

Rules

February 23, 2023

OP&F

- 742-3-04 Disability benefit recipient's annual earnings statement (No Change)
- 742-3-11 Decision deadlines/non-COLA benefit (No Change)
- 742-3-20 Statutory termination of disability benefits (No Change)
- 742-3-21 Forfeiture and termination of disability benefits (No Change)
- 742-4-07 Accrual of member's contributions (No Change)
- 742-4-08 COLA effective dates for DROP participants (No Change)
- 742-4-13 Impact of military leave (No Change)
- 742-5-11 Definition of "service rendered concurrently"
- 742-7-16 Guardianship
- 742-9-18 Overpayment of contributions by employer (No Change)
- 742-16-02 Board of trustees (No Change)
- 742-19-01 Administration of public safety officers' death benefit fund
- 742-20-01 Recovery of overpaid funds (No Change)
- 742-21-01 Form of division of property orders (No Change)

SERS

- 3309-1-03 Staff authority and appeals (No Change)
- 3309-1-04 Election of retirement board members
- 3309-1-09 Federal taxation (No Change)
- 3309-1-13 Obtaining optional or compulsory service credit
- 3309-1-15 Applicable law in determining survivor benefits (No Change)
- 3309-1-17 Allowances and benefits payable (No Change)
- 3309-1-21 Estimated retirement allowances (No Change)
- 3309-1-23 Contributing status; compulsory and optional (No Change)
- 3309-1-31 Adjusting retirement eligibility requirements (No Change)
- 3309-1-36 Restoration of cancelled SERS service credit (No Change)
- 3309-1-38 Interest rate (No Change)
- 3309-1-39 Purchase of police and fire and highway patrol service (No Change)
- 3309-1-52 Travel and expense reimbursement (No Change)
- 3309-1-61 Reemployment covered by R.C. 3309.345 (No Change)
- 3309-1-64 Dental and vision coverage

HPRS

5505-3-04	Reemployed retirants (No Change)
5505-3-08	Federal tax compliance provisions
5505-5-01	Credit for service in any calendar year (No Change)
5505-5-04	Interest rate (No Change)
5505-5-05	Bureau of worker's compensation retirement credit (No Change)
5505-9-02	Travel expense and reimbursement (No Change)
5505-9-06	Ohio-qualified agents and investment managers (No Change)
5505-9-07	Audio visual recordings of meetings and hearings (No Change)
5505-9-08	Committees of the retirement board

742-3-04

Disability benefit recipient's annual earnings statement.

- (A) A disability benefit recipient shall file an annual statement of earnings by September first of each year with the Ohio police and fire pension fund ("OP&F"), unless the disability committee medical advisor has certified that the disability benefit recipient's disability is ongoing and the board waives the requirement that a recipient file an annual earnings statement. The statement must be on the form provided by OP&F, and must be notarized. In addition, the disability benefit recipient must also provide any supporting documentation requested by OP&F.
- (B) OP&F shall send written notice to those recipients who have been granted waivers by the board within sixty days of the board's approval.
- (C) Once a disability benefit recipient has been granted a waiver from the requirement to file an annual earnings statement by the board, the disability benefit recipient shall thereafter be relieved from filing an annual earnings statement, unless otherwise notified in writing by OP&F.
- (D) For those earning statements due on September 1, 1998, and every September first thereafter, the refusal of the benefit recipient to comply with paragraph (A) of this rule shall result in the suspension of disability benefits and any health care stipend upon sixty days prior written notice to the disability benefit recipient.
- (1) If the disability benefit recipient fails to file the past due annual earning statement(s) in proper form with OP&F within the aforementioned sixty day notice period, OP&F shall suspend the recipient's health care stipend, if any, effective on the first day of the month immediately following the expiration of such notice period.
- (2) In the event the disability benefit recipient files all of the past due earning statement(s) in proper form with OP&F after the aforementioned sixty day notice period, OP&F will reinstate the recipient's disability benefits and health care stipend on the first day of the month immediately following OP&F's receipt of all past due annual earnings statements in proper form.
- (E) If the disability benefit recipient files the required annual earnings statement in proper form with OP&F on or before December first of the following year in which it was due (i.e. fifteen months after the original due date), OP&F will reinstate the recipient's disability benefits and the health care stipend, if any.
- (F) If the disability benefit recipient has not filed the required annual earnings statement in proper form with OP&F on or before December first of the following year in which it was due, then the disability benefits shall be forfeited in accordance with the terms of division (D) of section 742.40 of the Revised Code and the health care stipend, if

any, shall be forfeited in accordance with section 742.45 of the Revised Code, with such forfeiture being effective as of the date of the original suspension, as referenced in a writing provided to the recipient from OP&F.

- (G) For purposes of determining whether the recipient has refused to comply with the provisions of division (D) of section 742.40 of the Revised Code and this rule, OP&F may conclusively rely upon OP&F's books and records.
- (H) All notices to the disability benefit recipient provided for under this rule shall be either delivered personally, sent by express delivery service, certified mail or first class U.S. mail, postage prepaid and addressed to the disability benefit recipient at the most recent address set forth in such recipient's file with OP&F, or to such other address as the disability benefit recipient shall thereafter designate by proper notice in accordance with this paragraph. All notices to OP&F shall be addressed at its principal place of business.
- (I) For purposes of this rule, "Disability Benefit Recipient" shall mean the member of OP&F who is receiving a disability benefit pursuant to division (C)(2), (C)(3), (C)(4), or (C)(5) of former section 742.37 of the Revised Code or section 742.38 of the Revised Code.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.37, 742.38, 742.40, 742.45
Prior Effective Dates: 11/30/1995 (Emer.), 02/10/1996, 09/08/1997,
09/16/1998 (Emer.), 12/10/1998, 07/17/2004,
02/04/2013, 03/22/2018, 01/01/2019 (Emer.),
03/29/2019, 09/22/2022

742-3-11

Decision deadlines/non-COLA benefit.

- (A) A member of the fund who is eligible to make the election under division (D) of section 742.3716 of the Revised Code shall be given notice of such choice. If a member of the fund who is eligible to make such election fails to make a decision within sixty days of being notified of the exact pension or benefit amount payable, then such member shall be deemed conclusively not to have exercised the election under division (D) of section 742.3716 of the Revised Code and the pension or benefit shall be paid accordingly.
- (B) Notwithstanding rule 742-3-07 of the Administrative Code, a member of the fund who has been notified in writing of the actuarial equivalent of the member's retirement allowance shall have sixty days to return to the fund completed annuity agreement forms or to request a modified payment plan. If the member fails to file completed annuity agreement forms or a written request for a modified payment plan within the aforesaid sixty day period, then such member shall be deemed conclusively to have consented to the optional plan selected.
- (C) A member of the fund is deemed to consent to the deduction of unpaid employee contributions required under section 742.31 of the Revised Code from any pension or benefit payable under section 742.37 or 742.39 of the Revised Code.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.3716, 742.31
Prior Effective Dates: 12/19/1997 (Emer.), 03/31/1998, 07/31/2003,
01/07/2013 (Emer.), 02/04/2013

742-3-20

Statutory termination of disability benefits.

For purposes of division (C)(3) of section 742.40 of the Revised Code, Ohio police and fire pension fund ("OP&F") shall consider an OP&F member to be "employed as a police officer or firefighter" if one of the following applies:

(A) The person is appointed, commissioned, compensated, designated, employed, engaged, volunteering, or otherwise serving as one of the following:

- (1) A sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a metropolitan housing authority police force established under division (D) of section 3735.31 of the Revised Code, or township constable or a similar job position outside the state of Ohio;
- (2) A railroad company police officer governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- (3) A person engaged in the enforcement of Chapter 5743. of the Revised Code on behalf of the department of taxation and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code or a similar job position outside the state of Ohio;
- (4) An undercover drug agent or a similar job position outside the state of Ohio;
- (5) A department of public safety enforcement agent governed by section 5502.14 of the Revised Code or a similar job position outside the state of Ohio;
- (6) A natural resources law enforcement staff officer in the department of natural resources governed by section 1501.013 or a similar job position outside the state of Ohio;
- (7) A forest-fire investigator in the department of natural resources governed by section 1503.09 of the Revised Code or a similar job position outside the state of Ohio;
- (8) A natural resources officer on the department of natural resources governed by section 1501.64 of the Revised Code or a similar job position outside the state of Ohio;
- (9) A wildlife officer in the department of natural resources governed by section 1531.13 of the Revised Code or a similar job position outside the state of Ohio;

- (10) A park district law enforcement officer governed by section 511.232 or 1545.13 of the Revised Code or a similar job position outside the state of Ohio;
- (11) A conservancy district police officer governed by section 6101.75 of the Revised Code or a similar job position outside the state of Ohio;
- (12) A member of a hospital police or security department governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- (13) A veterans home police officer established by section 5907.02 of the Revised Code or a similar job position outside the state of Ohio;
- (14) A member of a qualified nonprofit corporation police department established by section 1702.80 of the Revised Code or a similar job position outside the state of Ohio;
- (15) A state university law enforcement officer governed by section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- (16) A special police officer in the department of mental health governed by section 5119.08 of the Revised Code or a similar job position outside the state of Ohio;
- (17) A special police officer in the department of mental retardation and developmental disabilities governed by section 5123.13 of the Revised Code or a similar job position outside the state of Ohio;
- (18) A member of a campus police department established under section 1713.50 of the Revised Code or a similar job position outside the state of Ohio;
- (19) A regional transit authority police officer governed by division (Y) of section 306.35 of the Revised Code or a similar job position outside the state of Ohio;
- (20) An investigator of the auditor of state governed by section 117.091 of the Revised Code who is engaged in the enforcement of Chapter 117. of the Revised Code or a similar job position outside the state of Ohio;
- (21) A special police officer serving on state property pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer

pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;

- (22) A port authority special police officer governed by section 4582.04 or 4582.28 of the Revised Code or a person serving as a port authority special police officer on a permanent basis on May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- (23) A municipal corporation special police officer who has been awarded a certificate by the executive director of the Ohio peace officer training commission for satisfactory completion of an approved peace officer basic training program and who is serving at a municipal airport or other municipal air navigation facility that is governed by aviation security rules of the transportation security administration of the United States department of transportation and required by federal laws and regulations to be under a security program or a similar job position outside the state of Ohio;
- (24) A PERS law enforcement officer, as defined in section 145.01 of the Revised Code or a similar job position outside the state of Ohio; or
- (25) A bailiff or deputy bailiff of a court of record in this state who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code or a similar job position outside the state of Ohio;
- (26) A parole, corrections, or probation officer or a similar job position outside the state of Ohio;
- (27) An employee of the department of youth services who is designated by the director of youth services pursuant to division (A)(1) of section 5139.53 of the Revised Code and who has received the training described in division (B)(1) of that section;
- (28) A federal protective service officer or a federal marshal, including, but not limited to, a court security officer hired by the U.S. marshals service;

- (29) A gaming agent employed under section 3772.03 of the Revised Code or a similar job position outside the state of Ohio.
- (B) The person is a "member of the police department," as such term is defined in division (A)(2) of section 742.01 of the Revised Code or such corresponding statutory provision, whether in Ohio or a similar job position outside the state of Ohio or is serving as a volunteer to a "police department," as such term is defined in division (A) (1) of section 742.01 of the Revised Code or such corresponding statutory provision; or
- (C) The person is classified as a firefighter who is a "member of a fire department," as such term is defined in division (B)(2) of section 742.01 of the Revised Code or such corresponding statutory provision, whether in Ohio or a similar job position outside the state of Ohio or is serving as a volunteer to a "fire department," as such term is defined in division (B)(1) of section 742.01 of the Revised Code or such corresponding statutory provision.
- (D)

For any new position added to paragraph (A) of this rule, OP&F shall give ninety days written notice of the change to all disability benefit recipients and allow those recipients to have ninety days to terminate the position not previously covered under this rule or be subject to the statutory requirement relating to the termination of disability benefits, as set forth in division (C)(3) of section 742.40 of the Revised Code.

