

Rules

April 13, 2017

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145-4-01 **Health care definitions.**

As used in this chapter:

- (A) "Wellness retiree medical account" means the public employees retirement system of Ohio retiree medical account plan of a benefit recipient within the account established on January 1, 2007 by the public employees retirement board under rule 145-4-02 of the Administrative Code and described in former versions of rules 145-4-40, 145-4-42, and 145-4-44 of the Administrative Code, funded by the 115 trust, and integrated with the pre-medicare health care coverage sponsored by the retirement system.
- (B) "115 trust" means the Ohio public employees retirement system trust agreement for funding employee benefit plans, the assets of which qualify for exclusion from federal income taxation under section 115 of the Internal Revenue Code of 1986, 26 U.S.C.A. 115.
- (C) "Age and service retirant" means a former member who is receiving a retirement allowance pursuant to section 145.33, 145.331, 145.332, 145.37 or 145.46 of the Revised Code or section 9.03 of the combined plan document.
- (D) "Benefit recipient" means the primary benefit recipient who is eligible for health care coverage, if living. If the member or primary benefit recipient is deceased, "benefit recipient" shall mean the survivor benefit recipient who is eligible for health care coverage.
- (E) "Disability benefit recipient" has the same meaning as in section 145.01 of the Revised Code and includes a member or former member who is receiving a disability benefit pursuant to article X of the combined plan document.
- (F) "Health care coverage" means the coverage authorized under sections 145.58 and 145.584 of the Revised Code, excluding the reimbursement of the medicare part A and B premiums, the and dental and vision coverage, and the health reimbursement arrangement.
- (G) "Health reimbursement arrangement" or "HRA" means the public employees retirement system of Ohio health reimbursement arrangement plan, effective October 1, 2015, funded by the 115 trust or such other funding vehicle or mechanism established by the retirement system, from which the reimbursement of qualifying medical expenses may be made. The text of the HRA shall not be incorporated into this or any other rule of the Administrative Code. The current version of the HRA is available at www.opers.org.
- (H) "Initial benefit payment" has the same meaning as in rule 145-1-65 of the

Administrative Code.

- (I) "Monthly health care allowance" or "monthly allowance" means the monthly amount that is allocated to each individual enrolled in health care coverage or health reimbursement arrangement. For health care coverage, this allowance shall be used to purchase health care coverage sponsored by the board and is based on the self-supporting rate, as determined by the board, and as adjusted by the member or primary benefit recipient's qualified years of employer contributions. For a medicare-eligible benefit recipient who is not subject to rule 145-4-62 of the Administrative Code, the monthly allowance shall be determined by the board and offered in the form of a notional credit to the health reimbursement arrangement consistent with the provisions of that plan. For effective dates of retirement on and after January 1, 2015, the monthly health care allowance shall also be based on the member or primary benefit recipient's attained age at the time of initial enrollment in the coverage.
- (J) "Ohio retirement system" means the public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, or highway patrol retirement system.
- (K) "Primary benefit recipient" means an age and service retirant or disability benefit recipient is eligible for health care coverage.
- (L) "Qualified medical expense" means medical care, as defined in section 213(d) of the Internal Revenue Code of 1986, 26 U.S.C.A. 213(d), and applicable regulations thereunder and are excludable from income in accordance with sections 105 and 106 of the Internal Revenue Code.
- (M) "Qualified years of employer contributions" means years of employer contributions and the years purchased or transferred under section 145.295, 145.2911, or 145.37 of the Revised Code that, if earned or obtained in the public employees retirement system, would be the equivalent of the years of employer contributions. Qualified years of employer contributions do not include the contributions that are the basis of a lump sum pursuant to division (I)(2)(b) or (I)(3)(b) of section 145.332 of the Revised Code.
- (N) "Retiree medical account" means the group health plan described in the document entitled the "public employees retirement system of Ohio retiree medical account" that was effective on January 1, 2003, and includes amendments adopted through June 30, 2016. The text of the public employees retirement system of Ohio retiree medical account shall not be incorporated into this or any other rule of the Administrative Code. The current version is available at www.opers.org.

- (O) "Self-supporting rate" means the adjusted per capita cost for providing health care coverage for any given year, as determined by the board.
- (P) "Service manager" means the individual or entity appointed by the public employees retirement system to administer the retiree medical accounts or the wellness retiree medical accounts.
- (Q) "Survivor benefit recipient" means a qualified spouse or child who is eligible for health care coverage and receiving a benefit pursuant to section 145.45 or 145.46 of the Revised Code or section 9.03 of the combined plan document.
- (R) "Years of employer contributions" means the years or portions of a year for which the member's employer contributed to the public employees retirement system under section 145.302, 145.48, or 145.483 of the Revised Code, section 3.02 of the combined plan document, or article VI of the combined or member-directed plan document. Beginning January 1, 2014, "years of employer contributions" means the years or portions of a year described in this paragraph for which the member's monthly earnable salary on and after January 1, 2014, is one thousand dollars or greater.

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TO BE RESCINDED

145-4-40

Wellness retiree medical account.

- (A) A wellness retiree medical account under this rule shall be invested by the public employees retirement board within the health care fund. For balances held in each wellness retiree medical account for calendar years prior to and ending on December 31, 2014, interest or other earnings shall be credited at a rate and at such intervals as determined by the board. On and after January 1, 2015, wellness retiree medical accounts shall not earn interest or other earnings. An administrative fee may be assessed against a wellness retiree medical account as determined by the board.
- (B) A wellness retiree medical account established under this rule shall be available solely for the payment of the qualified medical expenses of a benefit recipient or eligible dependent.
- (C) Payment or reimbursement of a qualified medical expense shall occur only after submission of a claim and approval pursuant to rule 145-4-42 of the Administrative Code. Payment of a qualified medical expense shall occur only by payment of a premium for health care coverage. Reimbursement of a qualified medical expense shall occur by direct payment to the benefit recipient. Payment or reimbursement is limited to expenses not paid by social security, medicare, or any other medical and health insurance coverage held by the benefit recipient or eligible dependent, or their employers. Payment or reimbursement may not be made for qualified medical expenses that are deductible by the benefit recipient under any other section of the Internal Revenue Code.

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TO BE RESCINDED

145-4-42 **Administration of wellness retiree medical account-claims and appeals.**

- (A) An individual eligible for payment or reimbursement of a qualified medical expense shall submit a claim to the service manager. The service manager shall determine if the claim is a qualified medical expense, and if the claim is approved, the service manager shall make payment or reimburse the qualified medical expense not later than thirty days after the date of approval to the individual's direct deposit account on file with the public employees retirement system under rule 145-2-70 of the Administrative Code.
- (B) If a claim is denied, in whole or in part, by the service manager, the service manager shall provide the claimant with written notice of its decision within thirty days after receipt of the claim, unless special circumstances require an extension of time for review of the claim.
- (1) If special circumstances require an extension of time for the service manager to review a claim, the claimant shall be advised, in writing, of the extension, the special circumstances giving rise to the extension, and the date by which the service manager expects to render its decision. The extension period shall not be more than ninety days after receipt of the claim.
- (2) Any denial of a claim shall clearly describe the reason for the denial, the authority upon which the service manager relied in making the decision, any additional information necessary for the claimant to complete the claim, and the steps the claimant may take to submit the claim for review pursuant to paragraph (C) of this rule.
- (3) In the event written notice of a denial of a claim is not provided to the claimant in the manner set forth in paragraph (B)(2) of this rule, the claim shall be deemed denied as of the date on which the service manager's time period for rendering its decision expires.
- (C) Any claimant whose request for payment or reimbursement has been denied, in whole or in part, or the claimant's authorized representative, may appeal the denial by submitting to the service manager a written request for a review of the denied claim. Except as provided in this paragraph, a request for review must be received by the service manager not later than sixty days from the date the claimant received written notification of the service manager's initial denial of the claimant's request or from the date the claim was deemed denied. The service manager, upon the written application of the claimant or authorized representative, may in its discretion agree in writing to an extension of the sixty-day period.

During the period for filing a request for review of a denied claim described in this paragraph, the service manager shall permit the claimant to review relevant documents and submit to the service manager written issues and comments concerning the claim.

- (D) Upon receiving a request for a review of a denied claim, the service manager shall promptly conduct an internal review of the denied claim and shall provide written notice to the claimant of its decision not later than sixty days after the date on which the request for review was received by the service manager, unless special circumstances require an extension of time for reviewing the denied claim. In the event special circumstances require an extension of time, the service manager shall, prior to the expiration of the initial sixty-day period described in this paragraph, provide the claimant with written notice of the following:
- (1) The special circumstances which require an extension of time for review;
 - (2) The date by which the service manager expects to render its decision. In no event shall such extension exceed a period of one hundred twenty days from the date on which the service manager received the claimant's request for review.
- (E) The service manager's decision shall meet all of the following:
- (1) Be written to the claimant in a manner designed to be understood by the claimant;
 - (2) Include specific reasons for their decision;
 - (3) Include specific references to the pertinent Administrative Code or Internal Revenue Code provisions on which the decision is based.
- (F) The service manager may, in its discretion, determine that a hearing is required in order to properly consider the claimant's request for review of a denied claim. In the event the service manager determines that a hearing is required, that determination shall constitute a special circumstance permitting an extension of time in which to consider the claimant's request for review.
- (G) The claims procedures set forth in this rule shall be strictly adhered to by the claimant or the representative of the claimant. No judicial or arbitration proceedings with respect to any claim for payment or reimbursement, to the extent any such proceedings may be available under applicable law, shall be commenced by any claimant until the proceedings set forth in this rule have been exhausted in full.

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TO BE RESCINDED

145-4-44 **Administration of wellness retiree medical account-forfeiture
and unclaimed accounts.**

- (A) Amounts standing to the credit of a benefit recipient in the wellness retiree medical account at the time of death may be used by an eligible dependent of the benefit recipient for payment or reimbursement of qualified medical expenses.
- (B) The wellness retiree medical account shall be forfeited and used as provided in paragraph (C) of this rule if any of the following occur:
 - (1) The primary benefit recipient is not survived by any eligible dependents;
 - (2) All eligible dependents cease to meet the criteria set forth in rule 145-4-09 of the Administrative Code;
 - (3) The service manager has not received any claims for reimbursement from an eligible dependent within two years of the death of the benefit recipient;
 - (4) An eligible dependent has made a claim for reimbursement within two years of the benefit recipient's death, but fails to make a claim at least once within the twenty-four-month period following the date of the most recent claim was submitted.
- (C) Forfeitures shall be used to fund the administrative expenses of the health care fund and may be used as a credit against future employer contributions to the health care fund.

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742-1-02

Member minimum medical testing and diagnostic procedures.

(A) Requirements.

Pursuant to section 742.38 of the Revised Code, all employers of prospective members of the Ohio police and fire pension fund (OP&F) are required to do the following:

(1) Physical examination for prospective OP&F members.

The employer shall cause the prospective members of OP&F to submit to a physical examination which includes the minimum medical testing and diagnostic procedures set forth in paragraph (B) of this rule.

(2) Tests done before employee's membership in OP&F.

The physical examination which includes the minimum medical testing and diagnostic procedures prescribed by this rule must be done no later than eleven fifty-nine p.m. on the date the employee becomes an OP&F member, but in no event can the tests and procedures be done earlier than nine months before that membership date.

(3) Physician's report filed with OP&F.

The employer must file a physician's report with OP&F that meets the following criteria:

- (a) The physician certification must be in the form prescribed by OP&F or a form substantially similar, as determined by OP&F in its sole and absolute discretion, which must include the physician's diagnosis and evaluation of the existence of any cancer, heart disease, cardiovascular disease, or respiratory disease identified in the medical testing and diagnostic procedures established under this rule. The physician certification must be fully completed and signed by a licensed physician who is licensed to practice medicine in the state in which the examination was conducted, and the physician certification must state the date of the examination and the report cannot be signed more than nine months before the potential employee's membership with OP&F;
- (b) The member's medical questionnaire completed by the member must be in the form prescribed by OP&F ~~or a form substantially similar, as determined by OP&F in its sole and absolute discretion, but this questionnaire~~ and cannot be signed more than nine months before the potential employee's membership with OP&F; and

(c) From and after the effective date of this rule, copies of the medical tests and procedures and medical questionnaire outlined in this rule must be included as part of the physician's report.

(4) The physician's report must be timely filed with OP&F.

In order to be timely filed, a properly completed physician certification, medical questionnaire meeting the criteria of this rule, and copies of the required medical testing and diagnostic procedures outlined by this rule, must be received by OP&F no later than sixty days after the employee becomes an OP&F member, as required by division (A)(2) of section 742.38 of the Revised Code.

(B) Minimum medical testing/diagnostic procedures.

The minimum medical testing and diagnostic procedures to be incorporated into a member's physical examination administered by physicians to prospective members of the fund shall include the following:

- (1) Spirometry that represents at least a valid and reproducible forced expiratory volume at one second (FEV1), forced vital capacity (FVC), and forced expiratory volume at one second/forced vital capacity (FEV1/FVC) that meets the criteria of the American thoracic society;
- (2) A chest x-ray that is at least a P.A. 72" (i.e. front to back);
- (3) Lipid profile that includes total cholesterol, triglycerides, LDL cholesterol, and HDL cholesterol; and
- (4) A cardiac stress test performed consistent with standard Bruce protocol that includes an electrocardiogram (EKG).

(C) Determination of OP&F membership.

For purposes of administering section 742.38 of the Revised Code and this rule, OP&F will use the occurrence of the following events for purposes of determining when a prospective employee becomes an OP&F member:

- (1) The member's appointment as a "member of the police department" or "member of the fire department," as such terms are defined in divisions (A)(2) and (B)(2) of section 742.01 of the Revised Code respectively; and

- (2) The date on which the prospective member became a "member of the fund," as defined in division (E) of section 742.01 of the Revised Code; and
- (3) The first date on which the employee is contributing or should have been contributing a percentage of his/her salary to OP&F.

For purposes of this paragraph, OP&F shall consider the first date the employee is contributing a percentage of his/her salary to OP&F to be based on payroll submitted for a pay period six weeks prior to the filing of such payroll, until the actual date is determined by OP&F and at that time, an adjustment of the penalties shall thereafter be made based on the actual dates provided to OP&F by the employer on the OP&F personal history record form.

- (D) For members who are reinstated to OP&F membership by agreement or by order of a court or arbitrator, no new pre-employment physical will be required. In order to make this determination, the employer shall provide OP&F with a copy of the agreement or court order.
- (E) In cases where the person was laid off from an OP&F covered employer and the person already has a proper pre-employment physical on file with OP&F and returns to an OP&F covered position within two years of the effective date of his/her lay-off and accumulated member contributions remain on deposit with OP&F, no additional pre-employment physical will be required.
- (F) For members who transfer from one employer to another without a loss in membership with OP&F, as outlined above, the new employer will not be required to cause such person to undergo the medical testing and diagnostic procedures referenced in this rule, unless the person became an OP&F member on or after September 16, 1998 and OP&F does not have a pre-employment physical on file that meets the definition set forth in section 742.38 of the Revised Code. In order to reach this determination, however, the new employer will need to obtain this information from OP&F. In the event the original employer did not cause an employee who became an OP&F member on or after September 16, 1998 to undergo all of the tests and procedures outlined in this rule, then OP&F will give notice to the new employer of any tests and procedures that need to be completed and this documentation must be received by OP&F no later than sixty days after the new hire date.
- (G) In no event shall the provisions of this rule be intended to supercede or eliminate any other legal requirement imposed on the employer under Ohio law, including, but not limited to, sections 124.41 and 124.42 of the Revised Code.

(H) If the employer is unable to obtain a test due to the member's medical condition, the member's religious beliefs or the member's refusal to undergo a specific test, the employer shall provide supporting documentation to OP&F in support of such fact and may request a waiver of such test or report for such reason. If the waiver request is for medical reasons, the supporting documentation shall be in the form of a medical report signed by a licensed physician in the state in which the medical examination was conducted, if the waiver request is for religious reasons, the supporting documentation shall be in the form of an affidavit signed by the member before a notary public that certifies such fact, and if the waiver request is the result of the member's refusal, the supporting documentation shall be in the form of a written document signed by the member before a notary public that certifies that fact and acknowledges that the member understands that his/her refusal shall result in his/her inability to use the presumptive disability provision outlined in section 742.38 of the Revised Code.

Within thirty days after OP&F's receipt of such request, OP&F shall notify the employer if such waiver is granted. If OP&F grants a waiver, the employer shall not be obligated to cause such person to undergo the specific tests specified in such waiver.

Any waiver granted under the terms of this section shall result in the member's inability to use the presumptive disability provisions outlined in section 742.38 of the Revised Code.

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742-3-05

Disability benefits procedure.

(A) For purposes of divisions (C)(2), (C)(3), (C)(4), and (C)(5) of former section 742.37 of the Revised Code and section 742.38 of the Revised Code and this rule, the following terms shall have the meanings set forth herein:

- (1) "Board," shall mean the board of trustees of the Ohio police and fire pension fund ("OP&F").
- (2) "Applicant" shall mean a member of OP&F who has filed any type of application for disability retirement benefits or any person who has filed such application on behalf of an incapacitated member in accordance with division (B) of section 742.38 of the Revised Code and rules 742-3-12 and 742-3-13 of the Administrative Code and who does not have benefits vested under the deferred retirement option plan under section 742.444 of the Revised Code.
- (3) "Disability benefit recipient" shall have the meaning described in division (A) of section 742.40 of the Revised Code.
- (4) "On-duty illness or injury" means an illness or injury that occurred during or resulted from the performance of official duties under the direct supervision of a member's appointing authority.
- (5) "Off-duty illness or injury" means an illness or injury that did not occur during or result from the performance of official duties under the direct supervision of a member's appointing authority. Unless the illness or injury meets the presumption criteria outlined in division (A) of section 742.38 of the Revised Code or competent and credible evidence is submitted to OP&F, a disability condition is presumed to be the result of an off-duty illness or injury.
- (6) "Permanent disability" means a condition of disability with respect to which the board finds that there is no present indication of recovery or those presumptive conditions set forth in division (D)(3) of section 742.38 of the Revised Code, which shall be determined through the medical reports filed with OP&F, as required by the terms of division (A)(1) of section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (7) "Total disability" shall have the meaning set forth in division (D)(1)(a) of section 742.38 of the Revised Code.
- (8) "Partial disability" shall mean a condition of disability with respect to which the board finds the applicant is prevented from performing the member's official police or fire duties and member's earnings capacity is impaired.

- (9) "Guides" shall mean the American medical association's "Guides to the Evaluation of Permanent Impairment, fifth and sixth editions."
- (10) "Occupational characteristics" shall mean the U.S. department of labor's occupational characteristics for police officer (government service) and fire fighter (any industry) positions as the standards for determining the presence or absence of disability.
- (11) "Medical Advisor," as referred to in this rule, shall mean the expert physician appointed by OP&F's board of trustees who advises the board during its deliberations of appeals of decisions relating to disability applications.
- (12) "Vocational Expert," as referred to in this rule, shall mean the expert in vocational evaluations appointed by OP&F's board of trustees who advises the board during its deliberations of appeals of decisions relating to disability applications.
- (13) "Disability evaluation panel (DEP)" shall mean that panel established by the board to make written recommendations to the board on pending disability applications. The DEP shall be comprised of three voting members and at least two non-voting members. The three voting members of the DEP shall be members of the board, who shall be the members of the disability committee, who shall be appointed to such committee by the chairman of the board, and shall be comprised of one active firefighter trustee, one active police officer trustee, and one retiree trustee. The non-voting members of the DEP shall be comprised of expert physicians, including the alternate, all of whom are appointed by the board of trustees and at least one of the non-voting members shall be an expert in vocational evaluations, including the alternate, who shall provide vocational assessments of disability applicants to the DEP. The alternate non-voting member of the DEP shall be a physician appointed by the board of trustees and shall serve in the place of a non-voting member of the DEP in the absence or incapacity of any other non-voting physician member of the DEP.
- (14) "DEP medical advisor," as referred to in this rule, shall mean the expert physician appointed by the board of trustees to advise the DEP during its deliberations of initial disability applications and post-retirement disability reconsiderations, who shall be a different physician than the medical advisor.
- (15) "DEP vocational expert," as referred to in this rule, shall mean the expert in vocational evaluations appointed by the board of trustees to advise the DEP during its deliberations of initial disability applications and post-retirement

disability reconsiderations, who shall be a different evaluator than the vocational expert.

- (16) "Forms" shall mean the forms created, approved, and/or provided by OP&F for the administration of benefits found on the OP&F website at <http://www.op-f.org>.

