

2010-2011 Permanent Rules for Promulgation

Board approval is requested for staff to begin the process of promulgating permanent rules. Below is a draft of changes to the rules.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA CHAPTER 1. ADMINISTRATIVE OPERATIONS

715:1-1-5 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director and the Assistant Executive Secretary to Assistant Executive Director, as mandated by House Bill 1935.

715:1-1-5. Executive ~~Secretary~~Director

The Executive ~~Secretary~~Director 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~~Director, and shall be recommended by the Executive ~~Secretary~~Director 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~~Director, the Assistant Executive ~~Secretary~~Director, the Secretary-Treasurer, or the Comptroller.
- (4) The Executive ~~Secretary~~Director 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.

**TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

715:1-1-6 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

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

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

(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~~Director and the State Treasurer is set by the Teacher's 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 1. ADMINISTRATIVE OPERATIONS

715:1-1-7 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

715:1-1-7. Purchases

The Executive ~~Secretary~~Director 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 1. ADMINISTRATIVE OPERATIONS

715:1-1-8 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director and the Assistant Executive Secretary to Assistant Executive Director, as mandated by House Bill 1935.

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

(a) The Executive ~~Secretary~~Director 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~~Director 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~~Director, may be paid before approval by the Board of Trustees. In the event of the absence of the Secretary-Treasurer or the Executive ~~Secretary~~Director, the Assistant Executive ~~Secretary~~Director 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~~Director, or in the event of an absence, the Assistant Executive ~~Secretary~~Director 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.

**TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

715:1-1-10 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

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~~director of the Teachers' Retirement System. Request for an informal hearing before the executive ~~secretary~~director must be in writing and include a clear statement of the grievance or complaint. The executive ~~secretary~~director 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~~director 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~~director may be appealed to the Board of Trustees of the Teachers' Retirement System. The member must appeal the decision of the executive ~~secretary~~director within sixty (60) days of receipt of notification of denial by the executive ~~secretary~~director.

(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~~director 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~~director.

(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~~director 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~~director 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~~director 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~~director shall not exceed the authority previously granted to him or her by the Board of Trustees. The executive ~~secretary~~director 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~~director 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~~director 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.

**TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 1. ADMINISTRATIVE OPERATIONS**

715:1-1-12 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

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~~director. 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~~director shall grant or deny the petition within 60 days of its receipt. The executive ~~secretary~~director 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~~director 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~~director, 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~~director within sixty (60) days after the decision of the executive ~~secretary~~director 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~~director, and the petitioner is unwilling to waive the deadline for a final decision until that meeting, the decision of the executive ~~secretary~~director 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~~director unless the Board orders a hearing on the petition. If the Board approves the petition, the executive ~~secretary~~director 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~~director 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~~director 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~~director 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~~director 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~~director 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 1. Membership Provisions

715:10-1-7 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

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~~Director, 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 5. Establishing Other Service Credits

715:10-5-6 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

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~~director 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 5. Establishing Other Service Credits

715:10-5-17 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

Additionally, a typographical error is being corrected in the first paragraph – the word "perform" is being changed to "performed."

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

All credit for active military duty ~~perform~~performed 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~~Director 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 5. Establishing Other Service Credits

715:10-5-31 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

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~~director of TRS shall be empowered to determine the completeness of documents submitted by a member in establishing service credit.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 9. Survivor Benefits

715:10-9-6 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

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~~Director 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 11. Withdrawal From Membership and Refund of Deposits

715:10-11-2 is being amended to clarify when pre-tax contributions can be refunded to a terminating optional member; specifically, the amendment adds that pre-tax contributions can be refunded once the member turns 62.

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 or turns 62. Following termination of employment, TRS should be contacted for the proper form to be completed for return of pre-tax contributions. Upon completion of 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 13. Contributions for Membership Service

715:10-13-1 is being amended to clarify fringe benefits and regular annual compensation. The amendment specifically excludes from regular annual compensation any employer contributions to a deferred compensation plan not provided to all qualified members of the employer.

