

# Rules

## September 8, 2015

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145-2-43

**Additional annuity accounts.**

- (A) A member or contributor who makes a deposit for an additional annuity pursuant to section 145.62 of the Revised Code shall remit the first deposit with a form provided by the public employees retirement system. The retirement system shall not accept a payment for less than fifteen dollars. Deposits shall be credited to the current tax year, except that a deposit may be credited to the prior tax year if the deposit was received by the retirement system or postmarked on or before December thirty-first of the prior tax year.
- (B) A member or contributor may elect to have an eligible rollover distribution paid directly to an additional annuity account as a direct rollover. Any non-taxable portion of an eligible rollover distribution shall be separately accounted for by the retirement system and shall only be accepted in a direct trustee-to-trustee transfer to the additional annuity account. The following definitions apply to this paragraph:
- (1) "Eligible rollover distribution" means any distribution of all or any portion of the balance to the credit of a member or contributor from an eligible retirement plan. An eligible rollover distribution does not include:
- (a) Any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the member or contributor or the joint lives (or joint life expectancies) of the member or contributor and the member or contributor's designated beneficiary, or for a specified period of ten years or more;
  - (b) Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code;
  - (c) Any distribution that is made upon hardship of the member or participant;  
or
  - (d) The portion of any distribution that is not includible in gross income, unless the distribution is being rolled over to either (i) a traditional individual retirement account or individual retirement annuity under sections 408(a) or 408(b) of the Internal Revenue Code or (ii) a qualified trust which is part of a plan which is a defined contribution plan under sections 401(a) or 403(a) of the Internal Revenue Code that will separately account for the distribution, including the taxable and non-taxable portions of the distribution, in a direct trustee-to-trustee transfer.
- (2) "Eligible retirement plan" means any program defined in sections 401(a)(31)

and 402(c)(8)(B) of the Internal Revenue Code, from which the member or contributor has a right to an eligible rollover distribution, as follows:

- (a) An individual retirement account under section 408(a) of the Internal Revenue Code;
  - (b) An individual retirement annuity under section 408(b) of the Internal Revenue Code (other than an endowment contract);
  - (c) A qualified trust;
  - (d) An annuity plan under section 403(a) of the Internal Revenue Code;
  - (e) An eligible deferred compensation plan under section 457(b) of the Internal Revenue Code that is maintained by an eligible employer under section 457(e)(1)(A) of the Internal Revenue Code;
  - (f) An annuity contract under section 403(b) of the Internal Revenue Code; and
  - (g) Effective January 1, 2008, a Roth individual retirement account or annuity described in section 408A of the Internal Revenue Code, subject to the limitations set forth in such Internal Revenue Code provision; provided, however, that the plan is not responsible for assuring that a distributee is eligible to make such a rollover.
- (3) "Direct rollover" means a payment to the additional annuity account from an eligible retirement plan specified by the member or contributor.

(C) A member or contributor shall make application for an additional annuity payment under section 145.64 of the Revised Code or a one-time lump sum payment under section 145.63 of the Revised Code on a form provided by the public employees retirement system. In the event a member or contributor is deceased, the qualifying beneficiary shall make application. Except as provided in this paragraph, a member or contributor may apply for a one-time lump sum payment at any time. If, at the time of application for a one-time lump sum payment, the additional annuity account of the member or contributor includes mandatory member or employer contributions that were transferred to the account in accordance with rule 145-2-18 of the Administrative Code, the member or contributor may only apply for a one-time lump sum payment under the circumstances described in section 145.63 of the Revised Code.

- (D) Except as provided in this paragraph, monthly additional annuity payments shall commence at the time of issuance of an initial benefit payment, as defined in paragraph (A)(5) of rule 145-1-65 of the Administrative Code. In the case of a member or contributor who indicates on a form provided by the retirement system that the member or contributor will be making additional deposits into their additional annuity account, monthly additional annuity payments shall not be issued until one hundred twenty days following the initial benefit payment or, in the case of an additional annuity commenced in connection with a benefit under section 145.384 of the Revised Code, one hundred twenty days from issuance of the first payment under that section.
- (E) All amounts on deposit with the retirement system on December 31, 2007, for an additional annuity, including any interest as may have been allowed by the public employees retirement board under former section 145.23 of the Revised Code, section 145.62 of the Revised Code, or prior versions of this rule, and any deposits made on or after January 1, 2008, shall be invested in the OPERS stable value fund, as described in the statement of investment objectives and policies for the defined contribution fund. The retirement system shall value the amounts described in this paragraph in accordance with the daily values determined for the OPERS stable value fund and acceptable industry practices. The board and the retirement system are not liable for losses or depreciation in the value of the amounts described in this paragraph.
- (F) Pursuant to division (B)(6) of section 145.64 of the Revised Code, a member or contributor who fails to select a plan of payment for the monthly additional annuity shall receive monthly annuity payments under a plan of payment that is consistent with the marital status of the member or contributor.
- (G) On application for a payment under section 145.63 or 145.64 of the Revised Code by a member, contributor, or beneficiary whose deposits were transferred to the income fund as described in section 145.41 of the Revised Code, the retirement system shall credit interest and invest the deposits as described in paragraph (E) of this rule.

