CHAPTER 10. PUBLIC EMPLOYEES RETIREMENT SYSTEM

SUBCHAPTER 1. GENERAL PROVISIONS

590:10-1-2. ~~Subsequent ineligibility~~Continued participation after initial eligibility

Members who have been declared eligible to participate in the Oklahoma Public Employees Retirement System~~,~~ but subsequently fall below the level of initial eligibility for a new member as defined in 74 O.S. §902, shall continue to participate in the System. This includes, but is not limited to, members who reduce to part-time, seasonal, or temporary employment status or who separate employment and return to a part-time, seasonal, or temporary position. This rule is applicable to any plan or account managed or administered by the Board.

590:10-1-3. Authorized ~~member signatures~~signatures

(a) **Member Signature.** No person may act on behalf of the member, joint annuitant, surviving spouse, alternate payee, or beneficiary except as provided herein. ~~A~~ Only the signature ~~other than that~~ of the member, joint annuitant, surviving spouse, alternate payee, or beneficiary will ~~not~~ be accepted on System ~~forms, applications or requests for confidential information unless~~ documents requiring a signature unless the individual signing on behalf of the member, joint annuitant, surviving spouse, alternate payee, or beneficiary presents a power of attorney, ~~papers of guardianship or conservatorship~~ Letters of Guardianship or Conservatorship, or ~~a legal~~ other valid court order. ~~No person may act on behalf of the member, joint annuitant or beneficiary including a spouse or parent, except as provided herein.~~

(b) **Powers of Attorney.** The System ~~will~~ may accept documents signed by an authorized agent or attorney-in-fact, pursuant to a durable or statutory power of attorney. The power of attorney must be in substantial compliance with Oklahoma law ~~and~~/or the Oklahoma Uniform ~~Durable~~ Power of Attorney Act.~~, must contain the statutorily prescribed language and/or witnesses and must be filed with and~~Powers of attorney for use with the System are accepted ~~approved~~ at the sole discretion of the System. Once a power of attorney is accepted by the System, the principal retains ~~The member, joint annuitant or beneficiary will retain~~ the right to act on their own behalf ~~regarding his or her retirement account~~. ~~Any~~ Should a conflict ~~in direction or instruction~~ arise between instructions given by the principal ~~the member, joint annuitant or beneficiary~~ and the agent, the System will follow the instructions of the principal. ~~attorney-in-fact shall be resolved in favor of the member, joint annuitant or beneficiary. The right to act under a durable or statutory power of attorney terminates at the death of the principal.~~

(c) **Guardianships and Conservatorships.** If a court has appointed a guardian or conservator ~~has been appointed~~ for a member, joint annuitant, surviving spouse, alternate payee, or beneficiary ~~by a court of proper jurisdiction,~~ only the named guardian or conservator can act on behalf of the member, joint annuitant, surviving spouse, alternate payee, or beneficiary. A certified copy of the filed court order ~~of appointment~~ must be ~~filed with~~provided to the System and will be effective until it expires, is amended or ~~withdrawn~~ superseded by subsequent court order. The guardian or conservator shall have exclusive authority to act on behalf of the member, joint annuitant, surviving spouse, alternate payee, or beneficiary unless the court instructs otherwise.

(d) **Self-Dealing.** Any person authorized to act on behalf of the member, joint annuitant, surviving spouse, alternate payee, or beneficiary as provided herein is prohibited from self-dealing relating to the benefit, account, or funds of said member, joint annuitant, surviving spouse, alternate payee, or beneficiary. For purposes of this rule, self-dealing ~~consists of~~ means any ~~change or~~ action which alters ~~a previous~~ an existing instruction, ~~or~~ document, or ~~makes an~~ election ~~or selection, either of~~ which ~~would result~~ results in a benefit or pecuniary interest to ~~said~~ the agent ~~attorney-in-fact~~, guardian, conservator, or custodian or ~~trustee or to the~~their spouse or descendants ~~children of said attorney-in-fact, guardian, conservator, custodian or trustee~~ absent a court order or provision in a power of attorney specifically permitting such action. ~~or approving such self-dealing issued by a court of proper jurisdiction.~~ For illustrative purposes, an agent ~~attorney-in-fact~~, operating under a durable power of attorney is prohibited from changing the ~~member's~~ principal's beneficiary designation to themself ~~him or her self~~ and/or prohibited from naming ~~his or her~~ their spouse as the joint annuitant under a retirement option.

