

Sec. 145.431. Designation of a beneficiary for the purposes of section 145.40 of the Revised Code or ~~payment of benefits or a~~ return of contributions to the beneficiary of a member participating in a PERS defined contribution plan shall be made under this section. A beneficiary shall be designated in writing duly executed on a form provided by the public employees retirement board and signed by the member. A designation under this section is not valid unless received by the board prior to the member's death.

A beneficiary designation made under this section applies to the PERS defined benefit plan or PERS defined contribution plan in which the member participated or, if the member participated in both the defined benefit plan and one or more defined contribution plans, to both the defined benefit plan and the defined contribution plans.

The last designation of any beneficiary revokes all previous designations. The member's marriage, divorce, marriage dissolution, legal separation, or withdrawal of account, or the birth of the member's child, or adoption of a child, shall constitute an automatic revocation of the member's previous designation.

Sec. 145.45. Except as provided in division (C)(1) of this section, in lieu of accepting the payment of the accumulated account of a member who dies before service retirement, a beneficiary, as determined in this section or section 145.43 of the Revised Code, may elect to forfeit the accumulated contributions and to substitute certain other benefits under division (A) or (B) of this section.

(A)(1) If a deceased member was eligible for a service retirement benefit as provided in section 145.33, 145.331, or 145.332 of the Revised Code, a surviving spouse or other sole dependent beneficiary may elect to receive a monthly benefit computed as ~~the joint survivor benefit designated as "plan A" in section 145.46 of the Revised Code~~ a joint-life plan under which the spouse or beneficiary receives one hundred per cent of the actuarial equivalent of the deceased member's lesser retirement allowance payable for the member's life, which the member would have received had the member retired on the last day of the month of death and had the member at that time selected such ~~joint-survivor~~ a plan. Payment shall begin with the month subsequent to the member's death, except that a surviving spouse who is less than sixty-five years old may defer receipt of such benefit. Upon receipt, the benefit shall be calculated based upon the spouse's age at the time of first payment, and shall accrue regular interest during the time of deferral.

(2) Beginning on a date selected by the public employees retirement

board, which shall be not later than July 1, 2004, a surviving spouse or other sole dependent beneficiary may elect, in lieu of a monthly payment under division (A)(1) of this section, a plan of payment consisting of both of the following:

(a) A lump sum in an amount the surviving spouse or other sole dependent beneficiary designates that constitutes a portion of the allowance that would be payable under division (A)(1) of this section;

(b) The remainder of that allowance in monthly payments.

The total amount paid as a lump sum and a monthly benefit shall be the actuarial equivalent of the amount that would have been paid had the lump sum not been selected.

The lump sum amount designated by the surviving spouse or other sole dependent beneficiary under division (A)(2)(a) of this section shall be not less than six times and not more than thirty-six times the monthly amount that would be payable to the surviving spouse or other sole dependent beneficiary under division (A)(1) of this section and shall not result in a monthly payment that is less than fifty per cent of that monthly amount.

(B) If a deceased member had, except as provided in division (B)(7) of this section, at least one and one-half years of contributing service credit, with, except as provided in division (B)(7) of this section, at least one-quarter year of contributing service credit within the two and one-half years prior to the date of death, or was receiving at the time of death a disability benefit as provided in section 145.36, 145.361, or 145.37 of the Revised Code, qualified survivors who elect to receive monthly benefits shall receive the greater of the benefits provided in division (B)(1)(a) or (b) and (4) of this section as allocated in accordance with division (B)(5) of this section.

(1)(a) Number of Qualified survivors affecting the benefit	Or Annual Benefit as a Per Cent of Decedent's Final Average Salary	Monthly Benefit shall not be less than
1	25%	\$250
2	40	400
3	50	500
4	55	500
5 or more	60	500
(b) Years of Service	Annual Benefit as a Per Cent of Member's Final Average	

	Salary
20	29%
21	33
22	37
23	41
24	45
25	48
26	51
27	54
28	57
29 or more	60

(2) Benefits shall begin as qualified survivors meet eligibility requirements as follows:

(a) A qualified spouse is the surviving spouse of the deceased member, who is age sixty-two, or regardless of age meets one of the following qualifications:

(i) Except as provided in division (B)(7) of this section, the deceased member had ten or more years of Ohio service credit.

(ii) The spouse is caring for a qualified child.

(iii) The spouse is adjudged physically or mentally incompetent.

A spouse of a member who died prior to August 27, 1970, whose eligibility was determined at the member's death, and who is physically or mentally incompetent on or after August 20, 1976, shall be paid the monthly benefit which that person would otherwise receive when qualified by age.

