

807 CMR: TEACHERS' RETIREMENT BOARD

807 CMR 12.00: ROLLOVER DISTRIBUTIONS AND TRUST TO TRUST TRANSFERS

Section

12.01: Rollovers from the Plan

12.02: Rollovers into the Plan

12.03: Trust to Trust Transfers

12.01: Rollovers from the Plan

(1) A Distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. The following definitions shall apply to 807 CMR 12.01.

(2) Direct Rollover is a payment by the Board to the Eligible Retirement Plan specified by the Distributee.

(3) Distributee includes an employee or former employee, as well as the employee's or former employee's surviving spouse, or a spouse or former spouse who is an alternate payee (as defined by Internal Revenue Code Section 414(p)), and, effective January 1, 2007, a non-spousal beneficiary who is a designated beneficiary under Internal Revenue Code Section 401(a)(9)(E). However, a non-spousal beneficiary may only make a direct rollover to an eligible retirement plan described in 807 CMR 12.01(4)(a), (b) or (f) established for the purpose of receiving the distributions and the account or annuity will be treated as an inherited account or annuity.

(4) Eligible Retirement Plan is any program defined in Internal Revenue Code Sections 401(a)(31) and 402(c)(8)(B), that accepts the Distributee's Eligible Rollover Distribution, as follows:

- (a) an individual retirement account under Internal Revenue Code Section 408(a);
- (b) an individual retirement annuity under Internal Revenue Code Section 408(b) (other than an endowment contract);
- (c) a qualified plan under Internal Revenue Code Section 401(a) or an annuity plan under Internal Revenue Code Section 403(a);
- (d) an eligible deferred compensation plan under Internal Revenue Code Section 457(b) which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state (so long as the plan agrees to separately account for amounts rolled into the plan);
- (e) an annuity contract under Internal Revenue Code Section 403(b); and
- (f) for distributions on or after January 1, 2008, a Roth IRA under Internal Revenue Code Section 408A.

(5) Eligible Rollover Distribution is any distribution under M.G.L. c. 32, §§ 1 through 28 of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:

- (a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated beneficiary, or for a specified period of ten years or more;
- (b) any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9); or
- (c) the portion of any distribution that is not includible in gross income, however, effective for distributions on or after January 1, 2002, a portion of a distribution will not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only:
 - 1. to an individual retirement account or individual retirement annuity, under Internal Revenue Code Sections 408(a) or 408(b), or to a qualified defined contribution plan under Internal Revenue Code Section 401(a) that will separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or

807 CMR: TEACHERS' RETIREMENT BOARD

12.01: continued

2. effective on or after January 1, 2007, to a qualified defined benefit plan under Internal Revenue Code Section 401(a) or to an annuity contract under Internal Revenue Code Section 403(b) that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includible in gross income and the portion of the distribution that is not so includible; or
3. effective on or after January 1, 2008, to a Roth IRA under Internal Revenue Code Section 408A.

12.02: Rollovers into the Plan

(1) The Board may accept any portion of an Eligible Rollover Distribution in payment of all or a portion of a member's purchase of service credit or service buybacks under M.G.L. c. 32, §§ 1 through 28, or of a member's accelerated Retirement Plus contributions. The Board may accept an Eligible Rollover Distribution paid directly to the system in a Direct Rollover. Rollovers from other permissible sources will be allowed to the extent permitted by law, subject to any conditions, proofs, or acceptance the Board or its designee deems appropriate.

The following definitions shall apply to 807 CMR 12.02.

(2) Direct Rollover is a payment from an Eligible Retirement Plan specified by the member to the system.

(3) Eligible Retirement Plan is any program defined in Internal Revenue Code Sections 401(a)(31) and 402(c)(8)(B), from which the member has a right to an Eligible Rollover Distribution, as follows:

- (a) an individual retirement account under Internal Revenue Code Section 408(a);
- (b) an individual retirement annuity under Internal Revenue Code Section 408(b) (other than an endowment contract);
- (c) a qualified plan under Internal Revenue Code Section 401(a) or an annuity plan under Internal Revenue Code Section 403(a);
- (d) an eligible deferred compensation plan under Internal Revenue Code Section 457(b) which is maintained by a state, a political subdivision of a state, or any agency or instrumentality of a state or a political subdivision of a state; and
- (e) an annuity contract under Internal Revenue Code Section 403(b).

(4) Eligible Rollover Distribution is any distribution of all or any portion of the balance to the credit of the member from an Eligible Retirement Plan. An Eligible Rollover Distribution does not include:

- (a) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the member or the joint lives (or joint life expectancies) of the member and the member's designated beneficiary, or for a specified period of ten years or more;
- (b) any distribution to the extent such distribution is required under Internal Revenue Code Section 401(a)(9);
- (c) any distribution which is made upon hardship of the member; or
- (d) the portion of any distribution that is not includable in gross income.

12.03: Trust to Trust Transfers

The Board may accept a direct trustee-to-trustee transfer from a deferred compensation plan under Internal Revenue Code § 457(b) or a tax-sheltered annuity under Internal Revenue Code Section 403(b) for the purchase of permissive service credit, as defined in Internal Revenue Code Section 415(n)(3)(A), or a repayment to which Internal Revenue Code Section 415 does not apply by reason of Internal Revenue Code Section 415(k)(3). Such transfers will be allowed to the extent permitted by law, subject to any conditions, proofs, or acceptance the Board or its designee deems appropriate.

REGULATORY AUTHORITY

807 CMR 12.00: M.G.L. c. 32, §§ 3, 4 and 5; c. 15, § 16.