(e) **Minors.** ~~In the event that~~ If a named joint annuitant or beneficiary is younger than eighteen (18) years of age ~~a minor~~, the System ~~will~~may accept documents signed by a guardian or conservator appointed for the ~~minor~~ joint annuitant or beneficiary by a court of proper jurisdiction. If the ~~property belonging to the minor~~ amount payable to the minor is $10,000 or less, the System ~~will~~ may accept documents signed by an authorized parent, relative or custodian pursuant to the Oklahoma Uniform Transfers to Minors Act. The parent, relative or custodian must provide all required forms and documentation for approval at the sole discretion of the System.

(f) **Applicability.** This rule is applicable to any plan or account managed or administered by the Board.

SUBCHAPTER 7. RETIREMENT BENEFITS

590:10-7-9. Fractional year computations

(a) **Rounding of fractional year.** Pursuant to 74 O.S. §913(C), a fractional year of six (6) months or more shall be considered as one (1) year and less than six (6) months shall be disregarded. This ~~round-up~~ provision may be used ~~one time~~ once for credited service of a member to establish the member's benefit ~~of the member~~. ~~This rule is necessary to prevent the gain or loss of service~~

~~credit to a member. In no event shall the~~ The rounding ~~up~~ provisions shall not apply if it ~~would result~~ results in a ~~any~~ member receiving ~~an~~ additional ~~year or~~ years of service that the member would not otherwise be entitled ~~to receive~~.

(b) **Rounding for members joining on or after November 1, 2012.** ~~Notwithstanding the provisions of subsection (a) of this section, for members~~ Members ~~who join~~ joining the System on or after November 1, 2012, are not ~~rounding of fractional years shall not be~~ permitted to round fractional years pursuant to subsection (a) of this section. The number of years of credited service shall be based on the actual years and months of credited service without rounding ~~up or down~~. Unused sick leave, as provided for in 74 O.S. §913(B)(7)(a), shall be credited at the same rate but not used to round up to another year. ~~Any additional months of unused sick leave credit shall be added to other service credit without any rounding.~~

(c) **Correctional and probation and parole officers.** Pursuant to 74 O.S. §915(A), the computation of retirement benefits of Department of Corrections Correctional and Probation and Parole Officers is 2.25% for certain credit prior to July 1, 1990, and 2.5% for certain credit after July 1, 1990, and 2% for all other credit.

(1) Such members may retire with fractional years of service credit in the 2.25% and the 2.5% categories and the statutes only provide for computation at these rates on full years of service. Due to the fact that only the total credited service can be rounded up, some members may face losing a year of service credit when the fractional years of credit are disregarded.

(2) To prevent such a loss of service credit, the fractional portions of years in the 2.25% and the 2.5% categories will be added to the years of credit used in the 2% category and rounded up therein, if applicable. If a member still loses a year of service credit after adding the fractional years to the 2% category, the fractional years may be added to the 2.25% category and rounded up therein, if applicable.

(d) **Hazardous Duty Members.** Hazardous ~~Duty Members~~ duty members ~~who elect to participate or are required to participate~~ participating at the higher employee contribution rate will receive retirement benefits at the 2.5% category only on full years of service as ~~Hazardous Duty Members~~ hazardous duty members for which the higher contributions have been paid. The fractional portions of years in the 2.5% category will be added to any other service credit, calculated in the 2% category and rounded up therein, if applicable, for the computation of the retirement benefit.

(e) **Elected officials.**

(1) If first elected or appointed prior to November 1, 2011, elected officials who do not participate in an elected status for at least six (6) full years will receive retirement benefits on the years and months of elected service instead of full years. The benefit shall be calculated using the computation factor corresponding to the contribution rate the official paid during those years and months of elected service and on the highest annual salary earned as an elected official. Non-elected service credit will be calculated using the applicable computation factor. The elected and non-elected service shall be added to determine the total credited service. If this total results in a fractional year of six (6) months or more, it shall be considered as one year, and less than six (6) months shall be disregarded. The years and months of elected service shall then be deducted from the total credited service and the remaining balance of service shall be calculated using the applicable non-elected service computation factor.