- (E) Process for termination of disability benefits.

For any termination of disability benefits under section 742.40 of the Revised Code, staff shall present the termination for review and consideration by the disability committee, who shall make a written recommendation to the board of trustees based upon the applicable criteria. The applicable disability benefit recipient shall be notified of the board's decision within thirty days after the board's action and such notice shall be sent by certified mail, return receipt requested. The disability benefit recipient shall also be notified of the right to appeal the termination of disability benefits and the right to convert the disability benefits to a service retirement pension if the age and service eligibility requirements under division (C)(1), (C)(2), (C)(3), or (C)(4) of section 742.37 of the Revised Code are met and an application for service retirement is filed with OP&F.

- (F) Appeal of termination of disability benefits.

- (1) Any disability benefit recipient aggrieved by an action of the board with respect to the termination of the disability benefits in accordance with division (C)(3) of section 742.40 of the Revised Code must file a written notice of appeal with OP&F in the form provided by OP&F within ninety days of the notice of the board's decision to terminate the disability benefits. The notice of appeal must contain the member's name, social security number, and a brief description of the decision upon which the appeal is based.
- (2) Within sixty days of the notice of the board's decision to terminate the disability benefits, the aggrieved disability benefit recipient ("appellant") shall file with OP&F all materials which he or she desires to submit in support of the appeal. Failure to submit supporting materials or to request an extension of time within which to submit the supporting materials will be sufficient cause for OP&F to dismiss the appeal, provided OP&F gives the appellant prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F and the appellant fails to file the required documentation with OP&F before the designated deadline. Upon application to OP&F before the expiration of the original sixty day period referred to in this paragraph, OP&F may, for good cause shown, grant the appellant an extension of sixty days within which to file supporting materials.
- (3) Upon receipt of the supporting materials, OP&F shall schedule a hearing on the appeal and shall give the appellant reasonable notice of the date, time, and place thereof in writing. Such hearings shall be held within sixty days of the receipt of the supporting documentation by OP&F; provided, however, that any hearing may be postponed or continued by the board, either upon application of the appellant or on its own motion. In no event shall a hearing be postponed more than three times, and in no event shall the postponements, in the aggregate, exceed one year. The appellant shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A tape recording of the hearing will be made to provide the board with a record for further review. Such tape recording of the hearing shall be available to the appellant and to those individuals who are authorized by the appellant to receive such information, with such authorization in the form required by OP&F.
- (4) Following the hearing on appeal, the board may choose to:
 - (a) Affirm the decision to terminate disability benefits;
 - (b) Reverse the decision to terminate disability benefits;
 - (c) Postpone a decision pending additional documentation.

The board's decision on appeal shall be the final determination on the statutory termination of disability benefits.

- (5) The applicant shall be advised of the board's action under paragraph (F)(4) of this rule within thirty days after the board's decision and such notice shall be sent by certified mail, return receipt requested.
- (G) For purposes of recovering overpaid disability benefits, OP&F shall collect those benefits from the later of April 1, 2004 or the date of the person's acceptance of employment that results in the statutory termination of disability benefits, which will apply to any termination of disability benefits under section 742.40 of the Revised Code and this rule prior to the effective date of this rule.
- (H) For disability benefit recipients who are terminated in accordance with division (C)(3) of section 742.40 of the Revised Code and this rule, who cannot convert the benefits to a service retirement pension, and who have not recovered all contributions received by OP&F that are paid by or on behalf of such person, OP&F shall offset the remaining contributions against any overpayment due OP&F in accordance with the provisions of this rule.
- (I) For any overpayments due OP&F as a result of the termination of benefits in accordance with division (C)(3) of section 742.40 of the Revised Code and this rule, OP&F shall require the member to sign a promissory note, which provides for equal monthly payments to be paid to OP&F over a period not to exceed five years, with interest paid at the current actuarial rate of interest. For any person who refuses to sign such promissory note, OP&F will seek to recover the amounts due by exercising all rights available by law.
- (J) In the event the payments required under paragraphs (H) and (I) of this rule exceed the limits provided for in the consumer credit protection act, the payments will be modified in order to comply with such limits. Payments may also be modified upon a showing of a financial hardship and in such amount as determined by the executive director.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under:	111.15
Statutory Authority:	742.10
Rule Amplifies:	742.40
Prior Effective Dates:	04/10/2002 (Emer.), 06/30/2002, 03/22/2004, 04/05/2005 (Emer.), 06/20/2005, 09/21/2007, 05/22/2008, 08/02/2010 (Emer.), 10/17/2010, 02/04/2013, 03/22/2018, 09/22/2022

742-3-21

Forfeiture and termination of disability benefits.

In the event of any forfeiture and termination of disability benefits in accordance with division (C) or (D) of section 742.40 of the Revised Code, Ohio police and fire pension fund (OP&F) shall convert the person's disability benefits to a service retirement pension if the person meets the age and service eligibility requirements under division (C)(1), (C)(2), (C)(3), or (C)(4) of section 742.37 of the Revised Code, upon the person filing an application for service pension with OP&F. The effective date of the service pension shall be the day immediately following the effective date of the person's termination and forfeiture of disability benefits for purposes of benefits paid under division (C)(1), (C)(3), or (C)(4) of section 742.37 of the Revised Code or the day on which the person meets the eligibility requirements under division (C)(2) of section 742.37 of the Revised Code.

For purposes of determining if the person meets the age and service eligibility requirements under division (C)(1), (C)(2), (C)(3), or (C)(4) of section 742.37 of the Revised Code, OP&F shall only include contributing and purchased service credit. OP&F shall notify the person of any available service credit that may be purchased in order to meet the eligibility requirements. Such notice shall provide that the eligible service credit must be purchased within ninety days of the date of the notice and if this person does not complete the purchase with OP&F within such time period, the purchase will not be permitted.

If the person does not meet or will not meet the age and service eligibility requirements under division (C)(1), (C)(2), (C)(3), or (C)(4) of section 742.37 of the Revised Code, the person will be entitled to a refund of the person's contributions consistent with the provisions of division (G) of section 742.37 of the Revised Code.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under:	111.15
Statutory Authority:	742.10
Rule Amplifies:	742.40
Prior Effective Dates:	05/17/2004, 01/20/2005, 03/01/2007 (Emer.), 05/17/2007, 02/04/2013, 03/22/2018

742-4-07

Accrual of member's contributions.

- (A) For purposes of accruing a DROP participant's contributions in accordance with the provisions of division (B)(1)(a), (B)(1)(b), (B)(2)(a), or (B)(2)(b) of section 742.443 of the Revised Code, the term "thereafter" shall mean the end of the payroll reporting period reported to OP&F in accordance with applicable statutory provisions prior to the anniversary date referenced in each subsection, as more fully illustrated in the following examples.

For example, if the member files his/her election with OP&F on January 3, 2003, but the end of the next payroll period reported to OP&F is January 23, 2003, the effective date of the DROP election is January 24, 2003, as provided for in this rule, even though this payroll will be included in the February payroll that is reported to OP&F in March 2003. In such case, beginning with the January 2005 payroll reported to OP&F, seventy-five per cent of the DROP participant's contributions would accrue to the DROP participant's benefit until the next change in contributions under section 742.443 of the Revised Code. Using this same example, if the last full payroll reporting period for 2005 falls on January 20, 2005, then beginning with the January 21, 2006 payroll period reported to OP&F, one hundred per cent of the DROP participant's contributions would accrue to his/her benefit. For members whose election to participate in DROP is effective after July 1, 2013, the percentage rates for the accrual of contributions shall be the following, which are set forth in division (B)(2) of section 742.443 of the Revised Code: fifty per cent for years one through three; seventy-five per cent for years four through six; and one hundred per cent for years seven and eight.

- (B) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under: 111.15
Statutory Authority: 742.10, 742.43
Rule Amplifies: 742.443
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003, 02/04/2013,
03/22/2018

742-4-08

COLA effective dates for DROP participants.

(A) For purposes of determining the effective date of a cost-of-living allowance ("COLA") set forth in section 742.3716 of the Revised Code for DROP participant, the following shall apply:

- (1) A member whose election to participate in DROP is effective on or before July 1, 2013 and who is fifty-five years of age and already receiving a COLA will continue to receive it at three per cent per annum.
- (2) A member whose election to participate in DROP is effective on or before July 1, 2013 and who is not yet receiving a COLA as of July 1, 2013 will not receive a COLA until he or she is fifty-five years of age and has participated in the plan for one year. The payment of a COLA will commence on the member's DROP effective date after the member has attained the age of fifty-five and a prorated COLA will be paid for the period from the member's fifty-fifth birthday to the member's DROP effective date. The member's DROP effective date will remain the effective date for all future annual COLAs.
- (3) For a member whose election to participate in DROP is effective on or before July 1, 2013 and who has been receiving an annual COLA but is not yet fifty-five years of age by July 1, 2013, the payment of additional COLAs shall be discontinued until the member has attained the age of fifty-five. The payment of COLAs will resume on the member's fifty-fifth birthday and a prorated COLA will be paid for the period from the member's fifty-fifth birthday to the member's DROP effective date. The member's DROP effective date will remain the effective date for all future annual COLAs.
- (4) For a member whose election to participate in DROP is effective after July 1, 2013, no COLAs shall be added to the member's DROP accrual while the member is participating in DROP pursuant to section 742.3716 of the Revised Code.

(B) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under: 111.15
Statutory Authority: 742.10, 742.43
Rule Amplifies: 742.3716
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003, 02/04/2013,
03/22/2018

742-4-13

Impact of military leave.

- (A) This rule shall apply to a member who is a DROP participant, called into active military service, and who is granted service credit for the time period during which the member was called into active military service while a DROP participant, pursuant to section 742.521 of the Revised Code.
- (B) In the event the member is on active military service at the time of the member's effective date into DROP, OP&F shall credit the member's contributions required under division (B)(1) or (B)(2) of section 742.443 of the Revised Code, in accordance with the provisions of paragraph (D) of this rule and shall recalculate the service credit at the time of the member's effective date and corresponding DROP benefit if and when the service credit is granted in accordance with section 742.521 of the Revised Code.
- (C) In cases where the member is called into active military service after the member's effective date into DROP, OP&F shall credit the member's contributions required under division (B)(1) or (B)(2) of section 742.443 of the Revised Code, in accordance with the provisions of paragraph (D) of this rule.
- (D) In determining the member's contributions under paragraphs (B) and (C) of this rule, as the case may be, OP&F shall determine such contributions based on the contributions allocated for the member's benefit based on "salary" reported by the member's employer during that time period during which the DROP participant was in active military service, which is based on the rate the employee would have received but for the period of military service, including any pay raises.
- (E) All determinations of "salary" shall be consistent with the provisions of division (L) of section 742.01 of the Revised Code and rules 742-3-02 and 742-4-06 of the Administrative Code.
- (F) The amount provided for in paragraph (D) of this rule shall only be included for crediting the member's contributions according to division (B)(1) or (B)(2) of section 742.443 of the Revised Code if the member pays to OP&F the difference between the member contributions paid by the member's employer and the actual member contributions due within three times the member's period of uniformed service, but no more than five years, which shall start on the date of the DROP participant's reemployment. All amounts shall be paid at no interest to the member.
- (G) This rule shall be subject to the provisions of division (C) of section 742.444 and section 742.445 of the Revised Code.
- (H) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under: 111.15
Statutory Authority: 742.10, 742.43
Rule Amplifies: 742.444
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003, 08/28/2008,
01/07/2013 (Emer.), 02/04/2013, 03/22/2018

742-5-11

Definition of ~~concurrent~~ service "service rendered concurrently".

