Category: HR / Labor Relations Responsible Office: Human Resources	**Policy Title:** Optional Retirement Program (ORP) Eligibility Guidelines Document Number: 8202 Effective Date: July 01, 1964 This policy item applies to: State-Operated Campuses

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Summary

The Optional Retirement Program (ORP), established in 1964, is an alternative to the New York State Employees Retirement System (ERS) and the New York State Teachers Retirement System (TRS). State University of New York (University) employees hired prior to July 1, 1964 were able to join the ORP effective January 1, 1965. Employees hired on or after July 1, 1964 were able to join the ORP on their date of hire.

Policy

Eligibility

A. The Optional Retirement Program (ORP), established in 1964, is an alternative to the New York State Employees Retirement System (ERS) and the New York State Teachers Retirement System (TRS). University employees hired prior to July 1, 1964 were able to join the ORP effective January 1, 1965. Employees hired on or after July 1, 1964 were able to join the ORP on their date of hire

B. All full-time employees in the unclassified service are eligible to join the ORP. Persons employed on a full-time basis for three months or longer MUST join a retirement plan (ERS/TRS/ORP); election must be made within 30 days of appointment. If an employee fails to make a timely election, state law requires they be placed in TRS or ERS, depending on their title. Once an election is made, it cannot be changed during any period of University employment. Once an election is made, it is retroactive to the date of full-time appointment.

C. Part-time employees represented by UUP who have a term, as opposed to a temporary, appointment, are eligible to join the ORP, effective January 1992. Part-time Management/Confidential (M/C) employees are also eligible to join the ORP (effective June 2003.) All part-time employees are eligible to join ERS or TRS, depending on their title. Election of a retirement system is optional and may be made at any time.

- 1. If election of the ORP is made within 30 days of the effective date of the term appointment, or M/C

appointment, it will be retroactive to that date. Later election will be effective as of the date of election.

2. If an employee chooses to join the ORP, they may not change to a different retirement system later.

3. Part-time employees who are eligible for the ORP who choose to join ERS/TRS may not subsequently join the ORP unless they receive a full-time appointment. (However, a part-time employee who comes to the University with ERS/TRS membership, or who joins ERS/TRS at the University while ineligible to join the ORP, may elect the ORP when they become eligible to join.)

4. Part-time employees who join ERS or TRS or choose not to join any retirement plan, who later receive a full-time appointment and must elect to join a retirement program, may elect the ORP at that time.

D. An employee who moves from an eligible position to an ineligible position may keep their ORP membership, even if the employee had not completed the vesting period. The ineligible position could include a classified service position, a graduate or teaching assistantship, or a part-time temporary UUP position.

E. An employee who is employed at the same campus on a part-time basis by both the Research Foundation and the University (in the unclassified service), whose combined obligation is full-time, are eligible to join the ORP, even though their University position may be on a temporary basis.

F. An employee of health science centers who is employed on a geographic full-time basis is eligible to join the ORP.

G. An employee who is receiving pension benefits from a public retirement system in New York State is ineligible to join the ORP.

Tiers

An employee is assigned to tiers based on the date of membership in the ORP. Tier status determines the contribution rate. Persons moving from one campus or community college to another retain their tier status. A former University employee returns to their old tier if they are re-employed with the University. The Tier status time schedule is:

- 1. Tier 1 - employees who joined the ORP prior to 7/1/73

  2. Tier 2 - 7/1/73 - 7/26/76

  3. Tier 3 - 7/27/76 - 8/31/83

  4. Tier 4 - 9/1/83 - 7/16/92

  5. Tier 4a - 7/17/92 to present

Contribution Rates

The corresponding contribution rates for the tiers are:

- 1. Tiers 1 and 2
  Employer: 12% of the first $16,500 of salary per calendar year; 15% of salary above $16,500
  Employee: None

  2. Tiers 3 and 4
  Employer: 9% of the first $16,500 of salary per calendar year; 12% of salary above $16,500
  Employee: 3%

3. Tier 4a:
Employer: 8% of salary for the first seven years of ORP membership; 10% thereafter - part-time service counts the same as full-time in computing seven years.
Employee: 3%

Vesting

Contributions are not immediately made into ORP contracts but are held by the office of the state comptroller (OSC) until completion of a vesting period. An employee who does not complete the vesting period is entitled to a refund of contributions, plus interest.

- 1. For employees who come to the University with retirement contracts (contracts to which a former employer contributed) from any of the ORP carriers vesting is immediate.

  2. For employees without prior contracts there is a 366-day vesting period unless:

  - a. the employee is an active member of ERS or TRS with at least 366 days service credit; then vesting is immediate (if less than 366 days service credit in ERS/TRS, service may be applied against the ORP vesting period); or

    b. the employee has prior Research Foundation service, within the past seven years, in which they were eligible for a retirement program but did not meet Research Foundation's vesting period of five years (service with Research Foundation may be applied against the 366-day vesting period).

    Note: The vesting period is not pro-rated for part-time service.

Breaks in Service

A. If an employee who participates in the ORP (whether vested or not) and leaves University service they are eligible to participate upon their return to service regardless of their appointment status at that time and they retain their tier status.

B. Employees who had not vested and had withdrawn their contributions must repay their contributions to be covered by this provision. (They are treated as new employees if they do not repay their contributions.)

C. Employment by The Research Foundation of State University of New York counts as a break.

Note: Prior to ORP Tier Reinstatement provisions implemented on January 1, 2005, there was a seven-year break rule. Prior to May 31, 1996, there was a five-year break rule. Prior to May 9, 1986, there was a one-year break rule.

Discontinued Members of ERS/TRS

A. Employees who are members of ERS or TRS and become eligible to join the ORP may do so or may choose to remain in ERS/TRS.

B. If they join the ORP they may withdraw contributions from ERS/TRS (if they have less than 10 years service credit) or they may leave their contributions, if any, in ERS/TRS and become a "discontinued" member. In either case, their tier in the ORP is determined by their date of membership in the ORP and may differ from their ERS/TRS tier. The following rules apply to discontinued members:

1. University service in the ORP counts towards vesting in ERS/TRS; however, time as a discontinued member would not be included when calculating ERS/TRS pension benefits;

2. if the employee later returns to a position with another public employer and rejoins ERS/TRS, service in the ORP does not apply to that membership;

3. discontinued members are not permitted to take any new loans from ERS/TRS; and

4. discontinued members may not receive ERS/TRS pension benefits while participating in the ORP.

Definitions

There are no definitions relevant to this policy.

Other Related Information

Optional Retirement Program Cash Withdrawal Policy

Optional Retirement Program Loans

Procedures

Optional Retirement Plan Funding Vehicles

Forms

There are no forms relevant to this policy.

Authority

The following link to FindLaw's New York State Laws is provided for users' convenience; it is not the official site for the State of New York laws.

Article 8-B of New York State Education Law

In case of questions, readers are advised to refer to the New York State Legislature site for the menu of New York State Consolidated.

Chapter 337 of the Laws of 1964.

State University of New York Board of Trustees Resolution 64-90, adopted May 14, 1964.

History

State University of New York Board of Trustees Resolution 64-90, adopted May 14, 1964 established an alternative to the New York State Employees Retirement System and the New York State Teachers Retirement System as allowed by Chapter 337 of the Laws of 1964. University employees hired prior to July 1, 1964 were able to join the ORP effective January 1, 1965. Employees hired on or after July 1, 1964 were able to join the ORP on their date of hire.

Appendices

There are no appendices relevant to this policy.