

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

**SUBCHAPTER 7. INVESTMENT OF DEFERRED AMOUNTS**

**590:25-7-1. Investment contracts**

The deferred amount shall be delivered by the Employer to the Board to be invested in one or more of the following types of contracts or accounts issued or made available by a company or companies approved by the Board:

- (1) Make deposits through a savings account in an institution or institutions as determined by the Board;
- (2) Make deposits to a deferred fixed interest contract or other type of investment;
- (3) Make deposits to a deferred variable interest contract or other type of investment;
- (4) Make deposits to a mutual fund, ~~or~~ common trust fund, or separate account;
- (5) Make deposits to any combination of the investment options in subparagraphs (1) through (4) of this Section may be selected by the employee.

**SUBCHAPTER 9. BENEFITS**

**590:25-9-5. Late retirement**

If the Participant continues his employment after attaining 72 years of age or such other date as may be permitted by the federal Internal Revenue Code, all benefits payable under the Plan may be deferred until the Participant retires, terminates his employment, dies or when the Participant is faced with an unforeseeable emergency. If the Participant is not an active State employee, the payment of benefits must begin no later than April of the calendar year following the calendar year in which the Participant attained age 72 or such other date as may be permitted by the federal Internal Revenue Code. No additional deferral under this Plan may be made by the Participant after termination of employment.

**590:25-9-8. Death Prior to January 1, 2022**

This Section shall be effective for Participant deaths prior to January 1, 2022. If the Participant dies prior to receiving Plan benefits, the benefits payable under this Plan shall be paid to his or her designated beneficiary in accordance with the distribution option selected by the designated beneficiary. If 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 in accordance with the distribution option selected by the Participant unless the beneficiary selects a different distribution option in accordance with Plan provisions.

**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 401(a) of the Code, an individual retirement account described in

Section 408(a) of the Code, an individual retirement annuity described in 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. Effective for distributions made after December 31, 2001, an eligible retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan under 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. Effective for distributions made after December 18, 2015, an eligible retirement plan includes a SIMPLE IRA as described in Code § 408(p), provided that the rollover contribution is made after the two-year period beginning on the date the distributee first participated in any qualified salary reduction arrangement maintained by the distributee's employer under Code § 408(p)(2), as described in Code § 72(t)(6). 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 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 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 408(a) of the Code, or an individual retirement annuity described in 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 402(c) of the Code.

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

### **590:25-9-22. Death After December 31, 2021**

Notwithstanding any contrary provisions, effective for Participant deaths after December 31, 2021, the following distribution provisions shall take effect; provided, however, that such provisions shall be subject to any regulations or other guidance issued under the SECURE Act:

(a) If the Participant dies before the distribution of his or her entire account (regardless of whether any distributions had begun before the Participant's death) and the Participant has a designated Beneficiary:

(1) The entire Account shall be distributed to the designated Beneficiary by December 31 of the calendar year containing the tenth anniversary of the Participant's death.

(2) Notwithstanding paragraph (1), if the designated Beneficiary is an eligible designated Beneficiary, then the eligible designated Beneficiary may elect for the Participant's Account(s) to be distributed (i) by December 31 of the calendar year containing the tenth (10th) anniversary of the Participant's death, or (ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Participant died, over the life of the eligible designated Beneficiary or over a period not exceeding the life expectancy of the eligible designated Beneficiary. If the eligible designated Beneficiary is the surviving spouse, payment under item (ii) is not required until the later of December 31 of the calendar year immediately following the calendar year in which the Participant died or December 31 of the calendar year in which the Participant would have attained age seventy and one-half (70 ½) (age seventy-two (72) with respect to a Participant who would have attained age seventy and one-half (70 ½) after December 31, 2019). If the eligible designated Beneficiary does not elect a method of distribution as provided above, the Participant's Account(s) shall be distributed in accordance with item (ii).

(3) Upon either: (i) the death of an eligible designated Beneficiary before distribution of the Participant's entire account or (ii) the attainment of the age of majority for an eligible designated Beneficiary who is a minor child under subsection (d), paragraph (2) shall no longer apply, and the remainder of the account shall be distributed under paragraph (1).

(b) If the Participant dies before distributions of his or her Account begins and the Participant has no designated Beneficiary, the Participant's Account under the Plan shall be distributed by December 31 of the calendar year containing the fifth (5th) anniversary of the Participant's death. If the Participant dies after distribution of his or her Account begins and the Participant has no designated Beneficiary, any remaining portion of the Account shall continue to be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death.

(c) Any distribution required under the incidental death benefit requirements of Code Section 401(a) shall be treated as distributions required under this section 590:25-9-22.

(d) For purposes of this section, "Eligible Designated Beneficiary" means a designated Beneficiary who, as of the date of the death of the Participant, is: (1) the surviving spouse of the Participant; (2) a child of the Participant who has not reached the age of majority; (3) disabled within the meaning of Code Section 72(m)(7); (4) chronically ill within the meaning of Code Section 7702B(c)(2) (except that the requirements of subparagraph (A)(i) thereof shall only be treated as met if there is a certification that, as of such date, the period of inability described in such subparagraph with respect to the individual is an indefinite one which is reasonably expected to be lengthy in nature); or (5) any other individual who is not more than ten (10) years younger than the Participant. Notwithstanding the preceding, a child described in (2) above shall cease to be an eligible designated Beneficiary as of the date he or she reaches the age of majority.

**590:25-9-23. Discontinuance of 2020 required minimum distributions**

(a) Notwithstanding any other provisions of this Chapter, a Participant or Beneficiary who would have been required to receive required minimum distributions for 2020 (or paid in 2021 for the 2020 calendar year for a Participant with a required beginning date of April 2, 2021) but for the enactment of Code § 401(a)(9)(I) ("2020 RMDs"), and who would have satisfied that requirement by receiving distributions that are either 1) equal to the 2020 RMDs or (2) one or more payments in a series of substantially equal distributions (that include the 2020 RMDs) made at least annually and expected to last for the life (or life expectancy) of the Participant, the joint lives (or joint life expectancy) of the Participant and the Participant's designated Beneficiary, or for a period of at least 10 years ("Extended 2020 RMDs") will receive those distributions for 2020 unless the Participant or Beneficiary chooses to not receive such distributions.

(b) For purposes of the direct rollover provisions of the Plan, 2020 RMDs and Extended 2020 RMDs also will be treated as eligible rollover distributions in 2020.