

Rules

March 14, 2019

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145-2-27

Disability benefit recipient's annual statement.

(A)

- (1) ~~On~~ Except as provided in paragraph (A)(3) of this rule, 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.
- (3) A disability benefit recipient is not required to file the statement described in this rule if the recipient is subject to a guardianship, has attained age seventy, or resides in a skilled nursing facility.

- (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.

Effective:

Five Year Review (FYR) Dates: 9/9/2021

Certification

Date

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145-2-49

Retirement benefits for law enforcement officers.

(A) Definitions

- (1) "Law enforcement officer" means a member described in division (YY) 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 (AAA) 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. one of the following, subject to the limitation described in division (N) of 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.

- (1) For a member who has law enforcement service and non-law enforcement service prior to March 22, 2019, either a monthly benefit as provided in division (I)(2)(b) and (c) or (I)(3)(b) and (c) of section 145.332 of the Revised Code or a lump sum payment discounted to the present value of the non-law enforcement service benefit.
- (2) For a member who is not described in paragraph (B)(1) of this rule, either a monthly benefit as provided in division (I)(2)(b) and (c) or (I)(3)(b) and (c) of section 145.332 of the Revised Code or an amount determined under section 145.40 of the Revised Code as a refund of accumulated contributions for the non-law enforcement service.

(C) 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 described paragraph (B) of this rule, 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 one-time payment.

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03/24/2013, 09/01/2017

742-3-04

Disability benefit recipient's annual earnings statement.

- (A) Unless the board's physician certifies that a disability benefit recipient's disability is ongoing according to the terms of the governing board policy and the board waives the requirement that a recipient file an annual statement of earnings, a disability benefit recipient shall file an annual statement of earnings by September first of each year with the Ohio police and fire pension fund ("OP&F"). The statement must be on the form provided by OP&F. The section of the statement relating to employment, education, and earnings must be notarized. In addition, the disability benefit recipient must also provide any supporting documentation requested by OP&F.
- (B) OP&F shall send written notice to those recipients who have been granted waivers by the board within sixty days of the board's approval.
- (C) Once a disability benefit recipient has been granted a waiver from the requirement to file annual earnings statement by the board, the disability benefit recipient shall thereafter be relieved from filing an annual earnings statement, unless otherwise notified in writing by OP&F.
- (D) For those earning statements due on September 1, 1998, and every September first thereafter, the refusal of the benefit recipient to comply with paragraph (A) of this rule shall result in the suspension of disability benefits and any health care ~~and prescription drug benefits selected by the disability benefit recipient~~ stipend upon sixty days prior written notice to the disability benefit recipient.
- (1) If the disability benefit recipient fails to file the past due annual earning statement(s) in proper form with OP&F within the aforementioned sixty day notice period, OP&F shall suspend the recipient's health care ~~and prescription drug benefits selected by the disability benefit recipient~~ stipend, if any, effective on the first day of the month immediately following the expiration of such notice period.
- (2) In the event the disability benefit recipient files all of the past due earning statement(s) in proper form with OP&F after the aforementioned sixty day notice period, OP&F will reinstate the recipient's disability ~~and health care benefits~~ and health care stipend on the first day of the month immediately following OP&F's receipt of all past due annual earnings statements in proper form, ~~subject to the terms of health care and prescription drug benefits selected by the disability benefit recipient, if any, and the recipient shall be entitled to retroactive coverage of disability and health care benefits during that time in which the benefits were suspended. In such event, the disability benefit recipient shall fully cooperate with OP&F on the coordination of claims filed for medical expenses incurred during such suspension period. Notwithstanding the reinstatement of disability and health care benefits, OP&F shall not be~~

~~obligated to restore the identical benefits previously provided to the disability benefit recipient, if such benefits are not available at the time of such disability benefit recipient's reinstatement of medical expense benefits, and OP&F shall not be obligated to pay for certain medical expenses that were incurred after the effective date of the disability benefit recipient's suspension, and in such event, OP&F shall not be responsible for any additional out-of-pocket expenses and deductibles incurred by the disability benefit recipient arising out of such replacement benefits.~~

~~(3) Notwithstanding the foregoing terms of this paragraph, OP&F shall not suspend dental and vision benefits of such non-complying disability benefit recipient provided and for so long as the disability benefit recipient pays the monthly costs of such benefits in advance to OP&F within thirty days after OP&F sends an invoice to the disability benefit recipient:~~

~~(E) If the disability benefit recipient files the required annual earnings statement in proper form with OP&F on or before December first of the following year in which it was due (i.e. fifteen months after the original due date), OP&F will reinstate the recipient's disability benefits and the health care and prescription drug benefits selected by the disability benefit recipient stipend, if any, subject to the terms of the health care plan sponsored by OP&F. In such event, the disability and health care and prescription drug benefits selected by the disability benefit recipient, if any, shall be paid retroactively and, in such event, the disability benefit recipient shall fully cooperate with OP&F on the coordination of claims filed for medical expenses incurred during such suspension period. Notwithstanding the reinstatement of disability and health care and prescription drug benefits selected by the disability benefit recipient, if any, OP&F shall not be obligated to restore the identical benefits previously provided to the disability benefit recipient, if such benefits are not available at the time of such disability benefit recipient's reinstatement of health care and prescription drug benefits selected by the disability benefit recipient, if any, OP&F shall not be obligated to pay for certain medical expenses that were incurred after the effective date of the disability benefit recipient's suspension. In such event, OP&F shall not be responsible for any additional out-of-pocket expenses and deductibles incurred by the disability benefit recipient arising out of such replacement benefits.~~

~~(F) If the disability benefit recipient has not filed the required annual earnings statement in proper form with OP&F on or before December first of the following year in which it was due, then the disability benefits shall be forfeited in accordance with the terms of division (D) of section 742.40 of the Revised Code and the health care and prescription drug benefits selected by the disability benefit recipient stipend, if any, shall be forfeited in accordance with section 742.45 of the Revised Code, with such forfeiture being effective as of the date of the original suspension, as referenced in a writing provided to the recipient from OP&F.~~

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

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742-3-05

Disability benefits procedure.

(A) For purposes of divisions (C)(2), (C)(3), (C)(4), and (C)(5) of former section 742.37 of the Revised Code and section 742.38 of the Revised Code and this rule, the following terms shall have the meanings set forth herein:

- (1) "Board," shall mean the board of trustees of the Ohio police and fire pension fund ("OP&F").
- (2) "Applicant" shall mean a member of OP&F who has filed any type of application for disability retirement benefits or any person who has filed such application on behalf of an incapacitated member in accordance with division (B) of section 742.38 of the Revised Code and rules 742-3-12 and 742-3-13 of the Administrative Code and who does not have benefits vested under the deferred retirement option plan under section 742.444 of the Revised Code.
- (3) "Disability benefit recipient" shall have the meaning described in division (A) of section 742.40 of the Revised Code.
- (4) "On-duty illness or injury" means an illness or injury that occurred during or resulted from the performance of official duties under the direct supervision of a member's appointing authority.
- (5) "Off-duty illness or injury" means an illness or injury that did not occur during or result from the performance of official duties under the direct supervision of a member's appointing authority. Unless the illness or injury meets the presumption criteria outlined in division (A) of section 742.38 of the Revised Code or competent and credible evidence is submitted to OP&F, a disability condition is presumed to be the result of an off-duty illness or injury.
- (6) "Permanent disability" means a condition of disability with respect to which the board finds that there is no present indication of recovery or those presumptive conditions set forth in division (D)(3) of section 742.38 of the Revised Code, which shall be determined through the medical reports filed with OP&F, as required by the terms of division (A)(1) of section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (7) "Total disability" shall have the meaning set forth in division (D)(1)(a) of section 742.38 of the Revised Code.
- (8) "Partial disability" shall mean a condition of disability with respect to which the board finds the applicant is prevented from performing the member's official police or fire duties and member's earnings capacity is impaired.

- (9) "Guides" shall mean the American medical association's "Guides to the Evaluation of Permanent Impairment, fifth and sixth editions."
- (10) "Occupational characteristics" shall mean the U.S. department of labor's occupational characteristics for police officer (government service) and fire fighter (any industry) positions as the standards for determining the presence or absence of disability.
- (11) "Medical Advisor," as referred to in this rule, shall mean the expert physician appointed by OP&F's board of trustees who advises the board during its deliberations of appeals of decisions relating to disability applications.
- (12) "Vocational Expert," as referred to in this rule, shall mean the expert in vocational evaluations appointed by OP&F's board of trustees who advises the board during its deliberations of appeals of decisions relating to disability applications.
- (13) "Disability evaluation panel (DEP)" shall mean that panel established by the board to make written recommendations to the board on pending disability applications. The DEP shall be comprised of three voting members and at least two non-voting members. The three voting members of the DEP shall be members of the board, who shall be the members of the disability committee, who shall be appointed to such committee by the chairman of the board, and shall be comprised of one active firefighter trustee, one active police officer trustee, and one retiree trustee. The non-voting members of the DEP shall be comprised of expert physicians, including the alternate, all of whom are appointed by the board of trustees and at least one of the non-voting members shall be an expert in vocational evaluations, including the alternate, who shall provide vocational assessments of disability applicants to the DEP. The alternate non-voting member of the DEP shall be a physician appointed by the board of trustees and shall serve in the place of a non-voting member of the DEP in the absence or incapacity of any other non-voting physician member of the DEP.
- (14) "DEP medical advisor," as referred to in this rule, shall mean the expert physician appointed by the board of trustees to advise the DEP during its deliberations of initial disability applications and post-retirement disability reconsiderations, who shall be a different physician than the medical advisor.
- (15) "DEP vocational expert," as referred to in this rule, shall mean the expert in vocational evaluations appointed by the board of trustees to advise the DEP during its deliberations of initial disability applications and post-

retirement disability reconsiderations, who shall be a different evaluator than the vocational expert.

- (16) "Forms" shall mean the forms created, approved, and/or provided by OP&F for the administration of benefits found on the OP&F website at <http://www.op-f.org>.

(B) Impairment and disability evaluation criteria:

- (1) OP&F staff shall work with its advisors and/or physicians who are members of the DEP and shall assign a competent and disinterested physician and expert in vocational evaluations to conduct medical examinations for purposes of determining a member's disability, as provided by law, medical impairment and eligibility for disability retirement benefits.
- (2) In evaluating a member's disability, as provided by law, medical impairment and eligibility for disability retirement benefits, the DEP and the board will use the official duties provided by the employer, but in the event such information is not provided by the employer or does not clearly define the applicable job duties, the board and the DEP shall use the criteria contained in the "guides", the occupational characteristics adopted by the board and the criteria set forth in division (D) of section 742.38 of the Revised Code.
- (3) In evaluating a member's eligibility for disability retirement benefits, the physicians, the expert in vocational evaluations, the DEP, and the board shall consider the member's potential for retraining and reemployment and the eligibility criteria set forth in division (D) of section 742.38 of the Revised Code so that the person's ability to be retrained and reemployed shall include any positions, not just police or fire positions.
- (4) The consideration of a member's application shall be limited to the disabling condition(s) listed in the application if supporting medical documentation is provided to OP&F or disclosed by the examination of the physician(s) selected by OP&F. The DEP and the board shall consider and base its findings and recommendations on all competent evidence made available to it, including medical testimony, opinions, statements, and medical reports submitted by the member's employer under section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (5) One of the physician non-voting members of the DEP and one of the non-voting members of the DEP who is an expert in vocational evaluations shall submit to the board's disability committee or DEP a written recommendation on each application evaluated followed by a report incorporating a summary of findings,

as outlined in the DEP operating guidelines, which is approved by the board of trustees, along with their medical opinion as to whether or not the disabling condition results from an on-duty illness or injury and is waiverable under the DEP operating guidelines for the DEP physicians and the vocational evaluation from the DEP vocational expert.

- (6) In reviewing applications for disability benefits, the DEP and the board shall rely upon the medical opinions of the DEP physicians and OP&F's medical advisor, who have given due consideration of medical and other evidence presented to OP&F.

(C) Initial application.

- (1) Applications for disability benefits shall be made on the disability application form approved by the board and must be in proper form in order to be processed. The member shall provide necessary substantiating documentation, including but not limited to pertinent hospital records, statements from attending physicians, departmental injury reports, the results of any special diagnostic tests, notice of allowed workers' compensation claims, and any pre-employment physicals or records required or requested under section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (2) OP&F shall notify the member's employer that an application has been filed and will send a courtesy copy of such notice to the member within fourteen days after receiving an application for disability benefits from a member or a person acting on behalf of a member, as required by the terms of division (B) of section 742.38 of the Revised Code. The notice shall state only the position or rank, as required by the terms of division (B) of section 742.38 of the Revised Code.
- (3) For those notices sent under paragraph (C)(2) of this rule, the member's employer shall forward to the board a statement certifying the job description for the position or rank and any other information required by the board to process the application and such report or statement shall be filed with the board not later than twenty-eight days after the employer's receipt of the notice referred to in paragraph (C)(2) of this rule or filing an application on behalf of a member, whichever is the first to occur.
- (4) The member's employer shall forward the physician's report of the member's physical examination taken on entry into the police or fire department, as more fully provided in division (A)(1) of section 742.38 of the Revised Code. If the employer fails to forward such report to OP&F on or before the date that is sixty days after the member becomes an OP&F member, division (A)(2) of section 742.38 of the Revised Code requires OP&F to assess against the

employer a penalty determined under section 742.353 of the Revised Code and rule 742-8-08 of the Administrative Code. Even though a member may not have a disabling condition that is presumed, by law, to have been incurred in the member's performance of his/her official duties, that does not foreclose the member from being awarded a service-incurred disability grant.

(5) OP&F shall schedule the member covered by the pending disability benefit application for examination by at least one medical examiner and one expert in vocational evaluations designated by OP&F, unless it is medically inadvisable to do so.

(a) Payment of any fees connected with the acquisition of records or the preparation of reports of the attending physicians shall be the responsibility of the member.

(b) Payment of any fees connected with the preparation of report of the examining physicians or vocational evaluators of OP&F shall be the responsibility of OP&F.

(6) When all the necessary medical reports and records have been received by OP&F, including those reports required or requested under paragraphs (C) (3) and (C)(4) of this rule, OP&F shall schedule such application for review and consideration by the DEP, who shall make a written recommendation to the board based upon the criteria set forth in paragraph (B) of this rule. The board, based on the written recommendation of the DEP, will then consider the application and make an initial determination of disability. The board may:

(a) Grant a disability benefit;

(b) Deny disability benefits; or

(c) Postpone determination, pending an additional examination, or the submission of additional fact.

The member covered by a pending disability retirement application may withdraw the application through a written authorization filed with OP&F at any time prior to the board's award of the initial determination of disability. To the extent that a pending disability application is withdrawn by a member, the withdrawn application shall not be presented to the DEP or the board, depending on when it's received by OP&F.

