

**TITLE 715. TEACHERS' RETIREMENT SYSTEM
CHAPTER 10: GENERAL OPERATIONS**

RULEMAKING ACTION:

PERMANENT final adoption

RULES:

Subchapter 5. Establishing Other Service Credits

715:10-5-36 [NEW]

Subchapter 15. Service Retirement

715:10-15-3 [AMENDED]

715:10-15-6 [AMENDED]

715:10-15-26 [AMENDED]

Subchapter 17. Post-Retirement Employment

715:10-17-6 [AMENDED]

Subchapter 23. State and Education Employees Group Health and Dental Insurance Program

715:10-23-6 [NEW]

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70 O.S. Section 17-101, et seq., especially Section 17-106(10); Board of Trustees

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n/a

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n/a

ANALYSIS:

715:10-5-36 is being added to comply with the Post-EGTRRA Amendments specific to the Heroes Earnings Assistance and Tax Relief Act of 2008.

715:10-15-3 is being amended to ensure payments for additional service credit are paid timely and are accurately included in estimate of benefits and to remove restriction on how early a client may submit a retirement contract.

715:10-15-6 is being amended to update acceptable forms for verification of date of birth.

715:10-15-26 is being amended to update the Internal Revenue Code Section 415 provisions for the Worker, Retiree, and Employee Recovery Act of 2008.

715:10-17-6 is being amended to make the previously approved emergency rule permanent.

715:10-23-6 is being added to ensure compliance of OTRS plan with Internal Revenue Service (IRS) requirements to remain a qualified plan.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING RULES ARE CONSIDERED FINALLY ADOPTED AS SET FORTH IN 75 O.S. SECTION 308.1(A), WITH AN EFFECTIVE DATE OF JULY 1, 2013.

**TITLE 715. TEACHERS' RETIREMENT SYSTEM OF OKLAHOMA
CHAPTER 10. GENERAL OPERATIONS**

SUBCHAPTER 5. ESTABLISHING OTHER SERVICE CREDITS

715:10-5-36. Compliance with Code Section 401(a)(37) and the HEART Act

(a) Effective with respect to deaths occurring on or after January 1, 2007, while a member is performing qualified military service (as defined in chapter 43 of title 38, United State Code), to the extent required by Internal Revenue Code Section 401(a)(37), survivors of a member in a State or local retirement or pension system, are entitled to any additional benefits that the system would provide if the member had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the member's death while employed.

(b) Beginning January 1, 2009, to the extent required by Internal Revenue Code Sections 3401(h) and 414(u)(12), an individual receiving differential wage payments (while the individual is performing qualified military service (as defined in chapter 43 of title 38, United State Code)) from an employer shall be treated as employed by that employer and the differential wage payment shall be treated as earned compensation, but contributions attributable to such differential wage payments shall not be made unless and until the member returns to active employment and makes up the missed contributions. This provision shall be applied to all similarly situated individuals in a reasonably equivalent manner.

SUBCHAPTER 15. SERVICE RETIREMENT

715:10-15-3. Date of retirement; making application

The earliest effective date of retirement for any eligible member is the first day of the month following the one in which employment ceases, with the first annuity payment due the last day of that month.

- (1) It is the member's responsibility to notify, by filing a retirement contract as outlined in paragraphs 4 and 5 of this section, the TRS Board of Trustees of the date on which retirement is to begin.
- (2) Payments for all years of service, for which a member wants to receive credit, must be made ~~before~~ no less than 90 days prior to the date of retirement.
- (3) State law does not permit TRS to make retroactive retirement payments. Members should ensure that their creditable service record is up-to-date and accurate before they retire.
- (4) The member ~~shall request~~ will receive a final contract for retirement ~~by upon~~ upon completing and returning ~~to TRS Form 40 (Retirement Allowance Estimate) an Intent to Retire.~~ This form should be returned to TRS ~~approximately~~ no less than sixty (60) to

~~ninety (90)~~ days prior to the expected retirement date. The member shall select the retirement option on ~~TRS Form 40~~ the Intent to Retire.

