

May Rules

SERS

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3309-1-02 **Definition of compensation.**

- (A) This rule amplifies and is in addition to the provisions of division (V) of section 3309.01 of the Revised Code.
- (B) Except as otherwise provided by division (V) of section 3309.01 of the Revised Code, the following payments made by an employer are not "compensation."
- (1) Payments made by the employer for accrued but unused compensatory time for overtime worked;
 - (2) One-time and/or lump-sum payments made by the employer to an employee where such payments are not based upon the employee's standard rate of pay or identified in paragraph (C) of this rule;
 - (3) Retroactive payments or pay increases made or granted by the employer in whole or in part in consideration of retirement or an agreement to retire; and
 - (4) Any terminal payments or other additional remuneration paid by the employer in consideration of retirement or an agreement to retire.
- (C) The following payments made by an employer shall be "compensation":
- (1) Payments on behalf of the contributor to an eligible retirement plan as defined in section 402(c)(8) of the Internal Revenue Code of 1986, 26 U.S.C. 402(c)(8).
 - (2) Back wages awarded pursuant to a final order or final settlement award that reinstates the contributor to the contributor's former position, or comparable position, without interruption or loss of time.
 - (3) Effective January 1, 2009, differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code, 26 U.S.C. 3401(h)(2).
 - (4) Payments based on an employee's length of service.
 - (5) A one-time or lump sum payment by the employer that is paid in lieu of a salary or wage increase, to all persons in a class of employees, in the same dollar amount or same percentage of salary or wages, and in accordance with a written contractual agreement.
 - (6) A one-time or lump sum payment made by the employer for additional services rendered.

(D)

- (1) Prior to remitting contributions on salary, wages or other earnings where there is a question on whether such payments or earnings are "compensation," the employer shall request in writing a determination by the retirement board.
- (2) The retirement board shall give the employer written notice of its determination.
- (3) If the employer fails to request a prior determination and the retirement board determines that the salary, wages or other earnings are not "compensation," then any contributions received on such salary, wages and other earnings shall be deemed unauthorized and shall be refunded.
- (4) If the employer fails to request a prior determination and the retirement board determines that the salary, wages, or other earnings are "compensation," then the retirement board may certify for collection pursuant to sections 3309.47 and 3309.51 of the Revised Code the amount of contributions not remitted.

Effective: 04/17/2015

CERTIFIED ELECTRONICALLY

Certification

04/17/2015

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.01, 3309.47, 3309.49
Prior Effective Dates: 12/24/76, 6/25/86 (Emer), 9/18/89, 2/6/98, 5/14/05,
4/2/10, 4/1/13, 3/30/15

3309-1-26

Determination of statutory beneficiary.

(A) This rule amplifies divisions (B), (C) and (D) of section 3309.44 and section 3309.50 of the Revised Code.

(B) For purposes of division (B) of section 3309.44 of the Revised Code, when a surviving designated beneficiary dies before receiving payment, the payment shall be paid to the estate of the designated beneficiary.

(C) For purposes of divisions (C) and (D) of section 3309.44 and section 3309.50 of the Revised Code, a person is considered "not located" and ceases to qualify as beneficiary if:

(1) No valid mailing address can reasonably be determined for the person; or

(2) The person fails to file an application for payment within 180 days from the date the school employees retirement system first notifies the person of beneficiary status.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.44, 3309.50

3309-1-30

~~Payment of additional actuarial liability~~
Eligibility for retirement.

(A) This rule amplifies division (A)(1) of section 3309.34 of the Revised Code.

(B) For purposes of division (A) of section 3309.34 of the Revised Code and this rule:

- (1) "Total service credit" means all service credit earned in the public employees retirement system, state teachers retirement system, or school employees retirement system, except credit for service subject to section 3309.341 of the Revised Code. Total service credit shall not exceed one year of credit for any twelve-month period.
- (2) "Buy-up" means to pay an additional voluntary contribution in an amount equal to the additional actuarial liability to the school employees retirement system of retiring under the retirement eligibility criteria contained in division (A)(1)(a) of section 3309.34 of the Revised Code.

(C)

- (1) SERS administrative staff shall provide a cost estimate of a member's buy-up amount to any member or their designee upon request. A member who wishes to buy-up after receiving a cost estimate shall submit a written request for an actuarial cost calculation.
- (2) The actuarial cost calculation of the additional liability shall be performed by the school employees retirement system actuary based on factors recommended by the actuary and approved by the retirement board. The factors used in calculating the additional liability will be revised no more than once annually and shall apply only to payments made after such revision is approved by the school employees retirement board.
 - (a) SERS will send notice of the actuarial cost calculation to the member upon receipt from the actuary.
 - (b) The buy-up payment shall be made in a lump sum payment and shall be received by SERS within ninety days following the date of the notice or by August 1, 2017, whichever is earlier. If SERS does not receive the payment within ninety days of the notice, a new cost calculation is required.
 - (c) Members can request no more than four actuarial cost calculations in any calendar year.

(3) The amount of any buy-up payment cannot exceed the limitations set forth in Internal Revenue Code section 415. If the cost of the additional liability exceeds the limitations set forth in the Internal Revenue Code, the member is not eligible to retire under division (A)(1)(a) of section 3309.34 of the Revised Code.

~~(D)~~(4) Buy-up payments shall be treated as part of a member's accumulated contributions as defined in division (J) of section 3309.01 of the Revised Code. Contributions paid by a member pursuant to this rule shall be credited to the employees' savings fund.

(D) Except as provided in division (A)(1)(c) of section 3309.34 of the Revised Code, to retire under division (A)(1)(a)(i) of section 3309.34 of the Revised Code, a member must meet the following requirements:

(1) Have at least five years of total service credit and have attained at least sixty years of age before August 1, 2017;

(2) File with the retirement board a proper and complete application for retirement before August 1, 2017; and

(3) Have a retirement effective date that is no later than August 1, 2017.

Effective:

Five Year Review (FYR) Dates: 02/01/2017

Certification

Date

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