

31.02.09 Optional Retirement Program

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Regulation Statement

This regulation provides guidance with respect to initial eligibility for the Optional Retirement Program (ORP) as well as ongoing eligibility and administration of the program.

Reason for Regulation

This regulation supports System Policy 31.02, *Employee Insurance and Retirement Benefits*, which establishes that employees of The Texas A&M University System (system) will be enrolled in a retirement program.

Procedures and Responsibilities

1. GENERAL

- 1.1 Each employee in an eligible position may elect to participate in the Optional Retirement Program (ORP) instead of the Teacher Retirement System (TRS) of Texas. ORP is a portable defined contribution retirement plan authorized under Section 403(b) of the Internal Revenue Code.
- 1.2 The employing system member is responsible for notifying each newly eligible employee that he or she is eligible for the program and securing the employee's written acknowledgment.
- 1.3 Enrollment in the program is solely at the discretion of each eligible employee. The system assumes no liability or responsibility for the income tax aspects of ORP, the terms and provisions of any contract issued thereunder, monitoring of the financial stability of carriers, or the market condition of the participants' investments. System human resources and payroll workstation employees are specifically prohibited from advising other employees in these various aspects of ORP.

2. PARTICIPATION

- 2.1 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 system 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.

2.2 Each eligible employee is allowed 90 days from the date of employment or eligibility to elect to participate in ORP. 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.

3. CONTINUED PARTICIPATION AFTER CHANGE IN EMPLOYMENT STATUS

- 3.1 An employee who has participated in ORP 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 his or her employment in Texas public higher education and will not have another opportunity to re-enroll in ORP.

- 3.2 An employee who has participated in ORP for one year and one day is vested in ORP. Once vested in ORP, the employee will continue ORP participation regardless of the position held at that system member. If an employee vested in ORP separates from a system member and is re-employed at another Texas public educational institution or agency:
- (a) **having** an ORP program, that employee will 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.

- 3.3 A vested employee is not eligible to contribute to ORP if he or she 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 3.3 (a), (b), (c) or (d).

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

4. ADMINISTRATION

4.1 The System Benefits Administration Office is responsible for the administration of ORP.

4.2 Each eligible employee must execute a salary reduction acknowledgment to elect to participate in ORP and must select a vendor authorized by the system to administer the employee's ORP account. After initial enrollment, an employee may change vendors or transfer account assets to another vendor on the list of active vendors.

4.3 A vendor who wishes to offer retirement products to system employees must comply with the regulations outlined in the plan document and must meet criteria established by the System Benefits Administration Office.

Related Statutes, Policies, or Requirements

[Texas Government Code, Title 8, Chapter 830](#)

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

[Index of Dollar Limitations – 415\(c\)\(1\)\(A\) & 401\(a\)\(17\)](#)

[Texas Administrative Code, Chapter 25, Optional Retirement Program](#)

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