

**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
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.

(g) **Transferred employees-board of trustees for the Quartz Mountain Arts and Conference Center.** An employee of the board of trustees for the Quartz Mountain Arts and Conference Center who is transferred to the Oklahoma Tourism and Recreation Department pursuant to 74 O.S. Section 2229.1B who is a member of the Oklahoma Teachers Retirement System or the Oklahoma Law Enforcement Retirement system may elect to remain a member of the applicable system or may elect 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, the Oklahoma Law Enforcement Retirement System or the OPERS-administered systems shall be made with the applicable system not later than November 1, 2020. If no election is made, the employee shall become a member of the OPERS Defined Benefit Plan or the OPERS Defined Contribution System, whichever is applicable.

PART 5. VESTING - APPLICABLE TO THE 401(A) PLAN AND THE 457(B) PLAN

590:40-5-17. Normal retirement age - applicable to the 401(a) plan and the 457(b) plan

(a) **Normal retirement age for the 401(a) plan.** The normal retirement age for participants under the 401(a) plan is age 65. Upon attaining age 65, the Participant is vested in the Employer contributions as set forth in 590:40-5-15 and no change can be made in that vesting schedule for the Participant.

(b) **Normal retirement age for the 457(b) plan.** A Participant in the 457(b) plan is allowed to designate a normal retirement age under the 457(b) plan for purposes of the special section 457 catch-up under Code Section 457(b)(3) that is no earlier than age 65 and no later than age ~~70~~^{70½} 72 or such other date as may permitted by the federal Internal Revenue Code.

SUBCHAPTER 7. DEFINED CONTRIBUTION 401(A) PLAN PART 9. BENEFITS AND DISTRIBUTIONS

590:40-7-30. Commencement

(a) **Events initiating benefits.** In the event of a Participant's separation from service as a result of Termination of Service, Normal Retirement, Disability, or death, the Participant shall be entitled to receive a distribution of the vested funds in his or her Account under the Trust Fund. In the event that a Participant dies before the entire balance of the Account is distributed, 590:40-7-34 shall apply.

(b) **Electing time for commencing of benefits.** The Participant may elect, on forms prescribed by OPERS, the time at which distributions under the Plan are to commence by designating the month and year during which the first distribution is to be made; however, in no event shall

payment begin 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 ~~70½ years of age~~ 72 or such other date as may permitted by the federal Internal Revenue Code, except as provided in 590:40-7-32, or the April 1 of the year following the calendar year in which the Participant terminates. The payment of benefits shall begin no earlier than forty-five (45) days after the occurrence of the event that gives rise to the beginning of the payment of benefits. If the Participant fails to apply for benefits after the required beginning date, the Board shall begin distribution of the Participant's entire interest as required by these rules in the form provided in 590:40-7-35.

(c) **Distribution of rollover contributions.** Rollover contributions as described in 590:40-7-10 are not subject to the requirements for separation of service as described in section (a) and shall be available for distribution within 30 days of acceptance of a properly completed distribution form as prescribed by OPERS.

590:40-7-32. Late retirement

If the Participant continues employment after attaining ~~70½~~ 72 years of age, or such other date as may permitted by the federal Internal Revenue Code, all benefits payable under the Plan may be deferred until the Participant retires, terminates employment, or dies. If the Participant is not an active Employee, the payment of benefits must begin no later than April 1 of the calendar year following the calendar year in which the Participant attained age ~~70½~~72 or such other date as may permitted by the federal Internal Revenue Code

590:40-7-34. Death

(a) **Payment to beneficiary.** If the Participant dies prior to receiving Plan benefits, or the Participant dies while benefits are being paid to the Participant under the Plan and before such benefits have been exhausted, the benefits payable under this Plan shall be paid to the designated Beneficiary of the Participant in accordance with the distribution option selected by the Participant or the Beneficiary.

