SUNY The State University of New York

Optional Retirement Program (ORP)

Summary Plan Description

July 2015

SUNY

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This summary provides a description of some of the key provisions of the SUNY Optional Retirement Plan. Although SUNY expects and intends to continue the SUNY ORP, they reserve the right to modify, terminate or suspend the program at any time by action of the Board of Trustees. SUNY will provide appropriate advance notice of any change, discontinuance or reduction in benefits.

Establishment

Pursuant to Article 8-B of the New York State Education Law, the State University of New York (SUNY) Optional Retirement Program (ORP) was established in 1964 as an alternative to the New York State Employees' Retirement System (ERS) and the New York State Teachers' Retirement System (TRS).

Beginning in 1990, the ORP became qualified under Section 401(a) of the Internal Revenue Code. Since that time, SUNY's contributions have been made under Section 401(a) and employee contributions have been "picked-up" under Section 414(h)(2) of the Code. The plan year for the ORP is the calendar year.

The original funding choice was TIAA-CREF. In 1994, three alternate investment providers were designated: MetLife, VALIC, and Voya. In 2014, Fidelity was also authorized as an ORP investment provider. These companies will, hereinafter, be referred to as investment providers.

Eligibility

FULL-TIME EMPLOYMENT

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 within 30 days of their date 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 SUNY employment and is retroactive to the date of full-time appointment.

PART-TIME EMPLOYMENT

1. Eligibility at State-operated campuses is limited to part-time faculty and staff who have term appointments (effective as of January, 1992) and part-time Management Confidential employees (effective as of June, 2003). Eligibility for part-time faculty and professional staff at community college campuses is determined in accordance with local contract provisions (effective September, 2010).
2. If election of the ORP is made within 30 days of the effective date of the eligible appointment, it will be retroactive to that date. Later election will be effective as of the date of election.
3. A part-time employee who comes to SUNY with ERS/TRS membership, or who joins ERS/TRS at SUNY while ineligible to join the ORP, may elect the ORP within 30 days of their initial eligibility.
4. Part-time employees, who choose not to join any retirement plan, may elect the ORP at any time while they remain in eligible part-time status.
5. Part-time employees who are eligible for the ORP who choose to join ERS/TRS may not subsequently join the ORP.

6. An employee who moves from an eligible position to an ineligible position may keep their ORP membership. This is true even if the employee has not completed the vesting period.
7. Employees who are employed at the same campus on a part-time basis by both the Research Foundation and SUNY (in the unclassified service), whose combined obligation is full-time, are eligible to join the ORP, even though their SUNY position may be on a temporary basis.
8. Employees of SUNY who are employed on a geographic full-time basis are eligible to join the ORP.
9. Employees receiving pension benefits from a public retirement system in New York State are not eligible to join or continue active participation in the ORP.

Participation

Participation is effective as of entry into service for those eligible employees who, at the time of employment, have any of the approved investment provider's employer-funded vested retirement contracts and elect participation in the ORP. University contributions will start immediately, with the vesting period waived, and together with employee contributions will be initially transmitted to TIAA-CREF and then subsequently available for transfer to any of the other investment providers.

For those new employees electing the ORP, who do not at the time of employment, own retirement contracts issued by any of the ORP investment providers, University contributions will be made upon the completion of 366 days of service. At the end of the initial 366 days of service, the University will make a single lump sum contribution with interest to TIAA-CREF for this initial vesting period, and will make regular biweekly contributions thereafter.

The amount of employee contributions deducted during the initial 366 days of service, with interest, will be transmitted to TIAA-CREF at the end of the 366-day period. If service does not continue for at least 366 days, the employee contributions, with interest, will be refunded to the employee upon request only or will otherwise be retained in the event of future University service. In this case, no University contributions will be made on behalf of the employee.