(5) The Final Contract for Retirement, properly executed before a notary, is required by statutes to be filed with TRS no less than thirty (30) days, ~~nor more than ninety (90) days,~~ before the date of retirement. Therefore, the final contract for retirement must be completed and on file with TRS by the first day of the month immediately preceding the retirement date. The first retirement ~~check~~ benefit payment will be ~~mailed~~ made on the last first day of the month following the effective date of retirement begins.

(6) For example, a retirement contract must be on file by May 1, for a retirement date of June 1, in order ~~for the first check to be mailed the last working day of June.~~ to process the first retirement benefit payment on July 1.

715:10-15-6. Verification of date of birth

~~A member, filing for retirement benefits, must provide proof of date of birth. Proof of the birth date of the designated beneficiary is also required when the member selects either Retirement Option 2 or Option 3. Although a birth certificate is the best evidence of correct age, one is not always obtainable. In such cases, the The Board of Trustees has ruled that any of the documents listed below also shall be acceptable for verification of date of birth:~~

- ~~(1) United States Census record. Birth Certificate~~
- ~~(2) Military record. Valid state or federal government issued photo identification~~
- ~~(3) Naturalization record.~~
- ~~(4)(3) Passport (must be at least five years old).~~

715:10-15-26. Code Section 415 limits as applied to TRS

(a) Notwithstanding any other provision of the administrative code, contributions paid to and benefits paid from the retirement system shall not exceed the maximum contributions and benefits permissible under Internal Revenue Code Section 415. For 415 testing purposes, the limitation year is the calendar year.

(b) Participation in Other Qualified Plans: Aggregation of Limits

(1) The 415(b) limit with respect to any member who at any time has been a member in any other defined benefit plan as defined in Internal Revenue Code Section 414(j) maintained by the member's employer in the retirement system shall apply as if the total benefits payable under all such defined benefit plans in which the member has been a member were payable from one (1) plan.

(2) The 415(c) limit with respect to any member who at any time has been a member in any other defined contribution plan as defined in Internal Revenue Code Section 414(i) maintained by the member's employer in the retirement system shall apply as if the total annual additions under all such defined contribution plans in which the member has been a member were payable from one (1) plan.

(c) Basic 415(b) Limitation

(1) Before January 1, 1995, a member may not receive an annual benefit that exceeds the limits specified in Internal Revenue Code Section 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a member may not receive an annual benefit that exceeds the dollar amount specified in Internal Revenue Code Section 415(b)(1)(A), subject to the applicable adjustments in Internal Revenue Code Section 415(b) and subject to any additional limits that may be specified in the retirement system. In no event shall a member's benefit payable under the retirement system in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Internal Revenue Code Section 415(d) and the regulations thereunder.

(2) For purposes of Internal Revenue Code Section 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax employee contributions (except pursuant to Internal Revenue Code Section 415(n)) and to rollover contributions (as defined in Internal Revenue Code Section 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(d) Adjustments to Basic 415(b) Limitation for Form of Benefit. If the benefit under the retirement system is other than the form specified in subsection (c)(2), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to any automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Internal Revenue Code Section 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount [determined using the assumptions specified in Treasury Regulation section 1.415(b)-1(c)(2)(ii)] that takes into account the additional benefits under the form of benefit as follows:

(2) For a benefit paid in a form to which Internal Revenue Code Section 417(e)(3) does not apply [a monthly benefit], the actuarially equivalent straight life annuity benefit that is the greater of (or the reduced Limit applicable at the annuity starting date which is the "lesser of" when adjusted in accordance with the following assumptions):

(A) The annual amount of the straight life annuity (if any) payable to the member under the retirement system commencing at the same annuity starting date as the form of benefit to the member, or

(B) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation section 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Rulings 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section 417(e)(3)(B)); or

(3) For a benefit paid in a form to which Internal Revenue Code Section 417(e)(3) applies [a lump sum benefit], the actuarially equivalent straight life annuity benefit that is the greatest of (or the reduced Internal Revenue Code Section 415(b) limit applicable at the annuity starting date which is the "least of" when adjusted in accordance with the following assumptions:

