

**ADMINISTRATIVE RULES PERTAINING
TO THE
OKLAHOMA FIREFIGHTERS
PENSION AND RETIREMENT
SYSTEM**

**RULES OF THE
OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM
Adopted Pursuant To the Oklahoma Administrative Procedures Act
Effective June 11, 2007**

TITLE 270. OKLAHOMA FIREFIGHTERS PENSION AND RETIREMENT SYSTEM

Chapter

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CHAPTER 1. ADMINSTRATIVE OPERATIONS

Section

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[**Authority:** 11 O.S., Sections 49-100 through 49-143.5]

[**Source:** Codified 12-31-91]

270:1-1-1. Purpose

This Chapter describes the organization and operation of the Oklahoma Firefighters Pension and Retirement System and State Board, as required by 75 O.S., Section 302. This Chapter describes the administrative operations of the System and State Board, and sets forth procedures available to the public, including hearing procedures, as required by 75 O.S., Sections 302, 305, and 307.

[**Source:** Amended at 14 Ok Reg 2915, eff 7-11-97]

270:1-1-2. Description of organization

(a) The System is a body corporate and an instrumentality of the State of Oklahoma, vested with the powers and duties specified in 11 O.S. Sections 49-100.1 through 49-143.3, and other such powers and duties necessary to carry out the purposes and intent of these provisions.

(b) The State Board shall be responsible for the operation, administration and management of the System, and has such powers and authority expressly conferred upon it by, or reasonably implied from the provisions of 11 O.S. Sections 49-100.1 through 49-143.3. The State Board is composed of thirteen (13) members appointed as follows:

- (1) Five (5) members shall be the Board of Trustees of the Oklahoma Firefighters Association;
- (2) One member shall be the President of the Professional Firefighters of Oklahoma or his designee. The designee shall be a member of the Professional Firefighters of Oklahoma;

- (3) One member shall be the President of the Oklahoma State Retired Firefighters Association or his designee. The designee shall be a member of the Oklahoma State Retired Firefighters Association;
 - (4) One member shall be appointed by the Speaker of the House of Representatives;
 - (5) One member shall be appointed by the President Pro Tempore of the Senate;
 - (6) Two (2) members shall be appointed by the President of the Oklahoma Municipal League;
 - (7) One member shall be the State Insurance Commissioner or his designee;
 - (8) One member shall be the Director of State Finance or his designee. (Refer to 75:251(B)(2)(b) in APA and 10:10-5-12 in ARR.)
- (c) The State Board shall appoint an Executive Director, who shall be the managing and administrative officer of the System:
- (1) The Executive Director shall perform the duties and services as may, from time to time, be requested or directed by the State Board, and who shall attend all regular meetings of the State Board.
 - (2) The Executive Director shall be responsible to the State Board for the day-to-day operation of the System, and shall on behalf of the State Board:
 - (A) Be responsible for the transmittal of communications from the State Board to the existing local boards of participating municipalities;
 - (B) Receive payroll and employment reports from participating municipalities and maintain current employment earnings and contribution data on each covered member of each participating municipality;
 - (C) Coordinate the activities of all other advisors, consultants, agents or employees appointed by the State Board;
 - (D) Maintain all necessary records reflecting the operation and administration of the System and submit detailed reports thereof to the State Board at each regular meeting of the State Board and such other time or times as requested by the State Board;
 - (E) Process all claims for payment of benefits or expenses for approval by the State Board; and
 - (F) File on behalf of the State Board such reports or other information as shall be required by any state or federal law or regulations.

[Source: Amended at 14 Ok Reg 2915, eff 7-11-97; Amended at 18 Ok Reg 3048, eff 7-12-01]

270:1-1-3. Methods whereby the public may obtain information or make submissions or requests

- (a) Information regarding pension matters within the purview of 11 O.S., Sections 49-100.7 through 49-143.3, which statutes define the State Board's jurisdiction, may be secured by oral or written communication addressed to the State Board at its offices located at: Oklahoma Firefighters Pension and Retirement System, 4545 N. Lincoln Blvd., Suite 265, Oklahoma City, Oklahoma 73105-3414 (405) 522-4600.
- (b) The Executive Secretary of the State Board maintains in permanent form as public record and open to public inspection, records of the official proceedings of the State Board, as well as all rules, final orders or decisions of the State Board, such records being located in the State Board offices and shall be available upon request. All information, documents and copies contained in a member's file shall be given confidential treatment and shall not be made public

without prior written consent of the member, or by subpoena or court order. Offices of the State Board are open daily Monday through Friday from 7:30 a.m. until 4:30 p.m.

[Source: Amended at 14 Ok Reg 2915, eff 7-11-97; Amended at 18 Ok Reg 3048, eff 7-12-01]

270:1-1-4. Description of forms and instructions [REVOKED]

270:1-1-5. Hearing procedures

(a) The State Board may conduct examinations and investigations of pension matters within the scope of its jurisdiction and authority as it deems appropriate to secure information useful in the lawful administration of these provisions. The State Board may compel witnesses to appear and testify upon all matters connected with these provisions in the same manner as provided by law for the taking of testimony.

(b) Any person, existing local board or participating municipality aggrieved by a decision of the Executive Director or the State Board on any matter concerning rights or benefits available under these provisions, may request a hearing before the State Board to review or reconsider those decisions.

(1) The request for hearing shall be mailed or delivered to the office of the System, located at 4545 N. Lincoln Blvd., Suite 265, Oklahoma City, Oklahoma 73105-3414.

(2) Upon receipt of the request for hearing, the State Board shall assign a hearing number thereto and shall notify the requesting party of the date of the hearing by mail. The appropriate existing local pension board of the participating municipality shall also be given notice of the hearing date by mail.

(3) Formal Hearing Procedures.

(A) All hearings shall be public except that all information, documents and copies contained in a member's file shall be given confidential treatment and shall not be made public without prior written consent of the member. The State Board may hold any part of the hearing in Executive Session as allowed by 25 O.S. Section 307, if the State Board determines that disclosure of confidential communication or information would seriously impair the ability of the public body to conduct the hearing or would violate confidentiality requirements of state or federal law. Upon a motion of any party, witnesses may be excluded from the hearing room when such witness is not testifying.

(B) The hearing shall be presided by the Chairman of the State Board, or the Chairman's designee, with the assistance of the legal counsel for the State Board.

(C) The order of procedure for the hearing shall be as follows:

(i) The presiding officer, or the legal counsel for the State Board, shall present a recitation of the matters before the State Board;

(ii) Opening statement by the requesting party;

(iii) Presentation of evidence by the requesting party followed by questioning by the presiding officer, legal counsel for the State Board, or any member of the State Board;

(iv) Presentation of evidence by the legal counsel for the State Board, if necessary, followed by questioning by the requesting party or any member of the State Board;

- (v) Opportunity for rebuttal testimony or additional evidence and questioning by interested parties may be allowed at the discretion of the presiding officer;
 - (vi) Closing arguments by the requesting party.
- (4) If the requesting party desires a certified court reporter at the hearing, the State Board will arrange for a certified court reporter upon request of the party. The cost of a certified court reporter shall be paid by the requesting party. Such a request should be in writing but will not be considered if received less than ten (10) days before the hearing date.
- (5) Requests for continuances received prior to the hearing date may be granted by the Chairman of the State Board for good cause shown.
- (6) The State Board may in its discretion assign any matter to a hearing examiner to conduct a hearing and receive all evidence. The hearing examiner shall prepare a proposed order to be submitted to the State Board within ten (10) days after the hearing at a place convenient for the parties and/or witnesses. The State Board shall consider the proposed order of the hearing examiner at the next scheduled public meeting of the State Board.
- (7) All decisions of the State Board shall be in writing and shall be mailed to all parties or their attorney of record.
- (8) Any person who deems himself or herself aggrieved by a decision of the State Board on a claim for pension benefits shall appeal the decision of the State Board to the Oklahoma County District Court, as provided in 11 O.S. Section 49-128.

[Source: Amended at 14 Ok Reg 2915, eff 7-11-97; Amended at 18 Ok Reg 3048, eff 7-12-01]

CHAPTER 10. FIREFIGHTERS PENSION AND RETIREMENT PLAN

Section

- 270:10-1-4. Medical evaluation **[Revoked]**
- 270:10-1-4.1. Medical evaluation
- 270:10-1-5. Medical requirements for fire department candidates
- 270:10-1-6. Physical performance/agility test
- 270:10-1-7. Description of the essential functions of all eligible firefighters
- 270:10-1-8. Standard operating procedure
- 270:10-1-9. Purchase of transferred credited service.

[Authority: 11 O.S., Section 49-100.7 and 49-116]

[Source: Codified 12-23-91]

270:10-1-1. Purpose

This Chapter establishes physical standards for new members in the Firefighters Pension and Retirement System and establishes procedures and other requirements for administering the pension and retirement plan.

[Source: Amended at 13 Ok Reg 1601, eff 5-28-96]

270:10-1-4. Medical evaluation. [Revoked]

270:10-1-4.1. Medical evaluation.

