

Rules

April 11, 2024

OP&F

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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 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 rule 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 as a police officer or firefighter.
- (5) "Off-duty illness or injury" means an illness or injury that did not occur during or result from the performance of official duties as a police officer or firefighter. Unless the illness or injury meets the presumption criteria outlined in 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" shall have the same meaning set forth in division (D) of section 742.38 of Revised Code.
- (7) "Total disability" shall have the meaning set forth in division (D) 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 on 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 on appeals of decisions relating to disability applications.
- (13) "Disability evaluation panel (DEP)" shall mean the medical consultants retained by the board to make written recommendations to the board's disability committee on pending disability applications.
- (14) "Disability committee medical advisor," as referred to in this rule, shall mean the expert physician appointed by the board of trustees to advise the disability committee during its deliberations of initial disability applications and post-disability grant reconsiderations, who shall be a different physician than the medical advisor.
- (15) "Disability committee vocational expert," as referred to in this rule, shall mean the expert in vocational evaluations appointed by the board of trustees to advise the disability committee during its deliberations of initial disability applications and post-disability grant 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) A competent and disinterested physician and vocational evaluator may be assigned to conduct independent medical examinations for purposes of determining a member's disability, as provided by law, medical impairment and eligibility for disability benefits.
- (2) In evaluating a member's disability, as provided by law, medical impairment and eligibility for disability benefits, the DEP, the disability committee and the board will use the official duties provided by the employer. In the event such information is not provided by the employer or does not clearly define the applicable job duties, the DEP, disability committee and the board 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 benefits, the physicians, vocational evaluators, the DEP, the disability committee 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 disability committee 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) The DEP shall submit to the disability committee a written recommendation on each application evaluated followed by a report incorporating a summary of findings, along with their medical opinion as to whether or not the disabling condition results from an on-duty illness or injury and whether or not the condition is eligible for waiver.
- (6) In reviewing applications for disability benefits, the disability committee shall rely upon the recommendations of the disability committee medical advisor and the disability committee vocational expert, 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 a form approved by OP&F and must be properly completed 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, and notice of allowed workers' compensation claims. The documentation submitted by the member shall be objective, relevant, and recent (i.e., dated within two years from the date of application for disability), as determined by OP&F staff in consultation with the disability committee medical advisor. Any documentation to the contrary or that is duplicative may not be considered as part of the member's application. Documentation that is not considered shall be returned to the member with a

written notice listing the documentation being returned and the reason for the return.

- (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 OP&F 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) Once the application is complete, the member covered by the pending disability benefit application may be scheduled for an independent medical examination(s) and vocational evaluation, 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 the report of the independent medical examination(s) and vocational evaluation shall be the responsibility of OP&F.

- (6) The DEP shall review the application and all medical reports and records, and then make a written recommendation to the disability committee based upon the criteria set forth in paragraph (B) of this rule. The board, based on the written recommendation of the disability committee, 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 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 disability committee or the board, depending on when it is received by OP&F.

- (7) Copies of the reports of the independent medical examiners 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 of disability, 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 examiners 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 application.
- (9) The member covered by the pending disability 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 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, OP&F may conclusively rely upon its 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)(7) 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. 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~~ thirty days of filing of the notice of appeal, the member shall file any new evidence not previously considered by the board on the initial disability application. Such evidence shall be objective, relevant, and recent (i.e., dated

within two years from the date of application for disability), as determined by OP&F staff in consultation with the disability committee medical advisor. Any documentation to the contrary or that is duplicative may not be considered as part of the member's appeal. Documentation that is not considered shall be returned to the member with a written notice listing the documentation being returned and the reason for the return.

