copies for each calendar year needed or photocopies of state income tax returns.
- (2) Teachers' Retirement System will review and consider other supporting documentation in conjunction or in lieu of the above. The executive secretary will rule on the acceptability of all documents presented by members or employing schools in determining credit for past service.
- (3) Under no circumstance will TRS accept affidavits from school officials, co-workers or third parties to attest service performed by a member.

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 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. 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.

(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]

715:10-5-7.1. Transfer of service credit from the Oklahoma Public Employees Retirement System

(a) An active member of the Teachers' Retirement System may receive credit for those years of service accumulated by the member while a member of the Oklahoma Public Employees Retirement System, provided he or she is not receiving or eligible to receive retirement credit or benefits from said service in any other public retirement system, notwithstanding the years of service sought to be transferred under this section. The member must be an active contributing member of the Teachers' Retirement System at the time application is made.

(b) A member of the Oklahoma Public Employees Retirement System who becomes a member of the Teachers' Retirement System of Oklahoma because of employment by an entity or institution within the Oklahoma State System of Higher Education, State Board of Education, Oklahoma Department of Career and Technology Education, Oklahoma School of Science and Mathematics, Oklahoma Center for the Advancement of Science and Technology, State Department of Rehabilitation Services, Oklahoma State Regents for Higher Education, Department of Corrections, State Department of Education, Oklahoma Board of Private Vocational Schools, Board of Regents of Oklahoma Colleges, Oklahoma Student Loan Authority, or the Teachers' Retirement System of Oklahoma may transfer to the Teachers' Retirement System credit for years of service accumulated in the Oklahoma Public Employees Retirement System.

(c) The member must file a notice with the Oklahoma Public Employees Retirement System and the Teachers' Retirement System of his or her election to transfer service credit. The notice must include a list of the years to be transferred and the member's social security number or other

identifying information that may be required by either retirement system to locate and evaluate the member's service credit. Qualifying service accumulated as a member of the Oklahoma Public Employees Retirement System shall be accepted as service credit in the Teachers' Retirement System, subject to any statutory limitations, except for any service credited to the Oklahoma Public Employees Retirement System which is derived from less than one year of employment in any school year for which the member also receives a year of service credit from the Teachers' Retirement System, unless said service credits are earned as a result of simultaneous employment with separate participating employers of the systems.

(d) Except for members transferring credit as provided in subsection (b) of this section, the Teachers' Retirement System, within thirty (30) days of receipt of notification of an intent to transfer service to the member's account, shall determine the present value of the member's incremental projected benefit discounted according to the member's age at the time of the transfer. This determination shall be computed at the earliest age at which the member would be able to retire and calculated in accordance with OAC 715:10-5-4 and 70 O.S. Section 17-116.8. Said computation shall assume an unreduced benefit and be computed using interest, salary projections and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation. Upon completion of said determination, the Teachers' Retirement System shall notify the member and the Oklahoma Public Employees Retirement System of the cost to transfer service. If the cost to the Teachers' Retirement System of the actuarial value of the incremental benefit is greater than the cost as calculated for the same years of service in the Oklahoma Public Employees Retirement System, the employee, except as provided in subsection (b) of this section, shall elect to pay any difference to receive full credit for the years sought to be transferred, or receive prorated service credit for only the amount received from the Oklahoma Public Employees Retirement System. Such an election shall be made in writing, filed with the System prior to receiving the credit provided for in this section, and shall be irrevocable.

(e) Upon receipt of all monies transferred by the Oklahoma Public Employees Retirement System, the Teachers' Retirement System shall credit the member's account for the deposit and notify the member of any additional payment due to complete the transfer. Except as provided in subsection (b) of this section, the member is required to pay any difference between the amount determined in subsection (d) of this section and the amount received from the Oklahoma Public Employees Retirement System

within sixty (60) days of notification by Teachers' Retirement unless the member elects monthly installments and pays the balance due in accordance with OAC 715:10-5-4.

(f) Except as provided by subsection (b) of this section, any member who ceases to make payment, terminates, retires or dies before completing the payments provided for in this rule shall receive prorated service credit for only those payments made, unless the unpaid balance is paid by said member, his or her estate or successor in interest within six (6) months after said member's death, termination of employment or retirement, provided no retirement benefits shall be payable until the unpaid balance is paid, unless said member or beneficiary affirmatively waives the additional six-month period in which to pay the unpaid balance.

(g) Notwithstanding the provisions of subsection (f) of this section, if any member fails for any reason to satisfy the requirements of this rule, the election to transfer service credit shall be void and of no effect, and any service credited as a result of this transfer shall be canceled. Teachers' Retirement shall return to the Oklahoma Public Employees Retirement System any monies transferred for the canceled service.

(h) Years of service transferred pursuant to this rule shall be used in determining the member's retirement benefit. Participating service, as defined by the Oklahoma Public Employees Retirement System, shall be credited to the member's account for purposes of vesting his or her account under OAC 715:10-7-1. A member who joined the Teachers' Retirement System on or after July 1, 1992, and transfers service credit for employment performed as a member of the Oklahoma Public Employees Retirement System on or before July 1, 1992, shall receive credit for such service as if the service were performed as a member of the Teachers' Retirement System, and the member's eligibility for retirement shall be determined as if the member had been a member of the Teachers' Retirement System from the date of such service.

[Source: Added at 12 Ok Reg 295, eff 10-14-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3523, eff 8-26-96; 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]

715:10-5-7.2. Transfer of service credit to the Oklahoma Public Employees Retirement System

(a) Any member of the Teachers' Retirement System, who is an active member of the Oklahoma Public Employees Retirement System, may file a notice of election to transfer credit for those years of service accumulated by the member while a member of the Teachers' Retirement System.

(b) A member of the Teachers' Retirement System whose last qualifying employment was with an entity or institution within the Oklahoma State System of Higher Education, State Board of Education, Oklahoma Department of Career and Technology Education, Oklahoma School of Science and Mathematics, Oklahoma Center for the Advancement of Science and Technology, State Department of Rehabilitation Services, Oklahoma State Regents for Higher Education, Department of Corrections, State Department of Education, Oklahoma Board of Private Vocational Schools, Board of Regents of Oklahoma Colleges, Oklahoma Student Loan Authority, or the Teachers' Retirement System of Oklahoma may transfer to the Oklahoma Public Employees Retirement System credit for years of service accumulated in the Teachers' Retirement System.

(c) The member must file a notice with the Teachers' Retirement System and the Oklahoma Public Employees Retirement System of the member's election to transfer service credit. The notice must include a list of the years to be transferred and the member's social security number or other identifying information that may be required by either retirement system to locate and evaluate the member's service credit.

(d) Within thirty (30) days of receipt of notification of the member's intent to transfer service to the Oklahoma Public Employees Retirement System, the Teachers' Retirement System shall:

(1) determine the sum of the employee and employer contributions applicable to the years of service sought to be transferred plus interest consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation, and

(2) if the member has a vested account with the Teachers' Retirement System, calculate the present value of the service to be transferred, discounted according to the member's age at the time of transfer.

(e) For purposes of this section, employer contributions apportioned to each member for each fiscal year shall be determined as a percentage of revenue received from the tax on natural gas and contributions from local employers required by 70 O.S. 17-108.1 divided by the annual payroll of active members of the Teachers' Retirement System. Total revenue from the tax on natural gas and local employers shall be apportioned to active members as a percentage of the actuarial present value of future benefits for active members divided by the actuarial present value future benefits for all members of the Teachers' Retirement System. The Board of Trustees shall approve a separate schedule using this computation for each fiscal year.

(f) The computation defined in paragraph (2) of subsection (d) of this section shall assume an unreduced benefit and be computed using interest and mortality assumptions consistent with the actuarial assumptions adopted by the Board of Trustees for purposes of preparing the annual actuarial evaluation but shall not make any projections regarding future salary.

(g) Upon completion of the computation(s) defined in subsection (d) of this section, the Teachers' Retirement System shall notify the member and the Oklahoma Public Employees Retirement System of the amount to be transferred. Except as provided in subsection (b) of this section, said amount shall be the greater of the product of paragraphs (1) and (2) of subsection (d) of this section. For those members included in subsection (b) of this section, the Teachers' Retirement System shall transfer to the Oklahoma Public Employees Retirement System is amount as calculated in paragraph (d)(1) of this rule.

(h) Upon notification from the Oklahoma Public Employees Retirement System that the requirements of the transfer have been completed, the Teachers' Retirement System shall, within sixty (60) days, remit to the Oklahoma Public Employees Retirement System the lesser of the amount calculated under subsection (f) of this section, or the amount certified by the Oklahoma Public Employees Retirement System that is necessary to effect said transfer.

(i) A former member of the Teachers' Retirement System may redeposit any previously withdrawn account for the purpose of transferring the former member's service credit to the Oklahoma Public Employees Retirement System. The former member shall remit to the Teachers' Retirement System the amount of accumulated contributions the member has withdrawn plus simple interest of ten percent (10%) per annum prior to making the election. The deposits made by the former member will reestablish his or her account in the Teachers' Retirement System and that amount will become part of the amount to be transferred as determined in subsection (d) of this section. If the election is deemed invalid and the transfer is canceled, the accumulated contributions plus interested remitted to the Teachers' Retirement System shall be returned to the member. No additional interest will be paid by the Teachers' Retirement System in such cases.

(j) All service credit accumulated by the member in the Teachers' Retirement System shall be canceled upon the transfer of any service credit. The member shall forfeit all rights to retirement benefits or service credits in the Teachers' Retirement System, and shall be considered to have withdrawn from the Teachers' Retirement System.

(k) If for any reason the member fails to satisfy the requirements of this transfer, the election to transfer service credit shall be void and of no effect,

and the Oklahoma Public Employees Retirement System shall return all monies previously remitted in the member's behalf. The member's account in the Teachers' Retirement System will be reestablished at the same level as before the transfer was initiated.

[Source: Added at 12 Ok Reg 295, eff 10-14-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3285, eff 7-27-95; 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]

715:10-5-7.3. Service credit transfers for TRS members who are CLEET-certified employees of the University of Oklahoma and Oklahoma State University

(a) A Teachers' Retirement System member employed by the University of Oklahoma and/or Oklahoma State University as a CLEET-certified police officer may make an irrevocable written election to transfer his or her membership to the Oklahoma Law Enforcement Retirement System if the school's governing board elects to participate in the Oklahoma Law Enforcement Retirement System.

(1) The member must have been employed by the school as a CLEET-certified police officer before the school's governing board elected to participate in the Oklahoma Law Enforcement Retirement System.

(2) The member's election to transfer must be made within three (3) months following the employing school's governing board's election to participate in the Oklahoma Law Enforcement Retirement System.

(3) The transferring member shall cease accruing service credit in the Teachers' Retirement System on the date of his or her irrevocable written election to participate in the Oklahoma Law Enforcement Retirement System.

(b) The Teachers' Retirement System shall transfer to the Oklahoma Law Enforcement Retirement System all of the transferring member's TRS records, as well as employee and employer contributions prior to the first day of the month following the Teachers' Retirement System's receipt of the member's election to transfer.

(c) The member must pay the difference in the cost of the service credits transferred by the teachers' Retirement System and the cost of such service credits in the Oklahoma Law Enforcement Retirement System

(d) For members electing to transfer to the Oklahoma Law Enforcement Retirement System, all TRS service credits not transferred shall be canceled.

[Source: Added at 19 Ok Reg 2729, eff 7-11-02]

715:10-5-8. Revocation of \$7,800 waiver

Any member who elected to contribute on \$7,800 prior to January 1, 1978, whose salary was more than \$7,800 during the school years 1974-75 through 1978-79, may elect to make back contributions on the difference between \$7,800 and the member's actual salary, not to exceed \$10,000 for each applicable school year, plus interest compounded annually at ten percent (10%) per annum. Such payment shall be made prior to the official retirement date of the member.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93]

715:10-5-9. Re-establishing withdrawn service

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 paragraphs 2 and 3 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) Nonclassified members who voluntarily withdrew from membership in TRS, subsequent to July 1, 1990, without terminating employment in the public schools of Oklahoma, are not eligible to return to membership unless they become employed in a classified position that requires membership as a condition of employment (See OAC 715:10-1-3).
- (3) 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.
- (4) 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 for the purpose of paragraphs 2 and 3 of this section.
- (5) Requests for redeposits should be made to the Teachers' Retirement System in writing. The request must include the name

in which the service was rendered, the Social Security number and the number of years withdrawn.

(6) Documentation of this service is on file in the Teachers' Retirement System office and will be verified by the staff. Service that cannot be documented by researching microfilm records of the member's prior service account or the monthly remittance reports from the employing school must be purchased under the rule for establishing service prior to membership.

(7) 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. 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.

(8) Redepositing of withdrawn accounts must be completed, and payment made to TRS, within sixty (60) days of termination of employment in the public schools of Oklahoma, but one (1) month prior to the effective date of a member's official retirement date.

(9) No person may make a redeposit to a member's account after the death of the member.

[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)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)²; Amended at 16 Ok Reg 3567, eff 9-13-99; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-5-10. Military service credit

An active contributing member of TRS may purchase credit for active duty service in the Armed Forces of the United States of America. The member must have received an honorable discharge from the Armed Services to qualify for military service credit. Active duty is defined as that time a member served in the Armed Forces of the United States of America from the date inducted to the date of separation. (Time spent between enlistment and induction, or other time spent as a civilian between military service periods, will not be counted as military service.) Credit for military service shall not exceed the number of years obtained when

the total months of service are applied to calendar years (January 1 to December 31 periods). Therefore, thirty-six (36) months of military service cannot count for more than three (3) years of TRS membership; forty-eight (48) months cannot count for more than four (4) years; etc.

715:10-5-11. Military service limited to maximum of five years

Credit for military service is limited to a maximum of five (5) years. This includes service both before and after July 1, 1943. No credit may be given for any year of military duty which duplicates any other credit already granted or in which a year of creditable service is available for service in the public schools of Oklahoma. The member must have two (2) years of creditable Oklahoma service after the years of military service credit for each year to be purchased. Out-of-state service credit cannot be counted as employment in obtaining military service credit.

715:10-5-12. Military service performed prior to July 1, 1943 [REVOKED]

715:10-5-13. Military service performed after July 1, 1943

Military service performed after July 1, 1943, may be purchased for any school year in which the member served on active duty for a minimum of six (6) months or 180 days, whichever affords the maximum benefit to the member. Time spent as a reservist at summer camps, or weekend-duty obligations, shall not be counted.

[Source: Amended at 12 Ok Reg 295, eff 10-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95]

715:10-5-14. Military service combined with Oklahoma service

Active duty service after July 1, 1943 can be combined with Oklahoma service performed in the same school year to obtain one year of service. The combined service must total one hundred eighty (180) days. If the Oklahoma service to be combined with military service was not as an active contributing member of TRS, the member must have worked a minimum of ninety (90) school days in Oklahoma public schools. Any military service combined with Oklahoma service counts as one (1) year toward the maximum service allowed for military service credit.

715:10-5-15. Application for military service

Members desiring to obtain credit for military service credit should request in writing to be billed for the cost of the credit. Included with the request should be a certified copy or copies of the member's service record showing the dates and nature of the member's active military duty [Form DD-214, Form DD-217 or VA Certification of Active Duty is the type of

certification accepted as documentation of active duty military service]. TRS may require the member to make available to it such other evidence as may be required to establish the member's eligibility for military service. When the system determines the duty eligible for credit, it shall bill the member for the years of eligible credit. If the member becomes eligible for additional credit after the billing by TRS it shall be the responsibility of the member to request a second billing. Payment must be made by the date shown on the billing statement to avoid additional charges that may be required after the expiration of the billing date.

[Source: Amended at 20 Ok Reg 2596, eff 7-11-03]

715:10-5-16. Cost to purchase military service

(a) The purchase price for each year of military service defined in OAC 715:10-5-13 shall be based on the actuarial cost as defined in OAC 715:10-5-4, except as provided in paragraph (b) of this rule. All payments for such service must be made while an active contributing member of TRS, or within sixty (60) days of termination of employment in the public schools of Oklahoma, but must be completed prior to the effective date of retirement. No person may purchase military service credit after the date of death of the member.

(b) In the event an active contributing member is called to active military duty, he or she shall be allowed to make contributions for benefits and service credits with respect to "qualified military service", in accordance with Section 414(u) of the Internal Revenue Code of 1986 and the Uniformed Services Employment and Re-employment Rights Act of 1994. [Source: Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00]

715:10-5-17. Adjustment for military service after retirement

All credit for active military duty perform after July 1, 1943, must be purchased prior to the official retirement date of the member. No credit or adjustment will be made to a member's account after retirement unless evidence points to a clear and convincing error on the part of TRS staff. The Executive Secretary will rule on the circumstances when such cases arise. Credit for active military duty will be accepted for eligible service prior to July 1, 1943, when evidence of such service is provided to TRS. An adjustment in the monthly retirement benefits of the member will be made beginning with the next check due if proper documentation is received by TRS by the 15th of the month. The adjustment in benefits shall not be retroactive.

715:10-5-18. Other restrictions on military service

Military service performed after the last year of Oklahoma membership service shall not qualify as military service. A member who returns to Oklahoma public education employment after serving in the military shall purchase that military service in the same manner as a new member of TRS: i.e., the member must have two (2) years of Oklahoma service after the military service for each year of military service purchased. No military service can be used to meet the minimum requirement of five (5) full years of employment in the public schools of Oklahoma to qualify for vesting and retirement benefits.

[Source: Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-5-19. Out-of-state service credit

An active, contributing member of TRS may obtain out-of-state service credit for qualified employment in public educational institutions outside the State of Oklahoma which are maintained in whole or in part by one of the states of the United States of America, the territories of the United States of America, or by a Military Dependent School operating under the Department of Defense of the United States of America, or while in the Peace Corps, providing he or she is not receiving and is not eligible to receive retirement credit or benefits from said service in any other public retirement system of this state, or any other state or territory of the United States. Qualifying employment requirements shall be the same as in the public schools of Oklahoma. Employment service deemed ineligible for membership service in Oklahoma shall not qualify for out-of-state service credit under any conditions. Time of employment and salary requirements for service credit for out-of-state shall be the same as membership service and prior service credit in Oklahoma (see subchapter 3 of this chapter). The member's out-of-state service must have been covered by and credited in the employing state's public retirement system to be eligible for service credit in TRS.

[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)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-5-20. Out-of-state service performed prior to July 1, 1943
[REVOKED]

715:10-5-21. Out-of-state service performed after July 1, 1943

Qualifying out-of-state service credit performed after July 1, 1943 may be purchased by any member of TRS where the member was employed as a full-time employee for a minimum of six (6) months or more during any one (1) school year, subject to the restrictions in OAC 715:10-5-19.