(a) Any candidate applying for entrance into the System as a paid firefighter must provide to the System written certification from a physician that the candidate has met the minimum medical requirements for entrance. Medical evaluations of such candidates shall be conducted prior to applications for entrance being submitted to the System. For the purposes of this section, candidate means any person being considered for membership as a paid firefighter. Medical evaluations of candidates including history, examinations, evaluations, and laboratory tests, shall be performed on each candidate in order to detect any condition(s) that could adversely affect the candidate's ability to safely perform all essential job functions of fire suppression, prevention and life safety duties, as set forth in 11 O.S. §49-100, *et seq.*

(b) The purpose of the minimum medical requirements is to reduce the risk and burden of fire Service occupational morbidity and mortality while improving the safety and effectiveness of firefighters operating to protect civilian life and property. The minimum medical requirements ensure that candidates are medically capable of performing required duties, and reduces the risk of occupational injuries and illnesses, which has direct impacts on the well being of the candidate, members of the System, the System itself and the general civilian population.

[Source: Added at 21 Ok Reg 2132, eff 6-26-04]

270:10-1-5. Medical conditions affecting ability to safely perform essential job functions.

(a) Medical conditions that can affect a candidate's ability to safely perform essential job functions shall be designated either Category A or Category B.

(b) Candidates with Category A medical conditions shall not be certified as meeting the medical requirements for entrance into the System.

(c) Candidates with Category B medical conditions shall be certified as meeting the medical requirements for entrance into the System only if they can perform the essential job functions without posing a significant safety and health risk to themselves, members, or civilians.

(1) Head.

(A) Category A medical conditions shall include the following:

(i) Defect of skull preventing helmet use or leaving underlying brain unprotected from trauma.

(ii) Any skull or facial deformity that would not allow for a successful respiratory facepiece fit test.

(iii) Any head condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Deformities of the skull such as depressions or exostoses.

(ii) Deformities of the skull associated with evidence of disease of the brain, spinal cord, or peripheral nerves.

(iii) Loss or congenital absence of the bony substance of the skull.

(iv) Any other head condition that may result in a person not being able to safely perform essential job functions.

(2) Neck.

(A) Category A medical conditions shall include the following:

- (i) Any neck condition that results in a person not being able to safely perform essential job functions.
- (ii) Reserved

(B) Category B medical conditions shall include the following:

- (i) Thoracic outlet syndrome
- (ii) Congenital cysts, chronic draining fistulas, or similar lesions.
- (iii) Contraction of neck muscles.
- (iv) Any other neck condition that may result in a person not being able to safely perform essential job functions.

(3) Eyes and Vision.

(A) Category A medical conditions shall include the following:

- (i) Far visual acuity less than 20/40 binocular, corrected with contact lenses or spectacles or far visual acuity less than 20/100 binocular for wearers of hard contacts or spectacles, uncorrected.
- (ii) Color perception. Monochromatic vision resulting in inability to use imaging devices.
- (iii) Monocular vision.
- (iv) Any eye condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

- (i) Diseases of the eye such as retinal detachment, progressive retinopathy, or optic neuritis.
- (ii) Ophthalmological procedures such a radial keratotomy, Lasik procedure, or repair of retinal detachment.
- (iii) Peripheral vision in the horizontal meridian of less than 110 degrees in the better eye or any condition that significantly affects peripheral vision in *both* eyes.
- (iv) Any other eye condition that may result in a person not being able to safely perform essential job functions.

(4) Ears and hearing.

(A) Category A medical conditions shall include the following:

- (i) Chronic vertigo or impaired balance as demonstrated by the inability to tandem gait walk.
- (ii) On audiometric testing, average hearing loss in the unaided better ear greater than 40 decibels (db) at 500 Hz, 1000Hz, 2000 Hz, and 3000 Hz when audiometric device is calibrated to ANSI Z24.5.
- (iii) Any ear condition (or hearing impairment) that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

- (i) Unequal hearing loss.
- (ii) Average uncorrected hearing deficit at the test frequencies 500Hz, 1000 Hz, 2000 Hz, and 3000 Hz greater than 40 decibels (db) in *either* ear.
- (iii) Atresia, stenosis, or tumor of the auditory canal.
- (iv) External otitis.
- (v) Agenesis or traumatic deformity of the auricle.

- (vi) Mastoiditis or surgical deformity of the mastoid.
 - (vii) Mènièrès syndrome, labyrinthitis, or tinnitus.
 - (viii) Otitis media.
 - (ix) Any other ear condition (or hearing impairment) that may result in a person not being able to safely perform essential job functions.
- (5) Dental.**
- (A) Category A medical conditions shall include the following:
 - (i) Any dental condition that may result in a person not being able to safely perform essential job functions.
 - (ii) Reserved.
 - (B) Category B medical conditions shall include the following:
 - (i) Diseases of the jaw or associated tissues.
 - (ii) Orthodontic appliances.
 - (iii) Oral tissues, extensive loss.
 - (iv) Relationship between the mandible and maxilla that interferes with satisfactory postorthodontic replacement or ability to use protective equipment.
 - (v) Any other dental condition that may result in a person not being able to safely perform essential job functions.
- (6) Nose, oropharynx, trachea, esophagus, and larynx.**
- (A) Category A medical conditions shall include the following:
 - (i) Tracheostomy.
 - (ii) Aphonia.
 - (iii) Any nasal, oropharyngeal, esophageal, or laryngeal condition that results in a person not being able to safely perform essential job functions.
 - (B) Category B medical conditions shall include the following:
 - (i) Congenital or acquired deformity.
 - (ii) Allergic rhinitis.
 - (iii) Epistaxis, recurrent.
 - (iv) Sinusitis, recurrent.
 - (v) Dysphonia.
 - (vi) Anosmia.
 - (vii) Tracheal stenosis.
 - (viii) Nasopharyngeal polyposis.
 - (ix) Any other nasal, oropharyngeal, esophageal, or laryngeal condition that may result in a person not being able to safely perform essential job functions.
- (7) Lungs and chest walls.**
- (A) Category A medical conditions shall include the following:
 - (i) Active hemoptysis.
 - (ii) Empyema.
 - (iii) Pulmonary hypertension.
 - (iv) Active tuberculosis.
 - (v) Obstructive lung diseases (e.g., emphysema, chronic bronchitis, asthma, etc.) with an FEV1/FVC <0.75, with both FEV1 FVC below normal (<0.80%) as defined by the American Thoracic Society.

- (vi) Hypoxemia - Oxygen saturation <90% (exercise testing indicated when resting oxygen is <94% but >90%). Evaluate VO_2 max as described by the American College of Sports Medicine (ACSM).
- (vii) Asthma - Reactive airways disease requiring bronchodilator or corticosteroid therapy in the previous 2 years. A candidate who has in the past required bronchodilator, corticosteroid, or anti-inflammatory therapy for asthma but who does not believe he/she has asthma shall be evaluated by a pulmonologist or other expert in asthmatic lung diseases such as an allergist to determine the following:
 - (I) Asthma has resolved without symptoms off medications for 2 years.
 - (II) If allergic, allergen avoidance or desensitization has been successful.
 - (III) Spirometry demonstrates adequate reserve (FVC and FEV1 greater or equal to 90 percent) and no bronchodilator response measured off all bronchodilators on the day of testing.
 - (IV) Normal or negative response (less than 20% decline in FEV1) to provocative challenge using cold air, exercise (12 METS), or methacholine. (PC^{20} greater than 8 is considered normal, as response at dose greater than 8mg might not be clinically significant).
 - (V) Challenge testing shall be performed off all anti-inflammatory medications for 4 weeks preceding the test and off all bronchodilators on the day of testing.
- (B) Category B medical conditions shall include the following:
 - (i) Pulmonary resection surgery, chest wall surgery, and Pneumothorax.
 - (ii) Pleural effusion.
 - (iii) Fibrothorax, chest wall deformity, and diaphragm abnormalities.
 - (iv) Interstitial lung disease.
 - (v) Pulmonary vascular diseases or history of pulmonary embolism.
 - (vi) Bronchiectasis.
 - (vii) Infectious diseases of the lung or pleural space.
 - (viii) Cystic fibrosis.
 - (ix) Central or obstructive apnea.
 - (x) Any other pulmonary condition that may result in a person not being able to safely perform essential job functions.

(8) Heart.

- (A) Category A medical conditions shall include:
 - (i) Coronary artery disease, including a history of myocardial infarction, angina pectoris, coronary artery bypass surgery, coronary angioplasty, and similar procedures.
 - (ii) Cardiomyopathy or congestive heart failure, including signs or symptoms of comprised left or right ventricular function, including dyspnea, S3 gallop, peripheral edema, enlarged ventricle, abnormal ejection fraction, and/or inability to increase cardiac output with exercise.
 - (iii) Acute pericarditis, endocarditis, or myocarditis.
 - (iv) Syncope, recurrent.