(7) Copies of the reports of the independent medical and vocational evaluators will be sent to the member and the member's agent upon their request, unless the release of such reports is otherwise prohibited by law. The DEP recommendations will

not, however, be released until the board has made an initial determination of disability. For purposes of the initial determination hearing, OP&F will not consider any documents from a member or a member's agent that seek to rebut or comment on the reports of the independent medical and vocational evaluators.

- (8) Any disability benefit award determined by the board shall be effective as of the date that the board made its initial determination of disability on such pending disability retirement application.
- (9) The member covered by the pending disability retirement application shall be notified of the board's initial determination of disability within thirty days after the board's final action and such notice shall be sent by certified mail, return receipt requested. The member covered by the pending disability retirement application shall be advised of his or her right to:
 - (a) Accept the benefit grant;
 - (b) Waive the benefits and continue working; or
 - (c) Appeal the initial determination of the board.

(D) Acceptance or waiver of benefits.

Not later than ninety days after receipt of the notice of the board provided for in paragraph (C), (E), or (F) of this rule, the disability benefit recipient shall accept or waive the board's determination of disability on the disability benefit election form provided by OP&F. For purposes of making the determination whether the disability applicant has accepted or waived the board's determination of disability, the fund may conclusively rely upon the fund's books and records.

- (1) If no such election is filed with OP&F within the ninety-day time period provided in paragraph (D) of this rule, the award shall be rescinded.
- (2) Subject to the requirement set forth in paragraph (D) of this rule, if a member accepts the award and then fails to establish an effective date of retirement by terminating police or fire employment within ninety days of receipt of notice of the board's determination of disability, as provided under paragraph (C)(9) or (E)(5) of this rule, the disability benefit shall be rescinded.
- (3) A member whose benefits are rescinded pursuant to paragraph (D)(1) or (D)(2) of this rule shall not be foreclosed from later filing another disability benefit application with OP&F and any subsequent applications shall be treated as a new application for disability benefits, except to the extent that such member

does not meet the eligibility requirements set forth in division (D) of section 742.38 of the Revised Code.

(E) Appeal of initial determination.

- (1) Upon a member's appeal of the board's initial determination of disability, the board shall be advised by its medical advisor and vocational expert. The board shall not be under any obligation to adopt the recommendation of its medical advisor or vocational expert if there is some evidence to support a contrary finding.
- (2) A member who wishes to appeal the board's initial determination of disability shall file the notice of disability appeal form provided by OP&F within ninety days of receipt of the board's initial determination of disability referred to in paragraph (C)(6) of this rule. The notice of appeal must contain the member's name, social security number and a brief description of the decision upon which the appeal is based.
- (3) Within sixty days of filing of the notice of appeal, the member shall file with OP&F any new evidence not previously considered by the board on the initial disability application. Failure to submit supporting materials or to request an extension of time within which to do so will be sufficient cause for the director of member services to dismiss the appeal provided OP&F gives the member prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F and the member fails to file the required documentation with OP&F before the designated deadline. Upon application to OP&F before the expiration of the original sixty day period referred to in this paragraph, the director of member services, for good cause shown, may grant the appellant an extension of sixty days within which to file supporting materials. The director of member services may grant the appellant an additional extension based on a recommendation from the DEP medical advisor that there is solid evidence of a medical reason to grant the extension for a period of time recommended by the DEP medical advisor. In no event shall the hearing be postponed more than three times and in no event shall the extensions, in the aggregate, exceed one year.
- (4) Depending on the basis for the appeal and the new evidence submitted by the member, OP&F may request that the member undergo a new medical examination and/or vocational evaluation by an OP&F-appointed examining physician and/or vocational evaluator. OP&F may also provide the new evidence to the original OP&F-appointed examining physician and/or vocational evaluator and request that they review the new evidence and provide OP&F with an addendum to their original reports. The new evidence submitted by the member and any additional medical and/or vocational reports,

including addendum reports, shall be forwarded to the board's medical advisor and vocational expert for review and consideration. The medical advisor and vocational expert will then provide recommendations to the board regarding the member's disability application.

- (5) Upon receipt of the recommendations from the medical advisor and vocational expert, the board shall schedule a hearing on the appeal and shall give the appellant reasonable notice of the date, time and place thereof in writing. Such hearings shall be scheduled within sixty days of the receipt of the reports of the medical advisor and vocational expert. Any hearing may be postponed or continued by the board, either upon application of the appellant or on its own motion. The appellant shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A recording of the hearing will be made to provide the board and the medical advisor with a record for further review. Such recording of the hearing shall be available to the disability applicant and to those individuals who are authorized by the disability applicant to receive such information on the authorization to release medical records form provided by OP&F.
 - (6) Following the hearing on appeal, the board may choose to:
 - (a) Affirm the original determination of disability;
 - (b) Modify the original determination of disability;
 - (c) Deny the disability application; or
 - (d) Postpone a decision pending additional examinations or documentation. The board's decision on appeal shall be the final determination of the initial disability application, subject to the foregoing time limitations on extensions that can be granted.
 - (7) The applicant shall be advised of the board's action within thirty days after the board's final determination of disability and such notice shall be sent by certified mail, return receipt requested. The member covered by the disability appeal shall be advised of the member's right to:
 - (a) Accept the benefit granted;
 - (b) Waive the benefit and continue working; or
 - (c) File a mandamus action.
- (F) Post-retirement disability reconsideration.

- (1) A member who is receiving a less than maximum partial disability and who believes that deterioration of the disabling physical or mental condition awarded by the board has increased the amount of disability, may apply for a reconsideration. Such application shall be on the disability reconsideration application form prepared by OP&F, which shall be dealt with on not less favorable terms than the process used by the DEP for recommendation to the board on initial determinations of disability. The member shall supply substantiating documentation including:
 - (a) Recent medical reports and physician's statements;
 - (b) A wage statement including taxable earnings for the last five years of retirement, primary employers and occupations, and rehabilitation and training programs pursued.
- (2) The DEP shall review such evidence and shall make a written recommendation to the board. The board shall, based on the written recommendation of the DEP, review the evidence submitted, and may decide to:
 - (a) Deny the application for reconsideration;
 - (b) Approve the application and modify the disability benefit effective the first of the month following the decision; or,
 - (c) Postpone a determination of the application pending further physical examination, or further documentation.

The board's decision shall be the final determination of an application for reconsideration.
- (3) The member shall be advised of the board's final determination within thirty days after the board's final action and such notice shall be sent by certified mail, return receipt requested. The letter shall include notice of the member's right to request a new reconsideration, but the board will consider only one application for reconsideration from a member during any twelve-month period.
- (G) Notwithstanding anything herein to the contrary, once a member has deposited, negotiated, or cashed a disability benefit check from OP&F, ~~accepted health care benefits from OP&F from and after the date of the board's initial determination of disability,~~ or failed to withdraw his/her retirement application, as outlined in rule 742-3-17 of the Administrative Code, that member may not apply for any new, increased, or additional benefit for the disabling condition(s) described in such application, except for a member who is granted an off-duty disability less than the maximum amount permitted under division (D)(4) of section 742.38 or former

division (C)(5) of section 742.37 of the Revised Code, or a member who had fewer than twenty-five years of service credit and was granted a partial disability in an amount less than the maximum permitted by division (D)(2) of section 742.38 or former division (C)(3) of section 742.37 of the Revised Code, may apply for an increase in payments to the maximum amount provided by those sections upon evidence of deteriorating earning capacity. Any subsequent request by that member shall be treated as a new application under this rule. In addition, a member may elect to receive interim payments without waiving the member's right to appeal a disability award, as provided for in paragraph (E) of this rule.

(H) Additional medical treatment:

- (1) As a condition to granting an applicant disability benefits or continuing disability benefits under an existing award, as provided in division (B) of section 742.40 of the Revised Code, the member shall agree in writing to obtain any medical treatment recommended by the board's physician(s) and submit the required medical reports over the course of the treatment period.
- (2) Such additional medical treatment shall be of common medical acceptance and readily available, and may include, but is not limited to, medicine, alcohol and/or drug rehabilitation, or mechanical devices.
- ~~(3) Such additional medical treatment must be an allowable medical expense under OP&F's medical expense benefits program.~~

(I) If the member fails to:

- (1) Obtain the recommended treatment required under division (B) of section 742.40 of the Revised Code, as referenced in paragraph (H) of this rule,
- (2) File the required medical report or
- (3) Comply with the required treatment regimen, the board may suspend the awarded disability benefits and ~~medical expense benefits~~ any health care stipend upon ninety days prior written notice to the disability benefit recipient.
 - (a) If the disability benefit recipient fails to comply within the aforementioned ninety day notice period, the suspension of ~~medical expense benefits and disability benefits~~ and any health care stipend shall be effective on the first day of the month immediately following the expiration of such notice period until the treatment is obtained, the required report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable.

- (b) In the event the disability benefit recipient complies within the aforementioned ninety day notice period or the board's physician certified that the treatment is no longer helpful or advisable, ~~the fund~~OP&F will not suspend the disability benefit recipient's ~~medical expense benefits and disability benefits~~ and any health care stipend.
- (J) If, after the aforementioned ninety day notice period, referred to in paragraph (I) of the rule, the disability benefit submits to the requested treatment, submits the required reports, or complies with the required treatment regimen or the board's physician certifies that the treatment is no longer helpful or advisable, ~~the fund~~OP&F will reinstate the disability ~~and medical expense benefits~~ and any health care stipend of such disability benefit recipient, effective as of the first day of the month immediately following the month in which the past due statement(s) were received in proper form by ~~the fund~~OP&F. ~~In such event, the disability benefit recipient shall fully cooperate with the fund on the coordination of claims filed for medical expenses incurred during such suspension period. Notwithstanding the reinstatement of disability and medical expense benefits provided for in this paragraph, the fund shall not be obligated to restore the identical benefits previously provided to the disability benefit recipient, if such benefits are not available at the time of such disability benefit recipient's reinstatement of medical expense benefits under the applicable health care plans, and the fund shall not be obligated to pay for certain medical expenses that were incurred after the effective date of the disability benefit recipient's suspension, including, but not limited to dental, vision, and prescription expenses, and in such event, the fund shall not be responsible for any additional out-of-pocket expenses and deductibles incurred by the disability benefit recipient arising out of such replacement benefits.~~
- (K) If the refusal to submit to the medical examination, as required by the terms of division (C)(2) of section 742.40 of the Revised Code and such failure continues for one year, whether documented by the fund's books or records or as presumed as provided in rule 742-3-10 of the Administrative Code, then the disability benefit recipient's ~~disability and medical expense benefits~~ and any health care stipend shall be forfeited, as required by the terms of division (C)(2) of section 742.40 of the Revised Code effective as of the date of the original suspension, as referenced in a writing provided to the disability benefit recipient from the fund or the board.
- (L) For purposes of determining whether the recipient has refused to comply with the provisions of this division (C)(2) of section 742.40 of the Revised Code and this rule, the fund may conclusively rely upon the fund's books and records.
- (M) Except as expressly provided in this rule or section 742.40 of the Revised Code, all notices to the disability benefit recipient or applicant shall be either delivered personally, sent by express delivery service, certified mail, or first class U.S. mail, postage prepaid and addressed to the disability benefit recipient at the most recent

address set forth in such recipient's file with the fund, or to such other address as the disability benefit recipient shall thereafter designate by proper notice in accordance with this paragraph. All notices to the fund or the board shall be addressed at its principal place of business. Except as otherwise specifically provided for in this rule, notices will be deemed given as of the earlier of:

- (1) The date of actual receipt;
 - (2) The next business day when notice is sent via express mail or personal delivery; or
 - (3) Three days after mailing in the case of first class or certified U.S. mail.
- (N) If an initial application for disability, an appeal, or a post-retirement application has been filed pursuant to paragraph (C), (E), or (F) of this rule and the supporting documentation has not been filed with OP&F or the applicant has not taken any action to prosecute his/her claims within six months of the filing with OP&F, the director of member services shall have full authority to dismiss the application, appeal, or post-retirement application, as the case may be, for failure to prosecute the claim provided OP&F gives ninety days prior written notice to the member of the need to file certain documentation with OP&F and the member fails to file the necessary documentation with OP&F before the expiration of such ninety day time period.
- (O) In determining whether a member had a physical examination before entry into the department, as required in division (D)(3) of section 742.38 of the Revised Code, OP&F shall use the following criteria:
- (1) For disability benefit applicants who became "members" of OP&F prior to September 16, 1998, OP&F will consider the physical examination requirement set forth in division (D)(3) of section 742.38 of the Revised Code to have been met if OP&F receives the following:
 - (a) A writing signed by a licensed physician that documents the examination of the member prior to his/her entry into the police or fire department, as the case may be, and the writing is dated prior to the person becoming a "member" of OP&F, as such term is defined in division (E) of section 742.01 of the Revised Code or the person's entry into the department where the person is employed at the time of the filing of the disability application, provided such date is not more than nine months prior to such date; and
 - (b) The writing signed by a licensed physician does not document the existence of any heart disease or any cardiovascular or respiratory disease.

If the foregoing conditions are met, OP&F will then grant the disability applicant a disability that is presumed to be on-duty, as provided for in section 742.38 of the Revised Code.

- (2) For disability benefit applicants who became "members" of OP&F after September 16, 1998, OP&F will consider the physical examination requirement set forth in division (D)(3) of section 742.38 of the Revised Code to have been met if the physician's report meets the requirements set forth in paragraph (A)(3) of rule 742-1-02 of the Administrative Code prior to the person becoming a "member" of OP&F or before the person's entry into the department where the person is employed at the time of the filing of the disability application, the physician's report does not diagnose the existence of any heart disease or any cardiovascular or respiratory disease.

If the foregoing conditions are met, OP&F will then grant the disability applicant a disability that is presumed to be on-duty, as provided for in section 742.38 of the Revised Code.

- (3) In the event the record of a member's pre-employment physical is lost, destroyed or unavailable, the board may waive the requirement that the absence of disease be evidenced by a physical examination prior to employment as described in paragraphs (O)(1) and (O)(2) of this rule if there is competent medical evidence, as determined by the board's physicians and/or medical advisor, that the cardiovascular or respiratory disease was not evident prior to or at the time of entry into the department.
- (4) For members who do not meet the criteria set forth in division (D)(3) of section 742.38 of the Revised Code and this rule, this will not preclude the member from being granted a duty-related disability if the member is able to document that the disability resulted from the performance of the member's official duties as a member of the police or fire department, as the case may be.