(A) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(B) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality table for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable

mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section 417(e)(3)(B)); or

(C) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(3) (the 30-year Treasury rate (prior to January 1 2007, using the rate in effect for the month prior to retirement, and on and after January 1, 2007, using the rate in effect for the first day of the plan year with a one-year stabilization period)) and (i) for years prior to January 1, 2009, the applicable mortality rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Internal Revenue Code Section 417(e)(3)(B) (Notice 2008-85 or any subsequent Internal Revenue Service guidance implementing Internal Revenue Code Section 417(e)(3)(B)), divided by 1.05.

(e) Benefits Not Taken into Account for 415(b) Limitation. For purposes of this section, the following benefits shall not be taken into account in applying these limits:

- (1) Any ancillary benefit which is not directly related to retirement income benefits;
- (2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
- (3) Any other benefit not required under Internal Revenue Code Section 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Internal Revenue Code Section 415(b)(1).

(f) Other Adjustments in 415(b) Limitation.

- (1) In the event the member's retirement benefits become payable before age sixty-two (62), the limit prescribed by this section shall be reduced in accordance with Treasury Regulations pursuant to the provisions of Internal Revenue Code Section 415(b), so that such limit (as so reduced) equals an annual straight life benefit (when such retirement income benefit begins) which is equivalent to a one hundred sixty thousand dollar (\$160,000) (as adjusted) annual benefit beginning at age sixty-two (62).
- (2) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(g) ~~Less than Ten (10) Years of Service Adjustment for 415(b) Limitations Participation.~~ The maximum retirement benefits payable under OAC 715:10-15-26 to any member who has completed less than ten (10) years of service participation shall be the amount determined under ~~subsection (e) OAC 715:10-15-26(c), as adjusted under OAC 715:10-15-26(d) and/or OAC 715:10-15-26(f),~~ multiplied by a fraction, the numerator of which is the number of the member's years of service participation and the denominator of which is ten (10). The reduction provided by ~~this subsection OAC 715:10-15-26(g)~~ cannot reduce the maximum benefit below 10% of the limit determined without regard to OAC 715:10-15-26(g). The reduction provided for in ~~this subsection OAC 715:10-15-26(g)~~ shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(h) Ten Thousand Dollar (\$10,000) Limit; Less than Ten (10) Years of Service. Notwithstanding ~~the foregoing,~~ anything in OAC 715:10-15-26 to the contrary, the retirement benefit payable with respect to a member shall be deemed not to exceed the 415-limit set forth in OAC 715:10-15-26(h) if the benefits payable, with respect to such member under the retirement system and under all other qualified defined benefit pension plans to which the member's employer contributes, do not exceed ten thousand dollars (\$10,000) for the applicable limitation year and for any prior limitation year and the employer has not at any time maintained a qualified

defined contribution plan in which the member participated; provided, however, that if the member has completed less than ten (10) years of service with the employer in the retirement system, the limit under OAC 715:10-15-26(h) shall be a reduced limit equal to ten thousand dollars (\$10,000) multiplied by a fraction, the numerator of which is the number of the member's years of service and the denominator of which is ten (10).

(i) Effect of COLA without a Lump Sum Component on 415(b) Testing. Effective on and after January 1, 2009, for purposes of applying the limits under Internal Revenue Code Section 415(b) (the "Limit") to a member with no lump sum benefit, the following will apply:

(1) a member's applicable Limit will be applied to the member's annual benefit in the member's first limitation year without regard to any cost of living adjustments under Oklahoma statutes;

(2) to the extent that the member's annual benefit equals or exceeds the Limit, the member will no longer be eligible for cost of living increases until such time as the benefit plus the accumulated increases are less than the Limit; and

(3) thereafter, in any subsequent limitation year, a member's annual benefit, including any cost of living increases under Oklahoma statutes, shall be tested under the then applicable benefit Limit including any adjustment to the Internal Revenue Code Section 415(b)(1)(A) dollar limit under Internal Revenue Code Section 415(d), and the regulations thereunder.

