TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 35. DEFERRED SAVINGS INCENTIVE PLAN

SUBCHAPTER 7. CONTRIBUTIONS

590:35-7-1. Employer contributions

(a) The Employer shall contribute to the Trust Fund an amount referred to as an Employer Contribution. Such contribution shall be calculated as follows: in accordance with 74 O.S. §1707, a contribution in the amount of or equivalent to Twenty-Five Dollars ($25.00) per month, or such amount as may be appropriated by the Legislature of the State of Oklahoma shall be made to the Plan on behalf of each Qualified Participant, as soon as practicable after receipt.

(b) Notwithstanding any provision of this Plan to the contrary, contributions, benefits and service credit with respect to qualified military service will 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 Internal Revenue Code.

~~(1) 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 Internal Revenue Code from the Employer, will be treated as a Participant of the Employer and the differential wage payment will be treated as Compensation.~~

(1) Beginning January 1, 2009, to the extent required by Sections 3401(h) and 414(u)(12) of the Internal Revenue Code, an individual receiving differential wage payments (while the individual is performing qualified military service as defined in Chapter 43 of Title 38, United States Code) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

(2) Effective January 1, 2007, death benefits payable under this Plan shall be paid in accordance with Section 401(a)(37) of the Internal Revenue 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 Internal Revenue 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 the Participant resumed and then terminated employment with the Employer on account of death.

SUBCHAPTER 13. BENEFITS AND DISTRIBUTIONS

590:35-13-9. Rollovers to eligible retirement plan

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Plan Administrator, 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 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: 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 distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code Section 401(a)(9); the portion of any other distribution(s) that is not includible in gross income, except to the extent provided by paragraph (c) of this section; and effective for distributions made after December 31, 2001, any amount that is distributed on account of hardship shall not be an eligible rollover distribution and the distributee may not elect to have any portion of such a distribution paid directly to an eligible retirement plan.

(2) "Eligible retirement plan" means an individual retirement account described in Code Section 408(a), an individual retirement annuity described in Code Section 408(b), or a qualified trust described in Code Section 401(a), or Roth individual annuity (if the individual is eligible for a Roth rollover) described in Code 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 Code Section 403(b) and an eligible plan under Code Section 457(b) 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. 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 relation order, as defined in Code Section 414(p).

(3) "Distributee" means a Participant. In addition, the Participant or the Participant's surviving spouse are distributees with regard to the interest of the spouse. For the limited purposes set forth in paragraph (d) of this section, distributee means a non-spouse beneficiary.

(4) "Direct rollover" means a payment by the Plan to the eligible retirement plan specified by the distributee.

(c) A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such a portion may be transferred only to an individual retirement account or an individual retirement annuity described in section Code Section 408(a) or (b) of the Code, a qualified plan described in section Code Sections 401(a) or 403(a) of the Code, or to an annuity contract described in section Code Section 403(b) of the Code that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(d) Effective January 1, 2007, a non-spouse beneficiary pursuant to section Code 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 Code Section 408(a) of the Code, or an individual retirement annuity described in section Code 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 Code Section 402(c) of the Code.

SUBCHAPTER 15. LIMITATIONS ON ANNUAL ADDITIONS

590:35-15-3. Adjustments for excess amount

~~If, due to a reasonable error in estimating a Qualified Participant's Compensation for the Plan Year, or such other reasonable circumstances as may be acceptable to the Commissioner of Internal Revenue, a reduction is necessary to avoid exceeding the limitation set forth~~ If there is an Annual Addition in excess of the limitation set forth in this Subchapter~~, such~~ or any other excess amount ~~shall be disposed of as follows:~~ subject to correction under the Employee Plan Compliance Resolutions System (or other similar Internal Revenue Service correction program), such amount will be corrected as permitted under the Employee Plan Compliance Resolutions System (or other similar Internal Revenue Service correction program).

~~(1) If the Qualified Participant also is a participant in a defined benefit plan maintained by the Employer, such Qualified Participant's accrued benefit under the defined benefit plan shall be reduced in accordance with the terms of such defined benefit plan.~~

~~(2) If any excess remains after application of Subparagraph (1) of Section 590:35-15-3 above, any Employer contributions which have been contributed shall be transferred to a suspense account and reallocated under Section 590:35-9-1 hereof, to the extent that the return and corresponding transfer would reduce the excess amount.~~

SUBCHAPTER 19. ADMINISTRATION OF PLAN

590:35-19-7. Payment of expenses

(a) Forfeitures pursuant to Section 590:35-9-2, if any, shall be used to pay Plan and/or Trust expenses. To the extent not paid by the Employer, all costs and expenses incurred in administering this Plan and Trust shall be paid by the Plan and Trust, through the reduction of each Participant's Account.

(b) The fees payable for actuarial, consulting, legal, accounting or other reasonable and necessary services relating to the administration of the Plan and Trust, as provided for therein, including expenses for the Board of Trustees, shall be payable by the Board of Trustees out of the Trust Fund, and until so paid shall constitute a first and prior charge and lien against the Trust Fund, to the extent not paid by the Employer.

(c) The administrative expenses which are paid by the Oklahoma Public Employees Retirement System on behalf of the Plan, including operating expenses, depreciation expense, and investment related expenses other than fees for investment manager services, shall be allocated as of June 30 each year. An allocation percentage shall be calculated based on the amounts included in the audited financial statements from the prior year for the Oklahoma Public Employees Retirement System ("OPERS"), the Uniform Retirement System for Justices and Judges ("URSJJ"), the Oklahoma State Employees Deferred Compensation Plan ("DCP"), and the Oklahoma State Employees Deferred Savings Incentive Plan ("SIP") using the following factors: 1) benefits; 2) contributions; and 3) average investments. The ratio of each factor to the total for the individual plans will be calculated and the average of the sum of these ratios by plan will be the percentage used to allocate the expenses for reimbursement by the USRJJ, DCP and SIP to OPERS for the payments made on their behalf effective for the succeeding year beginning July 1.