- (4) Failure to submit supporting materials or to request an extension of time within which to do so will be sufficient cause for the appeal to be dismissed. Upon application before the expiration of the original ~~sixty~~ thirty day period referred to in this paragraph, the appellant may, for good cause shown, be granted an extension of ~~sixty~~ thirty days within which to file supporting materials. The appellant may be granted an additional extension based on a recommendation from the disability committee medical advisor that there is solid evidence of a medical reason to grant the extension for a period of time recommended by the disability committee 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~~ six months. A request for a postponement received by OP&F within ten days of the date of the hearing will only be granted in exceptional circumstances, as determined by OP&F's executive director in his or her sole discretion.
- (5) Depending on the basis for the appeal and the new evidence submitted by the member, the member may be requested to undergo a new medical examination and/or vocational evaluation by an independent examining physician and/or vocational evaluator. OP&F may also provide the new evidence to the original independent examining physician and/or vocational evaluator and request that they review the new evidence and provide an addendum to their original reports. The payment of any fees connected with the preparation of the report of the independent medical examination(s) and vocational evaluation shall be the responsibility of OP&F. 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.
- (6) 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.

(7) 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.

(8) 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-disability grant 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 disability committee 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 disability committee shall review such evidence and shall make a written recommendation to the board. The board shall, based on the written recommendation of the disability committee, 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, or failed to withdraw his/her disability benefits 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.

(I) The board may suspend the awarded disability benefits and any health care stipend upon ninety days prior written notice to the member 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.

If the disability benefit recipient fails to comply within the aforementioned ninety day notice period, the suspension of disability benefits and any health care stipend 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.

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, OP&F will not suspend the disability benefit recipient's disability benefits and any health care stipend.

(J) If, after the aforementioned ninety day notice period, referred to in paragraph (I) of the rule, the disability benefit recipient submits to the requested treatment, submits the required reports, complies with the required treatment regimen, or the board's physician certifies that the treatment is no longer helpful or advisable, OP&F will reinstate the disability benefits and any health care stipend 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 OP&F.

(K) If a disability benefit recipient fails to submit to the medical examination required by division (C)(2) of section 742.40 of the Revised Code and such failure continues

for one year, whether documented by OP&F'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 benefits and any health care stipend shall be forfeited, as required by the terms of division (C)(2) of section 742.40 of the Revised Code. The forfeiture shall be effective as of the date of the original suspension, as referenced in a writing provided to the disability benefit recipient from OP&F.

- (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, OP&F may conclusively rely upon its 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 OP&F's records. All notices to OP&F 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 reconsideration 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 application, appeal, or application for reconsideration may be dismissed, as the case may be, for failure to prosecute the claim.
- (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 fifteen 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.

Effective:

Five Year Review (FYR) Dates: 2/5/2029

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.38, 742.353
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10/10/1998 (Emer.), 03/29/1999, 05/01/2000,
10/23/2000, 03/19/2001, 09/07/2001 (Emer.),
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01/01/2019 (Emer.), 03/29/2019, 09/22/2022,
01/14/2023

742-3-10

Annual medical examinations, termination of benefits and appeal of terminations.**(A) Waiver of annual medical examination requirement**

- (1) For those members who are subject to the terms of division (C)(2)(a) of section 742.40 of the Revised Code (i.e., a disability benefit recipient who has been a member of Ohio police and fire pension fund ("OP&F") for less than twenty-five years and has not attained age forty-eight, such disability benefit recipient shall submit to an annual medical examination by a physician designated by OP&F, unless the disability committee medical advisor certifies that a disability benefit recipient's disability is ongoing and the board waives the requirement that the disability benefit recipient undergo an annual medical examination.
- (2) If the requirement that a disability benefit recipient undergo an annual medical examination is waived, the recipient shall thereafter be relieved from submitting to an annual medical examination until otherwise notified in writing by OP&F. However, any waiver granted shall not waive any rights the board may have to request a medical examination in accordance with the terms of division (C)(2)(b) of section 742.40 of the Revised Code.

(B) Annual medical examinations

For a disability benefit recipient who has been requested by the board to undergo a medical examination pursuant to the terms of division (C)(2)(a) or division (C)(2)(b) of section 742.40 of the Revised Code:

- (1) The disability benefit recipient shall be notified of the need to schedule the medical examination and be provided with at least thirty days prior written notice of the time and place of the scheduled examination.
- (2) Unless for good cause shown, the disability benefit recipient shall be presumed to have refused to submit to the medical examination if such examination has been scheduled three times and the disability benefit recipient has either canceled, rescheduled, or failed to submit to the scheduled medical examination, as documented by OP&F's books and records.
- (3) The refusal of a disability benefit recipient to submit to the medical examination requested pursuant to the terms of division (C)(2)(a) or division (C)(2)(b) of section 742.40 of the Revised Code, whether documented by OP&F's books and records or as presumed under the terms of paragraph (B)(2) of this rule, shall result in the suspension of disability benefits upon ninety days prior written notice to the disability benefit recipient and shall continue until compliance.