(b) A qualified child is any child of the deceased member who has never been married and to whom one of the following applies:

(i) Is under age eighteen, or under age twenty-two if the child is attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of such institution and as further determined by board policy;

(ii) Regardless of age, is adjudged physically or mentally incompetent at the time of the member's death.

(c) A qualified parent is a dependent parent aged sixty-five or older or regardless of age if physically or mentally incompetent, a dependent parent whose eligibility was determined by the member's death prior to August 20, 1976, and who is physically or mentally incompetent on or after August 20, 1976, shall be paid the monthly benefit for which that person would otherwise qualify.

(3) "Physically or mentally incompetent" as used in this section may be

determined by a court of jurisdiction, or by a physician appointed by the retirement board. Incapability of making a living because of a physically or mentally disabling condition shall meet the qualifications of this division.

(4) Benefits to a qualified survivor shall terminate upon ceasing to meet eligibility requirements as provided in this division, a first marriage, abandonment, adoption, or during active military service. Benefits to a deceased member's surviving spouse that were terminated under a former version of this section that required termination due to remarriage and were not resumed prior to September 16, 1998, shall resume on the first day of the month immediately following receipt by the board of an application on a form provided by the board.

Upon the death of any subsequent spouse who was a member of the public employees retirement system, state teachers retirement system, or school employees retirement system, the surviving spouse of such member may elect to continue receiving benefits under this division, or to receive survivor's benefits, based upon the subsequent spouse's membership in one or more of the systems, for which such surviving spouse is eligible under this section or section 3307.66 or 3309.45 of the Revised Code. If the surviving spouse elects to continue receiving benefits under this division, such election shall not preclude the payment of benefits under this division to any other qualified survivor.

Benefits shall begin or resume on the first day of the month following the attainment of eligibility and shall terminate on the first day of the month following loss of eligibility.

(5)(a) If a benefit is payable under division (B)(1)(a) of this section, benefits to a qualified spouse shall be paid in the amount determined for the first qualifying survivor in division (B)(1)(a) of this section. All other qualifying survivors shall share equally in the benefit or remaining portion thereof.

(b) All qualifying survivors shall share equally in a benefit payable under division (B)(1)(b) of this section, except that if there is a surviving spouse, the surviving spouse shall receive not less than the amount determined for the first qualifying survivor in division (B)(1)(a) of this section.

(6) The beneficiary of a member who is also a member of the state teachers retirement system or of the school employees retirement system, must forfeit the member's accumulated contributions in those systems and in the public employees retirement system, if the beneficiary takes a survivor benefit. Such benefit shall be exclusively governed by section 145.37 of the Revised Code.

(7) The following restrictions do not apply if the deceased member was contributing toward benefits under section 145.332 of the Revised Code at the time of death:

(a) That the deceased member have had at least one and one-half years of contributing service credit, with at least one-quarter year of contributing service within the two and one-half years prior to the date of death;

(b) If the deceased member was killed in the line of duty, that the deceased member have had ten or more years of Ohio service credit as described in division (B)(2)(a)(i) of this section.

For the purposes of division (B)(7)(b) of this section, "killed in the line of duty," means either that death occurred in the line of duty or that death occurred as a result of injury sustained in the line of duty.

(C)(1) Regardless of whether the member is survived by a spouse or designated beneficiary, if the public employees retirement system receives notice that a deceased member described in division (A) or (B) of this section has one or more qualified children, all persons who are qualified survivors under division (B) of this section shall receive monthly benefits as provided in division (B) of this section.

If, after determining the monthly benefits to be paid under division (B) of this section, the system receives notice that there is a qualified survivor who was not considered when the determination was made, the system shall, notwithstanding section 145.561 of the Revised Code, recalculate the monthly benefits with that qualified survivor included, even if the benefits to qualified survivors already receiving benefits are reduced as a result. The benefits shall be calculated as if the qualified survivor who is the subject of the notice became eligible on the date the notice was received and shall be paid to qualified survivors effective on the first day of the first month following the system's receipt of the notice.

If the retirement system did not receive notice that a deceased member has one or more qualified children prior to making payment under section 145.43 of the Revised Code to a beneficiary as determined by the retirement system, the payment is a full discharge and release of the system from any future claims under this section or section 145.43 of the Revised Code.

(2) If benefits under division (C)(1) of this section to all persons, or to all persons other than a surviving spouse or other sole beneficiary, terminate, there are no children under the age of twenty-two years, and the surviving spouse or beneficiary qualifies for benefits under division (A) of this section, the surviving spouse or beneficiary may elect to receive benefits under division (A) of this section. The benefits shall be effective on the first day of the month immediately following the termination.

