

Rules  
October 13, 2016

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145-1-10

**Staff determination of membership.**

- (A) Any affected person may request a determination of membership by providing the public employees retirement system with a written request and supporting documentation of the nature of work performed for which a determination is requested.
- (B) Upon receipt of a membership determination request, the system shall review the submitted information and, if necessary, request additional information from any party. The system shall obtain certification from the public employer prior to issuing a determination. Based upon a review of all information submitted, the system shall issue the staff determination by certified mail to the impacted parties. Any affected person may appeal the staff determination ~~by providing a written notice of~~ . An appeal, together with additional supporting information, shall be submitted in writing and received by the system not later than thirty days after the issuance of the staff determination.
- (C) After submission of a timely notice of appeal, the system shall review all information and issue a senior staff determination. The senior staff membership determination may be appealed as provided in rule 145-1-11 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 09/29/2020

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.036, 145.037, 145.038, 145.09  
Prior Effective Dates: 7/7/13 (Emer.), 9/16/13

145-1-11

**Appeal of staff membership determination.**

- (A) Any affected person may appeal a senior staff membership determination made pursuant to the staff's authority provided in rule 145-1-09 of the Administrative Code to the public employees retirement board as provided in this rule.
- (B) The senior staff membership determination shall be in writing and sent by certified mail, return receipt requested. An appeal shall be submitted ~~to~~ in writing and received by the executive director ~~in writing~~ not later than sixty days after the date of the senior staff membership determination. It shall state the senior staff membership determination to be reviewed and the basis for the review.
- (C)
- (1) The retirement board may delegate its authority to hear an appeal to an independent hearing examiner prior to the retirement board making its final decision on the appeal. The hearing may be conducted in person or, based on the agreement of the parties, through written submission.
- (a) The independent hearing examiner must be licensed to practice law in the state of Ohio. The independent hearing examiner shall conduct a hearing or review of the parties' written submissions and issue a report and recommendation to the retirement board.
- (b) ~~There~~ If a hearing is conducted, there shall be a transcript of the hearing. At the hearing, parties to the appeal and staff are permitted to submit evidence in the form of witness testimony and any form of documentation. At the hearing, parties to the appeal may be represented by counsel or other representative, and staff may be represented by the office of the attorney general.
- (c) The original report and recommendation shall be sent to the retirement board. Copies of the report and recommendation shall be provided to the parties to the appeal and to staff. Within fifteen days of the date of issuance of the report and recommendation by the hearing examiner, the parties to the appeal and staff may submit written objections to the report and recommendation. The written objections shall be submitted to the retirement board and shall not exceed fifteen pages in length. Copies of the written objections shall be sent to the parties to the appeal and to staff.
- (2) If a written objection is filed under paragraph (C)(1)(c) of this rule, the retirement board may permit the parties to the appeal and staff to make a personal appearance before the retirement board prior to the retirement

145-1-11

board's final review of the appeal.

- (a) If a personal appearance is permitted, the parties to the appeal shall be notified in writing by certified mail, return receipt requested, of the time and place of such appearance.
  - (b) A party to the appeal may be represented by counsel or other representative at the retirement board meeting at which the personal appearance is scheduled and staff may be represented by the office of the attorney general.
  - (c) Each party and staff will be given the opportunity to make final arguments, not to exceed five minutes, to the retirement board, and answer any questions of the retirement board.
  - (d) No additional testimony or documentation from the parties will be accepted by the retirement board during the personal appearance. The staff shall prepare and submit a summary memorandum.
- (3) The record of any appeal shall consist of the information submitted by the parties and staff to the hearing examiner, the report and recommendation, the transcript of the hearing, if applicable, any objections to the report and recommendation and the minutes of any personal appearance.
- (4) The retirement board shall review the report and recommendation and any objections to the report and recommendation in determining whether to accept, reject, or modify the report and recommendation and may remand to the hearing examiner for further findings before making its final decision.
- (5) The parties to the appeal and their representatives shall be notified in writing by certified mail, return receipt requested, of the retirement board's final decision.
- (D) The retirement board's decision on any determination conducted pursuant to this rule shall be final and determinative and may be summarily applied to all similarly situated employees of the same employer.
- (E) The executive director or the director's designee shall notify the parties to the appeal in writing of any notice required by this rule.

Effective:

Five Year Review (FYR) Dates: 09/29/2020

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.036, 145.037, 145.038, 145.09  
Prior Effective Dates: 11/17/76, 11/2/91, 2/3/00, 1/5/01, 3/25/02 (Emer.),  
6/15/02, 1/1/03, 4/24/07 (Emer.), 8/9/07, 11/30/07,  
12/10/12; 1/7/13 (Emer.), 3/24/13

145-1-41

**Membership determination.**

- (A) In making any determination as to whether an individual is a contract employee or independent contractor under section 145.036 of the Revised Code, the public employees retirement board shall review, including but not limited to, the elements described in paragraphs (A)(1) and (A)(2) of rule 145-1-42 of the Administrative Code.
- (B) If the employer fails to request a determination and the retirement board determines the individual should be a member, then the employer shall be liable for employee and employer contributions pursuant to section 145.483 of the Revised Code if no deductions have been made.
- (C) If the employer fails to request a determination and the retirement board determines the individual shall not be a member, then any employee contributions received prior to the determination are unauthorized and shall be returned to the employer. Any employer contributions shall be credited against future employer liabilities.
- (D) A public employer who engages or contracts with a business entity as defined in section 145.037 of the Revised Code is not required to perform the acknowledgment provisions described in section 145.038 of the Revised Code with regard to the business entity.

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Five Year Review (FYR) Dates: 09/29/2020

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Date

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Rule Amplifies: 145.01, 145.012, 145.036, 145.037, 145.038  
Prior Effective Dates: Date History: 8/31/92, 9/27/98, 1/1/03, 1/1/06, 1/7/13  
(Emer.), 3/24/13

ACTION: Original

DATE: 09/29/2016 8:22 AM

145-1-66

**Forms provided by OPERS.**

The public employees retirement system may provide an electronic medium to perform an action or notice and such medium shall constitute a form provided or required by the system.

The system is not required to create an electronic medium to take the place of any form or notice, nor accept an electronic medium or document that is not designated by the system as the form necessary to perform an action or notice.

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.037, 145.038, 145.19, 145.191, 145.293, 145.30,  
145.301, 145.302, 145.311, 145.35, 145.384, 145.43,  
145.431, 145.45, 145.451, 145.46, 145.64, 145.65,  
145.814

145-1-72                    **Division of property orders.**

(A) For purposes of this rule:

- (1) "Order" means an order described in section 3105.81 of the Revised Code.
- (2) "Alternate payee," "benefit," "lump sum payment," and "participant" have the meanings set forth in divisions (A) to (D) of section 3105.80 of the Revised Code.

(B)

- (1) The public employees retirement system may retain an order that provides the last four digits of the participant or alternate payee's social security numbers.
- (2) After the ~~public employees~~ retirement system retains an order, the alternate payee shall provide information required on a form provided by the retirement system. The retirement system shall not issue payment to the alternate payee until the retirement system receives the information required for payment. The alternate payee shall notify this retirement system in writing of any change in the information.

(C) Pursuant to section 3105.90 of the Revised Code, an order shall be on the form prescribed by the appendix to this rule. The retirement system shall accept both the version of the form prescribed by the appendix to former rule 145-1-72 of the Administrative Code that was effective January 1, 2014, and the version of the form prescribed by the current appendix.

(D) Any benefit or lump sum payment that is owed and unpaid to an alternate payee at the time of the alternate payee's death shall be paid to the estate of the alternate payee.

(E) For purposes of division (B) of section 145.571 of the Revised Code, if permitted or required by the court that issued the order, the retirement system may return the order to the court by an electronic medium.

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.561, 3105.80, 3105.81, 3105.82, 3105.821,  
3105.83, 3105.84, 3105.85, 3105.86, 3105.87,  
3105.88, 3105.89, 3105.90  
Prior Effective Dates: 1/1/02 (Emer.); 3/22/02; 1/1/03; 8/22/03; 1/1/10,  
1/1/14, 1/1/16

145-1-81

**Retirement plans.**

(A) As used in Chapters 145-1 to 145-4 of the Administrative Code:

- (1) "Traditional pension plan" means the PERS defined benefit plan established under sections 145.201 to 145.70 of the Revised Code.
- (2) "Combined plan" means the PERS combined defined benefit/defined contribution plan established under section 145.81 of the Revised Code. Unless specifically identified otherwise within the text of the Administrative Code, references to the combined plan document refer to the version that includes amendments adopted through ~~March 23, 2015~~ January 1, 2017.
- (3) "Member-directed plan" means the PERS defined contribution plan established under section 145.81 of the Revised Code. Unless specifically identified otherwise within the text of the Administrative Code, references to the member-directed plan document refer to the version that includes amendments adopted through ~~March 23, 2015~~ January 1, 2017.

(B) The text of the combined and member-directed plan documents shall not be incorporated into this or any other rule of the Administrative Code. Current versions of the plan documents are available on the web site of the public employees retirement system at [www.opers.org](http://www.opers.org).

Effective:

Five Year Review (FYR) Dates: 09/29/2020

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.80  
Rule Amplifies: 145.81  
Prior Effective Dates: 1/1/03, 1/1/06, 5/8/14, 3/23/15 (Emer.), 6/6/15,  
4/18/16

145-2-01                    **Service credit definitions.**

- (A) For service purchased or restored in the traditional pension plan under sections 145.28, 145.295, 145.2911, 145.2913, 145.31, and 145.311 of the Revised Code, "eighteen months of contributing service credit in the system," means eighteen months of contributing service credit under the traditional pension plan, inclusive of service credit transferred from a prior plan to the traditional pension plan pursuant to rule 145-2-18 of the Administrative Code.
- (B) For purposes of division (H)(1) of section 145.01 of the Revised Code, "contributing service in this system" means contributing service credit under the traditional pension plan.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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09/29/2016

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Date

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Statutory Authority: 145.09  
Rule Amplifies: 145.01, 145.28, 145.295, 145.2911, 145.2913, 145.31,  
145.311  
Prior Effective Dates: 6/19/47, 12/4/89, 10/3/92, 1/1/03, 1/1/09, 1/1/11,  
1/7/13 (Emer.), 3/24/13, 1/1/16

145-2-02

**Additional liability for service purchases in the traditional pension plan.**

- (A) This rule amplifies section 145.29 of the Revised Code.
- (B) As used in this rule, “service credit” means both of the following:
- (1) Service credit that may be purchased or obtained under sections 145.20, 145.201, 145.28, 145.291, 145.292, 145.293, 145.299, and 145.47 of the Revised Code, as those sections existed on and after January 7, 2013.
  - (2) Service credit that may be purchased or obtained under section 145.814 of the Revised Code or rule 145-2-18 of the Administrative Code for an election that is effective on or after August 1, 2013, under section 2.03 of the combined or member-directed plan document, as amended on January 7, 2013.
- (C)
- (1) Except as provided in this paragraph, the public employees retirement system shall calculate the cost to purchase service credit by using the greater of the member’s final average salary or the member’s earnable salary for the twelve months of contributing service under Chapter 145., 3307., or 3309. of the Revised Code immediately preceding the month in which the application to purchase is received by the system. If the member’s election to purchase service described in paragraph (B)(2) of this rule occurs less than twelve months after the effective date of a plan change, the system shall calculate the cost to purchase service credit by using the final average salary or last twelve months of earnable salary in the prior plan.
  - (2) The public employees retirement board shall, based upon its actuary’s recommendation, establish the percentage rate for the cost of the service credit in the traditional pension plan.
- (D) Payments made by a member to purchase service credit under section 145.29 of the Revised Code and this rule shall be credited to the employees’ savings fund and shall be considered the accumulated contributions of the member.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Certification

09/29/2016

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.29  
Prior Effective Dates: 1/7/13 (Emer.), 3/24/13, 7/7/13 (Emer.), 9/16/13,  
5/8/14, 3/23/15 (Emer.), 6/6/15

145-2-03

**Purchase of workers' compensation service.**

- (A) A member is not eligible to purchase service under section 145.2915 of the Revised Code if any of the following circumstances apply:
- (1) Service credit for the period of receiving workers compensation was obtained by the member under the version of division (H) of section 145.01 of the Revised Code that existed prior to January 7, 2013;
  - (2) The member is eligible to purchase the service under section 145.291 or division (G) of section 145.47 of the Revised Code;
  - (3) Service credit for the period of receiving workers compensation was obtained under section 145.483 of the Revised Code;
  - (4) The member has not made a redeposit of contributing service pursuant to section 145.31 of the Revised Code or rule 145-3-22 of the Administrative Code for which a member received a refund of the member's accumulated contributions pursuant to section 145.40 of the Revised Code or article VIII of the combined plan document, for any period of contributing service adjacent to the period of receiving workers compensation; or
  - (5) The member received a benefit from the system for the period of receiving workers compensation.
- (B) The employer contributions due pursuant to section 145.2915 of the Revised Code shall be billed to the public employer after the member has paid all or part of the corresponding employee contributions. If the employer fails to remit the required payments, any employer contributions not paid shall be certified for collection and subject to the same penalty and interest described in section 145.51 of the Revised Code.
- (C) The limit described in paragraph (F) of section 145.2915 of the Revised Code also applies to service credit obtained under Chapter 742. or 5505. of the Revised Code for a period the member was out of service and receiving workers' compensation.
- (D) If a member is eligible to purchase more than one period of workers compensation service, the purchase shall be completed in the order of the most recent period to the earliest period.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09, 145.2915  
Rule Amplifies: 145.2915  
Prior Effective Dates: 7/7/13 (Emer.), 9/16/13, 3/23/15 (Emer.), 6/6/15

145-2-04

**Purchase of credit pursuant to section 145.293 of the Revised Code.**

- (A) For the purpose of section 145.293 of the Revised Code "comparable position" means a comparable public position that if it had been performed for an Ohio public employer would have been covered by an Ohio state retirement system;
- (B) A member shall have a least twelve months of contributing service for purposes of the calculation described in rules 145-2-02 and 145-3-23 of the Administrative Code.
- (C) Service credit under section 145.293 of the Revised Code may be purchased if such credit cannot be purchased in another Ohio state retirement system and will not exceed the limitations of section 145.293 of the Revised Code.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.29, 145.293  
Prior Effective Dates: 5/21/75, 1/1/78, 8/6/90, 1/1/03, 1/1/07, 1/7/13 (Emer.),  
3/24/13

145-2-05

**Free credit for military service.**

(A) This rule amplifies section 145.30 of the Revised Code.

(B) Definitions

(1) "Maintained membership" means any of the following:

- (a) The member's contributions remained with the public employees retirement system during the military service;
- (b) The member's accumulated contributions before the member's military service were refunded pursuant to section 145.40 of the Revised Code and redeposited pursuant to section 145.31 of the Revised Code; or
- (c) The member was exempt from membership or not a contributor to the retirement system before the member's military service, but Chapter 145. of the Revised Code authorizes a retroactive payment to establish membership before the member's military service.

(2) "Military service" means active duty in the branches of the armed forces as defined in section 145.30 of the Revised Code.

(3) "Total service credit as defined in section 145.01 of the Revised Code of twenty years" means twenty years of Ohio credit exclusive of military or uniformed service.

(4) "Was a member" means membership before the member's military service was established in the same manner as defined in paragraph (B)(1) of this rule.

(5) "Was or is out of active service as a public employee by reason of having become a member of the armed forces" means:

- (a) On or before November 13, 1965, the member established membership in the retirement system with one deduction and no more than three months had elapsed between the termination of the member's contributing service and the date the member entered military service.
- (b) After November 13, 1965, the member established one year of service credit in the retirement system and no more than three months have elapsed between the termination of the member's contributing service and the date the member entered military service.

(c) For military service that begins before November 13, 1965 and terminates after such date, free military service credit shall be granted if the member meets the eligibility requirements pursuant to section 145.30 of the Revised Code in effect during each period of military service before and after November 13, 1965 and not more than three months had elapsed between the termination of the member's contributing service and the date the member entered military service.

(C)

- (1) The service credit to which a member is entitled shall be calculated from the date the member entered military service through the date the military service terminated.
- (2) The member shall submit report(s) of separation (form DD214) or other satisfactory documentation as evidence of military service and discharge to the retirement system.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Certification

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Date

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Rule Amplifies: 145.30  
Prior Effective Dates: 7/13/72, 1/2/90, 11/2.96, 3/27/99, 11/2/00, 1/1/03,  
1/1/07, 1/7/13 (Emer.), 3/24/13

145-2-06

**Purchase of military service credit.**

- (A) This rule amplifies sections 145.301 and 145.302 of the Revised Code.
- (B) The member shall submit report(s) of separation (form DD214) or other satisfactory documentation to the public employees retirement system as evidence of the member's military service, active or inactive duty points, if applicable, and discharge.
- (C) If a member has been in military service more than once as evidenced by more than one report of separation or service and wishes to purchase credit under section 145.302 of the Revised Code for more than one period of military service, interest as set in rule 145-1-35 of the Administrative Code shall be charged from the date the member last terminated military service.
- (D) For military service purchased under section 145.301 of the Revised Code:
- (1) A member shall have at least twelve months of contributing service for purposes of the calculation described in paragraph (D)(2) of this rule;
  - (2) The retirement system shall calculate the cost by using the greater of the member's final average salary or earnable salary for the twelve months of contributing service under Chapter 145., 3307., or 3309. of the Revised Code immediately preceding the month in which the application to purchase is received by the system. The public employees retirement board shall, based upon its actuary's recommendation, set the percentage rate for the cost of service allowed under section 145.301 of the Revised Code.
- (E) Where applicable, the member's public employer shall certify information including, but not limited to, the earnable salary the member would have earned during the member's military service on a form provided by the retirement system.
- (F) The employer contributions due pursuant to section 145.302 of the Revised Code shall be billed to the employer for payment after the member has paid all or part of the employee contributions due. If the employer fails to make the payments required, any employer amounts not paid shall be certified for collection and subject to the same penalty and interest described in section 145.51 of the Revised Code.