- (a) If the disability benefit recipient has not submitted to the medical examination within the aforementioned ninety day notice period, the suspension of disability benefits shall be effective on the first day of the month immediately following the expiration of the ninety day notice period.
- (b) In the event the disability benefit recipient submits to the required medical examination after the ninety day notice period, OP&F will reinstate the recipient's disability benefits on the first day of the month immediately following the disability benefit recipient's submission to the required medical examination. The recipient shall be entitled to retroactive coverage of disability benefits during that time in which the benefits were suspended.
- (c) If the refusal of a disability benefit recipient to submit to any medical examination under section 742.40 of the Revised Code continues for one year, whether documented by OP&F's books and records or as presumed under the terms of this rule, then the disability benefits recipient's disability benefits shall be forfeited, as required by division (C)(2)(c) of section 742.40 of the Revised Code, effective as of the date of the original suspension. OP&F shall notify the disability benefit recipient by certified mail, return receipt requested of the termination of benefits and the date that his or her benefits shall be terminated.

(C) Board's concurrence in physician's certification that recipient no longer meets disability standards

- (1) For those disability benefit recipients who undergo the medical examination pursuant to division (C) of section 742.40 of the Revised Code, the board will review the physician's report. If the board concurs with the physician's certification that the recipient no longer meets the disability standards set forth in division (D) of section 742.38 of the Revised Code or division (C)(2), (C)(3), or (C)(5) of former section 742.37 of the Revised Code, the disability benefits shall terminate ninety days after the board concurs with the physician's certification or upon employment by the benefit recipient as a police officer or firefighter, as defined in rule 742-3-20 of the Administrative Code.
- (2) OP&F shall notify the disability benefit recipient by certified mail, return receipt requested of the board's concurrence with the physician's certification, the date that his or her benefit shall be terminated and of his or her right to appeal.

(D) Appeal of the board's concurrence with physician certification

- (1) In order to appeal any determinations of the board under paragraph (C) of this rule, the disability benefit recipient shall file the notice of disability appeal form provided by OP&F within ninety days of receipt of OP&F's notice of termination of benefits.
- (2) Within sixty days of the filing of the notice of appeal, the member shall submit to OP&F all materials in support of the appeal including, but not limited to, medical records, doctors' reports, and documentation substantiating earnings and income. Failure to submit supporting materials will be sufficient cause for OP&F 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.
- (3) OP&F shall schedule the appeal hearing after receipt of the supporting materials and give the member reasonable notice of the date, time, and place thereof in writing. The member 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 member and to those individuals who are authorized by the member to receive such information on the authorization to release medical records form provided by OP&F.
- (4) Following the hearing on appeal, the board may choose to:
 - (a) Affirm the original concurrence in the physician's certification;
 - (b) Reverse the original concurrence in the physician's certification; or
 - (c) Postpone a decision pending additional examinations or documentation.

The board's decision on appeal shall be the final determination of the member's disability.
- (5) The applicant shall be advised of the board's action within thirty days after the board's determination and such notice shall be sent by certified mail, return receipt requested.
- (6) Benefits shall be terminated pending appeal if a favorable decision on the appeal is not made within ninety days of the board's concurrence with the physician's certification.

- (E) Unless otherwise provided in this rule, all notices provided to the disability benefit recipient under this rules shall be sent by first class U.S. mail, postage prepaid and addressed to the disability benefit recipient at the address on file with OP&F. All notices to OP&F shall be addressed at its principal place of business.

