

Rules

February 8, 2024

SERS

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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~~ five thousand dollars, the member's signature must be notarized or witnessed by a SERS counselor.
- (C) An application for a lump sum annuity payment or a return of contributions pursuant to section 3309.344 of the Revised Code shall be signed by the retirant. If the account balance exceeds five thousand dollars, the retirant's signature must be ~~and~~ notarized or witnessed by a SERS counselor.
- (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) 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 retirement system.
- (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 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.
- (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 retiree'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.

Effective:

Five Year Review (FYR) Dates: 1/12/2024

Certification

Date

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Rule Amplifies: 3309.42, 3309.344
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04/02/2010, 03/30/2015, 08/13/2015, 05/15/2017,
05/03/2019

3309-1-09

Federal taxation.

- (A) For purposes of this rule, “benefit” refers to a payment from the accumulated contributions of the member or the employer, or both, under Chapter 3309. of the Revised Code and includes an account refund, pension, annuity, disability benefit, or survivor benefit.
- (B) Notwithstanding any provision in rules of school employees retirement system ("SERS") or Chapter 3309. of the Revised Code to the contrary, distributions to members and beneficiaries shall be made in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C. 401(a)(9), as applicable to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code, 26 U.S.C. 414(d), and the following:
- (1) The entire interest of a member shall be distributed to the member:
- (a) Not later than the required beginning date; or
 - (b) Beginning not later than the required beginning date over the life of the member and a designated beneficiary (or over a period not extending beyond the life expectancy of such member or the life expectancy of such member and designated beneficiary) within the meaning of section 401(a)(9) of the Internal Revenue Code.
- (2) ~~The required beginning date means April first of the calendar year following the later of:~~
- (a) The required beginning date means April first of the calendar year following the later of:
 - (i) The calendar year in which the member attains the applicable age ~~seventy-two years of age, for members who attain seventy-two years of age before January 1, 2023;~~ or
 - (ii) The calendar year in which the member retires. ~~attains seventy-three years of age, for members who attain seventy-two years of age after December 31, 2022;~~ or
 - (b) ~~The calendar year in which the member retires.~~ For purposes of compliance with section 401(a)(9) of the Internal Revenue Code, “applicable age” means:
 - (i) Age 70^{1/2} (if the member was born before July 1, 1949);

(ii) Age 72 (if the member was born after June 30, 1949, but before January 1, 1951); or

(iii) Age 73, or the otherwise applicable age under section 401(a)(9)(C)(v) of the Internal Revenue Code, (if the member was born on or after January 1, 1951).

(3) If distribution of a member's benefit has begun in accordance with section 401(a)(9) of the Internal Revenue Code, and the member dies, any survivor benefits will be distributed at least as rapidly as under the plan of payment selected and effective as of the date of the member's death.

(4) If a member dies before the distribution of the member's interest has begun in accordance with section 401(a)(9) of the Internal Revenue Code, the entire interest of the member will be distributed within five years after the death of such member. However, if a benefit is payable to or for the benefit of a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code, the benefit may be distributed, ~~in accordance with applicable regulations,~~ over the life of such beneficiary, or over a period not extending beyond the life expectancy of the beneficiary, provided that such distributions begin not later than one year after the date of the member's death. If the beneficiary is the surviving spouse of the member, distributions shall not be required to begin, pursuant to that section, until the end of the calendar year in which the member would have attained age seventy-two, in the case of a member who would have attained the applicable age seventy-two before January 1, 2023, or age seventy-three, in the case of a member who would have attained age seventy-two after December 31, 2022. When the beneficiary is the surviving spouse and the surviving spouse dies before distributions commence, then the surviving spouse shall be treated as the member for purposes of this rule. Effective for calendar years beginning after December 31, 2023, a surviving spouse who is the member's sole designated beneficiary may elect to be treated as if the surviving spouse were the member as provided under section 401(a)(9)(B)(iv) of the Internal Revenue Code.

(5) Any death benefit amount payable under Chapter 3309. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.

(C) When the retirement system is required to make a distribution in accordance with section 401(a)(9) of the Internal Revenue Code, and a member or retirant does not respond after notification of such event, the following shall apply notwithstanding any provision in SERS rules or Chapter 3309. of the Revised Code to the contrary.