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Five Year Review (FYR) Dates: 09/29/2016

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Certification

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Date

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Statutory Authority: 145.09  
Rule Amplifies: 145.301, 145.302  
Prior Effective Dates: 8/15/73, 1/1/78, 1/2/90, 8/6/90, 11/2/96, 5/4/00,  
1/1/03, 1/1/07, 1/7/13 (Emer.), 3/24/13

145-2-07

**Additional service credit under section 145.201 of the Revised Code.**

(A) This rule amplifies section 145.201 of the Revised Code.

(B)

- (1) For contributing service that occurred prior to January 1, 2014, "full-time service" does not include service computed as part-time pursuant to section 145.016 of the Revised Code. For contributing service that occurred on and after January 1, 2014, "full-time service" means service for which the monthly earnable salary equals or exceeds one thousand dollars.
- (2) The public employees retirement system shall prepare a statement of cost for the additional service credit to be purchased based on the request of an eligible member.
- (3) The statement of cost shall be based on thirty-five per cent of all eligible full-time service.
- (4) Each statement of cost issued under section 145.201 of the Revised Code prior to July 7, 2013, shall include full calendar years of eligible service; however, payment for the service credit may be made in full or partial year increments, provided the system has issued a full calendar year statement of cost for the service credit being purchased or a partial calendar year statement of cost as provided in this rule. A statement of cost may include a partial calendar year if the partial calendar year is:
  - (a) The only eligible service;
  - (b) The first year of a term of eligible service; or
  - (c) The last year of a term of eligible service.
- (5) Each statement of cost issued under section 145.201 of the Revised Code on and after July 7, 2013, shall include the cost of full calendar years and any portion of a year the member elects to purchase.
- (6) A member shall have at least twelve months of contributing service for purposes of the calculation described in rules 145-2-02 and 145-3-23 of the Administrative Code.

(C) A member who purchased service under section 145.201 of the Revised Code may elect, ~~on a form provided by the retirement system,~~ to receive all or a portion of the amount paid under that section if, in calculating the member's age and service retirement allowance, either of the following apply:

- (1) In the case of a member of the traditional pension plan whose retirement allowance is calculated under division (A) of section 145.33 of the Revised Code, the member's total annual single lifetime allowance exceeds the lesser of one hundred per cent of the member's final average salary or the limit established by section 415 of the Internal Revenue Code of 1986, 26 U.S.C.A. 415.
- (2) In the case of a participant in the combined plan, the participant's total annual single lifetime allowance exceeds the lesser of the limits described in section 9.03(a) of the combined plan document.

(D)

- (1) Upon the member's election under paragraph (C) of this rule, the retirement system shall refund to the member all or a portion of the amount paid to purchase service. The retirement system shall refund the amounts paid to purchase service credit in the reverse order of the member's purchase, with the most recent service purchased being the first amount refunded.
- (2) The amount refunded to the member shall not exceed the actual amount paid by the member for the service credit to be refunded. No interest shall be paid on the amount refunded. If applicable, the retirement system shall withhold taxes on amounts paid to a member that have not yet been taxed.
- (3) The amount refunded to the member shall not be paid prior to the issuance of the members retirement benefit, as defined in rule 145-1-65 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 09/29/2016

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.201, 145.29  
Prior Effective Dates: 4/7/88, 9/6/88, 1/1/03, 1/1/07, 12/30/07, 1/1/09, 1/7/13 (Emer.), 3/24/13, 7/7/13 (Emer.), 9/16/13

145-2-08

**Purchase of school board member service.**

(A) This rule amplifies section 145.299 of the Revised Code.

(B)

- (1) The member shall submit a written request that shall include a certification of the service on a form provided by the public employees retirement system.
- (2) A member shall purchase credit for such service only by a lump-sum payment as defined in rule 145-1-35 of the Administrative Code.
- (3) A member may purchase credit only for such qualified service that occurred prior to June 30, 1991.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

CERTIFIED ELECTRONICALLY

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Certification

09/29/2016

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09, 145.299  
Rule Amplifies: 145.29, 145.299  
Prior Effective Dates: 9/30/91, 1/1/03, 1/1/07, 1/7/13 (Emer.), 3/24/13

145-2-09

**Purchase of exempted service credit.**

(A)

- (1) For service which would have been covered by Chapter 145. of the Revised Code, but was exempted, a member shall make a request to purchase credit for this service on a form provided by the public employees retirement system.
- (2) The employer for which the service was performed shall complete the certification of such service on the form and attach to the form a copy of each approved written exemption from membership on file with the employer for such member.
- (3) After receipt of the completed form, the retirement system shall determine the amount of service credit that would have been earned had the service not been exempted.

(B) For service which would have been covered by Chapter 3307. or 3309. of the Revised Code, but was exempted and must be purchased in this system, this retirement system shall request certification from the other retirement system that such service was exempted and the amount of the credit for such service, which shall be determined from a certification of the employer for which the service was performed.

(C) The service credit purchased pursuant to section 145.28 of the Revised Code and this rule shall be adjusted to the extent that one of the following apply:

- (1) The service is concurrent with any other service that will be used in calculating a benefit;
- (2) The purchase of the service credit results in more than twelve months of credit in a year.

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Certification

09/29/2016

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Date

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Rule Amplifies: 145.28, 145.29  
Prior Effective Dates: 5/21/92 (Emer.), 8/1/92, 1/1/03, 1/1/07, 1/1/12, 1/7/13 (Emer.), 3/24/13

145-2-10

**Intersystem transfers with non-uniform systems.**

(A) This rule amplifies section 145.37 of the Revised Code and applies to members who retire with an effective date of retirement on or after February 1, 2013.

(B) For the purpose of this rule:

(1) "State retirement system" and "retention percentage" have the same meanings as in section 145.37 of the Revised Code.

(2) "Fiscal year" means, for the public employees retirement system, a calendar year and, for the school employees retirement system and state teachers retirement system, the twelve-month period beginning on July first and ending on June thirtieth.

(C) For purposes of determining the amount transferred under division (B)(6)(a) of section 145.37 of the Revised Code, all of the following apply:

(1) The amount contributed by the member includes any amounts paid to restore service credit under section 145.31 of the Revised Code.

(2) The amount of employer contributions shall be determined using the lesser of the employer contribution rate in effect at the beginning of the fiscal year for each of the state retirement systems involved in the transfer, less the retention percentage.

(3) Any amounts paid by the member to purchase service credit shall include, if applicable, any amounts paid by the employer to purchase service credit.

(4) Except as provided in this paragraph, interest shall be calculated beginning on the first day of the fiscal year following the year in which the contributions were made and ending on the last day of the month in which the transfer occurs. If the amount to be transferred includes any amounts paid to purchase service credit, other than amounts paid to restore service credit under section 145.31 of the Revised Code, interest on the amounts paid to purchase service credit shall be calculated beginning on the first day of the month following the last payment to purchase the credit and ending on the last day of month in which the transfer occurs. For each year of service credit to be transferred, the interest rate shall be determined by using the lesser of the actuarial assumption rate in effect at the beginning of the fiscal year for each of the state retirement systems involved in the transfer.

(D) If a member of the public employees retirement system has contributions to more

than one employer division of the system, the employer contribution rate for the system shall be determined using the last division to which the member contributed. If the period of service and contributions to be transferred includes service that occurred prior to the date the member's most recent division was established, the other state retirement systems shall use the employer contribution rate for the other system for that year.

(E) For purposes of calculating a retirement or disability benefit under division (B) of section 145.37 of the Revised Code, all of the following apply:

- (1) Except as provided in this paragraph, the service credit and contributions certified by the transferring system shall be divided equally over the number of months in the service credit period certified by the transferring system beginning on the first day of the service credit period and ending on the last day of the service credit period.
- (2) Service credit certified by the transferring system shall be reduced for any month that the member earned full-time service credit in this system. If the member earned less than full-time service credit in this system for any month, the service credit certified by the transferring system may be added to the earned credit to equal full-time service credit.
- (3) Except as provided in division (B)(5)(c) of section 134.37 of the Revised Code, service credit certified by the transferring system shall not be reduced for any month that the member did not earn service credit in this system.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Certification

09/29/2016

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.37  
Prior Effective Dates: 1/7/13 (Emer.), 3/24/13, 3/23/15 (Emer.), 6/6/15

145-2-11

**Police and fire or highway patrol service.**

- (A) This rule amplifies sections 145.295 and 145.2913 of the Revised Code.
- (B) Any payments made by a member to purchase credit pursuant to section 145.295 or 145.2913 of the Revised Code shall not be refunded to a member except as authorized or required under those sections or section 145.40 of the Revised Code.
- (C) A member who purchases or transfers credit under section 145.295 or 145.2913 of the Revised Code shall receive service credit in the public employees retirement system as follows:
- (1) For service earned as a police officer under Chapter 742. of the Revised Code or service earned under Chapter 5505. of the Revised Code, the service credit shall be treated as if it was earned in this system as a law enforcement officer.
  - (2) For service earned as a firefighter under Chapter 742. of the Revised Code, the service credit shall be treated as if it was earned in this system as a member who is not a law enforcement or public safety officer.
- (D) This paragraph applies to purchases and transfers initiated after January 7, 2013. The member's effective date of retirement or disability benefit shall be no earlier than the first day of the month following receipt by the retirement system of the first partial payment or total payment, if paid in full in one payment. The member's effective date of retirement or disability benefit shall be no later than the first day of the month following the ninetieth day after receipt by the retirement system of the first partial payment or total payment, if paid in full by one payment. If the member fails to retire, or terminate employment for purposes of a disability benefit, before the ninetieth day after the first partial payment or total payment is received, the retirement system shall return the amount paid by the member to the member. If the payment was transmitted to the retirement system by a financial institution, the amount received by the retirement system shall be returned to the financial institution.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Certification

09/29/2016

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Date

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Rule Amplifies: 145.295, 145.2913  
Prior Effective Dates: 4/5/93, 12/9/95, 9/27/98, 3/22/02, 1/1/03, 1/1/07,  
1/7/13 (Emer.), 3/24/13, 5/8/14

145-2-12

**Purchase of optional service.**

For the purpose of section 145.292 of the Revised Code, a member shall have at least twelve months of contributing service for purposes of the calculation described in rules 145-2-02 and 145-3-23 of the Administrative Code.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.292  
Prior Effective Dates: 1/7/13 (Emer.), 3/24/13

145-2-13                    **Purchase of leave of absence.**

- (A) This rule amplifies section 145.291 of the Revised Code.
- (B) A member can purchase service credit for a leave of absence period that occurred during a period of contributing service for which the member received a refund of contributions pursuant to section 145.40 of the Revised Code, only if the member has made a redeposit of the refund pursuant to section 145.31 of the Revised Code.
- (C) The service credit purchased pursuant to section 145.291 of the Revised Code shall be adjusted to the extent:
  - (1) The service is concurrent with any other service that will be used in calculating a benefit;
  - (2) The purchase of the service credit results in more than twelve months of credit in a year.
- (D)
  - (1) The member's employer at the time the member was off the payroll shall certify the member's earnable salary for the period, and the member's authorized leave or resignation.
  - (2) A member purchasing service credit for a period of time when the member was off the payroll due to resignation because of pregnancy shall submit a certified copy of the child's birth certificate or, because of adoption of a child, shall submit evidence of such adoption.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Rule Amplifies: 145.29, 145.291  
Prior Effective Dates: 3/27/99, 11/2/00, 1/1/03, 1/1/07, 1/7/13 (Emer.),  
3/24/13

145-2-14

**Use of "Ohio service credit" in benefit calculations.**

Service credit that is purchased or obtained under section 145.295, 145.2911, 145.2913, 145.301, or 145.302 of the Revised Code that is, or is considered to be the equivalent of, Ohio service credit, shall be used in determining eligibility for a benefit as provided in Chapter 145. of the Revised Code, including the calculation of the member's final average salary and contributing service credit in the public employees retirement system.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Certification

09/29/2016

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09  
Rule Amplifies: 145.295, 145.2911, 145.2913, 145.301, 145.302  
Prior Effective Dates: 1/7/13 (Emer.), 3/24/13

145-2-15                    **Cincinnati retirement system.**

- (A) This rule amplifies sections 145.2910, 145.2911, and 145.2912 of the Revised Code.
- (B) "Eligible service credit" means service earned under this system or the Cincinnati retirement system or military service credit purchased or obtained in this system or the Cincinnati retirement system.
- (C)
- (1) A member of this system, who is eligible to obtain eligible service credit in this system for service credit with the Cincinnati retirement system, shall make a request to obtain credit for such service on a form provided by this system.
  - (2) Except as otherwise provided in this rule, a member shall make payments required under division (C)(3)(a) of section 145.2911 of the Revised Code pursuant to rule 145-1-35 or 145-1-38 of the Administrative Code. A member may use an eligible rollover distribution for such payments as allowed by rule 145-1-37 of the Administrative Code.
  - (3) Service credit for a member who obtains credit pursuant to section 145.2911 of the Revised Code and this rule shall accrue in the same amount as described in section 145.016 of the Revised Code upon payment of the following amounts:
    - (a) Any required amounts due from the member under section 145.2911 of the Revised Code and this rule; and,
    - (b) The required amounts due from the Cincinnati retirement system under division (C)(3)(b) of section 145.2911 of the Revised Code.
  - (4) If the Cincinnati retirement system fails to transfer those amounts required under division (C)(3)(b) of section 145.2911 of the Revised Code, this system shall notify the member, and shall not grant the service credit.
- (D)
- (1) This system shall transfer those amounts required under section 145.2912 of the Revised Code for a member or former member of this system, who is eligible to obtain eligible service credit in the Cincinnati retirement system for service credit with this system pursuant to section 145.2912 of the Revised Code, after:

- (a) Receiving notification from the Cincinnati retirement system that the member has requested such transfer;
  - (b) The member has paid any required amounts to this system; and,
  - (c) This system has notified the member.
- (2) If a member's request for a transfer under division (A)(3)(a) of section 145.2912 of the Revised Code is for less than the member's total eligible service credit with this system, any benefits or payments to which the member or the member's beneficiary or beneficiaries may be entitled shall be based on the remaining service credit with this system.
- (E) A member who purchases or transfers credit under section 145.2912 of the Revised Code shall receive service credit in the public employees retirement system as follows:
  - (1) For service earned as a police officer under the Cincinnati retirement system, the service credit shall be treated as if it was earned in this system as a law enforcement officer.
  - (2) For all other service earned under the Cincinnati retirement system, the service credit shall be treated as if it was earned in this system as a member who is not a law enforcement or public safety officer.
- (F) This paragraph applies to purchases and transfers initiated after January 7, 2013. The member's effective date of retirement or disability benefit shall be no earlier than the first day of the month following receipt by the retirement system of the first partial payment or total payment, if paid in full in one payment. The member's effective date of retirement or disability benefit shall be no later than the first day of the month following the ninetieth day after receipt by the retirement system of the first partial payment or total payment, if paid in full by one payment. If the member fails to retire, or terminate employment for purposes of a disability benefit, before the ninetieth day after the first partial payment or total payment is received, the retirement system shall return the amount paid by the member to the member. If the payment was transmitted to the retirement system by a financial institution, the amount received by the retirement system shall be deposited in accordance with section 145.62 of the Revised Code or returned to the financial institution.
- (G) Any payments made by a member to purchase credit pursuant to section 145.2910, 145.2911, or 2912 of the Revised Code shall not be refunded to a member except as authorized or required under those sections or section 145.40 of the Revised Code.

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Rule Amplifies: 145.2910, 145.2911, 145.2912  
Prior Effective Dates: 11/30/01 (Emer.), 2/14/02, 1/1/03, 1/1/07, 4/6/07  
(Emer.), 7/1/07, 1/7/13 (Emer.), 3/24/13

145-2-16                    **Conversion or proration of service credit to law enforcement service credit.**

(A) For purposes of this rule and section 145.2914 of the Revised Code:

- (1) "Law enforcement service credit" means service earned as a PERS law enforcement officer, as defined in section 145.01 of the Revised Code.
- (2) "Public safety service credit" means service credit earned as a PERS public safety officer, as defined in section 145.01 of the Revised Code.
- (3) "Regular service credit" means service credit earned as a contributor under section 145.47 of the Revised Code that is not concurrent with any public safety or law enforcement service credit, including service purchased under section 145.31, 145.312, 145.814 of the Revised Code, or for which contributions should have been deducted as described in section 145.483 of the Revised Code. "Regular service credit" does not include any other type of service credit that may be purchased or transferred under Chapter 145. of the Revised Code.
- (4) "Notice of the additional liability" is the cost statement provided to the member that specifies the number of years, or portions of a year, the member may convert and includes the amount of service credit that may be prorated under paragraph (B)(1) of this rule, if applicable.

(B) Subject to the requirements described in section 145.2914 of the Revised Code and this rule, a member who has contributed to the retirement system as a PERS public safety officer or PERS law enforcement officer and has regular service credit or public safety service credit that the member would like to be treated as law enforcement or public safety service credit may elect to do one of the following:

- (1) To have the total amount of the regular service credit and public safety service credit reduced to an amount of public safety service credit or law enforcement service credit that has no additional liability to the system, which shall be referred to as proration;
- (2) To convert up to five total years of regular service credit or public safety service credit, or a combination of both types of credit.

If the member is eligible to retire as a PERS law enforcement officer or will be eligible to retire as a PERS law enforcement officer as a result of the proration or conversion, the member may prorate or convert regular service credit, public safety service credit, or both types of service credit to law enforcement service credit. If the member is eligible to retire as a PERS public safety officer or will be eligible to

retire as a PERS public safety officer as a result of the proration or conversion, the member may prorate or convert regular service credit to public safety service credit.

(C) The cost to convert service credit under paragraph (B)(2) of this rule shall be an amount specified by the public employees retirement board that is not less than one hundred per cent of the additional liability resulting from the conversion of a year, or portion of a year, of service as recommended by the actuary for the board. The actuary shall recommend to the board a cost calculation to convert each of the types of service credit described in this rule. The cost calculation shall be based on the final average salary that will be used in calculating the member's monthly benefit as determined at the time the cost statement is prepared. The actuary may recommend modifications to the cost calculations if the actuary determines it is necessary to mitigate any negative financial impact on the retirement system.

(D)

(1) The retirement system shall not accept any other payments for the purchase or transfer of service credit after the issuance of the cost statement for proration or conversion of service credit, except for payments made pursuant to an irrevocable, pre-tax payroll deduction agreement.

(2) If a member converts only a portion of the service credit that is eligible for conversion or the member has more than five years of service credit that is eligible for conversion, the service credit that is converted shall be the most recent regular service credit.