Five Year Review (FYR) Dates: 2/5/2024 and 02/05/2029

CERTIFIED ELECTRONICALLY

Certification

02/05/2024

Date

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Rule Amplifies: 742.40
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12/10/1998, 07/17/2004, 08/01/2008 (Emer.),
10/16/2008, 08/02/2010 (Emer.), 10/17/2010,
01/17/2016, 01/01/2019 (Emer.), 03/29/2019,
05/31/2020, 09/22/2022

742-3-12

Definition of incapacitated and reliance on affidavit.

(A) For purposes of division (B) of section 742.38 of the Revised Code, a member shall be deemed to be incapacitated if Ohio police and fire pension fund ("OP&F") receives an affidavit from the person acting on the member's behalf for purposes of filing a disability benefit application with OP&F and such person affirms, under oath, that the member is mentally or physically impaired as a result of a mental or physical illness or condition of disability with respect to which the attending physician finds that there is no present indication of recovery and such affidavit is properly notarized.

(B) In processing the disability application of a member who is incapacitated, OP&F is authorized to rely on the facts stated in the affidavit filed in accordance with paragraph (A) of this rule. All fraudulent applications will entitle OP&F and the applicable member to any and all remedies provided by law.

Effective:

Five Year Review (FYR) Dates: 2/5/2024

Certification

Date

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Prior Effective Dates: 09/16/1998 (Emer.), 12/10/1998, 07/17/2004,
11/20/2014

TO BE RESCINDED

742-3-13

Reliance on affidavit.

In processing the disability application of a member who is incapacitated, as defined in rule 742-3-12 of the Administrative Code, Ohio police and fire pension fund ("OP&F") is authorized to rely on the facts stated in any affidavit filed in accordance with division (B) of section 742.38 of the Revised Code and its corresponding rules and the genuineness of the signatures of the person acting on behalf of the incapacitated member and the notary and all fraudulent applications will entitle OP&F and the applicable member to any and all remedies provided by law.

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11/20/2014

742-3-16

Survivor benefits.

- (A) "Interim Survivor Benefit Payment" is defined as the interim monthly survivor benefit initially paid by Ohio police and fire pension fund ("OP&F") to a surviving spouse of a member in the amount described in division (D) of section 742.37 of the Revised Code until OP&F receives ~~the~~ a properly completed survivor pension application provided by OP&F and the required documents referenced therein, subject to the terms and conditions set forth in this rule. ~~The survivor pension application, last modified on October 6, 2017, can be found on OP&F's website, www.op-f.org.~~
- (B) Upon receipt of OP&F's notice of the death of a member, the following will occur:
- (1) OP&F will process the interim survivor benefit payment due the surviving spouse, which shall be paid to the member's surviving spouse for a period not to exceed ninety days (the "Interim Period");
 - (2) OP&F will send the surviving spouse an application to the most recent address referenced in the member's record or the address provided to OP&F.
- (C) In the event ~~the~~ a properly completed application is not received by OP&F by the expiration of the interim period, OP&F will send a notice to the surviving spouse that the interim survivor benefit payments will be suspended, effective sixty days after receipt of the notice of suspension (the "Notice Period"), unless ~~the~~ a properly completed application is filed with OP&F on or before the expiration of the notice period.
- (D) In the event ~~the~~ a properly completed application is received by OP&F on or before the expiration of the notice period, OP&F will no longer be considered to be paying interim survivor benefit payments, but rather shall be paying the survivor benefit provided for in division (D) of section 742.37 of the Revised Code.
- (E) In the event the interim survivor benefit payments are suspended due to a surviving spouse failing to file a properly completed application on or before the expiration of the notice period, OP&F will begin to pay the survivor benefits provided for in division (D) of section 742.37 of the Revised Code beginning the month following OP&F's receipt of the properly completed application for survivor benefits and OP&F will then pay any retroactive survivor benefits due the surviving spouse, subject to the provisions of paragraph (F) of this rule.
- (F) In the event OP&F pays a benefit to a member prior to OP&F's receipt of notice of the member's death, the member benefit payment is not returned to OP&F, and the surviving spouse is the beneficiary of the member's estate, then in such event, OP&F will offset any member benefit paid against the survivor benefits due the surviving

spouse under division (D) of section 742.37 of the Revised Code and section 742.58 of the Revised Code, as necessary.