Effective: 08/01/2015

CERTIFIED ELECTRONICALLY

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Certification

07/07/2015

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Date

Promulgated Under: 111.15  
Statutory Authority: 145.09, 145.62  
Rule Amplifies: 145.62, 145.63, 145.64, 145.65  
Prior Effective Dates: 2/3/92, 10/9/00, 1/1/02 (Emer.), 3/22/02, 1/1/03,  
1/1/07, 4/6/07 (Emer.), 7/1/07, 1/1/08 (Emer.),  
1/19/08, 4/1/08 (Emer.), 6/23/08, 1/1/11, 2/1/11  
(Emer.), 4/18/11, 1/1/12, 1/7/13 (Emer.), 3/24/13

742-8-13

**Special penalty provisions.**

(A) In the event any of the following situations occur, which is documented by the employer to the satisfaction of OP&F's director of member services and director of financial services and the other requirements of this rule are met, this rule shall govern how OP&F will administer the penalties provided for in section 742.352 of the Revised Code or section 742.353 of the Revised Code, as permitted by the provisions of division (C) of those sections:

- (1) The employer hired a new clerk within the past year and he/she did not undergo OP&F training prior to the filing that is in question;
- (2) The employer is a new filer with OP&F within the past year and the employee responsible for the reports and payments to OP&F did not undergo OP&F training prior to the filing that is in question;
- (3) There is an act of God (i.e. natural disaster, fire, flood.) that adversely impacts the employer's ability to timely file the report or pay the required contributions according to the governing statutory provisions, but this provision is not intended to apply to overall computer problems, a clerk being sick on or around the deadline date, and such other related items;
- (4) There is a medical leave involved for the person who is responsible for filing the report and contributions with OP&F and the medical leave exceeds ninety days;
- (5) Theft in office has occurred by the person responsible for the filing;
- (6) The penalties arising out of the filing in question will result in the employer being declared in fiscal emergency.
- (7) The employer is a new user of OP&F's online payment/reporting system and as a result of performing the new process, the employer missed the deadline and incurred a penalty.

(B) In order for the provisions of this rule to apply, the employer must be in "good standing." For purposes of this rule, "good standing" shall mean that the employer has paid all prior penalties in the past year in accordance within the governing statutory provisions so that OP&F did not need to take further action to collect such employer's compliance (i.e. the penalties were paid within the grace period once added to the employer's billing statement).

(C) In the event that any of the events under paragraph (A) of this rule apply and the

employer is in good standing with OP&F, with the exception of the report or payment in question, OP&F shall apply the following reduction in penalties:

- (1) If the employer files the proper report of contributions and properly pays the contributions within six months of OP&F's written notice of deficiency, then OP&F will reduce the statutory penalties by seventy-five per cent;
  - (2) If the employer files the proper report of contributions and properly pays the contributions within twelve months of OP&F's written notice of deficiency, then OP&F will reduce the statutory penalties by fifty per cent; and
  - (3) If the employer files the proper report of contributions and properly pays the contributions more than one year after OP&F's written notice of deficiency, then OP&F will reduce the statutory penalties by twenty-five per cent or such lesser amount established by the board of trustees based on the applicable facts and circumstances.
- (D) This rule shall not adversely impact OP&F's remedies in the event an employer files a report and pays contributions to the wrong retirement system.
- (E) For purposes of this rule, "proper report of contributions" shall mean the report of contributions required under section 742.32 of the Revised Code, as more fully outlined in rule 742-9-10 of the Administrative Code, and "properly pay the contributions" shall mean the payment of contributions due under section 742.32 of the Revised Code and consistent with the terms of rule 742-9-10 of the Administrative Code.