(j) Effect of COLA with a Lump Sum Component on 415(b) Testing. On and after January 1, 2009, with respect to a member who receives a portion of the member's annual benefit in a lump sum, a member's applicable Limit will be applied taking into consideration cost of living increases as required by Internal Revenue Code Section 415(b) and applicable Treasury Regulations.

(k) Section 415(c) limitations on contributions and other additions. After-tax member contributions or other annual additions with respect to a member may not exceed the lesser of \$40,000 (as adjusted pursuant to Internal Revenue Code Section 415(d)) or 100% of the member's compensation.

(1) Annual additions are defined to mean the sum (for any year) of employer contributions to a defined contribution plan, member contributions, and forfeitures credited to a member's individual account. Member contributions are determined without regard to rollover contributions and to picked-up employee contributions that are paid to a defined benefit plan.

(2) For purposes of applying Internal Revenue Code Section 415(c) and for no other purpose, the definition of compensation where applicable will be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation section 1.415(c)-2, or successor regulation; provided, however, that member contributions picked up under Internal Revenue Code Section 414(h) shall not be treated as compensation.

(3) Solely for purposes of calculating and complying with the limitations under Internal Revenue Code Section 415, a member's compensation will be defined as wages within the meaning of Internal Revenue Code Section 3401(a) and all other payments of compensation to an employee by an employer for which the employer is required to furnish the employee a written statement under Internal Revenue Code Sections 6041(d), 6051(a)(3) and 6052 and will be determined without regard to any rules under Internal Revenue Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Internal Revenue Code Section 3401(a)(2)).

(A) However, for limitation years beginning after December 31, 1997, compensation will also include amounts that would otherwise be included in compensation but for an election under Internal Revenue Code Sections 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning after

December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the member by reason of Internal Revenue Code Section 132(f)(4).

(B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a member's severance from employment or the end of the limitation year that includes the date of the member's severance from employment if:

(i) the payment is regular compensation for services during the member's regular working hours, or compensation for services outside the member's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the member while the member continued in employment with the employer; or

(ii) the payment is for unused accrued bona fide sick, vacation or other leave that the member would have been able to use if employment had continued.

(iii) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the member at the same time if the member had continued employment with the employer and only to the extent that the payment is includible in the member's gross income.

Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2 ½ months following severance from employment, except for payments to the individual who does not currently perform services for the employer by reason of qualified military service (within the meaning of Internal Revenue Code Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service.

An employee who is in qualified military service (within the meaning of Internal Revenue Code Section 414(u)(1)) shall be treated as receiving compensation from the employer during such period of qualified military service equal to (i) the compensation the employee would have received during such period if the employee were not in qualified military service, determined based on the rate of pay the employee would have received from the employer but for the absence during the period of qualified military service, or (ii) if the compensation the employee would have received during such period was not reasonably certain, the employee's average compensation from the employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(C) Back pay, within the meaning of Treasury Regulation section 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(4) For limitation years beginning on or after January 1, 2009, a member's compensation for purposes of subsection (k) shall not exceed the annual limit under Internal Revenue Code Section 401(a)(17).

(l) Service Purchases under Section 415(n). Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, if a member makes one or more contributions to purchase permissive service credit under the retirement system, then the requirements of Internal Revenue Code Section 415(n) will be treated as met only if:

(1) the requirements of Internal Revenue Code Section 415(b) are met, determined by treating the accrued benefit derived from all such contributions as an annual benefit for purposes of Internal Revenue Code Section 415(b), or

(2) the requirements of Internal Revenue Code Section 415(c) are met, determined by treating all such contributions as annual additions for purposes of Internal Revenue Code Section 415(c).

(3) For purposes of applying this section, the retirement system will not fail to meet the reduced limit under Internal Revenue Code Section 415(b)(2)(C) solely by reason of this subparagraph and will not fail to meet the percentage limitation under Internal Revenue Code Section 415(c)(1)(B) solely by reason of this section.