- (v) A medical condition requiring an automatic implantable cardiac defibrillator or history of ventricular fibrillation due to ischemic or valvular heart disease, or cardiomyopathy.
 - (vi) Third-degree atrioventricular block.
 - (vii) Cardiac pacemaker.
 - (viii) Idiopathic hypertrophic subaortic stenosis.
 - (ix) Any cardiac condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
- (i) Valvular lesions of the heart, including prosthetic valves.
 - (ii) Recurrent supraventricular or atrial tachycardia, flutter or fibrillation.
 - (iii) Left bundle branch block.
 - (iv) Second-degree atrioventricular block in the absence of structural heart disease.
 - (v) Sinus pause >3 seconds.
 - (vi) Ventricular arrhythmia (history or presence of multi-focal PVC's or non-sustained ventricular tachycardia on resting EKG with or without symptoms; history or presence of sustained ventricular tachycardia with or without symptoms).
 - (vii) History of congenital abnormality.
 - (viii) History of congenital abnormality.
 - (ix) Chronic pericarditis, endocarditis, or myocarditis.
 - (x) Any other heart condition that may result in a person not being able to safely perform essential job functions.
- (9) Vascular System.**
- (A) Category A medical conditions shall include the following:
- (i) Hypertension with evidence of end organ damage or not controlled by approved medications.
 - (ii) Thoracic or abdominal aortic aneurysm.
 - (iii) Carotid artery stenosis or obstruction resulting in >50 percent reduction in blood flow.
 - (iv) Peripheral vascular disease resulting in symptomatic claudication.
 - (v) Any other vascular condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
- (i) Vasopastic phenomena such Raynaud's phenomenon.
 - (ii) Thrombophlebitis and varicosities.
 - (iii) Chronic lymphedema due to lymphadenopathy or venous valvular incompetency.
 - (iv) Congenital or acquired lesions of the aorta or major vessels.
 - (v) Circulatory instability as indicated by orthostatic hypotension, persistent tachycardia, and peripheral vasomotor disturbances.
 - (vi) History of surgical repair of aneurysm of heart or major vessel.
 - (vii) Any other vascular condition that may result in a person not being able to safely perform essential job functions.
- (10) Abdominal organs and gastrointestinal system.**
- (A) Category A medical conditions shall include the following:
- (i) Presence of uncorrected inguinal/femoral hernia regardless of symptoms.

- (ii) Any gastrointestinal condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
 - (i) Cholecystitis.
 - (ii) Gastritis.
 - (iii) GI bleeding.
 - (iv) Acute hepatitis
 - (v) Hernia including the following:
 - (I) Uncorrected umbilical, ventral, or incisional hernia if significant risk exists for infection or strangulation.
 - (II) Significant symptomatic hiatal hernia if associated with asthma, recurrent pneumonia, chronic pain, or ulcers.
 - (III) Surgically corrected hernia >3 months after surgical correction.
 - (vi) Inflammatory bowel disease or irritable bowel syndrome.
 - (vii) Intestinal obstruction.
 - (viii) Pancreatitis.
 - (ix) Diverticulitis.
 - (x) History of gastrointestinal surgery.
 - (xi) Peptic or duodenal ulcer of Zollinger-Ellison syndrome.
 - (xii) Asplenia.
 - (xiii) Cirrhosis, hepatic or biliary.
 - (xiv) Chronic active hepatitis
 - (xv) Any other gastrointestinal condition that may result in a person not being able to safely perform essential job functions.
- (11) Reproductive System.**
 - (A) Category A medical conditions shall include the following:
 - (i) Any genital condition that results in a person not being able to safely perform essential job functions.
 - (ii) Reserved
 - (B) Category B medical conditions shall include the following:
 - (i) Pregnancy, for its duration.
 - (ii) Dysmenorrhea.
 - (iii) Endometriosis, ovarian cysts, or other gynecologic conditions.
 - (iv) Testicular or epididymal mass.
 - (v) Any other genital condition that may result in a person not being able to safely perform essential job functions.
- (12) Urinary system.**
 - (A) Category A medical conditions shall include the following.
 - (i) Renal failure or insufficiency requiring continuous ambulatory peritoneal dialysis (CAPD) or hemodialysis.
 - (ii) Any urinary condition that results in a person not being able to safely perform essential job functions.
 - (B) Category B medical conditions shall include the following:
 - (i) Diseases of the kidney.
 - (ii) Diseases of the ureter, bladder, or prostate.

(iii) Any other urinary condition that may result in a person not being able to safely perform essential job functions.

(13) Spine and Axial Skeleton.

(A) Category A medical conditions shall include the following:

(i) Scoliosis of thoracic or lumbar spine with angle >40 degrees.

(ii) History of spinal surgery fusion of two or more vertebrae or rods that are still in place.

(iii) Any spinal or skeletal condition producing sensory or motor deficit(s) or pain due to radiculopathy or nerve root compression.

(iv) Any spinal or skeletal condition causing pain that frequently or recurrently requires narcotic analgesic medication.

(v) Cervical vertebral fractures with multiple vertebral body compression greater than 25 percent; evidence of posterior element involvement, nerve root damage, disc involvement, dislocation (partial, moderate, severe), abnormal exam, ligament instability, symptomatic, and/or less than 6 months post injury or 1 year since surgery.

(vi) Thoracic vertebral fractures with vertebral body compression greater than 50 percent; evidence of posterior element involvement, nerve root damage, disc involvement, dislocation (severe-with or without surgery), abnormal exam, ligament instability, symptomatic, and/or less than 6 months post injury or 1 year since surgery.

(vii) Lumbosacral vertebral fractures with vertebral body compression greater than 50 percent; evidence of posterior element involvement, nerve root damage, disc involvement, dislocation (severe-with or without surgery), abnormal exam, ligament instability, symptomatic, and/or less than 6 months post injury or 1 year since surgery.

(viii) Any spinal or skeletal condition that results in a person not being able to safely perform essential job functions.

(B) Category B medical conditions shall include the following:

(i) Congenital or developmental malformations of the back.

(ii) Scoliosis with angle >40 degrees.

(iii) Arthritis of the cervical, thoracic, or lumbosacral spine.

(iv) Facet atrophism, high lumbosacral angle, hyperlordosis, Schmorl's nodes, Scheuermann's disease, spina bifida occulta, spondylolisthesis, spondylolysis, or transitional vertebrae.

(v) History of infections or infarcts in the spinal cord, epidural space, vertebrae, or axial skeletal joints.

(vi) History of laminectomy or discectomy or vertebral fractures.

(vii) Any spinal or skeletal condition that may result in a person not being able to safely perform essential job functions.

(14) Extremities.

(A) Category A medical conditions shall include the following:

(i) Bone hardware such as metal plates or rods supporting the bone during healing.

(ii) History of total joint replacement.

(iii) Amputation or congenital absence of upper extremity limb (hand or higher).

(iv) Amputation of either thumb proximal to the mid-proximal phalanx.

- (v) Amputation or congenital absence of lower extremity limb (foot or above).
- (vi) Chronic nonhealing or recent bone grafts.
- (vii) History of more than one dislocation of the shoulder without surgical repair or with history of recurrent shoulder disorders within the last 5 years with pain or loss of motion, and with or without radiographic deviations from normal.
- (viii) Any extremity condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
 - (i) History of shoulder dislocation with surgical repair.
 - (ii) Significant limitation of function of shoulder, elbow, wrist, hand, or finger, due to weakness, reduced range of motion, atrophy, unequal length, absence, or partial amputation.
 - (iii) Significant lack of full motion of hip, knee, ankle, foot, or toes due to weakness, reduced range of motion, atrophy, unequal length, absence, or partial amputation.
 - (iv) History of meniscectomy or ligamentous repair of knee.
 - (v) History of intra-articular, malunited, or nonunion of upper or lower extremity fracture.
 - (vi) History of osteomyelitis, septic, or rheumatoid arthritis.
 - (vii) Any other extremity condition that may result in a person not being able to perform essential job functions.

(15) Neurological disorders.

- (A) Category A medical conditions shall include the following.
 - (i) Ataxias of heredo-degenerative type.
 - (ii) Cerebral arteriosclerosis as evidenced by a history of transient ischemic attack, reversible ischemic neurological deficit, or ischemic stroke.
 - (iii) Hemiparalysis or paralysis of a limb.
 - (iv) Multiple sclerosis with activity or evidence of progression within previous 3 years.
 - (v) Myasthenia gravis with activity or evidence of progression within previous 3 years.
 - (vi) Progressive muscular dystrophy or atrophy.
 - (vii) Uncorrected cerebral aneurysm.
 - (viii) A candidate with epileptic conditions shall have had complete control during the previous 5 years and to be medically qualified a candidate shall meet all of the following:
 - (I) No seizures for 1 year off all anti-epileptic medication or 5 years seizure free on a stable medical regimen.
 - (II) Neurologic examination is normal.
 - (III) Imaging (CAT or MRI scan) studies are normal.
 - (IV) Awake and asleep EEG studies with photic stimulation hyperventilation are normal.
 - (V) A definitive statement from a qualified neurological specialist that the candidate meets the specified above and that the candidate is neurologically cleared for firefighting training and the performance of essential job functions.

