

ORP Vesting and Participation

Excerpt from

Rules and Regulations of the Texas Higher Education Coordinating Board Chapter 25 – Optional Retirement Program (ORP)

TEXAS ADMINISTRATIVE CODE *(as in effect on 11/29/2017)*

TITLE 19 – EDUCATION

PART 1 – TEXAS HIGHER EDUCATION COORDINATING

BOARD CHAPTER 25 – OPTIONAL RETIREMENT

PROGRAM SUBCHAPTER A – OPTIONAL RETIREMENT PROGRAM

Vesting Requirement

An ORP participant shall be considered vested in ORP on the first day of the second year of active participation in ORP in lieu of TRS at one or more Texas public institutions of higher education.

- (1) Year Defined. For purposes of this subsection, a year shall mean twelve cumulative, but not necessarily consecutive, months of ORP participation.
- (2) Leave-without-Pay. A full calendar month of leave without pay shall not be included in the calculation of a year for vesting purposes.
- (3) Summer Credit. Because a year for academic faculty members does not normally include the three summer months, an academic faculty member shall be credited the three summer months toward vesting in ORP provided the faculty member is participating in ORP at the end of the spring semester immediately preceding the summer and resumes participation in an ORP-eligible position at the same or another Texas public institution of higher education at the beginning of the fall semester immediately following the same summer.
- (4) More than One Period of Employment. Partial vesting credit shall be retained when there is a break in participation prior to satisfying the vesting requirement. Therefore, the vesting requirement may be satisfied during more than one period of participation.
- (5) Non-Texas ORP Plan. The vesting requirement may not be satisfied by prior enrollment, participation or vested status in any plan other than the Texas ORP plan authorized under *Texas Government Code*, Chapter 830.

Once Vested, Always Vested

- (1) Only One Vesting Period. An ORP participant who satisfies the vesting requirement for ORP in lieu of TRS shall not be required to satisfy the vesting requirement again by any Texas public institution of higher education.

- (2) Withdrawal of ORP Funds has No Effect. A reemployed ORP participant's vested status shall not be affected by any partial or total withdrawals of ORP funds made after termination from a prior period of employment.

Partial Vesting Credit Retained

Unvested ORP participants shall retain partial vesting credit in the following circumstances.

- (1) Termination of Employment. An ORP participant who terminates employment in all Texas public institutions of higher education prior to satisfying the vesting requirement shall, upon returning to ORP-eligible employment with the same or a different Texas public institution of higher education, retain credit for previous ORP participation in lieu of TRS.
- (2) Leave-Without-Pay. An ORP participant who goes on leave without pay for a full calendar month or more prior to satisfying the vesting requirement shall, upon resuming active ORP participation with the same or a different Texas public institution of higher education, retain credit for previous ORP participation in lieu of TRS.
- (3) Direct Transfers. An ORP participant, who, prior to satisfying the vesting requirement, directly transfers from one ORP-eligible position to another at the same or a different Texas public institution of higher education, shall retain credit for previous ORP participation in lieu of TRS.
- (4) Withdrawal of ORP Funds has No Effect. An ORP participant's partial vesting credit shall not be affected by any partial or total withdrawals of ORP employee contributions made after termination of employment.

Benefits of Vested Status

- (1) Ownership Rights to Employer Contributions. A vested ORP participant shall have ownership rights to the employer contributions in his or her ORP accounts, meaning that, upon termination of employment with all ORP employers or reaching age 70-1/2, he or she may access both the employee and employer contributions (and any net earnings) in his or her ORP accounts.
- (2) ORP Participation while in non-ORP-Eligible Position. A vested ORP participant shall remain in ORP even if subsequently employed in a position that is not ORP-eligible.

Unvested ORP Employer Contributions Forfeited

An ORP participant who terminates employment prior to meeting the vesting requirement shall forfeit all ORP employer contributions made during that period of employment. Forfeited funds shall not be recoverable, even if the participant later satisfies the vesting requirement in a subsequent period of ORP-eligible employment. Such a participant shall be considered vested only in ORP employer contributions made during the subsequent and any future employment periods.