(4) For purposes of this section the term "permissive service credit" means service credit

(A) recognized by the retirement system for purposes of calculating a member's benefit under the retirement system,

(B) which such member has not received under the retirement system, and

(C) which such member may receive only by making a voluntary additional contribution, in an amount determined under the retirement system, which does not exceed the amount necessary to fund the benefit attributable to such service credit.

(5) Effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, such term may include service credit for periods for which there is no performance of service, and, notwithstanding paragraph (4), subparagraph (B), may include service credited in order to provide an increased benefit for service credit which a member is receiving under the retirement system.

(6) The retirement system will fail to meet the requirements of this section if

(A) more than five years of nonqualified service credit are taken into account for purposes of this subparagraph, or

(B) any nonqualified service credit is taken into account under this paragraph before the member has at least five years of participation under the retirement system.

(7) For purposes of paragraph (6), effective for permissive service credit contributions made in limitation years beginning after December 31, 1997, the term "nonqualified service credit" means permissive service credit other than that allowed with respect to

(A) service (including parental, medical, sabbatical, and similar leave) as an employee of the Government of the United States, any State or political subdivision thereof, or any agency or instrumentality of any of the foregoing (other than military service or service for credit which was obtained as a result of a repayment described in Internal Revenue Code Section 415(k)(3)),

(B) service (including parental, medical, sabbatical, and similar leave) as an employee (other than as an employee described in subparagraph (A)) of an education organization described in Internal Revenue Code Section 170(b)(1)(A)(ii) which is a public, private, or sectarian school which provides elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed,

(C) service as an employee of an association of employees who are described in subparagraph (A), or

- (D) military service (other than qualified military service under Internal Revenue Code Section 414(u)) recognized by the retirement system.
- (8) In the case of service described in paragraph (7), subparagraph (A), (B), or (C), such service will be nonqualified service if recognition of such service would cause a member to receive a retirement benefit for the same service under more than one plan.
- (9) In the case of a trustee-to-trustee transfer after December 31, 2001, to which Internal Revenue Code Section 403(b)(13)(A) or Internal Revenue Code Section 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer):
- (A) the limitations of paragraph (6) will not apply in determining whether the transfer is for the purchase of permissive service credit, and
 - (B) the distribution rules applicable under federal law to the system will apply to such amounts and any benefits attributable to such amounts.
- (10) For an eligible member, the limitation of Internal Revenue Code Section 415(c)(1) shall not be applied to reduce the amount of permissive service credit which may be purchased to an amount less than the amount which was allowed to be purchased under the terms of the retirement system as in effect on August 5, 1997. For purposes of this paragraph an eligible member is an individual who first became a member in the retirement system before January 1, 1998.
- (11) Nothing in this subsection (l) shall provide any additional rights to purchase service credit in the retirement system that are not otherwise expressly provided for under other provisions of these rules or Oklahoma statutes.
- (m) **Modification of Contributions for 415(c) and 415(n) Purposes.** Notwithstanding any other provision of law to the contrary, the retirement system may modify a request by a member to make a contribution to the retirement system if the amount of the contribution would exceed the limits provided in Internal Revenue Code Section 415 by using the following methods:
- (1) If the law requires a lump sum payment for the purchase of service credit, the retirement system may establish a periodic payment plan for the member to avoid a contribution in excess of the limits under Internal Revenue Code Section 415(c) or 415(n), pursuant to OAC 715:10-5-4.
 - (2) If payment pursuant to subparagraph (1) will not avoid a contribution in excess of the limits imposed by Internal Revenue Code Section 415(c) or 415(n), the retirement system may either reduce the member's contribution to an amount within the limits of those sections or refuse the member's contribution. The rules applicable to picked-up service purchases under OAC 715:10-5-35 are not subject to this subsection.
- (n) **Repayments of Cashouts.** Any repayment of contributions (including interest thereon) to the retirement system with respect to an amount previously refunded upon a forfeiture of service credit under the retirement system or another governmental plan maintained by the retirement system shall not be taken into account for purposes of Internal Revenue Code Section 415, in accordance with applicable Treasury Regulations.
- (o) **Reduction of Benefits Priority Reduction of benefits and/or contributions to all plans,** where required, shall be accomplished by first reducing the member's benefit under any defined benefit plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be determined by the plan and the plan administrator of such other plans, and next, by reducing or allocating excess forfeitures for defined contribution plans in which the member participated, such reduction to be made first with respect to the plan in which the member most recently accrued benefits and thereafter in such priority as shall be established by the plan and the plan administrator for such other plans provided, however, that necessary reductions may be made in a different manner and priority pursuant to the agreement of the plan and the plan administrator of all other plans covering such member.

