

## 31.02.08 Retirement Programs

Revised [October 17, 2023](#)

Next Scheduled Review: October 17, 2028

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### Regulation Summary

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Each employee of The Texas A&M University System (system), as defined in System Policy *31.02, Employee Insurance and Retirement Benefits*, is required to participate in a retirement program as a condition of employment. Voluntary retirement programs are also offered for the benefit of employees.

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### Regulation

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#### 1. TEACHER RETIREMENT SYSTEM OF TEXAS

- 1.1 Employees to whom this regulation applies are required to participate in the Teacher Retirement System of Texas (TRS) unless they qualify for and elect to participate in the Optional Retirement Program (ORP).
- 1.2 Eligibility begins on each employee's first day of TRS-eligible employment.
- 1.3 If a non-budgeted employee satisfies the 50 percent effort, four and one-half month criteria during a fiscal year, the employee must be enrolled in TRS.

#### 2. OPTIONAL RETIREMENT PROGRAM

- 2.1 Each employee in an eligible position may elect to participate in ORP instead of TRS. ORP is a portable defined contribution retirement plan authorized under Section 403(b) of the Internal Revenue Code.
  - 2.1.1 To be eligible to participate in ORP, an employee must be in a position that:
    - (a) satisfies job-related criteria established by the Texas Higher Education Coordinating Board, as interpreted by the member chief executive officer;
    - (b) is budgeted for 100 percent time for at least four and one-half months; and
    - (c) does not require student status as a condition of employment.
  - 2.1.2 The employing member is responsible for notifying each newly eligible employee that the employee is eligible for the program and securing the employee's acknowledgment.

2.1.3 Each eligible employee is allowed 90 days from the date of employment or eligibility to elect to participate in ORP. The election to participate in ORP is a one-time, irrevocable, career-long election. If this election is not made on or before the first day of employment, a new employee is required to become a member of TRS with the right to change to ORP within 90 days and apply for a refund of the employee's TRS contributions. Any eligible employee not exercising the irrevocable one-time option to participate in ORP during the 90-day period is thereafter required to continue membership in TRS.

2.1.4 An employee who has participated in ORP for one full year or less is not eligible to continue in ORP if:

- (a) after less than four and one-half months from the date of initial eligibility, the employee becomes employed in a position not eligible for ORP or his or her employment status is changed to at least 50 percent and no more than 99 percent in an ORP-eligible position;
- (b) after at least four and one-half months from the date of initial eligibility, the employee becomes employed in a position not eligible for ORP; or
- (c) the employee becomes employed in a position at less than 50 percent effort.

Under (a) and (b) above, if the employee is transferring to a new position that qualifies for TRS participation, the employee is required to return to membership in TRS for the remainder of their employment in Texas public higher education and will not have another opportunity to re-enroll in ORP.

2.1.5 An employee who has participated in ORP for one year and one day is vested in ORP. Once vested in ORP, the employee continues ORP participation regardless of the position held at that member. If an employee vested in ORP separates from a member and is re-employed at another Texas public educational institution or agency:

- (a) **having** an ORP program, that employee must continue to participate in ORP; or
- (b) **not having** an ORP program, and the employee becomes a member of TRS, then the employee is no longer eligible to participate in ORP.

2.1.6 A vested employee is not eligible to contribute to ORP if the employee becomes:

- (a) employed in a temporary position lasting less than four and one-half months;
- (b) employed in a position for which student status is a condition of employment;
- (c) employed in a position at less than 50 percent effort;
- (d) employed in a TRS-eligible position in Texas public schools and subsequently returns to employment in an institution of higher education in Texas; or
- (e) re-employed after having established ORP retiree status by enrolling in retiree health insurance after June 1, 1997. ORP retirees prior to June 1, 1997, are

grandfathered and, therefore, may still participate unless prohibited from doing so by the criteria outlined in Sections 2.1.6(a), (b), (c) or (d).

2.1.7 If an employee is erroneously enrolled in ORP, the system has the right to move the participant's account from ORP to TRS.

2.2 The system provides automatic participation in the Supplemental Optional Retirement Program (SORP) to eligible employees as an enhancement to ORP participation for employees enrolled in ORP prior to September 1, 1996, who exceed the federal tax code's Section 415(c) maximum contribution limit imposed on ORP participants.