- (G) For purposes of the notices provided for in this rule, the notices will be deemed to have been given as of the earlier of:
- (1) The date of the actual receipt;
 - (2) The next business day when sent via express mail or personal delivery; or
 - (3) Three days after mailing in the case of first class or certified U.S. mail, which will be based upon the date of the postmark of such mailing.
- (H) For purposes of filings provided for in this rule, all filings will be the date of OP&F's actual receipt of the filings.
- (I) OP&F may conclusively rely upon its books and records for purposes of determining the notices and filings provided for in this rule.
- (J) OP&F will pay all other survivor benefits provided for in section 742.37 of the Revised Code upon OP&F's receipt of the properly completed application by eligible parties.
- (K) OP&F will reimburse the medicare part "B" premium to the surviving spouse according to the terms of division (B) of section 742.45 of the Revised Code and rule 742-7-09 of the Administrative Code.

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08/28/2008, 09/26/2013, 01/01/2019 (Emer.),
03/29/2019

742-4-01 **General DROP definitions.**

Capitalized terms used in rules 742-4-01 to 742-4-19 of the Administrative Code shall have the following meaning:

- (A) "Average Annual Salary" is defined in division (G) of section 742.01 of the Revised Code.
- (B) A "DROP Participant" shall mean an eligible member who files the election (as hereinafter defined) with OP&F and the election has been fully completed and properly completed by the member.
- (C) "OP&F" shall mean the Ohio police and fire pension fund created under Chapter 742. of the Revised Code.
- (D) "DROP Benefit" shall mean the benefit calculated for a DROP participant in accordance with the provisions of section 742.442 of the Revised Code and rule 742-4-06 of the Administrative Code, but subject to the provisions of division (C) of section 742.444 and section 742.445 of the Revised Code.
- (E) "Effective Date" is defined in rule 742-4-03 of the Administrative Code.
- (F) "Election" shall mean the election form that OP&F requires in order for a member to participate in DROP, as such form may be amended or modified from time to time by OP&F. For those elections that have been filed with OP&F, it shall also mean the fully and properly completed required election that is signed by the member.
- (G) "Employer's First Payroll Reporting Period" shall mean the first day of the employer's first payroll reporting period reported to OP&F under section 742.32 of the Revised Code that immediately follows the DROP participant's effective date, as determined by OP&F according to its books and records.
- (H) "Family Medical Leave Act" is defined in rule 742-4-12 of the Administrative Code.
- (I) "Member" shall have the meaning set forth in division (E) of section 742.01 of the Revised Code, as more fully explained in divisions (A)(2) and (B)(2) of section 742.01 of the Revised Code.
- (J) "Retirement Allowance" is defined in division (I) of section 742.01 of the Revised Code, as more fully described in rule 742-4-17 of the Administrative Code.

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01/16/2014

742-4-03

Effective date of DROP election.

- (A) Unless the member has properly rescinded his/her DROP election or the terms of paragraph (B) of this rule apply, the "Effective Date" of an eligible member's election to participate in DROP shall be the later of:
- (1) The first day of the employer's first payroll reporting period that immediately follows OP&F's receipt of the election, but if the payroll reporting period end date falls on the thirtieth day of the month, the first day of the employer's first payroll reporting period shall be the first day of the next month; or
 - (2) The date on which the member is eligible to participate in DROP, as determined by OP&F based on its books and records.
- (B) For those members who file an election to participate in DROP with OP&F and do not properly rescind his/her election according to the terms of rule 742-4-04 of the Administrative Code, but do not meet the age or service requirements of division (C)(1) of section 742.37 of the Revised Code, the member shall still be considered "eligible to retire" for the purpose of electing to participate in DROP according to the terms of section 742.44 of the Revised Code only if the member's eligibility to participate in DROP is not more than ninety days after the date on which OP&F received the member's election, as determined by OP&F's books and records. In the event the member's first eligibility date to participate in DROP is more than ninety days after the date on which OP&F received the member's election, as determined by OP&F's books and records, the member shall not be considered "eligible to retire" according to the terms of section 742.44 of the Revised Code and the member's election shall be null and void and of no force and effect.
- (C) In the event a member's election is invalid, as outlined in paragraph (B) of this rule, the member shall not be foreclosed from filing a subsequent election to participate in DROP. In all events, however, the member has only one opportunity to participate in DROP.
- (D) Capitalized terms used in this rule shall have the meaning assigned to them in rule 742-4-01 of the Administrative Code (definitions).

