



## Optional Retirement Program Frequently Asked Questions for Higher Education Employees

### GENERAL ELIGIBILITY

#### *Who is eligible to participate in the Optional Retirement Program (ORP)?*

All full-time faculty and staff of the Tennessee Board of Regents (TBR), the University of Tennessee (UT), the Locally Governed Institutions (LGI's), and the Tennessee Colleges of Applied Technology (TCAT) that are exempt from the Fair Labor Standards Act (FLSA) are eligible and required to participate in either the Optional Retirement Program (ORP) or the Tennessee Consolidated Retirement System (TCRS) as a condition of employment. If no decision is made, the employee will be enrolled in TCRS.

Employees that are not exempt from the FLSA must be enrolled in the appropriate Tennessee Consolidated Retirement System (TCRS) Plan, Hybrid or Legacy.

#### *Are part-time, exempt faculty and staff eligible to participate in the ORP?*

Yes – all FLSA-exempt faculty and staff are eligible to participate in the ORP regardless of whether they are full-time or part-time employees; however, part-time exempt faculty and staff are not required to participate in a retirement plan (TCRS or the ORP). (See TCA § 8-25-204).

A part-time, exempt employee that moves into a full-time position is required to participate in either the ORP or TCRS. A part-time employee that has not elected to participate in the ORP or TCRS must do so on the first day of employment as a full-time employee. A part-time employee that has already enrolled in TCRS or the ORP must remain in the plan they have previously chosen unless they elect to transfer membership per the rules outlined below.

#### *When must an FLSA-exempt employee select between the Optional Retirement Program (ORP) and membership in the Tennessee Consolidated Retirement System (TCRS)?*

Full-time, FLSA-exempt faculty and staff must choose between the ORP or TCRS on the first day of employment.

Part-time employees that choose to participate in either TCRS or the ORP must also do so on the first day of employment.

Part-time employees must fill out and submit both the [TCRS Election Form](#) and the [ORP Election Form](#) in the appropriate manner on the first day of employment.

"Part-time employee" does not include employees who are students, seasonal or temporary employees under twenty-five (25) years of age, temporary employees in institutions of higher education, or substitute teachers, unless such substitutes are under contract and scheduled to work the same time as a regular teacher. T.C.A. § 8-34-101 (28).

Institutions of higher education "temporary employees" are defined according to institution human resources policies, consistent with the definition of "temporary employment" found in TCA § 8-34-101 (50).

## TRANSFERRING MEMBERSHIP

### *Can employees transfer membership between ORP and TCRS?*

All FLSA-exempt employees that have selected ORP membership may elect to transfer membership to TCRS after the completion of their fifth full year but before the end of their sixth full year as an ORP member, or after five years but before six (6) years of combined service in TCRS and the ORP. The decision to transfer from the ORP to TCRS is only offered one-time and is irrevocable.

The employee must make a payment to the retirement system pursuant to T.C.A § 8-25-204(g). Current-year employer and employee ORP contributions may not be used for payment. Current-year employer and employee contributions will be recalled by the employer to offset current-year TCRS contributions owed due to service adjustments. TCRS will send notification of eligibility to transfer to all members the year they are eligible to transfer. The decision to transfer from the ORP to TCRS is irrevocable.

### *Can FLSA-exempt employees transfer membership from TCRS to the ORP?*

Yes – All FLSA-exempt employees that have elected to become TCRS members may make a one-time, irrevocable decision to transfer to the ORP at any time. Only employee contributions to TCRS, if applicable, may be transferred to the ORP.

If an employee is a member of the TCRS Legacy Plan as a state or higher education employee or as a K-12 teacher, he or she will be in the ORP Legacy plan going forward and the accrued TCRS service will remain. A K-12 teacher who participates in the TCRS Legacy Plan may choose to roll his or her employee contributions from TCRS to the ORP. If he or she decides to do so, the employer contributions to TCRS will be forfeited and any TCRS service will be forfeited.

If the employee has been a TCRS Hybrid Plan member or a TCRS member with a local government employer and chooses to enroll in the ORP, he or she will be in the ORP Hybrid plan going forward. The employee will have the option to roll his or her employee contributions from TCRS to the ORP. If he or she decides to do so, the employer contributions to TCRS will be forfeited and any TCRS service will be forfeited.

The employee will have the option to transfer back to TCRS after 5 years of total ORP and TCRS service. If the employee has more than 5 years of TCRS service at the time they choose to enroll in the ORP, he or she may elect to transfer membership back to TCRS after the completion of his or her first full year but before the end of his or her second full year as an ORP member. TCRS will send notification of eligibility to transfer to all members the year they are eligible to transfer. The decision to transfer from the ORP to TCRS is irrevocable.