715:10-5-22. Out-of-state service limited to maximum of five years

Credit for out-of-state service is limited to a maximum of five (5) years. This includes credit for service both before and after July 1, 1943. No credit may be given for any year of out-of-state service which duplicates any other credit already granted or in which a year of creditable service is available for service in the public schools of Oklahoma. The member must have two (2) years of creditable Oklahoma service after each year of out-of-state service purchased. Military service credit cannot count as employment in obtaining credit for out-of-state service credit.

715:10-5-23. Out-of-state service combined with Oklahoma service

Qualifying out-of-state service after July 1, 1943 can be combined with Oklahoma service performed in the same school year to obtain one year of service. The combined service must total one hundred twenty (120) days of employment, excluding preschool conference, holidays or other days when the member was not required to report to work. If the Oklahoma service to be combined with out-of-state service was not as an active contributing member of TRS, the member must have worked a minimum of ninety (90) days in Oklahoma public schools. Under no condition may out-of-state service performed in one school year be combined with Oklahoma service in a different school year. Any service combined with Oklahoma service counts as one (1) year toward the maximum service allowed for out-of-state service credit.

715:10-5-24. Continuous, consecutive out-of-state service

Continuous consecutive out-of-state service performed in two (2) school years may be combined to receive a year of out-of-state service credit. Continuous consecutive service shall mean service performed as a full-time employee of a public school of another state without any break in employment between one school year and the next. A member employed the second semester of one school year and the first semester of the next school year may qualify for one (1) year of out-of-state credit. Under no condition shall a member receive more credit for out-of-state service than the member would have accrued had the service been performed in the public schools of Oklahoma.

715:10-5-25. Application for out-of-state service

Members desiring to obtain credit for out-of-state service credit should request in writing TRS Form 120 Verification of Out-of-State Service. Included with the request should be a list of all employment in the public schools of other states. (This will assist TRS staff in forwarding the appropriate number of application forms.) Verification forms must be

completed by the state retirement system for the employing state. TRS may require the member to make available to it such other evidence as may be required to establish the member's eligibility for out-of-state service. When the system determines the service eligible for credit, it shall bill the member for the years of eligible credit. If the member becomes eligible for additional credit after the billing by TRS it shall be the responsibility of the member to request a second billing. Payment must be made by the date shown on the billing statement to avoid additional charges that may be required after the expiration of the billing date.

[Source: Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-5-26. Cost to purchase out-of-state service

The purchase price for each year of out-of-state service defined in OAC 715:10-5-21 shall be based on the actuarial cost as defined in OAC 715:10-5-4. All payments for such service must be made while an active contributing member of TRS, or within sixty (60) days of termination of employment in the public schools of Oklahoma, but must be completed prior to the effective date of retirement. No person may purchase out-of-state service credit after the date of death of the member.

[Source: Amended at 15 Ok Reg 48, eff 9-4-97 (emergency); Amended at 15 Ok Reg 3481, eff 7-15-98]

715:10-5-27. Other restrictions on out-of-state service

Out-of-state service performed after the last year of Oklahoma membership service shall not qualify as out-of-state credit. A member who returns to Oklahoma public education employment after working out-of-state shall purchase that out-of-state service in the same manner as a new member of TRS: i.e., the member must have two (2) years of Oklahoma service after the out-of-state service for each year of out-of-state service purchased. No out-of-state service or salaries shall be utilized for the calculation of a member's final average salary at retirement. No out-of-state service can be used to meet the minimum requirement of five (5) full years of employment in the public schools of Oklahoma to qualify for vesting and retirement benefits.

[Source: Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-5-28. Sick leave service credit

A member; who has one hundred twenty (120) days of accumulated unused sick leave days at retirement shall receive one (1) year of additional credit toward retirement. A member who has less than one hundred twenty (120) days of unused sick leave at retirement may add such days to days employed by the public schools of Oklahoma in obtaining an additional

year of credit toward retirement. It is the responsibility of the member to obtain verification of sick leave from the employing school prior to the member's official retirement date. No adjustment in retirement benefits shall be made for sick leave documented after the member's retirement date. Sick leave cannot be combined with out-of-state, military service or any non-public Oklahoma school employment to obtain additional credit toward retirement. Service credit obtained by unused sick leave may be used in qualifying for retirement benefits under the "Combination of 80" and "Combination of 90" rule. For any member who joined TRS prior to July 1, 1995, the year of credit received for sick leave shall be treated as service earned prior to July 1, 1995. Unused sick leave may not be used to vest an account or to meet the minimum requirement of five (5) years of employment in the public schools of Oklahoma to qualify for retirement benefits. Sick leave accumulated while employed by any employer other than a public school as defined by 70 O.S. 17-101 shall not be counted for purposes of obtaining additional retirement credit under this rule.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93]

715:10-5-29. Verification of accumulated sick leave

Sick leave can only be verified on termination of employment, or when filing a retirement contract. The verification must be made by the superintendent, financial officer, clerk of the board of education, or treasurer of the school district who must attest to the accuracy of the records used to make the verification. The verification must be based on records maintained and available at the local school and must be in keeping with local board policy. TRS will accept the employer's sick leave policy of awarding sick leave, however, in no instance will TRS accept more than fifteen (15) days of unused accumulated sick leave for any one (1) school year. An employer may not grant additional sick leave for the purpose of establishing, or adding to, the member's total service credit. Sick leave donated by other employees cannot be added to a member's sick leave record for purposes of this rule. The System may require the employing school to make available to it such other evidence as may be required to establish the member's eligibility for sick leave credit. Unused sick leave can be accumulated from the date of employment in the public schools of Oklahoma, or August 1, 1959, whichever occurred last, to the date of termination of employment in the public schools of Oklahoma. Reimbursements received by a member for unused sick leave accumulated prior to retirement shall not be considered as "regular annual compensation" as defined in OAC 715:10-13-1 and not subject to TRS contributions as provided for in Subchapter 13 of this chapter. (NOTE: Employers are encouraged to establish a system of

tracking total days earned and used, even when the total days credited exceed the maximum limit set for local policy.)

[Source: Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-5-30. Ten-year averaging of sick leave

When a member cannot obtain documentation of accumulated sick leave because records at the employing school(s) are not available, TRS will calculate an average using the last ten (10) years of employment. The number of days absent each year during the last ten (10) years shall be averaged to determine the average number of sick leave days used each year. The average sick leave used will be subtracted from a standard ten (10) days per school year and the difference multiplied by the total years of creditable Oklahoma membership service.

715:10-5-31. Documentation of service

TRS reserves the right to require documentation of all service years credited to a member's account.

- (1) Members who are claiming eligible service after the school year in which it was actually rendered must verify the claim on the appropriate Teachers' Retirement System form. The specific documentation required will depend on the type of service being purchased. Under no circumstances will affidavits be accepted as documentation.
- (2) The ultimate responsibility for obtaining verification of service is that of the member.
- (3) The correctness of the service must be certified on the appropriate form by an official of the school where the service was rendered. This can be done by the superintendent, business manager, secretary of the school board, or treasurer of the school board at the time the certification is made. The certification must be based upon existing records maintained by the school and certified copies of these records must be attached to the application.
- (4) TRS will also accept federal or state tax records, or Detailed Earnings Information records from the Social Security Administration, as supporting documentation of employment where records cannot be obtained from the employing school, or where the records available are not deemed to be conclusive.
- (5) No credit may be granted unless clear and convincing proof of eligible service has been provided from a source other than the applicant member. A conclusion that clear and convincing proof has not been provided should in no way be construed as a challenge

to the member's or any other affidavit's truthfulness and integrity.

(6) The executive secretary of TRS shall be empowered to determine the completeness of documents submitted by a member in establishing service credit.

715:10-5-32. Roll-overs from other qualified plans or conduit IRAs

Credit for past service, including redeposits of withdrawn Oklahoma service, defined in this subchapter, contribution deficit payments provided for by 70 O.S. § 17-116.2C or balances due as authorized under 70 O.S. § 17-116.2, may be purchased with roll-overs from another retirement plan if allowed by the Internal Revenue Code. This includes "conduit IRAs" which have been established with funds received from a 401(a) plan distribution for the purpose of holding the funds separate until a rollover can be consummated, traditional IRAs, 403(b) tax-deferred annuity plans, 401(k) and 457 deferred compensation plans. For a roll-over payment to be accepted by Teachers' Retirement the following conditions must be met:

(1) The member should contact Teachers' Retirement to obtain a billing statement for the service to be purchased and convey the intent to make total or partial payment by a roll-over.

(2) The member must obtain written documentation from the originating institution verifying the amount of the distribution and that the monies came from a qualified plan under the Internal Revenue Code.

(3) The roll-over check from the qualified plan must be made payable to the Oklahoma Teachers' Retirement System, For Benefit Of and the member's name. The member must deliver the check to Teachers' Retirement with the required documentation and the billing statement for the service to be purchased. Teachers' Retirement will only accept payment for the amount of the billing statement. If the distribution from the originating institution is greater than the billing, the originating institution must be willing to generate a check payable to Teachers' Retirement for the exact amount of the billing statement. If the distribution from the originating institution is less than the billing, a personal check or cashier's check must accompany the roll-over proceeds, or the member may pay the balance through an installment payment plan. Payments in excess of the billing will not be accepted.

(4) A receipt for the payment will be issued after Teachers' Retirement has determined all documentation and the appropriate amount of funds have been received.

(5) Roll-overs must comply fully with the Internal Revenue Code and applicable Internal Revenue Service regulations.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94; Amended at 19 Ok Reg 2729, eff 7-11-02; Amended at 20 Ok Reg 382, eff 10-16-02 (emergency); Amended at 20 Ok Reg 2596, eff 7-11-03; Added at 24 Ok Reg 220, eff 10-31-06 (emergency); Amended at 24 Ok Reg 1692, eff 6-11-07]

715:10-5-33. Credit for Family Leave

(a) A full-time teacher who takes ninety (90) or fewer days of leave without pay to care for his or her 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 the Teachers' Retirement System that the employee's leave without pay was taken with the proper approval of the employing district's Board of Education; and
- (2) the Teachers' Retirement System receives payment for the actuarial cost of the service credit for the days taken as leave without pay;

(b) The teacher shall notify his or her employer and the Teachers' Retirement System in writing within thirty (30) days from the date he or she returns to work that he or she 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 he or she returns to work to pay the actuarial cost for the days taken as leave without pay.

[Source: Added at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Added at 16 Ok Reg 3567, eff 9-13-99]

715: 10-5-34. Credit for Adjunct Service

(a) A Teachers' Retirement System 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).

[Source: Added at 18 Ok Reg 50, eff 10-3-00 (emergency); Added at 18 Ok Reg 3152, eff 7-12-01]

715:10-5-35. Employer pick-up of purchase of service credit (Amended 2006)

(a) The purpose of OAC 715:10-5-35 is to provide a pick-up of employee contributions by participating employers under Section 414(h)(2) of the Internal Revenue Code of 1986 for contributions that are made for the purpose of purchasing service credit or re-establishing withdrawn service under Chapter 10, Subchapter 5 of these Rules, and for contribution deficit payments provided for by 70 O.S. § 17-116.2C or balances due as authorized under 70 O.S. § 17-116.2. Employers may elect to participate in the pick-up of employee contributions made for the purpose of purchasing service credits, or re-establishing withdrawn service by a resolution adopting the provisions of this regulation.

(b) An active member of the Teachers' Retirement System (employed by a participating employer) who elects to purchase or re-establish service credit under any applicable provision of Chapter 10, Subchapter 5 of these Rules, or to make contribution deficit payments provided for by 70 O.S. § 17-116.2C or balances due as authorized under 70 O.S. § 17-116.2 through installments in accordance with a schedule established by the Board of Trustees may elect to do so through a binding, irrevocable payroll reduction authorization.

(c) An active member of the Teachers' Retirement System, having executed a binding, irrevocable payroll reduction authorization with respect to any such contributions, shall not be entitled to any option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the Teachers' Retirement System. Such contributions shall be remitted to the Teachers' Retirement System and credited to the member in the same manner as all other employee contributions. Such contributions, although designated as employee contributions, will be paid by the employer in lieu of contributions by the employee. The contributions so assumed shall be treated as tax-deferred employer "pick-up" contributions pursuant to the United States Internal Revenue Code Section 414(h)(2), as authorized in a favorable letter ruling by the Internal Revenue Service.

(d) An active member of the Teachers' Retirement System may elect to pay all or part of any contribution to purchase or re-establish service credit or to make contribution deficit payments provided for by 70 O.S. § 17-116.2C or balances due as authorized under 70 O.S. § 17-116.2 through such payroll reduction. The amount by which an employee's compensation will be reduced and the duration of the reduction shall be specified on the authorization form prescribed by the Board of Trustees and the amounts and duration shall be irrevocable and binding once made. Prepayment of amounts covered by the authorization is not permitted. However, nothing herein shall prevent a member from paying any amounts not covered by the authorization with after-tax dollars, provided that any such after-tax payments by an employee of a participating employer shall be paid directly by the employee to the Teachers' Retirement System, as opposed to being paid to or withheld by the participating employer. An employee of non-participating employer may purchase service credit or re-establish withdrawn service by making after-tax payments directly to the Teachers' Retirement System.

(e) No such payroll reduction shall begin unless and until the member executes the payroll reduction authorization described below on a form prescribed by the Board of Trustees. The Board of Trustees will send such form to the treasurer or other disbursing officer of the participating employer. After receiving the binding, irrevocable payroll reduction authorization, the treasurer or other disbursing officer of each participating employer shall reduce the member's regular annual compensation by the authorized amount and remit these contributions to OTRS, in addition to (but separate from) the mandatory contributions from the member's regular annual compensation pursuant to 70 O.S., §17-116.2 and OAC 715:10-13-3. The participating employer shall continue to make such reductions for the number of months specified on the form and shall treat these reductions as picked-up contributions.

(f) All such payroll reductions, including the amounts and the duration specified, shall be binding and irrevocable upon the member's execution of the prescribed form.

(g) Notwithstanding the above, such reductions will cease only after the authorization has expired by its terms or upon any of the following events:

- (1) The member's death. In the event of a member's death, the designated beneficiary shall have the option of paying the remaining amount owed (using after-tax dollars) within six (6) months of the member's death. If the balance is not paid, the beneficiary shall be entitled to prorated credit for that portion of the additional

contributions actually made for service purchases prior to the member's death. If there is any remaining amount owed with respect to a redeposit of contributions, the designated beneficiary will be reimbursed for those redeposits which had already been paid at the time of the member's death. A beneficiary may not make payments for a purchase of service credit or a re-deposit of contributions if such a purchase or re-deposit had not been initiated by the member prior to the member's death.

(2) The termination of the member's employment. In this event, the member shall have the right to pay the remaining amount owed (using after-tax dollars) within six (6) months of the member's termination of employment, but payment must be completed one (1) month prior to the effective retirement date of the member. If the member retires and does not pay the entire remaining amount, the member shall be entitled to prorated service credit for those payments actually made for service purchases. If there is any remaining amount owed with respect to a redeposit of contributions, the member shall be reimbursed for those redeposits which had already been paid at the time of the member's termination. In the situation where a terminated member becomes employed by another employer participating in OTRS, the member may elect to reinstate or not reinstate his authorization with the new employer.

(3) For purposes of (1) and (2) above, after-tax contributions shall only be received to the extent allowed by section 415 of the Internal Revenue Code.

(h) In no event shall the member receive a return of the payroll reductions made hereunder, except as a refund together with all other contributions, as provided in OAC 715:10-11-1 et seq. or as a refund of a redeposit of contributions as provided in subsection g.(2) herein.

(i) Payroll reductions and installment agreements hereunder shall last no longer than sixty (60) months.

[Source: Added at 19 Ok Reg 95, eff 8-10-01 (emergency); Added at 19 Ok Reg 2729, eff 7-11-02; Added at 24 Ok Reg 220, eff 10-31-06 (emergency); Amended at 24 Ok Reg 1692, eff 6-11-07]

Subchapter 7. Membership Vesting and Termination

Section

- 715:10-7-1. Vesting of membership in TRS
- 715:10-7-2. Limitation of benefits to an inactive, vested member
- 715:10-7-3. Termination because of absence
- 715:10-7-4. Extension of TRS membership after absence
- 715:10-7-5. Retired members
- 715:10-7-6. Termination of a non-eligible person

715:10-7-1. Vesting of membership in TRS

Members who have accumulated five (5) or more years of creditable service in the public schools of Oklahoma, on which retirement contributions have been remitted, and whose account had not closed prior to July 1, 2003, in accordance with 70 O.S. § 17-103(6) or OAC 715:10-7-3, shall be granted an indefinite extension of membership in TRS. Such membership is vested and shall remain open until the member retires or the contributions are voluntarily withdrawn. Military and out-of-state service shall not be included in the five (5) years required for vesting. Any year of service obtained by the use of accumulated unused sick leave cannot be included in the five (5) years required for vesting. Any member who joins TRS after July 1, 1991, shall be required to have five (5) full years of membership as a contributing member of the System. For members who join after July 1, 1991, Oklahoma service purchased after membership will not be counted for “vesting” purposes.

[Source: Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)¹; Amended at 21 Ok Reg 3099, eff 8-12-04]

715:10-7-2. Limitation of benefits to an inactive, vested member

A member who has a vested account, but who terminates employment and no longer remits contributions, has an “inactive-vested” account. An inactive-vested member is not entitled to the following:

- (1) Statutory death benefit payable to the beneficiaries of an active member.
- (2) Participation in the Teachers’ Retirement System tax-sheltered annuity program.
- (3) Option to elect, by the member’s spouse, retirement benefits in lieu of a lump sum payment of account balance at the member’s death.
- (4) The purchase of any additional past service credits.
- (5) Insurance coverage from the State and Education Employees Group Health Insurance Program, unless proper application is made

for such coverage within thirty (30) days of termination of employment. (See Subchapter 23 of this chapter for more information about group health insurance.)

715:10-7-3. Termination because of absence

Membership in the Teachers' Retirement System shall terminate if the member ceases to be an active contributing member for a period of five (5) consecutive school years unless the member has five (5) or more years of creditable service in the public schools of Oklahoma and does not voluntarily withdraw his account.

(1) Membership rights shall be protected during an absence of not more than five (5) years, in any period of six (6) consecutive years, for non-vested members; (i.e., for members who have less than five (5) years of contributory employment in the public schools of Oklahoma).

(2) If employment terminates with the close of the school term, the five (5) year period of absence shall begin with the next fiscal year. If employment ends during the school term, the period of absence shall begin the first day of the month that follows termination.

