

**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 25. DEFERRED COMPENSATION**

SUBCHAPTER 3. ELECTION TO DEFER COMPENSATION

590:25-3-1. Election limits

(a) The Employee may elect to participate in this Plan and consent to the Employer, deferring a predetermined amount equivalent to at least Twenty-Five Dollars (\$25.00) a month. Effective January 1, 2002, the maximum that may be deferred under the Plan for the taxable year shall not exceed the lesser of the maximum amount allowed each year as determined by the Internal Revenue Service or one hundred percent (100%) of the employee's includable compensation. For purposes of the Plan, only compensation from the Employer that is attributable to services performed for Employer may be includable in gross income. Compensation includes payments made by the later of 2 1/2 months after severance from employment or the end of the calendar year that includes the date of the Participant's severance from employment if they are payments that, absent a severance from employment, would have been paid had the Participant continued in employment with the Employer and are:

- (1) Regular compensation for services during the Participant's regular working hours, or compensation for services outside the Employee's regular work hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, and the compensation would have been paid to the Participant prior to a severance from employment if the Participant had continued employment with the Employer; or
- (2) payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued; or
- (3) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the Qualified Participant at the same time if the Participant had continued employment with the Employer and only to the extent that the payment is includible in the Qualified Participant's gross income.

(b) Includable compensation excludes amounts converted under the State's Internal Revenue Code Section 125 Plan and employee retirement contributions that are tax-deferred. The deferment will commence no sooner than the first pay period of the month following the date the enrollment application is properly completed by the Employee and accepted by the Plan Administrator.

SUBCHAPTER 9. BENEFITS

590:25-9-17. Rollovers to other plans

(a) Effective January 1, 2002, notwithstanding any provisions of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect 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) As used in this section:

(1) "Eligible retirement plan", for purposes of a direct rollover, shall mean a qualified trust described in ~~section~~ Section 401(a) of the Code, ~~an annuity plan described in section 403(a) of the Code,~~ an individual retirement account described in ~~section~~ Section 408(a) of the Code, an

individual retirement annuity described in ~~section~~ Section 408(b) of the Code, or a Roth individual annuity (if the individual is eligible for a Roth rollover) described in Section 408(A)(e) for distributions made after December 31, 2007, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in ~~section~~ Section 403(b) of the Code and an eligible plan under ~~section~~ Section 457(b) of the Code 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 this plan-Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to a surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Section 414(p) of the Code.

(2) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the designated beneficiary of the distributee, or for a specified period of ten (10) years or more; (ii) any distribution to the extent such distribution is required under ~~Code~~ Section 401(a)(9) of the Code; (iii) the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); or (iv) any amount that is distributed on account of hardship.

(3) "Distributee" includes a Participant or a Participant's surviving spouse, or for the limited purposes set forth in paragraph (c) of this section, a non-spouse beneficiary.

(c) Effective January 1, 2007, a non-spouse beneficiary pursuant to ~~section~~ Section 402(c)(11) of the Code may elect to have any portion of an eligible rollover distribution paid directly to an individual retirement account described in ~~section~~ Section 408(a) of the Code, or an individual retirement annuity described in ~~section~~ Section 408(b) of the Code, established for the purpose of receiving the distribution. A rollover pursuant to this paragraph shall be treated as a rollover of an eligible rollover distribution only for purposes of ~~section~~ Section 402(c) of the Code.

(d) Except as otherwise provided, this section shall apply to distributions made after December 31, 2001.

590:25-9-20. Federal qualified military service

Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service shall be provided in accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 ("USERRA"), the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART"), and Section 414(u) of the Code.

(1) A Qualified Participant whose employment is interrupted by qualified military service under Section 414(u) of the Code or who is on a leave of absence for qualified military service under Section 414(u) may elect to make additional deferrals to the Plan upon resumption of employment with the Employer equal to the maximum annual

deferrals that the Participant could have elected during that period if the Participant's employment with the Employer had continued (at the same level of Compensation) without the interruption or leave, reduced by the annual deferrals, if any, actually made for the Participant during the period of the interruption or leave. This right applies to five (5) years following the resumption of employment, if sooner, for a period equal to three times the period of the interruption or leave. The Employer, in accordance with 74 O.S. §1701, will make the Employer Contribution for such Qualified Participant for the equivalent period.

(2) Effective January 1, 2009, a Qualified Participant whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of Section 414(u)(12)(D) of the Code from the Employer, will be treated as a Participant of the Employer and the differential wage payment will be treated as Compensation.

(3) Effective January 1, 2007, death benefits payable under this Plan shall be paid in accordance with Section 401(a)(37) of the Code, which provides that in the case of a Participant who dies while performing qualified military service (as defined in Section 414(u) of the Code), the survivors of the Participant are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that the Plan would otherwise provide had had the Participant resumed and then terminated employment with the Employer on account of death.