If the employee was previously enrolled in a TCRS Plan at another ORP-eligible employer, he or she should be reenrolled in the appropriate TCRS plan if hired or rehired; however, exempt employees that are enrolled in TCRS may make a one-time, irrevocable transfer to the ORP at any time.

## LOSING ORP MEMBERSHIP

### *Can an employee lose membership in the ORP?*

Yes - TCA § 8-36-903(b) provides that a person loses membership in the optional retirement program by either annuitizing that person's entire account, rolling the person's entire account balance over to another plan, or by taking a distribution of the person's entire account balance. An employee who has lost membership in the ORP should be treated as a new employee with no prior service.

### *How do you verify if an employee has withdrawn or annuitized their entire ORP account balance?*

If higher education institutions are unable to verify if an employee has fully withdrawn or annuitized their ORP account balance, they should contact TCRS employer services at [TCRS.employerservices@tn.gov](mailto:TCRS.employerservices@tn.gov). Employers should not use the TCRS lookup tool to determine if an ORP member has withdrawn or annuitized their entire account balance.

## ELIGIBILITY SCENARIOS

***If an employee was previously enrolled in the ORP and did a full withdrawal or annuitized their full ORP account balance, what plan should they be enrolled in if they return to work as a full-time employee?***

TCA § 8-36-903(b) provides that an employee loses membership in the optional retirement program by either annuitizing that person's entire account, rolling the person's entire account balance over to another plan, or by taking a distribution of the person's entire account balance.

An employee who has lost membership in the ORP should be treated as a new employee with no prior service. An employee who has lost ORP membership and returns to work in an FLSA-exempt position has the choice of participation in either the ORP Hybrid (contributory) Plan or the TCRS Hybrid Plan.

An employee who has lost ORP membership and returns to work in a non-exempt position should be enrolled in the TCRS Hybrid Plan.

***If an employee was enrolled in the ORP at another institution and has not lost membership in the ORP, should he or she be enrolled in the ORP upon moving to another institution?***

Yes – An employee participating in the ORP who changes employment but is still employed by an institution where ORP is available must continue participating in ORP unless he or she has lost membership in the ORP by fully withdrawing or annuitizing his or her entire ORP account balance.

***If an employee was originally hired as an FLSA-exempt employee and enrolled in the ORP but the position is reclassified to a non-exempt position at the same institution, should he or she remain in the ORP?***

If the employee was in the exempt position for at least one year, he or she must remain in the ORP even after the position is reclassified as non-exempt.

If the employee was in the exempt position for less than one year, he or she must be enrolled in the appropriate TCRS plan.

***If an employee was previously hired as an FLSA-exempt employee and enrolled in the ORP but moves to a non-exempt position with the same institution, may the employee remain in the ORP?***

No – The employee is not eligible to remain in the ORP and must be enrolled in the appropriate TCRS plan on their first day of employment.

If the employee was previously enrolled in the Legacy ORP Plan and did not take a full withdrawal of their ORP account, he or she should be enrolled in the TCRS Legacy Plan.

If the employee was previously enrolled in the Hybrid ORP Plan and did not take a full withdrawal of their ORP account, he or she should be enrolled in the TCRS Hybrid Plan.

***If an employee was previously enrolled in the ORP and is rehired at another institution in a non-exempt position, should they be enrolled in the ORP?***

No – An employee enrolled in the ORP that leaves employment and is rehired in a non-exempt position at another higher education institution must be enrolled in the appropriate TCRS plan on their first day of employment.

## ELIGIBILITY SCENARIOS *continued*

If the employee was previously enrolled in the Legacy ORP Plan and did not take a full withdrawal of their ORP account, he or she should be enrolled in the TCRS Legacy Plan.

If the employee was previously enrolled in the Legacy ORP Plan and did take a full withdrawal of their ORP account, he or she should be enrolled in the TCRS Hybrid Plan.

If the employee was previously enrolled in the Hybrid ORP Plan, he or she should be enrolled in the TCRS Hybrid Plan.

### ***If a non-exempt employee enrolled in TCRS moves to an FLSA-exempt position, does she have the option to enroll in the ORP?***

Yes – Higher education employees that move from a non-exempt position to an FLSA-exempt position at the same institution or a different institution may choose between continuing service in TCRS or enrolling in the ORP on the first day of employment.