(3) A member who elects to prorate under paragraph (B)(1) of this rule shall prorate all regular service credit or public safety service credit.

(4) If a member has regular or public safety service credit that is concurrent with the public safety or law enforcement service credit and is not eligible for conversion or proration, the accumulated contributions for the concurrent service shall be paid as provided in section 145.332 of the Revised Code.

(5) Service credit converted under this rule shall be considered in determining the member's final average salary. Service credit prorated under this rule shall not be considered in determining the member's final average salary.

(6) For service credit prorated under this rule, contributing service credit, as defined in rule 145-4-01 of the Administrative Code, shall be determined based on the lesser of the number of months of contributing service prior to the proration or the number of months of contributing service after the proration.

- (E) Not later than ninety days after receiving notice of the additional liability or of the prorated amount of service credit, the member shall agree to retire by submitting to the retirement system an executed cost statement and, if the member had elected conversion, the first partial or total payment for the service credit. The member may make direct payment to the retirement system for the cost of the conversion or the member's financial institution may transmit the amount directly to the retirement system.
- (F) If a member has elected conversion, the member's effective date of retirement shall be no earlier than the first day of the month following receipt by the retirement system of the first partial payment or total payment, if paid in full in one payment. If the member has elected proration, the member's effective date of retirement shall be no earlier than the first day of the month following receipt by the retirement system of the executed cost statement. In both instances, the member's effective date of retirement shall be no later than the first day of the month following the ninetieth day after receipt by the retirement system of the first partial payment or total payment, if paid in full by one payment, or the executed cost statement, whichever is applicable. If the member fails to retire as described in this paragraph, the retirement system shall return the amount paid by the member to the member. If the payment was transmitted to the retirement system by a financial institution, the amount received by the retirement system shall be returned to the financial institution.
- (G) Notwithstanding rule 145-1-71 of the Administrative Code, a member who prorates or converts service credit and retires as provided in this rule may not withdraw his or her retirement application.
- (H) No amount paid under this rule to convert service credit shall be used in calculating the additional payment described in section 145.401 of the Revised Code.

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Prior Effective Dates: 8/3/09 (Emer.), 10/19/09, 1/7/13 (Emer.), 3/24/13,  
6/1/14

145-2-17

**Purchase of firefighter service.**

A firefighter employed before May 1, 1991, who is or becomes a member of the public employees retirement system on May 1, 1991, may purchase firefighter service before May 1, 1991 for any year of non-contributing service as a firefighter not covered by an approved exemption.

A purchase under this rule shall be made in accordance with section 145.292 of the Revised Code and rule 145-2-12 of the Administrative Code.

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Prior Effective Dates: 1/21/76, 10/30/78, 5/1/91, 8/1/92, 1/1/03, 1/1/07,  
1/7/13 (Emer.), 3/24/13

145-2-18                    **Service credit for participation in combined plan or member-directed plan.**

- (A) This rule amplifies section 145.814 of the Revised Code and sections 2.04 and 6.01 of the combined and member-directed plan documents.
- (B) For each member participating in the traditional pension plan who elects under division ~~(C)(2)~~(D) of section 145.814 of the Revised Code, the public employees retirement system shall prepare a statement of cost for service credit to be purchased in the traditional pension plan based on participation in the combined plan or member-directed plan, as appropriate, at the request of an eligible member. An actuary employed by the public employees retirement board shall determine the additional liability, as defined in section 145.814 of the Revised Code, as described in rule 145-2-02 of the Administrative Code.
- (C) An eligible member shall purchase the service credit only by a lump-sum payment of the amount on deposit, as defined in rule 145-1-35 of the Administrative Code, except that a member described in division ~~(C)(3)(a)~~(D)(1) of section 145.814 of the Revised Code may pay any additional liability that exceeds the amount on deposit by initiating payroll deduction under rule 145-1-38 of the Administrative Code or by direct partial payment. For plan elections effective on or before July 1, 2015, the payroll deduction must be initiated or direct partial payment shall be made not later than one hundred eighty days after the effective date of an election to participate in the traditional pension plan under section 2.03 of the combined plan document. Service credit purchased under this rule shall be included in the member's total service credit in the traditional pension plan but shall not be used in the calculation of a benefit under section 145.332 of the Revised Code. If the member elects to receive pro-rated service credit, the period of service upon which contributing service is based shall be the member's earliest service credit available to purchase under this rule.
- (D) Any funds remaining in an eligible member's accounts, as defined in section 1.01 of the combined or member-directed plan document, after the purchase of service credit under this rule shall be deposited in an additional annuity account in accordance with rule 145-2-43 of the Administrative Code. A member may also elect, at the time of service purchase, to leave any remaining funds on deposit in the prior plan; any funds remaining in the prior plan shall be credited to the member's rollover account, as defined in section 1.35 of the combined plan document and section 1.31 of the member-directed plan document, and treated as a rollover.
- (E)
- (1) Service credit purchased under this rule cancels the corresponding years of service credit in the combined plan or years of participation in the member-directed plan, as applicable.

- (2) For plan elections effective on or before July 1, 2015, service credit that is not purchased under this rule shall be cancelled immediately upon the expiration of the one hundred eighty day period following the effective date of an election to participate in the traditional pension plan under section 2.03 of the combined or member-directed plan document.
- (F) For each member described in paragraph (B) of this rule who transferred the member's accumulated contributions under section 145.191 of the Revised Code, the statement of cost shall include the cost to restore in the traditional pension plan the accumulated contributions and service credit cancelled under that section. The cost shall consist of the amount transferred, with interest on such amount, compounded annually at a rate to be determined by the public employees retirement board from the first day of the month of transfer to and including the month of redeposit. The amount redeposited shall be considered the accumulated contributions of the member and shall be credited in the same manner as a redeposit under section 145.31 of the Revised Code.
- (G) For each member described in paragraph (B) of this rule who purchased service credit under rule 145-3-21 or rule 145-3-40 of the Administrative Code, the statement of cost shall include, if applicable, the difference between the amount paid in the combined plan to purchase the service credit and the cost to purchase the service credit in the traditional pension plan as determined at the time the statement of cost is issued under this rule. Pursuant to section 6.01 of the combined plan document, if the amount paid in the combined plan to purchase the service credit was less than the cost to purchase the service credit in the traditional pension plan, the member may elect to receive a pro-rated amount of service credit in the traditional pension plan or may make an additional payment equal to the difference in order to receive the full amount of service credit.
- ~~(H) For purposes of service purchased in the combined plan under section 145.28, 145.299, or 145.301, of the Revised Code, or section 145.20, 145.201, 145.292, 145.293, or 145.47 of the Revised Code, as those sections existed on and after January 7, 2013, the twelve months of earnable salary or final average salary used in calculating the cost of the service credit in the traditional pension plan shall be the same twelve months of earnable salary or final average salary used in determining the cost of the service in the combined plan.~~

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145.299, 145.301, 145.47, 145.81, 145.814  
Prior Effective Dates: 1/1/03, 11/15/03, 1/1/09, 1/1/10, 1/1/11, 1/1/12, 1/7/13  
(Emer.), 3/24/13, 7/7/13 (Emer.), 9/16/13, 3/23/15  
(Emer.), 6/6/15

145-2-21

**Application for a disability benefit.**

(A) For the purpose of sections 145.35, 145.36, 145.361, 145.362, and 145.37 of the Revised Code and agency 145 of the Administrative Code:

- (1) "Disability" means a presumed permanent mental or physical incapacity for the performance of the member's present or most recent public duty that is the result of a disabling condition that has occurred or has increased since an individual became a member.
- (2) "Has not attained the applicable age " means a member has filed an application for a disability retirement with the public employees retirement system and not become the applicable age before the last day public service terminated.
- (3) "On-duty illness or injury" means an illness or injury that: (a) occurred during or resulted from performance of duties under the direct supervision of a member's public employer, and (b) is not an exacerbation of an existing illness or injury medically diagnosed before the first day of employment with the employer reporting to the retirement system.
- (4) "Original disability plan" means the plan that provides a benefit pursuant to section 145.36 of the Revised Code.
- (5) "Revised disability plan" means the plan that provides a benefit pursuant to section 145.361 of the Revised Code.
- (6) "Medical examination" means a physical or psychological examination, as appropriate, or an examination of the entire disability application and medical reports.
- (7) "Rehabilitative services" includes, but is not limited to, treatment, evaluations, or training, or any combination of them, that is acceptable to the physician(s) selected by the board.
- (8) "Receiving rehabilitative services" means that the recipient has elected to participate in rehabilitative services not less than six months prior to the beginning of the third year following the benefit effective date.
- (9) "Regional job market" means within a seventy-five mile radius of the member's address on file with the retirement system.

(B) A member shall make application for a disability benefit on a form provided by the retirement system.

- (1) A complete disability application shall consist of the member's disability benefit application, the report of the employer, job description, and the report of physician that has been completed by the member's physician and affirmatively indicates the existence of the member's disability and the date on which the illness or injury occurred. The application and supporting reports must be submitted on forms provided by the retirement system. Medical information submitted in support of a member's application shall not be accepted after the business day immediately prior to the member's first or only medical examination.
  - (2) Consideration of a member's application shall be limited to the disabling condition(s) listed in the report of attending physician(s) that was completed by the member's physician(s).
  - (3) Upon receipt of a complete disability application, as described in paragraph (B)(1) of this rule, the retirement system's medical consultant(s) shall review all such documentation and prepare a recommendation to the board.
    - (a) Payment of any administrative fees or fees for the preparation of the report of the member's physician(s) shall be the responsibility of the member.
    - (b) Payment of any fees for the preparation of the report of the examining physician(s) shall be the responsibility of the retirement system. Fees assessed by the examining physician(s) due to the member's cancellation of an examination are the responsibility of the member.
- (C) The board shall review disability applications and the written recommendations of its medical consultant at its regular meetings. The determination by the board on any application is final.
- The board may approve a member's application contingent on the following conditions.
- (1) The medical consultant determines that:
    - (a) The member has a disability as defined in section 145.35 of the Revised Code and this rule, and whichever of the following apply:
    - (b)

- (i) For disability benefit applications received before January 7, 2013, and for disability benefit recipients whose applications were received on or after January 7, 2013, and who are on leave of absence as defined in section 145.362 of the Revised Code, additional medical treatment offers an expectation of improvement of the disabling condition to the extent a member may return to the member's previous or similar job duties; or
    - (ii) For disability benefit recipients whose application is received on or after January 7, 2013, and who are not on leave of absence as defined in section 145.362 of the Revised Code, additional medical treatment or rehabilitative services offers an expectation of improvement of the disabling condition to the extent a member may return to work in any position described in division (B) of that section.
  - (2) Such additional medical treatment shall be of common medical acceptance and readily available, and may include, but is not limited to, medicine, alcohol or drug rehabilitation, or mechanical devices but would exclude surgery or other invasive procedures.
  - (3) If enrolled in health care coverage sponsored by the retirement system, such additional medical treatment is an allowable medical expense under the retirement system's health care plan.
  - (4) The member, prior to receipt of disability benefits, shall agree in writing on a form provided by the board to obtain the recommended treatment and submit required medical reports during the treatment period.
  - (5) The member terminates public employment not later than the end of the month following the month in which the board made its decision to approve the disability benefit application. If a member fails to terminate public employment within this time frame, the disability application is void and the disability benefit shall not be paid and is forfeited. If eligible, the member may file a new disability application.
- (D) A member may withdraw an application for a disability benefit prior to receipt of the initial benefit payment in the same method as described in rule 145-1-65 of the Administrative Code.
- (E) The following apply to disability applications filed after the board's decision is final:

- (1) Any subsequent applications for a disability benefit filed within the two years following the board's final decision of denial shall be submitted with medical evidence supporting progression of the disabling condition or evidence of a new disabling condition.
- (2) The retirement board shall not consider an application under this paragraph if the medical consultant or examining physician concludes there is no evidence of progression or a new disabling condition and the application shall be voided.
- (3) Notwithstanding paragraphs (E)(1) and (E)(2) of this rule, a member may file a new disability application without showing progression or a new condition if the member has changed his or her position of public employment since the board's decision became final.
- (4) If two years have elapsed since the date the member's contributing service terminated, no subsequent application shall be accepted.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

CERTIFIED ELECTRONICALLY

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Certification

09/29/2016

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1/7/13 (Emer.), 3/24/13, 7/7/13 (Emer.), 9/16/13,  
11/6/14, 3/23/15 (Emer.), 6/6/15

145-2-22

**Receipt of disability benefits.**

- (A) After the board has acted on a member's application, it shall notify, by regular mail, the member and the member's last employer reporting to the retirement system or other retirement system, as applicable, of its action.
- (B) The board may require a member to submit to subsequent medical examination(s) by an examining physician(s) provided the medical consultant recommends such examination(s) in order to evaluate continued eligibility for disability benefits. The board's consideration shall remain limited to the disabling condition(s) described in paragraph (B)(2) of rule 145-2-21 of the Administrative Code or as described in paragraph (G) of this rule.
- (C) The board may waive the annual medical examination as described in section 145.362 of the Revised Code upon the recommendation of the board's medical consultant. A waiver of the annual medical examination does not prohibit the board from requiring the member to submit to subsequent medical examinations.
- (D) Continued medical treatment
- (1) A member whose disability benefit is approved with the requirement of continued medical treatment must submit required medical treatment reports on a form provided by the retirement system. If the member fails to submit a required report or does not continue the required treatment, the member's disability benefit shall be suspended until such report is received by the retirement system or the member resumes treatment. If such failure continues for one year, the disability benefit shall be terminated in accordance with section 145.35 of the Revised Code and is not subject to appeal to the public employees retirement board.
  - (2) The medical consultant may waive the requirement for continued medical treatment if the medical consultant determines that the treatment is no longer helpful or advisable.
  - (3) A disability benefit recipient enrolled in the rehabilitative services program shall comply with the continued medical treatment as described in paragraph (F) of this rule.
- (E) Reemployment of or public service provided by a disability benefit recipient
- (1) If a disability benefit recipient is restored to service by a public employer as defined in this rule, the disability benefit shall cease in accordance with section 145.362 of the Revised Code and is not subject to appeal to the public

employees retirement board.

(2) Subject to paragraph (E)(3) of this rule, “restored to service” means holding elective office or service as a public employee with any public employer covered by Chapter 145. of the Revised Code, regardless of whether the service is similar or dissimilar to the public employment from which the recipient was found disabled, the amount or type of compensation, if any, or whether the compensation is earnable salary.

(3) “Restored to service” does not include either of the following:

(a) On and after July 1, 2015, service the disability benefit recipient terminates immediately upon notice from the retirement system as described in this paragraph.

Upon receipt of notice that the disability benefit recipient has been restored to service, the system shall notify the recipient on a form provided by the system. The form shall require an affirmation by the recipient that either the service will be terminated in order to continue to receive a disability benefit or the service will continue, which will cause the disability benefit to be terminated. The recipient shall return to the retirement system the signed and notarized form not later than forty-five days after the date it was mailed by the retirement system. If the recipient affirms a continuation of service or the recipient fails to return the form to the retirement system within forty-five days, the disability benefit shall be terminated on the date the recipient was restored to service and any overpayment of disability benefits shall be collected as authorized in Chapter 145. of the Revised Code. If the recipient affirms a termination of service, the termination of service shall be effective on receipt of the notice from the retirement system and any employee contributions remitted for the service shall be unauthorized and returned to the employer. The corresponding employer contributions shall be unauthorized and shall be credited against future employer liabilities.

(b) Service performed as an election worker, as defined in rule 145-1-44 of the Administrative Code, who is not a public employee pursuant to section 145.012 of the Revised Code.

(4) The retirement board shall review the employment of a disability benefit recipient who seeks employment or is employed or compensated by an employer other than a public employer in a position similar to the position the recipient held as a public employee to determine if the recipient must undergo a medical examination to determine if the disability is ongoing or whether the

benefit should be terminated.

(F) Rehabilitative services program

- (1) A disability benefit recipient whose application for a disability benefit was received by the retirement system on or after January 7, 2013, and who was not a law enforcement officer at the time contributing service terminated, may elect to participate in the rehabilitative services program. If the recipient withdraws from the rehabilitative services program, the recipient is eligible to make one additional election to participate. A recipient may elect to participate in the rehabilitative services program under this paragraph not later than six months prior to the beginning of the third year following the benefit effective date.
- (2) For a disability benefit recipient who has elected to participate in the rehabilitative services program, the continued treatment requirement will be satisfied by the recipient's participation in the case management treatment plan through the rehabilitative services program. Prior to the ~~beginning~~ conclusion of the third year following the benefit effective date, non-compliance with the case management treatment plan shall be treated as described in paragraph (D) of this rule. After the ~~beginning~~ conclusion of the third year following the benefit effective date, non-compliance with the case management treatment plan irrevocably terminates the disability benefit recipient's participation in the rehabilitative services program and thereafter the medical examination of the recipient shall be conducted under the standard described in division (B) of section 145.362 of the Revised Code.
- (3) If the recipient has been receiving the benefit for less than five years and the medical consultant determines that there are no rehabilitative services acceptable to the board's medical consultant, the recipient shall be considered on leave of absence and the standard for termination of the benefit is that the recipient is not physically or mentally incapable of resuming the service from which the recipient was found disabled.

(G) Disability from the duties of any position

Consideration

- (1) Consideration of a recipient's ability to perform any position that meets the criteria in division (B) of section 145.362 of the Revised Code shall include the recipient's physical and mental functionality as based on the recipient's disability record.
- (2) For purposes of evaluating the ability to perform the duties of any position

described in division (B) of section 145.362 of the Revised Code, all criteria described in that division shall be determined at the beginning of each review.

- (H) Information gathered or obtained regarding the disabling condition(s) under this rule becomes part of the disability record that is available for review by the medical examiner and medical consultant.