(B) Impairment and disability evaluation criteria:

- (1) OP&F staff shall work with its advisors and/or physicians who are members of the DEP and shall assign a competent and disinterested physician and expert in vocational evaluations to conduct medical examinations for purposes of determining a member's disability, as provided by law, medical impairment and eligibility for disability retirement benefits.
- (2) In evaluating a member's disability, as provided by law, medical impairment and eligibility for disability retirement benefits, the DEP and the board will use the official duties provided by the employer, but in the event such information is not provided by the employer or does not clearly define the applicable job duties, the board and the DEP shall use the criteria contained in the "guides", the occupational characteristics adopted by the board and the criteria set forth in division (D) of section 742.38 of the Revised Code.
- (3) In evaluating a member's eligibility for disability retirement benefits, the physicians, the expert in vocational evaluations, the DEP, and the board shall consider the member's potential for retraining and reemployment and the eligibility criteria set forth in division (D) of section 742.38 of the Revised Code so that the person's ability to be retrained and reemployed shall include any positions, not just police or fire positions.
- (4) The consideration of a member's application shall be limited to the disabling condition(s) listed in the application if supporting medical documentation is provided to OP&F or disclosed by the examination of the physician(s) selected by OP&F. The DEP and the board shall consider and base its findings and recommendations on all competent evidence made available to it, including medical testimony, opinions, statements, and medical reports submitted by the member's employer under section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (5) One of the physician non-voting members of the DEP and one of the non-voting members of the DEP who is an expert in vocational evaluations shall submit to the board's disability committee or DEP a written recommendation on each application evaluated followed by a report incorporating a summary of

findings, as outlined in the DEP operating guidelines, which is approved by the board of trustees, along with their medical opinion as to whether or not the disabling condition results from an on-duty illness or injury and is waivable under the DEP operating guidelines for the DEP physicians and the vocational evaluation from the DEP vocational expert.

- (6) In reviewing applications for disability benefits, the DEP and the board shall rely upon the medical opinions of the DEP physicians and OP&F's medical advisor, who have given due consideration of medical and other evidence presented to OP&F.

(C) Initial application.

- (1) Applications for disability benefits shall be made on the disability application form approved by the board and must be in proper form in order to be processed. The member shall provide necessary substantiating documentation, including but not limited to pertinent hospital records, statements from attending physicians, departmental injury reports, the results of any special diagnostic tests, notice of allowed workers' compensation claims, and any pre-employment physicals or records required or requested under section 742.38 of the Revised Code and rule 742-1-02 of the Administrative Code.
- (2) OP&F shall notify the member's employer that an application has been filed and will send a courtesy copy of such notice to the member within fourteen days after receiving an application for disability benefits from a member or a person acting on behalf of a member, as required by the terms of division (B) of section 742.38 of the Revised Code. The notice shall state only the position or rank, as required by the terms of division (B) of section 742.38 of the Revised Code.
- (3) For those notices sent under paragraph (C)(2) of this rule, the member's employer shall forward to the board a statement certifying the job description for the position or rank and any other information required by the board to process the application and such report or statement shall be filed with the board not later than twenty-eight days after the employer's receipt of the notice referred to in paragraph (C)(2) of this rule or filing an application on behalf of a member, whichever is the first to occur.
- (4) The member's employer shall forward the physician's report of the member's physical examination taken on entry into the police or fire department, as more fully provided in division (A)(1) of section 742.38 of the Revised Code. If the employer fails to forward such report to OP&F on or before the date

that is sixty days after the member becomes an OP&F member, division (A)(2) of section 742.38 of the Revised Code requires OP&F to assess against the employer a penalty determined under section 742.353 of the Revised Code and rule 742-8-08 of the Administrative Code. Even though a member may not have a disabling condition that is presumed, by law, to have been incurred in the member's performance of his/her official duties, that does not foreclose the member from being awarded a service-incurred disability grant.

(5) OP&F shall schedule the member covered by the pending disability benefit application for examination by at least one medical examiner and one expert in vocational evaluations designated by OP&F, unless it is medically inadvisable to do so.

(a) Payment of any fees connected with the acquisition of records or the preparation of reports of the attending physicians shall be the responsibility of the member.

(b) Payment of any fees connected with the preparation of report of the examining physicians or vocational evaluators of OP&F shall be the responsibility of OP&F.

(6) When all the necessary medical reports and records have been received by OP&F, including those reports required or requested under paragraphs (C)(3) and (C)(4) of this rule, OP&F shall schedule such application for review and consideration by the DEP, who shall make a written recommendation to the board based upon the criteria set forth in paragraph (B) of this rule. The board, based on the written recommendation of the DEP, will then consider the application and make an initial determination of disability. The board may:

(a) Grant a disability benefit;

(b) Deny disability benefits; or

(c) Postpone determination, pending an additional examination, or the submission of additional fact.

The member covered by a pending disability retirement application may withdraw the application through a written authorization filed with OP&F at any time prior to the board's award of the initial determination of disability. To the extent that a pending disability application is withdrawn by a member, the withdrawn application shall not be presented to the DEP or the board, depending on when it's received by

OP&F.

- (7) Copies of the reports of the independent medical and vocational evaluators will be sent to the member and the member's agent upon their request, unless the release of such reports is otherwise prohibited by law. The DEP recommendations will not, however, be released until the board has made an initial determination of disability. For purposes of the initial determination hearing, OP&F will not consider any documents from a member or a member's agent that seek to rebut or comment on the reports of the independent medical and vocational evaluators.
- (8) Any disability benefit award determined by the board shall be effective as of the date that the board made its initial determination of disability on such pending disability retirement application.
- (9) The member covered by the pending disability retirement application shall be notified of the board's initial determination of disability within thirty days after the board's final action and such notice shall be sent by certified mail, return receipt requested. The member covered by the pending disability retirement application shall be advised of his or her right to:
- (a) Accept the benefit grant;
 - (b) Waive the benefits and continue working; or
 - (c) Appeal the initial determination of the board.
- (D) Acceptance or waiver of benefits.

Not later than ninety days after receipt of the notice of the board provided for in paragraph (C), (E), or (F) of this rule, the disability benefit recipient shall accept or waive the board's determination of disability on the disability benefit election form provided by OP&F. For purposes of making the determination whether the disability applicant has accepted or waived the board's determination of disability, the fund may conclusively rely upon the fund's books and records.

- (1) If no such election is filed with OP&F within the ninety-day time period provided in paragraph (D) of this rule, the award shall be rescinded.
- (2) Subject to the requirement set forth in paragraph (D) of this rule, if a member accepts the award and then fails to establish an effective date of retirement by terminating police or fire employment within ninety days of receipt of notice

of the board's determination of disability, as provided under paragraph (C)(9) or (E)(5) of this rule, the disability benefit shall be rescinded.

- (3) A member whose benefits are rescinded pursuant to paragraph (D)(1) or (D)(2) of this rule shall not be foreclosed from later filing another disability benefit application with OP&F and any subsequent applications shall be treated as a new application for disability benefits, except to the extent that such member does not meet the eligibility requirements set forth in division (D) of section 742.38 of the Revised Code.

(E) Appeal of initial determination.

- (1) Upon a member's appeal of the board's initial determination of disability, the board shall be advised by its medical advisor and vocational expert. The board shall not be under any obligation to adopt the recommendation of its medical advisor or vocational expert if there is some evidence to support a contrary finding.
- (2) A member who wishes to appeal the board's initial determination of disability shall file the notice of disability appeal form provided by OP&F within ninety days of receipt of the board's initial determination of disability referred to in paragraph (C)(6) of this rule. The notice of appeal must contain the member's name, social security number and a brief description of the decision upon which the appeal is based.
- (3) Within sixty days of filing of the notice of appeal, the member shall file with OP&F any new evidence not previously considered by the board on the initial disability application. Failure to submit supporting materials or to request an extension of time within which to do so will be sufficient cause for the director of member services to dismiss the appeal provided OP&F gives the member prior written notice of such dismissal and a deadline date by which all materials must be filed with OP&F and the member fails to file the required documentation with OP&F before the designated deadline. Upon application to OP&F before the expiration of the original sixty day period referred to in this paragraph, the director of member services, for good cause shown, may grant the appellant an extension of sixty days within which to file supporting materials. The director of member services may grant the appellant an additional extension based on a recommendation from the DEP medical advisor that there is solid evidence of a medical reason to grant the extension for a period of time recommended by the DEP medical advisor. In no event shall the hearing be postponed more than three times and in no event shall the extensions, in the aggregate, exceed one year.

- (4) Depending on the basis for the appeal and the new evidence submitted by the member, OP&F may request that the member undergo a new medical examination and/or vocational evaluation by an OP&F-appointed examining physician and/or vocational evaluator. OP&F may also provide the new evidence to the original OP&F-appointed examining physician and/or vocational evaluator and request that they review the new evidence and provide OP&F with an addendum to their original reports. The new evidence submitted by the member and any additional medical and/or vocational reports, including addendum reports, shall be forwarded to the board's medical advisor and vocational expert for review and consideration. The medical advisor and vocational expert will then provide recommendations to the board regarding the member's disability application.
- (5) Upon receipt of the recommendations from the medical advisor and vocational expert, the board shall schedule a hearing on the appeal and shall give the appellant reasonable notice of the date, time and place thereof in writing. Such hearings shall be scheduled within sixty days of the receipt of the reports of the medical advisor and vocational expert. Any hearing may be postponed or continued by the board, either upon application of the appellant or on its own motion. The appellant shall be given the opportunity to be present, with counsel or other representation if he or she chooses, at the hearing. A recording of the hearing will be made to provide the board and the medical advisor with a record for further review. Such recording of the hearing shall be available to the disability applicant and to those individuals who are authorized by the disability applicant to receive such information on the authorization to release medical records form provided by OP&F.
- (6) Following the hearing on appeal, the board may choose to:
- (a) Affirm the original determination of disability;
 - (b) Modify the original determination of disability;
 - (c) Deny the disability application; or
 - (d) Postpone a decision pending additional examinations or documentation. The board's decision on appeal shall be the final determination of the initial disability application, subject to the foregoing time limitations on extensions that can be granted.
- (7) The applicant shall be advised of the board's action within thirty days after the board's final determination of disability and such notice shall be sent by

certified mail, return receipt requested. The member covered by the disability appeal shall be advised of the member's right to:

- (a) Accept the benefit granted;
- (b) Waive the benefit and continue working; or
- (c) File a mandamus action.

(F) Post-retirement disability reconsideration.

- (1) A member who is receiving a less than maximum partial disability and who believes that deterioration of the disabling physical or mental condition awarded by the board has increased the amount of disability, may apply for a reconsideration. Such application shall be on the disability reconsideration application form prepared by OP&F, which shall be dealt with on not less favorable terms than the process used by the DEP for recommendation to the board on initial determinations of disability. The member shall supply substantiating documentation including:
 - (a) Recent medical reports and physician's statements;
 - (b) A wage statement including taxable earnings for the last five years of retirement, primary employers and occupations, and rehabilitation and training programs pursued.
- (2) The DEP shall review such evidence and shall make a written recommendation to the board. The board shall, based on the written recommendation of the DEP, review the evidence submitted, and may decide to:
 - (a) Deny the application for reconsideration;
 - (b) Approve the application and modify the disability benefit effective the first of the month following the decision; or,
 - (c) Postpone a determination of the application pending further physical examination, or further documentation.

The board's decision shall be the final determination of an application for reconsideration.

- (3) The member shall be advised of the board's final determination within thirty days after the board's final action and such notice shall be sent by certified mail, return receipt requested. The letter shall include notice of the member's right to request a new reconsideration, but the board will consider only one application for reconsideration from a member during any twelve-month period.
- (G) Notwithstanding anything herein to the contrary, once a member has deposited, negotiated, or cashed a disability benefit check from OP&F, accepted health care benefits from OP&F from and after the date of the board's initial determination of disability, or failed to withdraw his/her retirement application, as outlined in rule 742-3-17 of the Administrative Code, that member may not apply for any new, increased, or additional benefit for the disabling condition(s) described in such application, except for a member who is granted an off-duty disability less than the maximum amount permitted under division (D)(4) of section 742.38 or former division (C)(5) of section 742.37 of the Revised Code, or a member who had fewer than twenty-five years of service credit and was granted a partial disability in an amount less than the maximum permitted by division (D)(2) of section 742.38 or former division (C)(3) of section 742.37 of the Revised Code, may apply for an increase in payments to the maximum amount provided by those sections upon evidence of deteriorating earning capacity. Any subsequent request by that member shall be treated as a new application under this rule. In addition, a member may elect to receive interim payments without waiving the member's right to appeal a disability award, as provided for in paragraph (E) of this rule.
- (H) Additional medical treatment:
- (1) As a condition to granting an applicant disability benefits or continuing disability benefits under an existing award, as provided in division (B) of section 742.40 of the Revised Code, the member shall agree in writing to obtain any medical treatment recommended by the board's physician(s) and submit the required medical reports over the course of the treatment period.
 - (2) Such additional medical treatment shall be of common medical acceptance and readily available, and may include, but is not limited to, medicine, alcohol and/or drug rehabilitation, or mechanical devices.
 - (3) Such additional medical treatment must be an allowable medical expense under OP&F's medical expense benefits program.
- (I) If the member fails to:

- (1) Obtain the recommended treatment required under division (B) of section 742.40 of the Revised Code, as referenced in paragraph (H) of this rule,
 - (2) File the required medical report or
 - (3) Comply with the required treatment regimen, the board may suspend the awarded disability benefits and medical expense benefits upon ninety days prior written notice to the disability benefit recipient.
 - (a) If the disability benefit recipient fails to comply within the aforementioned ninety day notice period, the suspension of medical expense benefits and disability benefits shall be effective on the first day of the month immediately following the expiration of such notice period until the treatment is obtained, the required report is received by the board, or the board's physician certifies that the treatment is no longer helpful or advisable.
 - (b) In the event the disability benefit recipient complies within the aforementioned ninety day notice period or the board's physician certified that the treatment is no longer helpful or advisable, the fund will not suspend the disability benefit recipient's medical expense benefits and disability benefits.
- (J) If, after the aforementioned ninety day notice period, referred to in paragraph (I) of the rule, the disability benefit submits to the requested treatment, submits the required reports, or complies with the required treatment regimen or the board's physician certifies that the treatment is no longer helpful or advisable, the fund will reinstate the disability and medical expense benefits of such disability benefit recipient, effective as of the first day of the month immediately following the month in which the past due statement(s) were received in proper form by the fund. In such event, the disability benefit recipient shall fully cooperate with the fund on the coordination of claims filed for medical expenses incurred during such suspension period. Notwithstanding the reinstatement of disability and medical expense benefits provided for in this paragraph, the fund shall not be obligated to restore the identical benefits previously provided to the disability benefit recipient, if such benefits are not available at the time of such disability benefit recipient's reinstatement of medical expense benefits under the applicable health care plans, and the fund shall not be obligated to pay for certain medical expenses that were incurred after the effective date of the disability benefit recipient's suspension, including, but not limited to dental, vision, and prescription expenses, and in such event, the fund shall not be responsible for any additional out-of-pocket expenses and deductibles incurred by the disability benefit recipient arising out of such replacement benefits.

- (K) If the refusal to submit to the medical examination, as required by the terms of division (C)(2) of section 742.40 of the Revised Code and such failure continues for one year, whether documented by the fund's books or records or as presumed as provided in rule 742-3-10 of the Administrative Code, then the disability benefit recipient's disability and medical expense benefits shall be forfeited, as required by the terms of division (C)(2) of section 742.40 of the Revised Code effective as of the date of the original suspension, as referenced in a writing provided to the disability benefit recipient from the fund or the board.
- (L) For purposes of determining whether the recipient has refused to comply with the provisions of this division (C)(2) of section 742.40 of the Revised Code and this rule, the fund may conclusively rely upon the fund's books and records.
- (M) Except as expressly provided in this rule or section 742.40 of the Revised Code, all notices to the disability benefit recipient or applicant shall be either delivered personally, sent by express delivery service, certified mail, or first class U.S. mail, postage prepaid and addressed to the disability benefit recipient at the most recent address set forth in such recipient's file with the fund, or to such other address as the disability benefit recipient shall thereafter designate by proper notice in accordance with this paragraph. All notices to the fund or the board shall be addressed at its principal place of business. Except as otherwise specifically provided for in this rule, notices will be deemed given as of the earlier of:
- (1) The date of actual receipt;
 - (2) The next business day when notice is sent via express mail or personal delivery;
or
 - (3) Three days after mailing in the case of first class or certified U.S. mail.
- (N) If an initial application for disability, an appeal, or a post-retirement application has been filed pursuant to paragraph (C), (E), or (F) of this rule and the supporting documentation has not been filed with OP&F or the applicant has not taken any action to prosecute his/her claims within six months of the filing with OP&F, the director of member services shall have full authority to dismiss the application, appeal, or post-retirement application, as the case may be, for failure to prosecute the claim provided OP&F gives ninety days prior written notice to the member of the need to file certain documentation with OP&F and the member fails to file the necessary documentation with OP&F before the expiration of such ninety day time period.
- (O) In determining whether a member had a physical examination before entry into the

department, as required in division (D)(3) of section 742.38 of the Revised Code, OP&F shall use the following criteria:

- (1) For disability benefit applicants who became "members" of OP&F prior to September 16, 1998, OP&F will consider the physical examination requirement set forth in division (D)(3) of section 742.38 of the Revised Code to have been met if OP&F receives the following:
 - (a) A writing signed by a licensed physician that documents the examination of the member prior to his/her entry into the police or fire department, as the case may be, and the writing is dated prior to the person becoming a "member" of OP&F, as such term is defined in division (E) of section 742.01 of the Revised Code or the person's entry into the department where the person is employed at the time of the filing of the disability application, provided such date is not more than nine months prior to such date; and
 - (b) The writing signed by a licensed physician does not document the existence of any heart disease or any cardiovascular or respiratory disease.

If the foregoing conditions are met, OP&F will then grant the disability applicant a disability that is presumed to be on-duty, as provided for in section 742.38 of the Revised Code.

- (2) For disability benefit applicants who became "members" of OP&F after September 16, 1998, OP&F will consider the physical examination requirement set forth in division (D)(3) of section 742.38 of the Revised Code to have been met if the physician's report meets the requirements set forth in paragraph (A)(3) of rule 742-1-02 of the Administrative Code prior to the person becoming a "member" of OP&F or before the person's entry into the department where the person is employed at the time of the filing of the disability application, the physician's report does not diagnose the existence of any heart disease or any cardiovascular or respiratory disease.

If the foregoing conditions are met, OP&F will then grant the disability applicant a disability that is presumed to be on-duty, as provided for in section 742.38 of the Revised Code.

- (3) In the event the record of a member's pre-employment physical is lost, destroyed or unavailable, the board may waive the requirement that the absence of disease be evidenced by a physical examination prior to employment as described in paragraphs (O)(1) and (O)(2) of this rule if there is competent medical evidence, as determined by the board's physicians

and/or medical advisor, that the cardiovascular or respiratory disease was not evident prior to or at the time of entry into the department.

- (4) For members who do not meet the criteria set forth in division (D)(3) of section 742.38 of the Revised Code and this rule, this will not preclude the member from being granted a duty-related disability if the member is able to document that the disability resulted from the performance of the member's official duties as a member of the police or fire department, as the case may be.

(P) Firefighter cancer presumption:

- (1) In order to be eligible for the presumption described in division (D)(3)(b) of section 742.38 of the Revised Code, a member of a fire department who is applying for disability with cancer as an alleged disabling condition shall complete a questionnaire on a form provided by OP&F. The questionnaire shall be submitted to OP&F at the time of the initial application for disability benefits.
- (2) If the member certifies on the questionnaire required by paragraph (P)(1) of this rule that he or she was assigned to at least six years of hazardous duty as a member of a fire department and has had any exposure to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen, the member shall provide OP&F with all documentation in support of such certification, including exposure reports, incident reports, shift logs, approved workers compensation claims, or other similar documentation.
- (3) The cancer presumption can be rebutted by evidence that demonstrates that the cancer was not incurred in the line of duty. Such evidence includes, but is not limited to, documentation which shows that the member:
- (a) Incurred the cancer before becoming a member of a fire department;
 - (b) Used cigarettes or other tobacco products, and such usage was a significant factor in the cause or progression of the cancer;
 - (c) Was not assigned to at least six years of hazardous duty as a member of a fire department, or twenty years or more have passed since the member was last assigned to hazardous duty as a member of a fire department;
 - (d) Has not had any exposure to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen;
 - (e) Incurred the cancer as a result of employment or business that is

secondary to his or her employment as a member of a fire department;

(f) Is not receiving workers compensation for a cancer diagnosis; and

(g) Has undergone genetic testing which indicates a predisposition for contracting certain cancers.