(D) The final average salary used in the calculation of a benefit payable pursuant to division (A) or (B) of this section to a survivor or beneficiary of a disability benefit recipient shall be adjusted for each year between the disability benefit's effective date and the recipient's date of death by the lesser of three per cent or the actual average percentage increase in the consumer price index prepared by the United States bureau of labor statistics (U.S. city average for urban wage earners and clerical workers: "all items 1982-84=100").

(E) If the survivor benefits due and paid under this section are in a total amount less than the member's accumulated account that was transferred from the public employees' savings fund to the survivors' benefit fund, then the difference between the total amount of the benefits paid shall be paid to the beneficiary under section 145.43 of the Revised Code.

Sec. 145.46. (A) A retirement allowance calculated under section 145.33, 145.331, or 145.332 of the Revised Code shall be paid as provided in this section.

Unless the member is required by division (C) of this section to select a specified plan of payment, a member may elect a plan of payment as provided in division (B)(1), (2), or (3) of this section. An election shall be made at the time the member makes application for retirement and on a form provided by the public employees retirement board. A plan of payment elected under this section shall be effective only if approved by the board, which shall approve it only if it is certified by an actuary engaged by the board to be the actuarial equivalent of the retirement allowance calculated under section 145.33, 145.331, or 145.332 of the Revised Code.

(B) The following plans of payment shall be offered by the public employees retirement system:

(1) "Joint-life plan," an allowance that consists of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.332 of the Revised Code in a lesser amount payable for life and one-half or some other portion equal to ten per cent or more of the allowance continuing after death to the member's designated beneficiary for the beneficiary's life. The beneficiary shall be nominated by written designation filed with the retirement board. The amount payable to the beneficiary shall not exceed the amount payable to the member.

(2) "Single-life plan," the member's retirement allowance determined under section 145.33, 145.331, or 145.332 of the Revised Code;

(3) "Multiple-life plan," an allowance that consists of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.332 of the Revised Code in a lesser amount payable

to the retirant for life and some portion of the lesser amount continuing after death to two, three, or four surviving beneficiaries designated at the time of the member's retirement. Unless required under division (C) of this section, no portion allocated under this plan of payment shall be less than ten per cent. The total of the portions allocated shall not exceed one hundred per cent of the member's lesser allowance.

(C) A member shall select a plan of payment as follows:

(1) Subject to division (C)(2) of this section, if the member is married at the time of retirement, the member shall select a joint-life plan and receive a plan of payment that consists of the actuarial equivalent of the member's retirement allowance determined under section 145.33, 145.331, or 145.332 of the Revised Code in a lesser amount payable for life and one-half of such allowance continuing after death to the member's surviving spouse for the life of the spouse. A married member is not required to select this plan of payment if the member's spouse consents in writing to the member's election of a plan of payment other than described in this division or the board waives the requirement that the spouse consent;

(2) If prior to the effective date of the member's retirement, the public employees retirement board receives a copy of a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding division of marital property the board shall accept the member's election of a plan of payment under this section only if the member complies with both of the following:

(a) The member elects a plan of payment that is in accordance with the order.

(b) If the member is married, the member elects a multiple-life plan and designates the member's current spouse as a beneficiary under that plan unless that spouse consents in writing to not being designated a beneficiary under any plan of payment or the board waives the requirement that the current spouse consent.

(D) An application for retirement shall include an explanation of all of the following:

(1) That, if the member is married, unless the spouse consents to another plan of payment or there is a court order dividing marital property issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that provides for payment in a specified amount, the member's retirement allowance will be paid under a joint-life plan and consist of the actuarial equivalent of the member's retirement allowance in a lesser amount payable for life and one-half of the allowance continuing after death to the surviving spouse for

the life of the spouse;

(2) A description of the alternative plans of payment, including all plans described in division (B) of this section, available with the consent of the spouse;

(3) That the spouse may consent to another plan of payment and the procedure for giving consent;

(4) That consent is irrevocable once notice of consent is filed with the board.

Consent shall be valid only if it is signed, in writing, and witnessed by a notary public. The board may waive the requirement of consent if the spouse is incapacitated or cannot be located or for any other reason specified by the board. Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

(E)(1) Beginning on a date selected by the retirement board, which shall be not later than July 1, 2004, a member may elect to receive a retirement allowance under a plan of payment consisting of both a lump sum in an amount the member designates that constitutes a portion of the member's retirement allowance under a plan described in division (B) of this section and the remainder as a monthly allowance under that plan.

The total amount paid as a lump sum and a monthly benefit shall be the actuarial equivalent of the amount that would have been paid had the lump sum not been selected.

(2) The lump sum designated by a member shall be not less than six times and not more than thirty-six times the monthly amount that would be payable to the member under the plan of payment elected under division (B) of this section had the lump sum not been elected and shall not result in a monthly allowance that is less than fifty per cent of that monthly amount.