For purposes of division (G) of section 742.21 of the Revised Code and division (F) of section 742.212 of the Revised Code, the ~~word "concurrent"~~ term "service rendered concurrently" shall mean service credit earned in another retirement system during the same time period in which the police and fire pension fund has granted or will grant service credit to such member.

Effective:

Five Year Review (FYR) Dates: 1/27/2023

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.21
Prior Effective Dates: 12/06/2002, 12/20/2007

742-7-16

Guardianship.

- (A) Except as provided in paragraph (E) of this rule, guardianship of the estate shall be required to do any of the following on behalf of a member or benefit recipient who has a legal disability, as defined in division ~~(B)~~(A) or (D) of section 2131.02 of the Revised Code:
- (1) Apply for retirement or other benefits or payments on behalf of the member or benefit recipient;
 - (2) Elect an annuity payment plan and designate a beneficiary or beneficiaries, but only upon providing a court order approving the selection of the annuity payment plan and beneficiary designation; and
 - (3) Elect, or make any changes to, the payment of benefits or other monies that are due or become due to the member or benefit recipient, but only with a court order authorizing the release of funds or comparable order from another state that directs the payment of the benefits or other monies to be paid to the guardian or to a specific account at a financial institution.
- (B) A guardian of the person is eligible to receive the account information of a member or benefit recipient, but may not make any changes regarding the account.
- (C) A guardian of the estate, the person, or both shall provide OP&F with a copy of the "Letters of Guardianship" issued by the probate court showing his or her appointment as guardian.
- (D) In lieu of guardianship, a court of competent jurisdiction may issue a limited order pursuant to section 2111.02, 2111.021, 2111.05 or 2111.131 of the Revised Code or comparable law from another state that directs OP&F to issue a member or benefit recipient's payment to a specific person or entity, and specifies the address and direct deposit routing and account numbers for the financial institution to receive such payment.
- (E) Any benefits or payments that are due a benefit recipient who is a minor may be issued to the natural parent caring for the benefit recipient or the legal custodian of the benefit recipient. After the age of eighteen, payments shall be issued directly to the benefit recipient unless the benefit recipient is subject to an ongoing guardianship.

Effective:

Five Year Review (FYR) Dates: 1/27/2023

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.26, 742.63, 742.58, 742.50, 742.446, 742.444,
742.39, 742.38, 742.3714, 742.3711, 742.37
Prior Effective Dates: 12/21/2017, 12/11/2022

742-9-18

Overpayment of contributions by employer.

- (A) For purposes of this rule, “member contributions” shall mean the employee contributions required by sections 742.31 and 742.32 of the Revised Code. “Employer contributions” shall mean the police officer employers’ contribution and firefighter employers’ contribution required by sections 742.33, 742.34, and 742.35 of the Revised Code.
- (B) OP&F will not issue a refund of overpaid member contributions that is less than one hundred dollars per member or payroll. Rather, a credit will be applied to the employer’s account for a balance due in the future. An overpayment of member contributions that is one hundred dollars or more may be refunded to the employer, provided that the employer makes a written request for the overpayment. Otherwise, a credit will be applied to the employer’s account for a balance due in the future.
- (C) Except as provided in this rule, OP&F will not issue a refund of overpaid employer contributions resulting from a correction or adjustment to a member or payroll. Rather, a credit will be applied to the employer’s account for a balance due in the future. A refund may be issued if an employer duplicates an entire monthly payment.
- (D) OP&F shall annually review balances and communicate with employers.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.31, 742.32, 742.33, 742.34, 742.35
Prior Effective Dates: 02/25/2018

742-16-02

Board of trustees.

- (A) For purposes of sections 742.38 and 742.63 of the Revised Code, an employee member of the board of trustees shall be considered to be in the performance of his or her official duties as a member of a police or fire department while engaged in the performance of any of his or her official duties as a member of the board of trustees or in the conduct of any business connected with Ohio police and fire pension fund or in giving attention to any matters related to the administration or business of OP&F.
- (B) For purposes of section 742.63 of the Revised Code, an employee member of the board of trustees shall be considered to be in the line of duty as a fire fighter or police officer while engaged in the performance of any of his or her official duties as a member of the board of trustees or in the conduct of any business connected with OP&F or in giving attention to any matters related to the administration or business of OP&F.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.38, 742.63
Prior Effective Dates: 11/24/1997, 02/04/2013, 03/22/2018

742-19-01

Administration of public safety officers death benefit fund.

(A) Subject to the terms of division (J) of section 742.63 of the Revised Code, benefits from the public safety officers death benefit fund shall be paid only to eligible surviving spouses and children or dependent parents of persons listed in section 742.63 of the Revised Code provided the member is "killed in the line of duty," as such term is defined in division (A)(12) of section 742.63 of the Revised Code.

(B) Application and determination of benefits.

(1) Application for death fund benefits shall be made on a form provided by the Ohio police and fire pension fund ("OP&F"). Such application shall include an agreement by the applicant to be responsible for reporting any person in the family unit who becomes ineligible for benefits due to marriage or age limitations.

~~(a) An agreement by the applicant to be responsible for reporting any person in the family unit who becomes ineligible for benefits due to marriage or age limitations.~~

~~(b) A statement agreeing to exercise the right to a monthly survivor benefit under division (A) or (B) of section 145.45 of the Revised Code, division (D), (E) or (F) of section 742.37 of the Revised Code, or division (A)(3), (A)(4), (A)(5), or (A)(6) of section 5505.17 of the Revised Code.~~

(2) Applications shall be made for the family unit by the surviving spouse. In cases where no eligible spouse exists, and only minor children are eligible, the application shall be filed by the legal guardian.

(3) Documentation to be provided by the applicant shall include: a copy of the marriage record, a copy of the death certificate, a birth certificate for each child, and evidence that death was a result of performance of official duties. A guardian who is the applicant shall provide supporting court documentation showing the person's appointment as guardian. Department certification and other documentation may be required by OP&F prior to determination of eligibility.

(4) OP&F's board of trustees shall determine a survivor's eligibility for benefits provided for in section 742.63 of the Revised Code and in the event of a denial of benefits, the survivor shall have the right to submit up to two requests for reconsideration provided, however, that new evidence is submitted with such request for reconsideration. OP&F shall review the request for reconsideration in the same manner as an initial application for benefits, subject to the limitations stated in this division.

(5) If an initial application for death fund benefits or request for reconsideration has been filed with OP&F, but the required supporting documentation has not been submitted or the applicant has not taken any action to prosecute his or her claims within six months of the filing with OP&F, OP&F shall have the authority to dismiss the initial application or request for reconsideration for failure to prosecute the claim. In order to dismiss a claim for failure to prosecute, OP&F must have given ninety days prior written notice to the applicant of the need to file the required supporting documentation and the applicant failed to file the necessary documentation with OP&F before the expiration of such ninety day time period.

(C) Cause of death of member. For purposes of section 742.63 of the Revised Code, survivors shall be eligible for death fund benefits if the member's death is under the following circumstances:

- (1) Injury or disease sustained in the line of duty.
- (2) Heart disease, with fatal attack while in the line of duty.
- (3) Heart disease or other fatal injury or illness while off duty, if the fatal attack or other fatal injury or illness was caused while in the line of duty.

For purposes of this paragraph, "in the line of duty" shall mean the official duties provided by the employer, including any duties arising out of agreements that the employer may have entered into for the performance of services on behalf of other Ohio villages, cities, or municipalities, or federal agencies or as otherwise imposed by law.

(D) Determination of benefit amount. The term "full monthly salary" as used in division (A) (11) of section 742.63 of the Revised Code shall mean one-twelfth of the base annual ordinance, statute, or contract salary authorized by the employer for the position and salary level attained by the member at the time of death; such position shall be the basis for any future benefit adjustments. Adjustments in benefits shall be made in accordance with the base salary ordinance, statute, or contract of the employer where the decedent was employed.

(E) Method of payment and commencement of payments.

- (1) Where benefits are divided among family members, one payment shall be issued to the spouse and one for each minor child.
- (2) A payment issued for a child under eighteen years of age or for a disabled child shall be made payable to the child's parent or guardian.

- (3) Benefit payments to eligible survivors shall be effective the first day of the month following the month of death.
 - (4) Payments may not be made prior to board approval.
- (F) Definition of "child" and "children." As used in section 742.63 of the Revised Code, "child" and "children" mean:
- (1) Any natural child or children born to a marriage of the deceased member, except a child or children adopted by another person prior to the member's death.
 - (2) Any child or children legally adopted by the member prior to his or her death ~~and any child or children subsequently adopted by the surviving spouse of a member when the member's intention to adopt the child or children was clearly manifested to the satisfaction of the board.~~
 - (3) Any natural child or children born outside a marriage of the deceased member when the parenthood of the member can be established to the satisfaction of OP&F's board of trustees.

Effective:

Five Year Review (FYR) Dates: 1/27/2023

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.63
Prior Effective Dates: 01/03/1977, 01/01/1978, 07/11/1984 (Emer.),
09/15/1984, 02/17/2000, 09/07/2001 (Emer.),
11/23/2001, 02/20/2002 (Emer.), 05/09/2002,
05/17/2007, 12/20/2007, 02/04/2013, 03/22/2018,
09/22/2022

742-20-01

Recovery of overpaid funds.

- (A) As provided by section 742.64 of the Revised Code, if a person is paid any benefit or payment by Ohio police and fire pension fund (OP&F) to which the person is not entitled, the benefits shall be repaid to OP&F by the person and/or the person's beneficiary, which shall include the person's estate. If the person or the person's beneficiary or estate fails to make such repayment, OP&F shall withhold the amount due from any payment due the person or the person's beneficiary or estate under this chapter or may collect the amount in any other manner provided by law.
- (B) This rule is in addition to the payment provisions outlined in rule 742-3-08, 742-3-20 or 742-7-09 of the Administrative Code.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under:	111.15
Statutory Authority:	742.10
Rule Amplifies:	742.10
Prior Effective Dates:	10/13/2005, 08/28/2008, 01/07/2013 (Emer.), 02/04/2013

742-21-01

Form of division of property orders.