Five Year Review (FYR) Dates: 05/20/2015 and 05/20/2020

CERTIFIED ELECTRONICALLY

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Certification

05/20/2015

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Date

Promulgated Under: 111.15  
Statutory Authority: 742.10  
Rule Amplifies: 742.352, 742.353  
Prior Effective Dates: 12/22/05 (Emer.), 3/20/2006, 06/24/2010



3309-1-07      **Refund applicationApplication 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.

~~(A)~~(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 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 annuity or a return of contributions pursuant to section 3309.344 of the Revised Code shall 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.

~~(B)~~(D) A member or retirant may withdraw an application as follows:

- (1) If the ~~refund~~ 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 ~~refund~~ 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 ~~refund~~ 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: 02/01/2019

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3309.23, 3309.42  
Prior Effective Dates: 12/24/76, 1/2/93, 2/11/00, 5/14/05, 4/2/10, 3/30/15

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.

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

Promulgated Under:	111.15
Statutory Authority:	3309.04
Rule Amplifies:	3309.35

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 the medical plan and the prescription drug plan offered by the system.
- (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~~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 as follows:
- (a) At the time the retirant or disability benefit recipient enrolls in school employees retirement system's health care coverage; or,
  - (b) Within thirty-one days of the eligible spouse's:
    - (i) Marriage to the retirant or disability benefit recipient;
    - (ii) Attaining age sixty-five; or
    - (iii) Involuntary termination of health care coverage under another ~~group~~ plan, medicare advantage plan, or medicare part D plan.
- (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 as follows:
- (a) At the time the retirant, disability benefit recipient, or surviving spouse enrolls in school employees retirement system's health care coverage; or,

(b) Within thirty-one days of the eligible dependent child's:

(i) Birth, adoption, or custody order; or

(ii) Involuntary termination of health care coverage under another ~~group~~ plan, medicaid, medicare advantage plan, or medicare part D plan.

(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.

(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 three consecutive months of nonpayment. A benefit recipient who is in default shall be sent notice by certified U.S. mail informing 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 is received. 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 reestablished and coverage 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.

(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 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 thirty-one days after reaching age sixty-five. Health care coverage shall be effective the later of the first day of the month after reaching sixty-five or receipt of the enrollment application by the system;
  - (b) The application is received no later than thirty-one days after involuntary termination of coverage under another plan, medicaid, 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)(f) 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 A and B or medicare 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 A and B or medicare 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 B coverage before January 7, 2013, or
    - (ii) An eligible person who is a benefit recipient, is eligible for



medicare B coverage, and is enrolled in SERS' health care.

(3) The effective date of the medicare "B" premium 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 "B" premium when a benefit recipient is receiving more than one monthly benefit from this system; nor

(b) Pay a medicare "B" premium to a benefit recipient who is receiving reimbursement for this premium from any other source.

Effective:

Five Year Review (FYR) Dates: 02/01/2019

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Certification

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Date

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3309-1-40

**Application and procedures for receiving disability benefits.**

(A) For purposes of sections 3309.39, 3309.40, 3309.401 and 3309.41 of the Revised Code and SERS rules:

(1) "Disability" or "disabled" means that the member meets the following applicable standard of disability:

(a) At the time of application: A disabling condition, either permanent or presumed to be permanent for twelve continuous months following the filing of an application, which has occurred or increased since the applicant last became a member and which renders the member mentally or physically incapacitated for the performance of the member's last assigned primary duty as an employee.

(b) At the time of annual examination:

(i) For a disability benefit recipient with a benefit effective date before January 7, 2013 and for a disability benefit recipient with a benefit effective date on or after January 7, 2013 who is on leave of absence, a disabling condition that renders the member mentally or physically incapable of resuming the service from which the member was found disabled.

(ii) For a disability benefit recipient with a benefit effective date on or after January 7, 2013 who is not on leave of absence, a disabling condition that renders the member mentally or physically incapable of performing the duties of any occupation.

(2) "Ongoing disability" means:

(a) For a disability benefit recipient with a benefit effective date before January 7, 2013, a disability for which medical treatment presently offers no reasonable expectation of improvement to the extent that a member may be found mentally and physically capable of resuming employment that is the same or similar to that from which the member was found disabled.

(b) For a disability benefit recipient with a benefit effective date on or after January 7, 2013, a disability for which medical treatment presently offers no reasonable expectation of improvement to the extent that a member may be found mentally and physically capable of employment in any occupation.