(3) After a non-vested member is absent from employment in the public schools of Oklahoma for five (5) years during any period of six (6) consecutive years, the member's Teachers' Retirement System account shall be closed with no rights to monthly retirement benefits. The member's contributions should be withdrawn as no interest accrues on accounts closed because of absence from employment.

(4) A member whose absence exceeds five (5) years due to military service shall be granted an eighteen (18) month extension, from date of discharge, to re-enter Oklahoma public education employment in order to retain membership in Teachers' Retirement System.

[Source: Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)¹; Amended at 21 Ok Reg 3099, eff 8-12-04]

715:10-7-4. Extension of TRS membership after absence

A member with less than five (5) years of creditable Oklahoma membership service, who has been absent from such service for less than five (5) years during any period of six (6) consecutive years, may extend TRS membership by returning to fulltime employment for one (1) school year.

(1) If a five (5) year period of absence ends with the close of a school year, membership shall terminate June 30 of the corresponding fiscal year. Except that, membership shall not terminate if the member returns to fulltime Oklahoma public schools employment no later than September 30 the same calendar year.

(2) If the five (5) year period of absence terminates at any other time during the school year, membership shall terminate the last day of the last month of employment. Membership shall not terminate if the member returns to employment in the Oklahoma public schools no later than the last day of the succeeding calendar month.

(3) Unless otherwise specified, a ten (10) month school term shall be considered a school year. In adding fractions to equal a year of employment, membership shall extend five (5) years from the close of the school year during which the member worked the first fractional part.

(4) A member whose account has closed, but has not withdrawn contributions, may apply for re-instatement after returning to employment in the public schools of Oklahoma and completing one (1) full year (twelve calendar months) as a contributing member of TRS. Upon completion of one (1) full year the member's account will be restored to full status with all rights provided to other members.

[Source: Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)¹; Amended at 21 Ok Reg 3099, eff 8-12-04]

715:10-7-5. Retired members

A retired member receiving a service retirement annuity may not be reinstated to active membership, which was terminated as a result of retirement, nor receive credit for additional membership service, except as provided in OAC 715:10-17-13. Disability retirement may be reinstated under certain conditions (see OAC 715:10-15-21).

[Source: Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00]

715:10-7-6. Termination of a non-eligible person

A member who is employed by a public education entity, in a position which is not eligible for membership, does not meet the hours-per-day minimum, and/or salary requirements, must terminate membership. All contributions remitted for a non-eligible person will be refunded with no interest. If an eligible member's employment is changed to a status that no longer qualifies for membership in TRS, the member's account will be terminated in the same manner as if the member has withdrawn from employment in the public schools of Oklahoma.

Subchapter 9. Survivor Benefits

Section

- 715:10-9-1. Return of contributions when death occurs before retirement
- 715:10-9-2. Death benefit when death occurs before retirement
- 715:10-9-3. Monthly annuity in lieu of death benefit
- 715:10-9-4. Death benefit when death occurs after retirement
- 715:10-9-5. Payments to beneficiaries of deceased members
- 715:10-9-6. Probate Waivers
- 715:10-9-7. Beneficiary designation following a divorce

715:10-9-1. Return of contributions when death occurs before retirement

Upon the death of a member, who has not retired, the designated beneficiary, or estate (if there is no designated beneficiary, or if the designated beneficiary predeceases the member) shall receive the member's total contributions, plus one hundred percent (100%) of all interest earned through the end of the fiscal year. Interest shall cease to accumulate with the payment of any portion of the member's contributions and interest to any beneficiary. Interest on death claims shall be calculated according to the following schedule: [See OAC 715:10-9-7, if the member and beneficiary were divorced before death].

- (1) July 1, 1968, through June 30, 1977, four and one-half percent (4 1/2%), compounded annually.
- (2) July 1, 1977, through June 30, 1981, seven percent (7), compounded annually.
- (3) July 1, 1981, to present, eight percent (8%), compounded annually.

[Source: Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-9-2. Death benefit when death occurs before retirement

(a) A death benefit of \$18,000 shall be paid by TRS to the designated beneficiary upon the death of an in-service member. If there is no designated beneficiary, or if the designated beneficiary predeceases the member, the member's estate shall receive the death benefit. [See OAC 715:10-9-7, if the member and beneficiary were divorced before death].

(b) "In-service" membership shall include:

- (1) Employees in an active-member status within the Oklahoma public education system at the time of death.

(2) Members who have been, or would have been, rehired, automatically or otherwise, for the next school year when death occurs during the summer break.

(3) Members on sick leave, for up to one (1) full year, who would be returned to employment by the employer upon satisfactory recovery.

(c) “In-service” membership shall not include:

(1) Employees who are not eligible for membership in TRS.

(2) Any member in an in-active employment status, except as noted above in paragraph (b).

(3) Any member who resigned as an employee of the public schools of Oklahoma.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00; Amended at 22 Ok Reg 2255, eff 6-25-05]

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

The designated beneficiary of an active contributing member, who qualified for service retirement, may elect to receive—in lieu of the return of contributions and the \$18,000 death benefit outlined above—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. [See 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)¹; 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]

715:10-9-4. Death Benefit when death occurs after retirement

Upon the death of a retired member who contributed to the Retirement System, TRS shall pay a \$5,000 death benefit to the retiree’s designated beneficiary. If the retired member had designated more than one primary beneficiary, the death benefit shall be paid in equal shares to each primary beneficiary. If there is no beneficiary the retiree’s estate shall receive this death benefit, unless waived pursuant to OAC 715:10-9-6. This benefit is paid in addition to any payment provided for by the retirement option elected by the member at the time of retirement. (Note: The \$5,000 death benefit does not apply to persons receiving payments under the “Special \$150 Per

Month Plan”).) [See OAC 715:10-9-7, if the member and beneficiary were divorced before death].

[Source: Amended at 12 Ok Reg 841, eff 1-5-95 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 15 Ok Reg 48, eff 9-4-97 (emergency); Amended at 15 Ok Reg 3481, eff 7-15-98; Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00]

715:10-9-5. Payments to beneficiaries of deceased members

Death benefit payments will be made by TRS to the beneficiary(s) of each deceased member as expeditiously as possible. The following documents must be provided to TRS before payment can be made.

(1) The designated beneficiary(s) must provide a certified copy of the death certificate and complete a Claimant’s Affidavit Form.

(2) When no designated beneficiary has been named or the designated beneficiary(s) predecease(s) the member, and no waiver is sought, permitted or allowed pursuant to OAC 715:10-9-6, the executor/administrator of the member’s estate must provide a certified copy of the death certificate, complete Claimant’s Affidavit Form, and provide Letters of Testamentary or other documentation of court appointment.

(3) Payments to minor children named as beneficiaries shall be made in accordance with applicable Oklahoma statutes. However, all such payments shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and any regulations under that section. [See OAC 715:10-9-7, if the member and beneficiary were divorced before death].

[Source: Amended at 11 Ok Reg 4785, eff 9-12-94 (emergency); Amended at 12 Ok Reg 841, eff 1-5-95 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00]

715:10-9-6. Probate Waivers

(a) In the event a member dies, leaving no living beneficiary or having designated his estate as beneficiary, the System shall require the judicial appointment of an administrator or executor for the member’s estate prior to payment of any benefits or unpaid contributions. However, this requirement may be waived by the System for any benefits or unpaid contributions in the amount of \$5,000.00 or less, upon presentation of:

(1) the member’s valid Last Will and Testament;

(2) an Affidavit of Heirship naming all heirs to the member’s estate which must state:

(A) that the value of the deceased member's entire estate is subject to probate, and that the estate wherever located, less liens and encumbrances, does not exceed Five Thousand Dollars (\$5,000), including the payment of benefits or unpaid contributions from the System;

(B) a description of the personal property claimed (including the death benefit or unpaid contributions or both), together with a statement that such personal property is subject to probate; and

(C) a claim by each individual claiming heir identifying the amount of personal property that the heir is claiming from the System, and that the heir has been notified of, is aware of and consents to the identified claims of all the other claiming heirs of the deceased member pending with the System.

(3) a Hold Harmless Agreement signed by all heirs;

(4) a Corroborating Affidavit from someone other than an heir who is familiar with the deceased member; and

(5) proof of payment of expenses of last sickness, death and burial, including all medical, hospital and funeral expenses.

(b) The Executive Secretary of the Teachers' Retirement System shall retain complete discretion in determining which requests for probate waiver may be granted or denied, for any reason. If there is any question as to the validity of any document herein required, the judicial appointment requirement shall not be waived.

(c) After paying any death benefits or unpaid contributions to any claiming heirs as provided by this section, the Teachers' Retirement System is discharged and released from any and all liability, obligation and costs to the same extent as if the System had dealt with a personal representative of the deceased member. The System is not required to inquire into the truth of any matter specified in this section or into the payment of any estate tax liability.

[Source: Amended at 12 Ok Reg 841, eff 1-15-95 through 7-14-95 (emergency)]; Added at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3523, eff 8-26-96]

715:10-9-7. Beneficiary designation following a divorce (Amended 2006)

Following a divorce between an active or retired member and his or her spouse whom the member had designated as a beneficiary, the former spouse shall be treated as having predeceased the member for purposes of the death benefit payment and/or a return of contributions from the deceased member's Teachers' Retirement System account, unless the member has renamed the former spouse as a designated beneficiary. (Note: The

beneficiary designation is voided by this section and 15 O.S. §178, only if the member's designation of beneficiary was signed and dated after November 1, 1987).

[Source: Added at 17 Ok Reg 204, eff 9-8-99 (emergency); Added at 17 Ok Reg 3071, eff 7-13-00; Amended at 23 Ok Reg 3073, eff 7-27-06]

Subchapter 11. Withdrawal from Membership and Refund of Deposits

Section

- 715:10-11-1. Withdrawal from membership by an eligible person
- 715:10-11-2. Withdrawal of optional membership while still employed
- 715:10-11-3. False affidavits
- 715:10-11-4. Refunds of contributions
- 715:10-11-5. Termination of rights to benefits
- 715:10-11-6. Reinstatement of an account
- 715:10-11-7. Rollovers from OTRS to other eligible retirement plans

715:10-11-1. Withdrawal from membership by an eligible person

Any member who terminates employment in the public schools of Oklahoma may voluntarily withdraw from membership in the Teachers' Retirement System under the following conditions:

(1) The Teachers' Retirement System law provides that members who leave Oklahoma public education employment are eligible to withdraw the contributions made to their TRS account four (4) months after termination. A former employee may submit application for the proceeds of the account after the last day physically worked. Withdrawal payment can be made no earlier than four (4) months after the last public school employment. There are no exceptions to this waiting period. Withdrawal forms may be obtained by contacting the TRS office. Last day of employment shall be defined as:

- (A) For teachers - the actual last teaching day in the classroom;
- (B) For other personnel - the actual last day on the job.

(2) Application for Withdrawal must be received by Teachers' Retirement System no later than the first day of the fourth month of the required waiting period in order to be approved by the Board of Trustees that same month. Written verification from the school's payroll department of a member's termination of employment and/or non-resumption of teaching contract must be on file before processing the Application for Withdrawal.

(3) All contributions and interest due must be approved by the Board before payment to the withdrawing member. Payment will be mailed on the 20th day of the fourth month of the required waiting period unless the 20th falls on a legal holiday or a weekend. Payment will then be mailed on the closest business day.

(4) The years of membership shall be calculated as follows:

- (A) For withdrawal purposes - from the date of the first contribution to the date of withdrawal, except that member accounts closed in compliance with OAC 715:10-7-3 will be from the date of the first contribution to the date the account is closed.
- (B) For payment of interest purposes - from the date of the first contribution to the June 30 preceding the date of withdrawal, except that member accounts closed in compliance with OAC 715:10-7-3 will be from the date of the first contribution to the date the account is closed.
- (5) Interest rate on withdrawals shall be paid as follows:
- (A) July 1, 1968 through June 30, 1977 - four and one-half percent (4 1/2%), compounded annually.
- (B) July 1, 1977 through June 30, 1981 - seven percent (7%), compounded annually.
- (C) As of July 1, 1981 to present - eight percent (8%), compounded annually.
- (6) Interest payment on withdrawals shall be paid as follows:
- (A) If termination occurs within sixteen (16) years from the date membership began, fifty (50) percent of the total accrued interest shall be paid.
- (B) With at least sixteen (16) but less than twenty-one (21) years of membership, sixty (60) percent of the total accrued interest shall be paid.
- (C) With at least twenty-one (21) but less than twenty-six (26) years of membership, seventy-five (75) percent of the total accrued interest shall be paid.
- (D) With at least twenty-six (26) years of membership, ninety (90) percent of the total accrued interest shall be paid.
- (7) The Board of Trustees has ruled that a person whose membership has not terminated due to five (5) years of absence from Oklahoma public education employment, but who has applied to withdraw all accumulated contributions, shall not have membership terminated until the withdrawal check has been accepted and cashed.
- (8) Effective July 1, 1990, no member is eligible to withdraw contributions made on a pre-tax basis, unless the employee has terminated employment in the public schools for a period of four months.

[Source: Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)¹; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 19 Ok Reg 2729, eff 7-11-02; Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)²; Amended at 21 Ok Reg 3099, eff 8-12-04]

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

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 effective date of the member's last contributions and the date payment 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). 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.
- (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. Following termination of employment, TRS should be contacted for the proper form to be completed for return of pre-tax contributions. Upon completion of the verification form by the school and the mandatory four-month waiting period, payment of the balance of the account will be made at the same time as regular withdrawals.

[Source: Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)¹; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 20 Ok Reg 2247, eff 3-5-03 (emergency); Amended at 20 Ok Reg 2596, eff 7-11-03]

715:10-11-3. False affidavits

A member who makes affidavit that he has permanently terminated his employment in state-supported public education in Oklahoma but who is so employed, or who contracts for such employment before he receives the refund of his TRS account, shall not be entitled to the refund. If the refund is made in error because the Teachers' Retirement System is not aware of the continued employment, necessary steps will be taken to secure the redeposit of the withdrawn account with interest compounded annually at ten percent (10%) per annum. No benefits subsequently earned will be paid until this withdrawn account is returned to the Teachers' Retirement System. [Source: Amended at 10 Ok Reg 3879, eff 7-12-93]

715:10-11-4. Refunds of contributions

Refunds for overpayment of annual contributions, ineligible service purchases, and membership service contributions of less than six (6) months shall be made upon request by the employing school.

- (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.
- (2) No interest shall be paid on refunds.
- (3) Contributions reported by the employer as "pre-tax" contributions will be refunded to the employer.

715:10-11-5. Termination of rights to benefits

Withdrawal of an account terminates the right to benefits for all service prior to the date of withdrawal, unless credit is reinstated by subsequent service and repayment as provided by the statutes.

715:10-11-6. Reinstatement of an account

A member who has withdrawn an account may reinstate the account, and receive credit for the service, by meeting the requirements of OAC 715:10-5-9.

[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)¹; Amended at 12 Ok Reg 3285, eff 7-27-95]

715:10-11-7. Rollovers from OTRS to other eligible retirement plans

(a) Notwithstanding any other provision of the administrative code, a member, a member's spouse, or a member's former spouse who is the alternate payee under a qualified domestic order, as defined in OAC 715:10-25-1, may elect at the time and in the manner prescribed by the Board of Trustees, to have all or a portion of an eligible rollover distribution

paid directly to another eligible retirement plan as required under Internal Revenue Code Section 401(a)(31) and the regulations thereto.

(b) The following definitions shall apply for purposes of the words and phrases used in this Section:

(1) An “eligible rollover distribution” includes any distribution of all or any taxable portion of the defined benefit to the credit of a member, a member’s spouse, or the member’s former spouse who is the alternate payee under a qualified domestic order, as defined in OAC 715:10-25-1, except that an eligible rollover distribution does not include the following:

(A) any distribution that is one of a series of substantially equal periodic payments, paid not less frequently than annually, made for the life or life expectancy of the member and the member’s spouse.

(B) any distribution that is one of a series of substantially equal periodic payments for a specified period of ten years or more.

(C) any distribution to the extent such distribution is required under Internal Revenue Code Section 401(1)(9).

(D) the portion of any distribution that is not includable in the gross income.

(E) any distributions during a year that are reasonably expected to total less than \$200.

(F) any distribution from the tax sheltered annuity program.

(2) An “eligible retirement plan” includes an individual retirement account or annuity described in Internal Revenue Code Sections 408(a) or (b), an annuity plan described in Internal Revenue Code Section 403(a), or a qualified trust described in Internal Revenue Code Section 401(a) that is willing to accept the distributee’s eligible rollover distribution. However, in the case of an eligible rollover distribution to the member’s spouse, an eligible retirement plan only includes an individual retirement account or an individual retirement annuity described in Internal Revenue Code Sections 408(a) or (b).

(c) Eligible rollover distributions may be paid to not more than two eligible retirement plans, as selected by the distributee, when a direct rollover is elected.