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01/16/2014

742-5-01

Definition of service credit.

- (A) Years of service and years of active service shall mean years of full-time service, including a full-time appointment to the position as a police officer or firefighter, for which retirement contributions are deducted from "salary," as such term is defined in section 742.01 of the Revised Code and rule 742-3-02 of the Administrative Code and forwarded to OP&F.
- (B) For purposes of determining "full-time service," OP&F may request the employer and the member to certify the full-time service, but, in any event, OP&F will determine that the contributing credit was for full-time service. In order for the service to be "full-time," as provided for in divisions (A) and (B) of section 742.01 of the Revised Code: (1) the service credit must have been rendered while employed in a full-time public position; and (2) the individual must meet the criteria for "full-time contributing service," as outlined in rule 742-5-03 of the Administrative Code.

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Prior Effective Dates: 01/01/1977, 07/31/2003, 01/22/2009, 02/09/2014

742-5-09

Purchase of lay-off service credit.

- (A) Upon a member's request to purchase service credit for any period during which the member was laid off, OP&F shall provide the member with certification forms to be completed by both the member and the member's employer where the period of lay-off occurred. The member shall certify all of the following information to OP&F:
- (1) The date that he or she was removed from active service as a result of an involuntary lay-off;
 - (2) The name of the employer that laid the member off;
 - (3) The date that the member returned to full-time service; and
 - (4) That, during the period of lay-off, the member did not render any service that is used in the calculation of any public or private retirement benefit, except any federal social security retirement benefit.
- (B) The employer shall certify all of the following to OP&F:
- (1) That the member was hired into a full-time position;
 - (2) That the member was involuntarily laid off from the full-time position;
 - (3) The last day the member worked prior to the involuntary lay-off;
 - (4) The first day the member worked after the involuntary lay-off; and
 - (5) The total gross wages subject to retirement contributions the member would have received had he or she not been laid off.
- (C) ~~The member service credit purchase certification form and the employer service credit purchase certification form, last modified June 12, 2013, can be found on OP&F's website, www.op-f.org. Notwithstanding these certifications, Notwithstanding the certifications made by the member and the employer in paragraphs (A) and (B) of this rule, OP&F will review the documentation and determine the member's eligibility to purchase the service credit. If the member is eligible to purchase the lay-off credit, OP&F shall provide the member with a cost statement to purchase the service credit.~~
- (D) For purposes of division (C) of section 742.27 of the Revised Code, the "additional liability" to OP&F resulting from the purchase of lay-off credit shall be the amount that the member and his or her employer would have contributed during the lay-off period, including interest. The amount of the contributions shall be based upon the salary that the member would have earned had there not been an interruption in service. Interest shall be calculated at OP&F's actuarially assumed interest rate and

compounded annually based on the effective method of calculating interest from the date the member returned to full-time active service to the date that OP&F receives payment for the lay-off service credit.

- (E) Service credit for lay-off time shall be purchased in increments of one-year periods, unless the period of lay-off is less than one year. If the lay-off period is less than one year, then the purchase shall be for the full amount of the lay-off time. If the member submits a payment that is less than the full amount of the cost statement, OP&F shall prorate the amount of lay-off service credit. The prorated amount of service credit will be determined by dividing the amount received by the total amount due, then multiplying the result by the amount of service credit the cost was calculated for.

