

CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

SUBCHAPTER 3. CREDITED SERVICE

590:10-3-13. Credit for involuntary furlough

(a) **Office of Personnel Management and Enterprise Services approved furloughs.** A leave of absence as a result of an involuntary furlough established by the Office of ~~Personnel Management and Enterprise Services~~ under ~~OPM Personnel Administration Rule 530:10-15-48 260:25-15-48~~ *Involuntary leave without pay (furlough)*, or as it may be amended, may be credited as participating service. It is the responsibility of the employer to provide a copy of the furlough plan approved by the Administrator of the ~~Office of Personnel~~ Human Capital Management Division.

(b) **District Attorneys Council approved furloughs.** The employees of a district attorney may receive participating service credit for a leave of absence due to an involuntary furlough after July 1, 2004, provided the furlough was conducted in substantial compliance with ~~OPM Personnel Administration Rule 530:10-15-48 260:25-15-48~~ *Involuntary leave without pay (furlough)*, or as it may be amended. It is the responsibility of the district attorney to provide a copy of the furlough plan approved by the District Attorneys Council. The approved furlough plan must include a certification from the Council that the plan was in substantial compliance with the ~~OPM rule Personnel Administration Rule~~.

(c) **Legislative or Supreme Court approved furloughs.** A leave of absence as a result of an involuntary furlough of legislative employees pursuant to a furlough plan adopted by the President Pro Tempore of the Senate or the Speaker of the House of Representatives ~~as authorized by 74 O.S. §840-5.1~~, and involuntary furloughs of court employees authorized by the Oklahoma Supreme Court may be credited as participating service. It shall be the responsibility of the employer to provide a copy of the adopted furlough plan.

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-6. Failure to submit documents; ~~benefit estimates~~

~~(a)~~ If all of a retired member's required documents have not been received by the fifteenth day of the month in which the first retirement benefit payment is to be issued, the System will withhold payment of any benefit until all required documents have been received. If all the required documents are not received within six (6) months after the requested retirement date, the retirement shall be cancelled and no retroactive benefits shall be paid. In the event the retirement is cancelled pursuant to this section, the member shall be required to reapply for a new retirement date which shall be considered as having met the sixty (60) day notice requirement.

~~(b) In order to receive a benefit estimate, a member shall provide all the required documents necessary for the System to calculate the benefit estimate. No benefit estimate shall be processed until such documents have been received. The System shall determine which documents are necessary to calculate a benefit estimate.~~

590:10-7-10. Final benefit

~~(a)~~ The retirement benefit payable for the month of death of a member, joint annuitant or ~~survivor~~ surviving spouse shall be payable to said member, joint annuitant, or surviving spouse. In the event the final benefit is returned to the System or is not otherwise paid, the benefit shall be paid to the ~~member's member, joint annuitant or surviving spouse's~~ named beneficiary.

~~(b)~~ If there is no named beneficiary ~~or estate~~, the final monthly benefit payment ~~shall may~~ be paid to the first of the following:

- ~~(1) surviving spouse the estate;~~
- ~~(2) surviving children in equal shares surviving spouse;~~
- ~~(3) surviving parents children in equal shares;~~
- ~~(4) surviving siblings grandchildren in equal shares;~~
- ~~(5) member's estate surviving parents in equal shares;~~
- ~~(6) surviving siblings in equal shares.~~

SUBCHAPTER 8. ~~DEPARTMENT OF CORRECTIONS~~ HAZARDOUS DUTY MEMBER BENEFITS

590:10-8-1. ~~Department of Corrections~~ Hazardous Duty Members

~~Any correctional officer, probation and parole officer or fugitive apprehension agent employed by the Department of Corrections~~ Members designated in 74 O.S. §902(24)(d) and (e) shall be eligible to participate in the Hazardous Duty benefit provisions of the System.