- (3) "Medical treatment" means treatment of common medical acceptance that is readily available, would be covered under the system's health care plan and may include but is not limited to, medicine, physical therapy, psychological or psychiatric services or mechanical devices, but would exclude surgery or other invasive procedures.
- (4) "Board physician" means the chairman of the medical advisory committee.
- (5) "Examining physician(s)" means the disinterested physician(s) assigned by the system or the chairman of the medical advisory committee to conduct medical examinations of a disability applicant or recipient to determine eligibility to obtain or continue to receive disability benefits.
- (6) "Any occupation" means a position that meets all of the following criteria:
  - (a) Replaces not less than seventy-five per cent of the member's final average salary, adjusted each year by the actual average 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 1983-84=100);
  - (b) Is reasonably to be found in the member's regional job market;
  - (c) Is one that the member is qualified for by experience or education.
- (7) "Vocational rehabilitation" means tests, evaluations, and/or training whose purpose is to enable a disability benefit recipient to find employment in any occupation.
- (8) "Annual disability benefit" means the annuity and pension, or allowance, calculated under section 3309.40 or 3309.401 of the Revised Code at the time the member is determined to qualify for a disability benefit.

(B)

- (1) The school employees retirement board shall appoint a minimum of three members to the medical advisory committee who shall be physicians who demonstrate a wide range of competent medical experience, and a chairman for the medical advisory committee who shall act as medical advisor to the board. The chairman shall have authority and responsibility to assign competent and disinterested physicians to conduct medical examinations of

disability applicants and recipients for the purpose of determining the member's eligibility to obtain and continue to receive disability benefits, to recommend and review medical treatment and/or vocational rehabilitation, to certify a disability as ongoing and to submit to the board a recommendation to accompany the report of the medical examiner and/or the medical advisory committee.

- (2) The board may appoint as consultants, professionals in the field of vocational rehabilitation to provide services to the board on matters of vocational rehabilitation, including to conduct evaluations and to advise and make recommendations to the medical advisory committee, the board physician, and the board.
- (C) The board shall be responsible for screening disability benefit applications; serving as a hearing committee for disability applicants; and determining eligibility to obtain or continue to receive disability benefits.
- (D) In order to qualify for a disability benefit, a member shall submit an application that includes report(s) from the member's attending physician(s) identifying the medical bases of the application ~~on a form provided by the board~~ and undergo a medical examination by the examining physician(s) as required.
- (E) The examining physician(s) shall make a report of the examination on a form provided by the board that sets forth the examining physician(s)' medical opinion as to the nature of any disabilities disclosed; and
- (1) Any recommended medical treatment, and the period of time in which recovery may reasonably be expected with such treatment, or
  - (2) That the disability is ongoing.
- (F) Upon receipt of a completed application, report of the examining physician(s), and any other available evidence pertaining to the application for disability, the board's medical advisory committee and/or the chairman of the medical advisory committee shall review all such information and prepare a recommendation to the board. The recommendation shall include a description of any disability, the nature and duration of any recommended medical treatment and/or vocational rehabilitation, where applicable, or a certification from the board's physician that the disability is ongoing, and any recommended reexamination requirements.
- (G) The board shall determine whether the applicant is eligible for disability benefits. Notice of denial or termination of disability benefits shall be sent to the applicant

by regular U.S. mail or certified mail pursuant to rule 3309-1-41 of the Administrative Code. Notice of eligibility for disability benefits shall be sent by regular U.S. mail or certified mail.

(H) If the board's physician recommends medical treatment and if the board's physician or consultant recommends vocational rehabilitation, the grant of disability benefits, or continuation of disability, shall be conditioned on the applicant completing and returning a signed agreement to obtain recommended medical treatment on a form included with the notice of the conditional grant of disability benefits. Failure to return this agreement, properly completed, within sixty days of the date mailed by the system constitutes failure to meet conditions for granting the disability benefits and will result in an automatic denial of disability benefits without further action by the board, with all rights of appeal pursuant to rule 3309-1-41 of the Administrative Code. Notice of the denial will be sent to the applicant pursuant to rule 3309-1-41 of the Administrative Code.

(1) A copy of the notice of a conditional grant or continuation of disability benefits shall be sent to the attending physician designated on the member's application for disability benefits as authorized to receive the applicant's disability information unless the applicant subsequently provides a signed release designating another attending physician. The applicant's attending physician shall also receive:

(a) A description of the disabling condition,

(b) The nature and duration of any recommended medical treatment.

(2) The applicant's notice of the conditional grant or continuation of disability benefits shall inform the applicant that information regarding the nature of the disability and recommended treatment has been forwarded to the applicant's attending physician and that the applicant must contact that physician to review this information. The applicant shall be informed that the agreement to obtain recommended medical treatment and/or vocational rehabilitation must be properly completed and returned to the system within sixty days of the date that the system mailed the notice. Proper completion requires the signature of the attending physician indicating that the physician has communicated the disability information and recommended medical treatment to the applicant and the signature of the applicant indicating agreement to obtain the recommended medical treatment and/or vocational rehabilitation.