[Source: Added at 11 Ok Reg 4785, eff 9-12-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3285, eff 7-27-95]

Subchapter 13. Contributions for Membership Service

Section

- 715:10-13-1. Regular annual compensation requirements
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- 715:10-13-3.1. Employer contribution rates [Revoked]
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715:10-13-1. Regular annual compensation requirements

Each member of the Teachers' Retirement System is required to make contributions to the Retirement Fund. Monthly contributions are a set percent of "regular annual compensation". Regular annual compensation is defined as wages plus fringe benefits, excluding the flexible benefit allowance provided by Section 26-105 of Title 70 of the Oklahoma Statutes, and shall include all normal periodic payments as provided in subsection D of Section 17-116.2 of Title 70 of the Oklahoma Statutes. Wages and fringe benefits for retirement purposes are defined as normal periodic payment for service the right to which accrues on a regular basis in proportion to the service performed. Such periodic payments shall include staff development or other periodic payments to qualifying members. Fringe

benefits shall include employer-paid group health and disability insurance, group term life insurance, annuities and pension contributions and IRS Code Section 125 cafeteria benefits provided on a periodic basis to all qualified members of the employer, which qualify as fringe benefits under the United States Internal Revenue Code. Reimbursement for travel, housing or other expenses are not fringe benefits and do not qualify as regular annual compensation. Payment for unused vacation or sick leave, retirement bonuses or any other payment when made for reason of termination or retirement shall not be included as regular annual compensation. Contributions can only be remitted on actual wages and fringe benefits. No individual can contribute on unearned or non-existent compensation. Under no circumstances can members pay retirement contributions on more than they actually earn.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99; Amended at 22 Ok Reg 2255, eff 6-25-05]

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

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. 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 credit for a year of service until the balance of contributions, including any contributions required by the employer, are received by TRS.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-13-3. Employee contribution rates

(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) Every teacher employed by any school district or Career and Technology Education district, who qualifies for a minimum salary pursuant to the State's minimum salary schedule shall have a specific amount credited against the employee's contribution to the Teachers' Retirement System. The State of Oklahoma shall pay an annual amount for each fiscal (or plan) year as follows:

- (1) 0 years of service = \$60.15
- (2) 1 year of service = \$103.41
- (3) 2 years of service = \$145.65
- (4) 3 years of service = \$188.15
- (5) 4 years of service = \$233.33
- (6) 5 years of service = \$278.76
- (7) 6 years of service = \$325.26
- (8) 7 years of service = \$372.82
- (9) 8 years of service = \$421.44

- (10) 9 years of service = \$471.12
- (11) 10 years of service = \$521.87
- (12) 11 years of service = \$573.67
- (13) 12 years of service = \$626.54
- (14) 13 years of service = \$680.48
- (15) 14 years of service = \$735.47
- (16) 15 years of service = \$791.53
- (17) 16 years of service = \$848.65
- (18) 17 years of service = \$906.83
- (19) 18 years of service = \$966.07
- (20) 19 years of service = \$1,026.38
- (21) 20 years of service = \$1,087.75
- (22) 21 years of service = \$1,150.18
- (23) 22 years of service = \$1,213.68
- (24) 23 years of service = \$1,278.23
- (25) 24 years of service = \$1,343.85
- (26) 25 or more years of service = \$1,410.53

(d) Each school district or Career and Technology Education school district shall adjust each eligible employee's monthly contribution to the Teachers' Retirement System 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 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 the Teachers' Retirement System by the appropriate amount and add that amount to each eligible employee's net 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 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 less than a full contract year, whether full-time for less than a full contract year or part-time for the full contract year, shall have the prescribed State contribution prorated in accordance with the eligible employee's full-time equivalent rate of employment.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 13 Ok Reg 3899, eff 8-5-96 (emergency); Amended at 13 Ok Reg 3523, eff 8-26-96; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 15 Ok Reg 48, eff 9-4-97 (emergency); Amended at 15 Ok Reg 3481, eff 7-15-98; Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99; Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00; 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; Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-13-3.1. Employer contribution rates through June 30, 2007 (Revoked)

715:10-13-4. Maximum compensation level election for years prior to July 1, 1995

(a) Any member, except for employees of institutions of higher education as provided in 70 O.S. § 17-116.2A, who was a contributing member of the Retirement System between July 1, 1987, and June 30, 1995, who elected to limit contributions to the first \$25,000 of annual compensation, may elect to contribute on annual compensation up to a maximum of \$40,000.

(b) If no election was made within the time provided by statute, the member was deemed to have elected the \$25,000 compensation level.

(c) Except as provided in subsection (a) of this rule, a member may change the \$25,000 election at any time prior to his or her official retirement date.

(d) If a member elects to change his or her election as provided by this rule, the member must remit to the Teachers' Retirement System the difference between the amount contributed and that which would have been contributed had a \$40,000 maximum been elected when the member was first eligible to do so. This additional payment shall include any contribution that the law requires from the member's employer, and interest compounded annually at ten percent (10%) per annum on the balance due. The balance due may be made in a single lump sum or in installments as

provided in OAC 715:10-5-4. However, the total balance must be paid prior to the effective date of retirement and cannot be purchased by any person after the death of the member.

[Source: Amended at 9 Ok Reg 3879, eff 7-12-93; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)¹; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00; Amended at 18 Ok Reg 50, eff 10-3-00 (emergency); Amended at 18 Ok Reg 3152, eff 7-12-01]

715:10-13-4.1. Maximum compensation level election for the 1995-96 school year

(a) A member employed by an entity or institution within the Oklahoma State System of Higher Education between July 1, 1995, and June 30, 1996, was eligible to elect before January 1, 1997, to make an additional contribution on regular annual compensation in excess of his or her maximum compensation level for the 1995-96 school year.

(b) The member must have made the election in writing on a form prescribed by the Board of Trustees, and the form must have been filed with the Teachers' Retirement System on or before December 31, 1996.

(c) Members electing to pay on regular annual compensation in excess of the maximum compensation level for the 1995-96 school year must pay the difference between the member's regular annual compensation up to the member's maximum compensation level for the 1996-97 school year.

(d) The 1995-96 maximum compensation level for members employed by a comprehensive university was \$32,500, for those members electing to contribute on \$25,000 on or before June 30, 1995; \$49,000 for those members electing to contribute on regular annual compensation in excess of \$25,000 on or before June 30, 1995; and \$49,000 for those members who first joined the Teachers' Retirement System after June 30, 1996, or whose regular annual compensation did not exceed \$25,000 prior to June 30, 1995.

(e) The 1995-96 maximum compensation level for a member employed by an entity or institution within the Oklahoma State System of Higher Education other than a comprehensive university was his or her regular annual compensation.

(f) A member who made the election allowed by this rule must pay six percent (6%) of regular annual compensation up to his or her 1995-96 maximum compensation level, plus two and one-half percent (2.5%) of regular annual compensation up to his or her 1995-96 maximum compensation level as employer contributions, less the amount already paid by the member and his or her employer during the 1995-96 school

year; however, the employer may pay all or any part of the payment required of the member.

(g) The payment may be made any time prior to the date the member files the written application for retirement with TRS.

(h) The member shall be charged interest compounded annually at the rate of ten percent (10%) from the date such contributions would have been paid until the payment is made to TRS.

(i) The member shall not receive credit for the election until the balance of contributions plus interest is paid in full.

[Source: Added at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)¹; Added at 14 Ok Reg 3216, eff 7-25-97; Amended at 18 Ok Reg 50, eff 10-3-00 (emergency); Amended at 18 Ok Reg 3152, eff 7-12-01]

715:10-13-5. Compensation corrections

The statutes provide that any member whose regular annual compensation was not determined as provided by law may pay the contribution on such amount not included in the member's regular annual compensation and receive credit for such amount in the calculation of the member's benefit. The member must also pay any employer contributions due TRS which are not paid by the employer. The intent of this provision and the provisions outlined above is to enable members to receive credit for their total contract salary up to applicable limits. Therefore, members' retirement contributions should be based on the gross salary before fringe benefits are subtracted, not after. No adjustments can be made until the corrections are documented as outlined in OAC 715:10-5-6. Any loss incurred by the Retirement System as a result of the failure of a school to comply with existing statutes or TRS Rules shall be paid by the member or school to the Retirement Fund. Interest compounded annually at ten percent (10%) per annum shall be charged on all balances due Teachers' Retirement because of failure to remit the proper contribution.

[Source: Amended at 9 Ok Reg 3879, eff 7-12-93]

715:10-13-6. Employee contributions paid by the employer

Any school may, for and on behalf of any Teachers' Retirement System member, pay all or any portion of the membership contribution required by statutes.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-13-7. Matching funds

Statutes require employers of Teachers' Retirement System members whose compensation is paid from federal funds to match the contributions of these members on all compensation or that portion of compensation paid from these funds. Federal matching funds shall be transmitted at the same time and in the same manner as the members' contributions. Effective July 1, 2001, employers shall match on a pro rata basis the contributions of members whose salaries are paid by federal funds or externally sponsored agreements such as grants, contracts and cooperative agreements. Matching contributions shall be required on all salaries funded from revenues other than funds generated from local taxes or revenues originating from the State of Oklahoma. No later than April 1, 2001, and each April 1 thereafter, the Board of Trustees of the Teachers' Retirement System shall set the contribution rate to be paid by employers. The contribution rate shall be determined using cost principles established by federal regulations and shall be consistent with generally accepted accounting principles.

[Source: Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00; Amended at 18 Ok Reg 50, eff 10-3-00 (emergency); Amended at 18 Ok Reg 3152, eff 7-12-01]

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

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.

[Source: Amended at 9 Ok Reg 3879, eff 7-12-93; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency); Amended at 14 Ok Reg 3216, eff 7-25-97]

715:10-13-9. Monthly remittance report of contributions

A remittance report shall be prepared and filed with the Executive Secretary of the Teachers' Retirement System by the superintendent of schools or the financial secretary of a school, on the form supplied by the Teachers' Retirement System each month for each payroll period occurring during that month.

(1) School officials preparing the claims shall prepare an alphabetical list of all members comprising the report, the amount of contributions both taxed and non-taxed (paid by the employer on a before tax basis) for each employee and the total monthly compensation amount. The report must include a listing of the retired

members who are employed by the school and the amount of employer contributions remitted for each retired member. Monthly compensation shall be the total compensation (including benefits) for the pay period and shall not in any case be less than 1/12th of the maximum compensation option elected by the member. (This list shall be known as TRS Form 50.)

(2) TRS Form 32 Summary of Payroll Remittance along with warrants covering the total amount to be remitted shall accompany TRS Form 50. All employee contributions, employer contributions, retired member contributions and matching funds for the pay period shall be remitted at the same time.

(3) TRS Form 1-A Personal Data shall be required for each new member of the Teachers' Retirement System. This form must be mailed to TRS prior to or with the first remittance report containing the name of a new employee/member.

(4) Payments for prior school years may not be included on current year reports. These payments must be handled as a back payment including any interest which may be due. Contact Teachers' Retirement System for proper billing of these amounts.

(5) Special permission may be obtained to make a computerized report on magnetic media when it is to the advantage of both the remitting agency and the Teachers' Retirement System. Details of computerized reporting requirements are available from Teachers' Retirement. Prior approval by TRS is required before a school may utilize this option. (Note: Approval by the State Department of Education for an alternate accounting system does not guarantee acceptance for use in TRS reporting.)

(6) The employer of each member shall deposit within ten (10) days of the last day of each calendar month all employer and employee contributions of each member due the Retirement System for payroll periods ending during the calendar month. Employer and employee contribution amounts not paid to the Retirement System after thirty (30) days from the end of the payroll month shall be subject to a monthly late charge of one and one-half percent (1 1/2%) of the unpaid balance to be paid by the employer to the Retirement System.

(7) Reports for the summer months of June, July and August must be made on three individual TRS Form 32 reports; however, they can all be sent to TRS at the same time. Reports for July and August of the preceding school year must be prepared and filed as separate reports from reports filed for the new year beginning July 1.

Contributions due for one fiscal or school year shall not be commingled on the same remittance report with contributions for the next fiscal or school year.

(8) The executive secretary of TRS may, at any time, require additional items to be included on the monthly remittance report or require additional reports when in the executive secretary's judgment such information is necessary for the efficient operation of the System or to comply with state statutes.

(9) Receipts shall be issued by the Teachers' Retirement System to the remitting agency making the remittance.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)¹; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00; Amended at 20 Ok Reg 380, eff 10-16-02 (emergency); Amended at 20 Ok Reg 2596, eff 7-11-03]

715:10-13-10. Annual report of employment

At the close of each fiscal year, the payroll office of each employer shall file a report with Teachers' Retirement System that certifies the number of hours worked that year by each less-than-fulltime employee. The report shall also include the names and total number of hours worked by any employee receiving Teachers' Retirement System retirement benefits.

715:10-13-11. Percentage limits on compensation increases

Member's aggregate compensation for the last three creditable years of service before retirement may not exceed the credited compensation of the immediately preceding creditable year for service in the same or similar positions by more than 20%. When appropriate, Teachers' Retirement System may convert salary for part-time employment to its full-time equivalent in determining the permissible increases in annual compensation.

(1) Teachers' Retirement System will adjust a member's annual compensation at the time of retirement to comply with the limits of this rule and will refund excess deposits to the member after the effective date of retirement.

(2) Increases due to a change in employment responsibilities or adjustments in salary schedules for the employees of school district shall be excluded by TRS in determining if an employee exceeds the 20% level. TRS retains the right to require individuals and the employing school to provide documentation to satisfy questions that may arise from increases in compensation in excess of 20% for any school year.

715:10-13-12. Contracts bought up by employer

Teachers' Retirement System will not accept contributions on contract buyouts or grant creditable service, unless approved by the Board of Trustees resolution before the fact or when so ordered by a court of competent jurisdiction. Any payments for accumulated annual leave in excess of sixty (60) days or reimbursement for unused sick leave in excess of the daily amount paid to the teaching staff shall be considered a contract buy out.

715:10-13-13. Contributions while receiving payments from Workers' Compensation

Any member who is an active contributing member and receives temporary total disability benefits during the period of absence from a public school due to a work-related injury or illness and qualifies for payment pursuant to the Workers' Compensation Act shall receive credit for said period of absence subject to the following requirements:

- (1) the member was employed by the public school immediately prior to and during the period of absence,
- (2) the member must notify the System in writing not later than four (4) months after the member's return to his or her job duties with the public school, or termination of the temporary total disability benefits, whichever is earlier, of the member's desire to receive service credit for the period of absence,
- (3) the public school employer must certify to the System in writing the dates during which temporary total disability benefit payments were paid to the member, and
- (4) the member and the public school employer shall each pay the respective contributions required for the period of absence without interest within sixty (60) days of billing by the System, or with interest at a rate consistent with the actuarial assumed earnings rate adopted by the Board of Trustees (currently 8% per annum), compounded annually if paid after said sixty (60) days. Employee and employer contributions will be based on the member's regular annual compensation the member would have earned had the injury or illness not occurred.

[Source: Added at 15 Ok Reg 48, eff 9-4-97 (emergency); Added at 15 Ok Reg 3481, eff 7-15-98]

715:10-13-14. Termination credit for state agency employees who are members of the Teachers' Retirement System of Oklahoma

(a) An employee of a state agency or other governmental entity participating in the Teachers' Retirement System of Oklahoma, other than

an employee of an Oklahoma public school, who has completed at least ten (10) years of full-time equivalent employment for that employer, and who is terminated because his or her position is eliminated through a reduction-in-force after July 1, 1998, and who is within three (3) years of becoming eligible for retirement, may purchase up to three (3) years of service credit in the Teachers' Retirement System if:

- (1) the member, within six (6) months of his or her termination, files an election with the Teachers' Retirement System indicating an intent to purchase the termination credit;
 - (2) the Teachers' Retirement System is paid the full amount of both the employer and employee contributions that would have been paid to the System, based upon the maximum compensation level received by the member in the last full month he or she was employed by the state agency or governmental entity, multiplied by the number of months required for the member to qualify for retirement with an unreduced benefit had the member not been terminated; and
 - (3) full payment for the cost of the termination credit is made within sixty (60) days of filing the election to purchase the credit.
- (b) If the member fails to pay the full amount of the required contribution amounts to the System within 60 days of filing the election to purchase the termination credit, the termination credit shall be cancelled, and the Teachers' Retirement System shall return the purchase amount to the member, without interest.
- (c) The purchased termination credit may be used only as service credit to qualify the member for normal retirement.
- (d) If the member chooses to retire before his or her normal retirement date, or returns to employment with a participating employer before retirement, the member will not receive the termination credit, and the System will return to the member the purchase amount that has been paid, without interest.
- (e) If the member dies before retirement, his or her spouse, if eligible to receive benefits, may elect to receive the benefit at the time the member would have become eligible to retire, or receive a return of the purchase amount that has been paid, without interest.

[Source: Added at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Added at 16 Ok Reg 3567, eff 9-13-99; Amended at 19 Ok Reg 2729, eff 7-11-02]

Subchapter 15. Service Retirement

Section

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715:10-15-1. Eligibility for service retirement

Members are eligible for service retirement benefits when they have:

- (1) withdrawn from employment in the public education institutions of Oklahoma;

- (2) obtained a minimum of five (5) years of creditable service in the public schools of Oklahoma;
- (3) satisfied the age and service requirements of Title 70, Okla. Stat., Section 17-105, as defined in OAC 715:10-15-2; and,
- (4) made application as provided in OAC 715:10-15-3.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-15-2. Age, service requirements for regular retirement

A member is eligible for service retirement benefits when the following requirements of age and service are met. Any member who joins TRS after July 1, 1991, shall be required to have five (5) full years of membership as a contributing member of the System. For members who join after July 1, 1991, Oklahoma service purchased after membership will not be counted for “vesting” purposes.

(1) For any member who joined TRS prior to July 1, 1992, full retirement benefits will be paid to members who:

- (A) Have reached age 62, or
- (B) Whose age as of their last birthday and number of years of creditable service total 80.

(2) For any member who joined TRS after June 30, 1992, full retirement benefits shall be paid to the member who:

- (A) Has reached age 62, or
- (B) Whose age as of his or her last birthday and number of years of creditable service total 90.

(3) Reduced retirement benefits will be paid to members who:

(A) Are between ages 55 to 61 and have at least five (5) years of Oklahoma creditable service, but do not have 80 or 90 “points”; the reductions shall be as shown below:

- (1) 55–61.89%
- (2) 56–65.95%
- (3) 57–70.38%
- (4) 58–75.23%
- (5) 59–80.00%
- (6) 60–86.66%
- (7) 61–93.33%
- (8) 62–100.00%

(B) Have thirty (30) or more years of creditable service, regardless of age, but do not have 80 or 90 “points.” (TRS will provide reduction percentages upon request to any member

desiring reduced benefit calculations who is under age 50 with 30 years of service.)

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 22 Ok Reg 2255, eff 6-25-05]

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.

- (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 before 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) The member shall request a final contract for retirement by completing and returning TRS Form 40 (Retirement Allowance Estimate). This form should be returned to TRS approximately sixty (60) to ninety (90) days prior to the expected retirement date. The member shall select the retirement option on TRS Form 40.
- (5) 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, nor more than ninety (90) 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 check will be mailed on the last day of the month retirement begins.
- (6) For example, a retirement contract must be on file by May 1, for a retirement date of June 1, in order for the first check to be mailed the last working day of June.

715:10-15-4. Effective date of retirement contract

The effective date of retirement shall be the date specified on the Final Contract for Retirement completed and signed by the member. The effective date of retirement can be the first of any month specified by the member, except the effective retirement date cannot be earlier than the following:

- (1) The last day on which service is rendered shall be accepted as the last day of employment, when so certified by the employer. This is not necessarily the last day for which the member receives pay.

- (2) If employment terminates on or before the tenth (10th) day of the month, the retirement date can be that same month.
- (3) If a member's employment terminates after the tenth (10th) day of the month, the retirement date can be the first day of the following month.