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1/7/13 (Emer.), 3/24/13, 7/7/13 (Emer.), 9/16/13,  
11/6/14, 3/23/15 (Emer.), 6/6/15

145-2-23

**Disability appeals.**

(A) Except as provided in this paragraph, this rule applies when the public employees retirement board either denies an application for a disability benefit filed pursuant to section 145.35 of the Revised Code or terminates a disability benefit pursuant to section 145.362 of the Revised Code due to the recipient no longer being disabled. The termination of a disability benefit due to any of the following are not subject to the discretion of nor appeal to the board:

- (1) The disability benefit recipient being restored to service, refusing to undergo medical examination, or noncompliance with the annual statement requirement as provided in section 145.362 of the Revised Code and rule 145-2-22 of the Administrative Code;
- (2) The disability benefit recipient's failure to obtain treatment or submit a medical report as provided in division (F) of section 145.35 of the Revised Code and rule 145-2-22 of the Administrative Code.

(B)

(1) After the board has either denied an application for, or terminated, a disability benefit, the member shall be notified in writing of such action.

(2) The notice shall be sent by regular mail.

(3) The notice shall include the following information:

- (a) The board's denial or termination of the disability benefit.
- (b) The member's right to file a written request to appeal. Such written request to appeal must be received by the board no later than thirty days from the date of the notice of denial or termination.
- (c) Failure of a member to submit a written request to appeal shall make the board's action final as to such application or benefit.
- (d) In addition to the written request to appeal, the member must also submit additional objective medical evidence. Such For appeals under the own occupation standard of review, such additional evidence shall be current medical evidence documented by a licensed physician specially trained in the field of medicine covering the illness or injury for which the disability is claimed and such evidence has not been considered previously by the board. For appeals under the any occupation standard

of review, such additional medical evidence shall be current medical evidence documented by a licensed physician specially trained in the field of medicine covering the illness or injury that supports the member's inability to perform the duties of any occupation described in division (B) of section 145.362 of the Revised Code. Such additional medical evidence shall be presented on a form provided by the retirement system.

- (e) Failure to provide the additional medical evidence within forty-five days of the member's appeal request shall make the board's action final to such application or benefit unless an extension for submission of such evidence has been requested and granted within the forty-five days. Only one extension, not to exceed forty-five days, may be granted by the board's staff.
- (f) All medical costs of physicians selected by the member and incident to the appeal shall be at the expense of the member.
- (g) Returning to public employment covered by Chapter 145. of the Revised Code during an appeal process that follows a termination of benefits automatically voids the member's appeal and the board's termination of disability benefits is final.

(C)

- (1) After submission of any additional medical evidence as described in paragraph (B)(3)(d) of this rule, all evidence shall be reviewed by the board's medical consultant(s) who shall recommend action for concurrence by the board.
- (2) If the board concurs with a recommendation for approval of the appeal, disability benefits shall be paid from the date that was established when the original application for a disability benefit was filed. If a recommendation for termination of a disability benefit was appealed and the appeal is approved by the board, the payments shall be resumed from the date of termination. The member shall be notified by regular mail of the board's decision.
- (3) If the board concurs with a recommendation for denial of the appeal, the member shall be notified by regular mail of the board's decision and such decision shall be final.

(D) The following apply to disability appeals or applications after the board's decision on an appeal is final:

- (1) .If two years have elapsed since the date the member's contributing service terminated, no subsequent application shall be accepted.
  - (2) Any subsequent applications for a disability benefit filed after the board's final decision on a denial of an appeal and within the two years following the date the member's contributing service terminated shall be submitted with medical evidence supporting progression of the disabling condition or a new disabling condition. The board shall not consider an application under this paragraph if the medical consultant or examining physician concludes there is no evidence of progression or a new disabling condition and the application shall be voided.
  - (3) Notwithstanding paragraph (D)(2) of this rule, a member may file a new disability application without showing progression or a new condition if the member has changed his or her position of public employment since the board's decision on the appeal became final.
- (E) If an appeal is pending, the retirement system shall void the appeal of a member who returns to public employment covered by Chapter 145. of the Revised Code or files a new disability application and the board's denial or termination of disability benefits is final.

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4/18/11, 1/1/12, 12/10/12, 1/7/13 (Emer.), 3/24/13,  
11/6/14, 3/23/15 (Emer.), 6/6/15

145-2-25                    **Combined disability benefits.**

- (A) This rule amplifies section 145.37 of the Revised Code.
- (B) "Paying system" shall have the same meaning as defined in section 145.37 of the Revised Code.
- (C) As used in this rule, "last date of service" means the last day of compensated service, either for a day worked or used paid leave, under the public employees retirement system, state teachers retirement system, or school employees retirement system.
- (D) If a member of the public employees retirement system files an application for a disability benefit pursuant to section 145.35 of the Revised Code, and also chooses to apply for a combined disability benefit with the state teachers retirement system or school employees retirement system, the following shall apply.
- (1) If this system receives the application for combined disability, it shall notify the other retirement system(s).
  - (2) If this system is the paying system, it shall request and pay for the examining physician(s) report(s).
  - (3) Disability shall be determined on the basis of the duties for the position held on the member's last date of service under school employees retirement system, public employees retirement system, or state teachers retirement system. If the member's last date of service is concurrent under two or more systems, disability for the performance of duty shall be determined on the basis of the duties for the position with the greater annual compensation or earnable salary at the time of application.
- (E) If this system is the paying system of a combined disability benefit, this system's rules and statutes shall govern the disability benefits. A finding of disability shall be based on the member's ability to perform the member's last date of service under school employees retirement system, public employees retirement system, or state teachers retirement system.
- (F) For purposes of division (B)(9) of section 145.37 of the Revised Code, "employment amenable to coverage in any state retirement system" means employment that would impact a retirement or disability benefit under any state retirement system that participated in the former member's combined retirement or disability benefit.

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3/24/13, 3/23/15 (Emer.), 6/6/15

145-2-27

**Disability benefit recipient's annual statement.**

(A)

- (1) On or before April fifteenth of each year, a disability benefit recipient shall file a statement with the public employees retirement system providing information including, but not limited to: work performed during the preceding calendar year, compensation received for work performed, and current medical information.
- (2) For disability benefit applications filed on or after January 7, 2013, the statement must also include any evidence of application for social security disability insurance ("SSDI"), benefit payments and a copy of the annual SSDI reward letter, if applicable.

(B) The recipient's statement shall be made on a form provided by the retirement system.

(C) The failure of a recipient to file such statement shall result in the suspension of a disability benefit until such statement is filed. If such failure continues for one year, the disability benefit shall be terminated in accordance with section 145.362 of the Revised Code and is not subject to appeal to the public employees retirement board.

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(Emer.), 3/24/13, 3/23/15 (Emer.), 6/6/15

145-2-30

**Designation of beneficiary prior to retirement.**

- (A) This rule amplifies section 145.431 of the Revised Code.
- (B) A member may designate a beneficiary on a form provided by the public employees retirement system. The designation applies to all retirement plans in which the member has contributions on deposit prior to retirement. If a member or participant has not designated a beneficiary, the beneficiary shall be determined pursuant to section 145.43 of the Revised Code and applicable provisions of the combined and member-directed plan documents.
- (C) A member or participant who designated a beneficiary or beneficiaries prior to the effective date of this rule shall have the last designation in time maintained as the single designation for the member's accounts in the traditional pension plan, combined plan, and member-directed plan.

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Rule Amplifies: 145.431  
Prior Effective Dates: 7/7/13 (Emer.), 9/16/13

145-2-31

**Proof of dependency.**

Where dependency as defined in division (A) of section 145.43 of the Revised Code is required for eligibility of benefits pursuant to section 145.43 or 145.45 of the Revised Code, a beneficiary shall file a copy of the deceased member's federal income tax return for the year preceding the member's death, or other satisfactory evidence of dependency to the public employees retirement board.

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Prior Effective Dates: 8/18/65, 9/27/98, 1/1/03

145-2-32**Crediting of interest to beneficiaries lump sum payments.**

For purposes of determining the interest credited to a deceased member's account under section 145.471 of the Revised Code, interest shall be earned through the last day of the month prior to the first payment to a beneficiary under section 145.43 of the Revised Code.

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Statutory Authority: 145.09  
Rule Amplifies: 145.431, 145.471

145-2-33 **Educational benefits.**

(A) For the purpose of this rule and division (B)(2) of section 145.45 of the Revised Code:

- (1) "Qualified student" means a qualified child as defined in division (B)(2)(b)(i) of section 145.45 of the Revised Code;
- (2) "School year" means the twelve-month period commencing on the first date of instruction at the institution of learning or training program and ending on that date twelve months later;
- (3) "Two-thirds of the full-time curriculum" means that in any one school year, the number of semester or credit hours required to maintain two-thirds of the full-time status for the entire school year with one semester or quarterly break.

(B)

- (1) Benefits payable to a qualified student shall be paid to the qualified student for the month in which eligibility is attained or terminated, providing the child is over eighteen years of age and under age twenty-two and a student in a school pursuing a program designed to complete at least two-thirds of the full-time curriculum in each school year.
- (2) If a qualified spouse is eligible for a monthly benefit as provided in division (B)(2)(a) of section 145.45 of the Revised Code solely due to the qualified spouse's care of a qualified student, the qualified spouse's benefits shall be suspended or terminated for any period that the qualified student is not eligible for a monthly benefit.

(C) Benefits to a qualified student shall be paid during a school vacation period that does not exceed four calendar months provided the child:

- (1) Was qualified to receive benefits before the vacation period began;
- (2) Intends to, and subsequently does, return to qualified attendance after the end of the vacation period, unless the child has otherwise met the two-thirds of the full-time curriculum requirement for the school year; and,
- (3) Does not receive such benefits for more than one vacation period during any one school year.

- (D) Not later than the last day of the month next following the public employees retirement system's request, a qualified student shall provide proof of registration and completion of all courses for which monthly benefits are paid.
- (E) Any overpayment of benefits may be recovered by withholding the amount of the overpayment from any benefits due to the beneficiary(ies) who accrued the overpayment. If no benefits are due to the beneficiary(ies) who accrued an overpayment, the amount may be collected pursuant to section 145.563 of the Revised Code.
- (F) At no time shall a child be eligible for a monthly benefit as a qualified student for the period following completion of the course of study or graduation from the institution of learning or training program, unless the qualified student continues in the qualified attendance of an institution of learning or training program while under the age of twenty-two.

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145-2-35

**Validity of marriage.**

In the absence of a valid marriage certificate, the public employees retirement board will accept only a decision rendered by a court, having jurisdiction in the state in which the member was domiciled at the time of death, that the relationship constituted a valid marriage at time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing in the distribution of the member's or retirant's intestate personal property.

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145-2-37

**Deferral of survivor benefits.**

- (A) This rule applies to the payment of a benefit to a surviving spouse who has not attained age sixty-five and who elects, pursuant to division (A) of section 145.45 of the Revised Code, to defer receipt of such benefit.
- (B)
- (1) The benefit shall be calculated as if payable on the first day of the month following the death of the member.
  - (2) Notwithstanding paragraph (B)(1) of this rule, the monthly benefit will accumulate and be paid in a single sum no earlier than the first of the month following the surviving spouse's attainment of age sixty-five.
  - (3) Interest shall accumulate during the time of deferral at the interest rate described in division (B) of section 145.473 of the Revised Code.
- (C) The amount calculated under this rule shall not be reduced due to a later recalculation as provided in section 3 of Amended Substitute House Bill 268 of the 111th General Assembly.

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145-2-38

**Survivors of law enforcement officers killed in the line of duty.**

(A) As used in this rule:

(1) "Law enforcement officer" has the same meaning as in rule 145-2-39 of the Administrative Code.

(2) "Killed in the line of duty" has the same meaning as in section 145.45 of the Revised Code.

(B) For purposes of determining the eligibility of a qualified spouse under division (B)(2)(a)(i) of section 145.45 of the Revised Code, the employer of the law enforcement officer at the time of the officer's death shall certify, on a form provided by the public employees retirement system, that the law enforcement officer was killed in the line of duty.

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145-2-39

**Survivors of law enforcement officers with non law enforcement service.**

## (A) Definitions

- (1) "Law enforcement officer" means a member described in division (VV) of section 145.01 of the Revised Code.
- (2) "Law enforcement service" means service as a law enforcement officer or public safety officer.
- (3) "Non law enforcement service" means service covered by the public employees retirement system that is other than law enforcement service.
- (4) "Public safety officer" means a member described in division (XX) of section 145.01 of the Revised Code.

(B) If a member who has both law enforcement service credit and non law enforcement service credit dies prior to retirement, the member's qualifying beneficiary or beneficiaries as determined in accordance with section 143.43, 145.431, or 145.45 of the Revised Code may elect to have benefits paid pursuant to section 145.33, 145.332, 145.43, or 145.45 of the Revised Code. If the benefit is calculated pursuant to division (I)(2) or (I)(3) of section 145.332 of the Revised Code, the beneficiary shall be paid a lump sum payment discounted to present value for the non law enforcement service.

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1/1/03, 1/1/07, 1/1/10, 1/7/13 (Emer.), 3/24/13

145-2-40

**Benefits payable under section 145.333 of the Revised Code.**

- (A) As used in this rule, “retirement allowance” has the same meaning as defined in section 145.333 of the Revised Code.
- (B) If a retirement allowance is reduced under section 145.333 of the Revised Code, the reduced retirement allowance shall become the member’s single lifetime allowance for purposes of sections 145.33, 145.332, and 145.45 of the Revised Code.
- (C) As used in division (E) of section 145.333 of the Revised Code, “full month of service” means any month during which a public employee has earnable salary in the public employees retirement system and does not include the first or last month of employment with a public employer or a period of an approved leave of absence from a public employer.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

CERTIFIED ELECTRONICALLY

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Certification

09/29/2016

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Date

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Statutory Authority: 145.09  
Rule Amplifies: 145.333  
Prior Effective Dates: 1/7/13 (Emer.), 3/24/13, 1/1/14

TO BE RESCINDED

145-2-41

**Bonus points eligibility.**

The anniversary of the birth date must have been on or before August 31, 1976, to vest as described in division (A)(3) of section 145.33 of the Revised Code as of September 1, 1976.

Effective:

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Date

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145-2-42

**Retirement incentive plans.**

(A) For the purpose of this rule:

- (1) "Effective benefit date" means the first day of the month immediately following the latest of the following:
  - (a) The last day for which compensation was paid;
  - (b) The attainment of minimum age or service credit eligibility provided under Chapter 145. of the Revised Code;
  - (c) Ninety days prior to receipt by the public employees retirement system of the member's completed retirement application;
  - (d) February 1, 2013, for retirement applications received by the retirement system on or after January 7, 2013.
- (2) "Employee" means each contributing member of the public employees retirement system who is an employee described in division (C) of section 145.297 of the Revised Code regardless of the years of service credit in the retirement system;
- (3) "Employing unit" means an employer as defined in division (A) of section 145.297 or division (A) of section 145.298 of the Revised Code, and if any subordinate designation of an employing unit is made then the retirement system shall be notified in accordance with paragraph (B) of this rule; and
- (4) "Retirement incentive plan" means a plan established pursuant to section 145.297 or 145.298 of the Revised Code.

(B)

(1)

- (a) Upon adoption of a retirement incentive plan, an employing unit shall notify the retirement system of the adoption on a form provided by the public employees retirement board. A copy of the proposed plan shall be attached to the form. In the case of a retirement incentive plan established under section 145.297 of the Revised Code, the employing unit shall notify the retirement system at least sixty days prior to the date the plan goes into effect. In the case of a retirement incentive plan

established under section 145.298 of the Revised Code, the employing unit shall notify the retirement system immediately upon adoption of the plan.

- (b) Notwithstanding paragraph (B)(1)(a) of this rule, in the event a subordinate designation of an employing unit is made:
  - (i) If by a state entity, notice to the retirement system shall be submitted by the appointing authority and include the signatures of the fiscal officer reporting to the retirement system and head of the subordinate employing unit; or
  - (ii) If by a county board of commissioners, notice to the retirement system shall be submitted by the commissioners and include the signatures of the county auditor and head of the subordinate employing unit; or
  - (iii) If by a municipal corporation legislative authority, notice to the retirement system shall be submitted by the legislative authority and include the signatures of the fiscal officer reporting to the retirement system and head of the subordinate employing unit.

(2) The plan must be in writing and meet the following minimum requirements:

- (a) Incorporate the approval of the employing unit;
- (b) Provide for the employing unit's purchase and payment of service credit;
- (c) For retirement incentive plans adopted under section 145.297 of the Revised Code and received by the retirement system on or after January 1, 2008, provide for a prospective effective date of the plan that shall be at least sixty days after receipt by the retirement system of the notice described in paragraph (B) of this rule;
- (d) Specify the maximum number of years that can be purchased, not to exceed five years, and in no event to exceed an amount of service credit equal to one-fifth of the total service credited to an eligible employee under Chapter 145. of the Revised Code, exclusive of service credit purchased under the plan;
- (e) Be in effect for a minimum of one year except as provided in division (D) of section 145.298 of the Revised Code;

- (f) No more than one plan shall be in effect at one time for an employing unit or subordinate employing unit;
  - (g) Be offered to not less than five per cent of the employing unit or subordinate employing unit's employees who are members of the retirement system as of the date the plan goes into effect;
  - (h) Provide a grievance procedure for timely and impartial resolution of disputes arising under the plan; and
  - (i) Provide thirty days prior notice to employees of the termination of the retirement incentive plan.
- (3) In addition to providing thirty days prior notice to its employees of the termination of a retirement incentive plan, the employing unit shall provide similar written notice to the retirement system at the same time.
- (4) Upon the written request of an employing unit or a subordinate employing unit, a retirement incentive plan may be extended beyond the date designated in the original plan. Such request shall be submitted in the same manner as notice of adoption of the original plan is required in this paragraph.
- (C) Requests by an employing unit for the cost of service credit to be purchased for an employee under a retirement incentive plan shall be submitted to the retirement system on a form provided by the retirement board.
- (D)
- (1) The additional liability resulting from a retirement incentive plan is established under contract as an employer liability by the employee-employer agreement. The cost to the employing unit for each year or fraction of a year of credit to be purchased will be determined by factors recommended by the retirement system's actuary that yield an amount equal to the additional liability for the service credit to be purchased. Factors to establish actuarial cost will be revised no more than once annually and after such revision is approved by the retirement board shall apply to new credit calculations. The cost shall be stated in a statement of cost to the employer that shall be valid when computed for payment not earlier than three months preceding the effective benefit date.
- (2) Except as otherwise provided in this rule, the employing unit shall pay in one

payment after notice by the retirement system to the employing unit, or contract to pay, the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan.

