

CHAPTER 40. DEFINED CONTRIBUTION SYSTEM
SUBCHAPTER 5. ELIGIBILITY AND PARTICIPATION – APPLICABLE TO THE
401(a) PLAN AND THE 457(b) PLAN
PART 1. ELIGIBILITY AND PARTICIPATION - APPLICABLE TO THE 401(a) PLAN
AND THE 457(b) PLAN

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.

SUBCHAPTER 9. DEFINED CONTRIBUTION 457(B) PLAN
Part 7 - BENEFITS

590:40-9-25. Commencement of benefits

The payment of amounts deferred under the Plan shall become payable:

- (1) No earlier than forty-five (45) days after the Participant separates from service with the Employer, through termination or retirement; or
- (2) Distribution of a Participant's account must begin no later than the required beginning date, which is the later of the April 1 following the calendar year in which the Participant attains the age of 70 ½ years of age, except as provided in 590:40-9-28, or the April 1 of the year following the calendar year in which the Participant terminates. If a Participant fails to apply for distribution by the later of either of those dates, the Board shall begin distribution of the Participant's entire interest as required by this Section in the form provided in 590:40-7-35.
- (3) The Participant's entire interest must be distributed over the Participant's life or the lives of the Participant and a designated beneficiary, or over a period not extending beyond the life expectancy of the Participant or of the Participant and the designated beneficiary.
- (4) Plan-to plan transfers as described in 590:40-9-35 are not subject to the requirements for separation of service and shall be available for distribution within 45 days of acceptance of the properly completed distribution form as prescribed by OPERS.