

VIRGINIA RETIREMENT SYSTEM OPTIONAL RETIREMENT PLAN CORRECTION POLICY



Background

Employers are responsible for enrolling newly hired employees into the VRS Navigator in a timely manner, ensuring each employee is enrolled with the correct Job Name, which in some cases affords them an opportunity to choose an applicable Optional Retirement Plan (ORP):

- Optional Retirement Plan for Higher Education (ORPHE)
- Optional Retirement Plan for Political Appointees (ORPPA)
- Optional Retirement Plan for School Superintendents (ORPSS)

If an employee chooses to enroll in an ORP, the employer is responsible for withholding and remitting to the correct third-party administrator (TPA) the appropriate contributions based on the employee's designated ORP. This policy addresses corrections for errors made under an ORP. Plan failures include, but are not limited to, incorrect plan assignment and incorrect contribution allocations. Employers are responsible for following the corrective methods outlined in this policy.

Compliance

The corrective measures provided here follow Internal Revenue Service (IRS) Revenue Procedure 2021-30, as amended by the SECURE 2.0 Act of 2022, adjusted to take into consideration the constraints of VRS-participating employers' payroll and tax-reporting systems. Employers will be responsible for any "penalties, interest, compliance fees or other charges" associated with the failure to follow state and federal laws that may be imposed under the *Code of Virginia* Section 51.1-124.22(A)(14). There may be a fee charged in the future for processing corrections.

Time Frames

When an ORP eligible employee's election window closes, it is important to timely remit all contributions withheld during the window and each pay period thereafter to the correct TPA. Missed contributions found within 90 days can be corrected immediately by the employer through payroll. After 90 days the employer must complete the Optional Retirement Plans Request for Account Review form. Plan failures can span a participant's entire period of employment or just a few pay periods. Corrections may require the employer to pay penalties, fees and/or missed earnings.

Excess contributions found within 14 business days from the trade date posted to the participant's account can be returned directly to the employer by contacting the third-party administrator. After 14 business days, corrections will follow the corrective methods outlined in this policy and employers must complete the Request for Account Review Form. Corrections may require the employer to pay penalties and/or fees.

Processing Guidelines

- 1. Correction Requests Not in Good Order** – Request for Account Review forms require the employer to provide details of the error and amounts withheld in payroll. In the absence of this information, VRS will consider requests to remove excess contributions to be Not in Good Order (NIGO) and will not proceed with the correction until additional details are provided by the employer. Corrections involving funding for account shortages will still be processed without error details or payroll information; however, VRS will assume that the missing contributions were not withheld from the employee, and the employer will be charged a Qualified Non-Elective Contribution (QNEC) for the employee source funds.
- 2. Thresholds for Overages/Shortages** – VRS will only process Request for Account Review forms for discrepancies greater than +/- \$50.

Forfeitures, Gains and Missed Earnings

The VRS Optional Retirement Plans are subject to an “exclusive benefit rule” under the Internal Revenue Code. The exclusive benefit rule generally prohibits the return of contributions to an employer once they have been made to the Plan. Rather, contributions made in error should remain in the Plan and will offset future contributions or plan expenses.

- 1. Employer Excess Contributions and Gains:** When there are excess contributions or gains, the funds will be transferred from the participant’s account to a forfeiture account that the employer must use to either offset future contributions or pay plan expenses. Periodically, employers can direct that the forfeiture account be used to offset an upcoming employer contribution.
- 2. Missed Earnings:** The employer will be required to fund missed earnings if the amount calculated for a correction is \$10 or more. A fee may be charged for missed earnings calculations on late contributions.

Late Contributions

Employer delayed submitting contributions to third party administrator (TPA).

Example A: An employer remits required contributions to the TPA outside of the required time frame.

Plan	Employer Contributions	Mandatory Employee Contributions
ORP Plan 1	If the employer fails to remit employer contributions and/or mandatory employee contributions to the TPA within 90 days* of the applicable payroll date, VRS will direct the TPA to calculate missed earnings on the late contributions.	
ORP Plan 2		
The employer is responsible for missed earnings, if any, on late employer contributions and late mandatory employee contributions.		