Contribution Rates

The ORP is a defined contribution retirement program. Benefits are determined by the amount contributed each year and the success of the investments. The amount of the University's contribution is determined by your tier, which is based on your date of membership in the ORP:

Tier	Dates	Contribution
Tier 1	Membership prior to July 1, 1973	12% of the first $16,500 of salary per calendar year, and 15% of all salary above $16,500
Tier 2	July 1, 1973 - July 26, 1976	12% of the first $16,500 of salary per calendar year, and 15% of all salary above $16,500
Tier 3	July 27, 1976 - August 31, 1983	9% of the first $16,500 of salary per calendar year, and 12% of all salary above $16,500
Tier 4	September 1, 1983 - July 16, 1992	9% of the first $16,500 of salary per calendar year, and 12% of all salary above $16,500
Tier 5	July 17, 1992 - March 31, 2012	8% of salary for the first seven years of service, and 10% thereafter
Tier 6	April 1, 2012 and after	8% of salary for the first seven years of service, and 10% thereafter

An employee contribution of 3% of pay is required for Tiers 3, 4, and 5. Members of these tiers will have their 3% employee contribution eliminated upon reaching 10 years of service and will have an additional corresponding 3% contribution made by the employer.

Tier 6 participants will be required to make employee contributions for the duration of their membership based upon their estimated gross annual wages in a given calendar year, as follows:

Wages of $45,000 or less	3%
Wages of $45,000.01 to $55,000	3.5%
Wages of $55,000.01 to $75,000	4.5%
Wages of $75,000.01 to $100,000	5.75%
Wages greater than $100,000	6%

ORP employee contributions are made through payroll deduction, and are not subject to Federal income tax when made, but are included for State and local income tax purposes. All earnings on contributions are tax deferred until you withdraw them. (Note: employee contributions made prior to January 1, 1990 were subject to Federal income tax. Employee contributions made on and after January 1, 1990 are made pre-Federal income tax). All contributions are made based upon compensation up to the federal limit, which is determined annually.

Vesting

Upon completion of 366 days of service (waived for employees who enter service with employer-funded retirement contracts from any of the ORP investment providers) the participant has full and immediate vesting in all retirement and death benefits provided by the retirement annuities purchased through the employee and the University's contributions.

Contributions are not made into ORP contracts until completion of the vesting period; they are held by the Office of the State Comptroller. A participant who does not complete the vesting period is entitled to a refund of his or her own contributions plus interest upon request.

There is a 366-day vesting period unless:

1. The employees come to SUNY with vested employer funded retirement contracts from any of the ORP investment providers (Fidelity, MetLife, TIAA-CREF, VALIC, and Voya); vesting is immediate.
2. The employees are active members of ERS or TRS with at least 366 days service credit; vesting is immediate. If less than 366 days in ERS/TRS, service credit may be applied against the ORP vesting period.
3. The employees have 366 days of SUNY service; vesting is immediate.

Note: The ORP vesting period is on a calendar basis and is not pro-rated for part-time service.

Breaks in Service & Transfers

If an employee who participates in the ORP (whether vested or not) leaves SUNY service, they are eligible to participate upon their return to service irrespective of their appointment status at that time, and they retain their tier status. (Employees who had not vested and had withdrawn their contributions must repay their contributions to be covered by this provision. If they do not repay their contributions they are treated as new employees. Once employees repay their refunded employee contribution amount, it is the responsibility of the current employing agency to contact the previous agency for service and salary information and make the employer contribution for that prior service.) Employment by the Research Foundation of SUNY counts as a break. Note: Prior to implementation of the ORP Tier Reinstatement provisions 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.

Funding

This is a defined contribution retirement program under which individual contracts, providing retirement and death benefits for or on behalf of electing employees, are purchased from any of the approved investment providers (Fidelity, MetLife, TIAA-CREF, VALIC, and Voya). Contracts are issued to and become the property of the electing employee. Payments are made in accordance with the contracts, and the employer is not liable for the payment of benefits provided under such contracts.

ORP members may participate in one or more of the investment providers. Each investment provider has a variety of approved investment options. Contributions are initially directed into a TIAA-CREF contract. At the ORP participant's election, TIAA-CREF will automatically transfer all (100%) or a specified dollar amount from any CREF account accumulation or the TIAA Real Estate account to any of the other approved investment providers selected. If the systematic transfer service is elected, transfers will be made to the designated investment provider by the 15th day of each month or on the first business day thereafter. You may also make transfers from CREF or the TIAA Real Estate account to any of the other investment providers, or from one investment provider to another, or from any investment providers to TIAA-CREF. There is no charge for in-plan transfers.