590:10-8-3. Continuation of Hazardous Duty benefits for Department of Corrections Employees

(a) Any employee of the Department of Corrections who participated in the System as a Hazardous Duty Member as a result of employment as a correctional officer, probation and parole officer or fugitive apprehension agent shall be required to continue to participate as a hazardous duty employee for all future periods of employment with the Department of Corrections, provided that:

- (1) the member was employed by the Department of Corrections as a correctional officer, probation and parole officer or fugitive apprehension agent on June 30, 2004, or was first hired by the Department of Corrections as a correctional officer, probation and parole officer or fugitive apprehension agent after June 30, 2004; and
- (2) the member received a promotion or change in job classification after June 30, 2004; and
- (3) the member has participated as a Hazardous Duty Member as a correctional officer, probation and parole officer or fugitive apprehension agent at least five (5) full years.

(b) For purposes of this rule, the requirement of five (5) full years of participation as a Hazardous Duty Member means five (5) years of full-time-equivalent employment as provided in 590:10-3-6 of these rules for which the required higher contribution for Hazardous Duty Members is paid.

(c) The requirements of this rule shall be applicable for all future employment with the Department of Corrections for any Post-Hazardous Duty Member. Breaks in service will not affect this requirement.

590:10-8-4. Maximum Participation as a Hazardous Duty Member for Hazardous Duty and Post-Hazardous Duty Members

Hazardous Duty Members and Post-Hazardous Duty Members who are employed by the Department of Corrections shall pay the higher contribution rate set forth in ~~Title 74 O. S. Section 919.1 (1)(c) and (d)~~ 74 O.S. §919.1(1)(b), (c), (d), (e), (f), and (g) for a maximum of twenty (20) full years. ~~If the a Hazardous Duty Member and or Post-Hazardous Duty Members remain Member remains employed by the Department of Corrections after twenty (20) full years of payment of the higher contribution rate, the required employee contribution rate shall be as provided in 919.1 (1)(a) and (b)~~ 74 O.S. §919.1(1)(a).

590:10-8-6. Employer Responsibility for Continuation of Hazardous Duty Benefits

It is the responsibility of the ~~Department of Corrections~~ participating employer to ensure that the correct employee contributions are withheld for all employees. It is also the responsibility of the ~~Department of Corrections~~ participating employer to provide any necessary documentation to confirm eligibility of any current or former employee for benefits under this Subchapter.

SUBCHAPTER 9. SURVIVORS AND BENEFICIARIES

590:10-9-4. Probate waivers

(a) In the event a member dies, leaving no living beneficiary or having designated ~~his~~ their Estate as beneficiary, the System may require the judicial appointment of an administrator or executor for the member's estate prior to payment of any benefits or unpaid contributions.

~~(b) This~~ The judicial appointment requirement ~~in (a)~~ may be waived for payments in an amount of ~~Twenty-Five~~ Twenty-Five Thousand Dollars (\$25,000) or less upon presentation of:

- (1) the member's valid Last Will and Testament, trust documents or affidavit that a will does not exist;;
- (2) an Affidavit of Heirship naming all heirs to the member's estate;;
- (3) a Hold-Harmless Agreement signed by all heirs;;
- (4) a corroborating affidavit from someone other than an heir who is familiar with the deceased member;; and
- (5) proof of payment of all last debts of the member.

These documents shall comply with the provisions of 74 O.S. §916.1. If there is any question as to the validity of any document herein required, the judicial appointment shall not be waived.

~~(b)~~ (c) If the System is paying a benefit or unpaid contributions under this rule, the payment ~~shall~~ may be paid to the first of the following:

- (1) ~~surviving spouse the member's estate;~~
- (2) ~~surviving children in equal shares spouse;~~
- (3) ~~surviving parents children~~ in equal shares;
- (4) ~~surviving siblings grandchildren~~ in equal shares;
- (5) ~~member's estate: surviving parents in equal shares;~~
- (6) ~~surviving siblings in equal shares.~~