(P) Firefighter cancer presumption:

- (1) In order to be eligible for the presumption described in division (D)(3)(b) of section 742.38 of the Revised Code, a member of a fire department who is applying for disability with cancer as an alleged disabling condition shall complete a questionnaire on a form provided by OP&F. The questionnaire shall be submitted to OP&F at the time of the initial application for disability benefits.
- (2) If the member certifies on the questionnaire required by paragraph (P)(1) of this rule that he or she was assigned to at least six years of hazardous duty as a

member of a fire department and has had any exposure to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen, the member shall provide OP&F with all documentation in support of such certification, including exposure reports, incident reports, shift logs, approved workers compensation claims, or other similar documentation.

- (3) The cancer presumption can be rebutted by evidence that demonstrates that the cancer was not incurred in the line of duty. Such evidence includes, but is not limited to, documentation which shows that the member:
- (a) Incurred the cancer before becoming a member of a fire department;
 - (b) Used cigarettes or other tobacco products, and such usage was a significant factor in the cause or progression of the cancer;
 - (c) Was not assigned to at least six years of hazardous duty as a member of a fire department, or twenty years or more have passed since the member was last assigned to hazardous duty as a member of a fire department;
 - (d) Has not had any exposure to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen;
 - (e) Incurred the cancer as a result of employment or business that is secondary to his or her employment as a member of a fire department;
 - (f) Is not receiving workers compensation for a cancer diagnosis; and
 - (g) Has undergone genetic testing which indicates a predisposition for contracting certain cancers.
- (4) As part of the information that an employer is required to submit to OP&F under division (B) of section 742.38 of the Revised Code, the employer shall certify the following:
- (a) Whether or not the member was assigned to at least six years of hazardous duty as a member of a fire department, and provide the dates of all hazardous duty assignments, if available; and
 - (b) Whether or not the member has had any exposures to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen.

Effective:

Five Year Review (FYR) Dates: 4/6/2022

Certification

Date

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10/16/1986, 10/12/1989, 07/28/1995, 10/15/1997,
10/10/1998 (Emer.), 03/29/1999, 05/01/2000,
10/23/2000, 03/19/2001, 09/07/2001 (Emer.),
11/23/2001, 03/22/2004, 02/16/2006, 07/24/2008,
10/16/2008, 01/22/2009, 08/02/2010 (Emer.),
10/17/2010, 06/07/2013, 12/26/2013, 01/20/2016
(Emer.), 04/07/2016, 04/06/2017 (Emer.), 06/22/2017

742-3-10

Annual medical examinations, termination of benefits and appeal of terminations.**(A) Waiver of annual medical examination requirement**

- (1) For those members who are subject to the terms of division (C)(2)(a) of section 742.40 of the Revised Code (i.e., a disability benefit recipient who has been a member of Ohio police and fire pension fund ("OP&F") for less than twenty-five years and has not attained age forty-eight, such disability benefit recipient shall submit to an annual medical examination by OP&F's physician, unless the DEP medical advisor certifies that a disability benefit recipient's disability is ongoing and the board waives the requirement that the disability benefit recipient undergo an annual medical examination.
- (2) If the requirement that a disability benefit recipient undergo an annual medical examination by an OP&F physician is waived, the recipient shall thereafter be relieved from submitting to an annual medical examination until otherwise notified in writing by OP&F. However, any waiver granted shall not waive any rights the board may have to request a medical examination in accordance with the terms of division (C)(2)(b) of section 742.40 of the Revised Code.

(B) Annual medical examinations

For a disability benefit recipient who has been requested by the board to undergo a medical examination pursuant to the terms of division (C)(2)(a) or division (C)(2)(b) of section 742.40 of the Revised Code:

- (1) OP&F shall notify the disability benefit recipient of the need to schedule the medical examination and provide the disability benefit recipient with at least thirty days prior written notice of the time and place of the scheduled examination.
- (2) Unless for good cause shown, the disability benefit recipient shall be presumed to have refused to submit to the medical examination by an OP&F physician if OP&F has scheduled such examinations three times and the disability benefit recipient has either canceled, rescheduled, or failed to submit to the scheduled medical examinations, as documented by OP&F's books and records.
- (3) The refusal of a disability benefit recipient to submit to the medical examination requested pursuant to the terms of division (C)(2)(a) or division (C)(2)(b) of section 742.40 of the Revised Code, whether documented by OP&F's books and records or as presumed under the terms of paragraph (B)(2) of this rule, shall result in the suspension of disability benefits and any health care or prescription benefits selected by the disability benefit recipient's tipend upon ninety days

prior written notice to the disability benefit recipient and shall continue until compliance.

(a) If the disability benefit recipient has not submitted to the medical examination by an OP&F physician within the aforementioned ninety day notice period, the suspension of disability benefits and any health care ~~or prescription drug benefits selected by the disability benefit recipient~~ stipend shall be effective on the first day of the month immediately following the expiration of the ninety day notice period.

(b) In the event the disability benefit recipient submits to the required medical examination by physician after the ninety day notice period, OP&F will reinstate the recipient's disability and health care ~~or prescription drug benefits selected by the disability benefit recipient~~ stipend on the first day of the month immediately following the disability benefit recipient's submission to the required medical examination. The recipient shall be entitled to retroactive coverage of disability benefits and any health care ~~or prescription drug benefits selected by the disability benefit recipient~~ stipend during that time in which the benefits were suspended. ~~Notwithstanding the reinstatement of disability benefits and any health care or prescription drug benefits selected by the disability benefit recipient upon compliance, OP&F shall not be obligated to restore the identical benefits previously provided to the disability benefit recipient, if such benefits are not available at the time of such disability benefit recipient's reinstatement of health care or prescription drug expenses. OP&F shall not be obligated to pay for certain health care or prescription drug expenses that were incurred from and after the date of the member's suspension, and shall not be responsible for any additional out-of-pocket expenses and deductibles incurred by the disability benefit recipient arising out of such replacement benefits. OP&F shall not, however, suspend dental and vision benefits of such noncomplying disability benefit recipient as the disability benefit recipient pays the monthly costs of such benefits in advance to OP&F within thirty days after OP&F sends an invoice to the disability benefit recipient.~~

(c) If the refusal of a disability benefit recipient to submit to any medical examination under section 742.40 of the Revised Code continues for one year, whether documented by OP&F's books and records or as presumed under the terms of this rule, then the disability benefits recipient's disability benefits and any healthcare ~~or prescription drug benefits~~ stipend shall be forfeited, as required by division (C)(2)(c) of section 742.40 of the Revised Code, effective as of the date of the original suspension. OP&F shall notify the disability benefit recipient by certified mail, return

receipt requested of the termination of benefits and the date that his or her benefits shall be terminated.

(C) Board's concurrence in physician's certification that recipient no longer meets disability standards

(1) For those disability benefit recipients who undergo the medical examination pursuant to division (C) of section 742.40 of the Revised Code, the board will review the physician's report. If the board concurs with the physician's certification that the recipient no longer meets the disability standards set forth in division (D) of section 742.38 of the Revised Code or division (C)(2), (C)(3), or (C)(5) of former section 742.37 of the Revised Code, the disability benefits shall terminate ninety days after the board concurs with the physician's certification or upon employment by the benefit recipient as a police officer or firefighter, as defined in rule 742-3-20 of the Administrative Code.

(2) OP&F shall notify the disability benefit recipient by certified mail, return receipt requested of the board's concurrence with the physician's certification, the date that his or her benefit shall be terminated and of his or her right to appeal.

(D) Appeal of the board's concurrence with physician certification

(1) In order to appeal any determinations of the board under paragraph (C) of this rule, the disability benefit recipient shall file the notice of disability appeal form provided by OP&F within ninety days of receipt of OP&F's notice of termination of benefits. The notice of appeal shall contain the member's name, the last four digits of the member's social security number, and a brief description of the decision upon which the appeal is based.

(2) Within sixty days of the filing of the notice of appeal, the appellant shall submit to OP&F all materials in support of the appeal including, but not limited to, medical records, doctors' reports, and documentation substantiating earnings and income. Failure to submit supporting materials will be sufficient cause for the director of member services to dismiss the appeal provided OP&F gives the member prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F, and the member fails to file the required documentation with OP&F before the designated deadline.

(3) OP&F shall schedule the appeal hearing after receipt of appellant's supporting materials and give the appellant reasonable notice of the date, time, and place thereof in writing. The appellant shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A recording of the hearing will be made to provide the board and the medical

advisor with a record for further review. Such recording of the hearing shall be available to the disability applicant and to those individuals who are authorized by the disability applicant to receive such information on the authorization to release medical records form provided by OP&F.

- (4) Following the hearing on appeal, the board may choose to:
- (a) Affirm the original concurrence in the physician's certification;
 - (b) Reverse the original concurrence in the physician's certification; or
 - (c) Postpone a decision pending additional examinations or documentation.

The board's decision on appeal shall be the final determination of the member's disability.

- (5) The applicant shall be advised of the board's action within thirty days after the board's determination and such notice shall be sent by certified mail, return receipt requested.
- (6) Benefits shall be terminated pending appeal if a favorable decision on the appeal is not made within ninety days of the board's concurrence with the physician's certification.
- (E) Unless otherwise provided in this rule, all notices provided to the disability benefit recipient under this rules shall be sent by first class U.S. mail, postage prepaid and addressed to the disability benefit recipient at the address on file with OP&F. All notices to OP&F shall be addressed at its principal place of business.

Effective:

Five Year Review (FYR) Dates: 1/7/2020

Certification

Date

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09/16/1998 (Emer.), 12/10/1998, 07/17/2004,
10/16/2008, 08/02/2010 (Emer.), 10/17/2010,
01/17/2016

742-3-16

Survivor benefits.

- (A) "Interim Survivor Benefit Payment" is defined as the interim monthly survivor benefit initially paid by Ohio police and fire pension fund ("OP&F") to a surviving spouse of a member in the amount described in division (D) of section 742.37 of the Revised Code until OP&F receives the properly completed survivor pension application and the required documents referenced therein, subject to the terms and conditions set forth in this rule. The survivor pension application, last modified ~~May 11, 2012~~ on October 6, 2017, can be found on OP&F's website, www.op-f.org.
- (B) Upon receipt of OP&F's notice of the death of a member, the following will occur:
- (1) OP&F will process the interim survivor benefit payment due the surviving spouse, which shall be paid to the member's surviving spouse for a period not to exceed ninety days (the "Interim Period");
 - (2) OP&F will send the surviving spouse an application to the most recent address referenced in the member's record or the address provided to OP&F; ~~and~~
 - ~~(3) OP&F's third party administrator for healthcare will notify the surviving spouse of any documents needed to ensure the transition of medical expense benefits to the surviving spouse.~~
- (C) In the event the properly completed application is not received by OP&F by the expiration of the interim period, OP&F will send a notice to the surviving spouse that the interim survivor benefit payments will be suspended, effective sixty days after receipt of the notice of suspension (the "Notice Period"), unless the properly completed application is filed with OP&F on or before the expiration of the notice period.
- (D) In the event the properly completed application is received by OP&F on or before the expiration of the notice period, OP&F will no longer be considered to be paying interim survivor benefit payments, but rather shall be paying the survivor benefit provided for in division (D) of section 742.37 of the Revised Code.
- (E) In the event the interim survivor benefit payments are suspended due to a surviving spouse failing to file a properly completed application on or before the expiration of the notice period, OP&F will begin to pay the survivor benefits provided for in division (D) of section 742.37 of the Revised Code beginning the month following OP&F's receipt of the properly completed application for survivor benefits and OP&F will then pay any retroactive survivor benefits due the surviving spouse, subject to the provisions of paragraph (F) of this rule.

- (F) In the event OP&F pays a benefit to a member prior to OP&F's receipt of notice of the member's death (the "Member Benefit"), the member benefit payment is not returned to OP&F, and the surviving spouse is the beneficiary of the member's estate, then in such event, OP&F will offset any member benefit paid against the survivor benefits due the surviving spouse under division (D) of section 742.37 of the Revised Code ~~or~~ and section 742.58 of the Revised Code, as necessary.
- (G) For purposes of the notices provided for in this rule, the notices will be deemed to have been given as of the earlier of:
- (1) The date of the actual receipt;
 - (2) The next business day when sent via express mail or personal delivery; or
 - (3) Three days after mailing in the case of first class or certified U.S. mail, which will be based upon the date of the postmark of such mailing.
- (H) For purposes of filings provided for in this rule, all filings will be the date of OP&F's actual receipt of the filings.
- (I) OP&F may conclusively rely upon its books and records for purposes of determining the notices and filings provided for in this rule.
- (J) OP&F will pay all other survivor benefits provided for in section 742.37 of the Revised Code upon OP&F's receipt of the properly completed application by eligible parties.
- (K) OP&F will reimburse the medicare part "B" premium to the surviving spouse according to the terms of division (B) of section 742.45 of the Revised Code and rule 742-7-09 of the Administrative Code.

Effective:

Five Year Review (FYR) Dates: 1/4/2019

Certification

Date

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Prior Effective Dates: 02/07/2000 (Emer.), 05/01/2000, 02/14/2005,
08/28/2008, 09/26/2013

742-3-19

Pre-1967 survivor benefits.

(A) The board of trustees of Ohio police and fire pension fund ("OP&F") shall consider the following as evidence acceptable to the board for purposes of determining the eligibility of a surviving spouse for the benefits provided for in division (D)(4) of section 742.37 of the Revised Code:

- (1) The certification provided for in OP&F's application for surviving spouse's pension under division (D)(4) of section 742.37 of the Revised Code or a substantially similar certification, which will be determined by OP&F in its sole and absolute discretion (the "application"); and
- (2) For applications for benefits filed with OP&F under division (D)(4) of section 742.37 of the Revised Code from and after April 1, 2002, public documentation provided by the applicant, including an affidavit signed by an independent third party and notarized before a notary public that identifies or, in the case of the affidavit, certifies that the decedent identified in the surviving spouse's application was a former member of or contributor to a fund established under former Chapter 521. or 741. of the Revised Code (the "local fund member"); and
- (3) A copy of the marriage certificate that documents the marriage of the surviving spouse to the local fund member.

Notwithstanding the foregoing, OP&F will also require the applicant to provide such other documents required for the application of statutory survivor benefits under division (D) of section 742.37 of the Revised Code.

(B) OP&F's board of trustees shall consider the following as evidence acceptable to the board for purposes of determining the eligibility of a local fund member's surviving spouse for the surviving spouses benefits provided for in division (F)(1)(b) of section 742.63 of the Revised Code (the "death fund benefits"):

- (1) A certification from the local fund member's surviving spouse that the local fund member was a member of or contributor to a fund established under former Chapter 521. or 741. of the Revised Code, which can be the certification provided by the applicant in the application for benefits under division (D)(4) of section 742.37 of the Revised Code; and
- (2) For applications for benefits filed with OP&F under division (F)(1)(b) of section 742.63 of the Revised Code from and after April 1, 2002, public documentation provided by the applicant, including an affidavit signed by an independent third party and notarized before a notary public that identifies or, in the case of the affidavit, certifies that the decedent identified in the surviving spouse's

application was a former member of or contributor to a fund established under former Chapter 521. or 741. of the Revised Code (the "local fund member"); and

(3) The surviving spouse shall also file with OP&F a completed application for Ohio public safety officers death benefits and such other documentation identified in the application, as provided for in section 742.63 of the Revised Code and rule 742-19-01 of the Administrative Code, as such rule may be amended from time to time.