- (ix) Dementia (Alzheimer's and other neuro-degenerative diseases) with symptomatic loss of function or cognitive impairment (e.g., <28 on Mini-Mental Status Exam).
 - (x) Any neurological condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
- (i) Congenital malformations.
 - (ii) Migraine.
 - (iii) Clinical disorders with paresis, dyscoordination, deformity, abnormal motor activity, abnormality of sensation, or complaint of pain.
 - (iv) History of subarachnoid or intraparenchymal hemorrhage.
 - (v) Abnormalities from recent head injury such as severe cerebral contusion or concussion.
 - (vi) Any other neurological condition that may result in a person not being able to safely perform essential job functions.
- (16) Skin.**
- (A) Category A medical conditions shall include the following:
- (i) Metastatic or locally extensive basal or squamous cell carcinoma or melanoma.
 - (ii) Any dermatologic condition that would not allow for a successful respiratory facepiece test.
 - (iii) Any dermatologic condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
- (i) Skin conditions of a chronic or recurrent nature (eczema, cystic acne, psoriasis) that cause skin openings or inflammation or irritation of the skin surface.
 - (ii) Surgery or skin grafting.
 - (iii) Mycosis fungoides.
 - (iv) Cutaneous lupus erythematosus.
 - (v) Raynaud's phenomenon.
 - (vi) Scleroderma (skin).
 - (vii) Vasculitic skin lesions.
 - (viii) Atopic dermatitis/eczema.
 - (ix) Contact or seborrheic dermatitis.
 - (x) Albinism Darier's Disease, Ichthyosis Marfan's Syndrome, Neurofibromatosis, and other genetic conditions.
 - (xi) Folliculitis, Pseudo-folliculitis, Miliaria, Keloid folliculitis.
 - (xii) Hidradenitis suppurativa, Furuncles, Carbuncles, or Grade IV acne (cystic).
 - (xiii) Mechano-Bullous Disorders (Epidermolysis Bullosa, Hailey Pempfigus, Porphyria, Pemphigoid).
 - (xiv) Urticaria or Angioedema.
 - (xv) Any other skin condition that may result in a person not being able to safely perform essential job functions.
- (17) Blood and blood-forming organs.**
- (A) Category A medical conditions shall include the following:
- (i) Hemorrhagic states requiring replacement therapy.
 - (ii) Sickle cell disease (homozygous).

- (iii) Clotting disorders.
- (iv) Any other hematological condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
 - (i) Anemia.
 - (ii) Leukopenia.
 - (iii) Polycythemia vera.
 - (iv) Splenomegaly.
 - (v) Any other hematological condition that results in a person not being able to safely perform essential job functions.
 - (vi) History of thromboembolic disease.

(18) Endocrine and metabolic disorders.

- (A) Category A medical conditions shall include the following:
 - (i) Type 1 diabetes unless a candidate meets all of the following criteria:
 - (I) Is maintained by a physician knowledgeable in current management of diabetes mellitus on a basal/bolus (can include subcutaneous insulin fusion pump) regimen using insulin analogs.
 - (II) Has demonstrated over a period of at least 1 year the motivation and understanding required to closely monitor and control capillary blood glucose levels through nutritional therapy and insulin administration. Assessment of this shall take into consideration the erratic meal schedules, sleep disruptions, and high aerobic and anaerobic workloads intrinsic to firefighting.
 - (III) Has dilated retinal exam by a qualified ophthalmologist or optometrist that shows no higher grade of diabetic retinopathy than microaneurysms, as indicated on the International Clinical Diabetic Retinopathy Disease Severity Scale.
 - (IV) Has normal renal function based on a calculated creatinine clearance greater than 60mL/min and absence of proteinuria. (Creatinine clearance can be calculated by use of the Cockcroft-Gault or similar formula. Proteinuria is defined as 24-hour urine excretion of greater than or equal to 300mg of protein or greater than or equal to 300mg of albumin per gram of creatinine in a random sample).
 - (V) Has no automatic or peripheral neuropathy. (Peripheral neuropathy is determined by diminished ability to feel the vibration of a 129 cps tuning fork or the light touch of 10-gram monofilament on the dorsum of the great toe proximal to the nail autohomic neuropathy might be determined by evidence of gastroparesis, postural hypotension, or abnormal tests of heart rate variability.)
 - (VI) Has normal cardiac function without evidence of myocardial ischemia on cardiac stress testing (to at least 12 METS) by ECG and cardiac imaging.
 - (VII) Has a signed statement from an endocrinologist knowledgeable in management of diabetes mellitus as well as the essential job functions and hazards of firefighting as described in Section 270:10-1-7 of the administrative rules that the candidate is (1) is being successfully maintained on a regimen consistent with (18) (i) (I) and (II), (2) has achieved stable control of blood glucose as evidenced by Hemoglobin A1C consistently less than 8 when monitored at least twice yearly and shall include evidence of a set schedule for blood glucose monitoring and a thorough review of the data from such

monitoring (3) does not have an increased risk of hypoglycemia due to alcohol use or other predisposing factors (4) has had no episodes of severe hypoglycemia (defined as requiring assistance of another) in the preceding 1 year, with no more than one episode of severe hypoglycemia in the preceding 5 years and (5) is certified not have a medical contraindication to firefighting training and operations.

(ii) Insulin-requiring Type 2 diabetes mellitus, unless a candidate meets all of the following criteria:

(I) Is maintained by a physician knowledgeable in current Management of diabetes mellitus.

(II) Has demonstrated over a period of at least 3 months the motivation and understanding required to closely monitor and control capillary blood glucose levels through nutritional therapy and insulin administration. Assessment of this shall take into consideration the erratic meal schedules, sleep disruption, and high aerobic and anaerobic workloads intrinsic to firefighting.

(III) Has a dilated retinal exam by a qualified ophthalmologist or optometrist that show no higher grade of retinopathy than microaneurysms, as indicated on the International Clinical Diabetic Retinopathy Disease Severity Scale.

(IV) Has normal renal function based on a calculated creatinine clearance greater than 60 mL/min and absence of proteinuria. (Creatinine clearance can be calculated by use of the Codroft-Gault or similar formula. Proteinuria is defined as 24-hour urine excretion of greater than or equal to 300mg protein or greater than or equal to 300mg of albumin per gram creatinine in a random sample).

(V) Has no autonomic or peripheral neuropathy. (Peripheral neuropathy is determined by diminished ability to feel the vibration of 128 cps tuning fork or the light touch of a 10-gram monofilament on the dorsum of the great toe proximal to the nail. Autonomic neuropathy can be determined by evidence of gastroparesis, postural hypotension, or abnormal tests of heart rate variability.

(VI) Has normal cardiac function without evidence of myocardial ischemia on cardiac stress testing (to at least 12 METS) by ECG and cardiac imaging.

(VII) Has signed statement from an endocrinologist knowledgeable in management of diabetes mellitus as well as the essential job functions and hazards of firefighting as described in Section 270:10-1-7 of the administrative rules that the candidate is (1) maintained on a stable insulin regimen and has demonstrated over a period of at least 3 months the motivation and understanding required to closely monitor and control capillary blood glucose levels despite varied activity schedules through nutritional therapy and insulin administration, (2) has achieved stable control of blood glucose as evidenced by Hemoglobin A1C less than 8 when monitored at least twice yearly, which must include evidence of a set schedule for blood glucose monitoring and a thorough review of the data from such monitoring, (3) Does not have an increased risk of hypoglycemia due to alcohol use or other predisposing factors, (4) has had no episodes of severe hypoglycemia (defined as requiring assistance of another) in the preceding 1 year with no more than one episode of severe hypoglycemia in the preceding 5 years and (5) is certified not to have a medical contraindication to firefighting training and operations.

- (iii) Any endocrine or metabolic condition that results in a person not being able to safely perform job functions.
- (B) Category B medical conditions shall include the following:
 - (i) Diseases of the adrenal gland, pituitary gland, parathyroid gland, or thyroid gland of clinical significance.
 - (ii) Nutritional deficiency diseases or other metabolic disorder.
 - (iii) Diabetes mellitus, not on insulin therapy, but controlled by diet, exercise, and/or hypoglycemic agents unless all of the following are met:
 - (I) Has achieved a stable blood glucose as evidenced by Hemoglobin A1C level less than 8 during the prior 3 month period.
 - (II) If on oral hypoglycemic agents, has had no episodes of severe hypoglycemia (defined as requiring assistance of another) in the preceding year.
 - (III) Has dilated retinal exam by a qualified ophthalmologist or optometrist that shows no higher grade of diabetic retinopathy than microaneurysms, as indicated on the International Clinical Diabetic Retinopathy Disease Severity Scale.
 - (IV) Has normal renal function based on a calculated creatinine clearance greater than 60mL/min and absence of proteinuria. (Creatinine clearance can be calculated by use of the Cockcroft-Gault or similar formula. Proteinuria is defined as 24-hour urine excretion of greater than or equal to 300mg protein or greater than or equal to 300mg of albumin per gram of creatinine in a random sample).
 - (V) Has no autonomic or peripheral neuropathy. (Peripheral neuropathy is determined by diminished ability to feel the vibration of a 128 cps tuning fork or the light touch of a 10-gram monofilament on the dorsum of the great toe proximal to the nail. Autonomic neuropathy can be determined by evidence of gastroparesis, postural hypotension, or abnormal tests of heart rate variability.
 - (VI) Normal cardiac function without evidence of myocardial ischemia on cardiac stress testing (to at least 12 METS) by ECG and cardiac imaging.
 - (iv) Any other endocrine or metabolic condition that may result in a person not being able to safely perform essential job functions.
- (19) Systemic diseases and miscellaneous conditions:**
 - (A) Category A medical conditions shall include the following:
 - (i) Any systemic condition that results in a person not being able to safely perform essential job functions.
 - (ii) Reserved
 - (B) Category B medical conditions shall include the following:
 - (i) Connective tissue disease, such as dermatomyositis, systemic lupus erythematosus, scleroderma, and rheumatoid arthritis.
 - (ii) History of thermal, chemical, or electrical burn injury with residual functional deficit.
 - (iii) Documented evidence of a predisposition to heat stress with recurrent episodes or resulting injury.
 - (iv) Any other systemic condition that may result in a person not being able to safely perform essential job functions.
- (20) Tumors and malignant diseases.**
 - (A) Category A medical conditions shall include the following:
 - (i) Malignant disease that is newly diagnosed, untreated, or currently being treated.