If the higher education employee is a member of the TCRS Legacy Plan and chooses to enroll in the ORP, he or she will be in the ORP Legacy plan going forward and the accrued TCRS service will remain.

If the higher education employee has been a TCRS Hybrid Plan member and chooses to enroll in the ORP, he or she will be in the ORP Hybrid plan going forward. The employee will have the option to roll his or her employee contributions from TCRS to the ORP. If he or she decides to do so, the employer contributions to TCRS will be forfeited and any TCRS service will be forfeited.

### ***If an employee was previously employed with a TCRS employer that does not offer the ORP, what retirement plan should they be enrolled in?***

An employee who moves from a TCRS employer that does not offer the ORP to an institution of higher education in a position that is eligible for the ORP may choose between continuing service in TCRS or enrolling in the ORP on the first day of employment.

The employee will have the option to transfer back to TCRS after 5 years of total ORP and TCRS service. If the employee has more than 5 years of TCRS service at the time they choose to enroll in the ORP, he or she may elect to transfer membership back to TCRS after the completion of her first full year but before the end of her second full year as an ORP member. TCRS will send notification of eligibility to transfer to all members the year they are eligible to transfer. The decision to transfer from the ORP to TCRS is irrevocable.

#### ***Previous Employment with the State of Tennessee or as a K-12 Teacher***

If the employee was previously enrolled in the TCRS Legacy Plan as a state or higher education employee or as a teacher at a local education agency (LEA) and has not lost the service, he or she has the choice of participating in either the Legacy TCRS or Legacy ORP (non-contributory) plan.

If the employee was previously enrolled in the TCRS Hybrid Plan as a state or higher education employee, he or she has the choice of participating in either the Hybrid TCRS or Hybrid ORP (contributory) plan.

#### ***Previous Employment with a Local Government***

If the employee has previous TCRS service at a local government employer, he or she has the choice of participating in either the Hybrid TCRS or Hybrid ORP (contributory) plan.

## RETURNING TO WORK

***If an employee is retired and drawing TCRS benefits, can she return to work as a full-time, exempt employee and enroll in the ORP or TCRS while still drawing TCRS benefits?***

No – an employee may not return to work in any capacity and enroll in the ORP or TCRS while drawing TCRS benefits.

A retired employee who is drawing TCRS benefits may return to work as a full-time employee if the employee ceases to draw TCRS benefits during the period of employment. If the employee is eligible to participate in the ORP and was previously enrolled in the TCRS State and Teacher Legacy Plan he or she may enroll in the ORP Legacy (non-contributory) Plan. If the employee is eligible to participate in the ORP and was previously enrolled in the TCRS Hybrid Plan, he or she may enroll in the ORP Hybrid (contributory) Plan. If the employee ceases benefits and chooses to enroll in TCRS, he or she should be enrolled in the TCRS Plan he or she was previously enrolled in before retirement (Hybrid or Legacy).

Since the public higher education institutions are covered by TCRS, an employee could not draw a TCRS benefit and enroll in the ORP at the same time per TCA 8-36-805.

An employee may return to service and draw TCRS benefits under a 120-day temporary employment contract. Information about the 120-day temporary employment contract can be found [here](#).

***If an employee is retired and receiving ORP distributions, can she return to work as a full-time, exempt employee and enroll in the ORP while still receiving ORP benefits?***

No – an employee may not return to work in any capacity and enroll in the ORP or TCRS while receiving voluntary ORP distributions. He or she may return to work and continue to receive any distributions pursuant to an annuity contract.

A retired employee who is receiving ORP distributions may return to work as a full-time employee if he or she ceases receiving voluntary ORP distributions during the period of employment.

If the employee is eligible for the ORP and has not withdrawn or annuitized their entire ORP account balance, he or she must be enrolled into the same ORP Plan he or she participated in before retirement. If the employee has withdrawn or annuitized his or her entire ORP account balance and is eligible for the ORP, he or she has the choice of participating in the TCRS Hybrid or ORP Hybrid (contributory) Plan. If the employee has withdrawn or annuitized his or her entire ORP account balance and is not eligible for the ORP, he or she must be enrolled in the TCRS Hybrid Plan.

An employee may return to service and continue receiving voluntary ORP distributions under a 120-day temporary employment contract. Information about the 120-day temporary employment contract can be found [here](#).

## GENERAL ORP PROVISIONS

***What is the maximum total annual contribution that may be made to an employee's ORP account?***

ORP contributions from all sources (employer and employee) are limited to the dollar amount set by the Internal Revenue Service. Please see: [www.irs.gov](http://www.irs.gov) for current limits.