* Note: The requirement for the employer to pay missed earnings on late contributions is subject to change to fewer than 90 days.

Late Appointment or Enrollment

Employer delayed enrolling employee in myVRS Navigator or delayed providing appointment letter to VRS.

Example B: Employee receives compensation from the employer, but the employer has not reported the employee to VRS for retirement purposes or the appointment letter for a political appointee has not been provided, and no ORP contributions have been withheld from the employee’s paycheck.

Plan	Employer Contributions	Mandatory Employee Contributions
ORP Plan 1	<p>90 or fewer days from hire date</p> <p>The employee will make-up missed mandatory employee contributions through payroll to be posted by the TPA as of the date received. Employer will make-up missed employer contributions to be posted by the TPA as of the date received.</p>	
ORP Plan 2		
	<p>More than 90 days from hire date</p> <p>The employer is required to remit to TPA a Qualified Non-Elective Contribution (QNEC) equal to 100% of the missed mandatory employee contributions and 100% of the missed employer contributions. Corrective contributions must be adjusted for earnings.</p>	

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Missed Contributions

Contributions not deducted from participant’s paycheck.

Example C: The employer fails to deduct and remit mandatory employee contributions from participant’s compensation for one or more payroll periods, or to remit employer contributions on behalf of the participant.

Plan	Employer Contributions	Mandatory Employee Contributions
ORP Plan 1	The employer is required to remit to TPA 100% of the missed employer contributions, plus any missed earnings.	N/A
ORP Plan 2	The employer is required to remit to TPA 100% of the missed employer contributions, plus any missed earnings.	The employer is required to remit to TPA a Qualified Non-Elective Contribution (QNEC) equal to 100% of the missed mandatory employee contributions, plus any missed earnings.
The employer is responsible for missed earnings, if any, on missed employer contributions and missed mandatory employee contributions.		

Misdirected Contributions

Employer remitted contributions to the wrong TPA.

Example D: Participant in ORPHE elects provider A but contributions are sent to provider B in error.

Plan	Employer Contributions	Mandatory Employee Contributions
ORP Plan 1	Employer contributions, adjusted for earnings, will be transferred to the correct TPA.	N/A
ORP Plan 2	Employer contributions, adjusted for earnings, will be transferred to the correct TPA.	Mandatory employee contribution, adjusted for earnings, will be transferred to the correct TPA.
The employer is responsible for missed earnings, if any, had the contributions been invested as directed by the participant with the correct TPA.		

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Excess Contributions

Employer remitted contributions in excess of the required amount.

Example E: The employer remits employer contributions and mandatory employee contributions in excess of the required amount due to a compensation error.

Plan	Employer Contributions	Mandatory Employee Contributions
ORP Plan 1	Excess employer contributions, net of losses or fees, will be forfeited and credited to the employer-level forfeiture account.	N/A
ORP Plan 2	Excess employer contributions, net of losses or fees, will be forfeited and credited to the employer-level forfeiture account.	Excess mandatory employee contributions, adjusted for earnings, are paid directly to the participant who will receive a Form 1099-R after calendar year-end.
	Any gains on excess employer contributions are forfeited to plan-level forfeiture account.	Any gains on excess mandatory employee contributions are distributed to participant.

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Wrong Plan Designation

Whether due to an employer or VRS error, a participant is enrolled in one VRS plan with contributions remitted to that plan, but should have been enrolled in another VRS plan.

Example F: ORP eligible participant is placed in ORP Plan 1 but should have been placed in ORP Plan 2 or vice versa.

Example G: An employer enrolls employee in myVRS Navigator with an ORP eligible job name, when the correct job name would make the participant ineligible for the ORP and eligible for another VRS Plan.