- (ii) Any tumor or similar condition that results in a person not being able to safely perform essential job functions.
- (B) Category B medical conditions shall include the following:
 - (i) Benign tumors.
 - (ii) History of CNS tumor or malignancy.
 - (iii) History of head and neck malignancy.
 - (iv) History of lung cancer.
 - (v) History of GI or GU malignancy.
 - (vi) History of bone or soft tissue tumors or malignancies.
 - (vii) History of hematological malignancy.
 - (viii) Any tumor or similar condition that may result in a person not being able to safely perform essential job functions.
- (21) Psychiatric conditions.**
 - (A) Category A medical conditions shall include the following:
 - (i) Any psychiatric condition that results in a person not being able to safely perform essential job functions.
 - (ii) Reserved
 - (B) Category B medical conditions shall include the following:
 - (i) A history of psychiatric condition or substance abuse problem.
 - (ii) Requirement for medications that increase an individual's risk of heat stress, or other interference with the ability to safely perform essential job functions.
 - (iii) Any other psychiatric conditions that may result in a person not being able to safely perform essential job functions.
- (22) Chemicals, drugs, and medications.**
 - (A) Category A medical conditions shall include the following:
 - (i) Narcotics, including methadone.
 - (ii) Sedative-hypnotics.
 - (iii) Drugs that prolong Prothrombin Time, Partial Thromboplastin Time or INR.
 - (iv) Beta-adrenergic blocking agents, high dose diuretics, or central Acting antihypertensive agents (e.g., clonidine).
 - (v) Respiratory medications: Inhaled bronchodilators, inhaled leukotrienerceptor blockers/antagonists.
 - (vi) Any chemical drug, or medications that results in a person not being able to safely perform essential job functions.
 - (vii) Evidence of illegal drug use detected through testing, conducted in accordance with Substance Abuse and Mental Health Service Administration (SAMHSA), shall be a Category A medical condition.
 - (viii) Evidence of clinical intoxication or measured blood alcohol level that exceeds the legal definition of intoxication according to the AHJ at the time of medical evaluation shall be a Category A medical condition.
 - (ix) High dose corticosteroids for chronic disease.
 - (x) Anabolic steroids.
 - (B) Category B medical conditions shall include the following:
 - (i) Cardiovascular agents.
 - (ii) Simulants.
 - (iii) Psychiatric medications.

- (iv) Other than high dose corticosteroids.
- (v) Antihistamines.
- (vi) Muscle relaxants.
- (vii) Any other chemical drug, or medication that results in a person not being able to safely perform essential job functions.

[Source: Added at 10 Ok Reg 1063, eff 3-23-92 through 5-28-93 (emergency); Added at 13 Ok Reg 1601, eff 5-28-96; Amended at 14 Ok Reg 2918, eff 7-11-97; Amended at 21 Ok Reg 2132, eff 6-26-04; Amended at 23 Ok Reg 22, eff 8-4-05 (emergency); Amended at 23 Ok Reg 1307, eff 5-25-06; Amended at 24 Ok Reg 1560, eff 6-11-07]

270:10-1-6. Physical performance/agility test.

(a) Any person being considered as a candidate for a position of a paid firefighter shall complete and pass a minimum physical performance/agility test based upon the following standards established by the State Board. The requirements for the test may be incorporated into an objective evaluation as to whether a candidate meets the initial criteria in order to perform the essential functions of a firefighter as described in Section 270:10-1-7 of these rules, if equivalent to the requirements listed in subsection (c) of this section and with prior approval by the State Board of the performance test.

(b) The candidate shall sign a waiver and release on a form acceptable to the State Board of any and all liability from injuries incurred as result of the physical performance/agility test.

(c) There shall be a minimum of six functions that shall be verified when the candidate is tested. The physical performance/agility test shall be part of the candidate's pension records.

- (1) The candidate shall complete one of the following:
 - (A) Run 1 1/2 miles within 13 minutes.
 - (B) Walk 3 miles within 38 minutes.
 - (C) Bicycle 4 miles within 12 minutes.
 - (D) Swim 500 yards within 8 minutes and 20 seconds.
 - (E) Run in place 75 steps per minute for 15 minutes.
 - (F) Run on motorized horizontal treadmill at 10 miles per hour for 6 minutes.
 - (G) Climb stairs consisting of 10 steps at 9 round trips per minute for 9 minutes.
- (2) The candidate shall perform 35 bent-knee sit-ups within 2 minutes.
- (3) The candidate shall complete one of the following:
 - (A) Flexed arm hang-minimum time: 8 seconds (palms away)
 - (B) Pull-ups minimum: 7 (palms away)
 - (C) Push-ups (standard)-minimum: 25
- (4) The candidate, given a beam secured to a level floor and measuring 20 ft. (6m) long by 3 to 4 in. (76 to 102mm) wide, and given a length of fire hose weighing at least 20 lb. (9 kg.), shall walk the length of the beam, carrying the length of hose, without falling off, stepping off the beam.
- (5) The candidate, given a weight of 125 lb. (57 kg.) shall lift the weight from the floor and carry the weight 100 ft. (305m) without stopping.
- (6) The candidate, starting from an erect position with feet apart, the distance closely approximately shoulder width, shall move a 15 lb (7 kg.) weight in the following manner: bend over, grasp the weight with both hands while it is at a point on the floor between the feet, and lift eight to waist level, then place the weight on the floor approximately 12 in. (305 mm) outside the left foot, and without letting go, raise the weight to waist level and

touch it to the floor about 12 in. (305 mm) outside the right foot. The weight shall then be moved alternately in this fashion from left foot to waist level, to right; right waist level to left until it has been moved 7 times in each direction with the total horizontal distance of travel being at least 21 in. (610 mm) more than the space between the feet for each of the 14 moves. This shall be done in less than 35 seconds.

[Source: Added at 10 Ok Reg 1063, eff 3-23-92 through 5-28-93 (emergency); Added at 13 Ok Reg 1601, eff 5-28-96; Amended at 14 Ok Reg 2918, eff 7-11-97]

270:10-1-7. Description of essential functions of all eligible firefighters

To be eligible for entrance into the System as a paid firefighter, a candidate must meet minimum medical requirements which reflect the ability of the candidate to perform the essential functions of fire suppression, prevention and life safety as set forth in O.S. §49 100.1, et seq. The essential job functions reflect the physical, physiological, intellectual, psychological demands of the occupation including,

- (1) Performing firefighting functions (e.g., hoseline operations, extensive crawling, lifting and carrying heavy objects, ventilating roofs or walls using power or hand tools, forcible entry), rescue operations, and other emergency response actions under stressful conditions while wearing personal protective ensembles (PPE) and self-contained breathing apparatus (SCBA), including working in extremely hot or cold environments for prolonged periods of time.
- (2) Wearing an SCBA, which includes a demand valve-type positive pressure facepiece or HEPA filter masks, which requires the ability to tolerate increased respiratory workloads.
- (3) Exposure to toxic fumes, irritants, particulates, biological (infectious) and nonbiological hazards, and/or heated gases, despite the use of PPE including SCBA.
- (4) Climbing 6 or more flights of stairs while wearing fire protective ensemble weighing at least 50 lb or more and carrying equipment/tools weighing an additional 20 to 40 lb.
- (5) Wearing fire protective ensemble that is encapsulating and insulating. Wearing this clothing will result in significant fluid loss that frequently progresses to clinical dehydration and can elevate core temperature to levels exceeding 102.2°F (39°C).
- (6) Searching, finding, and rescue-dragging or carrying victims ranging from newborns up to adults weighing over 200 lb to safety despite hazardous conditions and low visibility.
- (7) Advancing water-filled hoselines up to 2.5 in. in diameter from fire apparatus to occupancy (approximately 150 ft.); can involve negotiating multiple flights of stairs, ladders, and other obstacles.
- (8) Climbing ladders, operating from heights, walking or crawling in the dark along narrow and uneven surfaces, and operating in proximity to electrical power lines and/or other hazards.
- (9) Unpredictable emergency requirements for prolonged periods of extreme physical exertion without benefit of warm-up, scheduled rest periods, meals, access to medication(s), or hydration.
- (10) Operating fire apparatus or other vehicles in an emergency mode with emergency lights and sirens.

- (11) Critical, time-sensitive, complex problem solving during physical exertion in stressful, hazardous environments (including hot, dark, tightly enclosed spaces), further aggravated by fatigue, flashing lights, sirens and other distractions.
- (12) Ability to communicate (give and comprehend verbal orders) while wearing PPE and SCBA under conditions of high background noise, poor visibility, and drenching from hoselines and/or fixed protection systems (sprinklers).
- (13) Functioning as an integral component of a team, where sudden incapacitation of a member can result in mission failure or in risk of injury or death to civilians or other team members (e.g., two in, two out as described in NFPA 1500).

