

Sec. 3309.44. (A) As used in this section and in section 3309.45 of the Revised Code:

(1) "Child" means a biological or legally adopted child of a deceased member. If a court hearing for an interlocutory decree for adoption was held prior to the member's death, "child" includes the child who was the subject of the hearing notwithstanding the fact that the final decree of adoption, adjudging the surviving spouse as the adoptive parent, is made subsequent to the member's death.

(2) "Parent" is a parent or legally adoptive parent of a deceased member.

(3) "Dependent" means a beneficiary who receives one-half of the beneficiary's support from a member during the twelve months prior to the member's death.

(4) "Surviving spouse" means an individual who establishes a valid marriage to a member at the time of the member's death by marriage certificate or pursuant to division (E) of this section.

(5) "Survivor" means a surviving spouse, child, or parent.

(B) Except as provided in division (C)(1) of section 3309.45 of the Revised Code, should a member die before service or commuted service retirement, the member's accumulated contributions and any amounts owed and unpaid to a disability benefit recipient shall be paid to such beneficiaries as the member has designated in writing on a form provided by the school employees retirement board, signed by the member and filed with the board prior to death. The last designation of any beneficiary revokes all previous designations. The member's marriage, divorce, legal dissolution, legal separation, or withdrawal of account, or the birth of the member's child, or the member's adoption of a child, constitutes an automatic revocation of the member's last designation. If a deceased member was also a member of the public employees retirement system or the state teachers retirement system, the beneficiary last established among the systems shall be the sole beneficiary in all the systems.

If the accumulated contributions of a deceased member are not claimed by a beneficiary, or by the estate of the deceased member, within ten years, they shall be transferred to the guarantee fund and thereafter paid to such beneficiary or to the member's estate upon application to the board. The board shall formulate and adopt rules governing all designations of beneficiaries.

(C) Except as provided in division (C)(1) of section 3309.45 of the Revised Code, if a member dies before service or commuted service retirement and is not survived by a designated beneficiary, any beneficiaries shall qualify, in the following order of precedence, with all attendant rights and privileges:

- (1) Surviving spouse;
- (2) Children share and share alike;
- (3) A dependent parent who is age sixty-five or older, if that parent takes survivor benefits under division (B) of section 3309.45 of the Revised Code;
- (4) Parents, share and share alike;
- (5) Estate.

Any payment made to a beneficiary as determined by the school employees retirement board shall be a full discharge and release to the board from any future claims.

(D) Any amount due any person, as an annuitant receiving a monthly service or commuted service retirement allowance or benefit, and unpaid to the annuitant at death, shall be paid to the beneficiary designated in writing on a form provided by the retirement board, signed by the annuitant and filed with the board. If no such designation has been filed, or if the designated beneficiary is deceased or is not located within ninety days, such amount shall be paid, except as otherwise provided in section 3309.45 of the Revised Code, in the following order of precedence to the annuitant's:

- (1) Surviving spouse;
- (2) Children, share and share alike;
- (3) Parents, share and share alike;

(4) Estate.

For the purpose of this division, an "annuitant" is the last person who received a monthly allowance or benefit pursuant to the plan of payment selected by the retirant or designated by this chapter. Such payment shall be a full discharge and release to the board from any future claim for such payment.

(E) If the validity of marriage cannot be established to the satisfaction of the retirement board for the purpose of disbursing any amount due under this section or section 3309.45 of the Revised Code, the retirement board may accept a decision rendered by a court having jurisdiction in the state in which the member was domiciled at the time of death that the relationship constituted a valid marriage at the 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 intestate personal property.

(F) AS USED IN THIS DIVISION, "RECIPIENT" MEANS AN INDIVIDUAL WHO IS RECEIVING OR MAY BE ELIGIBLE TO RECEIVE AN ALLOWANCE OR BENEFIT UNDER THIS CHAPTER BASED ON THE INDIVIDUAL'S SERVICE TO AN EMPLOYER.

If the death of a member, A RECIPIENT, OR ANY INDIVIDUAL WHO WOULD BE ELIGIBLE TO RECEIVE AN ALLOWANCE OR BENEFIT UNDER THIS CHAPTER BY VIRTUE OF THE DEATH OF A MEMBER OR RECIPIENT is caused by one of the following beneficiaries, no amount due under this chapter to the beneficiary shall be paid to the beneficiary in the absence of a court order to the contrary filed with the retirement board:

(1) A beneficiary who is convicted of, pleads guilty to, or is found not guilty by reason of insanity of a violation of or complicity in the violation of either of the following:

(a) Section 2903.01, 2903.02, or 2903.03 of the Revised Code;
(b) An existing or former law of any other state, the United States, or a foreign nation that is substantially equivalent to section 2903.01, 2903.02, or 2903.03 of the Revised Code;

(2) A beneficiary who is indicted for a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section and is adjudicated incompetent to stand trial;

(3) A beneficiary who is a juvenile found to be a delinquent child by reason of committing an act that, if committed by an adult, would be a violation of or complicity in the violation of the sections or laws described in division (F)(1)(a) or (b) of this section.