- (A) The division of property orders to be used by the courts for orders described in section 3105.81 of the Revised Code shall be made on the form prescribed by the appendix to this rule.
- (B) Subsequent to the time Ohio police and fire pension fund (OP&F) receives a division of property order, an alternate payee shall provide information required on the form prescribed by the appendix to this rule. An alternate payee shall notify OP&F in writing of any change in the required information contained in the form.

Five Year Review (FYR) Dates: 2/3/2023 and 02/03/2028

CERTIFIED ELECTRONICALLY

Certification

02/03/2023

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.462, 3105.81, 3105.90
Prior Effective Dates: 01/01/2002 (Emer.), 03/24/2002, 08/21/2003,
01/01/2010, 01/01/2014, 02/25/2018

3309-1-03 **Staff authority and appeals.**

- (A) The school employees retirement board authorizes its administrative staff to make determinations on member and benefit matters in accordance with Chapter 3309. of the Revised Code, this chapter, and policies of the retirement board. This authority includes, but is not limited to, membership, compensation, benefits, and employer reporting matters. Final determinations by the staff may be appealed to the retirement board pursuant to this rule.
- (B) Except as provided in rules 3309-1-40 and 3309-1-41 of the Administrative Code, any affected person may appeal a final determination of the staff of the school employees retirement system as provided in this rule.
- (C)
- (1) A notice of appeal shall be submitted to the executive director in writing, and must be received by the retirement system no more than thirty days after the date of the final staff determination. It shall state the determination to be reviewed, the basis for the review, and whether a personal appearance before the retirement board is requested.
- (2) The retirement system shall notify the person of the time and place of the personal appearance, if one was requested, and the deadline for submitting any documentation the person wants the retirement board to consider on appeal.
- (D)
- (1) The retirement board shall review each appeal and determine whether to uphold the staff determination based upon information in the files of the retirement system.
- (2) The affected persons and their representatives shall be notified of the retirement board's determination which shall be final.
- (E) Any notice required or permitted to be given by the retirement system under this rule shall be sent by regular U.S. mail by the administrative staff of the retirement system addressed to the last address on file in the records of the retirement system.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.14
Prior Effective Dates: 09/27/2004, 03/30/2007, 10/06/2008, 04/01/2013,
05/01/2018

3309-1-04

Election of retirement board members.

(A) The school employees retirement board shall conduct elections in accordance with Chapter 3309. of the Revised Code and this rule.

(B) Notifications

(1) At a regular meeting of the retirement board but no later than July in the fiscal year in which an election of members to the board is required, the retirement board shall establish an election time schedule.

(2) This schedule shall include, a statement of the requirements for nomination by petition, the date after which nominating petitions shall be available, the final date for receipt of completed nominating petitions, the final date for receipt of completed election ballots being the first Monday in March, and the date and place for the election count to be conducted under the supervision of judges as designated in paragraph (D) of this rule.

(C) Nominations

(1) Candidates for board members shall be nominated by petition on forms provided by the school employees retirement system.

(2)

(a) Not later than the last business day of September in the fiscal year in which an election is held for an employee member, notice of election posters shall be sent to employers and petitions and required forms shall be available to members.

(b) Any member, except a member receiving a disability benefit pursuant to section 3309.40 or 3309.401 of the Revised Code, who is not otherwise ineligible under Chapter 3309. of the Revised Code, may be nominated for election as an employee member of the board by petitions that contain at least five hundred valid nominating signatures with not less than twenty signatures of members from each of at least ten different counties in Ohio. In order for a nominating signature to be valid, the member must be actively contributing to SERS and their SERS ID or last 4 digits of their social security number and the name of their school employer and the county in which the employer is located must be provided. The member's place of employment shall determine the county for such member.

(3)

- (a) Not later than the last business day of September in the fiscal year in which an election is held for a retirant member, a notice of election shall be sent to retirants at their home addresses of record and petitions and required forms shall be available to retirants.
- (b) Any retirant, who is not otherwise ineligible under Chapter 3309. of the Revised Code, may be nominated for election as a retirant member by petitions which contain at least one hundred fifty valid nominating signatures, with not less than ten signatures of retirants from each of at least five different counties in Ohio. In order for a nominating signature to be valid, the retirant's SERS ID or last four digits of their social security number, their home address and county must be provided. The retirant's place of residence shall determine the county of such retirant.

(4)

- (a) Petitions and completed required forms for a candidate must be received by the system by the petition filing date established by the retirement board pursuant to paragraph (B) of this rule to be valid.
- (b) Petition signatures and candidate eligibility shall be verified based on records of the retirement system and the requirements of Chapter 3309. of the Revised Code. Signatures that cannot be conclusively verified shall not be counted.
- (c) The names of qualified candidates shall be certified by a director of the retirement system and shall be subject to review and audit by the secretary of state. A qualified candidate is one who meets the requirements of Chapter 3309. of the Revised Code. In the event that there is a discrepancy between the certification by the officer of the retirement system and the results of the review and audit by the secretary of state, the determination of the secretary of state shall control and be final.
- (d) Based on the final certification, the names of qualified candidates shall be placed on the ballot for election. Each ballot shall also include a space for a write-in candidate.

(D) Voting

- (1) The retirement board may conduct an election by paper ballots or through electronic methods.
- (2)

- (a) Voting materials for each voting member or retirant of the retirement system shall include a list of candidates, information on each candidate, voting instructions, and any other materials the retirement board deems necessary.
 - (b) Voting materials shall be sent to eligible members or retirants no later than the last business day in January in an election year at the address on file with the retirement system.
- (3)
- (a) For any election requiring a vote by members, the retirement board shall distribute ballots for such election to all members whose accounts have had contributions posted within the eighteen month period immediately preceding the month in which ballots are distributed; and
 - (b) To members whose accounts have not had contributions posted within the eighteen month period immediately preceding the month in which ballots are scheduled to be distributed, upon the members written request for a ballot.
- (4) The election count shall be monitored by a panel of judges consisting of representatives of the secretary of state and the attorney general. The representative of the secretary of state shall be the chief judge. If a representative from such offices is not available, a representative of the retirement system's independent auditor and/or the auditor of state may be substituted. If a representative of the secretary of state is not available, the chief judge, in order of precedence, shall be the representative of the attorney general, the representative of the auditor of state, or the representative of the retirement system's independent auditor.
- (5) If the ballot count results in a tie vote, the election shall be determined by a coin toss conducted by the judges with "heads" being assigned to the candidate whose last name is first alphabetically and "tails" assigned to the other candidate.
- (6) If a candidate is elected by a margin of less than one percent of the votes cast, a recount will automatically be conducted.
- (7) The chief judge shall provide a certification of the election results signed by all judges. The election results shall be submitted to the retirement board for its approval at the first regular retirement board meeting that is not less than thirty-one calendar days after certification of the results of the election.

- (8) Within thirty calendar days after the certification of the election count, an unsuccessful candidate may request a recount in writing to the retirement board together with a check payable to the retirement system for the costs of the recount in the amount of one hundred dollars; provided however, if the recount results in the requesting candidate winning the election, the cost shall be refunded.

(E) Vacancies

- (1) When an election is held to fill the vacant term of an elected member of the board, the election shall be held pursuant to paragraph (E) of this rule.
- (2) The retirement board by majority vote of the board shall declare the seat vacant and establish a board-meeting schedule to nominate, interview and select a successor member to fill the position.
- (3) The retirement board shall provide notice of the vacancy and the procedure and forms required to be considered as a qualified candidate to fill the vacancy.
 - (a) Candidates shall qualify under the same eligibility requirements as the predecessor in office.
 - (b) The names of qualified candidates shall be certified by a director of the retirement system and shall be subject to review and audit by the secretary of state. In the event that there is a discrepancy between the certification by the officer of the retirement system and the results of the review and audit by the secretary of state, the determination of the secretary of state shall control and be final.
- (4) At a public board meeting, each board member may nominate one candidate to fill the vacancy.
- (5) The board members shall interview the nominated candidates.
- (6) A successor member shall be elected from the list of candidates by a majority vote of the retirement board in a public meeting as follows:
 - (a) Two successive votes shall occur in order for one candidate to receive a majority. If no candidate receives a majority, successive votes shall continue with the candidate receiving the least number of votes eliminated after each vote until one candidate receives a majority vote of the board or until only two candidates remain.

- (b) In the event no candidate receives a majority vote and two candidates remain, one final vote shall occur. If neither candidate receives a majority vote, the winner shall be decided by a coin toss conducted by the election judge with "heads" assigned to the candidate whose last name is first in alphabetical order and "tails" to the other candidate.
- (7) The election shall be monitored by a representative of the secretary of state, or if unavailable, by a representative of the attorney general, who shall serve as election judge and certify the results of the election.
- (8) All documents regarding filling the vacancy, including resumes and forms required by the retirement system, shall be made available to any person upon request and payment of the cost of compiling, copying and mailing the documents.
- (F) An employee member of the board who retires while a member of the board shall be eligible to become a retirant member of the board when three years have elapsed from the member's effective date of retirement and the date of the scheduled election for the retirant member seat. An employee member of the board retires while a member of the board when the member served on the board in the month immediately preceding the member's effective date of retirement.

Effective:

Five Year Review (FYR) Dates: 2/1/2023

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.05, 3309.06, 3309.07, 3309.071, 3309.075,,
3309.22
Prior Effective Dates: 12/02/2004, 08/10/2007, 04/03/2009, 01/07/2013,
04/10/2014

3309-1-09

Federal taxation.

- (A) For purposes of this rule, “benefit” refers to a payment from the accumulated contributions of the member or the employer, or both, under Chapter 3309. of the Revised Code and includes an account refund, pension, annuity, disability benefit, or survivor benefit.
- (B) Notwithstanding any provision in rules of school employees retirement system ("SERS") or Chapter 3309. of the Revised Code to the contrary, distributions to members and beneficiaries shall be made in accordance with section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C. 401(a)(9), and the following:
- (1) The entire interest of a member shall be distributed to the member:
 - (a) Not later than the required beginning date; or
 - (b) Beginning not later than the required beginning date over the life of the member and a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code.
 - (2) The required beginning date means April first of the calendar year following the later of:
 - (a) The calendar year in which the member attains seventy-two years of age; or
 - (b) The calendar year in which the member retires.
 - (3) If distribution of a member's benefit has begun in accordance with section 401(a)(9) of the Internal Revenue Code, and the member dies, any survivor benefits will be distributed at least as rapidly as under the plan of payment selected and effective as of the date of the member's death.
 - (4) If a member dies before the distribution of the member's interest has begun in accordance with section 401(a)(9) of the Internal Revenue Code, the entire interest of the member will be distributed within five years after the death of such member. However, if a benefit is payable to or for the benefit of a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code, the benefit may be distributed, in accordance with applicable regulations, over the life of such beneficiary, or over a period not extending beyond the life expectancy of the beneficiary, provided that such distributions begin not later than one year after the date of the member's death. If the beneficiary is the surviving spouse of the member, distributions shall not be required to begin, pursuant to that section, until the end of the calendar year in which the member would have attained age seventy-two. When the beneficiary

is the surviving spouse and the surviving spouse dies before distributions commence, then the surviving spouse shall be treated as the member for purposes of this rule.