(4) As part of the information that an employer is required to submit to OP&F under division (B) of section 742.38 of the Revised Code, the employer shall certify the following:

(a) Whether or not the member was assigned to at least six years of hazardous duty as a member of a fire department, and provide the dates of all hazardous duty assignments, if available; and

(b) Whether or not the member has had any exposures to an agent classified by the international agency for research on cancer or its successor agency as a group 1 or 2A carcinogen.

Effective: 04/06/2017

CERTIFIED ELECTRONICALLY

Certification

04/04/2017

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
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Prior Effective Dates: 1/1/77, 5/12/83, 7/26/86 (Emer.), 10/16/86, 12/12/89, 7/28/95, 10/15/97, 10/10/98 (Emer.), 3/29/99, 5/1/00, 10/23/00, 3/19/01, 9/7/01 (Emer.), 11/23/01, 3/22/04, 2/16/06, 7/24/08, 10/16/08, 01/22/09, 8/2/10 (Emer.), 10/17/10, 06/07/2013, 12/26/2013, 01/20/2016 (Emer.), 04/07/2016

742-3-08

Interim payments.

- (A) "Interim payment" is defined as the stream of monthly cash partial payments made to a member of Ohio police & fire pension fund (OP&F) in order to ~~speed~~expedite the initiation of ~~the~~ a pension or benefit to which ~~he/she may be~~ the member is entitled while OP&F determines the final pension or benefit amount to be paid ~~to such person~~the member.
- (B) Any OP&F member who has met all the qualifications for service or disability retirement under section 742.37 or 742.39 of the Revised Code, respectively, who has filed all forms or documents necessary to process ~~his/her~~an application for a pension or benefit, and who is not receiving a pension or benefit from OP&F is eligible to receive an interim pension or benefit payment described in paragraph (C) of this rule.
- (C) Any OP&F member who meets the requirements set forth in paragraph (B) of this rule shall be paid an interim payment under the following conditions:
- (1) The receipt of an interim payment is as binding on the member as the receipt of the regular payment of a pension or benefit. The retirement is permanent, and cannot be cancelled, the effective date cannot be changed, or the type reclassified, except that a member may elect receiving interim payments without waiving the right to appeal a disability award, as provided for in rule 742-3-05 of the Administrative Code.
 - (2) Ultimately, all interim and adjusting payments will equal the full pension or benefit which a ~~retirant~~member is entitled to receive from OP&F.
 - (3) The calculation of the interim payment amount is based on the computation criteria or policy approved by OP&F's board from time to time.
 - (4) The member shall be deemed to consent to the recovery of any overpayment by deduction from ~~his/her~~the member's monthly pension or benefit. The recovery ~~must~~shall be accomplished in a period not to exceed the period over which the overpayment occurred.
 - (5) The member shall be informed that once ~~he/she negotiates~~ the first interim payment is negotiated, ~~he/she~~the member can no longer purchase or reinstate any service credit. For purposes of this rule, negotiation will include the member or ~~his/her~~the member's authorized agent cashing, negotiating, or depositing of the warrant issued to the member.
 - (6) While a member is ~~on~~receiving interim payments, OP&F shall not make any

payments for cost of living adjustments, ~~but any~~. Any cost of living allowances due the member shall be paid once the member ~~converts~~ is converted to a final payment.

- (D) As required by law, the board shall require that the interim payment amount for a married member be reduced based on the member ultimately selecting a plan of payment naming the member's spouse as beneficiary, unless the spouse consents to a different designation, ~~along with the designations required under any other court orders that OP&F may have on file that require the member to elect a plan of payment pursuant to a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property or former spouse as beneficiary as required by a court order~~, but subject to the limitations outlined in section 742.3711 of the Revised Code and rules 742-3-07 and 742-3-24 of the Administrative Code. A member who is receiving an interim payment can change ~~his/her~~ an annuity payment plan selection at any time prior to negotiating the first adjusting or regular benefit payment that represents the final benefit amount payable to the member, but subject to the limitations outlined in section 742.3711 of the Revised Code and rules 742-3-07 and 742-3-24 of the Administrative Code.
- (E) No interim payment can be made to a member unless ~~his/her~~ the member's former employer has certified the last day the ~~former employee~~ member earned compensation by virtue of working or using accumulated leave to remain on active payroll status.
- (F) The receipt of an interim payment has no effect whatsoever on any election made pursuant to division ~~(B)~~ (D) of section 742.3716 of the Revised Code.
- (G) In the event ~~that~~ that a married member dies ~~prior to~~ before negotiating ~~his/her~~ the adjusting payment and ~~the married member is~~ was receiving an interim payment under a payment plan that provides for less than fifty per cent of ~~his/her~~ the member's reduced allowance to be paid to ~~the~~ the surviving spouse, then the surviving spouse is entitled only to the allowance, ~~if any~~, provided by the most recent payment plan selected by the member.
- (H) For designation of beneficiaries made under division (A)(4) of section 742.3711 of the Revised Code, the member will not be permitted to change the designation of beneficiaries during the interim payment process, ~~but will~~. The member will be permitted to change the amount payable to ~~the~~ a beneficiary during the interim payment process if proper paperwork is submitted to and approved by OP&F.

Effective:

Five Year Review (FYR) Dates: 02/01/2017

Certification

Date

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(Emer.), 01/12/2007

742-3-18

Definition of "total dependency".

For purposes of paying benefits to a surviving child of a member who is "totally dependent" upon the member for support at the time of the death under division (E) of section 742.37 of the Revised Code, the child must meet one of the following criteria:

- (1) The child has a mentally or physically disabling condition and was claimed as an exemption for federal income tax return purposes for the year preceding the member's death;
- (2) The child is determined disabled by a court of competent jurisdiction;
- (3) The child attends an adult workshop or mental retardation and developmental disabilities (MRDD) school; or
- (4) The child has a mental or physical disability and is incapable of earning at least sixteen thousand dollars annually, as determined by Ohio police and fire pension fund disability evaluation physician and vocational advisor recommendation.

Five Year Review (FYR) Dates: 11/15/2016 and 11/15/2021

CERTIFIED ELECTRONICALLY

Certification

11/15/2016

Date

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Statutory Authority:	742.10
Rule Amplifies:	742.37(E)
Prior Effective Dates:	11/23/2001

742-3-22

Designation of a trustTrust as beneficiary for certain lump sum payments.

A member may designate a trust as "beneficiary" for purposes of any lump sum payments due under section 742.446 of the Revised Code (i.e., deferred retirement option plan) and section 742.58 of the Revised Code (i.e., lump sum death benefit). When submitting the beneficiary designation forms provided by OP&F, a member who designates a trust as beneficiary shall submit either a copy of a certificate of trust or copies of the first page and signature page of the trust instrument ~~as well as~~. The member shall also submit any other documentation requested by OP&F for the distribution of such funds. This rule will not supercede any statutory provisions governing the distribution of funds that may become due and payable under the aforementioned statutes.

Effective:

Five Year Review (FYR) Dates: 11/15/2016

Certification

Date

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Statutory Authority: 742.10
Rule Amplifies: 742.446, 742.58
Prior Effective Dates: 2/16/2006, 9/28/2006, 12/26/2011

742-3-24

Specified amount of court order.

The specified amount that a member is required to elect pursuant to a court order, as described in division (D)(1)(c) of section 742.3711 of the Revised Code, shall be expressed only as a percentage of the allowance that continues after the member's death. In the event that it is expressed as a dollar amount, Ohio police and fire pension fund ~~may~~ shall convert the amount to a percentage, ~~but in no event shall the conversion exceed the amount expressed~~ that will continue at least that amount to the former spouse as a survivor annuity upon the member's death.

Effective:

Five Year Review (FYR) Dates: 11/15/2016

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.3711
Prior Effective Dates: 10/20/2006

742-3-25

Waiver of designation of former spouse as beneficiary under a court order.

In cases where a member is required to elect a ~~plan of payment (i.e., joint and survivor annuity at the time of retirement and~~ designate a former spouse as a beneficiary) pursuant to a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property, but the former spouse wishes to waive the former spouse's interest in the member's annuity plan, the member or former spouse ~~must~~shall submit an ~~amended~~ court order to OP&F that specifically ~~provides that the former spouse has waived their~~ cancels the joint and survivor annuity and the former spouse's right to be designated as beneficiary.

Effective:

Five Year Review (FYR) Dates: 11/15/2016

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.3711
Prior Effective Dates: 10/20/2006

742-3-27

Reselection of beneficiary upon remarriage.

A member who remarries and desires to select a new spouse upon a remarriage may only do so if the member makes such selection within the statutory deadline and, in cases where the member has already selected beneficiaries under division (A)(4) of section 742.3711 of the Revised Code, the following shall apply:

- (A) Less than four beneficiaries - In cases where there are less than four beneficiaries named under an annuity plan of payment, the member has the right to reselect a plan of payment by the stated deadline in order to name the new spouse as a beneficiary provided that the amount that would be due and payable to a former spouse designated as a beneficiary is not reduced in cases where this designation is made in furtherance of an existing court order.
- (B) Four beneficiaries/voluntary designations - In cases where four beneficiaries are already named under a multiple beneficiary annuity plan of payment, but some beneficiaries have been voluntarily designated by the member who is not under an existing court order to do so, the member may cancel an existing beneficiary designation that is voluntary in order to name the new spouse as beneficiary. Any designations required under division (A)(4) of section 742.3711 of the Revised Code, however, may not be cancelled without a proper waiver or termination of such designation is received by OP&F ~~and in.~~ In any event, any amounts due and payable to a former spouse designated as a beneficiary will also not be reduced in cases where this designation is made in furtherance of an existing court order.
- (C) Four beneficiaries/court ordered designations - In cases where four beneficiaries are already named under a multiple beneficiary annuity plan of payment due to existing court orders, which requires the member to make such designation, the member will be permitted to designate a new spouse on remarriage within the statutory deadline only if a proper waiver or termination of such designation is received by OP&F. Otherwise, no new designation can be made. In cases where a waiver or termination is received, any amounts due and payable to a former spouse will not be reduced.

Effective:

Five Year Review (FYR) Dates: 11/15/2016

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.3711
Prior Effective Dates: 01/07/2007

742-3-28

Plan of payment selection for DROP participants.

In cases where a member designates a beneficiary upon the person's election to participate in DROP and the member is required to elect a ~~plan of payment~~joint and survivor annuity pursuant to a court order ~~issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property,~~ the member shall have the right to designate a former spouse as an additional beneficiary under division (A)(4) of section 742.3711 of the Revised Code in such cases without a corresponding reduction in DROP benefits. In all other cases, the member will not be permitted to make additional selections of beneficiaries upon the person's retirement.

Effective:

Five Year Review (FYR) Dates: 11/15/2016

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.3711
Prior Effective Dates: 01/07/2007

742-3-29**Mandatory direct deposit.**

- (A) As used in this rule, "alternate payee" shall be as defined by section 3105.80 of the Ohio revised code.
- (B) Except as provided in paragraph (C) of this rule, effective August 1, 2017, an individual who receives an annuity, pension, allowance, monthly benefit, or monthly payment from the Ohio police and fire pension fund ("OP&F") shall be paid by direct deposit, which is an electronic fund transfer directly to an individual's account at a financial institution. Retirants, benefit recipients, and alternate payees shall provide to the retirement system valid direct deposit account and routing numbers, the name and contact information of the financial institution, and other such information as may be required by OP&F. OP&F may withhold payment until the individual provides the information described in this paragraph.
- (C) If a retirant, benefit recipient, or alternate payee resides outside the United States, in a nursing or convalescent home, correctional facility, jail, or prison, or similar situation such that compliance with paragraph (B) of this rule is impracticable, the individual may submit a written request for exemption from direct deposit and OP&F staff shall approve or deny the request.

Replaces: 742-3-29

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.37, 742.39
Prior Effective Dates: 09/22/2008, 09/25/2013

742-17-01

Rule on rules.

- (A) Ohio police and fire pension fund ("OP&F") shall adopt rules in accordance with sections 111.15 and 742.10 of the Revised Code.
- (B) Any person or organization may obtain notice of any proposed amendment, rescission or adoption of a rule by submitting a written request to the executive director or the chairman of the board of trustees to have his, her or its name and address placed on the mailing list of those to whom the agenda of meetings of the board of trustees are sent. An organization may designate only one representative to receive such notice.
- (C) Notice of the amendment, rescission or adoption of any rule, along with a copy of the rule, shall be sent to those persons and organizations on the list in paragraph (B) of this rule.
- (D) The executive director shall cause notice of the amendment, rescission or adoption of a rule to be reported in OP&F publications.
- (E) Any person or organization who has submitted or who hereafter submits a written request under this rule to obtain notice of any proposed amendment, rescission or adoption of a rule by OP&F shall also be deemed to have filed a written request to obtain notice of all meetings and board reports of OP&F.

Five Year Review (FYR) Dates: 11/15/2016 and 11/15/2021

CERTIFIED ELECTRONICALLY

Certification

11/15/2016

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.10
Prior Effective Dates: 12/8/2000

3307-1-01

Rules.

- (A) Except as otherwise provided in Chapter 3307. of the Revised Code, the ~~state teachers~~ retirement board shall adopt rules pursuant to section 111.15 of the Revised Code.
- (B) Any person or organization may obtain notice of any proposed amendment, rescission, or adoption of a rule by making a written request to be placed on the mailing list to receive the retirement board's meeting agenda. Notice need not be provided to more than one representative of an organization.
- (C) The retirement system shall take all actions requested or required by the legislative service commission to facilitate publication of rules in the Administrative Code. Notice and information about any adopted rule or rule change shall also be provided to employers and, where applicable, shall also be reported in ~~publications~~communications sent to members, contributors, retirants, and benefit recipients.

Effective:

Five Year Review (FYR) Dates: 03/17/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.04
Prior Effective Dates: 12/23/76, 12/26/97, 7/1/01 (Emer.), 9/17/01, 7/24/08

3307-1-02 **Notice of 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 ascertain the time and place of all regularly scheduled meetings of the ~~state teachers retirement board of Ohio~~ and the time, place, and purpose of all special meetings of the ~~state teachers retirement board of Ohio~~ by:

(1) Writing to one of the following addressaddresses:

"State Teachers Retirement System

275 East Broad Street

Columbus, Ohio 43215-3771"

Or "contactus@strsoh.org"

(2) Calling the following telephone number during the normal business hours: (614) 227-4090 or, 888-227-7877, or:

~~In addition, any person may request, in writing, advance notice of all regular meetings of the state teachers retirement board of Ohio. The state teachers retirement system of Ohio shall maintain a list of all persons who have requested such notice and shall no later than five calendar days prior to each meeting, send to such persons by first class mail or e-mail an agenda of the meeting.~~

(3) Visiting the retirement system's website: www.strsoh.org.

In addition, any person may request, in writing, advance notice of all regular meetings of the retirement board. The retirement system shall maintain a list of all persons who have requested such notice and shall no later than five calendar days prior to each meeting, send to such persons by first class mail or e-mail an agenda of the meeting.

(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: "Executive Director, State Teachers Retirement System of Ohio, 275 East Broad Street, Columbus, Ohio 43215-3771."

The request shall provide the name of the individual media representative to be contacted, the mailing address and a maximum of two telephone numbers for

contacting the requesting party. The ~~state teachers~~ retirement system ~~of Ohio~~ shall maintain a list of all representatives of the news media who have requested notice of special meetings pursuant to paragraph (C) of this rule.

- (D) In the event of a special meeting not of an emergency nature, the ~~state teachers~~ retirement system ~~of Ohio~~ shall notify all media representatives on the list of such meeting by doing at least one of the following:
- (1) Sending written notice, which must be mailed no later than four calendar days prior to the day of the special meeting;
 - (2) Sending notice by ~~e-mail~~ email which must be sent no later than twenty-four hours prior to the time of the meeting;
 - (3) Notifying such representatives by telephone no later than twenty-four hours prior to the special meeting; such telephone notice shall be complete if a message has been left for the representative, or if, after reasonable effort, the ~~state teachers~~ retirement system ~~of Ohio~~ has been unable to provide such telephone notice;
 - (4) Informing such representative personally no later than twenty-four hours prior to the special meeting.
- (E) In the event of a special meeting of any emergency nature, the ~~state teachers~~ retirement system ~~of Ohio~~ shall immediately notify all media representatives on the list of such meeting by providing either the notice described in paragraph (D)(1) or (D)(2) of this rule, or that described in paragraph (D)(3) or (D)(4) 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.
- (F) In giving the notices required by paragraph (C) of this rule the ~~state teachers~~ retirement system ~~of Ohio~~ may rely on assistance provided by any member of the ~~state teachers~~ retirement system and such notice is complete if given by such member in the manner provided in paragraph (C) of this rule.

Effective:

Five Year Review (FYR) Dates: 03/17/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 121.22
Prior Effective Dates: 12/23/76, 12/26/81, 12/26/97, 7/1/01 (Emer.), 9/17/01,
7/18/03, 7/24/08, 6/2/13

3307-1-03

Release of names, addresses and account information.

Information contained in records kept by the ~~state teachers~~ retirement system shall be released to third parties or the public only in accordance with this rule.

- (A) Except as provided by division (E) of section 3307.20 of the Revised Code, the following records may be released to a third party only upon the written authorization of the person to whom the record pertains:

Any part of an individual's personal history record, including but not limited to, any record identifying beneficiary information, account balance, benefit or allowance paid or payable to any person, any record identifying the service history or service credit of a member or benefit recipient, medical reports and recommendations including those related to health care coverage for a disabled adult child as defined in rule 3307:1-11-01 of the Administrative Code, or any record that includes address, e-mail address, telephone number, social security number, appointments, requests, counseling information or correspondence with the retirement system.

~~(1) Any part of an individual's personal history record, including but not limited to, any record identifying beneficiary information, account balance, benefit or allowance paid or payable to any person, any record identifying the service history or service credit of a member or benefit recipient, or any record that includes address, e-mail address, telephone number, social security number, appointments, requests, counseling information or correspondence with the retirement system.~~

~~(2) Medical reports and recommendations shall not be released, except that such reports or recommendations shall be made available to the member's or individual's physician, attorney or authorized agent upon the member's or individual's written authorization and, further, may be released to a physician assigned by the state teachers retirement board when necessary for the proper administration of the retirement system.~~

- (B) Notwithstanding the restrictions set forth in paragraph ~~(A)(1)(A)~~ of this rule, the retirement system shall provide a complete list of names and mailing addresses of members or benefit recipients at the written request of any person pursuant to division (E)(3) of section 3307.20 of the Revised Code. The retirement system may charge the requestor the costs of compiling and mailing the information.

- (C) The executive director of the ~~state teachers~~ retirement system may designate the staff members who shall serve as custodians of the records of the system and who are authorized to authenticate copies of records being sent to ~~the any courts court~~ and/or before any officers officer of this state.

Effective:

Five Year Review (FYR) Dates: 03/17/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.20
Prior Effective Dates: 12/23/76, 12/26/81, 8/28/82, 4/28/86, 11/4/91, 5/8/98,
7/1/01 (Emer.), 9/17/01, 7/18/03, 7/24/08, 3/23/09
(Emer), 7/16/09, 6/2/13

ACTION: Original

DATE: 03/17/2017 2:04 PM

3307-1-04

Financial report.

Annually the ~~state teachers~~ retirement system shall prepare and publish a comprehensive financial report that complies with all applicable statutory requirements and that is in accordance with generally accepted accounting principles.

Effective:

Five Year Review (FYR) Dates: 03/17/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.121
Prior Effective Dates: 12/23/76, 12/26/97, 7/1/01 (Emer.), 9/17/01, 4/29/03

3307-1-05

Policy on investment department performance based incentive programs.

- (A) Pursuant to section 3307.04 of the Revised Code, payment of employee bonuses are subject to the guidelines established by the ~~state teachers~~ retirement board as reflected in the performance based incentive award program for investment exempt associates. The award program shall be reviewed and approved on an annual basis by the board, and may be interpreted, amended, rescinded, and/or terminated at any time in the board's discretion. The award program shall establish target incentive awards based on the ~~state teachers~~ retirement system's total fund performance and the investment ~~associates~~associates' individual goals. Any and all material modifications to the award program, including, but not limited to the determination of award program payouts and actual payouts, require the board's prior approval.
- (B) Participation in the award program is limited to certain ~~state teachers~~ retirement system investment professionals. Participation in the award program in any one year does not confer the right to participate in the program in the current or any other year and does not confer the right to continued employment.

Effective:

Five Year Review (FYR) Dates: 03/17/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.041
Prior Effective Dates: 5/5/05, 4/28/08

3307-1-06

Ohio-qualified agents and investment managers.