Investment Policy

The SUNY Board of Trustees serves as the primary Fiduciary for the monitoring and selection of funds for the State University of New York Optional Retirement Program self-directed defined contribution plan, and monitors the funds and makes modifications to the fund selection when changes are deemed necessary. Fund reviews are conducted on a quarterly basis and any concerns are addressed with the investment providers. The primary overall investment objective for the SUNY Optional Retirement Program is that the investment options offered include funds having diverse risk and return expectations so that each participant may construct a portfolio that can be expected to meet his or her individual needs.

Disability

Employees receiving benefits under the State University's Group Disability Insurance Program may elect to receive benefits from the accumulated value of their employee and University contributions. A disability withdrawal cannot exceed 99% of the value of the employee's ORP contract.

Death Benefits

If you are vested and die before you have annuitized all funds in your contracts, any unannuitized balance is available to your beneficiary in a lump sum, unless you have chosen another payment option for your beneficiary, as described in your annuity contract. Your beneficiary may also contact the investment providers for additional options. Your entire balance must normally be distributed to your beneficiary by December 31 of the 5th calendar year after your death. If elected, death benefits may be payable over the life expectancy of the beneficiary, if the distribution of benefits begins no later than December 31 of the calendar year immediately following the calendar year of your death. If the designated beneficiary is your spouse, the commencement of benefits may be deferred until December 31 of the calendar year when you would have attained age 70-1/2, had you lived. If you die after all funds have been annuitized, any additional payments will be determined by the annuity option you selected at retirement. There is no death benefit if you are not vested. If a beneficiary is a corporation, association or an estate, a single sum payment will be made.

For ORP members with more than 90 days service, if the value of that portion of the death benefit attributable to the University's contributions is less than 1/2 final salary, a survivor's benefit to bring this benefit up to 1/2 of final salary (but not less than $2,000 nor more than $10,000) is payable. This survivor's benefit is provided by the Survivor's Benefit Law, which is subject to annual reenactment.

If you are not vested and you die, your contributions plus interest will be paid to your beneficiary.

Loans

Employees may borrow up to 50% of the accumulated value of their contracts, subject to Internal Revenue Service regulations and rules promulgated by the investment providers. Current IRS regulations set a maximum aggregate loan balance of $50,000. Employees who wish to request a loan should contact the applicable investment provider(s).

Hardship Withdrawals

In accordance with IRS guidelines, for specific reasons and financial circumstances, an eligible employee may request a hardship withdrawal from certain pre-1990 contributions for the purpose of satisfying an immediate and heavy financial need, which cannot be met from other sources. The distribution must be necessary for one or more of the following reasons:

1. payment of medical expenses described in the Internal Revenue Code, Section 213(d), incurred by the employee, his or her spouse or other dependent(s), or payment necessary for these persons to obtain medical care;
2. prevention of eviction from or foreclosure of his or her primary residence.

The ORP member will provide any documentation requested by the investment provider deemed necessary to review and process such withdrawal. Hardship withdrawals cannot exceed the amount of the financial need. Employees who want to take a hardship withdrawal should contact the applicable investment provider(s).

If You are Vested and Leave SUNY Employment

Once you are vested, your benefits cannot be taken away. The funds in your contracts continue to share investment earnings/losses, even if no further contributions are made. If you return to eligible SUNY employment at some future date, you will immediately return to plan participation without a waiting period or new vesting period, although a new retirement application may be required and you may be in a new retirement tier.

Benefit Payments From Vested Contracts

Your investment provider(s) will provide you with assistance in selecting an annuity option(s) in settlement of annuity contracts. You can receive a distribution at any age from your contracts following termination from employment with SUNY.

When Distribution Must Begin

Federal tax law requires that retirement income begin by April 1 of the calendar year following the latter of:

1. the calendar year in which you reach age 70-1/2, or
2. the calendar year in which you terminate employment.

If the required minimum amount is not distributed, the IRS applies a tax penalty equal to 50% of the difference between the amount that should have been distributed and the amount actually distributed.

An annuity is based on the accumulated value of employee and University contributions. At the age of retirement, you may receive either a fixed or variable annuity or both.

Under certain circumstances, the participant may be able to repurchase the value of his or her annuities. If you were hired after January 1, 1992, you can repurchase the full value of your accumulations upon separation from service, including your contributions and those of the University, provided that your total TIAA-CREF accumulation is no greater than $4,000, and of that $4,000, the total accumulation in TIAA is no greater than $2,000.

