

Teachers' Retirement System of Oklahoma
301 Northwest 63rd Street, Suite 500
Oklahoma City, OK 73116
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RULE IMPACT STATEMENT

A. BRIEF DESCRIPTION OF PURPOSE OF PROPOSED PERMANENT RULES:

These rules are proposed to comply with the statutory responsibility of the Board of Trustees in establishing rules and regulations for the administration of the System and the transaction of its business (70 O.S. § 17-101 et seq.). These rules are necessary to comply with changes by the Internal Revenue Code and Treasury Regulations to the applicable age for required minimum distributions and to the orderly administration of the System for the benefit of the System's members and to defray costs of administering the System.

TITLE 715. TEACHERS' RETIREMENT SYSTEM

CHAPTER 1. ADMINISTRATIVE OPERATIONS

715:1-1-10 is being amended to clarify and amend grievance timelines for grievances to the Executive Director and the Board of Trustees, respectively, and to otherwise reflect current grievance processes of TRS.

715:1-1-15 is being amended to reflect changes by the Internal Revenue Code and Treasury Regulations to the applicable age for required minimum distributions and strike a reference to tax sheltered annuity deposits as TRS no longer administers a tax-sheltered annuity plan.

B. CLASS OF PERSON(S) AFFECTED (CLASS BEARING COST OF RULES):

The classes of person(s) affected by the proposed rules are employers and membership of the Teachers' Retirement System of Oklahoma.

C. CLASS OF PERSON(S) BENEFITTED BY PROPOSED RULES:

The class of person(s) benefitted by the proposed rules is the membership of the Teachers' Retirement System of Oklahoma.

D. DESCRIPTION OF ECONOMIC IMPACT UPON AFFECTED CLASS OF PERSONS OR POLITICAL SUBDIVISIONS:

The proposed rules will provide a more efficient administration of the System, resulting in a positive economic impact upon affected classes of persons or political subdivisions. The proposed rules will not have an adverse effect on small business.

E. COST TO AGENCY, EFFECT ON STATE, INCLUDING A PROJECTED NET LOSS OR GAIN IN SUCH REVENUES:

None.

F. ECONOMIC IMPACT THAT IMPLEMENTATION OF THE RULES WILL HAVE ON POLITICAL SUBDIVISIONS AND WHETHER THE IMPLEMENTATION WILL REQUIRE THE SUBDIVISION'S COOPERATION IN IMPLEMENTING OR ENFORCING THE RULE:

None. The proposed rules will not have an adverse effect on small business.

G. LESS COSTLY OR INTRUSIVE METHODS:

None.

H. DATE IMPACT STATEMENT PREPARED:

November 15, 2023.

715:1-1-10. Grievances and complaints [AMENDED]

—Grievances and complaints are ~~usually~~initially settled by correspondence or informal conference between ~~the member or beneficiary~~an interested party and TRS staff. “Interested party” means a member; a member’s legal representative, beneficiary, or joint annuitant; or a participating employer.

(1)~~Any~~An interested ~~person~~party with a grievance or complaint that cannot be settled ~~in this manner~~by correspondence or informal conference may ~~appeal~~submit a written request for an informal hearing before the Executive Director of TRS within thirty (30) days of the decision of the staff to the Executive Director of TRS. The Request~~written request~~ for an informal hearing before the Executive Director must ~~be in writing and~~include the name and address of the interested party, include a clear statement of the grievance or complaint, and a statement of the relief sought. The Executive Director will provide a written response to the interested party within thirty (30) days of receipt of the written request for informal hearing, stating the official position of ~~Teachers' Retirement~~TRS in the matter ~~before appeal~~being grieved. The response will either grant or deny the ~~appellant's~~interested party's ~~request~~requested relief. If denied, the Executive Director shall provide ~~to the member~~in the written response the applicable statutes, rules and administrative procedures used in reaching ~~a~~the decision to deny the ~~appeal~~requested relief of the ~~member~~interested party. “Interested person” means any member of TRS; any beneficiary of a member; any retiree of TRS; any guardian, administrator, or executor of a member, retiree, or beneficiary; or any public school.

(2) Any decision of the Executive Director may be appealed to the Board of Trustees of the Teachers' Retirement System. ~~The member must appeal the decision of the executive director~~ within ~~sixty (60)~~thirty (30) days of receipt of notification of denial by the Executive Director.

(3) All ~~eases of~~ appeals to the Board of Trustees will be assigned to an administrative hearing judge, who will conduct a hearing and prepare a proposed order for the Board of Trustees. The Executive Director shall appoint the administrative hearing judge from a list of individuals ~~previously~~ employed by the Board of Trustees to act in this role. Administrative hearings shall be conducted in the offices of ~~the~~ TRS at a time and date agreed to by the parties. Any party to the hearing shall provide timely notice to the other parties if a delay or failure to appear is anticipated.