- (A) For purposes of division (A)(4) of section 3307.152 and section 3307.154 of the Revised Code, an investment manager may be designated as an "Ohio-qualified investment manager" if the investment manager and/or any parents, affiliates, or subsidiaries of the investment manager meets the requirements of divisions (A)(1) and (A)(2) of section 3307.154 of the Revised Code.
- (B) For purposes of section 3307.154 of the Revised Code, "principal place of business" includes an office in which the agent or investment manager regularly provides securities or investment advisory services and solicits, meets with, or otherwise communicates with clients.
- ~~(C) For purposes of division (E)(4) of section 3307.152 of the Revised Code and division (C)(4) of section 3307.154 of the Revised Code, "compensation" shall mean the commissions paid on equity securities transactions and the cost or proceeds on fixed income securities transactions.~~

Effective:

Five Year Review (FYR) Dates: 03/17/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.10
Rule Amplifies: 3307.152, 3307.154
Prior Effective Dates: 5/5/05, 6/2/13

3307-2-01

Nomination and election of members of the ~~state-teachers~~ retirement board.

- (A) The ~~state-teachers~~ retirement system shall forward notices for the nomination of candidates for "contributing member" and/or "retired teacher member" of the retirement board to all school superintendents, university presidents and other employers for publication, and furnish notice to "retired teacher members" through appropriate means. Such notice shall be issued no later than the first of December preceding the election.
- (B) Nomination of candidates shall be made as set forth in section 3307.07 of the Revised Code and shall be on petition forms prepared and distributed by the ~~state-teachers~~ retirement system. Petition forms shall clearly state the term of office. Petitions filed on forms other than those indicated herein will not be accepted.
- (C) Nominating petitions must be filed with the ~~state-teachers~~ retirement system on or before the last Friday in February. Petitions must be received by four-thirty p.m., in the "state teachers retirement system, 275 East Broad Street, Columbus, Ohio 43215," on that date.
- (D) At the board's directive the executive director may contract with an independent firm to administer the elections.
- (E) Except where the only nominated candidate takes office pursuant to section 3307.071 of the Revised Code, the ~~state-teachers~~ retirement system shall list the names of all properly qualified candidates on a ballot, arranging for the orderly rotation of names on the ballot. On or before the fifth of April, ballots and return envelopes shall be sent to all eligible members and retirants of the ~~state-teachers~~ retirement system at the eligible member's or retirant's last known address.
- (F) Voting shall be permitted by paper, telephone and/or internet ballots.
- (G) All ballots must be received in the ~~state-teachers~~ retirement system or independent ~~contractor~~firm office not later than four-thirty p.m., on the first Monday in May.
- (H) The ~~state-teachers~~ retirement system shall deliver the ballot results to a board of tellers, appointed by the ~~teachers~~ retirement board. The tellers shall meet on the first Saturday after the first Monday in May to certify the results of the election.

Effective:

Five Year Review (FYR) Dates: 03/20/2017

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3307.04, 3307.075
Rule Amplifies: 3307.06, 3307.07, 3307.071, 3307.075
Prior Effective Dates: 12/23/76, 11/28/77, 12/26/81, 7/1/01 (Emer), 9/17/01,
7/18/03, 12/2/04 , 6/2/13

3307-2-02

Election of successor member when vacancy occurs on the ~~state teachers~~ retirement board.

If a vacancy occurs during the term of office of any elected member of the ~~state teachers~~ retirement board, the remaining members of the ~~state teachers~~ retirement board shall elect a successor member, as specified in section 3307.06 of the Revised Code, in the following manner:

- (A) Upon being notified that a vacancy occurs, each remaining member of the ~~state teachers~~ retirement board shall have forty-five days in which to nominate one eligible candidate for consideration of election to the vacancy by notifying the secretary to the board of such nomination.
- (B) The secretary to the ~~state teachers~~ retirement board shall notify each nominee of his/her nomination and request that within ten days of receipt of the notice he/she submit to the ~~state teachers~~ retirement board biographical information related to his/her nomination on a questionnaire which shall be identical to the one used for the last regular election of a member to the ~~state teachers~~ retirement board.
- (C) At the first meeting of the ~~state teachers~~ retirement board following the deadline for receipt of said questionnaires, the ~~state teachers~~ retirement board, through successive public votes, shall elect the successor member. Through successive public votes those nominees receiving the lowest number of votes shall be dropped from the list of nominees. The nominee receiving a majority of votes cast shall be elected the successor member and shall hold office until the first day of the new term that follows the next board election that occurs not less than ninety days after the successor member's election.

Effective:

Five Year Review (FYR) Dates: 03/20/2017

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 3307.04, 3307.075
Rule Amplifies: 3307.06, 3307.075
Prior Effective Dates: 4/7/83, 2/2/95, 7/1/01 (Emer), 9/17/01, 12/2/04,
7/24/08, 6/2/13

3307-2-03

Board member education and travel policy.

Section 3307.15 of the Revised Code mandates that the retirement board and other fiduciaries of the fund will discharge their duties with care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims; and by diversifying the investments of the retirement system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

Education of board members is both appropriate and essential to successfully carrying out these fiduciary duties. Board members have an obligation to select such methods of learning as will best enable them to acquire the information and skills needed. In the process of making that selection, board members also have the responsibility to ensure that the expenses incurred are both reasonable and necessary, and that attendance at meetings does not compromise the integrity of the retirement system or unreasonably further a personal financial interest of individuals.

When board members pursue educational opportunities or travel in any capacity as a board member of the retirement system, members shall adhere to the board policies titled "Board Member Education" and "Board Member Travel and Expenses" as amended from time to time.

Five Year Review (FYR) Dates: 03/16/2017 and 03/16/2022

CERTIFIED ELECTRONICALLY

Certification

03/16/2017

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04, 3307.041
Rule Amplifies: 3307.10
Prior Effective Dates: 11/5/95, 7/1/96, 3/17/97 (Emer.), 9/17/01, 7/1/02,
5/5/05, 7/24/08

3307-2-04

Payment of allowances and benefits.

The ~~state teachers~~ retirement system is authorized to pay monthly retirement allowances, disability benefits and other statutorily mandated benefits during the interim period which may occur between the date such allowances and benefits are payable and the date the retirement board can act as provided in Chapter 3307. of the Revised Code, as such authority so granted is considered necessary to the proper operation of the retirement system.

Effective:

Five Year Review (FYR) Dates: 03/17/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.04
Prior Effective Dates: 12/23/76, 12/26/81, 7/1/01 (Emer), 9/17/01, 7/24/08,
6/2/13, 9/4/14

3307:1-7-02

Disability - medical review board.

(A) The retirement board shall appoint an independent physician to serve as chair of the medical review board and as medical advisor to the retirement board. The chair so appointed shall:

- (1) Request and review medical evidence from the applicant or applicant's attending physicians and other relevant sources regarding the nature, findings, extent, treatment, duration and functional limitations imposed by the conditions the applicant claims as disabling.

Any medical evidence or other information submitted by or on behalf of an applicant or recipient that is determined by the chair of the medical review board to not be objective or pertinent to the applicant's or recipient's claimed medical condition will not be considered, including duplicate records, internet articles or medical records not related to the current application or reexamination.

- (2) Assign and oversee competent and impartial independent medical examiners to conduct the medical examinations and tests the chair deems necessary and appropriate to the evaluation of an application. Examinations will be assigned only for conditions listed on the application and supported as disabling by the attending physician. The independent medical examiners shall provide written reports of their findings and conclusions as to whether applicants are mentally or physically incapacitated from the performance of regular duties for a period of at least twelve months from the date the completed application was received.
- (3) Review the reports of the independent medical examiners. Once the chair is satisfied that no further examinations or tests are needed, a recommendation shall be submitted to the retirement board if the chair concurs with the conclusions of the independent medical examiner or examiners that an applicant is or will be mentally or physically incapacitated from regular duties for a period of at least twelve months.
- (4) If the chair reviews the conclusions of the independent medical examiners and concludes that an applicant or recipient is not incapacitated from the performance of regular duties or will not remain incapacitated for at least twelve months, the chair shall convene a panel of three or more members of the medical review board who shall review the application, medical evidence, and reports of the independent medical examiners. The panel may request medical evidence or obtain such further examinations and tests as it may deem necessary and appropriate and may direct delay of consideration of an application for treatment.

- (5) Submit to the retirement board a report summarizing the conclusions and recommendations of the panels of the medical review board members.
 - (6) Attend and participate in hearings pursuant to rule 3307:1-7-05 of the Administrative Code as the medical advisor to the retirement board.
 - (7) Recommend to the retirement board independent physicians from a wide range of medical expertise and specialties to serve as members of the medical review board.
- (B) The retirement board shall designate independent physicians to serve as members of the medical review board.

Effective:

Five Year Review (FYR) Dates: 06/10/2021

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.48, 3307.62, 3307.63, 3307.631
Prior Effective Dates: 12/23/76, 12/26/77, 2/26/81, 7/3/97, 10/29/98 (Emer.),
1/17/99, 7/1/01 (Emer.), 9/27/01, 8/1/06, 6/6/11,
11/1/12, 1/7/13 (Emer.), 3/24/13, 6/10/2016

3307:1-7-03

Disability - medical evidence and appointments.

Each applicant or recipient shall be responsible for providing medical evidence needed by the retirement system and reporting for medical examination, as follows:

- (A) Medical evidence or reports from an attending physician shall be filed with the retirement system within fifteen calendar days of the date the retirement system requests such information. The information shall provide objective and pertinent medical evidence supporting the conditions the applicant or recipient claims as disabling.
- (B) The retirement system shall provide written notice of the independent medical examiners who will conduct medical examinations and testing. The applicant or recipient shall, within fifteen days of notice from the retirement system, schedule appointments so that examination or testing is completed within the following ninety days, as instructed in the notice. In the event the appointment times available with an independent medical examiner preclude completion of the examination or testing within ninety days, a request for extension to the earliest practicable appointment date may be granted by the retirement system.
- (C) The applicant or recipient shall travel to the offices of the assigned independent medical examiners, unless the retirement system determines that medical evidence submitted by the applicant or recipient demonstrates that he or she is medically unable to travel to the examination site. A request that the retirement system make such a determination shall be made by the applicant or recipient within fifteen days of notice of the assignment of the independent medical examiners.
- (D) The applicant or recipient shall be responsible for all travel costs incurred.
- (E) The retirement system will accept responsibility only for the cost of the independent medical examination assigned by the retirement system and requested testing completed at the independent medical examiner's office. The retirement system will also accept responsibility for a missed appointment fee if an applicant or recipient fails for good cause demonstrated to the retirement system to keep the first appointment scheduled with an independent medical examiner, but in no case will payment of more than one such fee per applicant or recipient be made.
- (F) An applicant or recipient may request an extension or exception to the foregoing requirements. Any such request shall be in writing directed to the retirement system, and will be granted only if the request demonstrates good cause to the retirement system in its sole discretion. In the event an applicant fails to carry out the foregoing duties in a timely manner, the application for disability benefits will be cancelled. In the event a recipient fails to carry out the foregoing duties in a timely manner, notice will be given by the retirement system to the recipient that the failure will be deemed a refusal if the required examinations and testing are not

completed by a specified date. If the recipient has not by that date submitted to the required examination and/or testing, benefits will be suspended as of the first of the month following the specified date. If the ~~refusal~~failure continues for one year or ~~until the disability benefits benefit is otherwise terminate~~terminated for any reason during the one-year period, all of the recipient's rights to the disability benefits shall be terminated as of the effective date of the original suspension.

- (G) Any costs incurred by the applicant or recipient in the application process, except as noted above, will not be reimbursed by the retirement system.

Effective:

Five Year Review (FYR) Dates: 06/10/2021

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.48, 3307.62, 3307.63, 3307.631
Prior Effective Dates: 12/23/76, 12/26/77, 2/26/81, 7/3/97, 10/29/98 (Emer.),
1/17/99, 7/1/01 (Emer.), 9/17/01, 7/1/06, 06/06/11,
1/7/13 (Emer.), 3/24/13, 6/10/2016

3307:1-7-04

Disability benefits - treatment.

- (A) If the medical review board or its chair determines that through medical treatment or mechanical devices an applicant's condition might be improved, within the twelve month period following the filing of an application, consideration of the application may be delayed while the applicant obtains the treatment or mechanical devices specified by the medical review board or its chair provided that:
- (1) The medical review board or its chair has determined that medical treatment or mechanical devices offer a reasonable expectation of correction or rehabilitation of the disabling condition to the extent that the applicant could be expected to be capable of performing teaching duties within a reasonable time, but not to exceed six months.
 - (2) The medical review board or its chair has determined that the medical treatment or mechanical devices specified are of wide acceptance and readily available.
 - (3) The medical treatment or mechanical devices specified under this paragraph shall not include invasive procedures or shock treatment.
 - (4) Within fifteen calendar days of the end of the treatment period, the applicant shall submit medical evidence from the applicant's physician regarding the treatment provided and progress made during the treatment period.
 - (5) An applicant may request an extension or exception to the foregoing requirements. Any such request shall be in writing directed to the retirement system, and will be granted only if the request demonstrates good cause to the retirement system in its sole discretion.
 - (6) In the event an applicant fails to carry out the requirements outlined in paragraph (A) of this rule, the application for disability benefits will be cancelled.
- (B) The retirement board may specify medical treatment or mechanical devices as described in paragraph (A) of this rule as a condition of eligibility for granting or continuing disability benefits pursuant to division (G) of section 3307.62 of the Revised Code. Where such treatment is required:
- (1) The applicant or recipient shall agree in writing before disability benefits are granted or continued to acquire the treatment or devices specified by the retirement board or its designee(s) upon the recommendation of the chair of the medical review board. An applicant or recipient shall further agree to timely submit periodic reports of the effect of such continuing treatment or

devices.

- (2) The retirement board will not assume the cost of medical treatment or mechanical devices for a recipient except to the extent such treatment or devices are covered under the retirement system health care program and such a recipient has enrolled in a medical plan provided by the retirement system that covers the treatment or devices.
- (3) Disability benefits shall be suspended if the recipient fails to agree or obtain the specified medical treatment or devices or to submit timely reports of such treatment. Notice shall be given to the recipient at least thirty days in advance of suspension. If the required written agreement, treatment and/or reports are thereafter not received for a period of one year or ~~until the benefits otherwise terminated~~ disability benefit is terminated for any reason during the one-year period, the recipient's right to the disability benefit shall terminate as of the effective date of the original suspension.
- (C) Following receipt of notice that consideration of the application is being delayed due to paragraph (A) of this rule, the applicant may submit further medical evidence supporting why treatment or mechanical devices should not be pursued. The evidence will be reviewed by the chair of the medical review board and a determination by the chair that the application be delayed while the applicant obtains medical treatment or medical devices shall be final.

Effective:

Five Year Review (FYR) Dates: 06/10/2021

Certification

Date

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1/17/99, 7/1/01 (Emer.), 9/27/01, 7/1/06, 6/6/11,
1/7/13 (Emer), 3/24/13, 6/10/2016

3307:1-7-07

Disability benefits - earnings and employment statements.

- (A) Pursuant to section 3307.48 of the Revised Code each recipient shall by April thirtieth of each year, or such other date designated by the retirement board, file a notarized statement of annual earnings with the retirement system.
- (B) The statement filed by each recipient shall be on a form provided by the retirement system and shall include a description of work performed during the preceding calendar year, a statement of compensation for work performed, current medical information and such additional information as may be required.
- (C) Unless the requirement of annual reporting is waived by the chair of the medical review board, disability benefits shall be suspended if the annual statement is not received within thirty days after notice that it is delinquent. If the statement is found to be delinquent, participation in the retirement system's health care program, if elected, shall be terminated as of the date the disability benefits are suspended. If the required statement or reports are thereafter not received for a period of one year, or the disability benefit is terminated for any reason during the one-year period, the recipient's right to the disability ~~benefits~~benefit shall terminate as of the effective date of the original suspension.
- (D) The requirement of annual reporting shall be waived if the recipient is age seventy-five or older and the chair of the medical review board has certified that the recipient's disability is ongoing.

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(Emer.), 3/24/2013, 12/10/2015, 6/10/2016

3307:1-8-01 **Survivor benefits.**

(A) As used in section 3307.66 of the Revised Code and this rule:

- (1) "Continuously incompetent" shall mean a person was determined to be physically or mentally incompetent and has remained physically or mentally incompetent without any break since the determination was made.
- (2) "Physical or mental incompetency" shall be determined in accordance with division (A) of section 3307.66 of the Revised Code and this rule.
- (3) "Qualified child" or "qualified children" shall have the same meaning as set forth in division (B)(2) of section 3307.66 of the Revised Code.
- (4) "Qualified survivor" shall have the meaning as set forth in division (B)(4) of section 3307.66 of the Revised Code.

(B) If a member dies before service retirement and is survived by one or more qualified children who are under the age of ~~eighteen or twenty-two if in qualified school attendance~~ or who became physically or mentally incompetent prior to the attainment of ~~age eighteen or age twenty-two if in qualified school attendance~~ and has remained continuously incompetent, benefits shall be payable to all survivors pursuant to division (C)(2) of section 3307.66 of the Revised Code. Any election applicable as to the calculation of benefits under that division shall be made by the beneficiary designated by the member. If no designation of beneficiaries was in effect at the time of death, any such election shall be made by the surviving spouse. If there is no surviving spouse, any such election shall be made by the youngest child.

(C) If a qualified child becomes physically or mentally incompetent while receiving survivor benefits pursuant to section 3307.66 of the Revised Code, such benefits shall continue as long as the child is continuously incompetent, without regard to the age the child attains.

(D) If there are no other survivors who qualify under the terms of section 3307.66 of the Revised Code, a qualified survivor who becomes eligible for benefits under that section, at the age of eighteen or older, may forfeit rights to benefits under that section and the opportunity to participate in the health care program, if eligible, and take instead a refund of the account balance as provided by section 3307.562 of the Revised Code.

~~(E) Qualified children over the age of eighteen and up to age twenty-two are eligible for payment of extended survivor benefits based on child's attendance in school as set forth in this rule.~~

- ~~(1) Except as provided in this rule, a parent or guardian must file an application for extended survivor benefits based on the qualified child's attendance in school on a form provided by the retirement system. The qualified child must ensure the school provides certification of the qualified child's attendance to the retirement system. The retirement system may request certification of the child's continued enrollment in school at any time. If certification of the child's continued enrollment in school is not provided as requested by the retirement system within the specified deadline, extended survivor benefits shall be terminated. If extended survivor benefits should cease after filing an initial application, a new application must be filed to resume benefits. Resumption of benefits will be effective the first of the month following receipt of a new application if the application is received by the fifteenth of a month; otherwise, resumption of benefits will become effective the first of the second month following receipt of the new application. No extended survivor benefits are payable for any period between when benefits have ceased and a new application is filed. A qualified child who is over the age of eighteen may act in his or her own behalf if eligibility for benefits is established under section 3307.66 of the Revised Code.~~
- ~~(2) Extended survivor benefits shall be paid for the entire month in which eligibility for benefits is attained or terminated.~~
- ~~(3) Extended survivor benefit payments will be issued during a vacation or other non-qualified period which does not exceed four months in duration or up to five months in duration if the qualified child is changing schools, provided that the child:~~
- ~~(a) Was qualified to receive extended survivor benefits before the period started;~~
 - ~~(b) Intends to, and subsequently does, return to qualified attendance after the period ends, as certified by child, parent or guardian, and an officer of the school; and~~
 - ~~(c) Does not receive benefits for more than one vacation period during a fiscal year.~~
- ~~(F) A qualified child between the ages of eighteen and twenty two shall be eligible for extended survivor benefits provided the type of school and course of study meet the following requirements:~~
- ~~(1) Type of school—a qualified child must attend one of the following:~~
- ~~(a) High school supported or operated by a state or local government, or the federal government.~~

- ~~(b) Vocational or technical school operated, supported, recognized, or approved by a state or local government, or the federal government.~~
- ~~(c) State university, state college, or a community college.~~
- ~~(d) Private school or college accredited by a state recognized or nationally recognized accrediting agency, or approved by a state.~~
- ~~(e) Unaccredited private school or college, provided that at least three accredited schools or colleges accepts its credits on transfer on the same basis as if transferred from an accredited school.~~
- ~~(f) Schools outside the United States will normally be considered as acceptable if they meet the qualifications of paragraph (F)(1)(e) of this rule.~~

~~(2) Course of study:~~

- ~~(a) A qualified child attending a university or college must be enrolled in a course of study that meets at least two-thirds of the full-time curriculum requirements according to the school's standards and practices.~~
- ~~(b) The qualified child must be enrolled in a course of study designed for a minimum of one school year of full-time study, or its equivalent.~~
- ~~(c) When minimum curricular requirements cannot be determined, a qualified child must be enrolled in class room instruction for at least thirteen hours a week, including regularly scheduled laboratory or shop work, supervised study, and time needed for change of student or teacher station.~~
- ~~(d) Time spent on a job assigned to the student or obtained for the student by the school as an integral part of the student's program of study may also be considered as a portion of the course of study. However, a qualified child who is attending school as part of a job at the request of the employer who pays the individual while attending is not eligible for extended survivor benefits.~~

~~(G)~~(E) If physical or mental incompetency of a spouse or parent of a deceased member has not been determined by a court at the time of the application for benefits under section 3307.66 of the Revised Code, physical or mental incompetency shall be determined for the purposes of division (A) of section 3307.66 of the Revised Code and this rule as follows:

- (1) The determination of "physical or mental incompetency" shall be made by the

chair of the medical review board by confirming that the spouse or parent has been continuously, since the member's date of death, incapable of earning a living because of a physically or mentally disabling condition. As used in paragraph ~~(G)~~(E) of this rule, "incapable of earning a living" means that the spouse or parent is incapable of earning annually at least the federal minimum wage as of January first of the current year multiplied by two thousand eighty hours, increased by fifty per cent, and rounded to the nearest thousand dollars. Each spouse or parent shall provide the retirement system with information and documentation requested by the retirement system to verify earnings. Such requested information and documentation may include copies of federal income tax returns and the most recent annual social security earnings statement. Once a spouse or parent is no longer "incapable of earning a living", the spouse or parent cannot meet the definition of qualified spouse or qualified parent for physical or mental incompetency in the future.