(b) **Distribution method.** Distributions must be made primarily for the benefit of the Participant (or former Participant). Therefore, distribution which begins prior to the death of a Participant must be in a form such that the total benefit amount will be paid over a period not to exceed the life expectancy of the Participant and a designated Beneficiary. Any amount not distributed to the Participant during his or her lifetime shall be distributed after the death of the Participant at least as rapidly as under the method of distribution used as of the date of his or her death. In addition, if the Participant dies prior to the commencement of distributions, the Participant's Account shall be distributed to the Beneficiary, commencing within one year of the employee's death, over the life of such Beneficiary (or over a period not extending beyond the life expectancy of such Beneficiary) but not to exceed 15 years; provided however if such Beneficiary is the surviving spouse of the Participant, then (i) such distributions shall, in all events, commence no later than December 31 of the calendar year in which the Participant would have attained age ~~70½ (or such other date as may be permitted under applicable Treasury Regulations)~~ 72 or such other date as may permitted by the federal Internal Revenue Code, and (ii) benefits payable to such spouse shall be completed during a period not in excess of such spouse's life expectancy. Life expectancies will not be recalculated annually.

590:40-7-37. Minimum distribution requirements

- (a) **Application.** Notwithstanding anything herein to the contrary, the following minimum distribution requirements will apply.
- (b) **Compliance with Code.** The Plan will make all distributions in accordance with a good faith interpretation of the requirements of Code Section 401(a)(9) and the Treasury Regulations thereunder, as applicable to governmental plans within the meaning of Code Section 414(d), including the minimum distribution incidental benefit requirement of Code Section 401(a)(9)(G) and Section 1.401(a)(9)-2 of the proposed Treasury Regulations, or any successor rules or regulations.
- (c) **Time of distribution.** The entire interest of a Participant must be distributed or begin to be distributed no later than the Participant's Required Beginning Date.
- (d) **Limits on distribution periods.** As of the first Distribution Calendar Year, distributions, if not made in a single lump sum, may be made over one of the following periods (or a combination thereof):
- (1) the life of the Participant,
 - (2) the life of the Participant and a designated Beneficiary
 - (3) a period certain not extending beyond the Life Expectancy of the Participant, or
 - (4) a period certain not extending beyond the joint and last survivor expectancy of the Participant and a designated Beneficiary.
- (e) **Distributions other than lump sum.** If the Participant's interest is to be distributed in other than a single lump sum, the following minimum distribution rules shall apply on or after the Required Beginning Date:
- (1) If a Participant's benefit is to be distributed over (i) a period not extending beyond the life expectancy of the Participant or the joint life and last survivor expectancy of the Participant and the Participant's designated Beneficiary or (ii) a period not extending beyond the life expectancy of the designated Beneficiary, the amount required to be distributed for each calendar year, beginning with distributions for the first Distribution Calendar Year must at least equal the quotient obtained by dividing the Participant's benefit by the Applicable Life Expectancy.
 - (2) The amount to be distributed each year, beginning with distributions for the first Distribution Calendar Year shall not be less than the quotient obtained by dividing the Participant's benefit by lesser of (i) the Applicable Life Expectancy or (ii) if the Participant's Spouse is not the designated Beneficiary, the applicable divisor determined from the table set forth in Q&A-4 of Section 1.401(a)(9)-2 of the Treasury Regulations. Distributions made after the death of the Participant shall be distributed using the Applicable Life Expectancy in (1) above as the relevant divisor without regard to Treasury Regulations Section 1.401(a)(9)-2.
 - (3) The minimum distribution required for the Participant's first Distribution Calendar Year must be made on or before the Participant's Required Beginning Date. The minimum distribution for other calendar years, including the minimum distribution for the Distribution Calendar Year in which the Participant's Required Beginning Date occurs, must be made on or before December 31 of that Distribution Calendar Year.
- (f) **Insurance company annuity.** If the Participant's benefit is distributed in the form of an annuity purchased from an insurance company, distributions thereunder shall be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations thereunder. OPERS or the Board shall assume no liability after distribution if Participant's

benefit is distributed in the form of an annuity purchased from an insurance company or converted into an annuity by an insurance company.

(g) **Definitions.** For purposes of this Section, the following terms shall have the meanings as set forth below:

(1) **"Applicable Life Expectancy"** means the life expectancy (or joint and last survivor expectancy) calculated using the attained age of the Participant (or designated Beneficiary) as of the Participant's (or designated Beneficiary's) birthday in the applicable calendar year reduced by one for each calendar year which has elapsed since the date life expectancy was first calculated. Life expectancies will not be recalculated annually. If annuity payments commence before the Required Beginning Date, the applicable calendar year is the year payments commence. If distribution is in the form of an immediate annuity purchased after the Participant's death with the Participant's remaining interest, the applicable calendar year is the year of purchase.