(4) Hearings will be conducted under the provisions of the Administrative Procedures Act [75 O.S. §250 et. seq.]. Opportunity shall be afforded all parties to respond and present evidence and arguments on all issues involved. The administrative hearing judge will have the authority to conduct the hearing and rule on the admissibility of all evidence. Any party shall at all times have the right to counsel, provided that such counsel must be duly licensed to practice law by the Supreme Court of Oklahoma, and provided further that such counsel shall have the right to appear and act for and on behalf of the party he or she represents.

(5) Upon the completion of the hearing, the administrative hearing judge shall afford the ~~appellant~~interested party the opportunity to present a written brief and arguments to be included as part of the record. ~~Legal counsel for~~ TRS shall be provided an equal opportunity to respond to ~~appellant's~~the interested party's written brief and arguments ~~if requested~~. Once all evidence, arguments and briefs are received by the administrative hearing judge the record shall be closed.

~~(5)(6) At the close of the hearing~~After the record is closed; and as soon as practical, the administrative hearing judge shall, ~~as soon as practical,~~ prepare a proposed order to be delivered to the ~~Board of Trustees~~Executive Director. This proposed order shall include findings of fact, based exclusively on the evidence and on matters officially noted in the record of the hearing, conclusions of law and a ~~recommended~~recommendation~~order~~ to the Board of Trustees. A copy of ~~the~~this proposed order shall be ~~provided to~~served upon all parties by the Executive Director.

~~(6)(7)~~ The interested ~~parties~~party shall have the right to file a written statement outlining any objections, exceptions and/or arguments for the Board of Trustees to consider, in its consideration of

~~the hearing judge's proposed order.~~ This statement must be filed with TRS within twenty (20) days of receipt of the hearing judge's proposed order. No additional evidence or materials may be introduced with the interested party's written statement. ~~The Executive Director and/or TRS staff may prepare file~~ a written response in rebuttal to the interested party's statement. ~~A copy of any response by TRS will be provided~~ a copy of its written response to ~~all interested parties~~ the interested party at least ten (10) days prior to the time the appeal is scheduled for consideration by the Board of Trustees. The interested ~~parties~~ party may waive the ten (10) day limit if it would delay scheduling the matter before the Board.

~~(7)(8) The Executive Director may, p~~ Prior to submitting the hearing ~~officer's report~~ judge's proposed order to the Board of Trustees, ~~the Executive Director may,~~ settle any grievance or complaint in a manner agreeable to the interested ~~parties~~ party. In settling any grievance or complaint, the Executive Director shall not exceed the authority previously granted to him or her by the Board of Trustees. The Executive Director shall report to the Board of Trustees any settlement which occurs after the hearing ~~officer's report~~ judge's proposed order is filed ~~has been received~~.

~~(8)(9) Consideration of the~~ The interested party's ~~ease~~ appeal will be scheduled ~~before~~ for consideration by the Board of Trustees as soon as possible after the proposed order has been received and any additional written materials have been filed with TRS ~~in accordance with this section. Unless mutually agreed to by all parties, None~~ hearing before the Board will be scheduled within ten (10) business days of such filings unless mutually agreed to by all parties.

~~(9)(10)~~ At the meeting at which the Board of Trustees will consider the proposed order, the interested ~~parties~~ party will be afforded an opportunity to make a brief statement to the Board concerning the facts and any arguments ~~he/she~~ he or she wishes to present and will be allowed to respond to questions from Trustees. Failure of an interested party to appear at the Board hearing without prior notification will result in the ~~member~~ interested party relinquishing his or her right to be heard by the Board. If such absence was unavoidable, the interested party may petition the Board for a rehearing within ten (10) days of the scheduled hearing. The ~~Chairman of the Board of Trustees~~ Board Chair will have final authority to set the amount of time any party may have to present information to the Board.

~~(10)(11)~~ After consideration of all evidence and arguments, both oral and written, the Board will make a final determination on the proposed order and issue a final agency order. The Board of Trustees may accept, reject or accept as-modified the proposed order. The Board may make its own conclusions and issue ~~an~~ a final agency order in concert with those findings; or re-open the case and hear evidence themselves. If the Board decides to hear the case, it will determine whether to review the complete record, including a transcript of the original hearing conducted by the administrative hearing judge and all documentary evidence, or open the case to receive new evidence and testimony. As in all matters before the Board, a quorum, as required by 70 O.S. §17-106, is necessary to approve any motion, resolution or order under consideration. A copy of the Board's final agency order will be delivered by TRS via certified mail to ~~all interested parties~~ the interested party and their representatives ~~by TRS~~.