- (1) If the member is not eligible for a retirement allowance pursuant to section 3309.34 or 3309.35 of the Revised Code, the retirement system shall refund the member's account as authorized in section 3309.42 of the Revised Code.
- (2) If the member is eligible for a retirement allowance pursuant to section 3309.34 or 3309.35 of the Revised Code, the retirement system shall calculate and pay a benefit as authorized in section 3309.36 or 3309.343 of the Revised Code, as a plan B, effective on the required beginning date as provided in paragraph (B)(2) of this rule.
 - (a) The member cannot purchase or receive any service credit after the effective date of the retirement allowance.
 - (b) A member who commences receipt of a retirement allowance under this rule, and who is married, may, not later than one year after the payment commenced, elect a plan of payment under division (B)(1), (B)(3)(b), or (B)(3)(c) of section 3309.46 of the Revised Code provided the spouse is named as the beneficiary. The election shall be made on a form provided by the retirement system and shall be effective on the later of the effective date of the retirement allowance or the marriage. Any overpayment may be recovered as provided in section 3309.70 of the Revised Code.
 - (c) If the member also was eligible for health care coverage pursuant to SERS rules and Chapter 3309. of the Revised Code, the member may, not later than sixty days after the commencement of payment of the retirement allowance, enroll for such health care coverage on a form provided by the retirement system. The effective date shall be no earlier than the first of the month after the retirement system receives the member's enrollment form.
- (3) If the retirant is eligible for a benefit pursuant to section 3309.344 of the Revised Code, the retirement system shall calculate and pay a single lump sum benefit as authorized in section 3309.344 of the Revised Code. If such retirant also is eligible for an annuity, the retirant may return the lump sum payment within sixty days of the receipt of the payment and request an annuity on a form provided by the retirement system.
- (4) If the benefit payment of a deceased member's spouse is subject to section 401(a)(9) of the Internal Revenue Code, then the retirement system shall treat the spouse as if the spouse was the member for the purposes of this rule, to the extent provided under section 401(a)(9) of the Internal Revenue Code.

(D)

- (1) Effective for the limitation year beginning on January 1, 2012, the final regulations promulgated April 5, 2007 with respect to section 415 of the Internal Revenue Code, 26 U.S.C. 415 are incorporated herein by reference. The 5.5 per cent interest rate assumption established by the Pension Funding Equity Act of 2004, which is applicable to any actuarial adjustments required because the member or retirant elects a form of payment to which section 415(b)(2)(E) of the Internal Revenue Code and section 417(e)(3) of the Internal Revenue Code, 26 U.S.C. 417(e)(3) apply based on the form of benefit and not the status of the plan, shall be effective as of that same date.
- (2) "Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code have been exceeded with respect to a member or retirant in the plan describe in sections 3309.18 to 3309.70 of the Revised Code. The limitation year for the plan is the calendar year.
- (E) Effective January 1, 2007, to the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37) and notwithstanding any provision in Chapter 3309. of the Revised Code to the contrary, the survivor of a member on a leave of absence to perform military service with reemployment rights described in section 414(u) of the Internal Revenue Code, 26 U.S.C. 414(u), where the member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under Chapter 3309. of the Revised Code had the member resumed employment and then terminated employment on account of death.
- (F) If there is a termination of the plan described in Chapter 3309. of the Revised Code or a complete discontinuance of contributions to the plan, the rights of each affected member, retirant, and beneficiary to the pension, annuity, or benefits accrued at the date of termination or discontinuance of contributions, to the extent then funded, are non-forfeitable.
- (G) For purposes of the limit established by section 415 of the Internal Revenue Code, 26 U.S.C. 415, effective January 1, 2009, compensation shall include differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code, 26 U.S.C. 3401(h)(2).

Effective:

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Certification

Date

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3309.46, 3309.50
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04/01/2013, 04/10/2014, 05/01/2018, 06/05/2020,
06/01/2023

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)

(1) The definition of "employee" in division (B)(2) of section 3309.01 of the Revised Code does not include a person who holds a position for which the person is required to have a certificate or license issued pursuant to sections 3319.22 to 3319.31 of the Revised Code.

(2) 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:

(a) Any service required to be provided on a regular continuous basis by an educational unit or the provision of which is governed by law, statute, or rule; or

(b) Any service necessary on a regular continuous basis to the efficient operation of an educational unit; or

- (c) Any service which, through custom and usage, has become a service commonly provided or procured by an educational unit on a regular continuous basis.

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Five Year Review (FYR) Dates: 1/12/2024

Certification

Date

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Prior Effective Dates: 09/27/2004, 04/03/2009, 12/04/2020

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.

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Date

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Statutory Authority: 3309.04
Rule Amplifies: 3309.28
Prior Effective Dates: 12/04/2014

3309-1-26

Beneficiaries ~~Determination of beneficiary.~~

- (A) This rule amplifies divisions (B), (C) and (D) of section 3309.44, section 3309.45, and section 3309.50 of the Revised Code.
- (B) An individual who does not survive a member or retiree by one hundred twenty hours will be deemed to have predeceased the member or retiree.
- (C) For purposes of division (B) of section 3309.44 of the Revised Code, when a surviving designated beneficiary dies more than one hundred twenty hours after the member, but before receiving payment, the payment shall be paid to the estate of the designated beneficiary.
- (D) 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.
- (E) Except as provided under division (C)(1) of section 3309.45 of the Revised Code, when a member designates two or more persons as joint beneficiaries, the designated beneficiaries may only be paid the accumulated account in a lump sum.

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Prior Effective Dates: 07/27/2015, 12/01/2022

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~~Employment 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 and this rule, "Ohio contributing service" and; "Ohio service" means contributing service in this retirement system.

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11/19/2001 (Emer.), 02/11/2002, 05/14/2005,
04/02/2010, 04/28/2013

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, and Cincinnati 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 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 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 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.

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