(3) Upon the timely return of a properly completed agreement to obtain recommended medical treatment and/or rehabilitation, the system shall

forward to the applicant an acknowledgment of receipt of the agreement containing the effective date of the disability benefits and annual reexamination and reporting requirements necessary to continue receiving disability benefits.

(I)

~~(H)~~(1) Based on a certification of ongoing disability by the board physician, the board may waive ~~one or more of the~~ annual examinations required by division (B) of section 3309.41 of the Revised Code, ~~and the filing of one or more~~ annual earnings statements ~~or~~ and current medical information required by division (D) of section 3309.41 of the Revised Code, and the filing any other information required in this rule. ~~The~~

(a) If not previously waived, the obligation to file annual earnings statements of a disability recipient whose disability has been certified as ongoing shall automatically be waived when the benefit recipient has satisfied one of the following requirements:

(i) Has received a disability benefit for twenty years, or

(ii) Has attained age 65.

(2) The board may review any disability granted including those certified as ongoing and request other information pursuant to division (D) of section 3309.41 of the Revised Code and/or require the member to submit to a medical examination by the examining physician(s) and a vocational rehabilitation evaluation by a board appointed vocational rehabilitation professional.

(J) In the absence of a waiver from the board based on a certified ongoing disability, in order to continue receiving disability benefits, the recipient shall comply with the following conditions as set forth in section 3309.41 of the Revised Code:

(1) Submit to an annual medical examination,

(2) If applicable, obtain any recommended medical treatment and submit medical reports regarding the treatment,

(3) If applicable, obtain any recommended vocational rehabilitation and submit required reports regarding the rehabilitation,

(4) Annually file an earnings statement, current medical information, and any other information required by the board.

(K)

- (1) If a recipient refuses to submit to a required medical examination or to file required information, the disability benefits shall be suspended until the examination is obtained or the information is filed. If, when applicable, the recipient fails to obtain recommended medical treatment and submit medical reports regarding the treatment, the disability benefits shall be suspended until the treatment is obtained and the report of the treatment submitted, or the board physician certifies that the treatment is no longer helpful or advisable.

Medical treatment is no longer helpful or advisable if, after a period of time in which it would be medically reasonable to see results, the treatment has failed to produce improvement in the disability, or continuation of the treatment presents a medically significant risk of aggravation or complication of an existing disability or creation of an additional disability.

- (2) If, when applicable, the recipient fails to obtain required vocational rehabilitation and submit reports regarding the rehabilitation, the disability benefits shall be suspended until the rehabilitation is obtained and the report submitted, or the board physician or consultant certifies that vocational rehabilitation is no longer helpful or advisable.

Vocational rehabilitation is no longer helpful or advisable if:

- (a) The recipient's disability renders the recipient unable to perform the duties of any position and is not expected to improve sufficiently, or
- (b) After a period of time in which the recipient has complied with recommended vocational rehabilitation, the recipient cannot be reasonably expected to obtain employment in any occupation.

- (L) If the recipient's failure to comply with any of the applicable conditions set forth in paragraph (J) of this rule continues for one year from the date of the suspension of benefits for noncompliance, the recipient's right to the disability benefits shall be terminated as of the date of the original suspension.

- (M) ~~The examining physician(s) shall make a report of any required reexamination on a form provided by the board. The~~ On reexamination the board physician shall review the medical and vocational reports and certify to the board whether the recipient continues to be disabled.



(1) If the board physician certifies that the recipient continues to be disabled, the board physician shall make recommendations regarding reexamination and, where applicable:

(a) Recommend a continuation of the medical treatment and/or vocational rehabilitation previously recommended,

(b) Recommend a modification in medical treatment and/or vocational rehabilitation, or

(c) Certify that the disability is ongoing.

(2) When the termination standard is whether the recipient can perform any occupation, a recipient shall not be certified for termination unless a SERS appointed vocational consultant has submitted a report identifying a recognized vocation with physical and mental demands the recipient is capable of meeting.

~~(2)~~(3) If the board physician certifies that the recipient meets the applicable standard for termination of disability under division (C) of section 3309.41 of the Revised Code and the board concurs, the board shall:

(a) Terminate the disability benefits not later than three months after the board's concurrence, or upon notice of employment of the recipient as an employee.