SUBCHAPTER 10. ~~DEPARTMENT OF CORRECTIONS DEATH IN PERFORMANCE OF DUTY~~ BENEFITS BENEFITS FOR A DEATH IN PERFORMANCE OF DUTY

590:10-10-1. Eligibility for Benefit

The ~~Surviving Spouse~~ surviving spouse and the ~~Surviving Child~~ surviving child or children of any ~~correctional officer or probation and parole officer employed by the Department of Corrections who is killed or mortally wounded on or after January 1, 2000, and of any employee of the Department of Corrections who is killed or mortally wounded on or after July 1, 2004~~ member designated in 74 O.S. §916.3(A), shall be eligible for the benefits as set out in this Subchapter, provided said employee was a participating member of the Oklahoma Public Employees Retirement System at the time of ~~his or her~~ their death and ~~his or her~~ their death occurred as a direct result of the performance of ~~his or her~~ their duties ~~for the Department~~ of employment.

590:10-10-2. Killed in Performance of Duty

Killed in the performance of duty means an employee's death ~~as is~~ a direct result of an action, whether felonious or accidental, occurring as a direct result of performing ~~his or her~~ their assigned work-related functions ~~for the Department of Corrections of employment~~. Work-related function means action that the employee is authorized or obligated to perform by law, rule, regulation, or condition of employment or service, which is performed while on paid duty with the ~~Department of Corrections participating employer~~.

590:10-10-5. Surviving Spouse Benefit

The ~~Surviving Spouse~~ surviving spouse of an employee killed or mortally wounded in the performance of ~~his or her~~ their duties ~~with the Department of Corrections of employment~~ shall receive benefits as provided in ~~Title 74 O.S. Section §916.3~~ 74 O.S. §916.3. Surviving Spouse spouse means a person who was legally married to the employee at the time of the employee's death. The burden of proof regarding establishing and proving the existence of the marriage shall rest with the person claiming Surviving Spouse surviving spouse status.

590:10-10-6. Surviving Spouse Benefit Election

An otherwise eligible ~~Surviving Spouse~~ surviving spouse of an employee killed or mortally wounded in the performance of ~~his or her~~ their duties ~~with the Department of Corrections of employment~~ shall not receive benefits as provided in ~~Title 74 O.S. Section §916.3~~ 74 O.S. §916.3 if ~~he or she is~~ they are receiving or ~~elects~~ elect to receive any type of survivor benefits from the Oklahoma Firefighters Pension and Retirement System, the Oklahoma Police Pension and Retirement System, or the Oklahoma Law Enforcement Retirement System on account of this or any spouse. The ~~Surviving Spouse~~ surviving spouse must make an irrevocable election of benefits within ninety (90) days of eligibility for benefits. The ~~Surviving Spouse~~ surviving spouse cannot receive surviving spouse benefits for more than one member of the specified retirement systems. Receipt of benefits from any such retirement system shall be presumed to constitute such an election. The ~~Surviving Spouse~~ surviving spouse must certify annually that ~~he or she is~~ they are not receiving any type of survivor benefits from another state retirement system.