~~(a) In one payment, after notice by the retirement system to the employing unit of the cost; or,~~

~~(b) In equal monthly payments over a period not to exceed the number of full years purchased under the retirement incentive plan.~~

~~(3) Notwithstanding paragraph (D)(2) of this rule, a state employing unit that has established a mandatory retirement incentive plan pursuant to section 145.298 of the Revised Code as the result of institutional closings shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan:~~

~~(a) In one payment, after notice by the retirement system to the employing unit of the cost; or,~~

~~(b) In equal monthly payments with the first payment due not later than sixty days after announced closings.~~

~~(4) Notwithstanding paragraph (D)(2) of this rule, a state employing unit that has established a mandatory retirement incentive plan pursuant to section 145.298 of the Revised Code as the result of lay-offs shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan:~~

~~(a) In one payment, after notice by the retirement system to the employing unit of the cost; or,~~

~~(b) In equal monthly payments over a period not to exceed the number of full years purchased under the retirement incentive plan.~~

~~(5)~~(3) Notwithstanding paragraph (D)(2) of this rule, an employing unit that has established a voluntary retirement incentive plan pursuant to section 145.297 of the Revised Code, and that is terminating operations as a whole or in part shall pay in one payment after notice by the retirement system to the employing unit, or contract to pay, the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the last day of operations.

~~(a) In one payment, after notice by the retirement system to the employing~~

~~unit of the cost; or,~~

~~(b) In equal monthly payments with the first payment due not later than sixty days after the announced termination of operations.~~

~~(6) Notwithstanding paragraph (D)(2) of this rule, an employing unit that does not receive revenue from a levy or direct tax settlement shall pay the cost of the service credit purchased in one payment, after notice by the retirement system to the employing unit of the cost, by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan.~~

~~(7) If an employing unit contracts to pay the cost in installment payments, interest shall be charged beginning with the employee's effective benefit date on the remaining installment payments at a rate set by the retirement board~~

~~(8) Once the initial installment payment is received by the retirement system, all remaining installment payments become due and payable in accordance with the original statement of cost to the employer.~~

~~(9)(4) Any amounts not paid timely by the employing unit shall be certified for collection pursuant to section 145.51 of the Revised Code.~~

(E)

(1) The service credit contracted for purchase under the retirement incentive plan shall be credited to the employee by the retirement system under the terms of the employee-employer agreement and the employee shall retire within ninety days thereafter.

(2) If an employee dies prior to an effective benefit date, a qualifying beneficiary shall be entitled only to those benefits provided by section 145.43 or 145.45 of the Revised Code exclusive of service credit which may have been available under a retirement incentive plan.

(F) Except as provided in sections 145.297 and 145.298 of the Revised Code, an employee who retires with service credit purchased pursuant to a retirement incentive plan is subject to the rights, privileges and obligations under sections 145.01 to 145.59 of the Revised Code in effect at the time of retirement.

(G)

(1) "Total service credit" as used in section 145.297 or 145.298 of the Revised Code means all service that is credited pursuant to Chapter 145. of the

Revised Code.

- (2) Third-party requests for the total service credit of a member shall be honored only if accompanied by the member's written authorization that includes the member's federal identification number.

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Five Year Review (FYR) Dates: 09/29/2016

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Certification

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Date

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1/1/07, 1/1/08 (Emer.), 1/19/08, 1/7/13 (Emer.),  
3/24/13

145-2-43

**Additional annuity accounts.**

(A) A member or contributor who makes a deposit for an additional annuity pursuant to section 145.62 of the Revised Code shall remit the first deposit with a form provided by the public employees retirement system. The retirement system shall not accept a payment for less than fifteen dollars. Deposits shall be credited to the current tax year, except that a deposit may be credited to the prior tax year if the deposit was received by the retirement system or postmarked on or before December thirty-first of the prior tax year.

(B) A member or contributor may elect to have an eligible rollover distribution paid directly to an additional annuity account as a direct rollover. Any non-taxable portion of an eligible rollover distribution shall be separately accounted for by the retirement system and shall only be accepted in a direct trustee-to-trustee transfer to the additional annuity account. The following definitions apply to this paragraph:

(1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of a member or contributor from an eligible retirement plan. An eligible rollover distribution does not include:

(a) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the member or contributor or the joint lives (or joint life expectancies) of the member or contributor and the member or contributor's designated beneficiary, or for a specified period of ten years or more;

(b) Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401;

(c) Any distribution that is made upon hardship of the member or participant;  
or

(d) The portion of any distribution that is not includible in gross income, unless the distribution is being rolled over to either (i) a traditional individual retirement account or individual retirement annuity under sections 408(a) or 408(b) of the Internal Revenue Code of 1986, 26 U.S.C.A. 408, or (ii) a qualified trust which is part of a plan which is a defined contribution plan under sections 401(a) or 403(a) of the Internal Revenue Code of 1986, 26 U.S.C.A. 403, that will separately account for the distribution, including the taxable and non-taxable portions of the distribution, in a direct trustee-to-trustee transfer.

(2) "Eligible retirement plan" means any program defined in sections 401(a)(31)

and 402(c)(8)(B) of the Internal Revenue Code of 1986, 26 U.S.C.A. 402, from which the member or contributor has a right to an eligible rollover distribution, as follows:

- (a) An individual retirement account under section 408(a) of the Internal Revenue Code;
- (b) An individual retirement annuity under section 408(b) of the Internal Revenue Code (other than an endowment contract);
- (c) A qualified trust;
- (d) An annuity plan under section 403(a) of the Internal Revenue Code;
- (e) An eligible deferred compensation plan under section 457(b) of the Internal Revenue Code of 1986, 26 U.S.C.A. 457, that is maintained by an eligible employer under section 457(e)(1)(A) of the Internal Revenue Code;
- (f) An annuity contract under section 403(b) of the Internal Revenue Code; and
- (g) Effective January 1, 2008, a Roth individual retirement account or annuity described in section 408A of the Internal Revenue Code, subject to the limitations set forth in such Internal Revenue Code provision; provided, however, that the plan is not responsible for assuring that a distributee is eligible to make such a rollover.

- (3) "Direct rollover" means a payment to the additional annuity account from an eligible retirement plan specified by the member or contributor.
- (C) A member or contributor shall make application for an additional annuity payment under section 145.64 of the Revised Code or a one-time lump sum payment under section 145.63 of the Revised Code on a form provided by the public employees retirement system. In the event a member or contributor is deceased, the qualifying beneficiary shall make application. Except as provided in this paragraph, a member or contributor may apply for a one-time lump sum payment at any time. If, at the time of application for a one-time lump sum payment, the additional annuity account of the member or contributor includes mandatory member or employer contributions that were transferred to the account in accordance with rule 145-2-18 of the Administrative Code, the member or contributor may only apply for a one-time lump sum payment under the circumstances described in section 145.63

of the Revised Code if the member has terminated service.

- (D) Except as provided in this paragraph, monthly additional annuity payments shall commence at the time of issuance of an initial benefit payment, as defined in paragraph (A)(5) of rule 145-1-65 of the Administrative Code. In the case of a member or contributor who indicates on a form provided by the retirement system that the member or contributor will be making additional deposits into their additional annuity account, monthly additional annuity payments shall not be issued until one hundred twenty days following the initial benefit payment or, in the case of an additional annuity commenced in connection with a benefit under section 145.384 of the Revised Code, one hundred twenty days from issuance of the first payment under that section.
- (E) All amounts on deposit with the retirement system on December 31, 2007, for an additional annuity, including any interest as may have been allowed by the public employees retirement board under former section 145.23 of the Revised Code, section 145.62 of the Revised Code, or prior versions of this rule, and any deposits made on or after January 1, 2008, shall be invested in the OPERS stable value fund, as described in the statement of investment objectives and policies for the defined contribution fund. The retirement system shall value the amounts described in this paragraph in accordance with the daily values determined for the OPERS stable value fund and acceptable industry practices. The board and the retirement system are not liable for losses or depreciation in the value of the amounts described in this paragraph.
- (F) Pursuant to division (B)(6) of section 145.64 of the Revised Code, a member or contributor who fails to select a plan of payment for the monthly additional annuity shall receive monthly annuity payments under a plan of payment that is consistent with the marital status of the member or contributor.
- (G) On application for a payment under section 145.63 or 145.64 of the Revised Code by a member, contributor, or beneficiary whose deposits were transferred to the income fund as described in section 145.41 of the Revised Code, the retirement system shall credit interest and invest the deposits as described in paragraph (E) of this rule.

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Certification

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Date

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1/1/07, 4/6/07 (Emer.), 7/1/07, 1/1/08 (Emer.),  
1/19/08, 4/1/08 (Emer.), 6/23/08, 1/1/11, 2/1/11  
(Emer.), 4/18/11, 1/1/12, 1/7/13 (Emer.), 3/24/13,  
8/1/15 (Emer.), 9/30/15

145-2-44

**Selection of payment plan-spousal consent.**

(A) A contributor who is married at the time of retirement under section 145.32, 145.33, 145.331, 145.332, 145.37, or 145.46 of the Revised Code, section 9.02 or 9.03 of the combined plan document, or section 9.02 of the member-directed plan document, or at the time benefits are to commence under section 145.384 or 145.64 of the Revised Code, shall receive a retirement benefit under the joint-life plan with one-half of such allowance continuing after death to the contributor's surviving spouse unless one of the following apply:

(1) The spouse consents on a form provided by the public employees retirement system that the spouse is aware that the contributor has selected the joint-life plan with one-half of such allowance continuing after death to the contributor's surviving spouse and a partial lump sum option payment as defined in rule 145-1-65 of the Administrative Code, or a payment plan other than a joint-life plan with one-half of such allowance continuing after death to the contributor's surviving spouse.

(2) The public employees retirement board waives the requirement of a spousal consent in accordance with rule 145-1-70 or rule 145-3-11 of the Administrative Code;

(3) The contributor is required to elect a plan of payment and designate a former spouse as beneficiary pursuant to a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and the contributor also designates the contributor's current spouse as a beneficiary under that plan.

(4) The retirement system is required to commence a benefit described in this paragraph in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations thereunder.

(B) This paragraph applies to a contributor who elects a plan of payment under which a portion of the contributor's benefit continues, after the death of the contributor, to two, three, or four surviving beneficiaries. A contributor's current spouse must also consent to the election of a plan of payment described in this paragraph if either of the following applies:

(1) The contributor is not subject to a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that requires the contributor to elect the plan of payment described in this paragraph;

(2) The contributor is ordered to designate a former spouse as beneficiary of a

specified portion of the benefit under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property, but also designates a beneficiary or beneficiaries other than the contributor's current spouse and former spouse under that plan of payment.

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4/1/08 (Emer.), 6/23/08, 1/7/13 (Emer.), 3/24/13,  
9/1/13 (Emer.), 9/16/13

145-2-45

**Benefit payable pursuant to section 145.331 of the Revised Code.**

- (A) Benefits available under section 145.331 of the Revised Code shall be effective as provided in that section.
- (B) A disability benefit recipient who applies for retirement under section 145.331 of the Revised Code shall select a plan of payment and designate a beneficiary pursuant to section 145.46 of the Revised Code. A plan of payment or a beneficiary may be changed only pursuant to section 145.46 of the Revised Code and rule 145-2-47 of the Administrative Code.

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145-2-46

**Beneficiary's percentage under the joint-life and multiple-life plans.**

Unless a court order specifically requires a member to allocate to the member's former spouse less than ten per cent of the member's monthly retirement allowance, the portion of a retirement allowance that continues after death to a member's surviving beneficiary pursuant to the plan of payment described in division (B)(1) or (B)(3) of section 145.46 of the Revised Code or section 9.03 (e)(1)(i) or (e)(1)(iii) of the combined plan document shall be expressed as a whole percentage and shall meet or exceed the greater of the following:

- (A) Ten percent of the member's monthly retirement allowance;
- (B) A percentage that causes the beneficiary's monthly benefit to be at least one hundred dollars.

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1/7/13 (Emer.), 3/24/13, 9/1/13 (Emer.), 9/16/13

145-2-47

**Beneficiary and payment plan changes after retirement.**

- (A) Section 145.46 of the Revised Code as effective January 7, 2013, renames the plans of payment available under sections 145.32, 145.33, 145.332, and 145.46 and former section 145.34 of the Revised Code. For purposes of Chapter 145. of the Revised Code and Chapters 145-1 to 145-4 of the Administrative Code, such payment plans shall be treated the same as follows:
- (1) A straight or single life annuity payment plan and plan B shall be known as “the single-life plan”.
  - (2) An option 1 payment plan and plan D shall be known as “the joint-life plan”.
  - (3) An option 2 payment plan and plan A when the retirant's spouse is the retirant's beneficiary and the amount payable after the retirant's death is fifty per cent shall be known as “the joint-life plan”.
  - (4) An option 2 payment plan and plan C when the beneficiary is someone other than the retirant's spouse or the amount payable to a beneficiary after the retirant's death is other than fifty per cent shall be known as “the joint-life plan”.
  - (5) An option 3 payment plan and plan E.
  - (6) Plan F shall be known as “the multiple-life plan”.
- (B) Except as provided in paragraph (I) of this rule, a designation of beneficiary may be changed after retirement when the retirant is receiving benefits under:
- (1) A payment plan B or the single-life plan.
  - (2) A payment plan E, under the version of section 145.46 in effect immediately prior to January 7, 2013, but the payment plan cannot be changed.
- (C) When a retirant is receiving benefits under the joint-life plan, the plan shall be changed to the single-life plan and a new beneficiary may be designated:
- (1) The first day of the month following the date on which the public employees retirement system receives the death certificate of the spouse or other individual designated as beneficiary under the plan, but any change in the benefit amount shall be effective the first day of the month following the date of death of the spouse or beneficiary.

- (2) On the first day of the month after receipt of the election of the retirant to revert to the single-life plan following divorce, annulment or dissolution of marriage with a spouse designated as beneficiary under the plan, except that no benefit shall be increased without the written consent of the former spouse who was the designated beneficiary or an order from the court with jurisdiction over the termination of the marriage.
- (D) The right to have the joint-life plan recomputed as the single-life plan upon notice of the date of death of the beneficiary, or upon divorce, annulment or dissolution of marriage with a spouse who was designated as beneficiary, applies to all retirants who are receiving benefits under the joint-life plan regardless of the original effective date of benefits.
- (E) Upon the marriage or remarriage of a retirant receiving benefits under the multiple-life plan, the retirant may designate the new spouse as a beneficiary under the multiple-life plan only if the retirant does not already have four beneficiaries designated under that plan at the time the retirant applies to add the new spouse.
- (F) ~~The~~
- (1) ~~The death or disqualification of any designated beneficiary under the multiple-life plan shall not change the plan of payment. The the multiple-life plan benefit shall continue to the remaining designated beneficiaries in their same percentages and . If the death or disqualification occurs prior to the retirant's death, the deceased beneficiary's portion shall revert to the retirant for the remainder of his or her lifetime. A retirant may not cancel the plan of payment and return to a single lifetime benefit equivalent until the date of death of all designated beneficiaries under that plan. The effective date of this change shall be the first day of the month following the date of death of the last living beneficiary.~~
- (2) A retirant may not cancel the multiple-life plan and return to a single lifetime benefit equivalent until the date of death of all designated beneficiaries under that plan. The effective date of this change shall be the first day of the month following the date of death of the last living beneficiary.
- (G) A retirant who is receiving benefits under the single-life plan may, upon the retirant's later marriage or remarriage, elect to have the retirant's benefit recomputed as the joint-life plan and designate only the new spouse as beneficiary, as provided in division (H) of section 145.46 of the Revised Code, sections 9.02(f) and 9.03(h) of the combined plan document, and section 9.02(f) of the member-directed plan document. The actuarial factors shall be based on the actuarial ages of the retirant and beneficiary at the time the benefit is recomputed.

- (H) A retirant who elected to receive a partial lump sum option payment, as defined in rule 145-1-65 of the Administrative Code, shall have the partial lump sum option payment accounted for upon the recomputation of the retirant's benefit.
- (I) Any request for a change of plan of payment or of beneficiary shall be made on a form approved by the public employees retirement board. If a retirant dies prior to the retirement system's receipt of the form, the retirant's request for a change of plan of payment or beneficiary is void.
- (J) For those retirants whose benefit is commenced under the single-life plan in accordance with section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C.A. 401, and the regulations thereunder, not later than one year after the effective date of the benefit described in this paragraph, a retirant who was married on the effective date of the benefit may elect the joint-life plan based on the actuarial equivalent of the retirant's single life annuity as determined by the board and designate the retirant's current spouse as beneficiary. The election shall be made on a form approved the retirement system and shall be effective on the effective date of the benefit paid under the single-life plan. Any benefit overpayment may be recovered as provided in section 145.563 of the Revised Code.

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145-2-48

**Beneficiary and payment plan changes after commencement of additional annuity.**

- (A) Except as provided in paragraph (G) of this rule, a designation of beneficiary may be changed after commencement of benefits under section 145.64 of the Revised Code when the contributor is receiving benefits under the single-life plan.
- (B) When a contributor is receiving an additional annuity under a plan providing continuing lifetime payments to a designated beneficiary, the plan shall be changed to the single-life plan and a new beneficiary may be designated:
- (1) The first day of the month following the date on which the public employees retirement system receives the death certificate of the individual designated as beneficiary under the plan, but any change in the benefit amount shall be effective the first day of the month following the date of death of the beneficiary.
  - (2) On the first day of the month after receipt of the election of the contributor to revert to the single-life plan following divorce, annulment, or dissolution of marriage with a spouse designated as beneficiary under the plan, except that no benefit shall be increased without the written consent of the former spouse who was the designated beneficiary or an order from the court with jurisdiction over the termination of the marriage.
- (C) The right to have a plan providing continuing lifetime payments to a designated beneficiary recomputed as the single-life plan upon the date of death of the beneficiary, or upon divorce, annulment or dissolution of marriage with a spouse who was designated as beneficiary, applies to all contributors who are receiving benefits under former section 145.23 or section 145.64 of the Revised Code, regardless of the original effective date of the benefits.
- (D) Upon the marriage or remarriage of a contributor receiving benefits under the multiple-life plan, the contributor may designate the new spouse as a beneficiary under the multiple-life plan only if the contributor does not already have four beneficiaries designated under that plan at the time the contributor applies to add the new spouse.
- (E) The death of any designated beneficiary under the multiple-life plan shall not change the plan of payment. The the multiple-life plan benefit shall continue to the remaining designated beneficiaries in the same percentages and the deceased beneficiary's portion shall revert to the contributor for the remainder of his or her lifetime. A contributor may not cancel the plan of payment and return to a single lifetime benefit equivalent until the date of death of all designated beneficiaries under that plan. The effective date of this change shall be the first day of the month

following the date of death of the last living beneficiary.