~~(11)(12)~~ Any ~~An~~ interested party receiving an adverse ruling from the Board retains certain rights under the Administrative Procedures Act. The interested party may file an action for judicial review in District Court in Oklahoma County. Such action must be filed within thirty (30) days after the ~~aggrieved~~ interested party ~~is notified of~~ receives the Board's final agency order. The interested party may also petition the Board for a rehearing, reopening or reconsideration of the appeal ~~by the Board~~. Such petition must be filed with the Executive Director of TRS within ten (10) days from the date of the Board's decision and must be based on ~~75 O.S. 317~~ 75 O.S. §317.

~~(12)(13)~~ The Administrative Procedures Act prohibits direct or indirect communications by ~~members~~ interested parties ~~and/or the~~ and their representatives ~~of interested parties~~ with the Board of Trustees in connection with any issue of fact or law regarding an appeal before the Board, except upon notice which provides an opportunity for all parties to participate. The Board of Trustees will not consider

any evidence or statements made to them by members interested parties in connection with a pending appeal in violation of this subsection.

715:1-1-15. Distribution Rules [AMENDED]

(a) Notwithstanding any other provision of the administrative code, all benefits paid from the retirement system ~~(other than the tax sheltered annuity program)~~ shall be distributed in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code and Treasury Regulations § 1.401(a)(9)-1 through § 1.401(a)(9)-9, even if the member has not submitted the appropriate notice. These provisions override any distribution options that are inconsistent with Internal Revenue Code Section 401(a)(9).

(b) In furtherance of this section, the Board of Trustees and its designee will apply the following provisions:

(1) The entire interest of each member:

(A) will be distributed to such member not later than the required beginning date; or

(B) will be distributed beginning not later than the required beginning date, in accordance with Treasury regulations over the life of such member or over the lives of such member and a designated beneficiary (or over a period not extending beyond the life expectancy of such member or the life expectancies of such member and a designated beneficiary).

(2) If distribution of the member's interest has begun in accordance with subparagraph (1)(B) and the member dies before his or her entire interest has been distributed to the member, the remaining amount shall be distributed at least as rapidly as under the method of distribution being used under subparagraph (1)(B) as of the date of the member's death.

(3) If a member dies before distribution of the member's benefits begins under subparagraph (1)(B), and if any portion of the member's interest is payable to or for the benefit of a designated beneficiary for the beneficiary's lifetime or for a period not to exceed the beneficiary's life expectancy, the distribution must begin no later than December 31 of the calendar year immediately following the calendar year in which the member died. However, if the designated beneficiary is the surviving spouse of the member:

(A) the date on which the distribution is required to begin shall not be earlier than the date on which the member would have attained

(i) age 70 $4\frac{1}{2}$ for distributions required to be made with respect to a member who was born on or before June 30, 1949, or

(ii) ~~age 72 for distributions required to be made after December 31, 2019,~~ with respect to a member who was born on July 1, 1949, through December 31, 1950 would be attained age 70 $1\frac{1}{2}$ after December 31, 2019), and/or,

(iii) age 73 for distributions required to be made with respect to a member who was born after December 31, 1950 and before January 1, 1959.

(B) if the surviving spouse dies before the distribution to such spouse begins, subparagraph (1)(B) shall be applied as if the surviving spouse were the member.

(4) For benefit payments to beneficiaries that are not covered by paragraph (3), if the member dies before distribution of the member's interest has begun in accordance with subparagraph (1)(B), the member's entire interest must be distributed within 5 years after the member's death.

(5) For purposes of this section, the term "required beginning date" means April 1 of the calendar year following the later of:

(A) the calendar year in which the employeemember reaches:

(i) age 70 ½ for distributions required to be made with respect to a member who was born on or before June 30, 1949, or
(ii) age 72 for distributions required to be made with respect to a member who was born on July 1, 1949, through December 31, 1950,
(iii) age 73 for distributions required to be made with respect to a member who was born after December 31, 1950 and before January 1, 1959, or.
(iv) the applicable age as set forth in Internal Revenue Code Section 401(a)(9)(C)(v).

~~age 70 1/2 (age 72 for distributions required to be made after December 31, 2019, with respect to a member who would be attained age 70 1/2 after December 31, 2019),~~
or

(B) the calendar year in which the ~~employeemember~~ retires or separates employment from a TRS covered employer.

(6) For purposes of determining benefits, the life expectancy of a member, a member's spouse or a member's beneficiary shall not be recalculated after benefits commence.

(7) The amount of benefits payable to a member's beneficiary may not exceed the maximum determined under the incidental death benefit requirement of Internal Revenue Code Section 401(a)(9)(G).