715:10-15-5. Date of retirement contract is binding; revocation of contract

The final contract for retirement becomes binding on the effective date shown on the contract and shall be known as the date of retirement. The contract may be revoked by the member, or the retirement plan changed, before the date of retirement. Any change or revocation must be in writing, delivered to the Teachers' Retirement System, Oklahoma City, Oklahoma, or postmarked by the United States Postal Service prior to the effective date of retirement. After the retirement date, the contract cannot be canceled, nor the retirement plan changed. If the member elected the Option 2 or Option 3 retirement contract and the member's designated beneficiary dies before the retirement date, the member may select another retirement plan without penalty. If a Maximum or Option 1 retiree should die during the month following the date of retirement and before the first retirement benefit is due, any distribution to beneficiaries designated on the member's retirement contract shall be paid pursuant to OAC 715:10-9-1 and 715:10-9-2.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-15-6. Verification of date of birth

A member, filing for retirement benefits, must provide proof of date of birth. Proof of the birth date of the designated beneficiary is also required when the member selects either Retirement Option 2 or Option 3. Although a birth certificate is the best evidence of correct age, one is not always obtainable. In such cases, the Board of Trustees has ruled that any of the documents listed below also shall be acceptable:

- (1) United States Census record.
- (2) Military record.
- (3) Naturalization record.
- (4) Passport (must be at least five years old).

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99]

715:10-15-7. Standard retirement formula

The standard retirement formula used to determine the maximum monthly retirement benefit is Final Average Salary, times two percent (2%), times Years of Creditable Service, divided by 12. For purposes of this section:

(1) Final average salary for members who joined TRS prior to July 1, 1992, is the average of the three (3) highest years on which contributions were made. Final average salary for members who joined TRS after June 30, 1992, is the average of the five (5) highest consecutive years on which contributions were made.

(2) If the final average salary is under \$40,000, it will apply to all creditable service years. If the final average salary exceeds \$40,000, the member will have a two tier retirement calculation. All years prior to July 1, 1995, will be calculated at \$40,000 and all years after July 1, 1995, will be on actual final average salary, except for members employed by an entity or institution within the Oklahoma State System of Higher Education as of June 30, 1995, as provided in OAC 715:10-15-7.1.

(3) Salary for any school year shall not exceed the statutory maximum limit for contributions for that particular school year.

(4) A member who elected to contribute only on compensation up to \$25,000 shall have the average salary limited to no more than \$25,000 for years of service performed prior to July 1, 1995 (see OAC 715:10-13-4).

(5) A member who elected to contribute on compensation up to \$40,000, but has not paid all contributions and any applicable interest for any year after June 30, 1987, shall have the average salary limited to no more than \$25,000 for years of service performed prior to July 1, 1995.

(6) A member who elected to limit contributions on salary up to \$7,800 between 1974 and 1979, shall have all years of service prior to July 1, 1979, calculated on an average salary not to exceed \$7,800, unless the waiver is revoked in accordance with OAC 715:10-5-8. Years of service after July 1, 1979, shall be calculated using an average salary determined in the same manner as all other members.

(7) The years used in determining average salary must be Oklahoma service credits and shall not exceed the actual compensation received during the school or fiscal year when such service was performed.

(8) Creditable service shall be the total years of creditable service, including Oklahoma, military, out-of-state or other years provided by Board rules and statutes.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 13 Ok Reg 3523, eff 8-26-96]

715:10-15-7.1. Retirement formula for members employed by a comprehensive university

- (a) For a member employed on or after July 1, 1995, two percent (2%) multiplied by the member's final average salary on which contributions were made times the years of creditable service performed on or after July 1, 1995.
- (b) For a member employed on or before July 1, 1995, as follows:
- (1) For service prior to July 1, 1995, in the same manner as described in OAC 715:10-15-7; plus
 - (2) Two percent (2%) multiplied by the average of the member's maximum compensation level for those years between July 1, 1995 and June 30, 2007, in which the member's regular annual compensation meets the maximum compensation level in effect for the member, times the years of creditable service earned during this period in which the member's regular annual compensation meets the maximum compensation level in effect for the member; plus
 - (3) Two percent (2%) of the member's final average salary multiplied by the years of creditable service earned for those years between July 1, 1995 and June 30, 2007, that did not meet the member's maximum compensation level in effect for this period, plus
 - (4) Two percent (2%) of the member's final average salary multiplied by the years of creditable service earned by the member for service performed after June 30, 2007; plus
 - (5) Two percent (2%) of the member's final average salary upon which contributions were made, multiplied by the member's years of creditable service performed for an employer other than an entity or institution within The Oklahoma State System of Higher Education on or after July 1, 1995.
- (c) The member's maximum compensation level for the years between July 1, 1995 and June 30, 2007, shall be determined by the contribution election made by the member prior to July 1, 1995.
- (d) The term "average of the member's maximum compensation level" means an average of the annual salary on which contributions were made for the years between July 1, 1995 and June 30, 2007.

(e) In the event there is an insufficient number of years for the time period between July 1, 1995 and June 30, 2007, to reach the high three (3) or high five (5) consecutive years as defined in 70 O.S. § 17-101, the member's maximum compensation level shall be determined by an average of the salary on which contributions were made. In no case shall the member's average maximum compensation level exceed the average salary that would be calculated for any other TRS member for the same period of service with the same contribution level.

[Source: Amended at 13 Ok Reg 3899, eff 8-5-96 (emergency); Added at 13 Ok Reg 3523, eff 8-26-96; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00; Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-15-7.2. Retirement formula for members retiring under provisions of the Education Employees Service Incentive Plan (“EESIP”)

a. Legislation enacted during the Special Session of the 2006 Legislature modified the standard retirement formula for TRS members employed by remitting entities other than comprehensive and regional four-year universities. A member must have been employed by a participating remitting entity for at least one full school year (twelve months) immediately prior to termination of employment or retirement to qualify for this section.

b. A TRS member who was employed prior to July 1, 1995, may have service credits performed prior to July 1, 1995, calculated in the member's retirement formula used for service performed after July 1, 1995, when the member's average salary at retirement is greater than \$40,000, and the member works beyond the year in which he or she reaches normal retirement age. (The terms “average salary” and “normal retirement age” are defined in 70 O. S. § 17-101.)

c. A retiring member who works one year beyond the school year in which he or she reaches normal retirement age may move two (2) years of service performed prior to July 1, 1995, to the retirement formula used to calculate service performed after July 1, 1995. For each additional year the member works beyond normal retirement age, he or she may move two (2) additional years of service credit performed prior to July 1, 1995.

d. For members who retire on or after July 1, 2006, and before June 30, 2007, the maximum average salary that can be used to calculate the benefit for service credits that qualify to be moved under this section is \$60,000. During this one-year period, a member whose average salary at retirement is greater than \$60,000 shall have benefits calculated in three steps: 2% x \$40,000 for service performed prior to July 1, 1995, that does

not qualify as moved service; 2% x \$60,000 for service performed prior to July 1, 1995, that qualifies as moved service; and 2% x the member's average salary for service performed on or after July 1, 1995. (Note: The retirement date for each retiring member is always the first day of the month. [See OAC 715:10-15-4.])

e. For members who retire on or after July 1, 2007, and before June 30, 2008, the maximum average salary that can be used to calculate the benefit for service credits that qualify to be moved under this section is \$80,000. During this one-year period, a member whose average salary at retirement is greater than \$80,000 shall have benefits calculated in three steps: 2% x \$40,000 for service performed prior to July 1, 1995, that does not qualify as moved service; 2% x \$80,000 for service performed prior to July 1, 1995, that qualifies as moved service; and 2% x the member's average salary for service performed on or after July 1, 1995. (Note: The retirement date for each retiring member is always the first day of the month. [See OAC 715:10-15-4.])

f. For members who retire on or after July 1, 2008, the average salary used to calculate the benefit for service credits that qualify to be moved under this section is the member's average salary at retirement. The member's retirement benefit will be calculated as follows: 2% x \$40,000 for service performed prior to July 1, 1995, that does not qualify as moved service; and 2% x the member's average salary for service performed prior to July 1, 1995, that qualifies as moved service and for service performed on or after July 1, 1995. (Note: The retirement date for each retiring member is always the first day of the month. [See OAC 715:10-15-4.])

g. A member whose Regular Annual Compensation was greater than \$40,000 during the school years 1987-88 through 1994-95 must make an additional contribution to qualify for movement of service provided for in this section. [See OAC 715:10-5-4.1. Payment of contribution deficit for Education Employees Service Incentive Plan]

h. A member reaches Normal Retirement Age during the school year he or she reaches age 62, or when the member's age and total service equal 80 or more for those members whose official TRS membership date is prior to July 1, 1992, and when the member's age and total service equal 90 or more for those members whose official TRS membership date is on or after July 1, 1992.

i. For this section, credit a member may receive for having 120 or more days of unused sick leave at retirement will be used in determining the school year in which a member reaches Normal Retirement Age.

j. For this section, a member who reaches Normal Retirement Age by the tenth of July of any school year will be considered to have reached

Normal Retirement Age at the beginning of that school year. A member who reaches Normal Retirement Age after the tenth of July of any school year will be considered to have reached Normal Retirement Age at the beginning of the next school year in which the member is employed.

k. To qualify for a year of service beyond Normal Retirement Age, OAC 715:10-3-2 and OAC 715:10-3-3 will be used to determine credited service. However, a fractional year of service performed after reaching Normal Retirement Age cannot be combined with a fractional year of service performed prior to reaching Normal Retirement Age to qualify for a year of service credit under this section.

l. The provisions of subsections e and f of this section become effective only if additional employer contributions are funded as required by Enrolled House Bill 1179xx.

[Source: Added at 24 Ok Reg 220, eff 10-31-06 (emergency); Amended at 24 Ok Reg 1692, eff 6-11-07]

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

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 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.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)]; Amended at 16 Ok Reg 3567, eff 9-13-99]

715:10-15-9. Minimum service retirement benefits

Minimum service retirement benefits are payable as follows:

- (1) If a classified employee's average salary is less than \$6,500, the retirement allowance shall be \$10.83 per month for each year of service.
- (2) If a nonclassified employee's average salary is less than \$5,350, the retirement allowance shall be \$8.91 per month for each year of service.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93]

715:10-15-10. Retirement plans

A member may elect to receive a monthly life annuity under one of the following plans:

(1) The Maximum Retirement Plan provides the greatest monthly lifetime benefit that each individual member's years of creditable service and average salary permit. The maximum retirement plan is the monthly entitlement calculated using the standard retirement formula set by statutes. In the event the total retirement payments made prior to the death of a retired member are less than the member's accumulated contributions (with any interest credited to the account prior to July 1, 1968), the difference shall be paid to the member's designated beneficiary or to the member's estate if no designated beneficiary survives the member.

(2) Retirement Option 1 provides a slightly reduced lifetime benefit. The monthly entitlement is the difference between the annuity portion of the maximum retirement plan and the annuity portion of an Option 1 retirement plan subtracted from the Maximum retirement plan. If the retired member dies before receiving in the annuity portion of the monthly payments an amount equal to the member's deposits (with any interest credited to the account prior to July 1, 1968), the remaining balance shall be paid in a lump sum to the member's designated beneficiary or to the member's estate if no beneficiary survives the member. (The member's deposits are "protected" for the member's beneficiary for a longer period of time than under the maximum retirement plan, hence, the monthly benefit is less than the Maximum benefit.)

(3) Retirement Option 2 provides a reduced monthly benefit payable to the member for life. At the death of the retired member, the same monthly benefit payable to the member, shall continue to the member's beneficiary, if living. This option is known as a "100% joint survivor annuity." The reduction in the monthly benefit is based on actuarial tables developed for this purpose and approved by the Board of Trustees. The ages of the member and beneficiary are an important factor in computing this benefit. The beneficiary for the Option 2 retirement plan may be the member's spouse or another person. 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. The adjusted member/beneficiary age difference is determined by first calculating the excess of the age of the member over the age of the beneficiary based on their ages on the date of retirement. If the member is younger than

age 70, the age difference determined in the previous sentence is reduced by the number of years that the member is younger than age 70 based on the member's age on the date of retirement. If the adjusted member/beneficiary age difference is greater than ten (10) years, the Option 2 retirement plan is not available. In the event the member's beneficiary dies at any time after the member's retirement date but before the death of the member, the member shall return to the retirement benefit, including any post-retirement benefit increases the member would have received, had the member not selected the Option 2 retirement plan. The beneficiary designation cannot be changed under any circumstance after the date of retirement. The reduction in the monthly payment is much greater than under all other retirement options because two people are protected for the life of both individuals.

(4) Retirement Option 3 provides a reduced monthly benefit payable to the member for life. At the death of the retired member, one-half (or 50%) of the monthly benefit payable to the member, shall continue to the member's beneficiary, if living. This option is known as a "50% joint survivor annuity." The reduction in the monthly benefit is based on actuarial tables developed for this purpose and approved by the Board of Trustees. The age of the beneficiary is an important factor in computing this benefit. The beneficiary for the Option 3 retirement plan may be any person. In the event the member's beneficiary dies at any time after the member's retirement date but before the death of the member, the member shall return to the retirement benefit, including any post-retirement benefit increases, the member would have received had the member not selected the Option 3 retirement plan. The beneficiary cannot be changed under any circumstance after the date of retirement. The reduction in the monthly payment, while not as great as in the Option 2 plan, still requires a substantial reduction because two people are protected for the life of both individuals.

(5) Retirement Option 4 provides a reduced monthly benefit payable to the member for life. In the event the retired member dies within one hundred twenty (120) continuous months from the date of retirement, the balance of the payments is continued to the designated beneficiary until a total of one hundred twenty (120) months have been completed. The actual reduction is based on actuarial tables developed for this purpose and approved by the Board of Trustees. The beneficiary must be designated at the time of retirement. The Option 4 retirement plan is not available for a member

whose retirement date is on or after the member reaches age 93. However, if the designated beneficiary is the member's spouse, the Option 4 retirement plan may be selected if the 120-month period does not extend beyond the joint life and last survivor expectancy of the member and the member's spouse. If the beneficiary dies before the total number of "guaranteed" months have been completed, the remaining payments shall be computed at the rate of interest used in determining the original guarantee. The funds remaining shall be paid to the administrators, executors or assigns of the last surviving payee.

[Source: Amended at 12 Ok Reg 295, eff 10-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)²; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)³; Amended at 16 Ok Reg 3567, eff 9-13-99; Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-15-10.1. "Pop-up" of Option 2 or Option 3 Retirement Plans

If the designated beneficiary under the Option 2 or 3 retirement plan dies at any time after the member's retirement date, but before the death of the member, the member shall return to the retirement benefit, including any post-retirement benefit increases the member would have received had the member not selected the Option 2 or 3 retirement plan. In such an event, the member's monthly retirement benefit and any amount due at the death of the member shall be calculated as if the member had selected the Maximum retirement allowance. The increase in the member's monthly benefit becomes effective the first day of the month following the date of death of the designated beneficiary or July 1, 1994, whichever is later, and shall be payable for the member's remaining lifetime. The member shall notify the Teachers' Retirement System of the death of the designated beneficiary in writing and provide a certified copy of the beneficiary's death certificate. In the absence of timely notice, Teachers' Retirement shall make retroactive benefit payments to the member, not to exceed six (6) months from the time the member first became eligible for increased benefits to the date notification is received. Notwithstanding any other provision, increased benefits will not be due for any period prior to July 1, 1994.

[Source: Added at 12 Ok Reg 295, eff 10-14-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3285, eff 7-27-95]

715:10-15-10.2. Partial lump-sum payments

Any member of the Teachers' Retirement System with 30 or more years of service credit may elect to receive a partial lump-sum payment in

exchange for a reduced annuity. The application for a partial lump-sum payment will be added to the retiring member's final contract for retirement on a form prescribed by the Board of Trustees. A beneficiary of a deceased active member is not eligible to select a partial lump-sum payment.

(1) A member may elect to receive a partial lump-sum payment in an amount equal to the unreduced retirement benefit (Maximum Retirement Allowance) which would have been paid over a period of 12, 24 or 36 months, had the lump-sum option not been selected. Once the payout amount is selected, a reduced Maximum Retirement Allowance is then calculated using factors based upon the member's age at retirement and the payout option (12, 24, or 36 months) selected. This reduced Maximum Retirement Allowance then serves as the basis upon which other optional payment alternatives will be calculated pursuant to 70 O.S. §17-105 and OAC 715:10-15-10.

(2) The partial lump-sum payment shall be paid in a single check separate from the regular monthly retirement benefit within thirty (30) days of the retiring member's first monthly benefit payment. The partial lump-sum payment cannot be returned to the Retirement System once it has been received by the member.

(3) The partial lump-sum payment shall be subject to federal income tax in accordance with Internal Revenue Code or applicable Internal Revenue Service regulations. In accordance with IRS regulations, the member may elect to roll over the partial lump-sum payment into an eligible individual retirement account (IRA) or other eligible retirement plan, including the Oklahoma Teachers' Retirement System's 403b Tax Sheltered Annuity Plan.

(4) The total amount of the partial lump-sum payment shall be deducted from the member's account balance consisting of the employee contributions plus interest posted to the member's account prior to July 1, 1968, for the purpose of determining unused contributions remaining in the account.

(5) The partial lump-sum payment will be based on the service credit and average compensation, including projected compensation, at the time of retirement, but may be issued before final compensation and contributions are received and posted to the member's account. TRS reserves the right to correct any overpayment or underpayment discovered after final compensation and contribution postings have been received. Should the member have been overpaid, TRS will collect such overpayment from the member, based on an actuarial adjustment to the member's monthly benefit. Should the member

have been underpaid, TRS will actuarially adjust future monthly benefit payments to compensate the member for the amount of the underpayment.

(6) A retiree, having received a partial lump-sum payment, who is reemployed 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.

(7) Should the retiring member die after the effective date of retirement, but before the partial lump-sum payment is made, the payment will be made to the beneficiary(ies) designated by the retiring member on the final contract for retirement, unless the member filed a separate beneficiary form specifically designating a third party as the beneficiary of the partial lump-sum payment.

(8) If the retiring member is married at the time of retirement, the member's spouse must sign the member's partial lump-sum application form acknowledging the retiring member's intent to receive a partial lump sum payment.

[Source: Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)¹; Amended at 21 Ok Reg 3099, eff 8-12-04]

715:10-15-10.3. Partial Lump-sum Option Factors

The following factors have been developed by consulting actuaries and adopted by the Board of Trustees to be used in the calculation of the partial lump-sum payment selected by a member of the Teachers' Retirement System. The Board of Trustees may adopt new tables at any time upon recommendation of the consulting actuaries, when in the opinion of the Board the experience of the System may justify the need for such change. Adoption of new tables will be prospective and shall not affect any partial lump-sum payment selected and paid prior to the adoption of new factors.