- (5) Any death benefit amount payable under Chapter 3309. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.
- (C) When the retirement system is required to make a distribution in accordance with section 401(a)(9) of the Internal Revenue Code, and a member or retirant does not respond after notification of such event, the following shall apply notwithstanding any provision in SERS rules or Chapter 3309. of the Revised Code to the contrary.
- (1) If the member is not eligible for a retirement allowance pursuant to section 3309.34 or 3309.35 of the Revised Code, the retirement system shall refund the member's account as authorized in section 3309.42 of the Revised Code.
- (2) If the member is eligible for a retirement allowance pursuant to section 3309.34 or 3309.35 of the Revised Code, the retirement system shall calculate and pay a benefit as authorized in section 3309.36 or 3309.343 of the Revised Code, as a plan B, effective on the required beginning date as provided in paragraph (B)(2) of this rule.
- (a) The member cannot purchase or receive any service credit after the effective date of the retirement allowance.
- (b) A member who commences receipt of a retirement allowance under this rule, and who is married, may, not later than one year after the payment commenced, elect a plan of payment under division (B)(1), (B)(3)(b), or (B)(3)(c) of section 3309.46 of the Revised Code provided the spouse is named as the beneficiary. The election shall be made on a form provided by the retirement system and shall be effective on the later of the effective date of the retirement allowance or the marriage. Any overpayment may be recovered as provided in section 3309.70 of the Revised Code.
- (c) If the member also was eligible for health care coverage pursuant to SERS rules and Chapter 3309. of the Revised Code, the member may, not later than sixty days after the commencement of payment of the retirement allowance, enroll for such health care coverage on a form provided by the retirement system. The effective date shall be no earlier than the first of the month after the retirement system receives the member's enrollment form.

- (3) If the retirant is eligible for a benefit pursuant to section 3309.344 of the Revised Code, the retirement system shall calculate and pay a single lump sum benefit as authorized in section 3309.344 of the Revised Code. If such retirant also is eligible for an annuity, the retirant may return the lump sum payment within sixty days of the receipt of the payment and request an annuity on a form provided by the retirement system.
 - (4) If the benefit payment of a deceased member's spouse is subject to section 401(a)(9) of the Internal Revenue Code, then the retirement system shall treat the spouse as if the spouse was the member for the purposes of this rule.
- (D)
- (1) Effective for the limitation year beginning on January 1, 2012, the final regulations promulgated April 5, 2007 with respect to section 415 of the Internal Revenue Code, 26 U.S.C. 415 are incorporated herein by reference. The 5.5 per cent interest rate assumption established by the Pension Funding Equity Act of 2004, which is applicable to any actuarial adjustments required because the member or retirant elects a form of payment to which section 415(b)(2)(E) of the Internal Revenue Code and section 417(e)(3) of the Internal Revenue Code, 26 U.S.C. 417(e)(3) apply based on the form of benefit and not the status of the plan, shall be effective as of that same date.
 - (2) "Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code have been exceeded with respect to a member or retirant in the plan describe in sections 3309.18 to 3309.70 of the Revised Code. The limitation year for the plan is the calendar year.
- (E) Effective January 1, 2007, to the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37) and notwithstanding any provision in Chapter 3309. of the Revised Code to the contrary, the survivor of a member on a leave of absence to perform military service with reemployment rights described in section 414(u) of the Internal Revenue Code, 26 U.S.C. 414(u), where the member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under Chapter 3309. of the Revised Code had the member resumed employment and then terminated employment on account of death.
- (F) If there is a termination of the plan described in Chapter 3309. of the Revised Code or a complete discontinuance of contributions to the plan, the rights of each affected member, retirant, and beneficiary to the pension, annuity, or benefits accrued at the date of termination or discontinuance of contributions, to the extent then funded, are non-forfeitable.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.03, 3309.34, 3309.344, 3309.36, 3309.44,
3309.45, 3309.46, 3309.50
Prior Effective Dates: 01/06/2009 (Emer.), 04/03/2009, 09/26/2010,
04/01/2013, 04/10/2014, 05/01/2018, 06/05/2020

3309-1-13

Obtaining optional or compulsory service credit.

(A) Optional service credit

(1) Except as provided by section 3309.012 of the Revised Code, a member of the school employees retirement system, public employees retirement system, or state teachers retirement system shall be eligible to purchase service credit for school employment on or before June 30, 1991 ~~for any period during~~ which contributing service was optional. Contributing service shall be deemed to be optional when contributions were not required by the school employees retirement system and no contributions or member record was received. In order to receive optional service credit, payments shall be made as provided in this paragraph.

(2) ~~For~~

(a) For any period of optional service, the member shall pay to the school employees retirement system an amount equal to the employee's and employer's contributions for such period, plus interest at the rate to be set by the school employees retirement board from the end of each year compounded annually. Such amounts paid by the member shall be credited to the employees' savings fund.

(b) Optional service may be purchased in one month increments.

(c) When only a portion of a period of optional service is purchased, service shall be purchased in reverse chronological order from the most recent month to the oldest month.

(3) In lieu of the member paying the amounts described in this paragraph, the employer for which the optional service was performed may pay an amount equal to either the employee's and employer's, or only the employer's, contributions for such period, plus interest at the rate set by the retirement board from the end of each year compounded annually. If paid by the employer, such amounts shall be credited as follows:

(a) The amount and interest attributable to the employee's back contributions shall be credited to the employees' savings fund; and,

(b) The amount attributable to the employer's contributions shall be deposited in the employers' trust fund and the interest collected on such amount shall be credited to the guarantee fund.

If the employer pays only the amount equal to the employer's contributions and interest on that amount, the member shall pay the amount equal to the employee's contributions and interest on that amount.

(B) Compulsory service credit

- (1) Except as provided in paragraph (B)(3) of this rule, to receive service credit for periods of compulsory service prior to June 30, 1991, for which the employer did not deduct and transmit contributions, the member shall pay the employee's share of the back contributions and the employer shall pay the employer's share of the back contributions. Payments for both the employee's and the employer's shares of back contributions shall include a charge for interest at the rate set by the retirement board from the end of each year, compounded annually.
 - (a) The employee's back contributions and interest shall be credited to the employees' savings fund, and in the event of death or withdrawal from service prior to retirement, shall be paid in the same manner as accumulated contributions pursuant to sections 3309.42 and 3309.44 of the Revised Code.
 - (b) The employer's share of back contributions shall be deposited in the employers' trust fund and the interest collected thereon shall be credited to the guarantee fund.
- (2) Except as provided in paragraph (B)(3) of this rule, to receive service credit for periods of compulsory service after June 29, 1991, for which the employer did not deduct and transmit contributions, the employer shall pay both the employer's share and the employee's share of the back contributions. Payments for both the employee's and the employer's shares of back contributions shall include a charge for interest at the rate set by the retirement board from the end of each year, compounded annually.
 - (a) The employee's back contributions and interest shall be credited to the employees' savings fund, and in the event of death or withdrawal from service prior to retirement, shall be paid in the same manner as accumulated contributions pursuant to sections 3309.42 and 3309.44 of the Revised Code.
 - (b) The employer's share of back contributions shall be deposited in the employers' trust fund and the interest collected thereon shall be credited to the guarantee fund.

- (3) When a member has left service with an employer after attaining sixty-five and applies for retirement, the member shall receive service credit in accordance with section 3309.48 of the Revised Code for periods of compulsory service prior to June 30, 1991, for which the employer did not deduct and transmit contributions.
- (C) The compensation and service of the member shall be certified by a fiscal officer of the school district who has knowledge of and access to the records of the district. A member cannot certify his own compensation or service.
- (D) The member's share of back contributions may be paid directly to the retirement system.
- (E) The employer's share of back contributions may be paid either by an official warrant or collection from the employer's share of the state school foundation fund.
- (F) Service credit for any period described in this rule shall be credited to the member's account on the date payment in full has been received by the retirement system for both the employee and employer shares of back contributions.

Effective:

Five Year Review (FYR) Dates: 2/1/2023

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.23, 3309.34, 3309.47, 3309.48, 3309.49,
3309.51, 3309.56, 3309.57
Prior Effective Dates: 12/24/1976, 02/01/1992, 06/12/1995, 02/11/2000,
07/30/2001 (Emer.), 11/01/2001, 05/09/2003,
04/01/2013, 12/22/2019

3309-1-15

Applicable law in determining survivor benefits.

The law in effect at the time a deceased member's beneficiary is first eligible for a survivor benefit shall determine the benefits payable to such beneficiary or to any other person who subsequently becomes eligible to receive a survivor benefit by reason of the member's death prior to retirement.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.661
Prior Effective Dates: 12/24/1976, 11/09/1998, 05/09/2003

3309-1-17

Allowances and benefits payable.

The administrative staff is hereby authorized to pay retirement allowances, disability benefits, and other benefits during the interim period which may occur between the date such allowances and benefits are payable and the date the retirement board can receive and act upon the application, as such authority so granted is considered as necessary to the proper operation of the retirement system.

For purposes of this rule, disability benefits are payable after the submission of a determination and recommendation of disability to the retirement board and after the retirement system has received the employer's certification of final deposits on behalf of the member.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.14
Prior Effective Dates: 12/24/1976, 05/08/2004, 12/04/2014

3309-1-21 **Estimated retirement allowances.**

(A) For purposes of this rule:

(1) "Final retirement allowance" means a monthly retirement allowance paid pursuant to section 3309.35, 3309.36 or 3309.46 of the Revised Code that the retirement system calculates after the employer certifies the final contributions and service credit made on behalf of the member.

(2) "Estimated retirement allowance" means a monthly retirement allowance paid pursuant to section 3309.35, 3309.36 or 3309.46 of the Revised Code prior to the certification of a member's final contributions and service credit and the calculation of the final retirement allowance.

(B) A member retiring on or after March 1, 2014 under section 3309.35, 3309.36 or 3309.46 of the Revised Code who meets the following requirements shall receive an estimated retirement allowance:

(1) The retirement system has received the member's application for age and service retirement and all required forms and documents necessary to process the retirement application at least thirty days prior to the effective date of retirement.

(2) The member has sufficient service credit in this system to retire under section 3309.34 of the Revised Code, not including the following:

(a) Any additional service that may be credited following receipt of the certification of final deposits from the employer; and

(b) Service credit purchases not completed at least thirty days prior to the benefit effective date.

(C) Notwithstanding paragraph (B) of this rule, an estimated retirement allowance will not be issued if:

(1) The member elects to receive health care coverage and the amount of the benefit recipient's health care premium will exceed the amount of the estimated retirement allowance; or

(2) The member's retirement allowance is subject to any court order.

(D) An estimated retirement allowance shall be calculated using the accumulated contributions and service credit available in the account of the member at the time the retirement application is received. The retirement system shall calculate the final

retirement allowance following the receipt of the employer's certification of final deposits and all contributions on behalf of the member.

- (1) If no additional contributions are received by the retirement system, the estimated retirement allowance shall be the final retirement allowance.
 - (2) If the final retirement allowance is greater than the estimated retirement allowance, the retirement system shall issue a retroactive payment for the difference between the total amount paid as estimated retirement allowances and the amount that would have been paid had the member received payments in the amount of the final retirement allowance.
 - (3) If the final retirement allowance is less than the estimated retirement allowance, the retirant shall repay any overpayment to the retirement system pursuant to section 3309.70 of the Revised Code.
- (E) In order to change a retirement plan of payment selection, including an election to take or change the amount of a partial lump sum option payment, a member must withdraw their retirement application in accordance with rule 3309-1-33 of the Administrative Code and file a new application.
- (F) If the member elects to receive a partial lump sum option payment pursuant to division (B)(4) of section 3309.46 of the Revised Code, the retirement system shall make such payment following the calculation of the final retirement allowance under paragraph (D) of this rule.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.35, 3309.45, 3309.46
Prior Effective Dates: 12/14/2013, 05/01/2018, 05/03/2019

3309-1-23

Contributing status; compulsory and optional.