~~(H)~~(F) If physical or mental incompetency of a child of a deceased member, including a child born after the date of death of a member has not been determined by a court at the time of the application for benefits under section 3307.66 of the Revised Code, a child shall be considered physically or mentally incompetent for purposes of division (A) of section 3307.66 of the Revised Code and this rule, provided that the child meets the requirements set forth in either paragraph ~~(H)~~(F)(1) or ~~(H)~~(F)(2) of this rule:

- (1) Is unmarried, has been adjudged physically or mentally incompetent by the retirement system prior to January 8, 2007, has been continuously physically or mentally incompetent since the date such determination was made, and meets one of the conditions outlined in paragraph ~~(H)~~(F)(2)(a) or ~~(H)~~(F)(2)(b) of this rule. Upon the first date that the child no longer meets all of the eligibility requirements set forth in this paragraph, the child shall no longer qualify as a dependent child on the basis of physical or mental incompetency.
- (2) Was never married and is unable to earn a living because of a mental or physical condition that was disabling prior to the date the child reached the maximum age of ~~eighteen or twenty-two if the child was attending school on at least a two-thirds full-time basis~~, and further provided the child is continuously disabled and unable to earn a living from the initial date that the child was determined to be physically or mentally incompetent. The chair of the medical review board shall confirm that the child has a mental or physical condition that incapacitated the child before the maximum age specified in this paragraph. In addition, the child shall meet one of the following conditions:
 - (a) A child must be incapable of earning a living. As used in paragraph ~~(H)~~(F)(2) of this rule, "incapable of earning a living" means that a child

was incapable of earning at least sixteen thousand dollars a year for any year before January 1, 2008 and that the child was incapable of earning the federal minimum wage as of January first of the prior and current years multiplied by two thousand eighty hours, increased by fifty per cent and rounded to the nearest thousand dollars for each year thereafter. The child shall provide the retirement system with information and documentation requested by the retirement system to verify earnings. Such requested information and documentation may include copies of federal income tax returns and of the most recent annual social security earnings statement.

- (b) A child attends an adult workshop or school for the developmentally disabled operated by a county or state department of developmental disabilities. If attendance has not been continuous since the age determined in paragraph ~~(H)(F)~~(2) of this rule, additional earnings verification may be required in accordance with paragraph ~~(H)(F)~~(2)(a) of this rule.

~~(H)(G)~~ Following is the procedure for the determination of "physical or mental incompetency:"

- (1) The chair of the medical review board shall determine whether a spouse, parent, or child of a member is physically or mentally incompetent for purposes of section 3307.66 of the Revised Code. Determinations may include examination by an independent medical examiner appointed by the retirement board. Determinations made by the chair may be appealed to another independent physician appointed as hearing officer in accordance with procedures specified by the retirement system. The decision of such hearing officer shall be deemed the final decision of the retirement board.
- (2) The chair of the medical review board shall confirm on a schedule determined by the chair of the medical review board that a spouse, parent, or child of a member continues to be physically or mentally incompetent for purposes of section 3307.66 of the Revised Code. Failure to respond by the deadlines specified by the ~~state teachers~~ retirement system in requests for additional information or documents, requests to schedule medical examinations, or any other requests made by the retirement system in connection with the determination of physical or mental competency shall result in termination of eligibility for benefits provided for in section 3307.66 of the Revised Code.

~~(H)(H)~~ Following are procedures for administering the ongoing eligibility for survivor benefits paid pursuant to section 3307.66 of the Revised Code to qualified spouses, parents, and children determined to be physically or mentally incompetent:

- (1) The retirement system may request information from time to time to confirm the individual continues to qualify as a physically or mentally incompetent qualified survivor.
 - (2) For a qualified spouse, parent, or child to act on his or her own behalf in the receipt of monthly benefits, a physician must provide a statement the individual is capable of handling his or her financial affairs.
 - (3) The retirement system may request a qualified spouse, parent, or child who was determined to be incompetent by a court pursuant to paragraphs ~~(G)~~(E) and ~~(H)~~(F) of this rule to have a court affirm that determination from time to time.
- ~~(K)~~(I) Effective January 1, 2007, notwithstanding any provision in Chapter 3307. 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, 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 3307. of the Revised Code had the member resumed employment and then terminated employment on account of death.
- ~~(L)~~(J) Under division (C)(2)(a)(iii) of section 3307.66 of the Revised Code, a member shall be considered to be contributing under this chapter or Chapter 145. or 3309. of the Revised Code at the time of death if the member had earned service credit and made contributions under this chapter or Chapter 145. or 3309. of the Revised Code in the twelve-month period prior to the member's death.
- ~~(M)~~(K) The following applies only in the case of a surviving spouse who must wait until age sixty-two to qualify for monthly survivor benefits under section 3307.66 of the Revised Code:
- (1) The benefits beginning date for purposes of determining the final average salary under division (C) of section 3307.501 of the Revised Code and for purposes of determining the first increase payable under division (B) of section 3307.67 of the Revised Code shall be either:
 - (a) The first of the month following the date of the member's death, provided the completed and notarized affidavit selecting survivor benefits is received by the retirement system not later than one year after the date of the member's death; or
 - (b) The first of the month following the retirement system's receipt of the

completed and notarized affidavit selecting survivor benefits if the application is received by the retirement system later than one year after the date of the member's death.

- (2) The months during the period the survivor spouse must wait to age sixty-two shall be included as months the spouse was receiving a benefit for purposes of division (B) of section 3307.67 of the Revised Code.

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1/7/13 (Emer), 3/24/2013, 6/10/2016

3307:1-11-01 **Health care services - establishment of program and definitions.**

(A) Establishment of program

(1) Health care

- (a) Pursuant to section 3307.39 of the Revised Code, a health care program is hereby established for certain benefit recipients and their dependents who meet eligibility requirements specified in this chapter and in any medical or ancillary plan offered.
- (b) The health care program shall consist of such medical plans and ancillary plans as the retirement board may offer from time-to-time.
- (c) Benefit recipients shall provide any information requested by the retirement system to validate the eligibility of any enrollee in a medical plan or ancillary plan offered by the retirement system.
- (d) Any person who obtains coverage, subsidy, or payment of claims in a medical plan and/or ancillary plan as the result of false or misleading information shall be immediately terminated from the health care program. Any amounts paid for which a person is not entitled shall be repaid pursuant to section 3307.47 of the Revised Code. The retirement system may collect amounts due in any other manner the system considers appropriate, as provided by law.

(2) Long-term care insurance

Pursuant to section 3307.391 of the Revised Code, long-term care insurance coverage may be made available for certain teachers, benefit recipients and their dependents who meet eligibility requirements specified in this chapter and in any long-term care insurance offered by the retirement system.

(B) Definitions for purposes of this chapter

- (1) "Ancillary plan" means a plan offered to provide auxiliary coverage, such as dental or vision coverage.
- (2) "Benefit recipient" means a primary recipient, a survivor annuitant, or a survivor benefit recipient as defined in paragraphs (B)(13), (B)(18) and (B)(19) of this rule.

- (3) "Child" means a biological child, legally adopted child, or stepchild of a living or deceased primary recipient or member, or a child for whom a primary recipient or member has been legally appointed as guardian prior to the child attaining age twenty-six.
- (4) "Dependent" means a child under age twenty-six, a sponsored dependent, or a spouse as defined in paragraphs (B)(3), (B)(15) and (B)(16) of this rule.
- (5) "Disability benefit recipient" means a member in the defined benefit plan who is receiving a monthly disability benefit or a participant in the combined plan who is receiving a monthly disability benefit.
- (6) "Disabled adult child" means a person age twenty-six or older who has never been married; is a biological or legally adopted child prior to age eighteen, or a stepchild of a living or deceased primary recipient or member, or a child for whom a primary recipient has been legally appointed as guardian prior to the child attaining age eighteen; continuously meets the requirements for physical or mental incompetency as set forth in paragraphs ~~(H)~~(F) and ~~(H)~~(G) of rule 3307:1-8-01 of the Administrative Code, and either:
 - (a) Was adjudged physically or mentally incompetent by a court prior to age ~~eighteen, or age twenty-two if he or she was attending school on at least a two-thirds full-time basis,~~ or
 - (b) Was continuously physically or mentally incompetent and continuously unable to earn a living where both conditions occurred prior to age ~~eighteen, or age twenty-two if he or she was attending school on at least a two-thirds full-time basis.~~
- (7) "Enrollee" means any individual described in this chapter who participates in a medical plan or ancillary plan offered by the retirement system.
- (8) "Enrollment cycle" means a period of time during which an enrollee is not permitted to terminate his or her enrollment and must continue paying monthly premiums.
- (9) "Entity" means any public or private organization that acts as an employer and is not limited to an employer as defined in section 3307.01 of the Revised Code.
- (10) "Medical plan" means a plan offered to provide medical or prescription drug

coverage or any combination thereof.

- (11) "Ohio retirement system" includes highway patrol retirement system, police and fire pension fund, public employees retirement system, and school employees retirement system.
- (12) "Premium" means a monthly amount that is required to be paid by a benefit recipient to continue enrollment for health care coverage for the benefit recipient and/or any dependent.
- (13) "Primary recipient" means a disability benefit recipient or service retiree as defined in paragraphs (B)(5) and (B)(14) of this rule.
- (14) "Service retiree" means a member in the defined benefit plan who is granted a monthly service retirement benefit or a participant in the combined plan who is granted a monthly service retirement benefit under the defined benefit portion of the combined plan.
- (15) "Sponsored dependent" means a disabled adult child.
- (16) "Spouse" means a person currently married to a primary recipient or a person who was married to a member or primary recipient at the time of the member's or primary recipient's death.
- (17) "Subsidy" means the portion, if any, of the medical plan monthly cost waived by the retirement board.
- (18) "Survivor annuitant" means a beneficiary of a service retiree, who was eligible for health care coverage as a dependent at the time of the service retiree's death and who is receiving a monthly service retirement benefit under an optional plan of payment as defined in section 3307.60 of the Revised Code.
- (19) "Survivor benefit recipient" means a person receiving a monthly survivor benefit under section 3307.66 of the Revised Code or the combined plan, provided such person was eligible as a dependent of the member or disability recipient at the time of the member's or disability recipient's death.
- (20) "Total service credit" has the same meaning as used in section 3307.50 of the Revised Code, and as used in this chapter such credit shall not include any credit purchased under former section 3307.741 of the Revised Code, but shall include credit purchased under sections 145.297, 145.298, 3307.54 (as it existed until July 31, 2014), and 3309.33 of the Revised Code.

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ACTION: No Change

DATE: 02/01/2017 11:59 AM

3309-1-01

Membership effective date.

Membership shall begin on the first date of compensated service for which employee contributions have been received by SERS.

Five Year Review (FYR) Dates: 02/01/2017 and 02/01/2022

CERTIFIED ELECTRONICALLY

Certification

02/01/2017

Date

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Statutory Authority: 3309.04
Rule Amplifies: 3309.01, 3309.23, 3309.36, 3309.39
Prior Effective Dates: 04/06/2012

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 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.

(D) 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 school employees retirement system.

(E) 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.

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

- (1) If the 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 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 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.

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Prior Effective Dates: 12/24/76, 1/2/93, 2/11/00, 5/14/05, 4/2/10, 3/30/15,
8/13/15

3309-1-10

Mandatory direct deposit.

- (A) For purposes of this rule, "alternate payee" has the same meaning as defined in section 3105.80 of the Revised Code.
- (B) Except as provided in paragraph (C) of this rule, an individual whose retirement, benefit, or payment effective date is on or after January 1, 2013 and who receives an annuity, pension, allowance, monthly benefit, or monthly payment from the school employees retirement system shall be paid by direct deposit, which is an electronic fund transfer directly to an individual's account at a financial institution. Retirants, benefit recipients, and alternate payees shall provide to the retirement system valid direct deposit account and routing numbers, the name and contact information of the financial institution, and such other information as may be required by the retirement system. The retirement system may withhold payment until the individual provides the information described in this paragraph.
- (C) If a retirant, benefit recipient, or alternate payee resides outside the United States, in a nursing or convalescent home, correctional facility, jail, or prison, or experiences other circumstances such that compliance with paragraph (B) of this rule is impracticable, the individual may submit a written request for exemption from direct deposit and the retirement system staff shall approve or deny the request.

Effective:

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Date

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3309.40, 3309.401, 3309.45, 3309.46, 3309.47
Prior Effective Dates: 1/1/2013

3309-1-14

Purchasing ~~board approved~~ leave of absence service credit.

(A) ~~A member of the school employees~~state retirement system member as defined in section 3309.474 of the Revised Code who while employed in a position covered by the school employees retirement system was out of service due to ~~may purchase service credit for an unpaid board approved leave of absence granted by the employer pursuant to section 3319.13 of the Revised Code for educational or professional purposes, illness, or disability~~ may purchase service credit for the leave so long as the member provides certifications from the employer establishing the following:

(1) That the employer ~~officially approved~~granted the leave of absence pursuant to section 3319.13 of the Revised Code; ~~and identifying the~~

(2) The beginning and ending dates of the leave;

~~(2)~~(3) The number of days the member would have worked during the leave period; and

~~(3)~~(4) The compensation the member would have received for the period of the approved leave.

(B) Payment shall be made by payroll deduction or by payment to the member's employer who shall transmit the payment to the retirement system.

(C) Service credit may not be purchased under this rule until the leave has ended.

~~(C)~~(D) Service credit purchased under this rule may be purchased in increments of one month.

~~(D)~~(E) Amounts paid by a member to purchase service credit shall be credited to the employees' savings fund.

~~(E)~~(F) Service credit purchased under this rule shall be considered the equivalent of Ohio service credit.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

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Prior Effective Dates: 04/02/10, 01/07/2013

3309-1-16

Qualified child attending educational institution.

(A) For purposes of this rule and division (B)(2)(b) of section 3309.45 of the Revised Code:

- (1) "Qualified child" means a qualified child as defined in division (B)(2)(b) of section 3309.45 of the Revised Code.
- (2) "School year" means the twelve-month period beginning the first day of July through the last day of June of the following calendar year.
- (3) "School" means an educational entity providing instruction through grade twelve and includes a vocational or technical school.
- (4) "College" or "university" means an educational entity providing instruction post grade twelve.
- (5) "Attending" means registered or enrolled at the institution of learning or training and attending classes.
- (6) "Institution of learning or training" means one of the following:
 - (a) A school:
 - (i) In Ohio and recognized by the Ohio department of education as meeting Ohio's compulsory education requirements;
 - (ii) In another state and recognized by that state as complying with the state's compulsory education requirements or accredited by a state-recognized, regionally-recognized, or nationally-recognized accrediting agency; or
 - (iii) Operated by the federal government.
 - (b) Home education provided in compliance with Ohio law, or with the law of the state in which the home education is provided.
 - (c) A college or university:
 - (i) In Ohio and recognized by the Ohio board of regents, the state board of career colleges and schools, or other applicable state agency or board; or

- (ii) In another state and recognized by the Ohio board of regents, the state board of career colleges and schools, or other applicable Ohio state agency or board, or by comparable state agencies where the college or university is located, or accredited by a state-recognized or nationally-recognized accrediting agency.
 - (d) An unrecognized or unaccredited private school, college, or university provided at least three recognized or accredited schools, colleges, or universities accept its credits on transfer on the same basis as if transferred from a recognized or accredited school, college, or university.
 - (e) A school, college, or university outside the United States if it meets comparable qualifications described in paragraphs (A)(6)(a) to (A)(6)(d) of this rule.
- (7) "Two-thirds of the full-time curriculum" means at least two-thirds of the full-time curriculum requirements as established and certified by the school, college or university. The curriculum may include the time a qualified child is employed in a position approved by the school, college, or university and required as part of the child's program of study.
- (B) Benefit payments made to a qualifying child under division (B)(2)(b) of section 3309.45 of the Revised Code shall be made as follows:
- (1) Benefit payments to a qualified child over age eighteen but under age twenty-two shall begin only after the child files an application for such benefits.
 - (2) Benefit payments shall be paid during an institution of learning or training vacation or other academic break provided the child:
 - (a) Was a qualified child before the vacation or break began;
 - (b) Intends to, and subsequently does, return to an institution of learning or training and certifies such return to the retirement system;
 - (c) Receives a benefit payment for no more than four consecutive months without returning to the institution of learning or training from the vacation or academic break;

(d) Does not receive benefits for more than one vacation or break for a period which exceeds one month in duration during a single school year.

(3) If benefits are terminated because the child no longer attends an institution of learning or training, such benefits may be reinstated if the child subsequently becomes eligible and files a new application for prospective payment of such benefits.

(C)

(1) At the end of each academic year, a qualified child shall certify the child's registration with an institution of learning or training and completion of all courses for such academic year.

(2) The retirement system may require or request such certification at any other time and/or additional supporting documentation.

(D)

(1) The retirement system may delay or terminate benefits to a qualified child if:

(a) The child is no longer attending an institution of learning or training; or

(b) The retirement system does not receive a timely and properly verified certification as required by this rule.

(2) Any benefit payment made for a period in which the child was not attending an institution of learning or training, or for which there was no proper verified certification as required by this rule shall be deemed an overpayment of the benefit. Any overpayment of a benefit shall be repaid to the retirement system by the child or the child's parent or guardian or obtained by the retirement system pursuant to section 3309.70 of the Revised Code.

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CERTIFIED ELECTRONICALLY

Certification

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3309-1-18

Payment of employee and employer contributions.

(A) For purposes of this rule:

(1) "Employer" has the same meaning as in section 3309.01 of the Revised Code.

(2) "Employee" has the same meaning as in section 3309.01 of the Revised Code.

~~(3) "Compensation" has the same meaning as in section 3309.01 of the Revised Code.~~

~~(4)~~(3) ~~"Report month" means the month in which compensation was paid.~~
"Contribution report" means payroll data for each pay date that has been cleared of any errors or warnings.

~~(5)~~(4) "Surcharge" means the employer minimum compensation contribution amount determined pursuant to section 3309.491 of the Revised Code.

(B) Employee contribution payments shall be remitted to the school employees retirement system by the ~~fifteenth~~fifth business day ~~of the month~~ following the ~~report month pay date~~.

(C) ~~Payroll data~~ Contribution reports shall be submitted to the retirement system by the ~~fifteenth~~fifth business day ~~of the month~~ following the ~~report month pay date~~.

(D) ~~Effective July 1, 2010, payments~~ Payments due under section 3309.51 of the Revised Code and paid by an employer directly to the employers' trust fund shall be remitted ~~monthly~~ by the ~~15th~~fifth business day ~~of the month~~ following the ~~report month~~pay date.

(E) ~~Effective July 1, 2010, payments~~ Payments due to the employers' trust fund pursuant to section 3309.51 of the Revised Code and received from the amounts allocated under Chapter 3317. of the Revised Code, section 3314.08 of the Revised Code, and section 3326.33 of the Revised Code shall be remitted each month and attributed to that month.