(4) In addition to the evidence outlined in this paragraph (B), the terms of rule 742-19-01 of the Administrative Code shall also apply to the processing of these benefits.

~~(C) The spouse(s) of the applicant who was not a local fund member and the children or dependents resulting from such marriage(s) shall not be entitled to healthcare coverage sponsored by OP&F.~~

Effective:

Five Year Review (FYR) Dates: 7/19/2022

Certification

Date

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07/19/2012

742-4-01

General DROP definitions.

Capitalized terms used in rules 742-4-01 to 742-4-19 of the Administrative Code shall have the following meaning:

- (A) "Average Annual Salary" is defined in division (G) of section 742.01 of the Revised Code.
- (B) A "DROP Participant" shall mean an eligible member who files the election (as hereinafter defined) with OP&F and the election has been fully completed and properly completed by the member.
- (C) "OP&F" shall mean the Ohio police and fire pension fund created under Chapter 742. of the Revised Code.
- (D) "DROP Benefit" shall mean the benefit calculated for a DROP participant in accordance with the provisions of section 742.442 of the Revised Code and rule 742-4-06 of the Administrative Code, but subject to the provisions of division (C) of section 742.444 and section 742.445 of the Revised Code.
- (E) "Effective Date" is defined in rule 742-4-03 of the Administrative Code.
- (F) "Election" shall mean the election form that OP&F requires in order for a member to participate in DROP, as such form may be amended or modified from time to time by OP&F. For those elections that have been filed with OP&F, it shall also mean the fully and properly completed required election that is signed by the member.
- (G) "Employer's First Payroll Reporting Period" shall mean the first day of the employer's first payroll reporting period reported to OP&F under section 742.32 of the Revised Code that immediately follows the DROP participant's effective date, as determined by OP&F according to its books and records.
- (H) "Family Medical Leave Act" is defined in rule 742-4-12 of the Administrative Code.
- (I) "Member" shall have the meaning set forth in division (E) of section 742.01 of the Revised Code, as more fully explained in divisions (A)(2) and (B)(2) of section 742.01 of the Revised Code.
- (J) "Retirement Allowance" is defined in division (I) of section 742.01 of the Revised Code, as more fully described in rule 742-4-17 of the Administrative Code.

Five Year Review (FYR) Dates: 2/8/2019 and 02/08/2024

CERTIFIED ELECTRONICALLY

Certification

02/08/2019

Date

| | |
|------------------------|---|
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| Statutory Authority: | 742.10, 742.43 |
| Rule Amplifies: | 742.43 |
| Prior Effective Dates: | 12/31/2002 (Emer.), 04/06/2003, 10/06/2003, 01/16/2014 |

742-4-03

Effective date of DROP election.

- (A) Unless the member has properly rescinded his/her DROP election or the terms of paragraph (B) of this rule apply, the "Effective Date" of an eligible member's election to participate in DROP shall be the later of:
- (1) The first day of the employer's first payroll reporting period that immediately follows OP&F's receipt of the election, but if the payroll reporting period end date falls on the thirtieth day of the month, the first day of the employer's first payroll reporting period shall be the first day of the next month; or
 - (2) The date on which the member is eligible to participate in DROP, as determined by OP&F based on its books and records.
- (B) For those members who file an election to participate in DROP with OP&F and do not properly rescind his/her election according to the terms of rule 742-4-04 of the Administrative Code, but do not meet the age or service requirements of division (C)(1) of section 742.37 of the Revised Code, the member shall still be considered "eligible to retire" for the purpose of electing to participate in DROP according to the terms of section 742.44 of the Revised Code only if the member's eligibility to participate in DROP is not more than ninety days after the date on which OP&F received the member's election, as determined by OP&F's books and records. In the event the member's first eligibility date to participate in DROP is more than ninety days after the date on which OP&F received the member's election, as determined by OP&F's books and records, the member shall not be considered "eligible to retire" according to the terms of section 742.44 of the Revised Code and the member's election shall be null and void and of no force and effect.
- (C) In the event a member's election is invalid, as outlined in paragraph (B) of this rule, the member shall not be foreclosed from filing a subsequent election to participate in DROP. In all events, however, the member has only one opportunity to participate in DROP.
- (D) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code (definitions).

Five Year Review (FYR) Dates: 2/8/2019 and 02/08/2024

CERTIFIED ELECTRONICALLY

Certification

02/08/2019

Date

Promulgated Under: 111.15
Statutory Authority: 742.10, 742.43
Rule Amplifies: 742.43, 742.44
Prior Effective Dates: 12/31/2002 (Emer.), 04/06/2003, 11/03/2003,
01/16/2014

742-5-01

Definition of service credit.

- (A) Years of service and years of active service shall mean years of full-time service, including a full-time appointment to the position as a police officer or firefighter, for which retirement contributions are deducted from "salary," as such term is defined in section 742.01 of the Revised Code and rule 742-3-02 of the Administrative Code and forwarded to OP&F.
- (B) For purposes of determining "full-time service," OP&F may request the employer and the member to certify the full-time service, but, in any event, OP&F will determine that the contributing credit was for full-time service. In order for the service to be "full-time," as provided for in divisions (A) and (B) of section 742.01 of the Revised Code: (1) the service credit must have been rendered while employed in a full-time public position; and (2) the individual must meet the criteria for "full-time contributing service," as outlined in rule 742-5-03 of the Administrative Code.

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02/08/2019

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| Rule Amplifies: | 742.37 |
| Prior Effective Dates: | 01/01/1977, 07/31/2003, 01/22/2009, 02/09/2014 |

742-7-09

~~Medicare part "A" or "B" eligibility; payment~~ **Payment of medicare part "B" premium; treatment of medicare part "B" payment.**

~~(A)~~ Each recipient of service, disability, or survivor benefits who receives health care benefits from the Ohio police and fire pension fund ("OP&F") and his/her enrolled dependents shall enroll in medicare part "A" and "B" at his or her first eligibility date. If a person covered under OP&F's health care plan fails to enroll in medicare part "A" or "B" at his/her first eligibility date, OP&F's appropriate third party administrators will process the claims of such person in accordance with the terms of OP&F's health care plan and reserves all rights to recover monies associated with a covered person's failure to comply with such provisions.

~~(B)~~(A) For purposes of division (B) of section 742.45 of the Revised Code, "satisfactory evidence of the payment for coverage" shall mean filing of the medicare part "B" reimbursement statement in the form approved by OP&F or the medicare billing statement, along with a copy of the applicant's medicare card or a letter from medicare in lieu of a medicare card. No retroactive reimbursement will be made. For any inaccurate or incorrect statement made on the medicare part "B" reimbursement statement, OP&F reserves all rights to recover monies associated with a covered person's failure to comply with such provisions.

~~(C)~~(B) In accordance with divisions (C) and (D) of section 742.45 of the Revised Code, OP&F shall not reimburse the medicare part "B" premium to a benefit recipient who is receiving or should be receiving reimbursement for this premium from any other source and the member or benefit recipient shall be deemed to consent to the recovery of any overpayment by deduction from his/her monthly pension or benefit. If another Ohio retirement system is responsible to provide health care to such recipient, OP&F shall not be responsible to pay the medicare part "B" reimbursement. No retroactive payment shall be given.

~~(D)~~(C) The recipient of the medicare part "B" reimbursement shall be deemed to consent to the recovery of any overpayment by deduction from his/her monthly pension or benefit. The monthly deduction shall be an amount equal to the greater of:

- (1) The monthly amount determined by dividing the amount of the overpayment by the time period over which the overpayment occurred;
- (2) The monthly amount of OP&F's medicare part "B" reimbursement on the month in which deductions are to commence; or
- (3) The monthly amount agreed to in writing by the recipient.

~~(E)~~(D) Effective January 1, 2002, the reimbursement of medicare part "B" payments made by OP&F to eligible beneficiaries under section 742.45 of the Revised Code shall not be considered "benefits" under division of property orders and child and spousal support orders since these payments are reimbursement of expenses incurred by such beneficiary.

Effective:

Five Year Review (FYR) Dates: 4/6/2022

Certification

Date

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Statutory Authority: 742.10, 742.45
Rule Amplifies: 742.45
Prior Effective Dates: 07/15/1994, 02/17/1998, 01/29/2001, 11/30/2001
(Emer.), 02/22/2002, 03/14/2002 (Emer.), 05/31/2002,
10/06/2003, 12/23/2004, 12/20/2006 (Emer.),
03/19/2007, 05/17/2012

TO BE RESCINDED

742-7-10

Long-term care insurance program.

- (A) The terms of the long-term care program offered pursuant to section 742.53 of the Revised Code shall be outlined in plan document prepared by the vendor chosen by OP&F's board of trustees and upon terms and conditions in a form acceptable to OP&F. For any changes after January 1, 2004, the plan committee designated in the health care plan and referenced in paragraph (B) of rule 742-7-13 of the Administrative Code shall have authority to approve such changes, subject to prior board approval only for any changes in the vendor or for the determination of the "members of the family" who are eligible to participate in the program.
- (B) The vendor chosen by OP&F's board of trustees to offer the long-term care coverage shall be responsible for providing a summary plan description to the appropriate individuals.
- (C) For purposes of section 742.53 of the Revised Code, "members of their families" shall mean the spouse of the OP&F member or benefit recipient, the parent(s) of the OP&F member or benefit recipient, the parent(s) of the spouse of the OP&F member or benefit recipient, or the adult children of the OP&F member or benefit recipient, subject to certain limitations outlined in the governing plan document.
- (D) If the long-term care program is established jointly with another retirement system, the plan shall separately establish the terms and conditions for participation for OP&F members, benefit recipients, and eligible members of their families, as defined in paragraph (C) of this rule.
- (E) Contributions for the cost of long-term care coverage shall be paid directly by the eligible participant to the vendor consistent with the governing plan provisions.
- (F) OP&F shall not subsidize or underwrite the cost of this program.

Effective:

Five Year Review (FYR) Dates: 1/4/2019

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.45, 742.53
Prior Effective Dates: 10/06/2003

742-7-11

Health reimbursement arrangement and stipend program.**(A) Definitions**

As used in this rule and rule 742-7-12 of the Administrative Code:

- (1) "Age and service retiree" means a former member who is receiving a retirement allowance pursuant to division (C) of section 742.37 of the Revised Code.
- (2) "Claims administrator" means the third party administrator selected by OP&F's board of trustees to administer the health reimbursement arrangement.
- (3) "Dependent" means an eligible spouse or child of an eligible benefit recipient.
- (4) "Disability benefit recipient" means a member who is receiving a benefit or allowance pursuant to section 742.38 or former division (C)(2), (C)(3), or (C)(4) of section 742.37 of the Revised Code.
- (5) "Effective date of retirement" shall have the same meaning as rule 742-3-01 of the Administrative Code.
- (6) "Eligible benefit recipient" means an age and service retiree, disability or survivor benefit recipient who is eligible for the health reimbursement arrangement and stipend program.
- (7) "Form" shall mean the form created, approved, and/or provided by OP&F for the administration of benefits found on the OP&F website at www.op-f.org.
- (8) "Health reimbursement arrangement" or "HRA" means the non-interest bearing, record keeping arrangement funded by Ohio police and fire pension fund established for an eligible age and service retiree, disability benefit recipient, or survivor benefit recipient from which the reimbursement of qualifying medical expenses may be made.
- (9) "Medicare" is the program administered by the United States government that provides health insurance coverage to individuals who are age sixty-five and older or under the age of sixty-five and permanently physically disabled or have a congenital physical disability or who meet other special criteria set forth by the federal government.
- (10) "Qualifying life event" or "OLE" shall have the same meaning as defined in the federal Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 18001, or its successor provision and applicable regulations thereunder.

- (11) “Retiree health exchange” means the individual or family medical and prescription drug plans available for purchase through OP&F’s third party administrator.
- (12) “Stipend” means the annual health care allowance determined by the board of trustees and allocated to each benefit recipient enrolled in the health reimbursement arrangement program.
- (13) “Survivor benefit recipient” means a beneficiary receiving a benefit pursuant to division (D), (E), or (F) of section 742.37 of the Revised Code.

(B) HRA and stipend

- (1) Effective January 1, 2019, Ohio police and fire pension fund will pay a stipend to the health reimbursement arrangement established for an eligible age and service retiree, disability benefit recipient, or survivor benefit recipient who is enrolled in the HRA program.
- (2) The stipend credited to an HRA shall be a flat dollar amount determined by OP&F based on the number of individuals covered under the HRA and the Medicare status of such individuals. For each calendar year that an individual is covered under the retiree health exchange, OP&F will credit the full year’s stipend to the individual’s HRA on the first day of January of that year. If the individual becomes eligible for Medicare during the year, the stipend credited to the HRA shall be prorated.
- (3) If an eligible age and service retiree or disability benefit recipient purchases an individual Medicare medical or prescription drug plan through the retiree health exchange for his or her eligible spouse or dependents, the stipend amount for a calendar year shall be stipend amount for that year plus an additional amount determined by the board of trustees. If coverage is terminated for a spouse or dependents, the stipend amount will remain credited to the age and service retiree or disability benefit recipient’s HRA, but no further amounts shall be credited to the HRA.
- (4) An eligible age and service retiree or disability benefit recipient who enrolls in the HRA and stipend program may receive a stipend for his or her spouse and dependents as long as the spouse and dependents enroll in a medical or prescription drug plan through the retiree health exchange and be continuously enrolled thereafter. If an age and service retiree or disability benefit recipient’s spouse is also a member of OP&F, retires from OP&F and is eligible to participate in the HRA program, both the age and service retiree or disability benefit recipient and his or her spouse will receive a separate HRA.

- (5) The funds in an HRA shall not rollover from one year to the next. Any unused balances by the end of a calendar year are forfeited and shall return to OP&F.
- (6) Eligible expenses that do not exceed the balance of the HRA can be reimbursed if the expenses are incurred during the time of participation in the HRA. Expenses are eligible only to the extent that they are not paid for by the individual's existing health care coverage.
- (7) OP&F shall have the right to terminate, cancel, or discontinue the HRA and stipend program at any time and for any reason.