- (F) A contributor who is receiving benefits under the single-life plan may, upon the contributor's later marriage or remarriage, elect to have the contributor's benefit under the single-life plan recomputed as the joint-life plan with one-half of such allowance continuing after death to the contributor's surviving spouse, as provided in division (F) of section 145.64 of the Revised Code. The actuarial factors shall be based on the actuarial ages of the retirant and spouse beneficiary at the time the benefit is recomputed.
- (G) Any request for a change of plan of payment or beneficiary shall be made on a form approved by the public employees retirement board. If a contributor dies prior to the retirement system's receipt of the form, the contributor's request for a change of plan of payment or beneficiary is void.
- (H) For those contributors whose benefit under section 145.64 of the Revised Code is commenced under the single-life plan in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, not later than one year after the effective date of the benefit described in this paragraph, a contributor who was married on the effective date of the benefit may elect the joint-life plan with one-half of such allowance continuing after death to the contributor's surviving spouse based on the actuarial equivalent of the contributor's single life annuity as determined by the board. The election shall be made on a form approved by the retirement system and shall be effective on the effective date of the benefit paid under the single-life plan. Any benefit overpayment may be recovered as provided in section 145.563 of the Revised Code.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

CERTIFIED ELECTRONICALLY

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Certification

09/29/2016

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Date

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Statutory Authority: 145.09, 145.62  
Rule Amplifies: 145.64  
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4/1/08 (Emer.), 6/23/08, 1/1/10, 1/7/13 (Emer.),  
3/24/13, 9/1/13 (Emer.), 9/16/13

145-2-49

**Retirement benefits for law enforcement officers.**

## (A) Definitions

- (1) "Law enforcement officer" means a member described in division (VV) of section 145.01 of the Revised Code.
- (2) "Law enforcement service" means service as a law enforcement officer or public safety officer.
- (3) "Non-law enforcement service" means service covered by the public employees retirement system that is other than law enforcement service.
- (4) "Public safety officer" means a member described in division (XX) of section 145.01 of the Revised Code.

(B) If a law enforcement or public safety officer is eligible, applies for, and elects to receive retirement benefits pursuant to division (I)(2) or (I)(3) of section 145.332 of the Revised Code, the law enforcement or public safety officer shall elect to receive the benefit amount for the non-law enforcement service as provided in that section. If the monthly annuity would be less than twenty-five dollars per month, the law enforcement or public safety officer shall receive a lump sum payment. If, at the time of the retirant's death, the retirant has received a total amount of monthly benefits that were less than the retirant would have received as a lump sum payment discounted to the present value of the non-law enforcement service benefit, the difference between the amount the retirant received and the amount the retirant would have received shall be paid to the retirant's beneficiary in a lump sum payment.

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Rule Amplifies: 145.332  
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1/1/03, 1/1/06, 1/1/07, 1/1/10, 1/7/13 (Emer.), 3/24/13

145-2-50

**Acturial reduction factors.**

The public employees retirement board shall, based on the recommendation of the board's actuary, establish the percentage rate for the reductions described in division (A)(2) of section 145.33 of the Revised Code.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Statutory Authority: 145.09  
Rule Amplifies: 145.33  
Prior Effective Dates: 1/7/13 (Emer.), 3/24/13

145-2-51

**Effective date of benefits.**

Benefits available pursuant to section 145.32, 145.33, 145.332, 145.43, 145.45 or 145.46 of the Revised Code shall be effective the first day of the month immediately following the latest of the following:

(A) For a member:

- (1) The last date for which compensation was paid;
- (2) Eligibility by attaining the required minimum age;
- (3) Eligibility by accumulating the required service credit;
- (4) Ninety days prior to receipt by the public employees retirement system of the member's completed application for retirement;
- (5) February 1, 2013, for retirement applications received by the retirement system on or after January 7, 2013.

(B) For a beneficiary:

- (1) The death of the contributor or retirant;
- (2) Attainment of eligibility.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Rule Amplifies: 145.32, 145.33, 145.331, 145.332, 145.43, 145.45,  
145.46  
Prior Effective Dates: 8/20/76, 8/1/92, 2/1/93, 9/27/98, 1/1/03, 1/1/07,  
1/12/08, 1/7/13 (Emer.), 3/24/13

145-2-52

**Application by a contributor for refund of accumulated contributions.**

For purposes of division (A)(2) of section 145.40 of the Revised Code, "eligible for age and service retirement" means a contributor is eligible for a retirement benefit under section 145.32, 145.33, 145.331, or 145.332 of the Revised Code on or before the first of the month following the date the application for a refund is received by the public employees retirement system.

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Rule Amplifies: 145.40  
Prior Effective Dates: 4/5/01, 1/1/03, 12/24/04, 1/7/13 (Emer.), 3/24/13

145-2-53                    **Cost of living adjustment.**

- (A) As used in this rule, "alternate payee" has the same meaning as in section 3105.80 of the Revised Code.
- (B) A benefit recipient who has received an allowance for at least twelve months shall have such allowance increased pursuant to section 145.323 of the Revised Code and as provided in this rule on the annual anniversary of the recipient's effective benefit date.
- (C) A new benefit base upon which a cost of living adjustment shall be calculated shall be established when:
- (1) A post retirement increase is granted, other than a cost of living adjustment or a payment representing reimbursement of premium for medicare part "B".
  - (2) A retirant receiving under the joint-life plan dies and the surviving beneficiary begins receiving a portion of the amount previously paid to the retirant.
  - (3) A survivor benefit is adjusted as the result of adding or removing survivor dependents.
  - (4) A retirant receiving under the joint-life plan reverts to the single-life plan as a result of the death of the beneficiary spouse, or divorce or dissolution of marriage as authorized in section 145.46 of the Revised Code and rule 145-2-47 of the Administrative Code.
  - (5) A retirant receiving under the multiple-life plan reverts to to the single-life plan as a result of the removal of all beneficiaries as authorized in section 145.46 of the Revised Code and rule 145-2-47 of the Administrative Code.
  - (6) The benefit established at retirement is recalculated for any reason except for a cost of living adjustment or reimbursement of premium for medicare part "B."
  - (7) A part of a benefit is waived then the base shall be the portion being paid. If a waiver is withdrawn, the full base shall be re-established.
- (D) For allowances that became payable before October 27, 2006, the apportionment of a cost of living adjustment between a benefit recipient and an alternate payee pursuant to division (B) of section 145.323 of the Revised Code shall begin with the next cost of living adjustment granted on or after October 27, 2006, and shall continue while the order is in effect.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Rule Amplifies: 145.323  
Prior Effective Dates: 8/20/76, 10/11/88, 8/6/90, 1/31/98, 10/7/01, 3/22/02,  
1/1/03, 10/27/06, 9/1/13 (Emer.), 9/16/13

145-2-54

**Enhanced refund.**

(A) As used in this rule:

- (1) "Eligible contributions" means amounts contributed by a member under section 145.47 of the Revised Code and, if applicable, the amounts paid by the member to purchase or restore service credit under section 145.302 or 145.31 of the Revised Code. "Eligible contributions" does not include contributions that were used in the payment of a disability benefit under section 145.36 of the Revised Code or were refunded to the member because the system was not authorized to accept the contributions.
- (2) "Service credit" has the same meaning as defined in section 145.401 of the Revised Code.

(B) For purposes of division (B) of section 145.401 of the Revised Code:

- (1) If a member has, or at the time of death had, at least five years of service credit but less than ten years of service credit, the amount shall equal thirty-three per cent of the member's eligible contributions.
- (2) If a member has, or at the time of death had, at least ten years of service credit, the amount shall equal sixty-seven per cent of the member's eligible contributions.

Five Year Review (FYR) Dates: 09/29/2016 and 09/29/2021

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Rule Amplifies: 145.401  
Prior Effective Dates: 1/7/13 (Emer.), 3/24/13, 7/7/13 (Emer.), 9/16/13

145-2-55

**Death benefit payment.**

- (A) This rule shall apply only to the death benefit payable pursuant to section 145.451 of the Revised Code.
- (B) A retirant or a disability benefit recipient may designate a beneficiary or beneficiaries to receive only the death benefit payment.
- (1) Such designation must be on a form provided by the public employees retirement system and filed with the system prior to the retirant or disability benefit recipient's death.
  - (2) Unless a different distribution is specified, the death benefit payment shall be divided equally among the surviving beneficiaries if the retirant or the disability benefit recipient designated multiple beneficiaries.
- (C) If the death benefit is payable to the person responsible for the retirant's or disability benefit recipient's burial expenses, such person shall submit proof of financial liability for these expenses by paid bills or cancelled checks.
- (D) If a beneficiary of the death benefit payment or portion of a death benefit payment dies prior to the distribution of the amount, the payment shall be issued to the beneficiary's estate.

Effective:

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Statutory Authority: 145.09  
Rule Amplifies: 145.451  
Prior Effective Dates: 8/20/76, 9/29/86, 8/6/90, 12/6/93, 5/29/95, 8/31/96,  
1/1/03, 11/30/07

145-2-57

**Annual interest credited to contributor accounts.**

The public employees retirement board shall set the annual interest rate to be credited to contributor accounts pursuant to division (A) of section 145.473 of the Revised Code.

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Rule Amplifies: 145.473  
Prior Effective Dates: 4/5/01, 1/1/03

145-2-60

**Designation of beneficiaries under the multiple-life plan.**

The portion of the lesser amount continuing after death to two, three, or four surviving beneficiaries designated at the time of a member's retirement or at the time of commencement of a contributor's benefit under section 145.384 or 145.64 of the Revised Code shall be allocated among the beneficiaries in whole percentages only.

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Rule Amplifies: 145.384, 145.46, 145.64  
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9/16/13

145-2-62

**Calculation of amount due retirant or contributor with multiple beneficiaries under the multiple-life plan.**

- (A) This rule applies to a retirant or contributor who elects a plan of payment under which a portion of the contributor's benefit continues, after the death of the contributor, to two, three, or four surviving beneficiaries. Amounts due to a retirant or contributor receiving a monthly benefit and unpaid to the retirant or contributor at death, shall be paid to the beneficiary designated in writing on a form provided by the public employees retirement board, signed by the retirant or contributor and filed with the board.
- (B) The amount payable to each surviving designated beneficiary shall be determined by multiplying the amount due the retirant or contributor under the plan of payment described in paragraph (A) of this rule by a fraction whose numerator is the gross monthly amount that the beneficiary will be paid and whose denominator is the total gross monthly amount that all beneficiaries will be paid.

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Rule Amplifies: 145.384, 145.46, 145.64  
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9/16/13

145-2-64

**Priority of multiple court orders under the multiple-life plan.**

If, at the time of retirement or at the time of commencement of a benefit under section 145.384 or 145.64 of the Revised Code, a member or contributor is subject to more than one court order issued under section 3105.171 or 3105.65 of the Revised Code, or the laws of another state regarding the division of marital property, the public employees retirement system shall establish the priority in which the court orders will be administered by the retirement system. Priority shall be established by the earliest date on which the orders were received by the retirement system.

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9/16/13

145-2-65

**Internal Revenue Code limitations on benefits.**

(A) In addition to other limitations set forth in Chapter 145. of the Revised Code, the defined benefit payable to a member under the traditional pension plan or the defined benefit payable to a member under the combined plan shall not exceed the applicable limits under section 415(b) of the Internal Revenue Code, as periodically adjusted by the secretary of the treasury under section 415(d) of the Internal Revenue Code. This adjustment shall also apply to a member who has had a severance from employment or, if earlier, an annuity starting date. Benefits that are subject to section 415(b) of the Internal Revenue Code shall comply with the foregoing limit in each year during which payments are made. The foregoing limit shall be adjusted pursuant to the requirements of sections 415(b)(2)(C) and (D) of the Internal Revenue Code relating to the commencement of benefits at a date prior to age sixty-two or after age sixty-five, subject to other applicable rules. Any member whose benefits were limited by the application of section 415 of the Internal Revenue Code immediately prior to its amendment by the Economic Growth and Tax Relief Reconciliation Act of 2001 shall, for limitation years ending on or after July 1, 2002, have his or her benefit increased to the amount computed under the applicable plan, but not in excess of the limits of section 415(b)(1)(A) of the Internal Revenue Code of 1986, 26 U.S.C.A. 415(b)(1)(A), as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001.

(B)

(1) For purposes of this rule, "compensation" means compensation as defined in section 415(c)(3) of the Internal Revenue Code and section 1.415(c)-2(d)(3) of the Treasury Regulations, 72 Fed. Reg. 16878, April 5, 2007. In general, section 415(c)(3) of the Internal Revenue Code defines compensation as all of a member's wages as defined in section 3401(a) of the Internal Revenue Code for the purposes of income tax withholding at the source, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in section 3401(a)(2) of the Internal Revenue Code). Compensation shall also include the amount of any elective deferrals, as defined in section 402(g)(3) of the Internal Revenue Code; any amount contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of sections 125, 132(f)(4) or 457 of the Internal Revenue Code; and effective January 1, 2009, differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code.

(2) In addition, compensation shall include the following amounts:

(a) Regular compensation for services. Compensation shall include regular compensation for services that, absent a severance from service, would

have been paid to the member if the member continued in employment with the employer, in accordance with section 1.415(c)-2(e)(3)(ii) of the Treasury Regulations, to the extent required under section 1.415(c)-2(e)(3)(i) of the Treasury Regulations.

- (b) Payments to reservists. Compensation shall include payments to a member who does not currently perform services for an employer by reason of qualified military service made in accordance with the employer's current policy with regard to such qualified military service, to the extent these payments do not exceed the amount the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service, in accordance with section 1.415(c)-2(e)(4) of the Treasury Regulations.
- (c) Back pay. Compensation shall include payments of back pay within the meaning of section 1.415(c)-2(g)(8) of the Treasury Regulations.

(3) "Compensation" shall not include the following amounts:

- (a) Foreign compensation. Compensation shall not include amounts paid as compensation to a nonresident alien, as defined in section 7701(b)(1)(B) of the Internal Revenue Code, who is not a member, to the extent the compensation is excludable from gross income and is not effectively connected with the conduct of a trade or business within the United States, in accordance with section 1.415(c)-2(g)(5)(ii) of the Treasury Regulations.
- (b) Scheduled deferred compensation payments. Compensation shall not include payments to a member in accordance with a nonqualified unfunded deferred compensation plan, even if such amount would have been paid at the same time if employment had continued, in accordance with section 1.415(c)-2(e)(3)(iii)(B) of the Treasury Regulations.
- (c) Disability payments. Compensation shall not include amounts received on account of the member's permanent and total disability (as defined in section 22(e)(3) of the Internal Revenue Code and described in section 1.415(c)-2(g)(4) of the Treasury Regulations).
- (d) Cross-over year payments. Compensation shall not include amounts earned during the limitation year but not paid during that limitation year solely because of the timing of pay periods and pay dates if these amounts are paid during the first few weeks of the next limitation year as permitted under section 1.415(c)-2(e)(2) of the Treasury Regulations.

- (C) The application of this rule shall not cause the maximum annual retirement allowance for any member to be less than the member's accrued benefit under all applicable defined benefit plans as of the end of the last limitation year beginning before July 1, 2007, under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to section 415 of the Internal Revenue Code in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the Treasury Regulations.
- (D) No adjustment shall be required to a benefit subject to an automatic benefit increase feature described in section 1.415(b)-1(c)(5) of the Treasury Regulations.
- (E) To the extent that section 415 of the Internal Revenue Code and the Treasury Regulations thereunder require that an interest rate under section 417(e) of the Internal Revenue Code apply, the applicable look-back month shall be the fourth calendar month preceding the start of a plan year.
- (F) Notwithstanding any provision of Chapter 145. of the Revised Code to the contrary, the defined benefit payable to a member under the traditional pension plan or the defined benefit payable to a member under the combined plan shall be determined in accordance with the requirements of section 415(b) of the Internal Revenue Code and the Treasury Regulations thereunder. The limitation year is the plan year. For purposes of the foregoing, any changes required by the Pension Funding Equity Act of 2004 are also incorporated herein by reference.
- (G) Notwithstanding any provision of Chapter 145. of the Revised Code to the contrary, to the extent that any defined contribution feature of any plan under this chapter is subject to section 415(c) of the Internal Revenue Code and such feature does not already have section 415(c) of the Internal Revenue Code limitation language applicable to the feature, the feature shall comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder. For such purposes, the definition of "compensation" in paragraph (B) of this rule shall apply.
- (H) Effective January 1, 2007, notwithstanding any provision of Chapter 145. 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, 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 145. of the Revised Code had the member died as an actively contributing member to the extent required by section 401(a)(37) of the

Internal Revenue Code.

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145-2-67

**Eligible rollover distributions from this plan.**

- (A) A distributee may elect, at the time and in the manner prescribed by the board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

Effective January 1, 2010, a non-spouse beneficiary may elect to make a direct rollover to an inherited individual retirement account or annuity described in section 408(a) or 408(b) of the Internal Revenue Code, or a Roth individual retirement account or annuity described in section 408A of the Internal Revenue Code that is established on behalf of the beneficiary. Such rollover shall be made in a manner consistent with the section 402(c)(11) of the Internal Revenue Code and any other applicable guidance.

- (B) The following definitions apply to this rule:

- (1) "Eligible rollover distribution" means a lump sum distribution from the member or contributor's account pursuant to section 145.40, 145.63, or division (H) of section 145.384 of the Revised Code, except that "eligible rollover distribution" does not include either of the following:

- (a) Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code;

- (b) The portion of any distribution that is not includible in gross income, unless the distribution is being rolled over to either (1) a traditional individual retirement account or individual retirement annuity under section 408(a) or 408(b) of the Internal Revenue Code or (2) a qualified trust which is part of a plan which is a defined contribution plan under section 401(a) or 403(a) of the Internal Revenue Code that will separately account for the distribution, including the taxable and non-taxable portions of the distribution, in a direct trustee-to-trustee transfer.