(2) If first elected or appointed on or after November 1, 2011, elected officials who do not participate in an elected status for at least eight (8) full years will receive retirement benefits on the years and months of elected service instead of full years. The contribution rate for such officials shall be as specified in 74 O.S. §919.1(1)(a) and the amount of the benefit shall be based on the provisions of 74 O.S. §915(A)(1).

(f) **Elected officials participating at more than one rate.** Elected officials who participate at more than one contribution rate during their elected service will receive retirement benefits calculated using (1) the computation factor assigned for each contribution rate paid and (2) the highest annual salary for which that particular contribution rate was paid for each full year of elected service credit. Fractional years of elected service credit will be added to the years of elected service for which the highest contribution rate was paid and rounded up therein, if applicable, for the computation of the retirement benefit.

(g) **Rounding for elected officials joining System on or after November 1, ~~2011~~2012.** Elected officials who are first elected or appointed on or after November 1, ~~2011~~ 2012, rounding of fractional years shall not be permitted. The number of years of credited service shall be based on the actual years and months of credited service without rounding up or down.

SUBCHAPTER 9. SURVIVORS AND BENEFICIARIES

590:10-9-2. Death benefit payment

(a) **Payment of benefit.** The ~~four thousand dollars ($4,000)~~ death benefit payment~~, available for any retired member who died on or after July 20, 1987,~~ shall be payable to the beneficiary listed by the member on the form provided by the System or, if none, pursuant to 74 O.S. §916.1 and 590:10-9-4. ~~to the member's estate. This beneficiary designation is not affected by any designation of joint-annuitant, deferred compensation beneficiary or insurance beneficiary, unless otherwise specifically designated in writing by member. For any retired member who died on or after July 1, 1999, the death benefit amount shall be five thousand dollars ($5,000).~~

(b) ~~**Assignment of benefit**~~ **Funeral homes.** The beneficiary or beneficiaries~~, or if none the member's estate or the heirs of the member in the case of a probate waiver,~~ may disclaim, on the form provided by the System, ~~assign~~ the death benefit to a person licensed as a funeral director or to a ~~lawfully recognized~~ business entity licensed as required by law to provide funeral services for the deceased member.

SUBCHAPTER 11. TRANSPORTED AND STATE PORTABLE SERVICE CREDIT

590:10-11-1. Transported service credit

~~All~~ Transported service is any service ~~which is~~ credited to a member pursuant to ~~74 O.S. Section 913 (G)~~ 74 O.S. §913(G) or 70 O.S. §17-116.2(K) ~~transferred out of OPERS pursuant to 70 O.S. Section 17-116.2 (L.) shall be called transported service. Such transported service shall be governed by those statutory provisions and the rules contained in this subchapter~~.

590:10-11-3. Member's entry date

If a member ~~has transported~~ transports service from Teachers' Retirement System, the member's OPERS entry date for purposes of eligibility for retirement, vesting, or determination of the amount and type of retirement benefit shall be the earlier of the OPERS or Teachers' Retirement System entry date. A Teachers' Retirement System entry date prior to November 1, 2015, cannot be used to qualify a member for initial OPERS eligibility. ~~into OPERS shall be replaced with the entry date in Teachers' if that date is earlier.~~

590:10-11-4. Use of transported service

(a) Transported service cannot ~~be used to~~ satisfy the requirement for full-time-equivalent employment with ~~a~~ an OPERS participating employer ~~service requirement~~. However, ~~in any case where such~~ when full-time-equivalent service was transported to the Teachers' Retirement System and is ~~later~~ subsequently transported back to OPERS, such service may ~~be deemed to~~ satisfy the full-time-equivalent employment requirement.

(b) Transported service may be used to determine eligibility for retirement, ~~or~~ vesting, ~~purposes~~ and ~~to determine~~ determination of the amount and type of retirement benefit.

590:10-11-9. State portable service credit

State portable service is any ~~All~~ service ~~that is~~ credited to a member pursuant to 74 O.S. §913(H) or 70 O.S. §17-116.2(P).~~74 O.S. Section 913 (H.) or transferred out of OPERS pursuant to 70 O.S. Section 17-116.2 (Q.) shall be called state portable service. Such transferred portable service shall be governed by those statutory provisions and the rules contained in this subchapter.~~