(C) Eligibility

- (1) An age and service retiree, disability benefit recipient, or survivor benefit recipient is eligible to enroll in the health reimbursement arrangement program funded by a stipend from OP&F if such individual:
 - (a) Is enrolled in the group healthcare plan sponsored by OP&F ceasing on December 31, 2018, and is either enrolled in Medicare Part A or Part B or is not eligible for Medicare due to disability;
 - (b) Is not enrolled in both Medicare Part A and Part B and is enrolled in the group healthcare plan sponsored by OP&F ceasing on June 30, 2019;
 - (c) Is not enrolled in, or opted out of, the group healthcare plan sponsored by OP&F, but is eligible to enroll in the future. Such individual may enroll outside of his or her initial eligibility period upon experiencing a qualified life event.
- (2) An age and service retiree, disability benefit recipient, or survivor benefit recipient is not eligible for an HRA or receive a stipend if such individual:
 - (a) Is eligible for Medicare and is not enrolled in Medicare Part A and Part B, or is enrolled in one Part but not the other;
 - (b) Is a re-employed retiree under section 742.26 of the Revised Code;
 - (c) Is pre-Medicare eligible, but enrolled in a plan that does not meet minimum essential coverage, as defined in the federal Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 18001, or its successor provision and applicable regulations thereunder;
 - (d) Has access to any other group health care or prescription drug coverage through his or her own employment, retirement, or other program;

- (e) Is already enrolled prior to January 1, 2019 in any non-medical or non-prescription drug individual policy through the retiree health exchange.

(D) Enrollment

- (1) To participate in the HRA and receive a stipend from OP&F, an eligible age and service retiree, disability benefit recipient, or survivor benefit recipient shall do all of the following:
- (a) Enroll in a medical or prescription drug plan through the retiree health exchange within sixty days after his or her effective date of retirement or a qualifying life event and be continuously enrolled thereafter.
 - (b) File a health care stipend eligibility form with OP&F in the form provided by OP&F. The health care stipend eligibility form, created on October 10, 2018, can be found on OP&F's website, www.op-f.org.
 - (c) Enroll in Medicare part "A" and Medicare part "B" at his or her first eligibility date.
- (2) If an age and service retiree, disability benefit recipient or survivor benefit recipient does not enroll in medical and/or prescription drug coverage through the retiree health exchange within the timeframes prescribed in this rule, the age and service retiree, disability benefit recipient or survivor benefit recipient will be deemed to have waived participation in the HRA and stipend program and will not receive a stipend from OP&F.

(E) Termination of participation in HRA and stipend program

- (1) An individual's participation in the HRA program ends on the earliest of the following dates on which:
- (a) The individual dies;
 - (b) The individual loses eligibility for the HRA for any reason;
 - (c) The individual is no longer enrolled in a plan through the retiree health exchange;
 - (d) The HRA is terminated.
- (2) If participation in the HRA and stipend program is terminated, an age and service retiree, disability benefit recipient or survivor benefit recipient can only become eligible to participate again upon the occurrence of a qualifying life event.

- (3) If an enrolled individual terminates his or her medical or prescription drug coverage that was purchased through the retiree health exchange, any stipend amount remaining in the HRA after any eligible expenses are reimbursed shall be forfeited.
- (4) If an individual enrolled in the HRA program dies and does not have a surviving spouse, any stipend amount remaining in the HRA shall be forfeited, except that an estate may, within six months following the date of death, file a request for reimbursement of eligible health care expenses that were incurred prior to the individual's death.

If the deceased individual has an eligible surviving spouse who is participating in the HRA, the surviving spouse shall become the holder of the HRA as long as he or she continues to meet the eligibility requirements until his or her death or the termination of the program. The surviving spouse, as holder of the HRA, may receive an increased stipend amount for an eligible surviving child until the end of the calendar year. The increased stipend amount for a child will cease and he or she will cease to be eligible to participate in the HRA program when the surviving spouse dies or ceases to be eligible for an HRA. A surviving child shall not be permitted to become the holder of the HRA.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

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| Promulgated Under: | 111.15 |
| Statutory Authority: | 742.10 |
| Rule Amplifies: | 742.45 |

742-7-12

Low income assistance program.

- (A) OP&F may offer an increase in the stipend amount to an eligible benefit recipient who meets the criteria established by OP&F's board of trustees for such an increase. If such an increase is offered, the eligible benefit recipient requesting the increase shall annually file a request with OP&F in a form provided by OP&F and submit a copy of their most recently filed federal income tax return. If the eligible benefit recipient does not file federal income tax, the eligible benefit recipient shall complete an affidavit provided by OP&F certifying this fact.
- (B) A request for a stipend increase shall be filed prior to the date provided on the request form in order to be eligible for an increased stipend for the applicable period. If the eligible benefit recipient fails to file the request by the deadline date provided by OP&F, no increase in the stipend may be granted for that year, even if the eligible benefit recipient meets the criteria established by the board of trustees to receive an increase in the stipend. There will be no retroactive increases in the stipend amount.
- (C) The stipend increase amounts established by board of trustees shall be effective on January first of each year through and including December thirty-first of that year.
- (D) To be receive any increase in a stipend, an eligible benefit recipient shall have a total household income equal to or less than a percentage, which shall be annually established by the board of trustees, of the poverty level established annually by the United States department of health and human services.
- (E) If an increase in a stipend is granted by OP&F, a change in the household income of the eligible benefit recipient shall not impact the increased stipend granted to that person for the increase period provided the person originally met the criteria at the time the request for a stipend increase was filed. If an increase in the stipend has not been granted by OP&F, and a decline in the household income of that eligible benefit recipient occurs from and after the deadline date referenced in paragraph (C)(1) of this rule, the eligible benefit recipient shall not be allowed to receive an increased stipend.
- (F) By filing a request for an increase in a stipend, the eligible benefit recipient authorizes OP&F to recover any increase in a stipend granted as a result of a false or inaccurate statement made by the eligible benefit recipient or their authorized representative. OP&F reserves the right to request additional information for verification purposes.

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Five Year Review (FYR) Dates:

Certification

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| Rule Amplifies: | 742.45 |

TO BE RESCINDED

742-7-13 **Health care program.**

- (A) For purposes of the health care program referenced in section 742.45 of the Revised Code, the board of trustees of the police and fire pension fund (OP&F) shall initially establish the terms of a health care plan, which will address the following, among other things:
- (1) Health care/prescription drug coverage through contracts with third party administrators;
 - (2) Schedule of benefits;
 - (3) Supplemental dental and vision benefits;
 - (4) Medicare part B, as more fully described in rule 742-7-09 of the Administrative Code;
 - (5) Eligibility criteria;
 - (6) Coverage provisions;
 - (7) Enrollment rights;
 - (8) Termination of coverage;
 - (9) Contributions and the provision for the payment of any excess contributions due;
 - (10) The subsidy offered by OP&F;
 - (11) The right to continue coverage upon the occurrence of certain events;
 - (12) Coordination with medicare and other plans and benefits;
 - (13) Administration of the program;
 - (14) Claims procedures;
 - (15) Subrogation rights;
 - (16) Excluded coverage; and
 - (17) Mandated coverage.

- (B) The terms of the health care plan that outlines the eligibility criteria and OP&F subsidy may only be changed/amended by OP&F's board of trustees, which is intended to serve as an amendment to the health care plan. With the exception of the eligibility criteria, OP&F subsidy, and designation of third party administrators, which may only be changed/amended by OP&F's board of trustees, the plan committee, which consists of OP&F's executive director, director of member services and general counsel, may approve any other amendments to the health care plan for plan.
- (C) OP&F's board of trustees shall annually establish the amount of OP&F's subsidy for that plan year, consistent with OP&F's health care funding policy.
- (D) OP&F shall communicate a summary of the health care plan to its eligible participants. Nothing in the summary is meant to interpret, extend or change in any way the rules set forth in the health care plan.

Effective:

Five Year Review (FYR) Dates: 1/4/2019

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Date

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Statutory Authority: 742.10
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Prior Effective Dates: 10/06/2003, 12/26/2013

3309-1-02

Definition of compensation.

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

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

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| Rule Amplifies: | 3309.01, 3309.47, 3309.49 |
| Prior Effective Dates: | 12/24/1976, 06/25/1986 (Emer.), 09/18/1989, 02/06/1998, 05/14/2005, 04/02/2010, 04/01/2013, 03/30/2015, 04/17/2015 (Emer.), 07/27/2015 |

3309-1-05

Policy on investment department incentive plan payouts.

- (A) Pursuant to section 3309.14 of the Revised Code, payment of employee bonuses are subject to the guidelines established by the school employees retirement board as reflected in the investment department incentive plan. The plan shall be reviewed and approved on an annual basis by the board, and may be interpreted, amended, rescinded, and/or terminated at any time in the board's discretion, provided, however, that no such action by the board will be given effect if it is inconsistent with the requirements of section 409A of the Internal Revenue Code of 1986, as amended. The plan shall establish target incentive awards weighted against performance components, focusing on the school employees retirement system's actual relative investment performance compared with external benchmarks ~~and portfolio management objectives~~. Any and all material modifications to the plan, including, but not limited to, those related to the assignment of target incentive awards, identification of performance measures and standards, and determination of plan payouts and actual payouts, requires the board's prior approval.
- (B) Participation in the plan is limited to certain school employees retirement system full-time investment professionals. Participation in the plan in any one year does not confer the right to participate in the plan in the current or any other year and does not confer the right to continued employment.

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Five Year Review (FYR) Dates: 2/1/2019

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Statutory Authority: 3309.04
Rule Amplifies: 3309.041, 3309.14
Prior Effective Dates: 04/10/2005, 04/02/2010

3309-1-06

Ohio-qualified agents and investment managers.

- (A) For purposes of division (A)(4) of section 3309.157 and section 3309.159 of the Revised Code, an investment manager may be designated as an "Ohio-qualified investment manager" if the investment manager and/or any parents, affiliates, or subsidiaries of the investment manager meets the requirements of divisions (A)(1) and (A)(2) of section 3309.159 of the Revised Code.
- (B) For purposes of sections 3309.157 and 3309.159 of the Revised Code, "principal place of business" includes an office in which the agent or investment manager regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.

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02/01/2019

Date

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| Rule Amplifies: | 3309.157, 3309.159 |
| Prior Effective Dates: | 04/10/2005, 04/01/2016 |

3309-1-07

Application for payment upon termination of employment.

- (A) For purposes of this rule, "retirant" means a "SERS retirant" or "other system retirant" as defined in section 3309.341 of the Revised Code, or a member who retired under section 3309.343 of the Revised Code.
- (B) An application for payment of the accumulated contributions in a member's individual account pursuant to section 3309.42 of the Revised Code shall be signed by the member. If the account balance exceeds two hundred dollars, the member's signature must be notarized or witnessed by a SERS counselor. ~~meet the following requirements:~~
- ~~(1) The application shall be signed by the member. If the account balance exceeds two hundred dollars, the member's signature must be notarized or witnessed by a SERS counselor.~~
 - ~~(2) The application of a member who has worked in a SERS-covered position during the six month period preceding the application must include an employer certification completed by the employer's treasurer's office or finance personnel.~~
- (C) An application for a single life lump sum annuity payment or a return of contributions pursuant to section 3309.344 of the Revised Code shall be signed by the retirant and notarized or witnessed by a SERS counselor. ~~meet the following requirements:~~
- ~~(1) The application shall be signed by the retirant and notarized or witnessed by a SERS counselor.~~
 - ~~(2) The application of a retirant who has worked in a SERS-covered position during the six month period preceding the application must include an employer certification completed by the employer's treasurer's office or finance personnel.~~
- (D) If the member or retirant was employed in a SERS-covered position during the six month period preceding the application, the application shall not be approved until the employer certifies to the retirement system the member or retirant's last date of service.
- ~~(E)~~ (E) For purposes of division (A)(2) of section 3309.42 of the Revised Code, "eligible for age and service retirement" means a member is eligible for retirement under section 3309.34, 3309.36, or 3309.381 of the Revised Code on or before the first of the month following the date the application for a refund is received by the ~~school employees~~ retirement system.

~~(E)~~(F) The retirement board waives the requirement of spousal consent in division (A)(2) of section 3309.42 of the Revised Code upon receipt of one of the following:

- (1) The written statement of the spouse's physician certifying that the spouse is medically incapable of consent;
- (2) A certified copy of a probate court order appointing a guardian for the spouse due to a finding of incompetence; or
- (3) The ~~affadavits~~ affidavits of the member and at least two other persons, one of whom must be unrelated to the member, attesting that the whereabouts of the spouse is unknown.

~~(F)~~(G) A member or retirant may withdraw an application by delivering to the retirement system a signed written request over the applicant's signature to withdraw the application and as follows:

- (1) If the payment was made by check, by returning to the retirement system the warrant uncashed no later than thirty days from the date the check was issued.
 - (2) If the payment was transmitted by direct deposit to the member or retirant's financial institution, by remitting to the retirement system a personal check or money order repaying the amount transmitted no later than thirty days after the institution's receipt of the payment.
 - (3) If any portion of the payment was distributed as a direct rollover pursuant to rule 3309-1-53 of the Administrative Code, the retirement plan that received the distribution must return to the retirement system the amount transferred no later than sixty days after the transfer.
 - (4) If any portion of the payment was paid to satisfy a court order or was otherwise deducted as required by law, the application may not be withdrawn as provided in this rule.
- ~~(1) If the payment has not been sent, by delivering a signed written request over the applicant's signature to withdraw the application to the retirement system, prior to the date the payment is sent or;~~
- ~~(2) If the payment has been sent, by returning to the retirement system the warrant uncashed with a signed written request over the applicant's signature to withdraw the application and, if applicable, a personal check or money order for any amounts deducted from the refund amount and disbursed by the retirement system as authorized by law no later than thirty days after receipt of the check by the member or financial institution designated by the member.~~

~~(3) If the payment was distributed as a direct rollover pursuant to rule 3309-1-53 of the Administrative Code, by delivering to the retirement system a signed written request over the applicant's signature to withdraw the application, and if the retirement plan that received the distribution returns to the retirement system the full amount transferred not later than sixty days after the transfer.~~

Effective:

Five Year Review (FYR) Dates: 2/1/2019

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.344, 3309.42
Prior Effective Dates: 12/24/1976, 01/02/1993, 02/11/2000, 05/14/2005,
04/02/2010, 03/30/2015, 08/13/2015, 05/15/2017

3309-1-08

Payment of benefits and allowances.

- (A) Effective July 1, 1953 all annuities, retirement allowances, and benefits provided by law and payable in monthly installments shall be due and payable in full on the first day of the month.
- (B) All annuities, retirement allowances, and benefits shall be paid on the first day of the month due.
- (C) The retirement system may suspend any annuity, retirement allowance or benefit under the following circumstances:
- (1) If the system has good cause to believe either of the following:
 - (a) That a retirant or benefit recipient may be incapacitated, and no other person has authority to act or receive payment on the retirant or benefit recipient's behalf; or
 - (b) That a retirant or benefit recipient is deceased or missing.
 - (2) If correspondence sent to the most recent mailing address provided by a retirant or benefit recipient is returned to the system as undeliverable and the system does not receive an updated mailing address within thirty days of receipt of the undeliverable correspondence.