- (2) "Eligible retirement plan" means any program defined in sections 401(a)(31) and 402(c)(8)(B) of the Internal Revenue Code that accepts the member or contributor's eligible rollover distribution, as follows:

- (a) An individual retirement account under section 408(a) of the Internal Revenue Code;

- (b) An individual retirement annuity under section 408(b) of the Internal Revenue Code (other than an endowment contract);

- (c) A qualified trust;
  - (d) An annuity plan under section 403(a) of the Internal Revenue Code;
  - (e) An eligible deferred compensation plan under section 457(b) of the Internal Revenue Code that is maintained by an eligible employer under section 457(e)(1)(A) of the Internal Revenue Code (so long as the plan agrees to separately account for amounts rolled into the plan);
  - (f) An annuity contract under section 403(b) of the Internal Revenue Code; and
  - (g) Effective January 1, 2008, a Roth individual retirement account or annuity described in section 408A of the Internal Revenue Code, subject to the limitations set forth in such Internal Revenue Code provision; provided, however, that the plan is not responsible for assuring that a distributee is eligible to make such a rollover.
- (3) "Distributee" means a member or contributor, as well as the surviving spouse of a member or contributor.
- (4) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by the distributee.

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145-2-70

**Mandatory direct deposit.**

- (A) For purposes of this rule, "alternate payee" has the same meaning as defined in section 3105.80 of the Revised Code.
- (B) Except as provided in paragraph (C) of this rule, all benefits or payments paid in the form of a monthly annuity to individuals with a United States address on file with the public employees retirement system shall be paid by direct deposit, which is an electronic fund transfer directly to an individual's account at a financial institution. Benefit recipients and alternate payees shall provide to the retirement system valid direct deposit account and routing numbers, the name and contact information of the financial institution, and such other information as may be required by retirement system. The retirement system may withhold a benefit or payment until the benefit recipient or alternate payee provides the information described in this paragraph.
- (C) If a benefit recipient or alternate payee resides more than fifteen miles from a financial institution that provides direct deposit accounts, demonstrates that he or she is the victim of fraud or identity theft, or resides in a nursing or convalescent home, the benefit recipient or alternate payee may submit a request for exemption from direct deposit on a form provided by the retirement system. The retirement system shall approve or deny the request.

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145.37, 145.384, 145.45, 145.46, 145.571, 145.64  
Prior Effective Dates: 3/1/10 (Emer.), 4/5/10, 1/1/11, 1/1/12, 1/7/13 (Emer.),  
3/24/13

3307:1-11-01      **Health care services - establishment of program and definitions.**

(A) Establishment of program

(1) Health care

- (a) Pursuant to section 3307.39 of the Revised Code, a health care program is hereby established for certain benefit recipients and their dependents who meet eligibility requirements specified in this chapter and in any medical or ancillary plan offered.
- (b) The health care program shall consist of such medical plans and ancillary plans as the retirement board may offer from time-to-time.
- (c) Benefit recipients shall provide any information requested by the retirement system to validate the eligibility of any enrollee in a medical plan or ancillary plan offered by the retirement system.
- (d) Any person who obtains coverage, subsidy, or payment of claims in a medical plan and/or ancillary plan as the result of false or misleading information shall be immediately terminated from the health care program. Any amounts paid for which a person is not entitled shall be repaid pursuant to section 3307.47 of the Revised Code. The retirement system may collect amounts due in any other manner the system considers appropriate, as provided by law.

(2) Long-term care insurance

Pursuant to section 3307.391 of the Revised Code, long-term care insurance coverage may be made available for certain teachers, benefit recipients and their dependents who meet eligibility requirements specified in this chapter and in any long-term care insurance offered by the retirement system.

(B) Definitions for purposes of this chapter

- (1) "Ancillary plan" means a plan offered to provide auxiliary coverage, such as dental or vision coverage.
- (2) "Benefit recipient" means a primary recipient, a survivor annuitant, or a survivor benefit recipient as defined in paragraphs (B)(13), (B)(18) and (B)(19) of this rule.

- (3) "Child" means a biological child, legally adopted child, or stepchild of a living or deceased primary recipient or member, or a child for whom a primary recipient or member has been legally appointed as guardian prior to the child attaining age twenty-six.
- (4) "Dependent" means a child under age twenty-six, a sponsored dependent, or a spouse as defined in paragraphs (B)(3), (B)(15) and (B)(16) of this rule.
- (5) "Disability benefit recipient" means a member in the defined benefit plan who is receiving a monthly disability benefit or a participant in the combined plan who is receiving a monthly disability benefit.
- (6) "Disabled adult child" means a person age twenty-six or older who has never been married; is a biological or legally adopted child prior to age eighteen, or a stepchild of a living or deceased primary recipient or member, or a child for whom a primary recipient has been legally appointed as guardian prior to the child attaining age eighteen; continuously meets the requirements for physical or mental incompetency as set forth in paragraphs (H) and (I) of rule 3307:1-8-01 of the Administrative Code, and either:
  - (a) Was adjudged physically or mentally incompetent by a court prior to age eighteen, or age twenty-two if he or she was attending school on at least a two-thirds full-time basis, or
  - (b) Was continuously physically or mentally incompetent and continuously unable to earn a living where both conditions occurred prior to age eighteen, or age twenty-two if he or she was attending school on at least a two-thirds full-time basis.
- (7) "Enrollee" means any individual described in this chapter who participates in a medical plan or ancillary plan offered by the retirement system.
- (8) "Enrollment cycle" means a period of time during which an enrollee is not permitted to terminate his or her enrollment and must continue paying monthly premiums.
- (9) "Entity" means any public or private organization that acts as an employer and is not limited to an employer as defined in section 3307.01 of the Revised Code.
- (10) "Medical plan" means a plan offered to provide medical or prescription drug

coverage or any combination thereof.

- (11) "Ohio retirement system" includes highway patrol retirement system, police and fire pension fund, public employees retirement system, and school employees retirement system.
- (12) "Premium" means a monthly amount that is required to be paid by a benefit recipient to continue enrollment for health care coverage for the benefit recipient and/or any dependent.
- (13) "Primary recipient" means a disability benefit recipient or service retiree as defined in paragraphs (B)(5) and (B)(14) of this rule.
- (14) "Service retiree" means a member in the defined benefit plan who is granted a monthly service retirement benefit or a participant in the combined plan who is granted a monthly service retirement benefit under the defined benefit portion of the combined plan.
- (15) "Sponsored dependent" means a disabled adult child, ~~or a person age twenty-six or older whose permanent residence is with an unmarried primary recipient.~~
- (16) "Spouse" means a person currently married to a primary recipient or a person who was married to a member or primary recipient at the time of the member's or primary recipient's death.
- (17) "Subsidy" means the portion, if any, of the medical plan monthly cost waived by the retirement board.
- (18) "Survivor annuitant" means a beneficiary of a service retiree, who was eligible for health care coverage as a dependent at the time of the service retiree's death and who is receiving a monthly service retirement benefit under an optional plan of payment as defined in section 3307.60 of the Revised Code.
- (19) "Survivor benefit recipient" means a person receiving a monthly survivor benefit under section 3307.66 of the Revised Code or the combined plan, provided such person was eligible as a dependent of the member or disability recipient at the time of the member's or disability recipient's death.
- (20) "Total service credit" has the same meaning as used in section 3307.50 of the Revised Code, and as used in this chapter such credit shall not include any credit purchased under former section 3307.741 of the Revised Code, but

shall include credit purchased under sections 145.297, 145.298, 3307.54 (as it existed until July 31, 2014), and 3309.33 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 06/10/2021

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 3307.04  
Rule Amplifies: 3307.39, 3307.391  
Prior Effective Dates: 12/23/76, 11/28/77, 3/17/89 (Emer.), 6/1/89, 9/23/91 (Emer.), 5/28/92, 6/22/92(Emer.), 9/10/92, 2/13/93, 9/1/96, 7/3/97, 9/16/98 (Emer.), 11/27/98, 5/25/00, 7/1/01 (Emer.), 9/17/01, 1/1/04 (Emer.), 3/22/04, 8/9/07, 5/14/09, 10/28/10, 1/1/13, 01/01/14 (Emer.), 2/10/14, 6/10/2016

3307:1-11-05

**Health care services - medicare part B reimbursement.**

- (A) Pursuant to section 3307.39 of the Revised Code, certain benefit recipients who request reimbursement and verify enrollment in the medicare part B insurance program with the retirement system may be eligible for reimbursement for a portion of the cost of the basic medicare part B premium for months where eligible individuals are enrolled in both a medical plan offered by the retirement system and medicare part B. For approved requests received on or before the fifteenth day of a month, reimbursement begins the first of the month after the date the request is received; otherwise, reimbursement begins the first of the second month after the date the request is received. Reimbursement will be based on service credit in an amount as periodically determined by the retirement board that meets the provisions in division (B) of section 3307.39 of the Revised Code. Effective January 1, 2019, all medicare part B reimbursement will be discontinued.
- (B) The following benefit recipients who continually meet the provisions in paragraph (A) of this rule are eligible for reimbursement as specified in this rule:
- (1) A primary recipient.
  - (2) A survivor benefit recipient with an effective benefit date that is on or before December 1, 2014 excluding survivor benefit recipients who became a beneficiary prior to January 1, 2008 and were age sixty-five prior to January 1, 2008.
  - (3) A survivor annuitant for whom reimbursement is calculated to be the amount of reimbursement the service retiree would have received divided by the number of survivor annuitants of the deceased service retiree, and whose monthly survivor annuitant benefit began between January 1, 2008 and December 1, 2014, is eligible to receive reimbursement for a maximum of five years from the date he or she became a survivor annuitant, excluding survivor annuitants who were named as a beneficiary prior to January 1, 2008 and were age sixty-five prior to January 1, 2008.
    - ~~(a) Whose monthly survivor annuitant benefit began on or before December 1, 2014, was age sixty-five and was a named beneficiary prior to January 1, 2008; or~~
    - ~~(b) Whose monthly survivor annuitant benefit began between January 1, 2008 and December 1, 2014, is eligible to receive a subsidy for a maximum of five years from the date he or she became a survivor annuitant.~~
- (C) Upon request, a benefit recipient receiving medicare part B premium reimbursement under this rule shall certify the amount paid for medicare part B coverage. The reimbursement amount provided under this rule shall not exceed the amount paid

by the benefit recipient.

- (D) For purposes of section 3307.39 of the Revised Code and this rule, basic medicare part B premium means the amount of the standard monthly medicare part B premium determined by the United States secretary of health and human services prior to any premium increases, such as late enrollment penalties or income related monthly adjustment amount being made.

Effective:

Five Year Review (FYR) Dates: 06/10/2021

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Certification

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Date

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Statutory Authority: 3307.04  
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9/23/91 (Emer.), 5/28/92, 6/22/92 (Emer.), 9/10/92,  
2/13/93, 9/1/96, 7/3/97, 9/16/98 (Emer.), 11/27/98,  
5/25/00, 7/1/01 (Emer.), 9/17/01, 1/1/04 (Emer.),  
3/22/04, 9/30/04, 11/9/06, 1/1/07 (Emer.), 4/1/07,  
3/27/14, 9/4/2014, 6/10/2016

3307-3-04

**Back posting.**

An employer may in writing request that the certification made by its prior annual reports be amended, provided:

- (A) Its request explains the reasons for its omission or error.
- (B) It is in the form and format specified by the retirement system.
- (C) Member and employer contributions paid and reported after the close of the fiscal year in which compensation was earned will be accepted only upon payment of interest compounded annually at the actuarially assumed rate, beginning with the first month after the end of the fiscal year in which the compensation was earned and through the month payment is made to the retirement system. Interest for a full month shall be paid for any portion of a month.
- (D) Except as provided in paragraph (E) of this rule, the retirement system will return unauthorized or improperly made member and employer contributions to the employer.
- (E) If an employer has requested a membership determination from the retirement system and the retirement system determines membership is not required, any member and employer contributions already made on compensation earned during the current fiscal year will be returned to the party that remitted the payment of contributions.

Effective:

Five Year Review (FYR) Dates: 03/18/2018

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Certification

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Date

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Statutory Authority: 3307.04  
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Prior Effective Dates: 7/1/01 (Emer.), 9/17/01, 7/24/08

3309-1-35

**Health care.**

## (A) Definitions

As used in this rule:

- (1) "Benefit recipient" means an age and service retirant, disability benefit recipient, or a beneficiary as defined in section 3309.01 of the Revised Code, who is receiving monthly benefits due to the death of a member, age and service retirant or disability benefit recipient.
- (2) "Member" has the same meaning as in section 3309.01 of the Revised Code.
- (3) "Age and service retirant" means a former member who is receiving a retirement allowance pursuant to section 3309.34, 3309.35, 3309.36 or 3309.381 of the Revised Code. A former member with an effective retirement date after June 13, 1986 must have accrued ten years of service credit, exclusive of credit obtained after January 29, 1981 pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code.
- (4) "Disability benefit recipient" means a member who is receiving a benefit or allowance pursuant to section 3309.35, 3309.39, 3309.40 or 3309.401 of the Revised Code.
- (5) "Dependent" means an individual who is either of the following:
  - (a) A spouse of an age and service retirant, disability benefit recipient, or member,
  - (b) A biological, adopted or step-child of an age and service retirant, disability benefit recipient, member, deceased age and service retirant, deceased disability benefit recipient, or deceased member or other child in a parent-child relationship in which the age and service retirant, disability benefit recipient, member, deceased age and service retirant, deceased disability benefit recipient, or deceased member has or had custody of the child, so long as the child:
    - (i) Is under age twenty-six, or
    - (ii) Regardless of age is permanently and totally disabled, provided that the disability existed prior to the age and service retirant's, disability benefit recipient's, or member's death and prior to the child reaching age twenty-six. For purposes of this paragraph

"permanently and totally disabled" means the individual is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than twelve months.

- (6) "Health care coverage" means either of the following group plans offered by the system: the
- (a) a medical plan and the prescription drug plan offered by the system or -
  - (b) limited wraparound coverage, which provides limited benefits that wrap around an individual health insurance plan.
- (7) "Premium" means a monthly amount that may be required to be paid by a benefit recipient to continue enrollment for health care coverage for the recipient or the recipient's eligible dependents.
- (8) "Employer" and "public employer" have the same meaning as in section 3309.01 of the Revised Code.

#### (B) Eligibility

- (1) A person is eligible for health care coverage under the school employees retirement system's health care plan so long as the person qualifies as one of the following:
- (a) An age and service retiree or the retiree's dependent,
  - (b) A disability benefit recipient or the recipient's dependent,
  - (c) The dependent of a deceased member, deceased age and service retiree, or deceased disability benefit recipient, if the dependent is receiving a benefit pursuant to section 3309.45 or 3309.46 of the Revised Code,
  - (d) The dependent child of a deceased member, deceased disability benefit recipient, or deceased age and service retiree if the spouse is receiving a benefit pursuant to section 3309.45 or 3309.46 of the Revised Code and the spouse elects to be covered.
- (2) Eligibility for health care coverage shall terminate when the person ceases to

qualify as one of the persons listed in paragraph (B)(1) of this rule, except that a dependent described in paragraph (A)(5)(b)(i) of this rule shall cease to qualify on the first day of the calendar year following the dependent's twenty-sixth birthday.

- (3) Except for a dependent described in paragraph (A)(5)(b) of this rule, eligibility for health care coverage shall terminate when the person is not enrolled in medicare part B and on or after January 1, 2016 commences employment that provides access to a medical plan with prescription coverage through the employer, or if employees of that employer in comparable positions have access to a medical plan available through the employer, provided the medical plan with prescription drug coverage available through the employer is equivalent to the medical plan with prescription coverage at the cost available to fulltime employees as defined by the employer. For purposes of this paragraph, employer means a public or private employer.

(C) Enrollment

- (1) Except as otherwise provided in this rule, an eligible benefit recipient may enroll in school employees retirement system's health care coverage only at the time the benefit recipient applies for an age and service retirement, disability benefit, or monthly benefits pursuant to section 3309.45 of the Revised Code.
- (2) An eligible spouse of an age and service retirant or disability benefit recipient may only be enrolled in the system's health care coverage at the following times: as follows:
- (a) At the time the retirant or disability benefit recipient enrolls in school employees retirement system's health care coverage, ~~or~~;
- (b) Within thirty-one days of the eligible spouse's:
- (i) Marriage to the retirant or disability benefit recipient;
- (ii) ~~Attaining age sixty-five;~~ Voluntary or involuntary termination of health care coverage under medicaid; or
- (iii) Involuntary termination of health care coverage under another plan, including a medicare advantage plan, or medicare part D plan.
- (c) Within ninety days of becoming eligible for medicare.

(3) An eligible dependent child of an age and service retirant, disability benefit recipient, or deceased member may be enrolled in the system's health care coverage at the following times ~~as follows~~:

(a) At the time the retirant, disability benefit recipient, or surviving spouse enrolls in school employees retirement system's health care coverage;  
or;

(b) Within thirty-one days of the eligible dependent child's:

(i) Birth, adoption, or custody order; or

(ii) Voluntary or involuntary termination of health care coverage under medicaid;

~~(ii)~~(iii) Involuntary termination of health care coverage under another plan, including a medicaid, medicare advantage plan, or medicare part D plan.

(c) Within ninety days of becoming eligible for medicare.

(D) Cancellation of health care coverage

(1) Health care coverage of a person shall be cancelled when:

(a) The person's eligibility terminates as provided in paragraph (B)(2) of this rule;

(b) The person's eligibility terminates as provided in paragraph (B)(3) of this rule;

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

(d) The person's health care coverage is waived as provided in paragraph (G) of this rule;

(e) The person's health care coverage is cancelled due to the person's enrollment in a medicare advantage plan or medicare part D plan as provided in paragraph (H) of this rule;

- (f) The health care coverage of a dependent is cancelled when the health care coverage of a benefit recipient is cancelled; or
- (g) 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.