(b) Certify to the recipient's last employer as applicable that the recipient is no longer incapable of resuming service that is the same or similar to that from which the recipient was found disabled, if the leave of absence has not expired.

(N)

(1) Disability benefit recipients with a benefit effective date before January 7, 2013 shall be considered on leave of absence from employment during the first five years following the effective date of their disability benefit.

(2) Disability benefit recipients with a benefit effective date on or after January 7, 2013 shall be considered on leave of absence from employment during the first three years following the effective date of their disability benefit; thereafter, their leave of absence shall terminate as follows:

- (a) If medical treatment and/or vocational rehabilitation is not recommended, at the end of the first three years;
- (b) If medical treatment and/or vocational rehabilitation is recommended, but the recipient is not participating in the recommended treatment or rehabilitation, the earlier of the last month the benefit recipient participated in recommended treatment or rehabilitation or the end of five years following the benefit effective date;
- (c) If medical treatment and/or vocational rehabilitation was recommended and the recipient is participating in the recommended treatment or rehabilitation, at the end of five years following the benefit effective date.

## (O)

- (1) Amounts paid by a member to purchase service credit shall be credited to the employees' savings fund.
- (2) Service credit for a period of disability shall be considered the equivalent of Ohio service credit.
- (3) Service credit granted or purchased under section 3309.41 of the Revised Code for a period of disability shall not result in the member receiving more than one year of service credit for any year as defined in division (R) of section 3309.01 of the Revised Code.

## (P)

- (1) A disability benefit recipient whose benefit is granted on or after January 7, 2013 who meets the requirements of divisions (a)(1)(A), (B), and (C) of 42 U.S.C. 423 shall file a copy of a completed application for social security disability insurance benefits and a copy of the social security administration's acknowledgement of receipt of the application within one hundred and twenty days of the award of disability.
- (2) A disability benefit recipient whose benefit is granted on or after January 7, 2013 who does not meet the requirements of divisions (a)(1)(A), (B), and (C) of 42 U.S.C. 423 shall complete and sign a certified statement that the recipient does not meet the requirements within one hundred and twenty days of the award of disability. A disability benefit recipient who does not submit a

certified statement shall be presumed to meet the requirements of divisions (a)(1)(A), (B), and (C) of 42 U.S.C. 423.

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Certification

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Date

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11/9/98, 5/9/03, 1/2/04, 1/6/05, 1/30/06, 4/3/08, 1/7/13

3309-1-50                    **Re-employment restrictions.**

(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) "Nonuniformed retirement system" means the school employees retirement system, state teachers retirement system and public employees retirement system.~~
- ~~(3)~~(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.
- ~~(4) "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 retiree whose effective retirement benefit date is on or after September 1, 1991.
- (2) A SERS retiree who has received a retirement allowance for less than two months and who 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 retiree who is employed in a position covered by a uniformed Ohio retirement system if the retiree 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 ~~nonuniformed~~ 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 ~~or 3309.38~~ of the Revised Code; or

(ii) Apply for a refund of contributions pursuant to section 3309.42 of the Revised Code.

~~(b) If the member applies for a benefit described in paragraph (C)(1)(a)(i) of this rule, the system shall calculate the benefit with any necessary reduction for concurrent service among the systems. 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) Where a member of this system who also has established membership in a uniformed retirement system or systems is terminating all employment covered by all the 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:~~

~~(a) Apply for a benefit if eligible pursuant to section 3309.34, 3309.35 or 3309.38 of the Revised Code;~~

~~(b) Apply for a refund of contributions pursuant to section 3309.42 of the Revised Code; or~~

~~(c) If as of the effective retirement benefit date from a uniformed 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 uniformed retirement system or attainment of eligibility for a benefit in this system.~~

~~(3)(2)~~

(a) A member of this system who also is a member of a ~~uniformed~~ an Ohio

retirement system and who has applied for a retirement benefit in the ~~uniformed~~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 ~~uniformed~~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 ~~uniformed~~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 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.

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Certification

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Date

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Prior Effective Dates: 1/2/93, 5/2/01, 5/14/05, 3/30/07



3309-1-54

**Purchase of service credit with amounts designated as picked-up contributions.**

(A) A member of the school employees retirement system may purchase service credit by payroll deduction with amounts designated by the member's employer as picked-up contributions under a plan which is in compliance with section 414(h)(2) of the Internal Revenue Code pursuant to agency-level 3309 of the Administrative Code and section 3309.021, 3309.022, 3309.26, 3309.261, 3309.301, 3309.31, 3309.41, 3309.473, 3309.474, 3309.73, 3309.731, or 3309.75 of the Revised Code.

