

MONTANA BOARD OF REGENTS OF HIGHER EDUCATION
Policy and Procedures Manual

SUBJECT: COMPENSATION
Policy 803.2 - Retirement; Optional Retirement Program
Effective May 24, 2002; Issued June 10, 2002
Revised January 11, 2008

I. Statutory Authority

The optional retirement program (ORP) is established in accordance with the provisions of title 19, chapter 21, MCA, as amended.

II. Board policy:

A. Eligibility

1. Subject to conditions stated in section B, all academic and professional administrative personnel with individual contracts under the authority of the board of regents shall be eligible to participate in the ORP.
2. Subject to conditions stated in section N, all employees in positions covered under the public employees' retirement system (PERS) electing to participate in the program pursuant to section 19-3-2112, MCA, shall be eligible to participate in the ORP.

B. Participants - academic and professional administrative personnel

1. All eligible employees defined in section II A 1 shall participate in the ORP unless the person is, on the date hired, an active, inactive, or retired member of PERS or teachers' retirement system (TRS) who elects to remain with his/her current retirement system as provided in (b) below. This election must be exercised:
 - (a) within 30 days after receiving written notice of eligibility for an employee who becomes eligible to participate in the ORP by reason of appointment, promotion, transfer, or reclassification to an eligible position; and
 - (b) an eligible person who is an active, inactive, or retired member of TRS or PERS shall elect, within 30 days of being hired, to:
 - (1) remain with his/her current retirement system; or
 - (2) become a member of the ORP.
2. The election must be exercised by filing a written notice with the campus payroll officer. The election is effective as of the first day of eligibility or hire.
3. If an eligible officer or staff member, who is an active, inactive, or retired member of TRS or PERS, fails to exercise the election as provided by this section, that person must remain a member of his/her current retirement system.
4. An election under this section is not effective, and deferrals will not be made to the applicable retirement system, until an appropriate application for the issuance of a contract or contracts under the program is filed with the campus payroll officer.

C. Participants - PERS eligible employees

1. All eligible employees defined in section II A 2 shall participate in the ORP unless they elect to remain in the defined benefit plan or the defined contribution plan administered by PERS as defined in section 19-3-2112, MCA.
 - (a) an employee who is an active member of the defined benefit plan on the date that the defined contribution plan becomes effective, may within 12 months after that date, elect to transfer to and become a participant in the ORP.
 - (b) an employee who was an inactive member of the defined benefit plan on the effective date of the defined contribution plan and who is hired or rehired into covered employment with the university system after that date may, within 12 months after the member's hire date, elect to transfer to and become a participant in the ORP.

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- (c) an employee who is initially hired into covered employment with the Montana university system (MUS) on or after the effective date of the defined contribution plan may, within 12 months of the member's hire date, elect to become a participant in the ORP.
- 2. Elections made pursuant to this section must be made on a form prescribed by the public employees' retirement board. An employee failing to make an election prescribed by this section remains a member of the PERS.

An election under this section, including the default election pursuant to section II C 1, is a one-time irrevocable election. Subject to section 19-3-2113, MCA, this subsection does not prohibit a new election after an employee has terminated membership in the ORP and returned to employment in a position covered under the system.

An employee who terminates membership in the defined benefit plan, the defined contribution plan, or the ORP after making an election pursuant to section II C 1 and who returns to covered employment in less than 24 months shall become a member of the plan that the employee last selected and is not eligible for a new plan choice election.

D. Designated companies

- 1. TIAA-CREF are the only companies designated by the board of regents to provide individual annuity contracts, owned by the participants.
- 2. TIAA-CREF shall be subject to the policies established by the administrator regarding the contact of eligible employees to explain the provisions of the ORP.

E. Plan administrator. The board of regents delegates its duties under title 19, chapter 21, MCA, to the office of the commissioner of higher education which is also designated as administrator of the ORP. The commissioner of higher education shall administer the ORP consistent with board of regents' policies regarding the administration of employee benefit programs through inter-unit advisory committees.

F. Plan contributions - faculty and professional administrative personnel.

- 1. Contributions under this retirement plan, shall be made at least monthly except for months in which no salary is paid in accordance with the following schedule as defined by section 19-21-203, MCA:
 - (a) Each participant shall contribute an amount equal to the member's contribution required under 19-20-602, M.C.A. or as modified by section II F 1 (3);
 - (b) The board of regents' contribution on behalf of a participant shall be the greater of (a) the employer contribution to TRS not used to amortize past service unfunded liability or (b) an amount that, when added to the participant's contribution, is equal to 12% of the participant's earned compensation;
 - (c) On or after July 1, 1997 the board of regents may reduce the participant's contribution rate to an amount not less than 6% of earned compensation, provided the sum of participant and employer contribution remains 12%;
 - (d) Beginning on July 1, 2007, pursuant to section 19-21-203, MCA, revised in 2007, and as funded by section 17-7-502, MCA, the board of regents shall contribute an additional amount to the sum of the amounts in II F 1 (a) and II F 1 (b), such that the total contribution is equal to 13% of the participant's earned compensation;
 - (e) Beginning on July 1, 2007, the employer contributions to TRS to discharge the obligation for past service liability is 4.72%; and
 - (f) The past service liability contribution to TRS may be adjusted based on the actual experience of the MUS members of the TRS system.