***When does an employee vest in the ORP?***

Employees are 100% vested in their account balance at all times.

### *Does the ORP allow hardship withdrawals?*

No.

### *Does the ORP allow loans?*

No.

## STATE OF TENNESSEE 401(K) AND 457(B)

### *What is automatic enrollment?*

“Automatic enrollment” refers to the process by which all employees enrolled in the TCRS Hybrid Plan or ORP Hybrid Plan first hired after July 1, 2014 are defaulted to make ongoing, voluntary employee contributions to their State 401(k) account equal to 2% of earnable compensation. The employee’s contribution to the 401(k) plan may be modified at any time, including a 90 day window to opt out of the 2%. New members will receive notice on how to opt out or change their contribution amount. Members may also go online to make any changes to their accounts at [www.RetireReadyTN.gov](http://www.RetireReadyTN.gov) or by calling 800-922-7772.

Hybrid TCRS or ORP plan members hired after July 1, 2014 are not allowed to opt-out of employee contributions to TCRS or the ORP respectively.

### *What employees are required to be automatically enrolled into the State 401(k) Plan?*

All higher education employees required to be enrolled in either the TCRS Hybrid Plan or the ORP Hybrid Plan are required to be automatically enrolled in the State 401(k) plan at 2% of earnable compensation upon hire regardless of their employment status (exempt, non-exempt, full-time, part-time) or retirement plan (ORP or TCRS). The employee’s contribution to the 401(k) plan may be modified at any time, including a 90 day window to opt out of the 2%. New members will receive notice on how to opt out or change their contribution amount. Members may also go online to make any changes to their accounts at [www.RetireReadyTN.gov](http://www.RetireReadyTN.gov).

Part-time employees that voluntarily elect to participate in the TCRS Hybrid Plan or the ORP Hybrid Plan must also be automatically enrolled in the State 401(k) Plan.

All other higher education employees are eligible to participate in the State 401(k) and 457 Plans but are NOT required to be automatically enrolled.

### *What higher education employees are eligible to participate in the State 401(k) Plan?*

ALL direct employees, including 120-day employees, of the Tennessee Board of Regents, University of Tennessee, any of the six (6) locally governed institutions, and the Tennessee Colleges of Applied Technology (TCATS) are eligible to participate in the State 401(k) plan.

Those employees who are not required to be automatically enrolled as discussed above may participate on a voluntary basis.

### *What higher education employees are eligible to receive matching contributions to the 401(k)?*

All higher education employees that are eligible to participate in TCRS and/or the ORP are eligible to receive monthly dollar-for-dollar matching contributions on employee 401(k) contributions up to \$50 per month.

Part-time employees that have opted not to participate in TCRS or the ORP are still eligible to receive matching contributions to the 401(k).



***What higher education employees are eligible to participate in the State 457(b) Plan?***

All higher education employees eligible to participate in the State 401(k) plan are also eligible to participate in the State 457(b) Plan.

***Can employees be automatically enrolled into the State 457(b) Plan?***

No.

***Are employees able to receive matching contributions to the State 457(b) Plan?***

No – matching contributions are only allowed on employee contributions to the State 401(k) Plan.

***What is the maximum total annual contribution that may be made to an employee's 401(k) and/or 457(b) account?***

Please see: [www.irs.gov](http://www.irs.gov) for current limits. The 401(k) and 457(b) plans do not share a contribution limit, meaning employees may contribute up to the IRS limits for both plans. The 401(k) plan does share a contribution limit with the 403(b) plan.

Combined ORP, 401(k), and 403(b) contributions from all sources (employer, including matching, and employee) are limited to the dollar amount set by the Internal Revenue Service. Please see: [www.irs.gov](http://www.irs.gov) for current limits. 457(b) contributions do not count toward this limit.

**Contact Us**

Call (800) 922-7772 Monday through Friday 8:00 a.m. to 7:00 p.m. CT

Visit [www.RetireReadyTN.gov](http://www.RetireReadyTN.gov)



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Treasury Department; July 2020; This public document was promulgated at a cost of 50¢ each.

*RetireReadyTN offers retirement readiness education and retirement counseling to all members regardless of career stage. Members are encouraged to meet with a local RetireReadyTN Plan Advisor for assistance with retirement planning and to discuss other financial planning needs. To schedule a meeting, contact us at (800) 922-7772 or visit [RetireReadyTN.gov](http://RetireReadyTN.gov).*