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. Excluded from regular annual compensation are: employer contributions to a deferred compensation plan that is not provided to all qualified members of the employer, expense reimbursement payments; office, vehicle, housing or other maintenance allowances; the flexible benefit allowance provided pursuant to Section 26-105 of Title 70 of the Oklahoma Statutes; payment for unused vacation and sick leave; any payment made for reason of termination or retirement; maintenance or other non-monetary compensation; payment received as an independent contractor or consultant; or any benefit payments not made pursuant to a valid employment agreement. 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 13. Contributions for Membership Service

715:10-13-9 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

Additionally, this rule is being amended to clarify the process for submitting monthly remittance reports from local school districts.

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

A remittance report shall be prepared and filed with the Executive ~~Secretary~~Director 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. This remittance report shall be submitted as an electronic file as specified by the Executive Director.

(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. 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. The report must include a listing of ~~the retired members~~all persons who are employed by the school and the amount of employer contributions remitted for each ~~retired member~~employee. ~~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) Schools shall send the TRS Form 32, Summary of Payroll Remittance, along with warrants covering the total amount to be remitted ~~shall accompany TRS Form 50~~for each month. 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~~submit the required school reports and corresponding funds 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~~Any required reports and corresponding funds not paidsubmitted 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 compounding monthly for each month payment is overdue.

~~(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.

(87) The ~~executive secretary~~Executive Director 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~~Executive Director's judgment such information is necessary for the efficient operation of the System or to comply with state statutes.

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

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 15. Service Retirement

715:10-15-5 was adopted as an emergency rule and is being promulgated as a permanent rule to allow a member who elected a reduced benefit a one-time irrevocable election to change their retirement plan within sixty (60) days of the retirement date. Additionally, this rule will allow a member who elected the maximum benefit, and marries after the retirement date, a one-time election to change their retirement plan.

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.~~ After the retirement date the retirement plan cannot be changed except as outlined in paragraphs one (1) and two (2) below. 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.

(1) After the retirement date, a member who elected a reduced benefit under Option 1, Option 2, Option 3 or Option 4 may make a one-time irrevocable election to change their retirement plan within sixty (60) days of the retirement date. The beneficiary designated by the member at the time of retirement shall not be changed if the member makes the election provided for in this paragraph. Such election must be made in writing, delivered to the Teachers' Retirement System, Oklahoma City, Oklahoma, or postmarked by the United States Postal Service prior to the sixtieth day after the date of retirement.

(2) A member who elected the Maximum benefit and marries after the retirement date, may make a one-time election to change to an Option 2 or Option 3 benefit and name the member's spouse as the designated beneficiary. The member shall provide proof of the member's good health before the Board of Trustees will permit a change to either Option 2 or 3 and the naming of a designated beneficiary. A medical examination conducted by a licensed physician is required for purposes of determining good health. Such examination must be approved by the Medical Board. The member shall be required to provide proof of age for the new beneficiary. The Board of Trustees shall adjust the monthly benefit to the actuarially equivalent amount based on the new designated beneficiary's age. Such election must be made in writing using the forms proscribed by the Teachers' Retirement System and delivered to the Teachers' Retirement System, Oklahoma City, Oklahoma, or postmarked by the United States Postal Service prior to one (1) year after the date of marriage, or July 1, 2011, whichever date is later.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 15. Service Retirement

715:10-15-24 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

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~~director 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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 17. Post-Retirement Employment

715:10-17-6 is being amended to clarify post-retirement earnings limits; specifically, the amendment removes earnings limits on post-retirement employment for members who have been retired for 36 months or more.

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~~2008, any retired member who has been retired for thirty-six (36) months or more may ~~earn up to \$30,000 annually~~ receive annualized earnings from employment in the public schools of Oklahoma with no reduction in retirement benefits.
- (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.

TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS
Subchapter 17. Post-Retirement Employment

715:10-17-7 is being amended to change the title of the Executive Secretary of the Oklahoma Teachers Retirement System to Executive Director, as mandated by House Bill 1935.

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 62, 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~~director of TRS deems such action necessary and appropriate (see OAC 715:10-15-22).