SUBCHAPTER 17. POST-RETIREMENT EMPLOYMENT

715:10-17-6. Earnings limits

The earnings limit for post-retirement earnings shall be one-twelfth (1/12) of the annual limit multiplied by the number of months the member is eligible to work and receive payments during each calendar year from the public schools of Oklahoma. The All other limitations on post-retirement earnings shall be administered as directed in Title 70, Oklahoma Statutes, Section 17-116.10 [70 O.S. 17-116.10].

SUBCHAPTER 23. STATE AND EDUCATION EMPLOYEES GROUP HEALTH AND DENTAL INSURANCE PROGRAM

715:10-23-6. Health Insurance Contribution

(a) The Oklahoma Teachers' Retirement System shall contribute the amount required by law towards the cost of health insurance coverage under the State and Education Employees Group Insurance Plan or other eligible group insurance plans only for retired members who actually receive a monthly retirement benefit for that month. This contribution shall not be made for beneficiaries, survivors or directly to the retired member.

(b) For eligible group health insurance plans other than the State and Education Employees Group Insurance Plan, the System will contribute the amount required by law after the group insurance plan has made application to the System and completed any necessary and required forms and/or agreements. The group insurance plan must be in compliance with Oklahoma law and offer insurance to all of the covered participating employer's employees, former employees who are vested and former employees who retired from that covered employer. The insurance plan shall provide a certification monthly detailing each covered retired member in the form and manner required by the System. The subsidy shall be paid in arrears for each eligible retired member.

(c) As provided under 70 O.S. Section 17-108(13), and pursuant to the federal Internal Revenue Code Section 401(h) and Treasury Regulation §1.401-14, the Retirement Medical Benefit Fund shall be maintained as a sub-account of the Retirement Benefit Fund. From the Retirement Medical Benefit Fund, the System shall remit the amount specified in 74 O.S. Section 1316.3 for health insurance premiums.

(d) All contributions to the Retirement Medical Benefit Fund shall be reasonable and ascertainable.

(e) Contributions to the Retirement Medical Benefit Fund must be subordinate to the contributions to the Retirement Benefit Fund for retirement benefits. At no time shall the aggregate actual contributions to the Retirement Medical Benefit Fund (when added to actual contributions for life insurance protection under the plan, if any) be in excess of twenty-five percent (25%) of the total aggregate actual contributions made to the Retirement Benefit Fund (not including contributions to fund past service credits). The Board shall annually determine whether the twenty-five (25%) test has been met. If at any time the Retirement Medical Benefit Fund contributions (plus any life insurance contributions) would exceed the twenty-five percent (25%) test, the excess amount of contributions shall be transferred to the Retirement Benefit Fund for retirement benefits.

(f) Forfeitures in the Retirement Medical Benefit Fund shall not be allocated to individual accounts under the fund, but shall be used for account expenses.

(g) At no time prior to the satisfaction of all liabilities under the Retirement Medical Benefit Fund or termination of the fund shall any assets in the fund be used for, or diverted to, any purpose other than the providing of payment of the System's portion of the monthly retiree health insurance premium benefit described by Title 74 O.S. Section 1316.3 and the payment of administrative

expenses. Assets in the Retirement Medical Benefit Fund may not be used for retirement or disability benefits or any other purposes for which other assets held in the Retirement Benefit Fund are used.

(h) The provisions of section 401(h)(5) of the Internal Revenue Code of 1986, as amended from time to time, shall apply upon the satisfaction of all liabilities under law and the Retirement Benefit Fund.