(F) Annually, the retirement system shall issue a final school year statement that reconciles the estimated employer payments received with the employer payments owed. Within thirty days of the statement's issuance, the employer shall directly pay to the employers' trust fund any balance owed, or the retirement system shall directly refund to the employer any overpayments made. The retirement system shall not issue a refund to an employer whose reports or payments are delinquent.

~~(G)~~ Effective July 1, 2010, the retirement system shall collect overdue payments due to the employers' trust fund pursuant to section 3309.51 of the Revised Code and received from the amounts allocated under Chapter 3317. of the Revised Code, section 3314.08 of the Revised Code, and section 3326.33 of the Revised Code by way of additional installments.

- ~~(1)~~ The additional installments shall be monthly equal amounts collected over a six-year period.
- ~~(2)~~ The retirement system shall include the additional installments with the certification of the regular estimated payments to the superintendent of public instruction.
- ~~(3)~~ In the event of a short fall of available funds to cover both the regular and additional payments, the employer shall remit the full amount of the short fall directly to the employers' trust fund no later than the fifteenth day of the month following the report month.
- ~~(4)~~ The retirement system may agree to a modified payment plan as to an employer declared to be in fiscal watch or fiscal emergency pursuant to section 3316.03 of the Revised Code. To obtain a modification, the employer must submit a proposed payment plan and obtain written approval of its terms from the retirement system.

~~(H)~~(G) Effective July 1, 2010, ~~surcharge~~Surcharge payments due to the employers' trust fund shall be collected in one of the following ways:

- (1) An employer who does not receive amounts allocated under section 3314.08 or 3326.33 of the Revised Code may choose to pay its surcharge directly to the employers' trust fund. An employer who chooses this option must pay its surcharge within thirty days after receipt of the certified amount due from the retirement system.
- (2) For those employers who do not choose the direct pay option under paragraph ~~(H)~~(G)(1) of this rule, as well as employers who receive amounts allocated under section 3314.08 or 3326.33 of the Revised Code, the retirement system shall include surcharge payments in the estimated payments certified to the superintendent of public instruction pursuant to section 3309.51 of the Revised Code.

~~(H)~~(H) For any payments made pursuant to paragraphs (B), (D), (F), ~~(G)~~ and ~~(H)~~(G)(1) of this rule, a payment report remittance information shall be submitted in the manner specified by the retirement system no later than the date the payment is remitted.

~~(D)~~(I) The retirement system may extend a due date for an employer upon a finding that good cause has been shown.

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3309-1-30

Eligibility for retirement.

(A) This rule amplifies division (A)(1) of section 3309.34 of the Revised Code.

(B) For purposes of division (A) of section 3309.34 of the Revised Code and this rule:

- (1) "Total service credit" means all service credit earned in the public employees retirement system, state teachers retirement system, or school employees retirement system, except credit for service subject to section 3309.341 of the Revised Code. Total service credit shall not exceed one year of credit for any twelve-month period.
- (2) "Buy-up" means to pay an additional voluntary contribution in an amount equal to the additional actuarial liability to the school employees retirement system of retiring under the retirement eligibility criteria contained in division (A)(1)(a) of section 3309.34 of the Revised Code.

(C)

- (1) SERS administrative staff shall provide a cost estimate of a member's buy-up amount to any member or their designee upon request. A member who wishes to buy-up after receiving a cost estimate shall submit a written request for an actuarial cost calculation.
- (2) The actuarial cost calculation of the additional liability shall be performed by the school employees retirement system actuary based on factors recommended by the actuary and approved by the retirement board. The factors used in calculating the additional liability will be revised no more than once annually and shall apply only to payments made after such revision is approved by the school employees retirement board.
 - (a) SERS will send notice of the actuarial cost calculation to the member upon receipt from the actuary.
 - (b) The buy-up payment shall be made in a lump sum payment and shall be received by SERS within ninety days following the date of the notice or by August 1, 2017, whichever is earlier. If SERS does not receive the payment within ninety days of the notice, a new cost calculation is required.
 - (c) Members can request no more than four actuarial cost calculations in any calendar year.

- (3) The amount of any buy-up payment cannot exceed the limitations set forth in Internal Revenue Code section 415. If the cost of the additional liability exceeds the limitations set forth in the Internal Revenue Code, the member is not eligible to retire under division (A)(1)(a) of section 3309.34 of the Revised Code.
 - (4) Buy-up payments shall be treated as part of a member's accumulated contributions as defined in division (J) of section 3309.01 of the Revised Code. Contributions paid by a member pursuant to this rule shall be credited to the employees' savings fund.
- (D) Except as provided in division (A)(1)(c) of section 3309.34 of the Revised Code, to retire under division (A)(1)(a)(i) of section 3309.34 of the Revised Code, a member must meet the following requirements:
- (1) Have at least five years of total service credit and have attained at least sixty years of age before August 1, 2017;
 - (2) File with the retirement board a proper and complete application for retirement before August 1, 2017; and
 - (3) Have a retirement effective date that is no later than August 1, 2017.

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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 applicatons; serving as a hearing committee for disability applicants; and determining eligibility to obtain or continue to receive disability benefits.

(D) ~~In~~

(1) In order to qualify for a disability benefit, a member shall submit an application and undergo a medical examination by the examining physician(s) as required. The application shall include that includes report(s) from the member's member's attending physician(s) health care provider(s) that identify identifying the medical bases of the application and include supportive medical evidence, a job duty form, and a job description provided by the last employer. and undergo a medical examination by the examining physician(s) as required. Medical examinations will only be assigned for conditions identified by a health care provider.

(2) For purposes of division (C) of section 3309.39 of the Revised Code:

- (a) A disability occurs before termination of contributing service if the underlying medical condition existed while the member was contributing to SERS:
- (b) A disability occurs after last becoming a member if the underlying condition did not exist or did not render the member incapacitated from working for at least twelve continuous months when the member last became a member of SERS.

- (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)'~~ 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~~ health care provider 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~~ health care provider. The applicant's ~~attending physician~~ health care provider 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~~ health care provider and that the applicant must contact that ~~physician~~ health care provider 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~~ health care provider indicating that the ~~physician~~ provider 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)

- (1) Based on a certification of ongoing disability by the board physician, the board may waive annual examinations required by division (B) of section 3309.41 of the Revised Code, the filing of annual earnings statements 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.

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:

- (a) Has received a disability benefit for twenty years, or
- (b) Has attained age sixty-five.
- (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~~

(3) The board or the board's physician may require a disability recipient ~~the member~~ to submit to a medical examination by ~~the an~~ examining physician(s) and a vocational rehabilitation evaluation by a ~~board-appointed~~ vocational rehabilitation professional or health care professional assigned by the system.

(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 required, submit to a medical examination.

(3) If required, submit to a vocational rehabilitation evaluation.

~~(2)~~(4) If applicable, obtain any recommended medical treatment and submit medical reports regarding the treatment,

~~(3)~~(5) If applicable, obtain any recommended vocational rehabilitation and submit required reports regarding the rehabilitation,

~~(4)~~(6) 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 examination or evaluation or to file required information, the disability benefits shall be suspended until the examination or evaluation is obtained or the information is filed.

~~(1)~~(2) 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)~~(3) 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) On reexamination the board's medical advisory committee and/or 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 medical advisory committee and/or the board physician certifies that the recipient continues to be disabled, the medical advisory committee and/or 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

(a)

(i) A SERS appointed vocational consultant has submitted a report that is based on findings made at the time of the review and that identifies a position that meets the any occupation definition and has submitted a job description that includes a discussion of the physical and mental demands of the position; and

(ii) An examining physician or the medical advisory committee concludes that the recipient is capable of meeting the physical and mental demands of the position; or

(b) The recipient's current earnings statement establishes that the recipient is employed in a position whose annual earnings are seventy-five per cent or more of the recipient'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).

(3) If the medical advisory committee and/or 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 effective as of a date not later than three months after the board's concurrence, or upon notice of employment of the recipient as an employee.

(b) If the leave of absence has not expired when the board votes to terminate the disability benefit, the board shall certify 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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1/7/13, 10/4/15

3309-1-41

Appeals for denial and termination of disability benefits.

(A) The following procedures will govern in cases of a member's appeal of a denial of disability benefits including an automatic denial under paragraph (H) of rule 3309-1-40 of the Administrative Code or a disability benefit recipient's appeal of a termination of disability benefits.

(1) After formal board action is taken or an automatic denial under paragraph (H) of rule 3309-1-40 of the Administrative Code, a notice of denial or termination of disability benefits shall be issued to the applicant or former disability benefit recipient by regular or certified U.S. mail. This notice shall inform the member of:

- (a) The medical evidence reviewed;
- (b) The board's denial or termination of disability benefits; and
- (c) The procedures for appeal of a denial or termination of disability benefits as set forth in this paragraph.

(2)

(a) The member may appeal a decision to deny or terminate disability benefits within fifteen days of the date on the notice of denial or termination by filing a notice of intent to appeal such decision and by providing additional evidence. Such additional evidence must be received by the board within ninety days from the date on the notice of denial or termination and must be submitted in writing by the member or by counsel and/or personal physician on behalf of the member.

(b) If a member does not submit a notice of intent to appeal or additional evidence as required by this rule, all appeal rights shall cease and the prior decision of the board shall become final. The member shall be notified of all future rights and/or limitations to apply for disability benefits.

(c) The member may request, as part of the appeal, a personal appearance before the board with counsel and/or a personal physician. The request for a personal appearance must be in writing and submitted to the board within fifteen days of the date on the notice of denial or termination. A personal appearance will not be granted unless additional evidence as required by this paragraph is received by the board within ninety days from the date on the notice of denial or termination. If a personal

appearance is granted, the member will be notified in writing of the date and time.

(d) ~~"Additional evidence"~~

(i) For appeals whose standard is whether the member is physically and mentally capable of performing the member's last assigned primary duty as an employee, "additional evidence" means evidence that is current and pertinent to the illness or injury for which the disability was claimed and that has not been submitted before.

(ii) For appeals whose standard is whether the member is physically and mentally capable of performing the duties of a position that meets the criteria of divisions (C)(1) to (C)(3) of section 3309.41 of the Revised Code, "additional evidence" means evidence that is current and and pertinent to the illness or injury that the member claims supports the member's inability to perform the duties of a position that meets the criteria of divisions (C)(1) to (C)(3) of section 3309.41 of the Revised Code.

- (3) All costs incidental to the appeal and/or personal appearance shall be at the expense of the member.
- (4) If a personal appearance is granted, the member shall appear before the board on the date and at the time specified by the board, or as otherwise requested by the member and agreed to by the board. If the member fails to appear on the specified date and time, all rights to a personal appearance shall terminate and the appeal shall be decided on the basis of the written evidence previously submitted.
- (5) A personal appearance, if granted, shall be conducted as follows:
 - (a) The member shall appear in person and may be represented by counsel, the member's agent, and/or a personal physician, if desired. The member shall provide the name, title, and position of each person appearing on the member's behalf at least seven days prior to the hearing.
 - (b) The board shall be responsible for conducting the hearing.
 - (c) A tape recording of the hearing will be made to provide the board and the medical advisory committee with a record for further review.

- (d) Only one such appearance per application or termination will be allowed.
- (6) During the appeal process, the board's physician or the medical advisory committee may request that the member undergo an additional medical examination by an examining physician.
- (7) Following receipt of additional evidence and a personal appearance, if applicable, all evidence and information submitted shall be reviewed by the board's medical advisory committee and/or the board's physician who shall make a recommendation to the board.
 - (a) If the board concurs with a recommendation to grant the appeal, disability benefits will be paid from the benefit effective date, or if a recommendation for termination of disability benefits was appealed and the appeal is granted by the board, the payments will be resumed from the date of termination, and the applicant or benefit recipient will be so notified.
 - (b) If the board concurs with a recommendation for denial of the appeal, the applicant or benefit recipient will be notified by letter of the board's decision, such decision shall be final and all appeal rights shall cease.
- (B) The school employees retirement system administrative staff shall have the authority to act for the board in matters related to the appeal proceedings, but shall not have authority to decide appeals.
- (C) Any future applications for disability benefits filed after a denial of appeal must be submitted with medical evidence supporting progression of the former illness or injury or evidence of a new illness or injury. If such evidence is evaluated by the medical advisory committee and found to be inadequate to establish the progression of the former illness or injury or the existence of a new illness or injury, the application shall be voided.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.39, 3309.41
Prior Effective Dates: 1/21/77, 2/19/82, 10/26/84, 2/1/92, 1/2/93, 11/9/98,
5/2/01, 7/4/03, 1/30/06, 4/3/08, 4/30/09, 01/07/13

3309-1-45

Release of names, addresses and information.

Names, addresses and other information contained in records maintained by the school employees retirement system shall be released to members of the public in accordance with this rule.

- (A) Except as otherwise provided in section 3309.22 of the Revised Code, no part of an individual's personal history record shall be released to a third party except upon the written authorization of the person to whom the record pertains.

In addition to the information set forth in division (A)(1) of section 3309.22 of the Revised Code, personal history record includes, but is not limited to, any record identifying:

- (1) The amount of benefit or allowance paid or payable to any person,
- (2) The service history or service credit of a member or retiree, or
- (3) The dependents or beneficiaries of a member or retiree.

- (B) Medical reports and recommendations shall be released only under the following circumstances:

- (1) Upon written request ~~release~~ from the person to whom the report or recommendation pertains, to that person;
- (2) Upon written authorization from the person to whom the report or recommendation pertains or the person's agent, to the physician, attorney or authorized agent of that person;
- (3) To the board assigned physician.

- (C) Except as otherwise provided by law, all other system information not described in paragraph (A) or (B) of this rule shall be made available for inspection and copies provided upon request and payment of any applicable costs for copying and mailing. The person requesting a copy may choose to obtain the copy on paper, in the same medium in which the record is kept, or in any other medium in which the system determines that it can reasonably duplicate the record as an integral part of normal operations. A list of names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries shall be made available upon written request and payment of the cost of compiling, copying and mailing the list.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04, 149.43
Rule Amplifies: 3309.22, 149.43
Prior Effective Dates: 2/16/89, 2/11/00, 5/3/02, 12/10/09, 1/7/13

3309-1-47

Purchase of school board member service.

(A) This rule amplifies section 3309.311 of the Revised Code.

(B)

- (1) A member of the school employees retirement system may purchase credit for service as a school board member by filing a written request which shall include a certification of service ~~on a form provided by the school employees retirement system~~ signed by the employer.
- (2) A member may purchase credit only for qualified service that occurred prior to June 30, 1991.
- (3) A member may purchase credit for service, including concurrent service, on two or more school boards provided that the total of the credit purchased shall not exceed one year of credit for any year as defined in division (R) of section 3309.01 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.311
Prior Effective Dates: 2/1/92

ACTION: Original

DATE: 01/20/2017 1:24 PM

3309-1-48

Effect of applicant's death on retirement application.

If a member has filed ~~all required application forms~~ a proper and complete application for a retirement allowance and dies subsequent to the established effective date of the retirement, whatever benefits may be due the member's beneficiaries will be determined by the plan of payment selected by the member on the application forms for retirement.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.46
Prior Effective Dates: 2/1/92, 5/3/02

3309-1-49

Purchase of exempt service credit.

(A) A member may purchase in portions all or part of the exempt service credit that the member is eligible to purchase. Payment for any portion purchased shall be made in full at the time of purchase. A member may make subsequent purchases of any remaining exempt service credit at any time prior to retirement.

(B)

(1) If the credit to be purchased is for service that would have been covered under Chapter 3309. of the Revised Code, the system shall request certification of the service from the employer for which the service was performed. On the basis of the employer certification, the system shall determine the amount of service credit that would have been earned had the service not been exempt.

(2) If the credit to be purchased is for service that would have been covered under Chapter 145. or 3307. of the Revised Code, the system shall request certification from the applicable retirement system that the service was exempt and the amount of service credit, based upon the certification of the employer for which the service was performed, that would have been earned had the service not been exempt.

(3) The service credit determined under paragraphs (B)(1) and (B)(2) of this rule shall be reduced to the extent that:

(a) It is concurrent with any other credit that will be used in calculating a benefit;

(b) Its purchase will result in the member being credited with more than twelve months of service credit in any one year.

(C) The member shall be eligible to purchase the credit determined pursuant to paragraph (B) of this rule. The system shall calculate the cost to purchase each year of credit by multiplying the member's compensation for the twelve months of contributing service under Chapter 145., 3307. or 3309. of the Revised Code immediately preceding the month in which the application to purchase is received by a percentage rate established by the board by resolution upon recommendation of its actuary. The cost for portions of credit of less than a full year shall be prorated on the basis of the cost for a full year.

(D) For purposes of section 3309.301 of the Revised Code, one and one-half years of contributing service in the school employees retirement system or the state teachers retirement system shall be equivalent to eighteen months of contributing service.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.301
Prior Effective Dates: 5/13/92 (Emer.), 8/1/92, 5/3/02

3309-1-51

Long-term care coverage.

- (A) The school employees retirement system may contract directly with an insurer to establish a program that provides contracts for long-term care insurance for members and benefit recipients of the system and members of their families. If the program is established jointly with another retirement system, the contract shall separately establish the terms and conditions for participation through the school employees retirement system.
- (B) Members of the school employees retirement system who have contributed to the system during the previous eighteen months may make application to participate in contracts effective on and after July 1, 1994 for long-term care coverage offered pursuant to section 3309.691 of the Revised Code, provided:
- (1) Application for coverage shall be made directly to the insurer during enrollment periods specified by the school employees retirement system; and
 - (2) Determination of eligibility for participation under the terms of any such contract shall be made by the insurer with approval of the school employees retirement system.
- (C) The recipient of any monthly benefit may participate in contracts for long-term care coverage, subject to the same conditions as those applicable to members under the terms of paragraph (B) of this rule.
- (D) Payment for coverage shall be made by the member or benefit recipient to the insurer in such amounts and by such methods as determined under the contract for long-term care coverage.
- (E) A spouse, parent or parent-in-law of any individual who has made application pursuant to paragraph (B) or (C) of this rule may apply for coverage subject to the same terms and conditions as those applicable to members under the terms of paragraph (B) of this rule, provided that in the case of a spouse, the individual participating pursuant to paragraph (B) or (C) of this rule agrees to remit the cost of such coverage along with his or her own payment.

Five Year Review (FYR) Dates: 02/01/2017 and 02/01/2022

CERTIFIED ELECTRONICALLY

Certification

02/01/2017

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.691
Prior Effective Dates: 6/10/94, 5/3/02

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 payroll officer of 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) 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.

(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.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.021, 3309.022, 3309.26, 3309.261, 3309.262,
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, 08/13/15

3309-1-57

Rule on rules.

- (A) The procedures provided herein shall apply to all rules having a general and uniform application which affect the rights, privileges, or benefits of the members of the system, of the benefit recipients of the system, or of the employer units defined in section 3309.01 of the Revised Code. The word "rule", as used herein, shall include any proposed amendments to or rescission of existing rules.
- (B) The school employees retirement board shall adopt rules pursuant to section 111.15 of the Revised Code.
- (C) Any person may obtain, at cost, advance notification of the proposed adoption of any rule by requesting that his or her name be included on a mailing list to be maintained by the system. At least seven days prior to the date on which the board intends to consider the adoption of any rule, the system shall mail to each person on such mailing list an agenda of the meeting which shall contain a synopsis of the proposed rule and a statement of the date, time and place of the meeting.
- (D) Notice of rules adopted shall be reported as applicable, in publications sent to employers, members, contributors and/or retirants and benefit recipients.
- (E) Any person may obtain, ~~at cost,~~ a copy of any rule adopted.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.04
Prior Effective Dates: 12/24/76, 11/9/98

3309-1-59

Cincinnati Retirement System.

(A) This rule amplifies sections 3309.74, 3309.75, and 3309.76 of the Revised Code.

(B) As used in this rule: ~~"Eligible~~

(1) "Eligible service credit" means service credit earned under this system or the Cincinnati retirement system or military service credit purchased or obtained in this system or the Cincinnati retirement system.

~~(C)~~(2) "Eligible SERS member" means a member ~~or former member~~ of this system who is eligible to obtain service credit in this system for service in the Cincinnati retirement system pursuant to section 3309.75 of the Revised Code.

~~(D)~~(3) "Eligible CRS member" means a member or former member of this system who is eligible to obtain service credit in the Cincinnati retirement system pursuant to section 3309.76 of the Revised Code.

~~(E)~~(C) To obtain service credit in this system for eligible service credit with the Cincinnati retirement system, a an eligible SERS member shall file a written request on a form provided by this system. Upon receipt of the properly completed form, this system shall notify the Cincinnati retirement system.

~~(F)~~(D) This system shall grant .083 percent of a year of service credit in this system per month of eligible service credit with the Cincinnati retirement system upon payment of the following amounts:

(1) Payment by the Cincinnati retirement system of the amounts required under division (B) or division (C)(2) of section 3309.75 of the Revised Code.