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2. Plan contributions by participants shall be made by employer pick-up under section 414(h)(2) of the internal revenue codes.
3. The board of regents shall make plan contributions for participants who have attained the normal retirement age who continue in employment provided the participant also continues contributions.
4. Contributions to the ORP shall not continue beyond the date a participant receives his or her first annuity payment from a TIAA or CREF retirement annuity unless the participation in the ORP continues as a result of an early or phased retirement agreement between a participant and the board of regents.
5. During a paid leave of absence, the board of regents shall continue its plan contributions to a participant's annuities on the basis of salary then being paid by the board of regents, provided the participant also continues plan contributions.

G. Plan contributions - PERS eligible employees

1. Contributions under this retirement plan shall be made at least monthly except for months in which no salary is paid in accordance with the following schedule:
 - (a) each participant shall contribute an amount equal to the member's contribution required under 19-3-315, MCA.
 - (b) the board of regents' contribution on behalf of a participant shall be the rate provided in 19-3-316, MCA.
 - (c) Subject to subsection G 1 (d) the board of regents' contribution under subsection (2) must be allocated as follows as defined in section 19-21-214, MCA.
 - (1) 4.49% of compensation must be allocated to the participant's program account
 - (2) 2.64% of compensation must be allocated to the defined benefit plan under the public employees retirement system as the plan choice rate; and
 - (3) 0.04% of compensation must be allocated to the education fund pursuant to 19-3-112(1)(c), MCA.
 - (d) The allocations under subsection G 1 (c) are subject to adjustment by the public employees' retirement board, but only as described in and in a manner consistent with the express provisions of 19-3-2121, MCA.
2. Plan contributions by participants shall be made by employer pick-up under section 414(h)(2) of the internal revenue codes.
3. Board of regents shall make plan contributions for participants who have attained the normal retirement age who continue in employment provided the participant also continues contributions.
4. Contributions to the ORP shall not continue beyond the date a participant receives his or her first annuity payment from a TIAA or CREF retirement annuity unless the participation in the ORP continues as a result of an early or phased retirement agreement between a participant and the board of regents.
5. During a paid leave of absence, the board of regents shall continue its plan contributions to a participant's annuities on the basis of salary then being paid by the board of regents, provided the participant also continues plan contributions.

H. Retirement annuities

1. The participant shall complete a TIAA-CREF application form in order for retirement annuities to be issued.
2. All benefits under the ORP shall be provided solely through individually owned, fully funded retirement annuities and, therefore, are not subject to, nor covered by, federal plan termination insurance.

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I. Repurchase

1. In the event the participant in the ORP terminates employment for reasons other than retirement or disability and requests that TIAA-CREF repurchase his or her annuity, the board of regents may approve such repurchase.
2. Upon repurchase, the entire amount accumulated in the annuities shall be payable by TIAA-CREF to the participant and shall be in full satisfaction of the participant's and his/her spouse's rights to retirement and/or death benefits under the ORP.

J. Retirement benefits

1. Upon retirement at any age, the participant shall be entitled under the term of his or her TIAA and CREF retirement annuities to receive a monthly or periodic income under one of the options set forth in such contracts.
2. Total TIAA-CREF annuity income benefits which begin on or after May 1, 1980, shall be calculated on a gender-neutral basis.

K. Death Benefits. In the event a participant dies prior to commencement of retirement benefit payments described in Section II H, the full current value of the annuity accumulation, including the portion attributable to ORP contributions made by the board of regents, shall be payable to the beneficiary or beneficiaries named by the participant in a single sum or under any one of the income options offered by TIAA-CREF or may be rolled into a qualified plan as allowed by current IRS regulation.

L. Plan year

1. The "plan year" is January 1 through December 31 of each year.
2. TIAA-CREF shall send each annuity owner a report of premiums and benefits summarizing the status of his/her retirement annuities as of December 31 of each year; upon termination of employment; or at any other time by writing directly to TIAA-CREF.

M. Application for benefits

1. Procedures for receipt of benefits may be initiated by writing directly to TIAA-CREF.
2. Benefits provided by TIAA and CREF retirement annuities to which plan contributions have been applied shall be payable by TIAA-CREF upon receipt of a satisfactorily completed application for benefits and supporting documents, death benefits, or repurchase amounts.

N. Amendment and termination

1. The board of regents reserves the right to modify or discontinue the ORP at any time.
2. Any discontinuance or modification of the ORP shall not adversely affect the benefits accrued by participants prior to the date of discontinuance.

III. Definitions:

A. "Teachers' Retirement System (TRS)" means the Teachers Retirement System provided for in Title 19, Chapter 20, Montana Code Annotated (MCA).

B. "Optional Retirement Program (ORP)" means the Optional Retirement Program provided for in Title 19, Chapter 21, MCA.

C. "TIAA" means the Teachers Insurance and Annuity Association.

D. "CREF" means the College Retirement Equities Fund.

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- E. "Normal retirement age" means the last day of the academic year in which age 65 is attained.
- F. "Participant" means an employee of the MUS who has elected to join the ORP.
- G. "PERS" means the Public Employees Retirement System provided for in Title 19, Chapter 3, MCA.
- H. "Defined benefit plan" means the defined benefit retirement plan administered by PERS under Title 19, Chapter 3, MCA.
- I. "Defined contribution plan" means the defined contribution retirement plan administered by PERS under Title 19, Chapter 3, Part 21, M.C.A.

History:

Item 56-004-R0787, Authorization to provide Optional Retirement Program for contract employees; Montana University System, July 24, 1987 as revised July 8, 1993 and May 24, 2002 (Item 114-109-R0302). Item 138-101-R0108, adopted January 11, 2008 (ITEM 138-101-R0108 | Supporting Material).