

# Rules

February 13, 2020

## SERS

- 3309-1-20 Validity of marriage (No change)
- 3309-1-24 Ohio service credit and calculation of final average salary (No change)
- 3309-1-37 Surviving spouse or dependent may purchase credit (Rescind and replace)
- 3309-1-43 Service credit established under retirement incentive plan
- 3309-1-53 Rollover distributions and trustee-to-trustee transfers (No change)
- 3309-1-55 Responsibility for health care coverage (Rescind and replace)
- 3309-1-62 Retirement plan required by court order (No change)
- 3309-1-65 Medicare Part B reimbursement account (No change)

3309-1-20

**Validity of marriage.**

- (A) For purposes of this rule, "age and service retirant" and "disability benefit recipient" have the same meaning as defined in rule 3309-1-35 of the Administrative Code, and "retirant" has the same meaning as defined in division (G) of section 3309.01 of the Revised Code.
- (B) For the purpose of qualifying for, or receiving, any benefit as a spouse under Chapter 3309. of the Revised Code, the member's or retirant's marriage must be recognized by the state of Ohio. The school employees retirement board shall accept the following as proof of marriage:
- (1) A marriage certificate; or
  - (2) In the absence of a marriage certificate, a decision rendered by a court, having jurisdiction in the state in which the member or retirant was domiciled at the time of death, that the relationship constituted a valid marriage at time of death, or the "spouse" would have the same status as a widow or widower for purposes of sharing in the distribution of the member's or retirant's intestate personal property if not otherwise prohibited by section 3105.12 of the Revised Code.
- (C) For any retirant or disability benefit recipient legally married in another state before June 26, 2015 whose marriage became recognized in the state of Ohio beginning on that date, the following rules apply:
- (1) If a retirant makes an election under division (E)(3) of section 3309.46 of the Revised Code, the election must be made before June 26, 2016;
  - (2) An eligible age and service retirant or disability benefit recipient may enroll themselves and may enroll a spouse in the system's health care plan at any time between August 1, 2015 and November 30, 2015.
  - (3) The surviving spouse of a deceased age and service retirant who is receiving a benefit pursuant to section 3309.46 of the Revised Code may enroll in the system's health care plan at any time between August 1, 2015 and November 30, 2015.

Five Year Review (FYR) Dates: 1/31/2020 and 01/31/2025

CERTIFIED ELECTRONICALLY

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Certification

01/31/2020

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3309.44, 3309.45  
Prior Effective Dates: 12/24/1976, 05/08/2004, 08/14/2004, 04/03/2009,  
04/10/2014, 10/04/2015

3309-1-24

**Ohio service credit and calculation of final average salary.'**

Service credit that is purchased or obtained under section 3309.022, 3309.474, 3309.73, 3309.731, or 3309.75 of the Revised Code, shall be used in determining eligibility for a retirement allowance or a benefit as provided in Chapter 3309. of the Revised Code, including the calculation of the member's final average salary and total service credit in the school employees retirement system.

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01/31/2020

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3309.022, 3309.474, 3309.73, 3309.731, 3309.75  
Prior Effective Dates: 04/01/2016

3309-1-37

**Surviving spouse or dependent may purchase credit.**

(A) For purposes of section 3309.451 of the Revised Code and this rule, “dependent” means a “qualified child” or “qualified parent” as those terms are defined in division (B)(2) of section 3309.45 of the Revised Code.

(B)

(1) A spouse or dependent of a deceased member who wants to purchase service credit pursuant to section 3309.451 of the Revised Code must deliver a written request to purchase service to the school employees retirement system before they receive payment of a benefit under section 3309.44 or 3309.45 of the Revised Code.

(2) Eligibility shall be determined upon receipt of a written request.

(3) Service credit shall be purchased in accordance with the laws and policies of the retirement system in effect at the time of purchase.

(4) Benefit payments shall commence on the first of the month following the date the purchase of service credit is completed.

(C) Service credit purchased under section 3309.451 of the Revised Code shall be included in the member’s total service credit as of the member’s date of death.

(D) The commencement of benefit payments to a spouse or dependent not subject to paragraph (B) of this rule shall not be delayed due to a request to purchase service.