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05/24/2004, 09/28/2014

742-7-11

Health reimbursement arrangement and stipend program.**(A) Definitions**

As used in this rule and rule 742-7-12 of the Administrative Code:

- (1) "Age and service retiree" means a former member who is receiving a retirement allowance pursuant to division (C) of section 742.37 of the Revised Code.
- (2) "Claims administrator" means the third party administrator selected by OP&F's board of trustees to administer the health reimbursement arrangement.
- (3) "Dependent" means an eligible spouse or child of an eligible benefit recipient.
- (4) "Disability benefit recipient" means a member who is receiving a benefit or allowance pursuant to section 742.38 or former division (C)(2), (C)(3), or (C) (4) of section 742.37 of the Revised Code.
- (5) "Effective date of retirement" shall have the same meaning as rule 742-3-01 of the Administrative Code.
- (6) "Eligible benefit recipient" means an age and service retirant, disability or survivor benefit recipient who is eligible for the health reimbursement arrangement and stipend program.
- (7) "Form" shall mean the form created, approved, and/or provided by OP&F for the administration of benefits found on the OP&F website at www.op-f.org.
- (8) "Health reimbursement arrangement" or "HRA" means the non-interest bearing, record keeping arrangement funded by Ohio police and fire pension fund established for an eligible age and service retiree, disability benefit recipient, or survivor benefit recipient from which the reimbursement of qualifying ~~medical~~ health-related expenses may be made.
- (9) "Medicare" is the program administered by the United States government that provides health insurance coverage to individuals who are age sixty-five and older or under the age of sixty-five and permanently physically disabled or have a congenital physical disability or who meet other special criteria set forth by the federal government.
- (10) "Qualifying life event" or "QLE" shall have the same meaning as defined in the federal Patient Protection and Affordable Care Act of 2010, 42 U.S.C. 18001 ("ACA"), or its successor provision and applicable regulations thereunder.

- (11) "Retiree health exchange" means the individual or family medical and prescription drug plans available for purchase through OP&F's third party administrator.
- (12) "Stipend" means the annual health care allowance determined by the board of trustees and allocated to each benefit recipient enrolled in the health reimbursement arrangement program.
- (13) "Survivor benefit recipient" means a beneficiary receiving a benefit pursuant to division (D), (E), or (F) of section 742.37 of the Revised Code.

(B) HRA and stipend

- (1) Effective January 1, 2019, Ohio police and fire pension fund will pay a stipend to the health reimbursement arrangement established for an eligible age and service retiree, disability benefit recipient, or survivor benefit recipient who is enrolled in the HRA program.
- (2) The stipend credited to an HRA shall be a flat dollar amount determined by OP&F based on the number of individuals covered under the HRA and the medicare status of such individuals. For each calendar year that an individual is covered under the retiree health exchange, OP&F will credit the full year's stipend to the individual's HRA on the first day of January of that year. If the individual becomes eligible for medicare during the year, the stipend credited to the HRA shall be prorated.
- (3) If an eligible age and service retiree or disability benefit recipient purchases an individual medicare medical or prescription drug plan through the retiree health exchange for his or her eligible spouse or dependents, or enrolls with them in an ACA-accredited qualified health plan that includes the 10-essential benefits, the stipend amount for a calendar year shall be the stipend amount for that year, plus an additional amount determined by the board of trustees. If coverage is terminated for a spouse or dependents, the stipend amount will remain credited to the age and service retiree or disability benefit recipient's HRA, but no further amounts shall be credited to the HRA.
- (4) An eligible age and service retiree or disability benefit recipient who enrolls in the HRA and stipend program may receive a stipend for his or her spouse and dependents, as long as the spouse and dependents enroll in a medical or prescription drug plan through the retiree health exchange or enroll in an ACA-accredited qualified health plan that includes the 10-essential benefits and be continuously enrolled thereafter. If an age and service retiree or disability benefit recipient's spouse is also a member of OP&F, retires from OP&F and is

eligible to participate in the HRA program, both the age and service retiree or disability benefit recipient and his or her spouse will receive a separate HRA.

- (5) The funds in an HRA shall not rollover from one year to the next. Any unused balances by the end of ~~a calendar~~ an HRA plan year are forfeited and shall return to OP&F.
- (6) Eligible expenses that do not exceed the balance of the HRA can be reimbursed if the expenses are incurred during the time of participation in the HRA. Expenses are eligible only to the extent that they are not paid for by the individual's existing health care coverage.
- (7) OP&F shall have the right to terminate, cancel, or discontinue the HRA and stipend program at any time and for any reason.