Age	Factor for 12x PLSO	Factor for 24x PLSO	Factor for 36x PLSO
(1)	(2)	(3)	(4)
45	91.59%	83.18%	74.77%
46	91.54%	83.08%	74.63%
47	91.49%	82.98%	74.47%
48	91.43%	82.86%	74.30%
49	91.37%	82.74%	74.11%
50	91.31%	82.61%	73.92%
51	91.24%	82.48%	73.71%

52	91.16%	82.33%	73.49%
53	91.08%	82.17%	73.25%
54	91.00%	82.00%	73.00%
55	90.91%	81.82%	72.73%
56	90.81%	81.62%	72.43%
57	90.71%	81.41%	72.12%
58	90.59%	81.19%	71.78%
59	90.47%	80.94%	71.41%
60	90.34%	80.68%	71.02%
61	90.20%	80.39%	70.59%
62	90.04%	80.08%	70.12%
63	89.87%	79.75%	69.62%
64	89.69%	79.39%	69.08%
65	89.50%	78.99%	68.49%
66	89.29%	78.57%	67.86%
67	89.06%	78.11%	67.17%
68	88.81%	77.62%	66.43%
69	88.54%	77.08%	65.62%
70	88.25%	76.51%	64.76%
71	87.94%	75.89%	63.83%
72	87.61%	75.22%	62.83%
73	87.25%	74.50%	61.75%
74	86.86%	73.72%	60.58%
75	86.44%	72.89%	59.33%
76	86.00%	71.99%	57.99%
77	85.51%	71.02%	56.54%
78	84.99%	69.99%	54.98%
79	84.44%	68.88%	53.32%
80	83.85%	67.69%	51.54%
81	83.21%	66.43%	49.64%
82	82.54%	65.08%	47.62%
83	81.82%	63.64%	45.46%
84	81.05%	62.10%	43.15%

[Source: Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)¹;
Amended at 21 Ok Reg 3099, eff 8-12-04]

715:10-15-11. Designation of beneficiaries for retirement options

A designation of beneficiary must be made when the retirement contract is completed. A member who selects the Maximum or Option 1 retirement plan may name more than one beneficiary. Beneficiaries named for the Maximum and Option 1 retirement plan may be changed by the member at any time. A member desiring to change or update a beneficiary designation should request TRS Form 90. The beneficiary for the Option 2 or Option 3 retirement plan cannot be changed even if the beneficiary dies before the member, providing, however, the retired member may designate an alternate beneficiary to receive the \$5,000 death benefit, when the spouse predeceases the member. The member who elects the Option 4 retirement plan must name a beneficiary, who can be any living person. The beneficiary does not have to be a spouse or dependent.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99]

715:10-15-12. Spousal consent

When selecting a retirement option, a TRS Acknowledgment of Spousal Consent Form shall be completed. If the member is married at the time of retirement, the retiring member's spouse must complete Part A, acknowledging 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 at the time of retirement, the member must complete Part B, certifying that he or she is unmarried or that at the time of retirement the whereabouts of the spouse is unknown and cannot be located. The Spousal Consent form is an integral part of the application for retirement and must be filed with the retirement contract before the member's retirement becomes effective.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; 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]

715:10-15-13. Survivor benefits when death occurs after retirement

Upon the death of a retired member who contributed to the Retirement System, TRS shall pay a \$5,000 death benefit to the retiree's designated beneficiary. If there is no beneficiary the retiree's estate shall receive the death benefit. The benefit is paid in addition to any payment provided for by the retirement option elected by the member at the time of retirement. (Note: The \$5,000 death benefit does not apply to persons receiving payments under the "Special \$150 Per Month Plan"). In the event the total retirement payments made to a retired member and the retired member's joint annuitant, if any, are less than the member's accumulated contributions

as credited at the time of retirement, the difference shall be paid to the member's designated beneficiary, or if no designated beneficiary survives, to the member's estate or to the member's nearest surviving next of kin as determined by Oklahoma statutes.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99]

715:10-15-14. Actuarial tables

Actuarial tables, developed by consulting actuaries, have been adopted by the Board of Trustees and will be used for computation of benefits. Factors for ages or types of annuities, which are not included in the tables, will be computed from the same data by the same general formulas. The Board of Trustees may adopt new tables at anytime upon recommendation of the consulting actuaries, when in the opinion of the Board the experience of the System may justify the need for such change. New tables shall be published by the Board with an effective date.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Amended at 11 Ok Reg 4251, eff 7-25-94; Amended at 12 Ok Reg 295, eff 10-14-94 through 7-14-95 (emergency)²; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)³; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 18 Ok Reg 50, eff 10-3-00 (emergency); Amended at 18 Ok Reg 3152, eff 7-12-01; Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)⁴; Amended at 21 Ok Reg 3099, eff 8-12-04]

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

(a) Any member who is actively employed in the public schools of Oklahoma and is regularly contributing to the Teachers' Retirement System 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 Teachers' Retirement System, 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 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.

(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.

(d) The Teachers' Retirement System must receive the complete application for disability retirement by the first day of the month for the Board of Trustees to consider the application at its next regularly scheduled meeting.

(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 Board of Trustees, 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 Retirement 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 the Teachers' Retirement System, as provided in OAC 715:10-15-10.1.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Amended at 11 Ok Reg 4251, eff 7-25-94; Amended at 12 Ok Reg 295, eff 10-14-94 through 7-14-95 (emergency)²; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)³; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 18 Ok Reg 50, eff 10-3-00 (emergency); Amended at 18 Ok Reg 3152, eff 7-12-01; Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)⁴; Amended at 21 Ok Reg 3099, eff 8-12-04]

715:10-15-16. Review by Medical Board

Upon receipt of the application for disability retirement, the Medical Board of the Teachers' Retirement System will review the application at its next monthly meeting. The Medical Board may recommend to the

Board of Trustees a member for permanent disability retirement or for a temporary disability retirement when in its opinion the prognosis of the disability is of a temporary nature. Temporary disability retirement benefits may be provided for six (6) to twelve (12) months, subject to re-examination by the Medical Board at the end of the prescribed period. The member will be notified in writing of the recommendation of the Medical Board. If disability benefits are not recommended by the Medical Board, the reason will be provided to the member. The member may then submit additional medical evidence for further review or request an administrative hearing pursuant to the Administrative Procedures Act, 75 O.S. Section 250 et seq., and OAC 715:1-1-10 within sixty (60) days of notification of the Medical Board's adverse recommendation.

[Source: Amended at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Amended at 11 Ok Reg 4251, eff 7-25-94; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-15-17. Additional medical evidence can be required

If, in the opinion of the Medical Board, additional information is necessary, the member will be required to submit to an examination by another physician designated by the Medical Board. TRS will appoint a physician at its cost and generally from the applicant's area of residence, to perform such an examination. Personal expenses, including travel by the member, cannot be paid by TRS. The Medical Board retains the right of final determination of the consulting physician designated to conduct any additional examination. Failure to report for an examination, without prior arrangement with TRS for an extension, shall be deemed cause for rejection of disability retirement, or immediate termination of disability benefits when a member is receiving temporary disability benefits. If the Medical Board disagrees with the opinion of the consulting physician designated by the Medical Board, the Medical Board must specifically state its opinions and conclusions in its recommendation of denial.

[Source: Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)¹; Amended at 14 Ok Reg 3216, eff 7-25-97]

715:10-15-18. Discontinuance of disability retirement

The Medical Board may require any member who has been retired under a disability, and who has not reached age sixty (60), to undergo a medical examination. Refusal to submit to the examination results in discontinuance of disability retirement benefits until such examination is completed. If the medical report from such examination leads to a recommendation by the Medical Board that a member's disability benefits should be terminated, that information will be provided to the member and

the member will be advised of the right to appeal the recommendation. Disability benefits will continue to the member while the appeal process is before the Board of Trustees. Any member under age 62 receiving disability retirement benefits who returns to employment in any school or to a position similar to the position held when disability benefits were approved shall immediately be subject to discontinuance of benefits.

[Source: Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)¹; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 20 Ok Reg 2596, eff 7-11-03]

715:10-15-19. Disability retirement payments

The first monthly payment shall be due on the first day of the month that follows the effective date of the disability retirement.

(1) The disability retirement allowance shall be in lieu of any other TRS retirement benefit for which the member might otherwise qualify.

(2) The benefit payment for the month in which the retired member died, if not previously paid, shall be made to the member's beneficiary, or, if the member has no beneficiary, to the member's estate. The amount of the benefit payment for the month in which the member died shall be equal to the full monthly benefit payment, regardless of the day of the month on which the retired member died.

(3) Members who qualify for disability retirement shall have their total monthly benefit payments deducted from their accumulated contributions. Any monies remaining in the member's retirement account at death shall be paid to the beneficiary or the estate in a lump sum.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; Amended at 16 Ok Reg 3567, eff 9-13-99]

715:10-15-20. Conversion of disability retirement to retirement option 2

If a deceased disabled retiree had thirty (30) years or more of creditable service, and death occurred after June 30, 1981, but prior to the retiree receiving twelve (12) monthly retirement payments, the surviving spouse may elect to receive an life annuity under the provisions of Retirement Option 2 as the death benefit. Such a benefit shall be based upon the retirement the deceased member would have been entitled to at the time of death under Retirement Option 2. The Retirement Option 2 death benefit shall be in lieu of all other benefits to which a surviving spouse or other beneficiary might otherwise be entitled to receive.

715:10-15-21. Return to employment by a disabled retiree

A disabled retiree who returns to Oklahoma public school employment at an annual salary equal to or greater than the annual salary received at the time of disability shall again become a 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 with TRS. 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 715:10-17-5).

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

All persons under 62 years of age who are retired on a TRS disability must file by April 15 of each year a report of earnings received from gainful employment for the previous calendar year on a form provided by TRS. Failure to submit a timely report may result in a requirement for a medical re-examination or suspension of benefits until the report is filed. If it is determined that the person is receiving excessive earnings or is employed in a position requiring duties similar to those required in the position held before having been granted disability benefits, a medical re-examination may be required to determine if the person is still qualified for disability retirement. [Source: Amended at 19 Ok Reg 2729, eff 7-11-02; Amended at 20 Ok Reg 2596, eff 7-11-03]

715:10-15-23. Special \$150 per month plan; application; effective date

(a) A former teacher, who taught a minimum of ten (10) years in the public schools of Oklahoma prior to July 1, 1943 shall receive a monthly pension of One Hundred Fifty Dollars (\$150.00). A teacher who taught in the public schools of Oklahoma one (1) year prior to 1934 and thereafter taught a minimum of ten (10) years, or who taught a minimum of thirty (30) years in the public schools of Oklahoma and reached the age of seventy (70) years of age prior to July 1, 1984, shall be eligible for a monthly pension of One Hundred Fifty Dollars (\$150.00). The former teacher must not be otherwise eligible to receive any benefit from TRS to be eligible for this monthly pension.

(b) Anyone who qualifies may apply for the \$150 per month pension by providing verification of the service performed by the member and completing a final contract for retirement. The necessary verification may be obtained from the Teacher Personnel Section, State Department of

Education, records from the schools, the county superintendents or the county treasurers where the school districts are located. The applicant's signature on the final contract must be notarized.

(c) The effective date of retirement shall be the first of the month after all required documentation is received in the Teachers' Retirement office, Oklahoma City, Oklahoma. No payments shall be made retroactive.

715:10-15-24. Due-date of retirement benefit payments

(a) Monthly benefit payments are due the first day of each month to all eligible retirees. Payments are deposited in the United States Postal Service, or paid to a designated agent providing electronic fund transfers, on the last day of each month. The benefit payment for the month in which the retired member died, if not previously paid, shall be made to the member's beneficiary, or, if the member has no beneficiary, to the member's estate. The amount of the benefit payment for the month in which the member died shall be equal to the full monthly benefit payment, regardless of the day of the month on which the retired member died. TRS cannot be responsible for payments lost in the mail, except that duplicate payments will be processed after fifteen (15) days.

(b) Effective January 1, 2000, newly retired members shall be required to receive monthly benefit payments via electronic fund transfers to a banking or financial institution designated. The retiree and receiving institution must complete the form prescribed for this purpose by the Teachers' Retirement System. In the event the electronic fund transfer creates an undue hardship on the retiree, the executive secretary of the Teachers' Retirement System may waive this requirement when it is determined to be in the best interest of the member and the Retirement System.

[Source: Amended at 16 Ok Reg 743, eff 10-5-98 through 7-14-99 (emergency)¹; 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]

715:10-15-25. Changes and corrections to retirement benefit payments

Members should promptly notify TRS of any change that affects their monthly retirement payment. Changes in address, dependents status for insurance coverage or deductions for state and federal income taxes will be processed and reflected in the next month's payment, if received by TRS on or before the fifteenth (15th) of the month. Changes received after the 15th will not be processed until the following month.

715:10-15-26. Code Section 415 limits as applied to TRS

Notwithstanding any other provision of the administrative code, benefits paid from the retirement system shall not exceed the maximum benefits permissible under Internal Revenue Code Section 415. Solely for purposes of calculating and complying with the limitations under Internal Revenue Code Section 415, a member's compensation for a year shall be the member's taxable income as reported by the member's employer on the Form W-2 that is filed with the Internal Revenue Service for the year in question.

[Source: Added at 11 Ok Reg 4785, eff 9-12-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3285, eff 7-27-95]

715:10-15-27. Code Section 401(a)(17) limits as applied to TRS

Notwithstanding any other provision of the administrative code, benefit calculations from the retirement system shall not take into account compensation in excess of the amount prescribed by Section 401(a)(17) of the Internal Revenue Code. However, this limit shall not apply to any eligible participant (any member who joined the system prior to July 1, 1996).

[Source: Added at 12 Ok Reg 3666, eff 9-8-95 through 7-14-96 (emergency)¹; Added at 13 Ok Reg 3523, eff 8-26-96]

Subchapter 17. Post-Retirement Employment

Section

- 715:10-17-1. Definitions
- 715:10-17-2. Break between employment and retirement
- 715:10-17-3. Fulltime employment after retirement [REVOKED]
- 715:10-17-4. Fulltime employment with no effect on benefits [REVOKED]
- 715:10-17-5. Permissible employment
- 715:10-17-6. Earnings limits
- 715:10-17-7. Employment by a disabled retiree
- 715:10-17-8. Repayment of benefits
- 715:10-17-9. Annual W-2P tax statements
- 715:10-17-10. Effective date of OAC 715:10-17-1 through 715:10-17-9
- 715:10-17-11. Special waiver for retirees past age 70
- 715:10-17-12. Earnings report by remitting agencies
- 715:10-17-13. Election to return to qualifying employment

715:10-17-1. Definitions

The following words or terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

“Public school” means all schools, colleges, universities, state agencies, boards, commissions or other state educational entities conducted within the state supported wholly or partly by public funds and operating for any function of public education. All employment by any state agency, which would cause or allow the member to be enrolled in TRS as an active employee will constitute employment by a public school for the purposes of this section. Members receiving service retirement benefits may be employed in private schools, public schools in other states, and in private business without affecting their benefits.

“Retired Member” shall be inclusive of any person, who is receiving monthly benefits from the Teachers’ Retirement System of Oklahoma, whether that person is an individual, incorporated entity, corporation, proprietorship, partnership, limited liability company or partnership, or any other business structure that contracts with a public school to perform duties ordinarily performed by classified or non-classified personnel.

“Retirement” means withdrawal from active service, with a retirement benefit in lieu thereof.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 19 Ok Reg 2729, eff 7-11-02; Amended at 20 Ok Reg 380, eff 10-16-02 (emergency); Amended at 20 Ok Reg 2596, eff 7-11-03]

715:10-17-2. Break between employment and retirement

A retired member is not eligible to be employed by the public schools of Oklahoma, in any capacity, for sixty (60) calendar days between the retiree's last day of pre-retirement public-education employment and any post-employment. (Note: The last day of pre-retirement employment means the last day the employee is required to be physically present on the job to complete the terms of the employment contract or agreement.) Employment under any condition during this time or payment at a later time for services performed during this time period will cause the forfeiture of all retirement benefits received during the period.

715:10-17-3. Fulltime employment after retirement (REVOKED)

715:10-17-4. Fulltime employment with no effect on benefits (REVOKED)

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 independent contractor or consultant, pursuant to a lawful contract that complies with the requirements of 70 O.S. § 6101.2(B). The Teachers' Retirement System 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]

715:10-17-6. Earnings limits

- (a) Effective July 1, 2003, the annual earnings limit from employment in the public schools of Oklahoma for a retired member under age 62 may not exceed one-half (1/2) of the member's final average salary used in computing retirement benefits or \$15,000, whichever is less.
- (b) Effective July 1, 2003, the annual earnings limit from employment in the public schools of Oklahoma for a retired member age 62 or older may not exceed one-half (1/2) of the member's average salary used in computing retirement benefits or \$30,000, whichever is less.
- (c) Notwithstanding the provisions of subsections (a) and (b) of this section, effective July 1, 2003, any retired member who has been retired

for thirty-six (36) months or more may earn up to \$30,000 annually from employment in the public schools of Oklahoma

(d) For purposes of this rule the following shall apply:

(1) Earnings shall mean “regular annual compensation” as defined in OAC 715:10-13-1 and 70 O.S. § 17-116.2(D). Earnings shall include any payment by a public school for services rendered by a retired member who is employed for any purpose whatsoever. Supplemental retirement payments paid by a former public school employer in accordance with 70 O.S. 17-105(9) or other applicable state statutes or payments to an independent contractor or consultant, pursuant to a lawful contract which complies with the requirements of 70 O.S. § 6-101.2(B), will not be counted as earnings.

(2) Earnings in excess of the maximum limit will result in a loss of future retirement benefits of one dollar (\$1) for each one dollar (\$1) earned over the maximum.

(3) The earnings limits will, in all cases, be applied on a calendar year basis from January 1 through December 31.

(4) The earnings limit for the calendar year in which a member retires shall be one-twelfth (1/12th) of the annual limit multiplied by the number of months the member is eligible to work and receive payments from the public schools of Oklahoma.

(5) The earnings limit for the calendar year in which a member reaches age 62 shall be prorated in equal monthly increments with the month in which the member’s birth date occurs counted at the higher earnings level.

(6) The earnings limit for the calendar year in which a member reaches his or her thirty-sixth (36th) month of retirement shall be prorated in equal monthly increments.