Replaces: 3309-1-37

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Date

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Statutory Authority: 3309.04  
Rule Amplifies: 3309.451  
Prior Effective Dates: 12/24/1976, 01/02/1993, 04/01/2016

3309-1-43

**Service credit established under retirement incentive plan.**

~~Authority provided in section 3309.33 of the Revised Code as enacted in Substitute H.B. 410 in the 115th General Assembly.~~

(A) Upon adoption of a ~~retirement incentive plan~~ Retirement Incentive Plan in accordance with section 3309.33 of the Revised Code, the employer shall notify the school employees retirement system on an official form approved by the school employees retirement board and attached as an appendix to this rule.

(B) The cost to the employer for each year of credit purchased will be determined by factors recommended by the school employees retirement system actuary which yield an amount equal to the additional liability of the amount purchased. Actuarial cost will be revised no more than once annually and shall apply only to new credit established after such revision is approved by the school employees retirement board.

(C)

(1) Employers may make equal payments to the ~~school employees~~ retirement system for the cost of the year or years of credit purchased over the number of years equal to the number of years purchased under the employer adopted plan.

After the thirtieth of June of the year in which the service is purchased, interest, compounded annually, shall be calculated on the remaining payments at the rate established for other purchased credit.

(2) Purchase of partial years is not permitted.

(3) Notwithstanding paragraph (C)(1) of this rule, governing authorities of community schools shall pay the cost of the service credit purchased in one payment made within thirty days of receipt from ~~SERS~~ the retirement system of the calculated cost.

(D) ~~An~~

(1) An employee may initiate action to retire under the locally adopted retirement incentive plan in accordance with section 3309.33 of the Revised Code by completing the employee section of ~~a~~the form adopted by the school employees retirement board, attached as an appendix to this rule, and filing such form with the employer. ~~Subsequently, the form must be completed by the employer and filed with the school employees retirement board within ninety days of the effective date of retirement, but in no event shall it be filed later than the earlier of the last day of the month preceding the date of retirement or the expiration date of the plan. For purposes of section 3309.33 of the Revised Code and this~~

~~rule, the effective date of the purchase of service under a retirement incentive plan shall be the date SERS receives the completed form.~~

- (2) Upon receipt of the form, the employer must complete the employer section of the form and file it with the retirement system. In no event shall the employer file the form later than the earlier of the last day of the month preceding the employee's date of retirement or the expiration date of the plan. The employer's completion of the employer portion of the form constitutes the employer's acceptance of liability for the cost of the additional service credit. The effective date of the purchase of service under a retirement incentive plan shall be the date the retirement system receives the completed form.
  - (3) Upon receipt of the completed form, the retirement system shall notify the employee by letter that service credit has been purchased for the employee under the retirement incentive plan. The date of this letter shall constitute the date the employee received notice that service credit has been purchased for the employee.
  - (4) The retirement system must receive the employee's valid retirement application within ninety days of the employee's receipt of notice.
  - (5) The employee's effective date of retirement must be within ninety days of the employee's receipt of notice.
  - (6) If an employee does not retire within ninety days of receiving notice, withdraws their application for retirement, or dies before their effective date of retirement and/or before the retirement system received a valid application, the purchase of service credit on behalf of the employee under section 3309.33 shall be cancelled and any amounts received from the employer refunded.
- ~~(E) Employees who retire under section 3309.33 of the Revised Code shall not forfeit any rights or privileges provided in rules of Chapter 3309-1 of the Administrative Code in existence at the time of retirement.~~

Effective:

Five Year Review (FYR) Dates: 1/31/2020

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Certification

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Date

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Statutory Authority: 3309.04  
Rule Amplifies: 3309.33  
Prior Effective Dates: 09/06/1983 (Emer.), 04/01/2016

3309-1-53

**Rollover distributions and trustee-to-trustee transfers.**

(A) For purpose of SERS rules, "eligible rollover distribution," or "rollover distribution," means all or any portion of an amount that qualifies as an eligible rollover distribution under section 402(c)(4) of the Internal Revenue Code of 1986, as amended, 26 U.S.C. 402(c)(4), and is paid to a member or the surviving spouse of the member from either:

- (1) Another employer plan qualified under section 401(a) of the Internal Revenue Code, 26 U.S.C. 401(a);
- (2) An individual retirement account, or annuity other than an endowment contract, under section 408 of the Internal Revenue Code, 26 U.S.C. 408, to the extent that the amount would be a taxable event;
- (3) A tax-sheltered annuity under section 403(b) of the Internal Revenue Code, 26 U.S.C. 403(b);
- (4) A governmental deferred compensation plan under section 457 of the Internal Revenue Code, 26 U.S.C. 457; or
- (5) An annuity plan under section 403(a) of the Internal Revenue Code, 26 U.S.C. 403(a).