- (A) The following standards shall apply for the determination of contributing status in the school employees retirement system.
- (B) Contributing status shall be required for any employee of an employer as defined in divisions (A) and (B) of section 3309.01 of the Revised Code beginning with the first date of service, unless contributing status is otherwise made optional under this rule or the provisions of Chapter 3309. of the Revised Code.
- (C)
- (1) Employees who are eligible pursuant to division (B) or (C) of section 3309.23 of the Revised Code to elect to be exempt from contributing status, shall make such election by filing a written application for exemption with their employer within the first month of being employed.
 - (2) Once an exemption is filed, it is irrevocable during the current period of employment for the same employer provided the employee remains qualified for an exemption pursuant to division (B) or (C) of section 3309.23 of the Revised Code. Should the employee no longer qualify for an exemption, the previously filed exemption shall be invalid and contributing status shall be mandatory.
 - (3) An exemption shall be valid only during the current period of employment for the employer by whom the employee is employed at the time that the exemption is filed. When such employment terminates, the exemption also terminates. Upon return to employment, either for the former or for another employer, contributing status is mandatory unless the employee qualifies and timely applies for an exemption.
- (D)
- (1) Within thirty days of initially taking office, school board members or governing board members who are compensated by the school district for their services as board members may elect to be members by filing a written election with the treasurer of the board of education. If the board member elects to be a member, the treasurer of the board of education shall notify the system of the election on a form provided by the school employees retirement board. Board members who are not compensated for their services, or who receive only reimbursement or payment for their expenses, are not eligible to be members.

- (2) A board member who is a SERS retirant or other system retirant as defined in section 3309.341 of the Revised Code and who has elected to be a member shall contribute under the provisions of section 3309.341 of the Revised Code.
- (3) The election to become a member, once made, is irrevocable during the board member's current term as a board member, and during any successive terms where the board member has not, prior to the commencement of the term, refunded his accumulated contributions or taken a retirement benefit from the school employees retirement system.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under:	111.15
Statutory Authority:	3309.04
Rule Amplifies:	3309.23, 3309.012
Prior Effective Dates:	12/24/1976, 02/18/1977, 01/01/1986, 03/01/1989, 02/01/1992, 01/02/1996, 05/08/2004, 04/03/2009, 05/03/2019

3309-1-31

Adjusting retirement eligibility requirements.

- (A) This rule applies only to members who retire under division (A)(2)(a) of section 3309.34 of the Revised Code.
- (B) For each quinquennial actuarial review conducted under division (B) of section 3309.21 of the Revised Code, the school employees retirement board shall direct its actuary to evaluate the retirement eligibility requirements in division (A)(2)(a) of section 3309.34 of the Revised Code.
- (1) If the actuary determines that an adjustment to the retirement eligibility criteria is necessary to ensure that the retirement system meets the thirty-year amortization period requirement of section 3309.211 of the Revised Code, the retirement board shall direct its administrative staff to develop recommendations for changes to the retirement eligibility criteria consistent with the actuarial determination.
 - (2) The recommendations developed under paragraph (B)(1) of this rule shall be submitted to the retirement board at a regularly scheduled board meeting. The retirement board shall take no formal action on the recommendations at the meeting the recommendations are first presented.
 - (3) No sooner than thirty days after the recommendations are presented to the retirement board, the retirement board shall schedule at least one special meeting, held in accordance with section 121.22 of the Revised Code, for the purpose of receiving public comments on the recommendations.
 - (4) The retirement board shall modify the retirement eligibility criteria only after considering the recommendations and any public comments.
- (C) Any modifications to the retirement eligibility requirements made pursuant to this rule will go into effect no earlier than two years after the effective date of the administrative rule adopted under division (D) of section 3309.34 of the Revised Code.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under:	111.15
Statutory Authority:	3309.04
Rule Amplifies:	3309.04
Prior Effective Dates:	09/30/2013

3309-1-36

Restoration of cancelled SERS service credit.

(A) For purposes of section 3309.26 of the Revised Code and this rule:

- (1) "Contributing service credit" means contributing service credit in this system, the public employees retirement system, the state teachers retirement system, the Ohio police and fire pension fund, or the state highway patrol retirement system.
- (2) "Eligible member" means a member of this system who has cancelled service in this system and who has earned at least one and one-half years of contributing service credit subsequent to the withdrawal of contributions and cancellation of service credit in this system.
- (3) "Eligible former member" means a former member of this system who has cancelled service in this system, who has earned at least one and one-half years of contributing service credit subsequent to the withdrawal of contributions and cancellation of service credit in this system, and who is not eligible to buy the cancelled service as a member of the Ohio police and fire pension fund, the state highway patrol retirement system, or the city of Cincinnati retirement system.

(B) Eligible members and eligible former members may restore all or a portion of cancelled service credit in this system by paying to the system the amount withdrawn plus interest compounded annually.

(C) Compound interest shall accrue from the first of the month of withdrawal through the month of repayment.

(D) Cancelled service credit may be restored in increments of one month.

(E) Service credit restored under this rule shall receive .125 per cent of a year service credit per month of service rendered prior to July 1, 1955, and .111 per cent of a year service credit per month of service rendered after June 30, 1955 and before July 1, 1977. Service performed after June 30, 1977 shall be determined by dividing the number of days paid by one hundred eighty, if the employee worked less than one hundred twenty days in the partial year to be restored. All other service restored under this rule shall receive .083 per cent of a year service credit per month of service rendered.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.26
Prior Effective Dates: 12/24/1976, 11/09/1998, 05/02/2001, 04/03/2008,
04/01/2013

3309-1-38

Interest rate.

Except as otherwise provided in Chapter 3309. of the Revised Code or SERS rules, the rate of compound interest for the purchase or restoration of service credit under Chapter 3309. of the Revised Code or SERS rules shall be the rate guaranteed by the retirement board at time of purchase, as recommended by the actuary, and such rate of compound interest shall be applied to the entire period purchased or restored.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.01(I), 3309.021, 3309.022, 3309.26, 3309.31,
3309.451, 3309.473, 3309.474, 3309.73, 3309.75
Prior Effective Dates: 12/24/1976, 02/01/1992, 01/02/1993, 11/01/1996,
11/09/1998, 05/02/2001, 02/11/2002, 05/09/2003,
04/01/2013, 05/01/2018

3309-1-39

Purchase of police and fire and highway patrol service.

- (A) A member may purchase all or a portion of service credit for Ohio police and fire service and Ohio highway patrol service as provided in section 3309.73 or 3309.731 of the Revised Code.
- (B) A member is not eligible to purchase or obtain credit if being paid, or eligible to be paid, a benefit based on the service in another pension plan.
- (C) Service purchased under section 3309.73 or 3309.731 of the Revised Code shall be properly certified by an official of the Ohio police and fire pension fund, or the state highway patrol retirement system, or the official employer or custodian of records, on a form furnished by the retirement board.
- (D) Service credit may be purchased in increments of one month.
- (E) Interest shall be calculated as provided in section 3309.73 or 3309.731 of the Revised Code.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.73, 3309.731
Prior Effective Dates: 12/24/1976, 11/09/1998, 05/02/2001, 05/03/2002,
04/03/2008

3309-1-52

Travel and expense reimbursement.

(A)

- (1) Members of the school employees retirement board and staff members of the school employees retirement system shall be reimbursed by the retirement system for actual, proper and reasonable expenses incurred for attendance at appropriate meetings, sessions, seminars and conferences.
- (2) "Actual, proper and reasonable expenses" means that the particular service or accommodation was in fact used by, or provided to, the board or staff member, was appropriate under the circumstances and within the bounds of prudent judgment.
- (3) "Appropriate meetings, sessions, seminars and conferences" include, but are not limited to, the following:
 - (a) Meetings of the retirement board or its committees;
 - (b) Meetings sponsored by the retirement board or the retirement system;
 - (c) Member or retiree related meetings;
 - (d) Other educational meetings, sessions, seminars and conferences that serve to make the board or staff member more knowledgeable and are related to the general purposes of the retirement system and in the interest of the system's participants.
 - (e) Other meetings which involve the retirement system's business operations.

(B) Reimbursable expenses include, but are not limited to, the following:

- (1) Transportation.
 - (a) Air fare will be reimbursed at coach or economy class rates when such was available and efforts will be made to use other cost-saving plans offered by carriers. In accordance with Ohio ethics commission advisory opinion No. 91-010, airline frequent flyer miles shall not be used for personal travel or benefit.
 - (b) In-state travel by personal automobile will be reimbursed at the reimbursable rate established by the system. Out-of-state personal automobile or other surface vehicle travel will be reimbursed at the lesser of "portal-to-portal" or "air travel cost".

- (i) "Portal-to-portal" reimbursable expenses include the actual cost of lodging, meals, parking at place of lodging and mileage at the reimbursable rate established by the retirement system or the actual cost of coach or economy class fare or the cost of a rental vehicle.
 - (ii) "Air travel cost" reimbursable expenses include the actual cost of coach or economy air fare, airport parking, transportation from the airport to destination lodging, and mileage between the board or staff member's home and the local airport at the reimbursable rate established by the retirement system.
 - (c) The cost of a rental vehicle where it is a reasonable alternative means of transportation under the circumstances.
 - (d) The cost of parking for a personal or rental vehicle.
 - (e) The cost of taxi cabs or other public transportation where reasonable under the circumstances.
 - (2) Lodging at the single occupancy rate.
 - (3) Meals and beverages, excluding alcohol, in reasonable amounts not to exceed limits as set by the retirement board.
 - (4) Tips as customary and reasonable.
 - (5) Telephone calls or other electronic transmissions for retirement system business; or personal telephone calls to home and/or family not to exceed limits set by the retirement board.
 - (6) Registration fees for appropriate meetings, sessions, seminars and conferences.
- (C) Reimbursable expenses do not include the following:
- (1) Expenditures of a personal nature except as provided in this rule.
 - (2) Expenditures for travel other than for retirement system business.
 - (3) Except in the case of an emergency, expenditures by a board member for out-of-state travel not approved by the retirement board.
- (D) Requests for approval of out-of-state travel by a board member shall be submitted by the board member to the executive director of the retirement system who shall present the request to the board at its next regular meeting.

- (E) Requests for reimbursement for authorized travel shall be submitted on the appropriate form attached as an appendix to this rule and in accordance with the retirement system's reimbursement procedures.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.041, 3309.10, 3309.14
Prior Effective Dates: 01/02/1996, 08/10/1998, 08/11/2005, 09/30/2013

3309-1-61

Reemployment covered by section 3309.345 of the Revised Code.

(A) Where a position is one that is customarily filled by vote of members of a board or commission and an employer proposes to:

(1) Continue the employment of a person as a reemployed retirant in the same position that the person held prior to retirement; or

(2) Rehire a person as a reemployed retirant in the same position that the person last held prior to retirement

The employer shall comply with the public notice and hearing requirements of section 3309.345 of the Revised Code and so certify to the retirement system on a form provided by the system.