(7) For purposes of this section, for a retired member whose average salary exceeds \$40,000, “average salary” means the weighted or aggregated average used to compute monthly benefits for all the member’s years of credited service.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93; Amended at 11 Ok Reg 4785, eff 9-12-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 15 Ok Reg 48, eff 9-4-97 (emergency); Amended at 15 Ok Reg 3481, eff 7-15-98; Amended at 17 Ok Reg 204, eff 9-8-99 (emergency); Amended at 17 Ok Reg 3071, eff 7-13-00; 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; Amended at 20 Ok Reg 384, eff 12-9-02 (emergency); Amended at 20 Ok Reg 2596, eff 7-11-03; Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)²; Amended at 21 Ok Reg 3099, eff 8-12-04]

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

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, who has not attained age 65, receiving disability retirement from TRS shall complete a TRS Report of Earned Income by Disabled Member Form and file such form with TRS by April 15 each year. The report will list all "earned" income from all sources. Failure to complete a TRS Report of Earned Income by Disabled Member Form may result in suspension of monthly benefits if the executive secretary of TRS deems such action necessary and appropriate (see OAC 715:10-15-22).

[Source: Amended at 20 Ok Reg 2596, eff 7-11-03]

715:10-17-8. Repayment of benefits

Any amount due TRS because of earnings exceeding the maximum must be repaid by the member prior to March 1 of the year following the calendar year of employment. TRS has the right to suspend monthly benefits, and/or withhold money due beneficiaries, to settle any remaining balance due TRS from a member's account. Repayment of benefits forfeited due to employment in excess of the maximum limit will require an interest penalty of eight percent (8%) per annum, compounded monthly from the date due (March 1) to the date of repayment.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93]

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

TRS will not adjust W-2P, or other year-end tax statements, to reflect re-payment 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.

715:10-17-10. Effective date of OAC 715:10-17-1 through 715:10-17-9

OAC 715:10-17-1 through 715:10-17-9 shall become effective July 1, 1993, for all retired members of the Teachers' Retirement System and will apply to all members who retire after that date. Members retired prior to July 1, 1993, who were employed by the public schools of Oklahoma during the calendar year 1993, may elect to have post-retirement employment treated under the cited rules for the calendar year 1993, if in their opinion, it would provide a greater opportunity for employment during this period than the rules in existence during the period from January 1, 1993, to June 30, 1993.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93]

715:10-17-11. Special waiver for retirees past age 70

Any retired member receiving TRS benefits, who reached age 70 prior to July 1, 1991, shall not be restricted by the earnings limits in OAC 715:10-17-6 until January 1, 1994. To qualify for this rule, the member must be employed less than half-time compared to other employees in similar positions. Effective January 1, 1994, all retired members shall have the earnings limit in OAC 715:10-17-6 applied to their post-retirement employment.

[Source: Amended at 10 Ok Reg 3879, eff 7-12-93]

715:10-17-12. Earnings report by remitting agencies

Prior to March 15 of each year, each employer covered by the provisions of TRS shall submit a report showing the total earnings received by each individual, member and non-member of TRS, during the previous calendar year. The report shall have the name, social security number, address and the total earnings paid from all sources from January 1 to December 31 of the year and shall be in the format provided by TRS. In lieu of this report, the employer may provide a copy of the magnetic media report prepared and submitted to IRS to report W-2 Tax Statements and other taxable income reportable to IRS and the Social Security Administration.

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

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 membership contributing status under the following conditions:

- (1) 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 1-A shall be completed and submitted to TRS to return a member to work status.
- (3) The form must include the nature of the position held and the beginning date of employment.
- (4) Retirement payments shall be discontinued in accordance with OAC 715:10-17-14. Retirement payments shall not be resumed during the summer months between consecutive years of this type of employment.
- (5) The retired member and the employing public school shall remit employee and employer contributions in the same manner as active contributing employees.
- (6) The retired member shall accumulate service credit in the same manner as active contributing employees of the system.
- (7) 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 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.

(8) If the retired member is employed for a period less than six months, or for a period of time which does not qualify for additional service credit, the employee contributions remitted by the employee or by the employer on the retired member's behalf will be refunded to the member without interest. Employer contributions as provided by OAC 715:10-13-3 will not be refunded.

(9) The employer shall provide written notice to the Teachers' Retirement System when the retired member's employment is terminated. The member cannot resume benefit payments under this rule and remain employed. The member must comply with the sixty (60)-day non-employment rule that applies to a member who elects regular retirement. Retirement payments will be resumed effective the first of the following month, provided employment terminates on or before the 15th of the month, 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.

(10) 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 defined in OAC 715:10-9-4.

(11) 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, except to the extent that the value of the accrual of additional service credit and the

supplemental benefit would exceed the actuarial value of the benefits received under this Chapter and that were continued or begun pursuant to an election under this section. In such a case, a supplemental benefit equal only to the difference in value will be payable upon subsequent retirement.

(12) 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.

(13) 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.

[Source: Added at 11 Ok Reg 4785, eff 9-12-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)²; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 18 Ok Reg 50, eff 10-3-00 (emergency); Amended at 18 Ok Reg 3152, eff 7-12-01; Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)³; Amended at 21 Ok Reg 3099, eff 8-12-04]

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

When a member returns to employment in a position that requires suspension of benefit payments, 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.

(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 is notified prior to the 20th of the month the benefit payment for that month will be paid at the end of the month.

(4) If the member terminates employment after the 15th of a month the benefit payment for that month will not be due.

[Source: Added at 22 Ok Reg 2649, eff 7-11-05]

Subchapter 19. Tax-Sheltered Annuity Program

Section

- 715:10-19-1. Authority for program
- 715:10-19-2. General description
- 715:10-19-3. Eligible employees
- 715:10-19-4. Program requisites
- 715:10-19-5. Contributions
- 715:10-19-6. Calculation of exclusion allowance [REVOKED]
- 715:10-19-7. Methods of computing maximum TSA contribution
- 715:10-19-8. Distributions
- 715:10-19-9. Withdrawals for financial hardship
- 715:10-19-10. Example of tax-shelter earnings [REVOKED]
- 715:10-19-11. Rollovers from OTRS 403(b) program to other eligible retirement plans

715:10-19-1. Authority for program

The TRS Tax-Sheltered Annuity Program is designed to meet the requirements of sections 403(b) and 401(g) of the Internal Revenue Code. The TRS Tax-Sheltered Annuity is administered by the Board of Trustees. Section 403(b) of the Federal Internal Revenue Code authorizes tax-sheltered annuity programs, setting forth requirements that must be followed. Failure to follow these requirements may cause penalties to be imposed on the individual member or cause the tax-sheltered status of the Oklahoma Teachers' Retirement System program to be disallowed. Changes to this section of the tax code by Congress usually affect the program's administration; therefore, this program will change as often as Congress amends or revises Section 403(b) of the IRS Code. Title 70 O.S. 17-108 allows members of TRS to participate in the TRS Tax-sheltered Annuity Program. In making deposits to this program the member and the employing school must comply with all aspects of the IRS Code.

[Source: Amended at 11 Ok Reg 4409, eff 7-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95]

715:10-19-2. General description

The following is a general description of the tax-sheltered annuity plan available from Teachers' Retirement. The member should be aware that tax-sheltered annuity plans are also offered by most major insurance companies to the employees of Oklahoma public schools.

- (1) The 403(b) program's primary purpose is to enable members to contribute to a supplemental retirement program in preparation for retirement.

(2) An employer makes salary reduction contributions on behalf of an employee to the 403(b) program at the election of that employee. Employers cannot require contributions to the program as a condition of employment. The member's employer deducts tax-sheltered monies from the member's salary and forwards the deductions to TRS. TRS places the monies in the member's account and debits or credits earnings monthly. Statements are mailed to the member's home address on a quarterly basis.

(3) Each participating member receives an immediate vested and nonforfeitable interest in the amounts credited to his or her tax-sheltered account. The participant is precluded from selling, assigning, or pledging his or her funds in the tax-sheltered account to another person or party, except to designate a beneficiary in the event of death.

(4) Participant's accounts are not assessed administration fees for services rendered by TRS. However, investment management fees are deducted from gross earnings prior to earnings being applied to member accounts.

(5) Monies in this program are not insured in the same manner as deposits are insured with various privately operated financial institutions, (i.e. FDIC). Deposits are kept separate from the member's regular retirement account, but are invested in the same manner, using the same investment practices and policies used to invest the other assets of TRS.

(6) Money deposited in the Teachers' Retirement System Tax-Sheltered Annuity Program will not be matched by the State of Oklahoma.

[Source: Amended at 11 Ok Reg 4409, eff 7-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)²; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-19-3. Eligible employees

To participate in the 403(b) program, a member must be an active or retired employee of a qualifying educational organization, one which normally maintains a regular faculty, curriculum, and a regular organized body of students in attendance at the place where its educational activities are conducted. Oklahoma Department of Education employees are eligible to participate in the program because they perform services for educational organizations. Employees of organizations that are tax-exempt because they are organized and operated exclusively for educational purposes are

also eligible to participate if the organizations are governmental. University regents or trustees and members of boards of education are not eligible employees since they are elected or appointed. Employees of the Oklahoma Teachers' Retirement System are also not eligible. Retired members who are employed part-time by a public school in Oklahoma are eligible to participate in the tax-sheltered annuity program.

[Source: Amended at 11 Ok Reg 4409, eff 7-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)²; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 15 Ok Reg 48, eff 9-4-97 (emergency); Amended at 15 Ok Reg 3481, eff 7-15-98]

715:10-19-4. Program requisites

The Internal Revenue Service has ruled that money deposited in the Teacher Deposit Fund may be tax-sheltered, provided the following steps are taken:

- (1) A board of education or other governing board adopts a resolution making the TRS Tax-sheltered Annuity Program available to its employees.
- (2) The member signs an amended contract with the board of education or governing board for the express purpose of buying an annuity with the Teachers' Retirement System. This is done by either taking a reduction in salary or waiving a salary increase. The salary reduction agreement must be entered into prior to the date contributions are to commence and may only apply to amounts earned by the member after the agreement is effective.
- (3) An employer permitting any TRS member to contribute to the tax-sheltered annuity program must permit all eligible TRS members to contribute to the program, and other employees to contribute to other 403(b) programs.

[Source: Amended at 11 Ok Reg 4409, eff 7-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-19-5. Contributions

After a member enters into the salary reduction agreement (completing an amended contract and any other payroll requirement specified by the employer), the employer shall make payroll deductions on a monthly basis. The employer shall submit the contributions for all members in the school district to TRS, on TRS Form 42 and TRS Form 17, showing the member's name, social security number and amount contributed on behalf of each member. (No substitute reporting form is accepted by TRS).

(1) All contributions must be salary reductions. Members cannot make direct payments to the 403(b) program. If the contributions are not salary reductions, tax-deferral will not be possible. As a result, the TRS program will only accept employer payments for employees.

(2) Employers should forward tax-sheltered contributions in a timely manner. Employers are also responsible for ensuring that members do not contribute more than the maximum amount allowed by federal tax law. Salary reduction agreements are determined by the limits under the Internal Revenue Code.

(A) The amount of deferrals made in a member's taxable year under the Tax-Sheltered Annuity Program, and any other plans, contracts, or arrangements of the employer may not exceed the amount of the limitation in effect under Internal Revenue Code Section 402(g)(1), as increased by Code Sections 402(g)(4) and 402(g)(8), for such taxable year.

(B) Contributions to the 403(b) plan made in a calendar year (unless another twelve month period ending within the calendar year is elected) with respect to an employee may not exceed limitations under Code Section 415(c) for such calendar year.

(3) Each employee shall specify in the salary reduction agreement the dollar amount or percentage by which the employee's salary is to be reduced by the employer. Each such agreement shall be legally binding and irrevocable as to the amounts earned while it is in effect. A member may change the salary reduction agreement during the member's taxable year. A member may terminate the agreement with respect to amounts not yet earned. Any member who wishes to change the amount contributed to the tax-sheltered program must complete a new amended contract. Contributions can be stopped at any time.

(4) Employers are required to report 403(b) information on the federal Form W-2. Employers should mark the "deferred compensation" block in the correct box of the W-2 and should put the amount of the contribution and the appropriate code in the specified box of the W-2.

(5) Employers should not withhold federal and state taxes on tax-sheltered contributions. No other withholdings, including regular contributions to TRS and FICA taxes, should be lowered by the tax-sheltered contributions.

(6) Any active or retired member may roll over or transfer funds from other 403(b) tax-sheltered annuity programs subject to

limitations in the Internal Revenue Code and/or pertinent sections of the U.S. Treasury Regulations. Written verification that the roll-over or transfer is from a 403(b) plan or other allowable plan must be received by TRS before any such monies will be accepted.

(7) The minimum allowable contribution is two hundred dollars (\$200) per taxable year of the member.

(8) The Internal Revenue Code has set limits on the amount a member can exclude from his or her income for tax purposes. It is each employee's and the employing school's responsibility to ensure that contributions do not exceed the maximum limitations set forth in the Internal Revenue Code. TRS does not compute the maximum allowable contribution for the 403(b) participants and TRS is prohibited from entering into hold harmless agreements with participating employees or employers.

(9) TRS will distribute any excess deferral (within the meaning of Internal Revenue Code Section 402(g)) plus attributable income to the employee on or before the following April 15. TRS will furnish the employee with a 1099R form with respect to the attributable income. The employee should include the refund in the employee's gross income for the year the excess contribution was made. The employee may have to file an amended income tax return for the year the excess contribution was made. If the excess contribution is not distributed as provided in this subsection, the distribution may not occur until a regular distribution would occur, and the employee must also include the refund in the employee's gross income for the year of distribution. In this case the excess contribution is taxed twice.

[Source: Amended at 11 Ok Reg 4409, eff 7-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)²; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 15 Ok Reg 48, eff 9-4-97 (emergency); Amended at 15 Ok Reg 3481, eff 7-15-98; Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-19-6. Calculation of exclusion allowance [REVOKED]

715:10-19-7. Methods of computing maximum TSA contribution

(a) The elective deferral limit for 403(b) plans for Calendar Year 2008 is \$15,500. Elective deferral limits for future years will be set by the Internal Revenue Service.

(b) These contribution levels replace the 20% of compensation limitation with 100% of taxable compensation, not to exceed the applicable dollar limit. For persons age 50 or older, increased contribution amounts above

the applicable deferral limits for Calendar Year 2008 is \$20,500. The applicable deferral limits for future years will be set by the Internal Revenue Service.

(c) A special catch-up provision allows members who have more than fifteen years of service with employer to make additional contributions up to \$3,000 per year. However, aggregate contributions of all years above the limits may not exceed \$15,000. In addition a member can no longer make catch-up contributions once his or her prior years' contributions to any tax-sheltered annuity exceed \$5,000 multiplied by the years of service with the employer.

[Source: Amended at 11 Ok Reg 4409, eff 7-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; 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]

715:10-19-8. Distributions

(a) Distributions from members' accounts must be made in accordance with the Internal Revenue Code. TRS will distinguish pre-'87 and post-'86 account balances. Both account balances will be distributed in accordance with the applicable Internal Revenue Code provisions as they pertain to individual retirement accounts or annuities. The post-'86 account balance will include earnings after 1986 on the pre-'87 account balance. TRS will adjust each balance as required under IRS rules and regulations.

(b) Distribution of deposits made, or income earned, after December 31, 1988, will not be made to members except under one of the following circumstances:

- (1) Attainment of age fifty-nine and one-half (59 1/2).
- (2) Death.
- (3) Disability. For the purpose of this section, a member is considered disabled if the member is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be of long-continued and indefinite duration.
- (4) Separation from service (termination of employment).
- (5) Retirement.
- (6) Financial hardship (this distribution does not include accumulated earnings).
- (7) Transfer to another tax-sheltered annuity program.

(c) Distributions from this tax-sheltered annuity program are subject to federal and state income taxes. Certain distributions may also be subject to penalties and/or excise taxes under the Internal Revenue Code. Members should seek tax advice prior to requesting distributions.

(d) Upon filing a properly executed distribution request application, a portion or all of a member's tax-sheltered annuity balance that qualifies under Internal Revenue Code regulations, may be distributed. Distributions, other than required minimum distributions and hardship withdrawals, are subject to a mandatory federal withholding of twenty percent (20%). (Distribution of these deposits shall not affect membership status.)

(e) Members who have attained age 59 1/2 are eligible to withdraw all or any portion of their deposits, subject to the provisions of subsection (i) of this section.

(f) Members who have not attained age 59 1/2 and who have not separated from service (retired or terminated employment) may withdraw only contributions made prior to January 1, 1989, unless a financial hardship exists. (See OAC 715:10-19-9.)

(g) Members eligible to take a distribution may take up to 80% of their account balance at any time. For those desiring to close their accounts, they may do so after earnings from the previous month have been posted. No earnings will be paid during the month in which an account is closed.

(h) Members who roll-over their tax-sheltered annuity accounts to another tax-sheltered annuity program may return these funds to the Teachers' Retirement System's program at a later time.

(i) At termination or retirement, a member may elect one of the following annuity distribution options subject to Internal Revenue Service requirements, including Code Section 403(b)(10), Code Section 401(a)(9), and the incidental death benefit requirements of Code Section 401(a);

(1) Minimum distribution option under Code Section 401(a)(9), with the post-1986 deferrals and all post-1986 earnings subject to the current Internal Revenue Service distribution rules and the pre-1987 account balance subject to the prior applicable Internal Revenue Service distribution rules.

(2) Lump sum surrender option, payable only to the member.

(3) Partial lump sum, where the member selects a specified lump sum payable to the member.

(j) Earnings on Teachers' Retirement System tax-sheltered annuity accounts are calculated each month-end, based on accumulated deposits as of the first day of the month.

(k) The beneficiary(ies) designated on a member's regular retirement account also shall serve as beneficiary(ies) for the tax-sheltered annuity account, unless otherwise designated by the member.

(l) In the event the member dies, and if the member's sole beneficiary is his or her spouse, the surviving spouse has the same privileges to the account as the member. In order to satisfy minimum distribution rules, if

the sole designated beneficiary is the member's surviving spouse, distributions must commence on or before the later of:

- (1) the end of the calendar year immediately following the calendar year in which the member died; or
- (2) the end of the calendar year in which the member would have attained age 70 1/2.

(m) Non-spousal beneficiaries (individuals or trusts) must begin taking a required minimum distribution no later than December 31 of the year following the year of the member's death. In the event there is no designated beneficiary, or if the member's estate or a charitable organization is the designated beneficiary, the entire account balance must be distributed by the fifth year following the member's death.

(n) In all cases, distribution of a termination or retirement benefit must begin no later than April 1 of the calendar year following the later of the calendar year in which the member attains age 70 1/2 or retires.

