

**Teachers' Retirement System of Oklahoma**

**Oliver Hodge Building**

**2500 N. Lincoln Boulevard, 5<sup>th</sup> Floor**

**Oklahoma City, OK 73105**

**405.521.2387**

**RULE IMPACT STATEMENT**

**A. BRIEF DESCRIPTION OF PURPOSE OF PROPOSED PERMANENT RULES:**

These rules are proposed to comply with the statutory responsibility of the Board of Trustees in establishing rules and regulations for the administration of the System and the transaction of its business (70 O.S. § 17-101 et seq.). These rules are being amended and implemented to comply with amendments to and new enactments of Title 70 of the Oklahoma Statutes passed in the 2017 and 2018 legislative sessions and for efficiency of day to day operations of TRS.

**TITLE 715. TEACHERS' RETIREMENT SYSTEM**

**CHAPTER 1. ADMINISTRATIVE OPERATIONS**

715:1-1-1 is being amended to make consistent the reference to "TRS" throughout the remainder of the rules.

715:1-1-10 is being amended per 2017 legislation to reflect a quorum (eight votes) is necessary to approve any motion, resolution or order under consideration on a grievance appeal and to correct typos and make consistent the reference to "TRS."

715:1-1-13 is being amended to remove reference to a TRS form number that no longer exists.

715:1-1-19 is being amended to per 2017 legislation to reflect the Board is now composed of fourteen voting members and to remove out of date language regarding the initial appointment of the nonvoting member.

**B. CLASS OF PERSON(S) AFFECTED (CLASS BEARING COST OF RULES):**

The class of person(s) affected by the proposed rules is the membership of the Teachers' Retirement System of Oklahoma.

**C. CLASS OF PERSON(S) BENEFITTED BY PROPOSED RULES:**

The class of person(s) benefitted by the proposed rules is the membership of the Teachers' Retirement System of Oklahoma.

**D. DESCRIPTION OF PROBABLE ECONOMIC IMPACT UPON AFFECTED CLASS OF PERSONS OR POLITICAL SUBDIVISIONS:**

The proposed rules will provide a more efficient administration of the System, resulting in a positive economic impact upon affected classes of persons or political subdivisions. The proposed rules will not have an adverse effect on small business.

**E. PROBABLE COST TO AGENCY, EFFECT ON STATE, INCLUDING A PROJECTED NET LOSS OR GAIN IN SUCH REVENUES:**

None.

**F. ECONOMIC IMPACT THAT IMPLEMENTATION OF THE RULES WILL HAVE ON POLITICAL SUBDIVISIONS AND WHETHER THE IMPLEMENTATION WILL REQUIRE THE SUBDIVISION'S COOPERATION IN IMPLEMENTING OR ENFORCING THE RULE:**

None. The proposed rules will not have an adverse effect on small business.

**G. LESS COSTLY OR INTRUSIVE METHODS:**

None.

**H. DATE IMPACT STATEMENT PREPARED:**

December 3, 2018.

**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 (“TRS”).

**715:1-1-10. Grievances and complaints [Amended]**

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

(1) Any interested person with a grievance ~~which that~~ cannot be settled in this manner may appeal the decision of the staff to the ~~eExecutive dDirector of TRS the Teachers' Retirement System.~~ Request for an informal hearing before the ~~eExecutive dDirector~~ must be in writing and include a clear statement of the grievance or complaint. The ~~eExecutive dDirector~~ 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 ~~eExecutive dDirector~~ 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 ~~TRS the Teachers' Retirement System~~; any beneficiary of a member; any retiree of ~~TRS the Teachers' Retirement System~~; any guardian, administrator, or executor of a member, retiree, or beneficiary; or any public school.

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

(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~~ for the Board of Trustees. The ~~e~~Executive ~~d~~Director shall appoint the administrative hearing judge from a list of individuals previously employed by the Board of Trustees to act in this role. Administrative Operations hearings shall be conducted in the offices of TRS the Teachers' Retirement System at a time and date agreed to by the parties. ~~It is expected that a~~Any party to the hearing ~~will~~ shall 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 or she 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 TRS 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 ~~e~~Executive ~~d~~Director.

(6) The member interested parties shall have the right to file a written statement outlining any objections, exceptions and/or arguments ~~for he desires~~ the Board of Trustees to consider in its consideration of the hearing judge's proposed order. This statement must be filed with TRS the executive director within twenty (20) days of receipt of the hearing judge's proposed order. No additional evidence or materials may be introduced with the written statement by the member which were not presented at the hearing. The ~~e~~Executive ~~d~~Director and/or TRS staff may prepare a written response in rebuttal to the member's interested party's statement. A copy of any response by TRS will be provided to all interested parties 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 interested parties may waive the ten (10) day limit if it would delay scheduling the matter before the Board.

(7) The ~~e~~Executive ~~d~~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 interested parties. In settling any grievance the ~~e~~Executive ~~d~~Director shall not exceed the authority previously granted to him or her by the Board of Trustees. The ~~e~~Executive ~~d~~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 interested party'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 ~~TRS 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 business~~ days of such filings.