[Source: Added at 10 Ok Reg 1063, eff 3-23-92 through 5-28-93 (emergency); Added at 13 Ok Reg 1601, eff 5-28-96; Amended at 21 Ok Reg 2132, eff 6-26-04]

270:10-1-8. Standard operating procedures

(a) Benefits.

- (1) All pension benefits are paid in arrears the last working day of the month.
- (2) In determining a paid member's normal retirement date, fractional round-up of months and days shall not be used even if the member has volunteer credited service.
- (3) If a member serves the majority of the final month of service, the final month will count as a full month of credited service.
- (4) Where longevity pay or other salary which requires contributions is paid in a lump sum to a member, only the amount that would have been paid for a member's last thirty (30) months of credited service will be used for determining final average salary.
- (5) Retirement pursuant to 11 O.S. § 49-106 has at times included reemployment of a member by a participating municipality in a position which is not covered by the System. Thus, in-service distributions from the System to such a member are permitted. If a retired member is reemployed by a participating municipality in a paid position which is covered by the System, such member's monthly retirement payments shall cease during such period.

(b) Clerks and fire chiefs.

- (1) The clerk and/or the fire chief of a participating municipality, fire protection district, county fire department or development authority are responsible for the administration of local retirement issues affecting all members of the System, including but not limited to enrollment of eligible members, assisting members in making application for benefits, and collection and payment of employer and member contributions.
- (2) The clerk and/or the fire chief shall notify the System of any changes regarding active members such as termination, mailing addresses, and deaths. The fire chief will assist the clerk in obtaining necessary information concerning active members. Notices of termination must be provided on the System's Form 8 and shall be signed by the Fire Chief.

(c) Volunteer firefighters.

- (1) A member of the System changing status from a paid member to a volunteer member is not entitled to combine the paid credited service and the subsequent volunteer credited service towards a paid or a volunteer pension. If a paid member has completed ten (10) years but less than twenty (20) years of credited service, the member would be eligible for a paid vested benefit. The member would need to complete ten (10) or more years as a volunteer member to be eligible to receive a vested volunteer benefit.

- (2) Volunteer members are deemed to be employees of a fire department of a participating municipality for the purposes of the administration of the System.
- (d) **State Board.**
- (1) Applications for pension benefits will not be considered by the State Board until the applicant terminates employment with the fire department of a participating municipality on or before the date of the meeting of the State Board in which the application is considered.
- (2) Applications for pension benefits, entrance into the system, refunds of contributions, etc. will be placed on the State Board agenda when all paper-work has been properly completed and received by the system. All necessary paper-work should be filed with system no later than the Friday preceding the State Board's regular meeting so as to allow for sufficient time to process the application.
- (e) **Member deaths and beneficiaries.**
- (1) Guardian checks will be addressed with the Guardian's name and the statement: "Guardian of _____" on the face of the check.
- (2) The Estate of the retiree or beneficiary shall be entitled to the benefit check written for the month a retiree or beneficiary dies.
- (3) To continue monthly benefits on a child who has reached eighteen (18) years of age, verification that the child is enrolled full-time in an accredited school of learning must be received by the System. Documentation is required each semester until the child reaches twenty-two (22) years of age or marries at which time the benefits will cease.
- (4) Step children and grandchildren of members are not beneficiaries unless they are adopted by the member.
- (5) Children adopted prior to January 1, 1981, are considered beneficiaries even though the child(ren) may have been adopted after the member's retirement date.
- (6) A valid marriage certificate or other necessary proof of marriage is required before an Application of Surviving Spouse for Pension can be considered by the State Board.
- (f) **Membership.**
- (1) A part-time firefighter shall not belong to the System.
- (2) All firefighters must be members of the System if their employer is a participating municipality in the System.
- (3) A candidate for a paid firefighter position must first complete a required State Board approved pre-employment physical performance/agility test and physical examination in order to participate and receive any benefits from the System. The physical examination will be reviewed by a physician, selected by the State Board, to determine if the applicant meets the required medical standards. When the System receives all the information necessary for entrance into the System, including the written notice from the physician, selected by the State Board, that the candidate has met the minimum medical requirements for entrance, the Executive Director shall have the authority to approve an entrance date for the candidate no earlier than the date all the necessary information for entrance is received or the actual hire date whichever is later, provided that the date between the time of the administration of the physical examination and the approval for membership in the System by the Executive Director and the candidate's actual hire date by the participating municipality is less than six (6) months. The State Board shall have the authority to deny or revoke the membership of a candidate submitting false information in such candidate's

membership application and shall have the final authority in determining eligibility for membership in the System.

(4) An applicant for a paid firefighter position, who is an active volunteer firefighter with the same fire department, and who has passed the physical performance/agility test approved by the State Board as a condition for entrance as a volunteer firefighter shall only be required to pass the physical examination upon being employed as a paid firefighter if employed by the same fire department.

(5) A terminated paid firefighter who returns to work as a paid firefighter within six (6) months of his or her termination date will not be required to complete another physical examination.

(6) The classification of a paid firefighter shall be a firefighter who is carried on the city payroll as a paid firefighter and who receive a salary which is more than twice the amount of the minimum pension of a volunteer firefighter. Any firefighter making more than this amount will need to complete the required physical performance/agility test and physical exam and his or her employer must remit both the employee and employer contributions to the System.

(g) **Credited Service.**

(1) If a firefighter is off the participating municipality's payroll for a period of time and employer and employee contributions are not received by the System, that period of time will not count as credited service until said contributions are received by the System.

(2) New volunteer cities joining the System may purchase up to five (5) years of credited service for each member of the department at the annual rate in effect as of the date of purchase, provided verifiable evidence of active firefighter service for the purchased years for each individual is provided to the System. Even though a city is exempt from contributions, contributions must be paid for a volunteer firefighter to receive purchased credit.

(3) If a question arises concerning a member's correct amount of service time, the member must submit to the State Board three (3) affidavits, based upon the actual knowledge of the member's correct service time and all other necessary documentation as may be required by the State Board. The Chairman of the State Board may direct a member of the State Board or an employee of the System to visit the member and the city in question for further verification. Service time may be corrected to allow not more than twenty (20) years of service.

(4) Volunteer firefighters changing to paid firefighters.

(A) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter on or after May 15, 1992, and serves ten (10) or more years as a paid firefighter, shall be entitled to credit not more than five (5) years of volunteer time toward twenty (20) years of credited service to qualify to receive a paid service pension. The volunteer firefighter shall be entitled to credit to the amount of credited service any remaining volunteer time, over and above the five (5) years of volunteer time, computed at one-twentieth (1/20) of a volunteer pension of each additional volunteer year, but not to exceed thirty (30) years of credited service

(B) Pursuant to Subsection B of Section 49-108 of Title 11, any volunteer firefighter who is appointed as a paid firefighter before May 15, 1992, and serves ten

(10) or more years as a paid firefighter, shall be entitled to credit all of the firefighter volunteer time as paid credited service to receive a paid service pension.

(h) **Disability.**

(1) Applications for disability pensions shall provide medical evidence certifying the disability, proof of injury unless otherwise provided, and that the applicant can no longer perform the duties of a firefighter. The proof of injury must be proof of the specific injury that prevented the disability pension applicant from continuing the duties of a firefighter from the time of injury until present. In a case where a disability applicant returned to performing the duties of a firefighter at any time following the injury, the proof of injury must be accompanied by proof that certifies cumulative evidence of a continuing condition relating to that specific injury until the time of filing the disability application. In a case where a firefighter returned to a "light duty" or "restricted duty" only status, proof certifying the disability applicant's work status from the injury time until present shall be submitted along with the disability application. The application shall be filed with the Local Board, if the Local Board exists, or the Executive Director of the System. The existing Local Board or the Executive Director of the System will determine if additional medical evidence is required. If additional medical evidence is required, the State Board shall be responsible for payment of any physical examinations and certifications.

(2) If any additional medical evidence is produced concerning a disability pension application, said medical evidence must be presented to the Local Board, if the Local Board exists, or the Executive Director before the State Board considers the application. If an applicant requests a hearing before the State Board, all evidence concerning the application may be presented providing all parties affected by the hearing agree.

(3) A stroke condition that has been medically certified to be caused by heart disease shall be categorized as heart disease for the purpose of applying line of duty presumptions pursuant to 11 O.S. §49-110.

(4) Any additional medical testing requested by a physician for the purpose of certification of a disability at the request of an existing Local Board shall be approved by the Executive Director of the System prior to the medical testing.

(5) A volunteer member who has completed more than ten (10) years of credited service shall be eligible for consideration of a disability in line of duty pension pursuant to the provisions of 11 O.S. §49-110 provided that competent medical evidence is presented to support the certification of said disability request.

(6) A participating municipality may make an application for a disability pension on behalf of a member provided that medical evidence is presented supporting the existence of a disability. The member may present medical evidence to the contrary.

(7) If there are physician's statements presented which disagree or there is only one physician statement presented, then the Local Board, if one exists, or the Executive Director shall have the medical records examined by a physician of their choosing. If the participating municipality has made the application request and the member presents contrary medical evidence it shall be the responsibility of the existing Local Board or the Executive Director to obtain an authorization of release of medical records from the member prior to the third physician examination.

(i) **Local Boards.**

(1) If an existing Local Board desires to have a member, who is receiving a disability pension, re-examined by a physician for the purposes of certifying if a disability still exists, the request shall be approved by the State Board.