(2) Payment by the eligible SERS member of the amounts required under division (C)(1) of section 3309.75 of the Revised Code with interest as provided by rule 3309-1-38 of the Administrative Code.

~~(G)~~(E) If the Cincinnati retirement system fails to pay any amounts required under division (B) or division (C)(2) of section 3309.75 of the Revised Code, this system shall not grant any service credit for which payment was not received and shall:

(1) provide notice to the eligible SERS member; and

(2) refund any amounts paid by the eligible SERS member under division (C)(1) of section 3309.75 and paragraph ~~(F)~~(D)(2) of this rule for which service credit is

not granted.

~~(H)~~(F) An eligible SERS member may obtain service credit pursuant to section 3309.75 of the Revised Code in increments of one month. Service credit obtained in this system shall be deemed to be based first on the eligible SERS member's most recently acquired eligible service credit in the Cincinnati retirement system.

~~(H)~~(G) No service credit shall be granted in this system that would result in the eligible SERS member accruing more than one year of service credit for any twelve-month period.

~~(H)~~(H)

(1) This system shall pay to the Cincinnati retirement system the amounts required under section 3309.76 of the Revised Code upon receiving written notice from the Cincinnati retirement system that the eligible CRS member has filed a request to obtain service credit in the Cincinnati retirement system and paid any amounts required.

(2) If less than the eligible CRS member's total eligible service credit in this system is obtained in the Cincinnati retirement system pursuant to division (B) of section 3309.76 of the Revised Code, any benefits or payments to which the eligible CRS member or beneficiaries may be entitled shall be based on the remaining service credit with this system.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.74, 3309.75, 3309.76
Prior Effective Dates: 11/19/01, 2/11/02

3309-1-60

Division of property orders.

- (A) "Order" means an order described in section 3105.81 of the Revised Code.
- (B) "Alternate payee", "benefit", "lump sum payment" and "participant" have the meanings set forth in divisions (A) to (D) of section 3105.80 of the Revised Code.
- (C) School employees retirement system may retain an order that provides the last four digits of the participant's and alternate payee's social security numbers.
- (D) Prior to receiving a benefit or lump sum payment, an alternate payee shall provide the information required on a form approved by this system. An alternate payee shall notify this system in writing of any change in the information provided.
- (E) Any benefit or lump sum payment that is owed and unpaid to an alternate payee at the time of the alternate payee's death shall be paid to the estate of the alternate payee.
- (F) Pursuant to section 3105.90 of the Revised Code, an order shall be on the form prescribed by the appendix to this rule. ~~However, the~~ The system may also accept the version of the form prescribed by the previous appendix to this rule that was effective January 1, 2014~~2010, but only until June 30, 2014.~~
- (G) Starting with a participant's next annual benefit increase under section 3309.374 of the Revised Code on or after October 27, 2006, the annual increase shall be apportioned between the participant and the alternate payee while the order is in effect.

Effective:

Five Year Review (FYR) Dates: 01/20/2017

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3105.80, 3105.81, 3105.82, 3105.821, 3105.83,
3105.84, 3105.85, 3105.86, 3105.87, 3105.88,
3105.89, 3105.90, 3309.374
Prior Effective Dates: 1/1/02 (emer.), 4/5/02, 10/3/03, 10/27/06, 1/1/10,
1/1/14

3309-1-67

Electronic transactions.

The school employees retirement system may provide an electronic medium to perform an action and such medium shall constitute a form or application provided or required by the system. An action taken through the electronic medium shall have the same effect as a filing made on paper.

The system is not required to create an electronic medium to perform an action, nor accept an electronic document that is not designated by the system as the form or application necessary to perform an action.

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.28, 3309.34, 3309.341, 3309.344, 3309.35,
3309.381, 3309.39, 3309.41, 3309.44, 3309.56

5505-9-01 **Election of board members.**

(A) The state highway patrol retirement system (HPRS) board shall conduct elections in accordance with Chapter 5505. of the Revised Code and this rule.

(B) For the purpose of this rule:

(1) "Contributing member" shall be a member described in division ~~(H)~~ of section 5505.01 and section 5505.51 of the Revised Code that is making contributions pursuant to section 5505.15 or 5505.52 of the Revised Code. Eligibility of a "contributing member" shall be determined on the first Monday in April of the year of the election.

(2) "Retirant member" shall have the meaning described in division ~~(K)~~ of section 5505.01 of the Revised Code. ~~For the purpose of this rule, "Retirant member" shall also include DROP participants.~~ Eligibility of a "retirant member" shall be determined on the first Monday in April of the year of the election.

(C) Notification of elections

(1) For any election of an employee member, a notice of election shall be distributed by appropriate means to each facility where a contributing member is assigned not later than May first of the election year. For any election of a retiree member, a notice of election shall be sent to each eligible retirant member through appropriate means not later than May first of the election year.

(2) The notice of election shall include a statement of the requirements for candidacy forms, the date after which candidacy forms shall be available, the final date for receipt of completed candidacy forms, the final date for receipt of completed election ballots, and the date and place for the election count to be conducted under the supervision of judges as designated in paragraph (E) of this rule. The notice of election, candidacy form, and voting instructions shall be approved by the board at its regular February meeting.

(D) Candidacy forms

(1) Candidacy forms may be obtained at the HPRS offices during normal business hours after May first of the election year. Candidacy forms will also be available at www.ohprs.org. Candidacy forms will be mailed by HPRS only upon request.

(2) Candidacy forms must be filed with the HPRS office not later than four thirty

p.m. on the date set by the board pursuant to paragraph (C) of this Rule. Persons filing a candidacy form may also submit either a resume or a candidacy statement. A resume or candidacy statement may not exceed one single-sided page and must be submitted with the candidacy form.

(E) Ballots and voting

- (1) HPRS may conduct an election by paper ballots or through electronic methods.
- (2) The ballot position of each candidate's name shall be rotated.
- (3)
 - (a) Voting materials for each retirant member of the retirement system shall include a ballot, copies of the applicable candidacy form, the resume or candidacy statement, voting instructions, and any other materials the retirement board deems necessary. Voting material shall be distributed to each retirant member by June twentieth of the election year. If the voting instructions are not explicitly followed, the ballot will be voided.
 - (b) HPRS shall send each contributing member a ballot, voting instructions, and any other material the retirement board deems necessary by June twentieth of the election year. Candidacy forms, resumes, and candidacy statements shall be distributed by appropriate means to each facility where a contributing member is assigned not later than June twentieth of the election year. If the voting instructions are not explicitly followed, the ballot will be voided.
- (4)
 - (a) Completed ballots must be received at the HPRS office, in a manner described in the voting instructions, not later than four-thirty p.m. on the date set by the board pursuant to paragraph (C) of this rule.
 - (b) As ballot return envelopes are received at HPRS, each shall be date and time-stamped and recorded on the master list of contributing member and retirant member account numbers.
- (5)
 - (a) No sooner than the fourth business day following July twentieth, ballots

shall be counted by a committee that includes at least one trustee appointed by the chair. The counting shall be monitored by a representative of the secretary of state.

- (b) The candidate may attend the counting of ballots. If the candidate is unable to attend, the candidate may designate, in writing, a member to be present during the counting of ballots. Designations must be made by July twentieth of the election year. No other person, except HPRS employees and individuals described in this rule, may attend the counting of ballots.
- (c) Within twenty-four hours of the completion of the count, the elections results shall be forwarded to each facility to which a contributing member is assigned. The election results shall be published on the retirement board's website within thirty days.
- (6) There shall be no provision for a recount; however, ballots shall be held for public inspection for thirty days. Ballots may be destroyed by the executive director after the public inspection period.
- (7) The official certification of the ballot totals may be destroyed after four years.
- (8) In the event of a tie, the winner shall be determined by a coin toss conducted by the representative of the secretary of state with "heads" being assigned to the candidate whose last name is first alphabetically and "tails" assigned to the other candidate. If three or more candidates are tied, the representative of the secretary of state shall draw names to select the winner amongst the tied candidates. A name shall be drawn for each vacancy. The manner in which the names are drawn shall be determined by the representative of the secretary of state with the concurrence of the trustee member of the committee selected in accordance with paragraph (E)(5)(a) of this rule.
- (9) In the event of more than one vacancy for the same term, a single election shall be held and the candidates with the most votes shall be elected.
- (F) If the number of candidates is less than or equal to the number of available board seats, each candidate shall be certified as a trustee without the need for an election.
- (G) The board may invalidate an election if, in its discretion, improprieties have had a substantial impact on the fairness of the election.
- (H) Pursuant to section 5505.042 of the Revised Code, a special election shall be held in

the event of a vacancy or if the board invalidates an election pursuant to paragraph (G) of this rule. The process for a special election shall be the same as for a regular election except all the dates outlined in this rule shall be set as appropriate. No election shall occur if the remainder of the unexpired term is less than ninety days.

- (I) All information, ballots, instructions, correspondence or other material described in this rule shall be sent to the address on file with HPRS. It is the sole responsibility of the contributing member or retirant member to ensure HPRS has his or her most current address.

Effective:

Five Year Review (FYR) Dates: 05/16/2019

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5505.07, 5505.047
Rule Amplifies: 5505.04, 5505.041, 5505.042, 5505.043, 5505.52
Prior Effective Dates: 1/1/1986, 1/1/1987, 1/1/1989, 5/1/1990, 2/1/1994,
8/1/1994, 12/9/2005, 12/11/2009, 5/16/2014

5505-3-02

Disability retirement application and hearing process.

(A) For the purpose of sections 5505.18 and 5505.181 of the Revised Code and agency 5505 of the Administrative Code:

- (1) "Member" shall have the meaning described in division (J) of section 5505.01 of the Revised Code except "member" does not include state highway patrol cadets attending training schools pursuant to section 5503.05 of the Revised Code.
- (2) A terminated employee, whether the termination from the state highway patrol is voluntary or involuntary, ceases to be a member of the state highway patrol retirement system (HPRS). Except as provided in Administrative Code Rule 5505-3-07, a member shall not be considered terminated while receiving benefits pursuant to section 124.385 of the Revised Code.
- (3) "Totally and permanently incapacitated" means a disabling condition that physically or mentally totally incapacitates a member from the performance of regular duty for a period of at least twelve months from the date of HPRS's receipt of the completed application packet.
- (4) "In the line of duty" means an illness or injury that occurred during or resulted from the performance of official duties under the direct supervision of the state highway patrol.
- (5) "Not in the line of duty" means an illness or injury that did not occur during or result from the performance of official duties under the direct supervision of the state highway patrol. Unless the illness or injury meets the presumption criteria outlined in division (A) of section of section 5505.18 of the Revised Code or competent and credible evidence is submitted to HPRS, a disability condition is presumed to be not in the line of duty.
- (6) "Disability committee," as referred to in this rule, shall mean the "health, wellness, and disability" standing committee established pursuant to paragraph (A)(1) of 5505-9-08 of the Administrative Code.
- (7) "Medical advisor," as referred to in this rule, shall mean the expert physician appointed by HPRS' board who advises the disability committee and board during its deliberations relating to disability applications.
- (8) "Examining physician" means a physician recommended by the medical advisor and approved by the HPRS board.
- (9) Unless otherwise stated in this rule, all notifications or correspondence shall be

sent by regular U.S. Mail to the member's address included in disability benefits application unless HPRS receives notice in writing of an alternative address.

- (B) A disability benefits application packet, hereafter referred to as application packet, provided by HPRS may be filed by a member, a person acting on behalf of a member, or the superintendent of the state highway patrol. In order for the application packet submission to be considered complete, the applicant will submit the following:
- (1) A completed application for disability benefits, on a form approved by the board, listing the disabling condition(s),
 - (2) Attending physician medical evaluation form and statement, on a form approved by the board, supporting the disabling condition(s) listed in the application,
 - (3) Employer determination and completed form of applicant's inability to perform his/her job duties and responsibilities, and
 - (4) All medical reports and documentation that relate to the disabling conditions listed in the application.
 - (5) An incomplete application packet will not be accepted and will not be considered filed.
 - (6) Once an application packet has been accepted by HPRS and submitted to the medical advisor, additional medical reports or documentation will not be accepted unless requested by the board, disability committee or the medical advisor. Any documentation that is received by HPRS after submission of the application packet to the medical advisor shall be held and included as part of any reconsideration hearing as described within this rule. Should the right to reconsideration not be exercised, the additional medical evidence will be returned to the applicant.
 - (7) An application packet that does not include an attending physician medical evaluation statement that indicates the applicant is totally and permanently incapacitated will not be accepted.
- (C) Upon receipt of a completed application packet, ~~including all pertinent medical reports~~, HPRS shall schedule the applicant for an examination by at least one examining physician with expertise in the disabling condition(s) listed in the application as recommended by the medical advisor, unless the medical advisor

recommends it is inadvisable to do so.

- (1) Payment of any fees connected to the acquisition of records or the preparation of reports of the attending physicians shall be the responsibility of the member.
 - (2) Payment of any fees connected with the preparation of report of the examining physician(s) shall be the responsibility of HPRS.
- (D) After examining the applicant and reviewing the application packet, any medical reports submitted by the applicant, and the results of any additional medical testing, the examining physician will file a written report with HPRS with the following information:
- (1) Whether the member is totally incapacitated for duty in the employ of the patrol,
 - (2) Whether the incapacity is expected to be permanent, and
 - (3) The cause of the member's incapacity.
- (E) After the examining physician(s)' report(s) is submitted, the medical advisor shall review the entire record and file a written report with HPRS with the following information:
- (1) A recommendation of whether the applicant should be granted disability retirement benefits based on the medical advisor's independent review or the record.
 - (2) Whether the injury or illness was in the line of duty or not in the line of duty.
 - (3) Recommended medical treatment and medical reports.

The medical advisor's report shall be considered an independent medical opinion.

- ~~(E)~~(F) When all necessary medical reports and records have been received by HPRS, including the completed application packet, examining physician's report described in paragraph (D) of this rule, and the medical advisor's report / recommendation described in paragraph (E) of this rule, HPRS shall schedule a hearing to be held at the next disability committee meeting. If HPRS does not receive the required information described in this paragraph of this rule at least fourteen days before the next disability committee meeting, the application will be heard at the following

scheduled meeting of the disability committee.

~~(F)~~(G) No less than ~~ten~~ fourteen days prior to the hearing, the applicant will be notified ~~sent notification by certified mail or another method that is acknowledged in writing by the applicant of:~~

- (1) The hearing date and time, and
- (2) The right to appear at the hearing, with or without counsel, to present testimony.
- (3) If circumstances warrant it, the ~~ten-day~~ notice requirement may be waived upon mutual consent of the applicant and HPRS.

~~(G)~~(H) The disability committee hearing will be held in executive session. An audio recording of testimony on behalf of the applicant will be made to provide the disability committee and board with a record for further review, notwithstanding rule 5505-9-07 of the Administrative Code. The disability committee will consider the application packet, the examining physician's report, the recommendation of the medical advisor, and other relevant information.

- (1) Consideration of a member's application by the disability committee and board shall be limited to the disabling condition(s) listed in the application and listed in the attending physician's report as described in paragraph (B)(2) of this rule that are supported by medical documentation provided to HPRS.
- (2) Acts occurring after the application packet is completed and accepted that create new disabling condition(s) or progress the disabling condition(s) described in paragraph ~~(G)~~(H)(1) of this rule will not be considered by the disability committee or the board. Nothing in this division shall preclude a member from filing a new application for disability benefits.

~~(H)~~(I) The disability committee may recommend one or more of the following to the board:

- (1) Approval or denial of the application,
- (2) A finding on whether or not the disability occurred in the line of duty,
- (3) A finding that disability retirement be contingent on compliance with a treatment plan,

- (4) Postpone determination, pending an additional examination, or the submission of additional fact, or
- (5) No decision, if the disability committee cannot agree on a recommendation or acquire a majority vote.
- (I)(J) No more than ~~ten~~ five days after the hearing, the applicant will be ~~notified~~ sent notification by certified mail or another method that is acknowledged in writing by the applicant of:
- (1) The disability committee's recommendations,
 - (2) The right to request reconsideration of the disability committee's decision.
- (J)(K) ~~Within~~ No more than twenty ~~ten~~ ten days ~~of receiving notification of the disability committee's recommendations~~ after the initial hearing, the applicant may file a written request for reconsideration. The written request shall be accompanied by a statement from the applicant, his or her counsel and/or attending physician that the request for reconsideration will be based on evidence contrary to the findings of the examining physician or the committee.
- (1) The request for reconsideration will be considered at the next regularly scheduled meeting of the disability committee unless rescheduled for the reasons outlined in paragraph (JK)(2) of this rule.
 - (2) ~~Within~~ No more than twenty ~~ten~~ ten days ~~after requesting reconsideration of receiving the notification of the disability committee's recommendation~~, the member must file new medical evidence relative to the disabling condition(s) considered by the disability committee. The member may request one extension of twenty days to submit new medical information. One additional extension, of no greater than twenty days, will be granted if the member can show, and the medical advisor concurs, that additional time is needed to obtain relevant new medical evidence that is already in progress. If additional extensions are granted, the request for reconsideration will be rescheduled to the next available disability committee meeting. HPRS shall void the request for reconsideration if new medical evidence is not received by HPRS in the time described in this paragraph.
 - (3) Copies of the reports of the examining physician will be sent to the member and the member's agent upon written authorization of the member, unless the release of such reports is otherwise prohibited by law. The medical advisor's recommendation will not, however, be released until the committee has made

a recommendation regarding the member's disability application.

- (4) The disability committee will consider only new medical evidence and new relevant information submitted in support of the request for reconsideration.
 - (5) The applicant has the right to appear at the hearing, with or without counsel, to present new relevant evidence and testimony, and
 - (6) Evidence, information, or other documentation not already submitted in accordance with this rule will not be permitted.
- ~~(K)~~(L) At the conclusion of the reconsideration hearing, the disability committee may recommend one or more of the following to the board:

- (1) Approval or denial of the application,
- (2) A finding on whether or not the disability occurred in the line of duty,
- (3) A finding that disability retirement be contingent on compliance with a treatment plan,
- (4) Postpone determination, pending an additional examination, or the submission of additional fact, or
- (5) No decision, if the disability committee cannot agree on a recommendation or acquire a majority vote.

~~(L)~~(M) ~~No more than ten days after the hearing, the applicant will be notified by certified mail or another method that is acknowledged in writing by the applicant of:~~

- (1) ~~The disability committee's recommendations. Except as provided in paragraph (M)(2) of this rule, the committee's recommendation will be considered at the next regularly scheduled meeting of the board. The board may adopt or reject the recommendation, in whole or in part, or remand the recommendation to the disability committee for further consideration. Unless requested by the board, an applicant may not appear before the board. The decision of the board is final.~~
- (2) ~~The date the board will hear the disability application. If the disability committee postpones determination pursuant to paragraph (L)(4) of this rule, no more than five days after the hearing, the applicant will be sent notification of the~~

reason for the postponement and the date the committee will make a final recommendation to the board.

- ~~(M) At the next regularly scheduled meeting of the board, the disability committee's recommendations on a disability application may be adopted or rejected, in whole or in part, or remanded to the disability committee for further consideration. Unless requested by the board, an applicant may not appear before the board. The decision of the board is final.~~
- (N) The member will be notified of the board's action no more than ten days after the board meets ~~and such notice will be sent by certified mail or another method that is acknowledged in writing by member.~~ If benefits are granted, the member shall be advised of the member's right to:
- (1) Accept the benefit granted; or
 - (2) Waive the benefit and continue working
 - (a) No later than thirty days after ~~receipt of the notice of~~ the board's final action, the member shall elect, on a form provided by the board, either to accept or waive the board's grant of disability benefits.
 - (b) If no such election is made within the thirty day period provided in paragraph (N)(2)(a) of this rule, the award shall be rescinded. If benefits are accepted but the member fails to terminate employment with the state highway patrol within the thirty day period provided in paragraph (N)(2)(a) of this rule, the award shall be rescinded.
- (O) As a condition to granting an application for disability benefits, the member shall agree in writing, on a form provided by the board, to obtain any medical treatment recommended by the examining physician or medical advisor and submit the required medical reports as required by the board.
- (1) Such additional medical treatment shall be of common medical acceptance and readily available, and may include, but is not limited to, medicine, alcohol and/or drug rehabilitation, or mechanical devices.
 - (2) Such additional medical treatment must be an allowable medical expense under HPRS' medical expense benefits program.
 - (3) The member shall also agree in writing to provide, upon HPRS' request, any existing medical report relevant to the member's disability.