(B) Where such reemployment is in the same position and continuous from year to year, no certification to the system shall be required for subsequent years.

(C) The person reemployed shall be subject to any other provisions applicable to reemployment.

Five Year Review (FYR) Dates: 2/1/2023 and 02/01/2028

CERTIFIED ELECTRONICALLY

Certification

02/01/2023

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.341, 3309.345
Prior Effective Dates: 10/17/2003 (Emer.), 01/04/2004

3309-1-64

Supplemental health care Dental and vision coverage.

(A) Definitions

- (1) "Benefit recipient," "Member," "Age and service retirant," "Disability benefit recipient," and "Dependent" shall have the meanings set forth in paragraph (A) of rule 3309-1-35 of the Administrative Code.
- ~~(2) "Supplemental health care coverage" means any dental or vision plan offered by the school employees retirement system.~~
- ~~(3)~~(2) "Premium" means a monthly amount that may be required to be paid by a benefit recipient to continue enrollment for the supplemental health care ~~coverage~~ for the recipient or the recipient's eligible dependents.

(B) Eligibility

A

- ~~(1)~~ A person is eligible for supplemental health care dental or vision coverage under this rule so long as the person meets the eligibility requirements in section 3309.69 of the Revised Code and paragraph (B)(1) of rule 3309-1-35 of the Administrative Code for the retirement system's health care coverage.
- ~~(2) Eligibility for supplemental health care coverage shall terminate when the person ceases to qualify as one of the persons listed in paragraph (B)(1) of rule 3309-1-35 of the Administrative Code. A person described in paragraph (B) (4) of rule 3309-1-35 of the Administrative Code shall remain eligible for supplemental health care coverage under this rule.~~

(C) Enrollment

- (1) An eligible benefit recipient may only enroll in ~~one or more supplemental health care~~ dental or vision plans as follows:
 - (a) At the time the benefit recipient applies for an age and service retirement, disability benefit, or monthly benefit pursuant to section 3309.45 of the Revised Code;
 - (b) At the time the benefit recipient reinstates previously waived or cancelled health care coverage as provided in paragraph (I) of rule 3309-1-35 of the Administrative Code;
 - (c) Within thirty-one days after involuntary termination of another dental or vision plan; or,

(d) During the retirement system's open enrollment period.

(2) An eligible dependent of an age and service retiree or disability benefit recipient may only enroll in ~~one or more supplemental health care~~ dental or vision plans as follows:

(a) At the time the age and service retiree or disability benefit recipient enrolls in the ~~supplemental health care~~ plan;

(b) During the retirement system's open enrollment period so long as the age and service retiree or disability benefit recipient is also enrolled in the ~~supplemental health care~~ plan; or

(c) Within thirty-one days after involuntary termination of another medical, dental, or vision plan, so long as the age and service retiree or disability benefit recipient is also enrolled in the ~~supplemental health care~~ plan.

(D) A person's ~~supplemental health care~~ dental or vision coverage shall be cancelled when:

(1) The ~~person's~~ person eligibility for health care coverage terminates as ~~provided~~ ceases to qualify as one of the persons listed in paragraph (B)(2)(1) of rule 3309-1-35 of the Administrative Code;

(2) The ~~supplemental health care~~ coverage of a dependent is cancelled when the ~~supplemental health care~~ coverage of a benefit recipient is cancelled;

(3) The person's ~~supplemental health care~~ coverage is cancelled for default as provided in paragraph (F) of this rule;

(4) The person's benefit payments are suspended for failure to submit documentation required to establish continued benefit eligibility under division (B)(2)(b)(i) of section 3309.45 of the Revised Code, division (F) of section 3309.39 of the Revised Code, ~~or~~ division (D) of section 3309.41 of the Revised Code, or division (D) of section 3309.392 of the Revised Code; or

(5) The benefit recipient elects to cancel the ~~supplemental health care~~ coverage for ~~the following calendar year~~ during the open enrollment period, ~~or~~

~~(6) The benefit recipient elects to cancel health care coverage under paragraph (D) of rule 3309-1-35 of the Administrative Code.~~

(E) Effective date of coverage

- (1) When a benefit recipient elects to enroll in ~~supplemental health care~~ dental or vision coverage during an open enrollment period, the effective date of coverage shall be the first day of the calendar year following the open enrollment period.
- (2) When a benefit recipient elects to enroll in ~~supplemental health care~~ dental or vision coverage upon receipt of a benefit, the effective date of coverage shall be as follows:
 - (a) For a disability benefit recipient or dependent of a disability benefit recipient, the ~~supplemental health care~~ coverage shall be effective on the first day of the month following approval of the benefit or the benefit effective date, whichever is later.
 - (b) For an age and service retirant or dependent of an age and service retirant, the ~~supplemental health care~~ coverage shall be effective on the first day of the month following the date that the retirement application is filed with the retirement system or the benefit effective date, whichever is later.
 - (c) For an eligible dependent of a deceased member, deceased disability benefit recipient, or deceased age and service retirant, the ~~supplemental health care~~ coverage shall be effective on the effective date of the benefit if the appropriate application is received within three months of the date of the member's or retirant's death, or the first day of the month following the date that the appropriate application is received if not received within three months of the date of the member's or retirant's death.

(F) Premiums

- (1) Payment of premiums ~~for supplemental health care coverage~~ shall be by deduction from the benefit recipient's monthly benefit. If the full amount of the monthly premium cannot be deducted from the benefit recipient's monthly benefit, the benefit recipient shall be billed for the portion of the monthly premium due after any deduction from the monthly benefit.
- (2) Premium payments billed to a benefit recipient shall be deemed in default after the unpaid premiums for coverage under this rule and health care coverage under rule 3309-1-35 of the Administrative Code reach a total cumulative amount of at least three months of billed premiums. The retirement system shall send written notice to the benefit recipient that payments are in default and that coverage will be cancelled on the first day of the month after the date of the notice unless payment for the total amount in default is received prior to the date specified in the notice. If coverage is cancelled due to a recipient's failure to pay premium

amounts in default, the recipient shall remain liable for such amounts due for the period prior to cancellation of coverage. The benefit recipient shall be ineligible for reinstatement of coverage until payment for the total amount in default is received.

Effective:

Five Year Review (FYR) Dates: 2/1/2023

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.69
Prior Effective Dates: 01/01/2014, 05/03/2019, 06/05/2020

5505-3-04

Reemployed retirants.

- (A) A retirant whose reemployment, whether full-time or part-time, is covered by one of the other Ohio public retirement plans is subject to the following:
- (1) If reemployment occurs prior to the pension eligibility date, or before the end of thirty days following the pension eligibility date, two months' pension allowance shall be forfeited.
 - (2) If reemployment occurs after thirty days but before the end of sixty days following the pension eligibility date, one month's pension allowance shall be forfeited.
 - (3) A DROP participants' pension eligibility date is the day following the event terminating the member's participation in DROP as defined by sections 5505.55, 5505.56, and 5505.58 of the Revised Code.
 - (4) Notwithstanding the prior provisions, if reemployment occurs sixty days or more prior to the pension eligibility date, no pension allowance shall be forfeited.
- (B) If a pension allowance has been paid to a reemployed retirant who is not entitled to it because of paragraph (A) of this rule that amount shall be withheld from future payments due to the retirant. In the event that future payments due to the retirant are less than the amount to be forfeited, the retirant must immediately reimburse the system for the difference.
- (C) Health care coverage eligibility is not affected by this rule.

Five Year Review (FYR) Dates: 1/18/2023 and 01/18/2028

CERTIFIED ELECTRONICALLY

Certification

01/18/2023

Date

Promulgated Under: 111.15
Statutory Authority: 5505.07
Rule Amplifies: 5505.161
Prior Effective Dates: 08/01/1992, 10/21/2005, 05/23/2007, 02/01/2013

5505-3-08

Federal tax compliance provisions.

- (A) The board shall distribute the funds established in Chapter 5505. of the Revised Code to members, retirants and their beneficiaries in accordance with the provisions of such chapter. No part of the corpus or income of these funds may be used for or diverted to any purpose other than the exclusive benefit of the members, retirants, and their beneficiaries.
- (B) If there is a termination of the plan described in Chapter 5505. of the Revised Code or a complete discontinuance of contributions to the plan, the rights of each affected member and retirant to the benefits accrued at the date of termination or discontinuance of contributions, to the extent then funded, are non-forfeitable.
- (C) Employer contribution forfeitures of a member arising from severance of employment, death, or for any other reason shall not be applied to increase the benefits any member would otherwise receive under Chapter 5505. of the Revised Code in accordance with section 401(a)(8) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(8).
- (D) Notwithstanding any provisions in highway patrol retirement system rules or Chapter 5505. of the Revised Code to the contrary, distributions to members, retirants, and beneficiaries shall be made in accordance with section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9) and with the following rules:
- (1) The entire interest of a member or retirant shall be distributed to such member or retirant -
 - (a) No later than the required beginning date, or
 - (b) Beginning not later than the required beginning date, in accordance with applicable regulations, over the life of such member or retirant and a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9).
 - (2) The required beginning date means April first of the calendar year following the later of:
 - (a) The calendar year in which the member or retirant attains the required minimum distribution ~~age seventy and one-half years of age~~, or
 - (b) The calendar year in which the member retires.
 - (3) If distribution of a member's or retirant's benefit has begun pursuant to the provisions of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9) , and the member or retirant dies, any survivor benefits will be distributed as reasonably practicable under the plan of payment selected

under Chapter 5505. of the Revised Code and effective as of the date following the member's or retirant's death.

- (4) If a member dies before the distribution of the member's interest has begun pursuant to the provisions of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9) , any remaining interest of the member will be distributed within five years after the death of such member. Notwithstanding the foregoing, if any benefit is payable to or for the benefit of a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9), the benefit may be distributed (in accordance with applicable regulations) over the life of such beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), provided that such distribution begin not later than one year after the date of the member's death. If the beneficiary is the surviving spouse of the member, distributions shall not be required, pursuant to this rule, to begin until the end of the calendar year in which the member would have attained the minimum distribution age of seventy and one-half and, if the spouse dies before the distribution to the spouse commences, then the spouse shall be treated as the member for purposes of this rule.
- (5) Any death benefit amounts payable under Chapter 5505. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(9)(G).
- (E) Whenever the amount of the benefit is to be determined on the basis of actuarial assumptions, no employer discretion will be permitted.
- (F) A member who is entitled to a distribution which qualifies as an eligible rollover distribution pursuant to sections 401(a)(31) and 402(f)(2)(A) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(31) and 402(f)(2)(A) may request that the distribution be paid in a direct rollover to another eligible retirement plan to the extent permitted by sections 401(a)(31)(A) and 408(A) of the Internal Revenue Code of 1986, 26 U.S.C. A. 401(a)(31)A and 408(A). A qualified nonspouse beneficiary of a deceased member may only rollover directly to an inherited individual retirement account or annuity to the extent permitted by section 402(c)(11) of the Internal Revenue Code of 1986, 26 U.S.C.A. 402(c)(11).
- (G) The annual compensation of each member taken into account in determining benefit accruals in any plan year beginning after December 31, 2001 shall not exceed two hundred thousand dollars. Annual compensation means "salary", as such term is defined in section 5505.01 of the Revised Code during the plan year or such other consecutive twelve month period over which salary is otherwise determined under the plan (hereinafter referred to as the "Determination Period"). In determining

benefit accruals in plan years beginning after December 31, 2001, the annual compensation limit for the determination period beginning before January 1, 2002 shall be two hundred thousand dollars. The two hundred thousand dollar limit on annual compensation in this paragraph shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(17)(B). The cost-of-living adjustment in effect for a calendar year applies to annual "salary" for the determination period that begins with or within such calendar year.