(2) An existing Local Board meets when necessary to review applications for benefits and disability benefits. The Local Board minutes must show action taken by roll call vote. In cities and towns where the city clerk and city treasurer hold both positions the local board becomes a five (5) member board. The board members shall elect a vice-chairman from among all board members who shall assume the duties of the mayor/chairman in that person's absence.

(3) Any action taken by the local board must be documented. The local board must present objective evidence to the State Board regarding its recommendation. The State Board will consider only the evidence actually presented. The State Board will act upon the evidence presented and render a final decision.

(4) If the city charter provides, the city council or similar authority, in the absence of the mayor, city clerk or the treasurer, may designate an authorized official as a replacement member of the local board, such as a vice-mayor if he or she has the responsibilities of the mayor. A firefighter member of the local board cannot send a replacement. Only local board members present at a local board meeting may vote. The chairman shall have a casting vote with the members only when necessary to avoid a tie vote among local board members. All local board meetings are subject to the Open Meeting Act.

(j) **Contributions.**

(1) There shall be a sixty (60) day waiting period of refund of contributions. If the firefighter requesting the refund of contributions was terminated from service, which resulted in litigation or administrative action, the refund of contributions will not be made until there is a final judgement or conclusion to the litigation or administrative action.

(2) Gross salary shall include but not be limited to base salary, longevity pay, fire service training and other education pay, scuba pay, out of class pay, one time bonus pay earned during the current twelve (12) month period of employment, and buy back pay when paid on an annual basis and available to all firefighters. Gross salary shall not include payment for unscheduled overtime, payment for accumulated sick, annual or any other similar leave upon termination from employment, any uniform or clothing allowance, car allowance or any other compensation for reimbursement of out-of-pocket expenses. All other compensation not specifically mentioned must have contributions paid on them. Contributions shall be deducted from gross salary prior to federal and state income tax withholdings deductions.

(3) Volunteer pension contributions are due on July 1 of each year. Cities, towns or fire protection districts subject to the statutory exemption from payment of volunteer contributions shall file for the exemption with the System on an annual basis.

(4) Workers Compensation benefits shall not be considered a part of gross salary for the purpose of determining pension benefits. The System will not except member contributions related to workers compensation.

(5) If a paid member terminated employment prior to January 1, 1981, and then subsequently returns to work as a paid member after January 1, 1981 and then again terminates, contributions paid in prior to January 1, 1981 would not be refundable.

(6) Salary means a predetermined sum payable at specified and regular times for services rendered, including benefits accumulated and paid as salary; furthermore, any salary received that is to be used in computing a "final average salary" shall be reduced or prorated to a monthly amount. It shall be a violation of this section to establish a special pay plan for the purpose of evading the intent of this section.

(k) **Reinstatement of Prior Service.**

(1) If a paid firefighter terminates employment and receives a refund of contributions and then subsequently returns to work for a participating municipality, all withdrawn contributions must be paid back to the System plus 10 percent (10%) interest per annum (from the date the member received his or her accumulated contributions to the date of repayment) in order for the member to receive credit for the missed credited service time.

(2) The member's payment must be made to the System within ninety (90) days following acceptance of the member's application for reinstatement of prior service.

(3) The member may pay for reinstatement of prior service by a lump-sum payment by check or money order. Effective January 1, 2002, the member may also pay for reinstatement of prior service by a lump-sum payment (with interest) from a Code Section 403 (b) annuity, a governmental 457 plan within Oklahoma or a Code Section 401 (a) qualified plan.

(l) **Deferred Option Plan (Plan B).**

(1) Upon termination of employment, a member participating in the Deferred Option Plan (Plan B) pursuant to 11 O.S. Section 49-106.1 [11-49-106.1] A, B, C, D, E and F shall have the following options:

(A) Receive a lump sum payment or installment payments of the member's accumulated Plan B balance.

(B) The State Board retains custody of the member's remaining accumulated Plan B balance until the member receives a complete and final payout. No more than once a quarter of any one year the member may elect with fifteen (15) days advance written notice, to change such payout period or amount.

(C) In addition, a member may elect, with seven (7) working days written notice, a withdrawal, but no more than one such withdrawal may be made per quarter in any one year and each withdrawal must be as of the first day of a month. If such withdrawal is made after payments have commenced under (B) above, appropriate adjustments may be made in the payout period under (B) above to reflect such withdrawal.

(D) If the member dies with a balance in the account, such balance will be paid in a lump sum or will continue to be paid in the same manner as was applicable to the member, as elected by the surviving spouse. If there is no surviving spouse, any remaining beneficiaries shall receive a lump sum payment(s) from the account equal to the balance in the account of the member or any other approved method of payment. If there are no surviving beneficiaries, a lump sum payment from the account equal to the balance in the account shall be paid to the member's estate.

(E) The interest earned annually on the Plan B account balances shall be calculated based on the return of the investment portfolio of the fund on June 30 of each year. The determined annual interest rate shall be applied on a pro rata account balance in the year the rate is established. If a member withdraws all or a portion of his or her account balance prior to June 30 of a given plan year, the member shall receive at the

time of withdrawal interest earnings on the withdrawn amount equal to the actuarial assumed interest rate as certified by the actuary in the yearly valuation report of the actuary on a pro rata basis. If the annual interest earnings calculated on June 30 of a given year exceed the actuarial assumed interest rate as certified by the actuary in the yearly valuation report of the actuary, a member who withdraws all or a portion of his or her account balance prior to June 30 of said plan year shall receive additional interest earnings equal to the difference between the minimum actuarial interest rate and the calculated interest rate on a pro rata basis.

(F) At the conclusion of a member's participation in Plan B, the member must terminate employment and shall start receiving the member's accrued monthly retirement benefit from the System. Such a member may be reemployed by a participating municipality but only in a position not covered by the System, and receive in-service distributions of such member's accrued monthly benefit from the System.

(2) Participation in the Oklahoma Firefighters Deferred Option Plan must begin the first day of a month.

(3) For a lump sum payment, direct rollover or a combination thereof, which is paid when the regular monthly benefits commence (Plan A), an exclusion ratio must be calculated and applied to the distribution amount from Plan B to determine the portion that may be excluded from income. This exclusion ratio will equal the member's after-tax contributions to the System divided by the expected return. The expected return is the sum of: (1) the member's accumulated Plan B balance plus (2) the amount of the value of the monthly pension from Plan A that the member is expected to receive over time based on single life expectancy factors from Table V issued as part of the income tax regulations under Section 72 of the Internal Revenue Code of 1986.

(m) **Deferred Option Plan under the Back DROP Provision.**

(1) For purposes of this subsection, the definitions as stated in 11 O.S. Section 49-106 [11-49-106] (H)(1) shall apply.

(2) In lieu of participating in the Deferred Option Plan (Plan B) pursuant to subsections A, B, C, D, E and F of 11 O.S. Section 49-106.1 [11-49-106.1] (referred to herein as an election under Plan B), a member may elect to participate in the Deferred Option Plan pursuant to 11 O.S. Section 49-106.1 (H) [49-106.1 (H) (referred to herein as an election under the Back DROP provision) and this subsection.

(A) The applicant must submit his or her completed application for participation in the Deferred Option Plan under the Back DROP provision on the form provided by the System.

(B) The application must be received by the System no later than seven (7) working days from the end of the month in order to receive a payment at the end of that month. All distributions shall be paid on the last working day of a month.

(C) Upon the member's election to participate in the Deferred Option Plan under the Back DROP provision, the member's account balance shall remain in the System under the same conditions as while an active member, unless the member requests a withdrawal.

(D) A member may receive a withdrawal as a lump sum payment or monthly installment payments. A member may also elect, with seven (7) working days written

notice, a withdrawal, but no more than one such withdrawal may be made per quarter in any one year and each withdrawal must be as of the first day of a month.

(E) If the member dies with a balance in the account, such balance will be paid in a lump sum or will continue to be paid in the same manner as was applicable, as elected by the surviving spouse. If there is no surviving spouse, any remaining beneficiaries shall receive a lump sum payment(s) from the account equal to the balance in the account of the member, or any other approved method of payment. If there are no surviving beneficiaries, a lump sum payment from the account equal to the balance in the account shall be paid to the member's estate.

(3) At the member's termination date, his or her monthly pension benefit shall be determined based on earlier attained credited service and on the final average salary as of the back drop date. The member's individual deferred option account shall be credited with an amount equal to the deferred benefit balance, and the member shall terminate employment with all participating municipalities as a firefighter and the member shall start receiving the member's accrued monthly retirement benefit from the System. Such member may be reemployed by a participating municipality but only in a position not covered by the System, and receive in-service distributions of such member's accrued monthly retirement benefit from the System. On the member's back drop date, the member's retirement benefit will be frozen, and at no time will the member be able to increase his or her benefit due to additional years of service, salary or other promotional increases.

(4) The member's credit of his or her deferred benefit balance shall be as follows:

(A) An amount equal to the accumulated contributions the member made to the System from his or her back drop date to termination date with interest based upon how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan (Plan B) pursuant to 11 O.S. Section 49-106.1 A-E from his or her back drop date to termination date;

(B) An amount equal to all monthly retirement benefits that would have been payable had the member elected to cease employment on the back drop date and receive a service retirement from the back drop date to the termination date with applicable cost of living adjustments and with interest based on how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan pursuant to O.S. 11 Section 49-106.1 A-E from his or her back drop date to termination date; and

(C) An amount equal to one-half (1/2) of the employer contributions from the back drop date to the termination date, with interest based on how the benefit would have accumulated on a compound basis as if the member had participated in the Deferred Option Plan pursuant to 11 O.S. Section 49-106.1 A-E from his or her back drop date to termination date.