- (4) If the member fails to submit a required medical report or does not continue treatment, the member's disability benefit shall be suspended until such report is received by HPRS, the member resumes treatment or the physician providing treatment certifies, and the medical advisor concurs, that treatment is no longer helpful or advisable. If such failure continues for one year, the disability benefit shall be terminated.
- (P) Any subsequent application for a disability benefit filed after a denial of a disability application or termination of previously granted disability benefits shall be submitted with medical evidence, to the satisfaction of the medical advisor, supporting progression of the disabling condition or evidence of a new disabling condition.
- (Q) A member may withdraw an application packet prior to the disability committee's initial recommendation described in paragraph ~~(G)~~ of this rule.

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Five Year Review (FYR) Dates: 03/28/2018

Certification

Date

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3/28/2002, 1/1/1986

5505-3-03

Review of eligibility to continue disability retirement benefits.

(A) For the purpose of this rule:

(1) "Medical advisor" and "examining physician" have the same meaning as rule 5505-3-02 of the Administrative Code.

(2) "Benefit recipient" means any person who is receiving disability retirement benefits pursuant to section 5505.18 of the Revised Code.

(B) Every benefit recipient under the age of sixty annually shall be subject to a medical examination by HPRS' examining physician, unless the board's medical advisor certifies that a benefit recipient's disability is ongoing and the board waives the requirement that the benefit recipient undergo an annual medical examination.

(C) Every person under the age of sixty who is receiving disability benefits pursuant to section 5505.18 of the Revised Code shall annually submit a statement of earnings, an attending physician's report, and any other medical or employment information as deemed necessary by the executive director or medical advisor to determine whether the benefit recipient is still disabled as defined by section 5505.18 of the Revised Code. The board may waive the requirement to submit an annual statement of earnings or attending physician's report if the board's medical advisor certifies that a disability benefit recipient's disability is ongoing.

(1) The information required pursuant to paragraph (C) of this rule shall be submitted at a time designated by the executive director, and shall be reported on forms provided by HPRS.

(2) The information required pursuant to paragraph (C) of this rule shall be reviewed by the medical advisor. If the medical advisor determines the benefit recipient may no longer be disabled or if the benefit recipient has requested termination of benefits, HPRS shall:

(a) Schedule a medical examination with an examining physician recommended by the medical advisor.

(b) If the examining physician certifies the benefit recipient no longer meets the disability standards set forth in section 5505.18 of the Revised Code, HPRS staff and medical advisor shall present the benefit recipient's file to the board at the next available meeting. No additional information will be accepted from the benefit recipient except as described in paragraph (E)(2) of this rule. Unless requested by the board, the benefit recipient may not appear before the board.

(3) The board shall review the examining physician's report and if it concurs with the examining physician's certification that the benefit recipient no longer meets the disability standards set forth in section 5505.18 of the Revised Code, the disability benefits shall terminate the earlier of:

- (a) thirty days after the board concurs with the examining physician's certification.
 - (b) upon employment with the state highway patrol, or
 - (c) upon employment in a position as described in Ohio Administrative Code rule 5505-3-03.1.
 - (d) Notwithstanding paragraph (C)(3)(a) of this rule, disability benefits will terminate the earlier of sixty days after the board concurs with the examining physician's certification or upon employment with the state highway patrol if HPRS receives confirmation from the state highway patrol that the benefit recipient will be reinstated.
- (D) The benefit recipient will be sent notification of the board's action no more than five days after the board meets and such notice will be sent by regular US mail to the benefit recipient's last known address. The notice will inform the benefit recipient of the date his or her benefits will terminate, if applicable, and his or her right to appeal.
- (E) Within twenty days of the board's decision, the benefit recipient may file a written notice of appeal. The notice of appeal shall reference the decision being appealed and shall include the reason(s) why the decision is being appealed. If the benefit recipient does not file a notice of appeal as described in this rule, the board's determination made under paragraph (C) of this rule is final.
- (1) The notice of appeal will be considered at the next regularly scheduled meeting of the board. Except as provided in this rule, benefits shall not be terminated while an appeal is pending.
 - (2) Within forty days of the board's determination made under paragraph (C) of this rule, the benefit recipient must file any evidence he or she would like considered by the board. New disabling conditions and the related medical evidence will not be considered. Extensions will only be granted if the benefit recipient can show, and the board chair concurs, that additional time is needed to obtain relevant new medical evidence and the process for obtaining that evidence is already in process. HPRS shall void the notice of appeal if new evidence is not received by HPRS in the time described in this paragraph.
 - (3) Copies of the reports of the examining physician and medical advisor will be sent to the member and the member's agent upon written authorization of the member, unless the release of such reports is otherwise prohibited by law. However, the medical advisor's recommendation will not be released until the board has made an initial decision regarding the member's disability benefits.

- (4) The applicant has the right to appear at the hearing, with or without counsel, to present new testimony.
- (5) Evidence, information, or other documentation not already submitted in accordance with this rule will not be permitted.
- (6) The board's decision is final.
- (F) Nothing in this rule or any waiver granted by the board shall waive any rights of HPRS to request the benefit recipient to undergo a medical examination if information is received at any time which indicates the benefit recipient may no longer be eligible for disability benefits.
- (G) Any benefit recipient who desires to be reexamined in conjunction with a request to return to active duty status shall first be required to submit a medical examination report from a physician of his or her choice, which certifies that the benefit recipient is no longer eligible for disability benefits. The benefit recipient shall then be subject to the process described in paragraph (C) of this rule.
- (H) Failure to comply with the provisions identified in this rule may result in the suspension of disability and healthcare benefits.

 - (1) Unless for good cause shown, the disability benefit recipient shall be presumed to have refused to submit to the medical examination by an examining physician if HPRS has scheduled such examinations two times and such disability benefit recipient has canceled, rescheduled, or failed to submit to such scheduled medical examinations.
 - (2) The refusal of a benefit recipient to submit to a medical examination or submit employment information requested pursuant paragraphs (B) and (C) of this rule shall result in the suspension of disability benefits and health care or prescription benefits selected by the disability benefit recipient, if any, upon thirty days prior written notice to the benefit recipient and shall continue until compliance.

 - (a) The suspension of disability and health care or prescription drug benefits selected by the disability benefit recipient, if any, shall be effective on the first day of the month immediately following the expiration of the aforementioned thirty day notice period.
 - (b) In the event the benefit recipient submits to the required medical examination or information after the aforementioned thirty day notice period, HPRS will reinstate the benefit recipient's disability and health care or prescription drug benefits selected by the benefit recipient, if any, on the first day of the month immediately following the benefit recipient's compliance.

5505-3-03

4

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1/1/1986, 2/15/1981

5505-3-07**Deferred retirement option plan.**

(A) As provided for in section 5505.50 of the Revised Code, the date of the initial implementation of the deferred retirement option plan (DROP) shall be June 15, 2006.

(B) A member's election to participate in DROP is effective the later of:

(1) the first day of the employer's payroll immediately following the board's receipt of the notice of election;

(2) the first day of the employer's payroll designated by the member in the notice of election as long as the designated payroll is within thirty days of the board's receipt of the notice of election; or

(3) the first day of the employer's payroll immediately following the member's eligibility to participate in DROP.

(C) A DROP participant may apply for disability retirement pursuant to sections 5505.18 and 5505.58 of the Revised Code and rule 5505-3-02 of the Administrative Code.

(1) HPRS shall void an application for disability retirement upon an event that terminates the member's DROP participation as defined by section 5505.55 of the Revised Code.

(2) A DROP participant who qualifies for disability retirement and elects to receive benefits pursuant to division (A)(1) or (B) of section 5505.58 of the Revised Code shall be age and service retired and not subject to the requirements of sections 5505.18 of the Revised Code or rule 5505-3-03 of the Administrative Code.

(3) A DROP participant who qualifies for disability retirement and elects to receive benefits pursuant to division (A)(2) of section 5505.58 of the Revised Code shall be disability retired and subject to the requirements of section 5505.18 of the Revised Code and rule 5505-3-03 of the Administrative Code.

(4) A member that is receiving disability retirement benefits pursuant to division (A)(2) of section 5505.58 of the Revised Code that returns to active service will be considered an active member and must submit a new application for DROP. Amounts previously forfeited pursuant to section 5505.58 of the Revised Code shall not be accrued to the members benefit.

(5) A member whose participation in DROP terminates as a result of qualifying for disability pursuant to section 5505.58 of the Revised Code shall not forfeit the interest credited under division (C) of section 5505.54 of the Revised Code except as provided in division (A)(2) of section 5505.58 of the Revised Code.

(D) Interest shall continue to accrue pursuant to division (C) of section 5505.54 of the Revised Code after a member's participation in DROP ceases.

(E)

(1) As described in division (B)(1) of section 5505.56 of the Revised Code, "on or after the first day of the fourth year" and "earlier than four years" shall mean after three years have elapsed since the DROP effective date as described in paragraph (B) of this rule.

(2) As described in division (B)(2) of section 5505.56 of the Revised Code, "on or after the first day of the third year" and "earlier than three years" shall mean after two years have elapsed since the DROP effective date as described in paragraph (B) of this rule.

(F)

(1) Provided that the other candidacy eligibility criteria are met, a member participating in DROP shall be eligible to be elected as an employee member of the retirement board, but shall not be eligible to be elected as a retirant member of the retirement board.

(2) A retirement board trustee who ceases participation in DROP shall no longer be eligible to be an employee member of the board of trustees. The trustee's position on the board of trustees shall be vacant upon the effective date of the DROP termination.

(G) Surviving spouses and beneficiaries

(1) Pursuant to section 5505.59, a member may not name a spouse as a beneficiary.

(2) A surviving spouse or beneficiary shall select a method of distribution of any amount due to such person pursuant to section 5505.59 of the Revised Code within sixty days of notification from HPRS. If a method of distribution is not made within sixty days, the amounts due will be distributed as a lump sum payment.

(H) DROP termination

(1) Active service in the state highway patrol is terminated upon separation pursuant to section 124.32 of the Revised Code.

(2) Subject to section (H)(1) of this rule, a member shall be considered in the active service of the state highway patrol while receiving benefits pursuant to section 124.385 of the Revised Code.

(I) Pursuant to section 5505.54 of the Revised Code, interest on DROP account balances shall be calculated at the Barclays U.S. Government/Credit Intermediate Index, less a thirty-five basis point account maintenance fee. The interest rate shall be established at June thirtieth and December thirty-first for the following six-month period.

5505-3-07

4

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5505-3-03.1

Disability Retiree employment as a law enforcement officer.

(A) For the purpose of division (F)(1) of section 5505.18 of the Revised Code, "law enforcement officer" includes any "member of a police department" as defined by section 742.01 of the Revised Code and the associated administrative rules and any person that is appointed, commissioned, compensated, designated, employed, engaged, volunteering, or otherwise serving as one of the following:

- (1) A sheriff, marshal, deputy marshal, member of the organized police department of a township or municipal corporation, member of a township police district or joint township police district police force, member of a metropolitan housing authority police force established under division (D) of section 3735.31 of the Revised Code, or township constable or a similar job position outside the state of Ohio;
- (2) A railroad company police officer governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- (3) A person engaged in the enforcement of Chapter 5743. of the Revised Code on behalf of the department of taxation and designated by the tax commissioner for peace officer training for purposes of the delegation of investigation powers under section 5743.45 of the Revised Code or a similar job position outside the state of Ohio;
- (4) An undercover drug agent or a similar job position outside the state of Ohio;
- (5) A department of public safety enforcement agent governed by section 5502.14 of the Revised Code or a similar job position outside the state of Ohio;
- (6) A natural resources law enforcement staff officer in the department of natural resources governed by section 1501.013, a wildlife officer governed by section 1531.13, or a natural resource officer governed by 1501.24 of the Revised Code or a similar job position outside the state of Ohio;
- (7) A park district law enforcement officer governed by section 511.232 or 1545.13 of the Revised Code or a similar job position outside the state of Ohio;
- (8) A conservancy district police officer governed by section 6101.75 of the Revised Code or a similar job position outside the state of Ohio;
- (9) A member of a hospital police or security department governed by sections 4973.17 to 4973.22 of the Revised Code or a similar job position outside the state of Ohio;
- (10) A veterans home police officer established by section 5907.02 of the Revised Code or a similar job position outside the state of Ohio;
- (11) A member of a qualified nonprofit corporation police department established

by section 1702.80 of the Revised Code or a similar job position outside the state of Ohio;

- (12) A state university law enforcement officer governed by section 3345.04 of the Revised Code or a person serving as a state university law enforcement officer on a permanent basis on June 19, 1978, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- (13) A special police officer in the department of mental health governed by section 5119.08 of the Revised Code or a similar job position outside the state of Ohio;
- (14) A special police officer in the Ohio department of developmental disabilities governed by section 5123.13 of the Revised Code or a similar job position outside the state of Ohio;
- (15) A member of a campus police department established under section 1713.50 of the Revised Code or a similar job position outside the state of Ohio;
- (16) A regional transit authority police officer governed by division (Y) of section 306.35 of the Revised Code or a similar job position outside the state of Ohio;
- (17) An investigator of the auditor of state governed by section 117.091 of the Revised Code who is engaged in the enforcement of Chapter 117. of the Revised Code or a similar job position outside the state of Ohio;
- (18) A special police officer serving on state property pursuant to section 5503.09 of the Revised Code or a person who was serving as a special police officer pursuant to that section on a permanent basis on October 21, 1997, and who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- (19) A port authority special police officer governed by section 4582.04 or 4582.28 of the Revised Code or a person serving as a port authority special police officer on a permanent basis on May 17, 2000, who has been awarded a certificate by the executive director of the Ohio peace officer training commission attesting to the person's satisfactory completion of an approved state, county, municipal, or department of natural resources peace officer basic training program or a similar job position outside the state of Ohio;
- (20) A municipal corporation special police officer who has been awarded a

certificate by the executive director of the Ohio peace officer training commission for satisfactory completion of an approved peace officer basic training program and who is serving at a municipal airport or other municipal air navigation facility that is governed by aviation security rules of the transportation security administration of the United States department of transportation and required by federal laws and regulations to be under a security program or a similar job position outside the state of Ohio;

- (21) A PERS law enforcement officer, as defined in section 145.01 of the Revised Code or a similar job position outside the state of Ohio; or
- (22) A bailiff or deputy bailiff of a court of record in this state who has received a certificate attesting to the person's satisfactory completion of the peace officer training school as required by section 109.77 of the Revised Code or a similar job position outside the state of Ohio;
- (23) A parole, corrections, or probation officer or a similar job position outside the state of Ohio;
- (24) An employee of the department of youth services who is designated by the director of youth services pursuant to division (A)(1) of section 5139.53 of the Revised Code and who has received the training described in division (B)(1) of that section;
- (25) A federal protective service officer or a federal marshal, including, but not limited to, a court security officer hired by the U.S. marshals service;
- (26) A gaming agent employed under section 3772.03 of the Revised Code or a similar job position outside the state of Ohio.

(B) For the purpose of this rule, "Benefit Recipient" shall have the same meaning as rule 5505-3-03 of the Administrative Code.

(C) If the Executive Director determines that a benefit recipient is employed in a position described in division (A) of this rule, HPRS staff and medical advisor shall present the benefit recipient's file to the board at the next board meeting. If the board concurs with the Executive Director's determination, disability benefits shall terminate effective the date the benefit recipient accepted employment that resulted in the termination of benefits. Unless requested by the board, the benefit recipient may not appear before the board.

(D) The benefit recipient will be sent notification of the board's action no more than five days after the board meets and such notice will be sent by regular US mail to the benefit recipient's last known address. The notice will inform the benefit recipient of the date his or her benefits will terminate and his or her right to appeal.

(E) Within twenty days of the board's decision, the benefit recipient may file a written

notice of appeal. The notice of appeal shall reference the decision being appealed and shall include the reason(s) why the decision is being appealed. If the benefit recipient does not file a notice of appeal as described in this rule, the board's determination made under paragraph (C) of this rule is final.

- (1) The notice of appeal will be considered at the next regularly scheduled meeting of the board. Except as provided in this rule, benefits shall not be terminated while an appeal is pending.
- (2) Within forty days of the board's determination made under paragraph (C) of this rule, the benefit recipient must file any evidence he or she would like considered by the board. No extensions shall be granted. HPRS shall void the notice of appeal if new evidence is not received by HPRS in the time described in this paragraph.
- (3) The applicant has the right to appear at the hearing, with or without counsel, to present new testimony.
- (4) Evidence, information, or other documentation not already submitted in accordance with this rule will not be permitted.
- (5) The board's decision is final.

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Prior Effective Dates: n/a

5505-5-02**Prior service credit.**

- (A) A member of the highway patrol retirement system may purchase retirement credit for full-time service as a member of a state or municipal retirement system as defined in sections 5505.20, 5505.201, and 5505.40 of the Revised Code.
- (B) "Full-time service" is defined as a period of employment during which the employee regularly worked substantially the same number of hours as would a member of the highway patrol retirement system.
- (C) Credit may not be purchased for periods of employment during which the employee was not considered to be full-time, nor can these periods be combined for full-time credit.
- (1) The member shall provide documented proof of full-time employment as required by HPRS.
- (2) In the absence of clear documentation to the contrary, if the record of contributions indicates that the member was not receiving pay equivalent to or greater than the minimum wage in effect at the time on a forty-hour per week basis, it shall be presumed that the employment was not full-time.
- (D) Credit may not be purchased for periods of employment during which credit was purchased from any other state or municipal retirement system.
- (E) Upon application to purchase prior service credit, the appropriate retirement system shall certify, to the satisfaction of HPRS, the service dates and refunded contributions of the member on the application.
- (F) When prior service credit purchased under sections 5505.20, 5505.201, 5505.40, and division (C) of section 5505.17 of the Revised Code is purchased in increments, the cost for purchasing a portion of this service credit shall be calculated as a proportionate part of the total cost.
- (G) Nothing in this rule shall be construed to permit a member's purchase of credit for purposes of meeting the minimum number of years of service necessary to receive a pension.

Replaces: 5505-5-02

Effective:

Five Year Review (FYR) Dates:

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 5505.07, 5505.40
Rule Amplifies: 5505.17(C), 5505.16, 5505.20, 5505.201, 5505.202, 5505.25
Prior Effective Dates: 2/1/2013, 10/21/2005, 12/1/1995, 1/1/1995, 11/1/1993, 11/1/1990, 12/1/1987, 1/1/1986, 2/15/1981

5505-5-03**Purchase of military service credit.**

- (A) If a member elects not to purchase interrupted military service in accordance with division (D) of section 5505.16 of the Revised Code, the member may purchase military service credit in accordance with section 5505.25 of the Revised Code.
- (B) The member may only purchase up to the period of time from the entry date to the date of discharge as designated by the member's DD-214, or the period beginning with the date the member's leave of absence began and ending with the date the member returned to active service with the state highway patrol, whichever is less.
- (C) A member may purchase military service credit under section 5505.25 and division (D) of section 5505.16 of the Revised Code in increments. The cost for purchasing a portion of military service credit shall be calculated as a proportionate part of the total cost.
- (D) In no case shall a member receive more than three hundred sixty-five days of service credit for any one year.

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5505-7-01

Calculation of retirement benefits.

- (A) For the purpose of this rule and divisions ~~(ML) and (R)~~ of section 5505.01 of the Revised Code, ~~"year" shall mean any calendar year.~~
- (1) "year" shall mean any calendar year.
- (2) In addition to division (R) of section 5505.01 of the Revised code, "salary" shall not include doubleback, reportback, or standby pay.
- (B) Final average salary shall be the average of the highest annual salary paid to a member during any five years of service, which may be nonconsecutive. Final average salary shall be calculated as follows:
- (1) Each year's salary shall be calculated as twenty-six consecutive payroll periods, beginning with the first full pay period of the year, multiplied by 1.00275 in order to adjust for three hundred sixty-five days.
- (2) Whenever a final average salary computation requires the inclusion of a partial pay period, the average of the pro-rated pay period shall be used.
- (3) If the member has a partial year of contributing service in the year the member's employment terminates and the compensation for the partial year is at a rate higher than the rate of compensation for any one of the member's highest five years of compensation, the board shall substitute the compensation for the partial year for the compensation for the same period of time of the lowest of the member's five highest years of compensation.
- ~~(4) Final average salary shall include longevity, hazard duty, shift differential, and professional achievement pay.~~
- ~~(5) Final average salary shall not include paid overtime, doubleback, reportback, and standby pay.~~
- (C) A retirant on deferred status may elect to receive reduced retirement benefits at any time between the ages of forty-eight and fifty-two.
- (D) Final average salary is calculated from employee contributions in accordance with records and data provided by the Ohio department of administrative services and the state highway patrol.

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