Five Year Review (FYR) Dates: 2/1/2019 and 02/01/2024

CERTIFIED ELECTRONICALLY

Certification

02/01/2019

Date

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|------------------------|--|
| Promulgated Under: | 111.15 |
| Statutory Authority: | 3309.04 |
| Rule Amplifies: | 3309.341, 3309.35, 3309.36, 3309.381, 3309.40, 3309.401, 3309.45, 3309.46 |
| Prior Effective Dates: | 12/24/1976, 01/07/2013, 03/30/2015, 10/11/2018 |

3309-1-18

Payment of ~~employee and employer~~ contributions.

(A) For purposes of this rule:

(1) "Employer" has the same meaning as in section 3309.01 of the Revised Code.

~~(2) "Employee" has the same meaning as in section 3309.01 of the Revised Code.~~

~~(3)~~(2) "Contribution report" means payroll data for each pay date that has been cleared of any errors or warnings.

~~(4)~~(3) "Surcharge" means the employer minimum compensation contribution amount determined pursuant to section 3309.491 of the Revised Code.

(B) ~~Employee contribution payments~~ Payments due under section 3309.47 of the Revised Code shall be remitted to the school employees retirement system by the fifth business day following the pay date.

(C) Contribution reports shall be submitted to the retirement system by the fifth business day following the pay date.

(D) Payments due under section 3309.51 of the Revised Code and paid by an employer directly to the employers' trust fund shall be remitted by the fifth business day following the pay date.

(E) Payments due to the employers' trust fund pursuant to section 3309.51 of the Revised Code and received from the amounts allocated under Chapter 3317. of the Revised Code, section 3314.08 of the Revised Code, and section 3326.33 of the Revised Code shall be remitted each month and attributed to that month.

(F) Annually, the retirement system shall issue a final school year statement that reconciles the estimated employer payments received with the employer payments owed. Within thirty days of the statement's issuance, the employer shall directly pay to the employers' trust fund any balance owed, or the retirement system shall directly refund to the employer any overpayments made. The retirement system shall not issue a refund to an employer whose reports or payments are delinquent.

(G) Surcharge payments due to the employers' trust fund shall be collected in one of the following ways:

(1) An employer who does not receive amounts allocated under section 3314.08 or 3326.33 of the Revised Code may choose to pay its surcharge directly to the employers' trust fund. An employer who chooses this option must pay its surcharge within thirty days after receipt of the certified amount due from the retirement system.

- (2) For those employers who do not choose the direct pay option under paragraph (G)(1) of this rule, as well as employers who receive amounts allocated under section 3314.08 or 3326.33 of the Revised Code, the retirement system shall include surcharge payments in the estimated payments certified to the superintendent of public instruction pursuant to section 3309.51 of the Revised Code.
- (H) For any payments made pursuant to paragraphs (B), (D), (F) and (G)(1) of this rule, payment remittance information shall be submitted in the manner specified by the retirement system no later than the date the payment is remitted.
- (I) The retirement system may extend a due date for an employer upon a finding that good cause has been shown.
- (J) For purposes of section 3309.571 of the Revised Code, "days" refers to "business days."

Effective:

Five Year Review (FYR) Dates: 2/1/2019

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.47, 3309.49, 3309.491, 3309.51, 3309.55,
3309.571
Prior Effective Dates: 07/01/2010, 01/07/2013, 12/04/2014, 02/27/2017
(Emer.), 05/15/2017

ACTION: No Change

DATE: 02/01/2019 8:04 AM

3309-1-19

Member enrollment.

The statement or notification required under section 3309.28 and division (B)(2) of section 3309.341 of the Revised Code shall be submitted through the retirement system's electronic employer reporting system.

Five Year Review (FYR) Dates: 2/1/2019 and 02/01/2024

CERTIFIED ELECTRONICALLY

Certification

02/01/2019

Date

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| Promulgated Under: | 111.15 |
| Statutory Authority: | 3309.04 |
| Rule Amplifies: | 3309.28 |
| Prior Effective Dates: | 12/04/2014 |

3309-1-21

Estimated retirement allowances.

(A) For purposes of this rule:

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

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

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

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

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

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

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

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

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

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

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

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

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

Effective:

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

Certification

Date

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

3309-1-25

Notice of meetings.

(A) Any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by:

(1) Writing to the following address -

"School Employees Retirement System

300 East Broad Street, Suite 100

Columbus, Ohio 43215"

(2) Calling the following telephone number during normal business hours -

614/222-5853

(3) Accessing the SERS website -

www.ohsers.org

(B) Any representative of the news media may obtain notice of all special meetings by requesting in writing that such notice be provided. Such notice will only be given, however, to one representative of any particular publication or radio or television station. A request for such notification shall be addressed to:

"Executive Director

School Employees Retirement System

300 East Broad Street, Suite 100

Columbus, Ohio 43215"

(1) The request shall provide the name, United States postal service address and/or electronic mail address, and a maximum of two telephone numbers of the individual media representative to be contacted. The school employees retirement system shall maintain a list of all representatives of the news media who have requested notice of special meetings pursuant to this rule.

(2) In the event of a special meeting not of an emergency nature, the school employees retirement system shall notify all media representatives on the list of such meeting by doing at least one of the following:

- (a) Sending written notice, by electronic mail or United States postal service, which must be sent no later than four calendar days prior to the day of the special meeting;
 - (b) Notifying such representatives by telephone no later than twenty-four hours prior to the special meeting; such telephone notice shall be complete if a message has been left for the representative, or, if after reasonable effort, the school employees retirement system has been unable to provide such telephone notice;
 - (c) Informing such representative personally no later than twenty-four hours prior to the special meeting.
- (C) In the event of a special meeting of an emergency nature, the school employees retirement system shall notify all media representatives on the list of such meeting by providing either the notice described in paragraph (B)(2)(b) of this rule, or that described in paragraph (B)(2)(c) of this rule or notifying the clerk of the state house press room. In such event, however, the notice need not be given twenty-four hours prior to the meeting, but shall be given as soon as possible.
- (D) In giving notices required by this rule, the school employees retirement board may rely on assistance provided by any member of the staff of the school employees retirement system, and such notice is complete if given by such member in the manner provided in this rule.
- (E) The school employees retirement system shall maintain a list of all persons who have requested, in writing, notice of all meetings of the school employees retirement board.

Five Year Review (FYR) Dates: 2/1/2019 and 02/01/2024

CERTIFIED ELECTRONICALLY

Certification

02/01/2019

Date

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|------------------------|---|
| Promulgated Under: | 111.15 |
| Statutory Authority: | 3309.04 |
| Rule Amplifies: | 3309.09 |
| Prior Effective Dates: | 12/24/1976, 02/01/1992, 05/09/2003, 04/02/2010, 03/30/2015 |

3309-1-26

Determination of statutory beneficiary.

- (A) This rule amplifies divisions (B), (C) and (D) of section 3309.44 and section 3309.50 of the Revised Code.
- (B) For purposes of division (B) of section 3309.44 of the Revised Code, when a surviving designated beneficiary dies before receiving payment, the payment shall be paid to the estate of the designated beneficiary.
- (C) For purposes of divisions (C) and (D) of section 3309.44 and section 3309.50 of the Revised Code, a person is considered "not located" and ceases to qualify as beneficiary if:
- (1) No valid mailing address can reasonably be determined for the person; or
 - (2) The person fails to file an application for payment within one hundred eighty days from the date the school employees retirement system first notifies the person of beneficiary status.

Five Year Review (FYR) Dates: 2/1/2019 and 02/01/2024

CERTIFIED ELECTRONICALLY

Certification

02/01/2019

Date

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|------------------------|------------------|
| Promulgated Under: | 111.15 |
| Statutory Authority: | 3309.04 |
| Rule Amplifies: | 3309.44, 3309.50 |
| Prior Effective Dates: | 07/27/2015 |

3309-1-27

Intersystem transfers with non-uniform systems.

(A) This rule amplifies section 3309.35 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 3309.35 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)(5)(a) of section 3309.35 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 3309.26 of the Revised Code.

(2) The amount of employer contributions shall be determined using the lesser of the employer's 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 3309.26 of the Revised Code, interest on the amounts paid to purchase service credit shall be calculated beginning on the first day of the fiscal year following the year in which the payment to purchase the credit was made and ending on the last day of the 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 school employees retirement system shall use the employer contribution rate for its system for that year.

Five Year Review (FYR) Dates: 2/1/2019 and 02/01/2024

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02/01/2019

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| Promulgated Under: | 111.15 |
| Statutory Authority: | 3309.04 |
| Rule Amplifies: | 3309.35 |
| Prior Effective Dates: | 08/13/2015 |

3309-1-28

Purchase of service credit; military.

- (A) Compound interest at a rate to be set by the board shall be applied from the date of the member's first service covered by the school employees retirement system, public employees retirement system or state teachers retirement system following the termination of military duty to date of payment.
- (B) The number of years to be purchased shall not exceed five years or the total number of years of Ohio contributing service credit accumulated at time of purchase, whichever is the lesser.
- (C) The member may purchase any portion of the military service, provided that a member with less than five years of military service who buys all of his service will be credited with the total days of the final month of service.
- (D) The rate of contribution will be that which is in effect at the time the member entered into active military service.
- (E) The maximum salary limitation stipulated in Chapter 3309. of the Revised Code when the member completed his first year of Ohio service, will be observed in the calculation of the cost to purchase.

Five Year Review (FYR) Dates: 2/1/2019 and 02/01/2024

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Certification

02/01/2019

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.021
Prior Effective Dates: 12/24/1976, 07/01/1983, 11/01/1996, 05/14/2005

3309-1-29

Purchase of service credit; out-of-state and other.

- (A) All service in public or private schools, colleges and universities or public service with another state or the United States government which is to be purchased shall be subject to the following requirements, governing eligibility and cost:
- (1) To be eligible to purchase service under this rule, after termination of the service to be purchased, a member must have one year of Ohio service in a year as defined in division (R) of section 3309.01 of the Revised Code.
 - (2) The service credit must be properly certified by the official employer or custodian of records on a form acceptable to the retirement board. The certification should be taken from a legitimate source of documentation such as payroll or retirement records. When records have been destroyed, affidavits may be used, but only in conjunction with other documented evidence as proof of service.
 - (3) Accrued interest shall be calculated from the date of membership in the school employees retirement system of Ohio following service to be purchased to the date of payment.
 - (4) The member will be entitled to purchase any portion of the service credit under this rule not to exceed five years, or the total accumulated number of years of Ohio contributing service credit, whichever is less.
 - (5) Service credit to be purchased shall be granted in accordance with the law and policy of the school employees retirement board current at the time each portion of service to be purchased was performed.
 - (6) School service purchased under this rule shall receive .125 per cent of a year service credit per month of service rendered prior to July 1, 1955, and .111 per cent of a year service credit per month of service rendered after June 30, 1955 and before July 1, 1977. School service performed after June 30, 1977 shall be determined by dividing the number of days paid by one hundred eighty, if the employee worked less than one hundred twenty days in the partial year to be purchased. All service other than school service purchased under this rule shall receive .083 per cent of a year service credit per month of service rendered.
 - (7) The Ohio service used for the purpose of establishing the purchase price of service under this rule shall be the first year of continuous full-time Ohio service following termination of the service to be purchased.
 - (8) No more than one year of service credit may be granted for any twelve-month period.

(B) The following types of service may be purchased under this rule:

- (1) Service in a public or private school, college or university, located in or out of Ohio and service in any school operated by or for the United States government, provided any such school, college or university is recognized by an accrediting association approved by:
 - (a) The U.S. office of education;
 - (b) The appropriate state department of education; or
 - (c) The appropriate state department of higher education, and acceptable to the retirement board.
 - (2) Employment with a public governmental entity of a state or of the United States government which would have been covered by the school employees retirement system, state teachers retirement system, Ohio police and fire pension fund, state highway patrol retirement system, or the public employees retirement system, if served in a comparable position in Ohio; and
 - (3) Except as provided in division (C) of section 3309.31 of the Revised Code, service for which contributions were made to a municipal retirement system in Ohio.
- (C) For purposes of section 3309.31 of the Revised Code, "Ohio service" means contributing service in this retirement system.

Five Year Review (FYR) Dates: 2/1/2019 and 02/01/2024

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02/01/2019

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Statutory Authority: 3309.04
Rule Amplifies: 3309.31
Prior Effective Dates: 12/14/1976, 12/16/1977, 06/29/1978, 05/14/1987,
11/19/2001 (Emer.), 02/11/2002, 05/14/2005,
04/02/2010, 04/28/2013

3309-1-32

Cost-of-living; base allowance change.

(A) For purposes of this rule:

- (1) "Base allowance" means the benefit amount due a benefit recipient on the later of July 1, 1979 or the effective date of such benefit, as adjusted pursuant to this rule. A base allowance excludes subsequent allowances for cost-of-living pursuant to section 3309.374 of the Revised Code, reimbursements for medicare part "B" pursuant to section 3309.69 of the Revised Code, or additional annuity payments pursuant to section 3309.47 of the Revised Code.
- (2) "Benefit" means a periodic payment under an allowance, pension, or benefit granted under Chapter 3309. of the Revised Code, other than an annuity paid under section 3309.341 of the Revised Code.
- (3) "Benefit amount" means the amount due a benefit recipient on the effective date of such benefit.
- (4) "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.

(B) A base allowance upon which a cost-of-living is calculated shall be adjusted when any of the following occur:

- (1) The enactment of any statutory ad hoc allowance increase but only if such statutory authority provides that such increase become part of the base allowance.
- (2) Recalculation of a retirant's benefit due to a change in a plan of payment as permitted in section 3309.46 of the Revised Code.
- (3) Recalculation of a benefit recipient's benefit amount after an audit.
- (4) If a benefit recipient waives any portion of a benefit amount pursuant to section 3309.662 of the Revised Code, the base allowance shall be the portion being paid. If a waiver is revoked, the base allowance shall be the amount allowed under this rule.

(C)

- (1) The recipient of any allowance, pension, or benefit that was effective before April 1, 2018 shall be eligible to receive an increase under section 3309.374 of

the Revised Code upon receiving an allowance, pension, or benefit for twelve months.

(2)

- (a) The recipient of any allowance, pension, or benefit that becomes effective on or after April 1, 2018 shall be eligible to receive an increase under section 3309.374 of the Revised Code upon attainment of the fourth anniversary of the allowance, pension, or benefit.
- (b) For purposes of paragraph (C)(2)(a) of this rule, a recipient shall be credited with anniversaries for any previous allowance, pension, or benefit attributable to the same member account in the retirement system that occurred on or after January 1, 2018.