(5) The provisions of 11 O.S. Section 49-106.1 B, C, E, F and G shall apply to this subsection.

(6) A member shall not participate in the Deferred Option Plan pursuant to the Back DROP provision if the member has elected to participate in Plan B pursuant to subsections A, B, C, D, E and F of 11 O.S. Section 49-101.1.

(7) For a lump sum payment, direct rollover or a combination thereof, which is paid when the regular monthly benefits commence (Plan A), an exclusion ratio must be calculated and applied to the distribution amount from the Back DROP to determine the portion that may

be excluded from income. This exclusion ratio will equal the member's after-tax contributions to the System divided by the expected return. The expected return is the sum of: (1) the member's deferred benefit balance plus (2) the amount of the value of the monthly pension from Plan A that the member is expected to receive over time based on single life expectancy factors from Table V issued as part of the income tax regulations under Section 72 of the Internal Revenue Cod of 1986.

(n) **Vested Rights.**

(1) A paid firefighter who terminated active service with more than ten (10) years of credited service with the System prior to July 8, 1985, must return to active service as a paid firefighter in order to establish vested rights.

(2) A volunteer firefighter who terminated active service with ten (10) years of credited service with System prior to July 20, 1987, must return to active service as a volunteer firefighter in order to establish vested rights.

[**Source:** Amended and renumbered from 270:10-1-3 at 10 Ok Reg 1063, eff 3-23-92 through 5-28-93 (emergency); Amended and renumbered from 270:10-1-3 at 13 Ok Reg 1601, eff 5-28-96; Amended at 14 Ok Reg 2918, eff 7-11-97; Amended at 16 Ok Reg 2445, eff 7-1-99; Amended at 18 Ok Reg 339, eff 11-30-00 (emergency); Amended at 18 Ok Reg 3050, eff 7-12-01; Amended at 20 Ok Reg 2662, eff 7-25-03; Amended at 21 Ok Reg 2132, eff 6-26-04; Amended at 23 Ok Reg 22, eff 8-4-05 (emergency); Added at 23 Ok Reg 1307, eff 5-25-06]

270:10-1-9. Purchase of transferred credited service.

A paid member may purchase of to five years of credited service earned while a member of the Oklahoma Police Pension and Retirement System, the Oklahoma Law Enforcement Retirement System, the Teacher's Retirement System of Oklahoma and the Oklahoma Public Employees Retirement System, provided the member is not eligible to receive retirement credits or benefits from said service in any other public retirement System. Transferred credited service from such retirement system(s) shall not alter the member's normal retirement date or vesting requirements. Transferred credited service shall be added after the member reaches his or her normal retirement date. All purchases of transferred credited service pursuant to 11 O.S. Section 49-117.2, shall be based on the actuarial cost of the incremental projected benefits to be purchased.

(1) The actuarial cost and any tables formulated for the purposes of determining such cost during each calendar year, shall be based on the actuarial assumptions utilized in the actuarial valuation report as of the preceding July 1.

(2) The actuarial value shall be based upon the member's age, salary, and service at the time of purchase, together with the earliest age for retirement and actuarially projected salary at the time of retirement. For the purposes of the actuarial cost, it is assumed that all members are married at the time of retirement. If no purchase is made within thirty (30) days the actuarial cost may increase.

(3) For the purpose of this actuarial cost, the member's age shall be rounded up or down to the nearest birthday.

(4) For the purpose of this actuarial cost, the mortality tables shall be formulated as unisex table as used in the actuarial valuation report of the preceding July 1.

- (5) In the event a member who chooses to purchase service has been employed less than twelve (12) months, salary shall be annualized based upon the most current completed calendar months of payroll information.
- (6) The purchase price for transferred credited service may be paid in installments as provided in 11 O.S. Section 49-117.3. In the event that the member is unable to pay the purchase price by the end of the month immediately following the date of acceptance of his or her application to purchase transferred credited service, the State Board shall permit the member to amortize the purchase price over a period not to exceed sixty (60) months. Said payments shall be made by payroll deductions unless the State Board permits an alternate payment source. The amortization will include 7 ½% interest compounded annually.
- (7) In lieu of installment payments (for purchase where installment payments are otherwise allowed by Oklahoma state statutes), an active member may elect to make the payment of the actuarial purchase price, repayment of previous withdrawal, purchase of non-participating service, or any other eligible purchase or repayment permitted and authorized by the statutes governing the System, through:
- (A) a direct trustee-to-trustee transfer from a Code Section 403 (b) annuity or custodial account, a governmental Code Section 457 plan, and/or a Code Section 401 (a) plan, or
 - (B) a direct rollover of tax-deferred money from a Code Section 403 (b) annuity or custodial account, a governmental Code Section 457 plan, and/or a traditional or conduit Individual Retirement Account or Annuity (IRA). Monies in Roth IRA'S and Coverdell Education Savings Accounts cannot be used to purchase transferred credited service. Tax-paid (after- tax) money cannot be used in a direct rollover. Any tax-paid money from aplan or traditional or conduit IRA must be paid to member and then the member may then write a personal check to the System.
- (8) After installment payments have begun, an active member may make a lump sum payment of the actuarial purchase price with interest due through the date of payment by:
- (A) a direct trustee-to-trustee transfer from a Code Section 403 (b) annuity or custodial account, a governmental Code Section 457 plan, and/or a Code Section 401 (a) qualified plan, or
 - (B) a direct rollover of tax-deferred money form a Code Section 403 (b) annuity or custodial account, a governmental Code Section 457 plan, a qualified Code Section 401 (a) qualified plan, and/or a traditional or conduit Individual Retirement Account or annuity (IRA). Monies in Roth IRA's and Coverdell Education Savings Accounts cannot be used to purchase transferred credited service. Tax-paid (after tax) money cannot be used in a direct rollover. Any tax-paid money from a plan or traditional or conduit IRA must be paid to the member and the member may then write a personal check to the System.
- (9) Notwithstanding (7) and (8) of this subsection above, purchases may be made by a cash lump sum payment, installment payments (where otherwise allowed by state statutes, trustee-to-trustee transfer, and/or a direct rollover of tax-deferred money as described in (7) and (8) above.
- (10) If the member ceases to make payments, terminates, retires or dies before completing the payments, the member will receive prorated service credit for only those payments the member has made, unless the unpaid balance is paid by the member's estate or successor with interest within six (6) months after the member's death, termination of employment or retirement. The member shall not receive any retirement benefits until the balance is paid, unless his or her beneficiary or the member affirmatively waives the additional six (6) month period in which to pay the unpaid balance.

[Source: Added at 10 Ok Reg 1063, eff 3-23-92 through 5-28-93 (emergency); Added at 13 Ok Reg 1601, eff 5-28-96; Amended at 20 Ok Reg 2662, eff 7-25-03; Amended at 22 Ok Reg 293, eff 11-24-04 through 7-14-05 (emergency)¹; Amended at 24 Ok Reg 1560, eff 6-11-07]

EDITOR'S NOTE: ¹This emergency action expired without being superseded by a permanent action. Upon expiration of an emergency amendatory action, the last prior permanent text is reinstated. Therefore, on 7-15-05 (after the 7-14-05 expiration of the emergency action), the text of 270:10-1-9 reverted back to the permanent text that became effective 7-25-03, as was last published in the 2004 OAC Supplement, and remained as such until amended again by permanent action on 6-11-07.

270:10-1-10. Direct Rollovers

(a) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(b) Definitions:

(1) "Eligible Rollover Distribution" is generally a lump sum distribution except that an Eligible Rollover Distribution does not include monthly retirement benefits and minimum distribution payments.

(2) "Eligible Retirement Plan" means an IRA (excluding a Roth IRA), a Section 403(a) annuity plan, and a 401(a) qualified plan that accepts the Distributee's Eligible Rollover Distribution. An Eligible Retirement Plan also means a 403(b) annuity and an eligible 457(b) plan which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from the System. The definition of Eligible Retirement Plan also applies to a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee pursuant to qualified domestic order as defined in Subsection B of Section 49-126 of Title 11.

(3) "Distributee" means an employee or former employee. In addition, effective June 7, 1993, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse who is the alternate payee under a qualified domestic order, as defined in Subsection B of Section 49-126 of Title 11, are Distributees with regard to the interest of the spouse or former spouse.

(4) "Direct Rollover" means a payment by the System to the Eligible Retirement Plan specified by the Distributee.

(c) At least thirty (30) days and not more than ninety (90) days before the date of distribution, the Distributee must be provided with the IRS Notice regarding rollover options and tax effects. The distribution may be paid less than thirty (30) days after the notice is given, provided that:

(1) The Board clearly informs the Distributee that the Distributee has a right to a period of at least thirty (30) days after receiving the notice to consider the decision of whether or not to elect a distribution; and

(2) The Distributee, after receiving the notice, affirmatively elects a distribution.

[Source: Added at 20 Ok Reg 2662, eff 7-25-03]