(F) If the retirement allowances, as a single life annuity or payment plan as provided in this section, due and paid are in a total amount less than (1) the accumulated contributions, and (2) other deposits made by the member as provided by this chapter, standing to the credit of the member at the time of retirement, then the difference between the total amount of the allowances paid and the accumulated contributions and other deposits shall be paid to the beneficiary provided under division (D) of section 145.43 of the Revised Code.

(G)(1) The death of a spouse or any designated beneficiary following retirement shall cancel the portion of the plan of payment providing continuing lifetime benefits to the deceased spouse or deceased designated beneficiary. The retirant shall receive the actuarial equivalent of the retirant's single lifetime benefit, as determined by the board, based on the

number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary. The change shall be effective the month following the date of death.

(2) On divorce, annulment, or marriage dissolution, a retirant receiving a retirement allowance under a plan that provides for continuation of all or part of the allowance after death for the lifetime of the retirant's surviving spouse may, with the written consent of the spouse or pursuant to an order of the court with jurisdiction over the termination of the marriage, elect to cancel the portion of the plan providing continuing lifetime benefits to that spouse. The retirant shall receive the actuarial equivalent of the retirant's single lifetime benefit as determined by the retirement board based on the number of remaining beneficiaries, with no change in amount payable to any remaining beneficiary. The election shall be made on a form provided by the board and shall be effective the month following its receipt by the board.

(H)(1) Following a marriage or remarriage, both of the following apply:

(a) A retirant who is receiving the retirant's retirement allowance under a single-life plan may elect a new plan of payment under division (B)(1) ~~or~~ ~~(3)~~ of this section based on the actuarial equivalent of the retirant's single lifetime benefit as determined by the board.

(b) A retirant who is receiving a retirement allowance pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (C)(2) of this section may elect a new plan of payment in the form of a multiple-life plan based on the actuarial equivalent of the retirant's single lifetime retirement allowance as determined by the board if the new plan of payment elected does not reduce the payment to the former spouse.

(2) If the marriage or remarriage occurs on or after June 6, 2005, the election must be made not later than one year after the date of the marriage or remarriage.

The plan elected under this division shall become effective on the date of receipt by the board of an application on a form approved by the board, but any change in the amount of the retirement allowance shall commence on the first day of the month following the effective date of the plan.

(I) Any person who, prior to July 24, 1990, selected an optional plan of payment at retirement that provided for a return to the single life benefit after the designated beneficiary's death shall have the retirant's benefit adjusted to the optional plan equivalent without such provision.

(J) A retirant's receipt of the first month's retirement allowance constitutes the retirant's final acceptance of the plan of payment and may be

changed only as provided in this chapter.

Sec. 145.563. Notwithstanding section 145.561 of the Revised Code:

(A) The public employees retirement system may adjust an allowance or benefit payable under this chapter if an error occurred in calculation of the allowance or benefit;

(B) If any person who is a member, former member, contributor, former contributor, retirant, beneficiary, or alternate payee, as defined in section 3105.80 of the Revised Code, is paid any benefit or payment by the public employees retirement system, including any payment made to a third party on the person's behalf, to which the person is not entitled, the benefit or payment shall be repaid to the retirement system by the person or third party. If A repayment required by this section may include a penalty or interest on the amount of the benefit or payment, as specified in rules adopted by the public employees retirement board. The rules shall specify the method for calculating a penalty or interest and the conditions under which a penalty or interest may be assessed.

If the person or third party fails to make the repayment, the retirement system shall withhold the amount or a portion of the amount due from any benefit or payment due the person or the person's beneficiary under this chapter, or may collect the amount in any other manner provided by law.

Sec. 145.58. (A) The public employees retirement board shall adopt rules establishing eligibility for any coverage provided under this section. The rules shall base eligibility on years and types of service credit earned by members. Eligibility determinations shall be made in accordance with the rules, except that an individual who, as a result of making a false statement in an attempt to secure a benefit under this section, is convicted of violating section 2921.13 of the Revised Code is ineligible for coverage.

(B) The board may enter into agreements with insurance companies, health insuring corporations, or government agencies authorized to do business in the state for issuance of a policy or contract of health, medical, hospital, or surgical ~~benefits~~ coverage, or any combination thereof, for eligible individuals receiving age and service retirement or a disability or survivor benefit subscribing to the plan, or for PERS retirants employed under section 145.38 of the Revised Code, for coverage ~~of benefits~~ in accordance with division ~~(C)~~(D)(2) of section 145.38 of the Revised Code. Notwithstanding any other provision of this chapter, the policy or contract may also include coverage for any eligible individual's spouse and dependent children and for any of the eligible individual's sponsored dependents as the board determines appropriate. If all or any portion of the policy or contract premium is to be paid by any individual receiving age and