(1) Prior to the purchase of service credit with amounts designated as picked-up contributions, the member's employer shall have adopted and filed with the retirement system a resolution authorizing the purchase of service credit for its employees by payroll deduction with amounts designated as picked-up and paid to the retirement system by the employer.

(B)

(1) Upon a member's request to purchase service credit with amounts designated as picked-up contributions, the retirement system shall prepare and forward to the member a payroll deduction authorization form which sets forth:

(a) The type and amount of service to be purchased;

(b) The number of months over which the service is to be purchased including the month of commencement and termination; and

(c) The amount of each monthly payment.

(2) The member shall complete and sign the employee portion of the payroll deduction authorization form and forward it to the member's employer.

(3) The member's employer shall complete the employer's portion of the payroll deduction authorization form and return the form to the retirement system.

(4) A separate payroll deduction authorization form shall be completed for each separate type of service credit to be purchased.

(C)

(1) The employer shall begin payroll deduction in the month set forth on the payroll deduction authorization form.

- (2) The employer shall remit the amounts withheld and designated as picked up contributions directly to the retirement system on a monthly basis, accompanied by a report that identifies the members for which amounts are being remitted by name and social security number.

~~(D)~~

- ~~(1) The school employees retirement system shall annually notify the appropriate former retirement system of payments made to restore service credit under section 145.31 or 3307.71 of the Revised Code.~~
- ~~(2) The school employees retirement system shall transfer to the appropriate former retirement system, payments made under section 3309.261 of the Revised Code upon the member's application for service retirement, disability, survivor benefit, or refund under Chapter 145., 3307., or 3309. of the Revised Code.~~

~~(E)~~(D)

- (1) Upon request from the public employees retirement system or the state teachers retirement system, the school employees retirement system shall calculate and certify to the requesting system the cost to a former member to restore service credit under section 3309.26 of the Revised Code, plus interest, for each year or portion of a year for which the member seeks to purchase service credit.
- (2) Upon receipt of payments transferred pursuant to section 145.311 or 3307.711 of the Revised Code, the school employees retirement system shall restore the former member's service credit for which payment is transferred.

~~(F)~~(E)

- (1) A member who is purchasing service credit pursuant to this rule cannot:
  - (a) Decrease or increase the amount of the payroll deduction;
  - (b) Terminate the payroll deduction unless the member has terminated employment or purchased all of the service credit set forth on the payroll deduction authorization form; or
  - (c) Make a direct payment to the retirement system to purchase the service credit.

- (2) The member's employer shall not decrease, increase, or terminate the payroll deduction unless the member has terminated employment or purchased all of the service credit set forth on the payroll deduction authorization form.
- (3) Notwithstanding paragraph (E)(2) of this rule, if an employer returns a payroll deduction authorization form to the retirement system, but at any point thereafter fails to remit the amounts to be withheld to the retirement system for three consecutive months, the retirement system shall terminate the service credit purchase. In the event of termination under this paragraph, the member shall be granted service credit based on the total amount that was remitted to the system under the payroll deduction plan.

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3309.27, 3309.301, 3309.31, 3309.35, 3309.41,  
3309.473, 3309.474, 3309.73, 3309.731, 3309.75  
Prior Effective Dates: 11/1/97, 2/11/00, 5/2/01, 11/19/01 (emer), 2/11/02,  
5/3/02, 1/7/13 (Emer.), 3/8/13,

5505-3-06

**Board review of employment termination.**

- (A) Upon the resignation or discharge of a member of the state highway patrol who has fifteen or more years of total service credit, the board may consider whether the reason for separation was dishonesty, cowardice, intemperate habits, or conviction of a felony.
- (B) The board may schedule a hearing to consider all available evidence.
- (1) The former member shall be given notice of the hearing by certified mail. The notice of hearing shall be sent at least 60 days prior to the hearing. The notice shall inform that former member that he/she may submit documents to HPRS and may appear, with or without counsel, to present evidence and testimony. Documents must be received at least ten days prior to the hearing date.
  - (2) HPRS staff shall provide a summary memorandum and may be represented by the office of the attorney general.
  - ~~(2)~~(3) ~~Within ten business days, the~~The former member shall be notified of the board's findings by certified mail.
- (C) A former member who disagrees with the board's findings may request reconsideration.
- (1) A request for reconsideration must be accompanied by new evidence and received by the executive director in writing within ~~sixty~~forty days of the mailing of the board's determination. If new evidence is not received, as determined by the board chair, the request for reconsideration shall be denied and the board's initial determination shall become final.
  - (2) The former member shall be given notice of the reconsideration hearing by certified mail ~~and may appear, with or without counsel, to present new evidence.~~ The former member shall be given the opportunity to present any new evidence submitted. No additional documentation or testimony will be accepted during the reconsideration hearing.
  - (3) Within ten business days, the former member shall be notified of the board's reconsideration findings by certified mail. The board's decision is final.