Contribution Rates by VRS Plan		Employer Nonelective Contributions	Employer Matching Contributions	Voluntary Employee Deferrals	Mandatory Employee Contributions
ORP Plan 1 (401(a) DC)		10.4%	N/A	N/A	N/A
ORP Plan 2 (401(a) DC)		8.5%	N/A	N/A	5.0%
Hybrid Plan	Hybrid Cash Match Plan (401(a) DC)	1.0%	0% to 2.5%, depending on voluntary employee deferral to Hybrid 457 DCP	N/A	1.0%
	VRS Hybrid Plan (401(a) DB)	Rate varies by employer ¹	N/A	N/A	4.0%
	Hybrid 457 DCP (457(b) DC)	N/A	N/A	Half or whole % up to 4%	N/A
VRS Plan 1 (401(a) DB) VRS Plan 2 (401(a) DB)		Employer rate	N/A	N/A	5.0%
COV 457		Discretionary	N/A	\$10 per pay period up to IRS limits ²	N/A
Virginia Cash Match Plan		N/A	50% of voluntary employee deferral to COV 457 or employer 403(b) up to \$20 per pay period (or \$480 per year)	N/A	N/A

¹ Rates vary based on voluntary employee contributions to Hybrid 457 DCP.

² Hybrid Plan participants can participate in the COV 457, but are only eligible for matching contributions to the Virginia Cash Match Plan if they first make the full 4.0% voluntary employee deferrals to the Hybrid 457 DCP.

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A. ORP Plan 1 and ORP Plan 2 Plan Failures

Plan that Employer Withheld/ Remitted to	Correct Plan	Employer Contributions	Mandatory Employee Contributions
ORP Plan 1	ORP Plan 2	<p>Transfer 8.5% employer contributions, adjusted for earnings, to ORP Plan 2 via plan-to-plan transfer.</p> <p>1.9% excess employer contributions, adjusted for earnings, will be forfeited and applied towards employer's Qualified Non-Elective Contribution (QNEC).</p>	<p>The employer is required to remit to TPA a Qualified Non-Elective Contribution (QNEC) equal to 100% of the missed 5.0% mandatory employee contributions, plus any missed earnings.</p>
ORP Plan 2	ORP Plan 1	<p>Transfer 8.5% employer contributions, adjusted for earnings, to ORP Plan 1 via plan-to-plan transfer.</p> <p>The employer is required to remit to TPA the 1.9% difference in employer contributions, plus any missed earnings.</p>	<p>5.0% mandatory employee contributions, adjusted for earnings, are paid directly to the participant who will receive a Form 1099-R after calendar year-end.</p>
<p>The employer is responsible for missed earnings, if any, on missed employer contributions and missed mandatory employee contributions.</p>			

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B. Participant enrolled in the ORP in error.

Plan that Employer Withheld/ Remitted to	Correct Plan	Employer Contributions	Mandatory Employee Contributions	Voluntary Employee Deferrals
ORP Plan 1 ORP Plan 2	VRS Hybrid Plan DB/DC	<p>Transfer 1% employer contributions, adjusted for earnings, to Hybrid Cash Match Plan via plan-to-plan transfer. Remaining employer contributions, net of losses or fees, are forfeited and credited to the employer-level forfeiture account in the applicable ORP Plan. Gains are forfeited to plan-level forfeiture account.</p> <p>The employer is required to remit to VRS the employer contributions due under the VRS Hybrid Plan DB component.</p>	<p>With respect to ORP Plan 1, the employer is required to remit (i) to VRS the 4.0% mandatory employee contributions for the VRS Hybrid Plan DB component and (ii) to TPA the 1.0% mandatory employee contributions for the Hybrid Cash Match Plan, plus any missed earnings.</p> <p>With respect to ORP Plan 2, transfer via plan-to-plan transfer (i) 4.0% mandatory employee contributions to VRS Hybrid Plan DB component and (ii) 1.0% mandatory employee contributions to Hybrid Cash Match Plan, adjusted for earnings.</p>	<p>The employer is required to remit to TPA a Qualified Non-Elective Contribution (QNEC) equal to 100% of the average voluntary contribution percentage under the Hybrid 457 DCP for the year, plus missed earnings.</p> <p>The employer is required to remit a matching contribution on the QNEC to the Hybrid Cash Match Plan, plus missed earnings.</p>
ORP Plan 1 ORP Plan 2	VRS Plan 1 VRS Plan 2	<p>Employer contributions, net of losses or fees, are forfeited and credited to the employer-level forfeiture account under the applicable ORP Plan. Gains are forfeited to plan-level forfeiture account.</p> <p>The employer is required to remit to VRS the employer contributions due under the applicable VRS Plan.</p>	<p>With respect to ORP Plan 1, the employer is required to remit to VRS the 5.0% mandatory employee contributions for the applicable VRS Plan.</p> <p>With respect to ORP Plan 2, transfer 5.0% mandatory employee contributions, adjusted for earnings, to applicable VRS Plan via plan-to-plan transfer.</p>	N/A
<p>The employer is responsible for missed earnings, including where the earnings under the Hybrid Cash Match Plan were higher than those under the applicable ORP Plan for amounts transferred as part of the correction.</p>				