[Source: Amended at 11 Ok Reg 4409, eff 7-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)²; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 15 Ok Reg 48, eff 9-4-97 (emergency); Amended at 15 Ok Reg 3481, eff 7-15-98; Amended at 19 Ok Reg 2729, eff 7-11-02; Amended at 20 Ok Reg 382, eff 10-16-02 (emergency); Amended at 20 Ok Reg 2596, eff 7-11-03; Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-19-9. Withdrawals for financial hardship

(a) Financial hardship is defined as an immediate and heavy financial need experienced by the participant, resulting from a sudden and unexpected illness or accident of the participant or of a dependent of the participant, loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstances arising as a result of events beyond the control of the participant. The circumstances that constitute a financial hardship will depend upon the facts of each case, but, in any case, payment may not be made to the extent that such hardship is or may be relieved:

- (1) through reimbursement or compensation by insurance or otherwise, or
- (2) by liquidation of the participant's assets, to the extent the liquidation of these assets would not itself cause severe financial hardship,
- (3) by cessation of deferrals under the plan,
- (4) by other distributions or nontaxable (at the time of the loan) loans from plans maintained by the employer, by any other employer, the employer(s) of the participant's spouse, or by borrowing from

commercial sources on reasonable commercial terms, in an amount sufficient to satisfy the need.

(b) Specific needs that are deemed to satisfy the requirements of a hardship withdrawal include, but are not limited to:

(1) Medical expenses incurred by the participant, the participant's spouse or dependents which are not covered by insurance or other reimbursement;

(2) Costs directly related to the purchase of a principal residence for the participant (excluding mortgage payments);

(3) Payment of tuition, related educational fees, and room and board expenses, for the next twelve (12) months of post-secondary education for the participant, or the participant's spouse or dependents; or

(4) Payments necessary to prevent the eviction of the employee from the employee's principal residence or foreclosure on the mortgage of that residence.

(c) Withdrawal amounts are permitted only to the extent reasonably necessary to satisfy the financial hardship. Withdrawal of credited earnings in the member's account is not permitted.

(d) Once a member has satisfactorily completed a hardship application for withdraw, an administrative review will be conducted by a committee consisting of the Secretary-Treasurer, Director of Operations and the administrative assistant responsible for the Tax-Sheltered Annuity Program. The review committee will recommend to the Executive Secretary those applications that meet the requirement of a financial hardship.

(e) The Executive Secretary will have the authority to approve payment of qualifying requests. The Executive Secretary will also report all approved requests and denials to the Board of Trustees each month.

(f) Distributions made via a hardship withdrawal request may be subject to an early distribution penalty of ten percent (10%).

[Source: Amended at 11 Ok Reg 4409, eff 7-14-94 through 7-14-95 (emergency)¹; Amended at 12 Ok Reg 3285, eff 7-27-95; Amended at 13 Ok Reg 3899, eff 8-5-96 through 7-14-97 (emergency)²; Amended at 14 Ok Reg 3216, eff 7-25-97; Amended at 19 Ok Reg 2729, eff 7-11-02; Amended at 22 Ok Reg 2255, eff 6-25-05]

715:10-19-10. Example of tax-shelter earnings (REVOKED)

715:10-19-11. Rollovers from OTRS 403(b) program to other eligible retirement plans

(a) Notwithstanding any other provision of the administrative code, a member, a member's spouse, or a member's former spouse who is the

alternate payee under a qualified domestic order, as defined in OAC 715:10-25-1, may elect at the time and in the manner prescribed by the Board of Trustees, to have all or a portion of an eligible rollover distribution paid directly to another eligible retirement plan as required under Internal Revenue Code Section 403(b)(10) and the regulations thereto.

(b) The following definitions shall apply for purposes of the words and phrases used in this Section:

(1) an “eligible rollover distribution” includes any distribution of all or any taxable portion of the tax-sheltered annuity benefit to the credit of a member, a member’s spouse, or a member’s former spouse who is the alternate payee under a qualified domestic order, as defined in OAC 715:10-25-1, except that an eligible rollover distribution does not include the following:

(A) any distribution that is one of a series of substantially equal periodic payments, paid not less frequently than annually, made for the life or life expectancy of the member or the member and the member’s spouse.

(B) any distribution that is one of a series of substantially equal periodic payments for a specified period of ten years or more.

(C) any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9).

(D) the portion of any distribution that is not includable in the gross income.

(E) any distributions during a year that are reasonably expected to total less than \$200.

(2) an “eligible retirement plan” includes an individual retirement account or annuity described in Internal Revenue Code Sections 408(a) or (b) or another annuity program described in Internal Revenue Code Section 403(b) that is willing to accept the distributee’s eligible rollover distribution. However, in the case of an eligible rollover distribution to the member’s spouse, an eligible retirement plan only includes an individual retirement account or an individual retirement annuity described in Internal Revenue Code Sections 408(a) or (b).

(c) Eligible rollover distributions may be paid to not more than two eligible retirement plans, as selected by the distributee, when a direct rollover is elected.

[Source: Added at 11 Ok Reg 4409, eff 7-14-94 through 7-14-95 (emergency)¹; Added at 12 Ok Reg 3285, eff 7-27-95]

715:10-19-12. The Oklahoma Teachers' Deferred Savings Incentive Plan Fund

(a) The Oklahoma Teachers' Deferred Savings Incentive Plan Fund, established and funded pursuant to Enrolled House Bill 1428 of the first session of the 47th Oklahoma State Legislature, shall be used for payment by the Teachers' Retirement System of Oklahoma (TRS) of matching contributions into the TRS Tax-Sheltered Annuity accounts of active, contributing TRS members. Accounts eligible to receive matching contributions are those maintained by TRS in accordance with Section 403(b) of Title 26 of the United States Code.

(b) The Teachers' Retirement System shall hold and invest funds in the Oklahoma Teachers' Deferred Savings Incentive Plan Fund in the same manner as funds managed in accounts of members contributing to an account established pursuant to Section 403(b) of the Internal Revenue Code of 1986, as amended.

(c) If the Oklahoma Teachers' Deferred Savings Incentive Plan Fund is insufficiently funded to fully pay such contributions in any month, payments shall be suspended until sufficient monies are available.

[Source: Added at 17 Ok Reg 204, eff 9-8-99 (emergency); Added at 17 Ok Reg 3071, eff 7-13-00]

715:10-19-13. Contributions from the Oklahoma Teachers' Deferred Savings Incentive Plan Fund into Tax-Sheltered Annuity accounts of active contributing TRS members

Provided funds in the Oklahoma Teachers' Deferred Savings Incentive Plan Fund are sufficient to fully fund such contributions, the Teachers' Retirement System of Oklahoma (TRS) shall contribute \$25.00 per month into the Tax-Sheltered Annuity account of each active contributing TRS member who contributes at least \$25.00 per month into his or her TRS Tax-Sheltered Annuity account maintained pursuant to Section 403(b) of Title 26 of the United States Code.

[Source: Added at 17 Ok Reg 204, eff 9-8-99 (emergency); Added at 17 Ok Reg 3071, eff 7-13-00]

Subchapter 21. Investment Policy

Section

- 715:10-21-1. Investment of funds
- 715:10-21-2. Statement of investment policy
- 715:10-21-3. Investment guidelines
- 715:10-21-4. Portfolio assets allocation
- 715:10-21-5. Cash equivalents guidelines

715:10-21-1. Investment of funds

The Board of Trustees of the Teachers' Retirement System shall be the trustees of several funds created by the Teachers' Retirement Act and shall have full power to invest and reinvest such funds:

- (1) The Board of Trustees shall employ an Executive Secretary who shall be the administrative officer of the Teachers' Retirement System and shall be responsible for the general administration of the Retirement System.
- (2) The Chief Investment Officer of the Retirement System shall be an employee of the Teachers' Retirement System.
- (3) The in-house investment staff shall be under the supervision of the Chief Investment Officer, under the authority of the Board of Trustees. The Executive Secretary will designate those persons who are authorized to trade the short-term investment fund.

[Source: Amended at 19 Ok Reg 2729, eff 7-11-02]

715:10-21-2. Statement of investment policy (Amended 2008)

- (a) The purpose of the investment policy is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment process. The purpose of the Oklahoma Teachers' Retirement System Fund is to provide for an orderly means whereby employees of the educational systems of the State of Oklahoma who have attained retirement age may be retired from active service, to enable such employees to accumulate reserves for themselves and their dependents, to provide for termination of employment and retirement and death benefits.
- (b) The Standard of Investment for the Board of Trustees in making investments shall be to exercise the judgment and care in the circumstances then prevailing which men of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable safety of their capital.

(c) The Board of Trustees of the Oklahoma Teachers' Retirement System shall invest the Retirement Fund solely in the interest of the membership and their beneficiaries, and for the exclusive purpose of providing benefits to such membership and their beneficiaries and defraying reasonable expenses of administering the Oklahoma Teachers' Retirement System. Investing shall be handled with the care, skill, prudence and diligence, under the circumstances then prevailing, that a prudent man, acting in a like-capacity and familiar with such matters, would use in the conduct of an enterprise of a like-character and with like-aims.

(d) The Board will diversify the investments of the funds so as to minimize the risks of large losses. The Board shall be responsive to the financial needs and objectives of the Fund. The investment objectives of the Board, as fiduciaries, are long-term rather than short-term.

(e) The Board, in maintaining its investment policy, takes into consideration the actuarial assumptions of the retirement program and its unfunded liabilities.

(f) The Board of Trustees may appoint investment advisors to assist in the investment of the retirement funds.

(g) The proxy policy statement of the Board of Trustees reflects the fiduciary duty to vote proxies in a manner that most benefits its members. The advisors are to first consider the economic impact on the System, and should the economic impact be neutral, then the advisors should give consideration to acceptable efforts made on behalf of special interests of social conscience. The Board of Trustees retains the right to vote all proxies should it so choose. Special interest proxy voting decisions will be brought before the Board of Trustees at the earliest possible date prior to the voting of the proxy for possible direction by the Board. In addition, the advisors will comply with any supplemental proxy voting criteria which the Board may promulgate.

715:10-21-3. Investment guidelines [REVOKED 2008]

715:10-21-4. Portfolio assets allocation [REVOKED 2008]

715:10-21-5. Cash equivalents guidelines [REVOKED 2008]

Subchapter 23. State and Education Employees Group Health and Dental Insurance Program

Section

- 715:10-23-1. State and Education Employees Group Health and Dental Insurance Program
- 715:10-23-2. Monthly health insurance premium supplement paid by the Teachers' Retirement System
- 715:10-23-3. Participating education employers not enrolled in the State and Education Employees Group Insurance Plan
- 715:10-23-4. Retired members who return to employment
- 715:10-23-5. Retired members ineligible for health insurance supplement

715:10-23-1. State and Education Employees Group Health and Dental Insurance Program

Members of Teachers' Retirement who retire or terminate employment with at least ten (10) years of creditable service are eligible to enroll in the State and Education Employees Group Health and Dental Insurance Program. The retiring member must conform to rules and regulations promulgated by the State and Education Employees Group Insurance Board, which is the final authority on questions of eligibility for membership and coverage provided by the insurance plan. Questions regarding eligibility for insurance coverage and monthly premiums should be referred to the local school district's health insurance coordinator or the State and Educations Employees Group Insurance Board.

[Source: Amended at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Amended at 11 Ok Reg 4251, eff 7-25-94; Amended at 18 Ok Reg 50, eff 10-3-00 (emergency); Amended at 18 Ok Reg 3152, eff 7-12-01; Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)²; Amended at 21 Ok Reg 3099, eff 8-12-04]

715:10-23-2. Monthly health insurance premium supplement paid by the Teachers' Retirement System

Teachers' Retirement will pay a monthly health insurance premium supplement for each retired member who is enrolled in the health insurance plan provided by the State and Education Employees Group Health and Dental Insurance plan or in an insurance program provided by a participating education employer who provides health insurance coverage to former employees, provided the retired member had at least ten (10) years of Oklahoma service prior to retirement. The term "participating education employer" for purposes of this subchapter shall have the same meaning as the term "public school" as defined by 70 O.S., Section 17-101. The

payment shall be in accordance with 74 O.S., Section 1316.3, as amended, which provides that the supplement paid by Teachers' Retirement shall be the premium rate of the Medicare supplement charged to the retired employees not to exceed an amount between \$100 and \$105, depending on length of service and the final average salary of the retired member as specified in subsection 4 of Section 1316.3 of Title 74 of the Oklahoma Statutes.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94; 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; Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)²; Amended at 21 Ok Reg 3099, eff 8-12-04]

715:10-23-3. Participating education employers not enrolled in the State and Education Employees Group Insurance Plan

In accordance with 74 O.S., Section 1316.3, as amended, Teachers' Retirement will pay a monthly health insurance premium supplement to a participating education employer for all retired members enrolled in an insurance program provided to retired members of the employer, provided the retired member had at least ten (10) years of creditable service prior to retirement. For purposes of this section the following shall apply:

- (1) The participating employer must notify Teachers' Retirement that a retired member will remain enrolled in the insurance plan provided by the employer.
- (2) Each month Teachers' Retirement will provide the participating employer with a list of all retired members qualifying for the health insurance premium payment and a financial officer authorized by the school shall certify the listing is correct.
- (3) Teachers' Retirement will remit payment to the participating education employer upon receipt of the certified statement.
- (4) The participating education employer will be responsible for collecting additional premiums and remitting the total premium for each member to the health insurance provider.
- (5) The participating education employer shall file with Teachers' Retirement at least once each year the monthly premium charged for the medicare supplement insurance plan provided to retired members of the employer's insurance plan. In the event the medicare supplement premium is modified during the school year, the employer shall notify Teachers' Retirement at least thirty (30) days prior to the effective date of the change.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94; Amended at 21 Ok Reg 3091, eff 8-21-03 through 7-14-04 (emergency)²; Amended at 21 Ok Reg 3099, eff 8-12-04]

715:10-23-4. Retired members who return to employment

A retired member who returns to employment in the public schools of Oklahoma and becomes eligible for health insurance coverage as a regular employee of a participating education employer will cease to be eligible for the health insurance supplement paid by Teachers' Retirement for the period of time the member is enrolled or eligible to be enrolled in the participating education employer's group insurance plan. Upon termination of eligibility for coverage as a regular employee, the health insurance premium supplement will be resumed.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94]

715:10-23-5. Retired members ineligible for health insurance supplement

Retired members who are not enrolled in either the State and Education Employees Group Health Insurance plan or an insurance plan provided by a participating education employer are not eligible for the insurance supplement provided for in 74 O.S., Section 1316.3 as amended. Retired members who for any reason are not receiving monthly retirement benefits from the Teachers' Retirement System are not eligible for the insurance supplement.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94]

Subchapter 25. Qualified Domestic Order

Section

- 715:10-25-1. Definition
- 715:10-25-2. Filing a qualified domestic order
- 715:10-25-3. Contents of a qualified domestic order
- 715:10-25-4. Payment to alternate payee
- 715:10-25-5. Termination of a qualified domestic order
- 715:10-25-6. Teachers' Retirement not subject to ERISA

715:10-25-1. Definition

The term "qualified domestic order" means an order issued by a district court of the State of Oklahoma pursuant to the domestic relations laws of this state which relates to the provision of marital property rights to a spouse or former spouse of a member and which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to receive a portion of the benefits payable with respect to a member of the Teachers' Retirement System.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94]

715:10-25-2. Filing a qualified domestic order {Amended 2008}

A member of Teachers' Retirement, his or her legal representative, a member's former spouse, or his or her legal representative may file a qualified domestic order with the Teachers' Retirement System. In not less than thirty (30) days of such filing, Teachers' Retirement will acknowledge receipt and notify all parties listed in the order that the order has been accepted or that clarification of the order must be provided to Teachers' Retirement. All qualified domestic orders filed with the Teachers' Retirement System of Oklahoma must be in accordance with Oklahoma Statutes and must conform to the provisions of 70 O.S, Section 17-109, as amended. TRS Form 110.46 OTRS Qualified Domestic Order is available upon request and its use is recommended.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94]

715:10-25-3. Contents of qualified domestic order

For a qualified domestic order to be accepted and binding on the Teachers' Retirement System the order meet the following requirements:

- (1) The order must clearly specify the following:
 - (A) the name and last-known mailing address (if any) of the member and the name and mailing address of the alternate payee covered by the order,

- (B) the amount or percentage of the member's benefits to be paid by Teachers' Retirement to the alternate payee,
 - (C) the number of payments or period to which such order applies,
 - (D) the characterization of the benefit as to marital property rights, and whether the benefit ceases upon the death or remarriage of the alternate payee, and
 - (E) each plan to which such order applies.
- (2) The order meets the requirements of this section only if such order:
- (A) does not require Teachers' Retirement to provide any type or form of benefit, or any option not otherwise provided under the state law as related to the Retirement System,
 - (B) does not require Teachers' Retirement to provide increased benefits,
 - (C) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee pursuant to another order previously determined to be a qualified domestic order or an order recognized by the Retirement System as a valid order prior to the effective date of this subchapter, and
 - (D) does not require payment of benefits to an alternate payee prior to the actual retirement date of the related member or prior to the date the member elects to receive a lump sum distribution of his or her retirement account.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94]

715:10-25-4. Payment to alternate payee

Payments to an alternate payee will be made in a like manner and at the same time payment is made to the member. Payment will be either a lump sum distribution of the contributions and interest due the member upon termination of service or death, or monthly benefit payments under the retirement options available to the member at the time he or she applies for retirement benefits. The alternate payee shall not be allowed to choose a method of payment that is different from the method chosen by the member. The alternate payee may not receive payment of any kind prior to the member making application and becoming eligible for payment of benefits. Federal and Oklahoma state income taxes will be withheld from the payment to an alternate payee in accordance with applicable federal and state statutes.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94]

715:10-25-5. Termination of a qualified domestic order

A qualified domestic order will terminate when Teachers' Retirement has fully met the provisions of the order. The obligation of the Teachers' Retirement System to pay an alternate payee pursuant to a qualified domestic order shall cease upon the death of the related member. In the event a qualified domestic order requires the benefits payable to an alternate payee to terminate upon the remarriage of the alternate payee, the Retirement System shall terminate said benefit only upon the receipt of a certified copy of a marriage license, or a copy of a certified order issued by the court that originally issued said qualified domestic order declaring the remarriage of said alternate payee. The order may be cancelled or modified by the court that originally issued the order.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94]

715:10-25-6. Teachers' Retirement not subject to ERISA

For purposes of this subchapter the Teachers' Retirement System of Oklahoma is not subject to the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C.A. Section 1001, et seq., as amended from time to time, or rules and regulations promulgated thereunder, and court cases interpreting said act.

[Source: Added at 10 Ok Reg 4829, eff 9-17-93 through 7-14-94 (emergency)¹; Added at 11 Ok Reg 4251, eff 7-25-94]

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