2.2.1 SORP is administered in accordance with the terms established and approved by the system Board of Regents with the chancellor as plan administrator.

2.2.2 The plan administrator or designee is responsible for notifying each newly eligible employee of the employee's required participation. Eligible employees must complete election forms once notified of SORP eligibility. Since participation is mandatory, failure to submit election forms prior to the first contribution will result in default elections for investment options and distribution options.

2.2.3 At the time of enrollment, the participant must select investment option preferences for the contributions and the distribution option for future SORP benefits. While the distribution option election is a one-time irrevocable choice, the investment option may be changed after initial enrollment in the program.

### 3. TAX DEFERRED ACCOUNT PROGRAM

3.1 The system provides all employees who report personal income for federal income tax purposes the opportunity to contribute a portion of their salary pre- or post-tax (Roth) to the Tax Deferred Account Program (TDA) as authorized by Section 403(b) of the Internal Revenue Code. There is no matching contribution from the system under this program and enrollment is solely at the discretion of each employee.

3.2 Employees must execute salary reduction agreements on a prospective basis to participate in a TDA. The maximum amount of salary that can be contributed to a TDA each tax year is established by Internal Revenue Code Sections 402(g), 403(b), 415(c)(1)(A) and 415(c)(1)(B). The system reserves the right to discontinue or alter an employee's TDA contributions as necessary.

3.3 An employee may change contribution levels or vendors or terminate a salary reduction agreement in advance of the requested change/termination date.

### 4. DEFERRED COMPENSATION PROGRAM

4.1 The state of Texas offers to all employees who report personal income for federal income tax purposes the opportunity to contribute a portion of their current salary pre- or post-tax (Roth) under a Deferred Compensation Program (DCP) program, subject to the limitations established in Section 457 of the Internal Revenue Code. The Employees Retirement System of Texas (ERS) establishes rules and administers this program.

- 4.2 Enrollment in the program is solely at the discretion of each employee, and there is no matching contribution from the system under this program. The system assumes no liability or responsibility for the income tax aspects of the DCP, the terms and provisions of any contract issued thereunder, monitoring of the financial stability of carriers, or the market condition of the participants' investments.
- 4.3 ERS has delegated responsibility for certain salary-reduction processing to the payroll offices of state agencies and institutions of higher education. Payroll offices maintain the associated payroll processing functions prescribed by ERS.

## 5. ADMINISTRATION

- 5.1 System Benefits Administration is responsible for the coordination of retirement programs to include general liaison for the system with TRS and ERS and the administrator of the ORP and TDA programs.
- 5.2 The employing member is responsible for notifying each new employee of the availability of retirement programs and securing the employee's acknowledgment of notification. However, member human resources and payroll workstation employees are specifically prohibited from counseling employees in vendor selection and other aspects of retirement programs.
- 5.3 Each eligible employee must execute a salary reduction agreement to participate in the ORP or TDA program and must select a vendor authorized by the system to administer the employee's account. After initial enrollment, an employee may change vendors or transfer account assets to another vendor on the list of active vendors. Enrollment, as well as all other corresponding transactions for the DCP program, is done through ERS.
- 5.4 A vendor who wishes to offer retirement products to employees must comply with the regulations outlined in the plan document and must meet criteria established by the System Benefits Administration office.

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## Related Statutes, Policies, or Requirements

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[Tex. Admin. Code, Ch. 25, Optional Retirement Program](#)

Tex. Gov't Code, Title 8, Ch. [821](#), [830](#)

[TexaSaver Program](#)

Internal Revenue Code, Sections [403\(b\)](#), [457\(b\)](#)

[Index of Dollar Limitations 401\(a\)\(17\), 402\(g\)\(1\), 414\(v\)\(2\)\(B\)\(i\), 415\(c\)\(1\)\(A\), 457\(e\)\(15\)](#)

[System Policy 31.02, Employee Insurance and Retirement Benefits](#)

The May 2013 version of this regulation supersedes:

System Regulation *31.02.09, Optional Retirement Program*

System Regulation *31.02.10, Tax-Deferred Account Program*

System Regulation *31.02.11, Deferred Compensation Program*

System Regulation *31.02.12, Supplemental Optional Retirement Program*

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## **Member Rule Requirements**

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A rule is not required to supplement this regulation.

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## **Contact Office**

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Benefits Administration  
(979) 458-6330