(B)

- (1) The school employees retirement system may accept direct trustee-to-trustee transfers from a 26 U.S.C. 457 deferred compensation plan, a 26 U.S.C. 403(b) tax-sheltered annuity plan, or a plan qualified under 26 U.S.C. 401(k) and eligible rollover distributions only for the purchase of service credit pursuant to section 3309.021, 3309.022, 3309.26, 3309.301, 3309.31, 3309.311, 3309.41, 3309.451, 3309.473, 3309.474, 3309.73, 3309.731 or 3309.75 of the Revised Code, for the payment of back contributions under rule 3309-1-13 of the Administrative Code, or for the payment of additional liability pursuant to division (A)(1)(c) of section 3309.34 of the Revised Code.
- (2) A member or surviving spouse of a member must be otherwise eligible to purchase the service credit or pay the back contributions pursuant to Chapter 3309. of the Revised Code and SERS rules.
- (3) The amount of the rollover distribution accepted by the retirement system shall not exceed the amount necessary to fund the benefit attributable to the service credit.

(C) A member, alternate payee, or otherwise qualified beneficiary of a deceased member who is entitled to a distribution from the retirement system that qualifies as an

eligible rollover distribution pursuant to sections 401(a)(31) and 402(f)(2)(A) of the Internal Revenue Code, 26 U.S.C. 401(a)(31) and 402(f)(2)(A), may request that the distribution be paid in a direct rollover to another eligible retirement plan to the extent permitted by sections 401(a)(31) or 408A of the Internal Revenue Code, 26 U.S.C. 401(a)(31) or 26 U.S.C. 408A. A qualified nonspouse beneficiary of a deceased member may only rollover directly to an inherited individual retirement account or annuity to the extent permitted by section 402(c)(11) of the Internal Revenue Code, 26 U.S.C. 402(c)(11).

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Date

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Statutory Authority:	3309.04
Rule Amplifies:	3309.021, 3309.022, 3309.26, 3309.301, 3309.31, 3309.311, 3309.41, 3309.451, 3309.46, 3309.473, 3309.474, 3309.73, 3309.731, 3309.75
Prior Effective Dates:	03/07/1997, 05/02/2001, 04/05/2002, 05/11/2006, 06/01/2007, 12/24/2007, 04/30/2009, 01/07/2013 (Emer.), 03/08/2013, 10/18/2013 (Emer.), 01/06/2014, 04/01/2016

3309-1-55**Responsibility for health care coverage.**

(A) This rule amplifies division (F) of section 3309.69 of the Revised Code.

(B) For the purpose of this rule:

(1) "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.

(2) "Available coverage" means any of the following provided by another Ohio retirement system: a group plan, or a payment, stipend, or reimbursement provided for the purpose of obtaining medical or prescription drug coverage. Coverage shall be considered available if the individual is eligible for the coverage, regardless of whether the individual waived or declined to accept or enroll in the coverage. Coverage shall not be considered available if only provided as a dependent of another person.

(3) "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.

(4) "Survivor benefit recipient" means a beneficiary receiving a benefit pursuant to section 3309.45 or 3309.46 of the Revised Code.

(C) Except as otherwise provided in this rule, this retirement system shall be the system responsible for health care coverage for its eligible benefit recipients.

(D) An individual otherwise eligible for health care coverage from this system may not enroll in this system's coverage if the individual also has available coverage in the following circumstances:

(1) The individual is only eligible for health care coverage from this system as a dependent of an eligible benefit recipient; or

(2) The individual is an age and service retirant or disability benefit recipient in both this system and another Ohio retirement system and the benefit recipient has less service credit in this system than in the other system. Where the service credit is the same in each system, the individual may not enroll in this system's health care coverage if the employee contributions in the account upon which the benefit in this system is based are less than the employee contributions in the account upon which the benefit in the other system is based; or

- (3) The individual is a survivor benefit recipient in this system and receiving an age and service retirement or disability benefit from another Ohio retirement system; or
- (4) The individual is a survivor benefit recipient in both this system and another Ohio retirement system and the benefit effective date in this system is later than the benefit effective date in the other system.
- (E) Each individual enrolled in health care coverage provided by this system shall notify the system of other available coverage at the time of enrollment in this system's coverage, and whenever the individual becomes eligible for any available coverage.