590:10-10-7. Surviving Child Benefit

- (a) A total monthly benefit amount as set by statute shall be paid where an eligible employee ~~of the Department of Corrections identified in 590:10-10-1~~ is killed or mortally wounded in the performance of ~~his or her~~ their duty and leaves one or more ~~Surviving Children~~ surviving children. This benefit is paid in addition to the Surviving Spouse surviving spouse benefit.
- (b) Surviving Child child means a minor child under ~~the age of~~ eighteen (18) years of age or a child between the ages of eighteen (18) and twenty-two (22) who is attending school. Surviving Child child further means a child who is the natural biological or legally adopted child of the deceased employee.
- (c) Any child of any age who is or has been married is considered emancipated and is not considered to be a Surviving Child surviving child for purposes of payment of this benefit.
- (d) Attending school means enrolled in and regularly attending on a full-time basis an accredited public or private secondary school or institution of higher education. Proof of attending school shall be provided by the person receiving the benefit at the beginning of each semester as well as a copy of grades received at the end of each semester. If there is more than one Surviving Child surviving child, proof of school attendance shall not be required unless that child is the sole basis for payment of the benefit or the sole basis for payment of a part of the benefit if the benefit is divided as provided in subsection (e) below of this section. If the Surviving Child surviving child ~~drops classes and~~ becomes a part-time student or withdraws from the school or institution of higher education, then benefits shall cease the last day of the month in which the child becomes a part-time student or withdraws. It is the responsibility of ~~both the Surviving Child and~~ the person receiving the benefit payment to provide the proof of attendance and to notify the System of any change in student or marital status of the child.
- (e) In the event that there is more than one Surviving Child surviving child and the children are in the care and custody of different individuals, the benefit shall be divided pro-rata for each child.
- (f) The burden of proof of the relationship of the child to the deceased employee and to the person claiming payment shall be upon the person claiming entitlement to the payment. If a guardian has been named for a Surviving Child surviving child, the guardian shall be entitled to receive the benefit payment. A certified copy of the Guardianship Order must be provided to the System. A Surviving Spouse surviving spouse who is the natural biological or legally adopted parent of the Surviving Child surviving child shall be presumed to have care and custody of said child unless the System receives a claim containing information to the contrary.
- (g) Benefits terminate the last day of the month in which the last Surviving Child surviving child ~~becomes~~ turns twenty-two (22) years of age or becomes ineligible for benefits under this Subchapter. Any benefits paid on behalf of an ineligible Surviving Child surviving child must be repaid to the System immediately.

590:10-10-8. Filing for Surviving Spouse and Surviving Child Benefits

- (a) Claims for Surviving Spouse surviving spouse and/or Surviving Child surviving child benefits should be made as soon as possible following the employee's date of death. Benefits shall be payable beginning with the month following the employee's date of death, however, benefit payments will not commence until all required documentation has been furnished and a final determination has been made by the System. Required documentation to be provided by the claimant include, but are not limited to,

a completed application for benefits, a copy of the employee's death certificate, a copy of the public record of marriage and copies of birth certificates for ~~Surviving Children~~ surviving children.

(b) It is the responsibility of the ~~Department of Corrections~~ participating employer to assist the ~~Surviving Spouse~~ surviving spouse or the person with the care and custody of a ~~Surviving Child~~ surviving child with the completion of all necessary forms. It is also the responsibility of the ~~Department of Corrections~~ employer to provide any necessary documentation to confirm eligibility of any person for benefits under this Subchapter. Required documentation to be provided by the ~~Department of Corrections~~ employer include, but are not limited to;

- (1) a completed report of death form which shall include a notarized statement from the deceased employer's supervisor describing in detail the duties being performed by the employee at the time and the circumstances under which death occurred;;
- (2) all workers' compensation claim information in the possession of the employer;;
- (3) a certified copy of the autopsy report;; and
- (4) any medical records in the possession of the employer.

(c) In addition to the information supplied by the claimant and the employer, the System may require a medical statement from a treating physician which includes a detailed analysis of the cause of death and the circumstances surrounding the death.

(d) Where the System feels that it is necessary or appropriate, it may, at its own expense, have the medical and other records reviewed and evaluated by an independent physician of its own choosing. The System may also use the services of law enforcement agencies or may contract for a licensed investigator for any situations that it deems necessary or appropriate.

(e) The System shall make a determination on all claims for benefits under this Subchapter within ninety (90) days following receipt of all required documentation and reviews and shall notify the employer and the claimant in writing.

SUBCHAPTER 11. TRANSPORTED AND STATE PORTABLE SERVICE CREDIT

590:10-11-7. Funds transfer

No retirement funds shall be transferred or accepted for transported service until receipt of the signed final election form and upon notice from Teacher's Retirement System that all of the necessary documentation has been received to accept the funds transfer. The amount of funds transferred by OPERS shall be based upon the service credit accepted by Teachers' Retirement System.