(9) At the meeting at which the Board of Trustees will consider the proposed order, the ~~member interested parties~~ will be afforded an opportunity to make a brief statement to the Board concerning the facts and any arguments he/~~she~~ wishes to present and will be allowed to respond to questions from Trustees. Failure of ~~an the member interested party~~ to appear at the Board hearing without prior notification will result in the member relinquishing his/~~her~~ right to be heard by the Board. If such absence was unavoidable, the ~~interested party 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 a quorum, as required by 70 O.S. §17-106, is~~ 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 all interested parties~~ and ~~his their~~ representatives by ~~the executive director of~~ TRS.

(11) Any ~~member interested party~~ receiving an adverse ruling from the Board retains certain rights under the Administrative Procedures Act. The ~~interested party 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 ~~final~~ order. The ~~interested party~~ member may also petition for a rehearing, reopening or reconsideration of the appeal by the Board. Such petition must be filed with ~~the executive 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 ~~interested parties members~~ and/or the representatives of ~~interested parties 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; Amended at 28 Ok Reg 978, eff 5-26-11]

### **715:1-1-13. Change of address, name or district [Amended]**

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 or via the ~~Θ~~ TRS Client Portal. Please include the new name, the former name and the Social Security number or ~~Client Member~~ ID number. This procedure also applies to retired members whose checks are directly deposited to their banking accounts.

~~Also, w~~When an employee moves from one school district to another, the employee shall notify it is important that TRS using be notified of this change at once. the Personal Data Form TRS 1-A that may be secured ~~for this purpose~~ from the fiscal officer of the member's employer or from the TRS website.

[Source: Amended at 19 Ok Reg 2726, eff 7-11-02; Amended at 33 Ok Reg 1102, eff 8-25-16]

### **715:1-1-19. Appointment of non-voting Trustee [Amended]**

(a) The Board of Trustees is composed of ~~thirteen (13)~~ fourteen (14) voting members and one (1) non-voting member who is to be selected by a statewide organization representing retired educators under Section 17-106~~(m)~~ of ~~title~~ title 70 of the Oklahoma Statutes. As there is the possibility that more than one statewide organization representing retired educators exists, ~~OTRS~~ shall employ an annual process to determine which such organization has the ability to make the non-voting trustee appointment.

(b) The term “statewide organization representing retired educators” shall mean an entity primarily organized for the purpose of representing the interests of retired educators in this state and providing member benefits, as is defined in Section 17-122.1 of ~~title~~ title 70 of the Oklahoma Statutes. Furthermore, the entity must have at least two hundred (200) retired educators in its membership who are also members of ~~OTRS~~.

(c) ~~On September 15, 2014, A~~any organization that asserts that it meets the definition of a statewide organization representing retired educators shall make application to TRS on a form supplied by OTRS, to be recognized as the organization to make this selection. The ~~form~~ application shall be submitted with documentation that shows the legal status of the organization (corporation, association, other). The material submitted shall also provide documentation formally adopted by the organization demonstrating the organization meets the definition of a statewide organization representing retired educators and documentation formally adopted by the organization detailing the internal procedure by which the organization will select the candidate to be appointed to the Board of Trustees.

(d) The Board of Trustees shall decide which organization(s) meet the definition of an eligible organization ~~by November 1, 2014. If only one organization meets the definition of eligible organization, that organization shall follow its own governing documents to make the selection of the non-voting trustee, and provide notification of the appointment to OTRS in writing by December 10, 2014.~~

(e) Should more than one organization meet the definition of an eligible organization, the Board of Trustees shall maintain a register of eligible organizations and shall place the organizations meeting the definition on the initial register according to the membership number of the organizations, with the organization with the most members being listed first on the register, and the organization with the lowest number of members being listed last. The organization listed first on the register shall follow its own governing documents to make the selection of the non-voting trustee, and provide notification of the appointment to the ~~OTRS~~ in writing by December 10, 2014. By September 30 of every year thereafter every organization on the register must re-certify to the System Board of Trustees that it continues to meet the definition of statewide organization representing retired educators, and that it has at least two hundred (200) members who are retired educators. Any organization that fails to re-certify its eligibility or fails to meet the eligibility shall be stricken from the register by the System Board at the next scheduled board meeting. By November 1 of every year the System Board shall notify the next organization listed on the register of its entitlement to make the non-voting member appointment for the next calendar

year, with notification to the ~~OTRS~~ of the name of the appointed non-voting member in writing by December 10 of that year. This yearly procedure shall continue through the register sequentially until all organizations on the register have made an appointment to the Board of Trustees. Entitlement to make the appointment shall then return to the first organization listed on the register, and the procedure shall continue yearly in the same manner sequentially through the register.

(f) Any organization making application for eligibility and addition to the register after September 15, 2014, shall make application to TRS in the same manner described above. The Board shall decide by November 1 of the year in which the application is made if the organization meets the definition of an eligible organization. The organization shall then be added to the end of the register. In any year in which more than one organization is added to the register, ~~they~~ it shall be added according to the membership number of the organizations, with the organization with the most members being listed first on the register, and the organization with the lowest number of members being listed last.

(g) The term of the non-voting Trustee appointment made hereunder shall be one (1) calendar year, from January 1 to December 31.

[Source: Added at 13 Ok Reg 3521, eff 8-26-96; Amended at 19 Ok Reg 2726, eff 7-1-15]