Making a Cash Withdrawal and Tax Implications

When your SUNY employment ends, you may surrender your contracts for the cash value, subject to IRS regulations. Cash distributions are subject to ordinary income taxes and may be subject to an additional IRS 10% early withdrawal tax penalty. The investment provider must withhold 20% from any single sum benefit paid to you, and send it to the IRS for federal income tax. The IRS will apply the amount toward income taxes due. An IRS 10% tax penalty will generally apply to cash withdrawals made before age 59-1/2, unless you have medical expenses exceeding the tax-deductible limit or you become disabled, die or retire after attaining age 55. There is no applicable IRS 10% tax penalty applied to payments made to children or to a divorced spouse in accordance with a qualified domestic relations order. This information is not intended to be relied upon as tax advice. You are encouraged to consult a tax advisor.

Rollover to Another Qualified Retirement Plan or Traditional IRA

Since 2002, the IRS has allowed the rollover of distributions between different types of retirement plans (e.g., to or from 401(a), 401(k), 403(a), 403(b), 457(b) and Traditional IRA plans). In order to rollover an amount to an employer sponsored plan, you must be separated from service and that plan must permit the rollover into the plan. You should contact the investment providers for more information on eligibility and taxation of rollovers.

Rollover Eligibility to the ORP From Another Qualified Retirement Plan or Traditional IRA

The ORP does not accept rollovers from other retirement plan(s), Traditional IRAs or Roth IRAs.

Rollover Eligibility From the ORP to an Alternative Retirement Plan

A rollover is a tax-free transfer of assets from a retirement plan to either a Traditional IRA or another employer's retirement plan. You are not eligible to roll money out of the ORP until after separation from service. Careful consideration of outside investment fees and the tax consequences of both transfers and ultimate distributions should be discussed with your tax advisor prior to completing any rollovers from the ORP.

A direct rollover will transfer funds from the ORP plan directly to an IRA trustee or to the trustee of the retirement plan of the new employer (if the plan permits this type of rollover). You do not take receipt of the funds and are not subject to any required income tax withholding.

An indirect rollover is a payment made to you, not directly to the recipient of the plan or IRA. A 20% statutory tax withholding is required. In order to qualify as a rollover, the funds must be deposited into another qualified retirement plan or to a Traditional IRA account within 60 days of receipt. Failure to deposit the investment into an IRA or qualified plan will result in a taxable distribution. Early distribution penalties may also apply.

You cannot roll over to a Roth IRA. However, you may be able to convert the assets to a Roth IRA from a Traditional IRA based on IRA guidelines. Contact the investment provider for more information.

Your Retirement Benefits if You Become Divorced or Separated

In the event that a judgment, decree or court order establishes the rights of another person to your benefits under the plan, and where there is a qualified domestic relations order, payments will be made by the investment providers in accordance with that order. A court order may preempt the usual requirement that your spouse be considered your primary beneficiary for a portion of the accumulation. Additional information can be obtained from the applicable investment provider. All qualified domestic relations orders for an ORP contract should be sent to your investment provider.

Some Other Key Points

- The investment providers offer mobility of pension benefits as annuity contracts are fully vested with the individual immediately upon issue. This, coupled with the transferability to other educational and research organizations throughout the nation, permits University employees electing the ORP to continue their contracts if they leave SUNY.
- Should you elect the SUNY ORP and at a later date leave the University to accept employment with another State agency, and thereby become an active member of ERS/TRS, you will not be permitted to establish credit for any service for which state contributions under the ORP were made on your behalf.
- Under the investment providers, benefits are payable in accordance with contracts issued by private insurers, and are not covered by constitutional provision.

Investment Provider Information:

TIAA-CREF | 800-842-2252 | www.tiaa-cref.org/suny

Fidelity | 800-343-0860 | www.netbenefits.com/suny

MetLife | 800-560-5001 (account holders), 844-298-8899 (new enrollees)
www.metlife.com/suny

VALIC | 800-448-2542 | www.valic.com/suny

Voya | 800-677-4636 (participants), 800-438-1272 (plan information)
https://suny.prepare4myfuture.com

To view current quarterly ORP investment fund performance, go to the SUNY Benefits website, under the section for Current Employees and click on "ORP Vendor Performance Summary."

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