(2) **"Distribution Calendar Year"** means a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first Distribution Calendar Year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first Distribution Calendar Year is the calendar year in which distributions are required to begin pursuant to this Section.

(3) **"Participant's Benefit"** means the Participant's Account as of the last Valuation Date in the calendar year immediately preceding the Distribution Calendar Year ("Valuation Calendar Year") increased by the amount of any contributions allocated to the Account as of dates in the Valuation Calendar Year after the Valuation Date and decreased by distributions made in the Valuation Calendar Year after the Valuation Date. If any portion of the minimum distribution for the first Distribution Calendar Year is made in the second Distribution Calendar Year on or before the Required Beginning Date, the amount of the minimum distribution made in the second Distribution Calendar Year shall be treated as if it has been made in the immediately preceding Distribution Calendar Year.

(4) **"Required Beginning Date"** means the later of the first day of April of the calendar year following the calendar year in which the Participant (i) attains age ~~70½~~72 or such other date as may be permitted by the federal Internal Revenue Code or (ii) retires.

PART 11 - LIMITATIONS ON ANNUAL ADDITIONS

590:40-7-45. General

(a) Account limitations. In no event shall the Annual Addition for any Limitation Year to the Accounts of any Participant exceed the lesser of (i) \$40,000 (as adjusted pursuant to Code Section 415(d) or (ii) one hundred percent (100%) of the Compensation, as defined below. For purposes of applying Code Section 415(c) and for no other purpose, the definition of compensation where applicable shall be compensation actually paid or made available to the Participant by the Employer during the Limitation Year ("Maximum Permissible Amount"), except as noted below and as permitted by Treasury Regulation Section 1.415(c)-2, or successor regulation; provided, however, that Participant contributions picked up under Code Section 414(h) shall not be treated as Compensation. The Compensation limitation referred to in (2) below shall not apply to any contribution for medical benefits (within the meaning of Code

Sections 401(h) or 419A(f)(2)) which is otherwise treated as an Annual Addition under Code Sections 415(I)(1) or 419A(d)(2). Participant contributions are determined without regard to rollover contributions. The 415(c) limit with respect to any Participant who at any time has been a Participant in any other defined contribution plan as defined in Code Section 414(i) maintained by the Participant's Employer in this Plan shall apply as if the total annual additions under all such defined contribution plans in which the Participant has been a Participant were payable from one (1) plan.

(b) Contribution or allocation limits. Except to the extent permitted under Code Section 414(v), if applicable, the Annual Addition that may be contributed or allocated to a Participant's Account under the Plan for any Limitation Year shall not exceed the Maximum Permissible Amount, the lesser of:

(1) Forty Thousand Dollars (\$40,000), as adjusted for increases in the cost-of-living under Code Section 415(d), or

(2) One hundred percent (100%) of the Participant's Compensation, within the meaning of Code Section 415(c)(~~3~~), for the Limitation Year.

(c) Annual Addition limits. The amount of Annual Addition which may be allocated under this Plan on a Participant's behalf for a Limitation Year shall not exceed the Maximum Permissible Amount, reduced by the sum of any Annual Additions allocated to the Participant's Account for the same Limitation Year under any other qualified defined contribution plan, under any welfare benefit fund, as defined in Code Section 419(e), or under any individual medical benefit account, as defined in Code Section 415(l)(2); as maintained by the Employer and which provide an Annual Addition during any Limitation Year.

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 1/2 years of age~~ 72 or such other date as may be permitted by the federal Internal Revenue Code, 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.

590:40-9-28. Late retirement

If the Participant continues employment after attaining ~~70½~~72 years of age, all benefits payable under the Plan may be deferred until the Participant retires, terminates employment, dies, or when the Participant is faced with an unforeseeable emergency. If the Participant is not an active Employee, the payment of benefits must begin no later than April 1 of the calendar year following the calendar year in which the Participant attained age ~~seventy (70) years and six (6) months~~ 72 or such other date as may permitted by the federal Internal Revenue Code. No additional deferrals under this Plan may be made by the Participant after termination of employment.