Replaces: 3309-1-55

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Certification

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Prior Effective Dates: 08/10/1998, 05/02/2001, 03/01/2007, 12/10/2009,  
01/07/2013, 07/12/2014, 04/01/2016

ACTION: No Change

DATE: 01/31/2020 10:06 AM

3309-1-62

**Retirement plan required by court order.**

The specified amount that a member is required to elect pursuant to a court order in division (B)(1)(b)(ii) of section 3309.46 of the Revised Code shall be expressed only as a specified percentage of the member's retirement allowance.

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Rule Amplifies: 3309.46  
Prior Effective Dates: 10/27/2006, 04/01/2016

3309-1-65

**Medicare part B reimbursement account.**

- (A) As used in this rule, “eligible benefit recipient” has the same meaning as in paragraph (J)(2)(b) of rule 3309-1-35 of the Administrative Code.
- (B) The school employees retirement board has previously established a separate account within the funds described in section 3309.60 of the Revised Code for the purpose of reimbursing eligible benefit recipients for a portion of the cost of medicare part B coverage paid by the eligible benefit recipient, as authorized under section 3309.69 of the Revised Code, and in accordance with rule 3309-1-35 of the Administrative Code. The medicare part B reimbursement account shall be a separate account established pursuant to section 401(h) of the Internal Revenue Code, 26 U.S.C. 401(h). The assets in the medicare part B reimbursement account shall be accounted for separately from the other assets of the school employees retirement system, but may be commingled with the other assets of the system for investment purposes. Investment earnings and expenses shall be allocated on a reasonable basis.
- (C) Each year the board designates the amount of contributions that are to be allocated to the medicare part B reimbursement account for any year. The contributions are funded by employer contributions under section 3309.49 of the Revised Code and are subordinate to the contributions for payment of retirement allowance and other benefits provided under Chapter 3309. of the Revised Code. At no time shall contributions to the medicare part B reimbursement account, when added to contributions for any life insurance benefits provided on behalf of eligible benefit recipients, be in excess of twenty-five per cent of the total aggregate actual contributions made to the school employees retirement system, excluding contributions to fund past service credit. In any event, all contributions to the medicare part B reimbursement account shall be reasonable and ascertainable.
- (D) The assets of the medicare part B reimbursement account are only used to pay reimbursement of medicare part B premiums paid by eligible benefit recipients and authorized under section 3309.69 of the Revised Code and in accordance with rule 3309-1-35 of the Administrative Code.
- (E) If any rights of an individual who is eligible to receive medicare part B reimbursement authorized under section 3309.69 of the Revised Code and paid from the medicare part B reimbursement account are forfeited as provided in rule 3309-1-35 of the Revised Code, an amount equal to the amount of such forfeiture shall be applied as soon as administratively possible to reduce employer contributions allocated to the medicare part B reimbursement account.
- (F) At no time prior to the satisfaction of all liabilities under this rule shall any assets in the medicare part B reimbursement account be used for, or diverted to, any purpose other than as provided in paragraph (D) of this rule and for the payment

of administrative expenses relating to the medicare part B reimbursement account. Assets in the medicare part B reimbursement account may not be used for retirement, disability, or survivor benefits, or for any other purpose for which the other funds of the system are used.

- (G) If the school employees retirement board discontinues medicare part B reimbursement authorized under section 3309.69 of the Revised Code, or upon satisfaction of all liabilities under this rule, any assets in the medicare part B reimbursement account, if any, that are not used as provided in this rule shall be returned to the employers, as required by 26 U.S.C. 401(h)(5).
- (H) It is the intent of the school employees retirement board in adopting this rule to reflect its continuing compliance in all respects with sections 401(a) and 401(h) of the Internal Revenue Code, 26 U.S.C. 401, and regulations interpreting those sections. In applying this rule, the board will apply the interpretation that achieves compliance with those sections and preserves the qualified status of the system as a governmental plan under sections 401(a) and 414(d) of the Internal Revenue Code, 26 U.S.C. 401 and 414.
- (I) This rule is intended to reflect past and current policies, practices and procedures of the system with respect to the funding and payment of medicare part B reimbursements and does not confer any new rights to or create any vested interest in receiving medicare part B reimbursement for members, retirees, survivors, beneficiaries, or their dependents.

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Rule Amplifies: 3309.03, 3309.60, 3309.69  
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