

**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM  
CHAPTER 40. DEFINED CONTRIBUTION SYSTEM**

**590:40-5-1. Participation in 401(a) plan and 457(b) plan**

(a) **Eligibility.** Each Employee shall become a Participant on the first day of the month following the date of employment with an Employer for the mandatory contributions as set forth in 74 O.S. §935.5 and 590:40-5-5. Participants may participate in voluntary deferrals to the 457(b) plan set forth in 74 O.S. §935.5 and 590:40-5-6 beginning the first day of the month following the entry date of employment. An Employee shall participate in the DC System if the Employee is employed in a full-time-equivalent position or any position which is less than full-time but more than a half-time position and includes employee benefits such as health insurance and leave time. The determination of whether an Employee is in an employment position which is more than a half-time position shall be made by the Employer and such determination shall be exclusively relied upon by OPERS. Members who have been declared eligible to participate in the DC System, but subsequently fall below the level of eligibility for a new member, shall continue to participate in the System.

(b) **Participation upon reemployment.** A former Participant or former Employee who satisfies the eligibility requirements in this section shall become a Participant in the DC System on the first day of the month following the date of reemployment.

(c) **Change in employment status.** In the event a Participant is no longer a member of an eligible class of Employees and becomes ineligible to participate in the DC System, the individual will participate immediately upon returning to an eligible class of Employees.

(d) **Previous participation in defined benefit plan.** Any employee first employed by an Employer prior to November 1, 2015, and was a participating member in OPERS defined benefit plan set forth in 74 O.S. §§ 901 et seq. shall not be a Participant in the DC System. Such employees shall participate in OPERS defined benefit plan set forth in 74 O.S. §§ 901 et seq. regardless of whether the individual maintained membership in the OPERS defined benefit plan. If an employee is first employed by an Employer on or after November 1, 2015, in a position in which the employee is eligible to participate in OPERS defined benefit plan, and such employee subsequently terminates service with such Employer and becomes employed in a position which is eligible under the DC System, the employee shall no longer participate in OPERS defined benefit plan but shall participate in the DC System.

(e) **Department of Public Safety Chief of Administration.** A person appointed to the position of Chief of Administration of the Department of Public Safety, pursuant to 47 O.S. Supp. 2018, Section 2-104, shall be eligible to participate in the OPERS Defined Benefit Plan or the OPERS Defined Contribution System, whichever is applicable under the laws and rules governing those systems. The election to participate in the Oklahoma Law Enforcement Retirement System or the OPERS-administered systems shall be made in writing within thirty (30) days from such appointment and is irrevocable.

(f) **Retired Members-State Department of Education.** A retired member of the Oklahoma Teachers Retirement System who becomes employed by the State Department of Education for the first time on or after November 1, 2019, shall have the option to remain a member of the Oklahoma Teachers Retirement System subject to any applicable post retirement limitations placed on retired members returning to work, or to participate in the OPERS Defined Benefit Plan or the OPERS Defined Contribution System, whichever is applicable under the laws and

rules governing those systems. The election to participate in the Oklahoma Teachers Retirement System or the OPERS-administered systems shall be made in writing within thirty (30) days from the initial date of hire with the State Department of Education and is irrevocable.