- (H) For purposes of the limit established by section 415 of the Internal Revenue Code of 1986, 26 U.S.C.A. 415 (as used in section 5505.17, 5505.174, 5505.175, 5505.176, 5505.177, or 5505.18 of the Revised Code), effective January 1, 1998, compensation shall include amounts excludable from the employee's gross income under sections 125, 132(f), 402(e)(3), 402(h), 403(b), or 457 of the Internal Revenue Code of 1986, 26 U.S.C.A. 125, 132(f), 402(e)(3), 402(h), 403(b), or 457. Effective January 1, 2009, compensation shall include differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 3401(h)(2).
- (I) The plan does not permit involuntary cashout distributions and therefore complies with the provisions of section 401(a)(31)(B) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401(a)(31)(B).
- (J)
- (1) Effective for the limitation year beginning on January 1, 2012, the final regulations promulgated April 5, 2007 with respect to section 415 of the Internal Revenue Code of 1986, 26 U.S.C.A. 415 are incorporated herein by reference, including any provisions of the pension funding equity act of 2004 that apply to governmental plans.
- (2) "Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code of 1986, 26 U.S.C.A. 415 (as used in section 5505.17, 5505.174, 5505.175, 5505.176, 5505.177, or 5505.18 of the Revised Code) have been exceeded with respect to a member or retirant in the plan described in Chapter 5505. of the Revised Code. The limitation year for the plan is the calendar year.
- (K) Effective January 1, 2007, notwithstanding any provision in Chapter 5505. of the Revised Code to the contrary, the survivor of a member on a leave of absence to perform military service with reemployment rights described in section 414(u) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(u), where the member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accrual relating to the period of qualified military service)

that would be provided under Chapter 5505. of the Revised Code had the member resumed employment and then terminated employment on account of death.

Effective:

Five Year Review (FYR) Dates: 1/18/2023

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 5505.04
Rule Amplifies: 5505.17, 5505.175, 5505.177, 5505.19, 5505.21
Prior Effective Dates: 08/08/2011, 12/31/2012 (Emer.), 03/28/2013

5505-5-01

Credit for service in any calendar year.

- (A) A member shall be credited with one year's retirement credit for each three hundred sixty-five days as an employee of the state highway patrol as defined in division (A) of section 5505.01 of the Revised Code except as provided in section 5505.16 and division (C) of section 5505.17 of the Revised Code.
- (B) Days during which no contributions were withheld by the employer shall not be included in determining retirement credit under paragraph (A) of this rule, except as provided in division (C)(6) of section 5505.01 and division (F)(1) of section 5505.18 of the Revised Code.

Five Year Review (FYR) Dates: 1/18/2023 and 01/18/2028

CERTIFIED ELECTRONICALLY

Certification

01/18/2023

Date

Promulgated Under: 111.15
Statutory Authority: 5505.07
Rule Amplifies: 5505.01, 5505.07, 5505.16, 5505.17(C)
Prior Effective Dates: 11/02/1989, 10/21/2005, 01/18/2018

ACTION: No Change

DATE: 01/18/2023 11:58 AM

5505-5-04

Interest rate.

The annual compound interest rate to be used in computing service credit as defined in sections 5505.16, 5505.20, 5505.201, 5505.40, and 5505.25 of the Revised Code shall be the actuarial interest assumption rate adopted by the board.

Five Year Review (FYR) Dates: 1/18/2023 and 01/18/2028

CERTIFIED ELECTRONICALLY

Certification

01/18/2023

Date

Promulgated Under: 111.15
Statutory Authority: 5505.07
Rule Amplifies: 5505.16, 5505.20, 5505.201, 5505.40, 5505.25
Prior Effective Dates: 12/01/1987, 10/21/2005, 02/01/2013

5505-5-05

Bureau of worker's compensation retirement credit.

- (A) Members are eligible for additional retirement credit pursuant to division (C)(6) of section 5505.01 of the Revised Code upon submission of a completed and certified application as prescribed by the board.
- (1) The application shall be certified by an authorized employee of the state highway patrol.
- (2) The application shall be submitted within one year after returning to contributing service, or upon retirement, whichever occurs first.
- (B) The board will reconcile the time to be credited to a member's retirement account, and send notice to the member. Reconciliation by the board shall be final.
- (C) Total credit allowable for any single claim for on-duty related injury or illness shall not exceed three years.
- (D) No retirement credit shall be granted for periods that were used in the calculation of benefits under any other state retirement plan.
- (E) In no event shall a member receive more than three hundred sixty-five days of service credit for any one calendar year.

Five Year Review (FYR) Dates: 1/18/2023 and 01/18/2028

CERTIFIED ELECTRONICALLY

Certification

01/18/2023

Date

Promulgated Under: 111.15
Statutory Authority: 5505.07
Rule Amplifies: 5505.01
Prior Effective Dates: 11/02/1989, 10/21/2005, 01/18/2018

5505-9-02

Travel expense and reimbursement.

- (A) Retirement trustees who incur expenses as the result of any necessary travel and attendance for any approved training or meeting shall be reimbursed for any actual and necessary expenses.
 - (1) Expenses as a result of out of state travel are not eligible for reimbursement unless the travel received prior approval by a majority of trustees at a board meeting.
 - (2) If attendance for any out of state training or meeting is deemed to be an emergency, the chair of the board may authorize reimbursement of any expenses incurred. Emergency attendance is considered to be any necessary out of state travel which was not known or identified prior to the most recent board meeting.
 - (3) The chair of the board of trustees shall approve travel expenses incurred as the result of attendance at any approved training or meeting within the state of Ohio.
 - (4) Reimbursement of expenses incurred attending scheduled meetings within the state of Ohio are authorized following review by the executive director, provided the meeting(s) were scheduled and received prior approval by the chair.
- (B) Administrative staff personnel who incur expenses as the result of any necessary travel and attendance for any approved training or meeting shall be reimbursed for any actual and necessary expenses.
 - (1) Expenses as a result of out of state travel are not eligible for reimbursement unless the travel received prior approval by the executive director.
 - (2) The executive director shall approve travel expenses incurred as the result of attendance at any approved training or meeting within the state of Ohio.
- (C) Trustees and administrative staff personnel shall not accept payment or reimbursement of travel expenses, including lodging, food and beverages, from any source other than the system's expense fund.
- (D) All claims for reimbursement of expenses shall be submitted in a timely manner and on a prescribed form, and shall be actual, necessary and within the bounds of prudent judgment.
- (E) Reimbursable expenses include the following:
 - (1) Lodging at the single occupancy rate.
 - (2) Meals within the bounds of prudent judgment.

- (3) Tips as customary and reasonable.
 - (4) Telephone calls as necessary for regular employment and necessary calls to family when attendance requires an overnight stay.
 - (5) Transportation within the following parameters;
 - (a) Air fare at the lowest rate with regard to attendee schedule and employment responsibilities.
 - (b) Personal vehicle mileage at the established rate, provided the total reimbursement does not exceed the allowable air fare when air transportation is applicable.
 - (c) Car rental is considered to be a reimbursable expense when necessary and reasonable for business use. Any personal use shall be pro-rated accordingly.
 - (d) Parking fees necessary for a rental or personal vehicle.
 - (e) Necessary public transportation.
- (F) Receipts are required for all expenses except tips, parking, and local transportation.

Five Year Review (FYR) Dates: 1/18/2023 and 01/18/2028

CERTIFIED ELECTRONICALLY

Certification

01/18/2023

Date

Promulgated Under: 111.15
Statutory Authority: 5505.07
Rule Amplifies: 5505.05, 5505.07
Prior Effective Dates: 01/01/1986, 12/01/1995, 10/21/2005, 02/01/2013

5505-9-06

Ohio-qualified agents and investment managers.

- (A) For purposes of section 5505.0610 and division (A)(4) of section 5505.068 of the Revised Code, an investment manager may be designated as an "Ohio-qualified investment manager" if the investment manager and/or any parents, affiliates, or subsidiaries of the investment manager meets the requirements of divisions (A)(1) and (A)(2) of section 5505.0610 of the Revised Code.
- (B) For purposes of sections 5505.068 and 5505.0610 of the Revised Code, "principal place of business" includes an office in which the agent or investment manager regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

Five Year Review (FYR) Dates: 1/18/2023 and 01/18/2028

CERTIFIED ELECTRONICALLY

Certification

01/18/2023

Date

Promulgated Under: 111.15
Statutory Authority: 5505.07
Rule Amplifies: 5505.068, 5505.0610
Prior Effective Dates: 10/21/2005, 01/18/2018

5505-9-07

Audio visual recordings of meetings and hearings.

- (A) No person shall broadcast, televise, record, or photograph any meeting of the board or a committee of the board, unless the person first receives written permission from the board's chair.
- (B) If the chair of the board or committee determines that broadcasting, televising, recording, or photographing during the meeting would not distract board members or participants or otherwise materially interfere with the achievement of the meeting, the broadcasting, television, recording, or photographing during the meetings that are open to the public may be permitted under the following conditions:
 - (1) A request for permission for the broadcasting, televising, recording, or photographing in the meeting room shall be made in writing to the chair of the board or committee. The request shall be made part of the record of the meeting; and
 - (2) The chair of the board or committee grants written permission prior to commencement of the meeting. The written permission shall be made part of the record of the meeting.
 - (a) If permission is granted, the place or places in the meeting room where operators and equipment are to be positioned shall be specified by the chair of the board or committee.
 - (b) The filming, videotaping, recording, or photographing of any person who objects, shall not be permitted.
- (C) No executive session shall be broadcast, televised, recorded, or photographed.

Five Year Review (FYR) Dates: 1/18/2023 and 01/18/2028

CERTIFIED ELECTRONICALLY

Certification

01/18/2023

Date

Promulgated Under: 111.15
Statutory Authority: 5505.07
Rule Amplifies: 5505.04
Prior Effective Dates: 10/21/2005, 02/01/2013

5505-9-08

Committees of the retirement board.

(A) The following are standing committees of the retirement board:

- (1) Health, wellness, and disability;
- (2) Administration;
- (3) Investment;
- (4) Audit;
- (5) Health care funding.

(B) At the discretion of the chair:

- (1) Work may be assigned to a committee;
- (2) Special committees may be formed;
- (3) Committee members may be assigned and reassigned.

(C) The annual election of each committee chair and vice-chair shall occur at the first regular committee meeting following the first regular board meeting after July thirty-first. In the event that a committee officer does not serve the entire term, the board chair will select a replacement.

(D) The minutes shall be the record of the proceedings of a committee. Draft copies of the written minutes shall be circulated to the committee for approval. After approval, the minutes shall be retained as a permanent record.

Effective:

Five Year Review (FYR) Dates: 1/18/2023

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 5505.04
Rule Amplifies: 5505.04
Prior Effective Dates: 09/28/2010, 02/01/2013