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Five Year Review (FYR) Dates: 06/22/2015

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Certification

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Date

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Statutory Authority: 5505.07  
Rule Amplifies: 5505.17  
Prior Effective Dates: 9/28/2010

5505-7-02                    **Survivor benefits.**

- (A) A surviving spouse is a wife or husband as set forth in a statutorily valid certificate of marriage or as recognized by judgment of a court establishing a common-law relationship.
- (B) For the purpose of this rule, rule 5505-7-03 of the Administrative Code, and section 5505.17 of the Revised Code, ~~Dependent children are legal children of a member or retirant.~~ "child" and "surviving child" shall mean a biological child, lawfully adopted child, or child placed for adoption of a member or retirant.
- (C) A survivor shall apply for benefits on a form prescribed by the board, including a certified death certificate. In addition, a survivor shall provide proof of eligibility by submitting a certified marriage certificate, birth certificate, or other document that establishes marriage or parenthood.
- (D) Survivor benefits shall be effective the day following a member's death and the first of the month following a retirant's death.
- (E) The board reserves the right to deny benefits for failure to provide satisfactory proof of eligibility.

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5505-7-06

**Monthly benefit payments.**

- (A) Monthly benefit payments shall be ~~processed~~issued by the twenty-fifth of each month. Payment of benefits will be for the period ending the last day of the month in which benefits are paid.
- (B) Except as provided in rule 5505-3-03 of the Administrative Code, Monthly benefit payments shall be due and payable through the current month during which the benefit recipient dies or a dependent child becomes ineligible for benefits. ~~any one of the following events occur:~~
- (1) ~~Death of a benefit recipient,~~
  - (2) ~~Marriage of a dependent child, or~~
  - (3) ~~A dependent child becomes ineligible for extended benefits.~~

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Five Year Review (FYR) Dates: 06/22/2015

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Date

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Statutory Authority: 5505.07  
Rule Amplifies: 5505.17, 5505.18  
Prior Effective Dates: 12/1/1987, 1/1/1986, 10/21/2005, 9/28/2010

5505-9-04

**Notice of retirement board meetings.**

(A) This rule is adopted in compliance with and under the authority of division (F) of section 121.22 of the Revised Code.

(B) Any person may request the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings for the board of trustees of the state highway patrol retirement system (HPRS) by:

(1) Writing to the following address:

Highway Patrol Retirement System, Attention: Executive Director, 1900 Polaris Parkway, Suite 201, Columbus, Ohio 43240.

(2) Calling one of the following telephone numbers during HPRS' normal business hours:

(614) 431-0781 or (800) 860-2268.

(C) 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 HPRS' executive director at the address outlined in paragraph (B) of this rule.

(1) The request shall provide the name of the individual media representative to be contacted, the mailing address and a maximum of two telephone numbers where such representative can be reached. HPRS 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, HPRS shall notify all media representatives on the list of such meeting by doing at least one of the following:

(a) Sending written notice, which must be mailed not later than four calendar days prior to the day of the special meeting;

(b) Sending notice by e-mail which must be sent no later than twenty-four hours prior to the time of the meeting;

(c) Notifying such representatives by telephone no later than twenty-four hours prior to the special meeting, with proper telephone notice if a message has been left for the representatives at the telephone numbers provided to HPRS from such representative or if, after reasonable effort, HPRS has been unable to provide such telephone notice;

(d) Informing such representatives personally no later than twenty-four hours

prior to the special meeting.

(3) In the event of a special meeting of an emergency nature, HPRS shall notify all media representatives on the list of such meeting by providing the notice described in paragraph (C)(1)(c) or (C)(1)(d) 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.

(4) In giving the notices required by this rule, HPRS may rely on assistance provided by any member of HPRS and any such notice is given if such notice is given by a member in the manner provided in this rule.

(D) HPRS shall maintain a list of all persons, other than media representatives, who have requested, in writing, notice of all meetings of HPRS.

Replaces: 5505-9-04

Effective:

Five Year Review (FYR) Dates:

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Certification

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Date

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