Five Year Review (FYR) Dates: 2/1/2019 and 02/01/2024

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| Promulgated Under: | 111.15 |
| Statutory Authority: | 3309.04 |
| Rule Amplifies: | 3309.374 |
| Prior Effective Dates: | 12/24/1976, 11/23/1979, 01/02/1993, 08/02/2002, 04/02/2010, 03/26/2018 |

3309-1-33

Retirement and benefit effective dates.

(A) For purposes of this rule, "retirement allowance" refers to a monthly retirement allowance, including an "estimated retirement allowance" as defined in paragraph (A) of rule 3309-1-21 of the Administrative Code, as well as a lump sum payment made under a plan described in division (B)(4) of section 3309.46 of the Revised Code.

(B)

(1)

(a) The effective date of a service retirement under sections 3309.34, 3309.35, 3309.36, and 3309.46 of the Revised Code shall be as follows:

The first of the month following the last date of compensated service, the first of the month following the date that age and service credit eligibility is met, the first of the month after all purchases of service credit are completed, or at the date requested by the applicant in writing at retirement, whichever is later.

(b) The effective date of a service retirement under section 3309.343 of the Revised Code shall be as follows:

The first of the month following the last date of compensated service for the position from which the member is retiring, the first of the month following the date that age and service credit eligibility is met, the first of the month after all purchases of service credit are completed, or at the date requested by the applicant in writing at retirement, whichever is later.

(c) Notwithstanding any other provision of this rule to the contrary, the effective date of a service retirement under this rule of a member who is an other system retiree as defined in division (A)(2) of section 3309.341 of the Revised Code shall not be sooner than the effective date of retirement in the other system.

(2) The effective date of reemployment, conversion retirement, disability, and survivor benefits shall be the date as provided by section 3309.344, 3309.381, 3309.39, 3309.40, 3309.401, or 3309.45 of the Revised Code.

(C) A member, a beneficiary eligible for benefits pursuant to section 3309.45 of the Revised Code, or a SERS retiree or other system retiree as defined in section 3309.341 of the Revised Code, may withdraw an application for a retirement allowance, survivor benefit or annuity to which the member, beneficiary, SERS or other system retiree

is entitled by delivering to the retirement system a signed written request over the applicant's signature and as follows:

- (1) If the payment was made by check, by returning to the retirement system the warrant uncashed no later than thirty days after issuance of the check.
 - (2) If the payment was transmitted by direct deposit to the member, beneficiary, or retirant's financial institution(s), by remitting to the retirement system a personal check or money order repaying all payments transmitted no later than thirty days after the institution's receipt of the payment.
 - (3) If any portion of a payment was delivered as a direct rollover pursuant to rule 3309-1-53 of the Administrative Code, the retirement plan that received the distribution must return to the retirement system the amount transferred not later than sixty days after the transfer.
 - (4) If any portion of a payment was paid to satisfy a court order or was otherwise deducted as required by law, the application may not be withdrawn as provided in this rule.
- ~~(1) If a retirement allowance, survivor benefit or annuity payment has not been sent, by sending a signed written request over the applicant's signature to the school employees retirement system prior to the date the first payment is sent or transmitted.~~
- ~~(2) If a retirement allowance, survivor benefit or annuity payment has been sent, then by:~~
- ~~(a) Returning to the retirement system all warrants sent, uncashed, with a signed written request over the applicant's signature to withdraw the application and, if applicable, a personal check or money order for any amounts deducted from the payment and disbursed by the retirement system as authorized by law; and/or~~
 - ~~(b) Remitting to the retirement system a personal check or money order repaying all payments transmitted by the retirement system to the applicant's financial institution no later than thirty days after the institution's receipt of the first payment with a signed written request over the applicant's signature to withdraw the application, and, if applicable, a personal check or money order for any amounts deducted from the payment and disbursed by the retirement system as authorized by law.~~
- ~~(3) If deductions equal the amount of the payment and no warrant was sent or payment was transmitted, by sending a written request over the applicant's signature~~

~~to the retirement system to withdraw the application no later than thirty days after receipt of the first payment stub, and, if applicable, a personal check or money order for any amounts deducted from the payment and disbursed by the retirement system as authorized by law.~~

~~(D) A beneficiary who requested his or her benefit payment to be distributed as a direct rollover pursuant to rule 3309-1-53 of the Administrative Code may withdraw the application for payment by delivering to the retirement system a signed written request over the applicant's signature to withdraw the application, and if the retirement plan that received the distribution returns to the retirement system the full amount transferred not later than sixty days after the transfer.~~

~~(E)(D)~~ The retirement laws in effect on the benefit effective dates shall determine the amount and eligibility for a retirement allowance, survivor benefit, or annuity.

~~(F)(E)~~ The annuity and option tables as adopted by the board and in effect shall be used to determine reserve liability and retirement allowance, survivor benefit payments and annuity.

Effective:

Five Year Review (FYR) Dates: 2/1/2019

Certification

Date

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Rule Amplifies: 3309.34, 3309.343, 3309.344, 3309.35, 3309.36,
3309.381, 3309.39, 3309.40, 3309.401, 3309.45,
3309.46
Prior Effective Dates: 12/24/1976, 02/01/1992, 01/02/1993, 05/02/2001,
07/30/2001 (Emer.), 11/01/2001, 01/02/2003,
01/02/2004, 05/11/2006, 04/02/2010, 01/07/2013,
12/14/2013, 03/30/2015

3309-1-34 Combined disability benefits.

(A) This rule amplifies section 3309.35 of the Revised Code.

(B) As used in this rule:

"Last date of service" means last day of compensated service, either for a day worked or used paid leave, under the school employees retirement system, public employees retirement system, or state teachers retirement system, whichever is latest.

(C) ~~If this system is the paying system and~~ a member of school employees retirement system files an application for a disability benefit pursuant to section 3309.39 of the Revised Code and also chooses to apply for a combined disability benefit with the public employees retirement system or the state teachers retirement system, the following shall apply:

~~(1) If this system receives the application for combined disability, it shall forward a copy of the application to the other retirement system(s).~~

~~(2)(1) If this~~ This system is the calculating and paying system, it shall request and pay for the examining physician(s) report(s).

~~(3)(2)~~ Disability shall be determined on the basis of the member's ability to perform the duties for the position held on the member's last date of service. If the member's last date of service is concurrent under two or more systems, disability for 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 the application.

~~(3) If a disability benefit is granted, this system shall notify the other retirement system(s) of the decision and the member's intent to combine.~~

(D) If this system is the ~~calculating and~~ paying system of a combined disability, this system's rules and statutes ~~shall govern the governing~~ disability benefits ~~shall govern~~, and this system will be responsible for subsequent medical examinations.

Effective:

Five Year Review (FYR) Dates: 2/1/2019

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.34, 3309.343, 3309.344, 3309.35, 3309.36,
3309.381, 3309.39, 3309.40, 3309.401, 3309.45,
3309.46
Prior Effective Dates: 04/02/2010, 01/07/2013, 03/30/2015

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:
- (a) A medical and prescription drug plan 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:
 - (a) At the time the retirant or disability benefit recipient enrolls in school employees retirement system's health care coverage.
 - (b) Within thirty-one days of the eligible spouse's:
 - (i) Marriage to the retirant or disability benefit recipient;
 - (ii) 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:
 - (a) At the time the retirant, disability benefit recipient, or surviving spouse enrolls in school employees retirement system's health care coverage.
 - (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;
- (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.

(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, or division (D) of section 3309.392 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 retiree or dependent of an age and service retiree, 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 retiree, 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 retiree'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 retiree'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 the unpaid premiums for coverage under this rule and supplemental health care coverage under rule 3309-1-64 of the Administrative Code reach a total cumulative amount of at least three consecutive months of nonpayment billed premiums. A benefit recipient who is in default shall be sent notice by certified U.S. mail informing The retirement system shall send written notice to the benefit recipient that payments are in default and that coverage will be cancelled on the first day of the month after the date of the notice unless payment for the total amount in default is received prior to the date specified in the notice. If coverage is cancelled due to a recipient's failure to pay premium amounts in default, the recipient shall remain liable for such amounts due for the period prior to cancellation of coverage.
- (3) After cancellation for default, health care coverage can be 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 and payment for the total amount in default is received.

(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 retirant:

(i) An age and service retirant with an effective retirement date before August 1, 1989; or

(ii) An age and service retirant 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 retirant 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 retiree, 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 days after becoming eligible for medicare. Health care coverage shall be effective the later of the first day of the month after 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
 - (c) The application is received no later than thirty-one days after involuntary termination of coverage under another plan, 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)(g) 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 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 reimbursement when a benefit recipient is receiving more than one monthly benefit from this system; nor
 - (b) Pay a medicare part B reimbursement to a benefit recipient who is eligible for reimbursement from any other source.

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08/10/1998, 11/09/1998, 06/13/2003, 01/02/2004,
03/01/2007, 09/28/2007 (Emer.), 12/24/2007,
08/08/2008, 01/08/2009, 05/22/2009 (Emer.),
08/10/2009, 06/11/2010, 07/01/2010 (Emer.),
09/26/2010, 08/14/2011, 09/30/2012, 01/07/2013
(Emer.), 03/08/2013, 01/01/2014, 07/12/2014,
12/04/2014, 08/13/2015, 10/13/2016

3309-1-42

Options; pop-up and election of new option.

(A)

- (1) Upon the death of a spouse or a ~~any~~ designated beneficiary, the lesser retirement allowance calculated as plan A, C, or D under division ~~(B)(1)(b)~~ ~~(B)(1)(a)~~, (B)(3)(b), (B)(3)(c) or (B)(4) of section 3309.46 of the Revised Code or as option 1 or 2 under division (A) or (B) of section 3309.46 of the Revised Code as in effect prior to amendment effective July 24, 1990 shall be increased to the single lifetime retirement allowance equivalent.
- (2) Upon the death of a designated beneficiary under plan F under division (B)(3)(e) of section 3309.46 of the Revised Code, the retirant shall receive the actuarial equivalent of the retirant's single lifetime retirement allowance based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary.

(B)

- (1) Upon divorce, annulment, or marriage dissolution, the lesser retirement allowance calculated as plan A, C, or D under division ~~(B)(1)(b)~~ ~~(B)(1)(a)~~, (B)(3)(b), (B)(3)(c) or (B)(4) of section 3309.46 of the Revised Code or as option 1 or 2 under division (A) or (B) of section 3309.46 of the Revised Code as in effect prior to amendment effective July 24, 1990 shall, at the election of the retirant, be increased to the single lifetime retirement allowance equivalent; except that no benefit first payable on or after August 1, 1990 shall be increased without the written consent of the ex-spouse or order of the court with jurisdiction over the termination of the marriage.
- (2) Upon the divorce, annulment, or marriage dissolution from a designated beneficiary under plan F, the retirant may elect to receive the actuarial equivalent of the retirant's single lifetime retirement allowance based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary; except the retirant's benefit shall not be increased without the written consent of the ex-spouse or order of the court with jurisdiction over the termination of the marriage.

(C)

- (1) Upon marriage or re-marriage, a retirant receiving a single lifetime allowance may elect to have his allowance recalculated as plan A, C, or D, designating the current spouse as beneficiary.

- (2) Upon remarriage, a retirant receiving a benefit pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (B)(1)(b)(ii) of section 3309.46 of the Revised Code may elect a new plan of payment adding the new spouse under division (B)(3)(e) of section 3309.46 of the Revised Code if the new plan of payment does not reduce the payment to the former spouse or to any other beneficiary designated at the time of retirement.
 - (3) In the case of a retirant who marries or remarries on or after June 6, 2005, an election under paragraph (C) of this rule shall be ~~made~~ received by school employees retirement system not later than one year after the marriage or remarriage.
 - (4) A plan elected under paragraph (C) of this rule shall be calculated according to the actuarial factors in effect when such plan is elected and based on the age of the retirant and spouse at the time of selection.
- (D) The effective date for a change in plan and benefit shall be as follows:
- (1) Death of spouse - the first of the month following death of spouse or September 1, 1976, whichever is later. The retirant shall furnish proof of date of death, satisfactory to the board.
 - (2) Death of designated beneficiary other than spouse - the first of the month following the death, or November 1, 1978, whichever is later. The retirant shall furnish proof of date of death, satisfactory to the board.
 - (3) Divorce, annulment or marriage dissolution - the first of the month following receipt of the application for a change of plan. The application shall be accompanied by proof of divorce, annulment or marriage dissolution, and any written consent of the ex-spouse or court order as required under paragraph (B) of this rule, satisfactory to the board.
 - (4) Marriage or re-marriage - provided all documents are received prior to the retirant's death, the effective date for the change in the plan shall be the date the system receives the application, the marriage certificate, and any required consent or consent order; the effective date for the change in benefit shall be the first of the following month.
- (E) The "single lifetime retirement allowance~~-equivalent~~" determined under this rule shall be the original single lifetime allowance established at retirement plus any subsequent ad hoc pension increases and automatic cost-of-living increases which shall be applied to the original amounts granted. The original single lifetime allowance

established at retirement shall be the portion of the allowance payable in monthly payments, if the retirant elected a plan that included a lump sum payment under division (B)(4) of section 3309.46 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 2/1/2019

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10/27/2006, 03/30/2015

3309-1-46

Retirement - option selection.

- (A) If an applicant is married at the time of filing an application for retirement, the applicant shall receive a retirement allowance designated as "Plan A" under division (B)(1) of section 3309.46 of the Revised Code, unless:
- (1) The spouse consents on a form provided by the school employees retirement system to the applicant's election to receive an annuity or payment pursuant to an optional plan under division (B)(3) or (B)(4) of section 3309.46 of the Revised Code; or
 - (2) The school employees retirement board waives the requirement of a spousal consent upon receipt of one of the following:
 - (a) The written statement of the spouse's physician certifying that the spouse is medically incapable of consenting to the plan of payment elected by the applicant; or
 - (b) A certified copy of a probate court order appointing a guardian for the spouse due to a finding of incompetence.
 - (c) The affidavits of the applicant and at least two other persons, one of whom must be unrelated to the applicant, attesting that the whereabouts of the spouse is unknown.
 - (3) The applicant is required to elect a plan of payment providing a specified amount to a former spouse after the applicant's death 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
 - (a) The applicant elects a plan of payment designated as "Plan F" under division (B)(3)(e) of section 3309.46 of the Revised Code that is in accordance with the court order and also designates the applicant's current spouse as a beneficiary under the plan; or
 - (b) The total amount required by court order, or orders, is equal to or greater than one hundred per cent of the applicant's lesser allowance.
- (B) An applicant's current spouse must also consent to the election of a plan of payment described in division (B)(3)(e) of section 3309.46 of the Revised Code if the applicant is required to elect a plan of payment providing a specified amount to a former spouse after the applicant's death 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 also designates a beneficiary under the plan other than the former spouse and current spouse.