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C. Participant enrolled in the Hybrid Plan in error.

Plan that Employer Withheld/ Remitted to	Correct Plan	Hybrid Cash Match Plan Contributions			VRS Hybrid Plan DB Contributions		Hybrid 457 DCP Contributions
		Employer Mandatory 1%	Employer Match	Employee Mandatory 1%	Employer	Employee Mandatory 4%	Employee Voluntary
VRS Hybrid Plan DB/ DC	ORP Plan 1 ORP Plan 2	Transfer Hybrid Cash Match Plan employer contributions, adjusted for earnings, to applicable ORP Plan via plan-to-plan transfer.		For ORP Plan 1, Hybrid Cash Match Plan 1.0% mandatory employee contributions, adjusted for earnings, are paid directly to the participant who will receive a Form 1099-R after calendar year-end.	The employer will receive a credit on its Snapshot for employer contributions and mandatory employee contributions to VRS Hybrid Plan DB component. For ORP Plan 1, the employer is required to pay an amount equal to the 4.0% mandatory employee contribution directly to the participant. For ORP Plan 2, the employer is required to remit to TPA the 4.0% mandatory employee contributions, plus missed earnings.	If the employer is a participating employer in the COV 457 Plan and the employee has an account under the COV 457 Plan, transfer any employee voluntary contributions, adjusted for earnings, to the COV 457 Plan via plan-to-plan transfer. Otherwise, employee voluntary contributions, adjusted for earnings, are paid directly to the participant who will receive a Form 1099-R after calendar year-end.	
		The employer is required to remit to TPA any employer contributions that remain due under applicable ORP Plan after the plan-to-plan transfer, plus missed earnings.		For ORP Plan 2, transfer Hybrid Cash Match Plan 1.0% mandatory employee contributions, adjusted for earnings, to ORP Plan 2 via plan-to-plan transfer.			

The employer is responsible for missed earnings, including where the earnings under the ORP Plan were higher than those under the Hybrid Cash Match Plan for amounts transferred as part of the correction.

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D. Participant enrolled in VRS Plan 1 or VRS Plan 2 in error.

Plan that Employer Withheld/Remitted to	Correct Plan	Employer Contributions	Mandatory Employee Contributions
VRS Plan 1 VRS Plan 2	ORP Plan 1 ORP Plan 2	<p>The employer will receive a credit on its Snapshot for employer contributions and mandatory employee contributions to applicable VRS Plan.</p> <p>For ORP Plan 1, the employer is required to remit to TPA the 10.4% employer contributions, plus missed earnings. The employer is required to pay an amount equal to the 5.0% mandatory employee contribution directly to the participant.</p> <p>For ORP Plan 2, the employer is required to remit to TPA the 8.5% employer contributions and 5.0% mandatory employee contributions, plus missed earnings.</p>	
<p>The employer is responsible for missed earnings, if any, on missed employer contributions and missed mandatory employee contributions.</p>			

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