(E) Effective date of coverage

- (1) The effective date of health care coverage for persons eligible for health care coverage as set forth in paragraph (B) of this rule shall be as follows:
  - (a) For a disability benefit recipient or dependent of a disability benefit recipient, health care coverage shall be effective on the first of the month following the determination and recommendation of disability to the retirement board or on the benefit effective date, whichever is later.
  - (b) For an age and service retirant or dependent of an age and service retirant, health care coverage shall be effective on the first of the month following the date that the retirement application is filed with the retirement system or on 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, 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 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 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

three consecutive months of nonpayment. A benefit recipient who is in default shall be sent notice by certified U.S. mail informing 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 is received. 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.

- (3) After cancellation for default, health care coverage can be ~~reestablished and coverage~~ reinstated as provided in paragraph (I) of this rule, or upon submission of an application for reinstatement supported by medical evidence acceptable to SERS that demonstrates that the default was caused by the benefit recipient's physical or mental incapacity. "Medical evidence" means documentation provided by a licensed physician of the existence of the mental or physical incapacity causing the default. Health care coverage reinstated after termination for default shall be effective on the first of the month following the date that the application for reinstatement is approved.
- (4) A person enrolled in SERS' health care plan cannot receive a premium subsidy unless that person is:
  - (a) A dependent child.
  - (b) An age and service retiree:
    - (i) An age and service retiree with an effective retirement date before August 1, 1989; or
    - (ii) An age and service retiree with an effective retirement date on or after August 1, 1989 and before August 1, 2008 who had earned fifteen years of service credit; or
    - (iii) An age and service retiree with an effective retirement date on or after August 1, 2008 who had earned twenty years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, and who;
      - (a) Was eligible to participate in the health care plan of his or her employer at the time of retirement or separation from SERS service; or

(b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding retirement or separation from SERS service.

(c) A disability benefit recipient:

(i) A disability benefit recipient with an effective benefit date before August 1, 2008; or

(ii) A disability benefit recipient with an effective benefit date on or after August 1, 2008 who:

(a) Was eligible to participate in the health care plan of his or her employer at the time of separation from SERS service; or

(b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding separation from SERS service.

(d) A spouse:

(i) A spouse or surviving spouse of an age and service retiree or disability benefit recipient with an effective retirement date or benefit date before August 1, 2008 who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code;

(ii) A spouse or surviving spouse of an age and service retiree or disability benefit recipient with an effective retirement date or benefit date on or after August 1, 2008 who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, and who:

(a) Was eligible to participate in the health care plan of his or her employer at the time of retirement or separation from SERS service; or

(b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service

preceding retirement or separation from SERS service.

- (iii) A surviving spouse of a deceased member who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, with an effective benefit date before August 1, 2008; or
- (iv) A surviving spouse of a deceased member who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, with an effective benefit date on or after August 1, 2008, and the member;
  - (a) Was eligible to participate in the health care plan of his or her employer at the time of death or separation from SERS service; or
  - (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding the member's death or separation from SERS service.
- (e) For purposes of determining eligibility for a subsidy under paragraph (F)(4) of this rule, when the last contributing service of an age and service retirant, disability benefit recipient, or member was as an employee as defined by division (B)(2) of section 3309.01 of the Revised Code, the health care plan participation requirement shall be if the individual would have been eligible for the public employer's health care plan if the individual were an employee as defined by division (B)(1) of section 3309.01 of the Revised Code.
- (f) Any other individual covered under a SERS health care plan shall be eligible for a premium subsidy under the standard set forth for spouses.
- (g) In all cases of doubt, the retirement board shall determine whether a person enrolled in a SERS health care plan is eligible for a premium subsidy, and its decision shall be final.

(G) Waiver

- (1) A benefit recipient may waive health care coverage by completing and

submitting a SERS waiver form to SERS.

(2) The health care coverage of a benefit recipient's dependent may be waived as follows:

- (a) For non-medicare eligible dependents, the benefit recipient may waive their coverage by completing and submitting a signed written request to SERS on their behalf.
- (b) For medicare eligible dependents, the dependent may waive their coverage by completing and submitting a signed written request to SERS.

(H) Medicare advantage or medicare part D

SERS shall cancel the health care coverage of a benefit recipient or dependent who enrolls in a medicare advantage or medicare part D plan that is not offered by the system unless SERS receives proof of cancellation within fourteen days of receipt of notice of enrollment. The cancellation shall be effective on the first day of the month after SERS notifies the benefit recipient that the coverage has been cancelled.

(I) Reinstatement to SERS health care coverage

(1) An eligible benefit recipient, or dependent of a benefit recipient with health care coverage, whose coverage has been previously waived or cancelled may be reinstated to SERS health care coverage by filing a health care enrollment application as follows:-

(a) The application is received no later than ninety ~~thirty-one~~ days after ~~reaching age sixty-five~~ becoming eligible for medicare. Health care coverage shall be effective the later of the first day of the month after ~~reaching sixty-five~~ becoming medicare eligible or receipt of the enrollment application by the system;

(b) The application is received no later than thirty-one days after voluntary or involuntary termination of coverage under medicaid. Health care coverage shall be effective the later of the first day of the month after termination of coverage or receipt of proof of termination and the enrollment application by the system; or

~~(b)~~(c) The application is received no later than thirty-one days after involuntary termination of coverage under another plan, ~~medicaid~~,

medicare advantage plan, or medicare part D plan with proof of such termination. Health care coverage shall be effective the later of the first day of the month after termination of the other plan or receipt of proof of termination and the enrollment application by the system.

- (2) An eligible person whose coverage was cancelled pursuant to paragraph (D)(1)(fg) of this rule shall be reinstated to SERS health care plan when benefit payments are reinstated.
- (3) An eligible person whose coverage was cancelled pursuant to paragraph (D)(1)(b) of this rule may be reinstated to SERS health care plan when they no longer have access to the medical plan of an employer by filing a health care enrollment application within thirty-one days of the employment ending.
- (4) An eligible benefit recipient or dependent of a benefit recipient with health care coverage, whose coverage has been previously cancelled and who is enrolled in medicare parts A and B or medicare part B only on December 31, 2007 may be reinstated to SERS health care coverage by filing a healthcare enrollment application during the period of time beginning October 1, 2007 and ending November 30, 2007. Health care coverage shall be effective January 1, 2008.
- (5) An eligible benefit recipient or dependent of a benefit recipient with health care coverage, whose coverage has been previously cancelled pursuant to paragraph (H) of this rule and who is enrolled in medicare parts A and B or medicare part B only on June 30, 2009 may be reinstated to SERS health care coverage by filing a health care enrollment application during the period of time beginning May 21, 2009 and ending July 15, 2009.
- (6) An eligible benefit recipient who had an effective retirement or benefit date on or after August 1, 2008, who qualifies for a premium subsidy under paragraph (F)(4) of this rule, and whose coverage has previously been waived as provided in paragraph (G) of this rule, may be reinstated to school employees retirement system health care coverage by submitting a complete health care enrollment application on or before December 14, 2012. Health care coverage shall be effective January 1, 2013.
- (7) An eligible benefit recipient for whom SERS is transferring funds to another Ohio retirement system in accordance with paragraph (G) of rule 3309-1-55 of the Administrative Code may be reinstated to SERS health care coverage by submitting a health care enrollment application during open enrollment periods for health care coverage starting January 1, 2015 or January 1, 2016.

## (J) Medicare part "B"

(1) A person who is enrolled in SERS' health care shall enroll in medicare part B at the person's first eligibility date for medicare part B.

(2)

(a) The board shall determine the monthly amount paid to reimburse an eligible benefit recipient for medicare part B coverage. The amount paid shall be no less than forty-five dollars and fifty cents, except that the board shall make no payment that exceeds the amount paid by the recipient for the coverage.

(b) As used in paragraph (J) of this rule, an "eligible benefit recipient" means:

(i) An eligible person who was a benefit recipient and was eligible for medicare part B coverage before January 7, 2013, or

(ii) An eligible person who is a benefit recipient, is eligible for medicare part B coverage, and is enrolled in SERS' health care.

(3) The effective date of the medicare part "B" premium reimbursement to be paid by the board shall be as follows:

(a) For eligible benefit recipients who were a benefit recipient and were eligible for medicare B coverage before January 7, 2013 the later of:

(i) January 1, 1977; or

(ii) The first of the month following the date that the school employees retirement system received satisfactory proof of coverage.

(b) For eligible benefit recipients not covered under paragraph (J)(3)(a) of this rule, the later of:

(i) The first month following the date that the school employees retirement system received satisfactory proof of coverage, or

(ii) The effective date of SERS health care.

(4) The board shall not:

- (a) Pay more than one monthly medicare part "B" premium reimbursement when a benefit recipient is receiving more than one monthly benefit from this system; nor
- (b) Pay a medicare part "B" premium reimbursement to a benefit recipient who is receiving eligible for reimbursement for this premium from any other source.

Effective:

Five Year Review (FYR) Dates: 02/01/2019

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Certification

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Date

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5505-3-03

**Review of eligibility to continue disability retirement benefits.**

(A) For the purpose of this rule:

(1) “Medical advisor” and “examining physician” have the same meaning as rule 5505-3-02 of the Administrative Code.

(2) “Benefit recipient” means any person who is receiving disability retirement benefits pursuant to section 5505.18 of the Revised Code.

(B) Every benefit recipient under the age of sixty annually shall be subject to a medical examination by HPRS’ examining physician, unless the board’s medical advisor certifies that a benefit recipient’s disability is ongoing and the board waives the requirement that the benefit recipient undergo an annual medical examination.

(C) Every person under the age of sixty who is receiving disability benefits pursuant to section 5505.18 of the Revised Code shall annually submit a statement of earnings, an attending physician’s report, and any other medical or employment information as deemed necessary by the executive director or medical advisor to determine whether the benefit recipient is still disabled as defined by section 5505.18 of the Revised Code. The board may waive the requirement to submit an annual statement of earnings or attending physician’s report if the board’s medical advisor certifies that a disability benefit recipient’s disability is ongoing.

(1) The information required pursuant to paragraph (C) of this rule shall be submitted at a time designated by the executive director, and shall be reported on forms provided by HPRS.

(2) The information required pursuant to paragraph (C) of this rule shall be reviewed by the medical advisor. If the medical advisor determines the benefit recipient may no longer be disabled or if the benefit recipient has requested termination of benefits, HPRS shall:

(a) Schedule a medical examination with an examining physician recommended by the medical advisor.

(b) Provide the benefit recipient with at least fourteen days prior written notice of the time and place of the scheduled examination.

(c) If the examining physician certifies the benefit recipient no longer meets the disability standards set forth in section 5505.18 of the Revised Code, HPRS staff and medical advisor shall present the benefit recipient’s file to the board at the next available meeting.

- (3) The board shall review the examining physician's report and if it concurs with the examining physician's certification that the benefit recipient no longer meets the disability standards set forth in section 5505.18 of the Revised Code, the disability benefits shall terminate the earlier of thirty sixty days after the board concurs with the examining physician's certification, ~~or~~ upon employment with the State Highway Patrol or in a position as described in paragraphs (G) and (H) of this rule.
- (D) The ~~member~~ benefit recipient will be notified of the board's action no more than ten days after the board meets and such notice will be sent by regular US mail to the benefit recipient's last known address~~certified mail or another method that is acknowledged in writing by the member.~~ The ~~benefit recipient will also be notified~~notice will inform the benefit recipient of the date his or her benefits will terminate, if applicable, and his or her right to appeal.
- (E) Within ~~ten~~ twenty days ~~of receiving notification~~ of the board's decision, the benefit recipient may file a written notice of appeal. The notice of appeal shall reference the decision being appealed and shall include the reason(s) why the decision is being appealed. If the benefit recipient does not file a notice of appeal as described in this division, the board's determination made under paragraph (C) of this rule is final.
- (1) The notice of appeal will be considered at the next regularly scheduled meeting of the board. Except as provided in this rule, benefits shall not be terminated while an appeal is pending.
- (2) Within forty days ~~of receiving the notification~~ of the board's determination made under paragraph (C) of this rule~~decision~~, the ~~member~~ benefit recipient must file any evidence he or she would like considered by the board. New disabling conditions and the related medical evidence will not be considered. Extensions will only be granted if the benefit recipient can show, and the board chair concurs, that additional time is needed to obtain relevant new medical evidence and that the process for obtaining that evidence is already in progress~~process~~. HPRS shall void the notice of appeal if new evidence is not received by HPRS in the time described in this paragraph.
- (3) Copies of the reports of the examining physician and medical advisor will be sent to the member and the member's agent upon written authorization of the member, unless the release of such reports is otherwise prohibited by law. However, the medical advisor's recommendation will not be released until the board has made an initial decision regarding the member's disability benefits.

- (4) The applicant has the right to appear at the hearing, with or without counsel, to present new testimony.
  - (5) Evidence, information, or other documentation not already submitted in accordance with this rule will not be permitted.
  - (6) The board's decision is final.
- (F) Nothing in this rule or any waiver granted by the board shall waive any rights of HPRS to request the benefit recipient to undergo a medical examination if information is received at any time which indicates the benefit recipient may no longer be eligible for disability benefits.
- (G) Unless competent and credible evidence is submitted to HPRS, a benefit recipient is presumed to be no longer eligible for disability benefits if employed as a law enforcement officer or "member of a fire department" as defined by section 742.01 of the Revised Code and the associated Administrative Rules. Any benefit recipient that is employed as such shall immediately be subject to the termination procedures detailed in paragraph (C) of this rule.
- (H) For the purpose of this rule, law enforcement officer includes any "member of a police department" as defined by section 742.01 of the Revised Code and the associated administrative rules and any person that 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, a park officer governed by section 1541.10, a forest officer governed by section 1503.29, a preserve officer governed by section 1517.10, a wildlife officer governed by section 1531.13, or a state watercraft officer governed by section 1547.521 of the Revised Code or a similar job position outside the state of Ohio;
- (7) 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;
- (8) A conservancy district police officer governed by section 6101.75 of the Revised Code or a similar job position outside the state of Ohio;
- (9) 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;
- (10) A veterans home police officer established by section 5907.02 of the Revised Code or a similar job position outside the state of Ohio;
- (11) 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;
- (12) 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;
- (13) A special police officer in the department of mental health governed by section 5119.14 of the Revised Code or a similar job position outside the state of Ohio;

- (14) 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;
- (15) 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;
- (16) 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;
- (17) 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;
- (18) 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;
- (19) 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;
- (20) 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;
- (21) 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;

- (22) 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;
  - (23) A parole, corrections, or probation officer or a similar job position outside the state of Ohio;
  - (24) 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;
  - (25) A federal protective service officer or a federal marshal, including, but not limited to, a court security officer hired by the U.S. marshal service.
- (I) Any benefit recipient who desires to be reexamined in conjunction with a request to return to active duty status shall first be required to submit a medical examination report from a physician of his or her choice, which certifies that the benefit recipient is no longer eligible for disability benefits. The benefit recipient shall then be subject to the process described in paragraph (C) of this rule.
- (J) Failure to comply with the provisions identified in this rule may result in the suspension of disability and healthcare benefits.
- (1) Unless for good cause shown, the disability benefit recipient shall be presumed to have refused to submit to the medical examination by an examining physician if HPRS has scheduled such examinations two times and such disability benefit recipient has canceled, rescheduled, or failed to submit to such scheduled medical examinations.
  - (2) The refusal of a benefit recipient to submit to a medical examination or submit employment information requested pursuant paragraphs (B) and (C) of this rule shall result in the suspension of disability benefits and health care or prescription benefits selected by the disability benefit recipient, if any, upon thirty days prior written notice to the benefit recipient and shall continue until compliance.
    - (a) The suspension of disability and health care or prescription drug benefits selected by the disability benefit recipient, if any, shall be effective on the first day of the month immediately following the expiration of the aforementioned thirty day notice period.

- (b) In the event the benefit recipient submits to the required medical examination or information after the aforementioned thirty day notice period, HPRS will reinstate the benefit recipient's disability and health care or prescription drug benefits selected by the benefit recipient, if any, on the first day of the month immediately following the benefit recipient's compliance.

Effective:

Five Year Review (FYR) Dates: 03/28/2018

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 5505.07, 5505.18  
Rule Amplifies: 5505.18  
Prior Effective Dates: 2/15/1981, 1/1/1986, 11/2/1989, 10/10/1996,  
3/28/2013

5505-7-03

**Extended benefits to surviving children.**

(A) ~~For the purpose of this rule, survivor benefits will be paid to a child of a deceased member or retiree until the child~~

(1) "Institution of learning or training" shall mean a high school, vocational or trade school, college or university. ~~Is married,~~

(2) "Full-time curriculum requirements" shall mean at least twelve hours of college or university credit or some equivalent measure of credit as determined by the Executive Director. ~~Attains the age of eighteen, or~~

(3) ~~If the child is a full-time student, attains the age of twenty-three.~~

(B) A child is considered to be a full-time student when enrolled and attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of the institution, ~~as determined by the retirement board.~~

(1) A student must complete an application for benefits and provide certification of enrollment from an educational institution.

(2) Benefits are payable through a term during which a student is not enrolled, provided that the student (a) submits a form indicating intent to continue as a full-time student, (b) continues as a full-time student in the subsequent term, and (c) ~~does not take off the break in enrollment is not~~ more than four months in a twelve-month period. The forgoing shall not apply if the child can show he or she is engaged in an internship or work-study program directly related to and required by the institution of learning or training.

(3) The student is responsible (a) to notify the retirement system of a change in full-time student status and (b) to refund any benefits that were paid after a change.

(4) ~~To the extent that a student is a minor, a parent or guardian must sign the forms referenced in paragraphs (B)(1) and (B)(2) of this rule. In addition, the parents or guardian are jointly and severally responsible with the student (a) to notify the retirement system of a change in full-time student status and (b) to refund any benefits that were paid after a change.~~

(C)

(1) ~~Notwithstanding the provisions of paragraph (A) of this rule, survivor~~ Survivor benefits will continue for a disabled dependent child who was, at the time of

the member's or retirant's death -

- (a) Dependent upon the deceased member or retirant for support, and
- (b) Mentally or physically incapable of providing for his or her own support at a level equal to or greater than the federal poverty guidelines of the department of human and health services.

(2) To determine whether a disabled dependent child qualifies for benefits under this section, the retirement board may require -

- (a) A physician's statement,
- (b) An independent medical examination,
- (c) Two years of federal tax returns from both the parents and the dependent child, and
- (d) Any other information that the board deems relevant.

Effective:

Five Year Review (FYR) Dates: 08/29/2016

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Certification

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Date

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