Five Year Review (FYR) Dates: 2/1/2019 and 02/01/2024

CERTIFIED ELECTRONICALLY

Certification

02/01/2019

Date

| | |
|------------------------|---|
| Promulgated Under: | 111.15 |
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| Prior Effective Dates: | 09/20/1990, 11/09/1998, 01/02/2003, 10/27/2006, 05/04/2007, 03/31/2011 |

3309-1-50

Re-employment restrictions.

This rule implements section 3309.341 of the Revised Code and applies to Ohio public service after retirement in circumstances other than those subject to section 3309.343 of the Revised Code and rule 3309-1-58 of the Administrative Code.

(A) For the purpose of this rule and section 3309.341 of the Revised Code:

- (1) "Effective retirement benefit date" means the date upon which a retirement allowance begins.
- (2) "Ohio retirement system" means the school employees retirement system, state teachers retirement system, public employees retirement system, Ohio police and fire pension fund, and state highway patrol retirement system.
- (3) "Uniformed retirement system" means the Ohio police and fire pension fund and the state highway patrol retirement system.

(B)

- (1) Forfeiture of a retirement allowance under section 3309.341 of the Revised Code for employment in a position covered by another Ohio retirement system shall apply only to a SERS retirant whose effective retirement benefit date is on or after September 1, 1991.
- (2) A SERS retirant who has received a retirement allowance for less than two months and who ~~is becomes~~ employed in a position covered by an Ohio retirement system shall forfeit such allowance for any month in which he is so employed during the two-month period after the effective benefit date.

The forfeited allowance shall be the retirement allowance payable under a plan described in division (B)(1) or (B)(3) of section 3309.46 of the Revised Code before any lump sum amount elected pursuant to division (B)(4) of section 3309.46 of the Revised Code.

- (3) Notwithstanding paragraphs (B)(1) and (B)(2) of this rule, the forfeiture provision shall not apply to a SERS retirant who is employed in a position covered by ~~an Ohio~~ a uniformed retirement system if the retirant was continuously employed in the position for at least two months prior to the effective retirement benefit date in this system.

(C)

(1)

- (a) Where a member of this system who also has established membership in another Ohio retirement system or systems is terminating all employment covered by all systems, and is electing to take a retirement benefit from one or more of the other systems, as of the effective retirement benefit date, the member shall elect to:
 - (i) Apply for a benefit if eligible pursuant to section 3309.34 or 3309.35 of the Revised Code; or
 - (ii) Apply for a refund of contributions pursuant to section 3309.42 of the Revised Code.
 - (b) If as of the effective retirement benefit date from an Ohio retirement system the member has sufficient service credit to qualify for a benefit in this system, the effective retirement benefit date shall be the first of the month following the later of the benefit date in the Ohio retirement system or attainment of eligibility for a benefit in this system.
- (2)
- (a) A member of this system who also is a member of an Ohio retirement system and who has applied for a retirement benefit in the that system may continue employment in the position covered by this system, provided that contributions made to this system after the member's effective retirement benefit date in the Ohio retirement system shall accrue only a benefit as described in section 3309.344 of the Revised Code.
 - (b) If the member has been continuously employed in such position for at least two months prior to the effective retirement benefit date in the Ohio retirement system, the member may make an irrevocable election on a form provided by this system to have contributions to this system made prior to ~~the~~his effective retirement benefit date in the other system applied toward the same benefit described in section 3309.344 of the Revised Code. In the event this election is made, accrual of allowable interest shall not begin until after the effective retirement benefit date in the other system.

Effective:

Five Year Review (FYR) Dates: 2/1/2019

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.341, 3309.344, 3309.35
Prior Effective Dates: 01/02/1993, 05/02/2001, 05/14/2005, 03/30/2007,
08/13/2015

3309-1-64

Supplemental health care coverage.

(A) Definitions

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

(B) Eligibility

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

(C) Enrollment

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

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

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

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

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

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

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

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

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

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

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

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

(E) Effective date of coverage

(1) When a benefit recipient elects to enroll in supplemental health care coverage during an open enrollment period, the effective date of coverage shall be the first day of the calendar year following the open enrollment period.

(2) When a benefit recipient elects to enroll in supplemental health care coverage upon receipt of a benefit, the effective date of coverage shall be as follows:

- (a) For a disability benefit recipient or dependent of a disability benefit recipient, the supplemental health care coverage shall be effective on the first day of the month following approval of the benefit or the benefit effective date, whichever is later.
- (b) For an age and service retiree or dependent of an age and service retiree, the supplemental health care coverage shall be effective on the first day of the month following the date that the retirement application is filed with the retirement system or the benefit effective date, whichever is later.
- (c) For an eligible dependent of a deceased member, deceased disability benefit recipient, or deceased age and service retiree, the supplemental health care coverage shall be effective on the effective date of the benefit if the appropriate application is received within three months of the date of the member's or retiree's death, or the first day of the month following the date that the appropriate application is received if not received within three months of the date of the member's or retiree's death.

(F) Premiums

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

Effective:

Five Year Review (FYR) Dates: 2/1/2022

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.69
Prior Effective Dates: 01/01/2014

3309-1-11

Membership determinations.

- (A) A request for a determination as to whether an individual or a group of individuals are required to be members of the school employees retirement system may be initiated by an employer, an affected individual, or the retirement system.
- (1) An employer or individual who has a question as to membership requirements shall request in writing a determination by the retirement system. Such determination shall be made as provided in rule 3309-1-03 of the Administrative Code.
 - (2) When a membership determination has been initiated, the employer and any affected individual or individuals shall furnish such documents and information requested by the retirement system.
- (B) If contributions have not been remitted and the retirement system determines the individual is covered by this system, the employer shall be liable for employee and employer compulsory contributions pursuant to rule 3309-1-13 of the Administrative Code. If no membership record and/or contributions are received by the system within thirty days of the determination, a charge, based on an estimated salary for such individual's position, against the employer shall be made for collection through the state school foundation program if available or by direct billing.
- (C) If contributions have been remitted and the retirement system determines the individual is not covered by this system, any contributions received shall be unauthorized and shall be refunded.
- (D) The retirement board has determined that the phrase "service common to the normal daily operation of an educational unit" as used in division (B)(2) of section 3309.01 of the Revised Code means:
- (1) Any service required to be provided by an educational unit or the provision of which is governed by law, statute, or rule; or
 - (2) Any service necessary on a regular continuous basis to the efficient operation of an educational unit; or
 - (3) Any service which, through custom and usage, has become a service commonly provided or procured by an educational unit on a regular continuous basis.

Five Year Review (FYR) Dates: 1/31/2019 and 01/31/2024

CERTIFIED ELECTRONICALLY

Certification

01/31/2019

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.01, 3309.23
Prior Effective Dates: 09/27/2004, 04/03/2009

ACTION: No Change

DATE: 01/31/2019 2:12 PM

3309-1-22

Disability retirement - effective date.

For purposes of section 3309.40 of the Revised Code, a member who files an application for disability retirement prior to the member's sixtieth birthday and whose last date of contributing service is prior to the member's sixtieth birthday "has not attained age sixty."

Five Year Review (FYR) Dates: 1/31/2019 and 01/31/2024

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Certification

01/31/2019

Date

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Statutory Authority: 3309.04
Rule Amplifies: 3309.39, 3309.40
Prior Effective Dates: 12/24/1976, 01/02/1993, 05/08/2004, 04/03/2009

3309-1-23

Contributing status; compulsory and optional.

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

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

Effective:

Five Year Review (FYR) Dates: 1/31/2019

Certification

Date

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

5505-9-01 **Election of board members.**

(A) The state highway patrol retirement system (HPRS) board shall conduct elections in accordance with Chapter 5505. of the Revised Code and this rule.

(B) For the purpose of this rule:

(1) “Contributing member” shall be a member described in division (I) of section 5505.01 and section 5505.51 of the Revised Code that is making contributions pursuant to section 5505.15 or 5505.52 of the Revised Code. Eligibility of a “contributing member” shall be determined on the first Monday in April of the year of the election.

(2) “Retirant member” shall have the meaning described in division (J) of section 5505.01 of the Revised Code. Eligibility of a “retirant member” shall be determined on the first Monday in April of the year of the election.

(C) Notification of elections

(1) For any election of an employee member, a notice of election shall be distributed by appropriate means to each facility where a contributing member is assigned not later than May first of the election year. For any election of a retiree member, a notice of election shall be sent to each eligible retirant member through appropriate means not later than May first of the election year.

(2) The notice of election shall include a statement of the requirements for candidacy forms, the date after which candidacy forms shall be available, the final date for receipt of completed candidacy forms, the final date for receipt of completed election ballots, and the date and place for the election count to be conducted under the supervision of judges as designated in paragraph (E) of this rule. The notice of election, candidacy form, and voting instructions shall be approved by the board at its regular February meeting.

(D) Candidacy forms

(1) Candidacy forms may be obtained at the HPRS offices during normal business hours after May first of the election year. Candidacy forms will also be available at www.ohprs.org. Candidacy forms will be mailed by HPRS only upon request.

(2) Candidacy forms must be filed with the HPRS office not later than four thirty p.m. on the date set by the board pursuant to paragraph (C) of this Rule. Persons filing a candidacy form may also submit either a resume or a candidacy statement. A resume or candidacy statement may not exceed one single-sided page and must be submitted with the candidacy form.

(E) Ballots and voting

- (1) HPRS may conduct an election by paper ballots or through electronic methods.
- (2) The ballot position of each candidate's name shall be rotated.
- (3)
 - (a) Voting materials for each retirant member of the retirement system shall include a ballot, copies of the applicable candidacy form, the resume or candidacy statement, voting instructions, and any other materials the retirement board deems necessary. Voting material shall be distributed to each retirant member by June twentieth of the election year. If the voting instructions are not explicitly followed, the ballot will be voided.
 - (b) HPRS shall send each contributing member a ballot, voting instructions, and any other material the retirement board deems necessary by June twentieth of the election year. Candidacy forms, resumes, and candidacy statements shall be distributed by appropriate means to each facility where a contributing member is assigned not later than June twentieth of the election year. If the voting instructions are not explicitly followed, the ballot will be voided.
- (4)
 - (a) Completed ballots must be received at the HPRS office, in a manner described in the voting instructions, not later than four-thirty p.m. on the date set by the board pursuant to paragraph (C) of this rule.
 - (b) As ballot return envelopes are received at HPRS, each shall be date and time-stamped and recorded on the master list of contributing member and retirant member account numbers.
- (5)
 - (a) No sooner than the fourth business day following July twentieth, ballots shall be counted by a committee that includes at least one trustee appointed by the chair. The counting shall be monitored by a representative of the secretary of state.
 - (b) The candidate may attend the counting of ballots. If the candidate is unable to attend, the candidate may designate, in writing, a member to be present during the counting of ballots. Designations must be made by July

twentieth of the election year. No other person, except HPRS employees and individuals described in this rule, may attend the counting of ballots.

- (c) Within twenty-four hours of the completion of the count, the election results shall be forwarded to each facility to which a contributing member is assigned. The election results shall be published on the retirement board's website within thirty days.
- (6) There shall be no provision for a recount; however, ballots shall be held for public inspection for thirty days. Ballots may be destroyed by the executive director after the public inspection period.
- (7) The official certification of the ballot totals may be destroyed after four years.
- (8) In the event of a tie, the winner shall be determined by a coin toss conducted by the representative of the secretary of state with "heads" being assigned to the candidate whose last name is first alphabetically and "tails" assigned to the other candidate. If three or more candidates are tied, the representative of the secretary of state shall draw names to select the winner amongst the tied candidates. A name shall be drawn for each vacancy. The manner in which the names are drawn shall be determined by the representative of the secretary of state with the concurrence of the trustee member of the committee selected in accordance with paragraph (E)(5)(a) of this rule.
- (9) In the event of more than one vacancy for the same term, a single election shall be held and the candidates with the most votes shall be elected.
- (F) If the number of candidates is less than or equal to the number of available board seats, each candidate shall be certified as a trustee without the need for an election.
- (G) The board may invalidate an election if, in its discretion, improprieties have had a substantial impact on the fairness of the election.
- (H) Pursuant to section 5505.042 of the Revised Code, a special election shall be held in the event of a vacancy or if the board invalidates an election pursuant to paragraph (G) of this rule. The process for a special election shall be the same as for a regular election except all the dates outlined in this rule shall be set as appropriate. No election shall occur if the remainder of the unexpired term is less than ninety days.
- (I) All information, ballots, instructions, correspondence or other material described in this rule shall be sent to the address on file with HPRS. It is the sole responsibility of the contributing member or retirant member to ensure HPRS has his or her most current address.

Five Year Review (FYR) Dates: 2/26/2019 and 02/26/2024

CERTIFIED ELECTRONICALLY

Certification

02/26/2019

Date

Promulgated Under: 119.03
Statutory Authority: 5505.07, 5505.047
Rule Amplifies: 5505.04, 5505.041, 5505.042, 5505.043, 5505.52
Prior Effective Dates: 01/01/1986, 01/01/1987, 01/01/1989, 05/01/1990,
02/01/1994, 08/01/1994, 12/09/2005, 12/11/2009,
05/16/2014, 03/27/2017

5505-7-08

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 retirement system may retain an order that provides the last four digits of the participant or alternate payee's social security numbers.
- (2) Prior to receiving a payment, an alternate payee shall provide the information requested 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. An alternate payee shall notify the retirement system in writing of any change in the information.
- (3) 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.
- (4) The order shall apply to the pension payment contributions to a deferred retirement option plan. The order shall only apply to the active member contributions to a deferred retirement option plan to the extent the contributions were made prior to the effective date of the decree of divorce, dissolution, or legal separation. The order shall not apply to active contribution to a deferred retirement option plan made after the effective date of the decree of divorce, dissolution, or legal separation.

(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 5505-7-08 of the Administrative Code that was effective September 28, 2010, and the version of the form prescribed by the current appendix until June 30, 2014. After June 30, 2014, the retirement system shall only accept the form prescribed by the current appendix.

(D) On or after October 27, 2006, starting with a participant's next annual benefit increase under section 5505.174 of the Revised Code, the annual increase shall be apportioned between the participant and the alternate payee while an order is in effect.

Five Year Review (FYR) Dates: 3/1/2019 and 03/01/2024

CERTIFIED ELECTRONICALLY

Certification

03/01/2019

Date

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Statutory Authority: 5505.07
Rule Amplifies: 5505.261, 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: 01/02/2002 (Emer.), 03/23/2003, 08/22/2003,
07/19/2007, 12/11/2009, 09/28/2010, 01/16/2014