(C) Eligibility

- (1) An age and service retiree, disability benefit recipient, or survivor benefit recipient is eligible to enroll in the health reimbursement arrangement program funded by a stipend from OP&F if such individual:
 - (a) Is enrolled in the group healthcare plan sponsored by OP&F ceasing on December 31, 2018, and is either enrolled in medicare part A or part B or is not eligible for medicare due to disability;
 - (b) Is not enrolled in both medicare part A and part B and is enrolled in the group healthcare plan sponsored by OP&F ceasing on June 30, 2019;
 - (c) Is not enrolled in, or opted out of, the group healthcare plan sponsored by OP&F, but is eligible to enroll in the future. Such individual may enroll outside of his or her initial eligibility period upon experiencing a qualified life event.
- (2) An age and service retiree, disability benefit recipient, or survivor benefit recipient is not eligible for an HRA or receive a stipend if such individual:
 - (a) Is eligible for medicare and is not enrolled in medicare part A and part B, or is enrolled in one Part but not the other;
 - (b) Is a re-employed retiree under section 742.26 of the Revised Code;
 - (c) Is pre-Medicare eligible, but enrolled in a plan that does not meet minimum essential coverage, as defined in the federal Patient Protection and

Affordable Care Act of 2010, 42 U.S.C. 18001, or its successor provision and applicable regulations thereunder;

- (d) Has access to any other group health care or prescription drug coverage through his or her own employment, retirement, or other program;
- (e) Is already enrolled prior to January 1, 2019 in any non-medical or non-prescription drug individual policy through the retiree health exchange.

(D) Enrollment

- (1) To participate in the HRA and receive a stipend from OP&F, an eligible age and service retiree, disability benefit recipient, or survivor benefit recipient shall do all of the following:
 - (a) Enroll in a medicare medical or prescription drug plan through the retiree health exchange or in an eligible individual or family qualified health plan that includes that 10-essential benefits within sixty days after his or her effective date of retirement or a qualifying life event and be continuously enrolled thereafter.
 - (b) File a health care stipend eligibility form with OP&F in the form provided by OP&F. ~~The health care stipend eligibility form, created on October 10, 2018, can be found on OP&F's website, www.op-f.org.~~
 - (c) Enroll in medicare part A and medicare part B at his or her first eligibility date.
- (2) If an age and service retiree, disability benefit recipient or survivor benefit recipient does not enroll in medicare medical and/or prescription drug coverage through the retiree health exchange or in an individual or family qualified health plan that includes the 10-essential benefits within the timeframes prescribed in this rule, the age and service retiree, disability benefit recipient or survivor benefit recipient will be deemed to have waived participation in the HRA and stipend program and will not receive a stipend from OP&F.

(E) Termination of participation in HRA and stipend program

- (1) An individual's participation in the HRA program ends on the earliest of the following dates on which:
 - (a) The individual dies;
 - (b) The individual loses eligibility for the HRA for any reason;

- (c) The individual is no longer enrolled in a medicare plan through the retiree health exchange or an individual or family qualified health plan that includes the 10-essential benefits;
 - (d) The HRA is terminated.
- (2) If participation in the HRA and stipend program is terminated, an age and service retiree, disability benefit recipient or survivor benefit recipient can only become eligible to participate again upon the occurrence of a qualifying life event.
 - (3) If an enrolled individual terminates his or her medical or prescription drug coverage that was purchased through the retiree health exchange, any stipend amount remaining in the HRA after any eligible expenses are reimbursed shall be forfeited.
 - (4) If an individual enrolled in the HRA program dies and does not have a surviving spouse, any stipend amount remaining in the HRA shall be forfeited, except that an estate may, within six months following the date of death, file a request for reimbursement of eligible health care expenses that were incurred prior to the individual's death.

If the deceased individual has an eligible surviving spouse who is participating in the HRA, the surviving spouse shall become the holder of the HRA as long as he or she continues to meet the eligibility requirements until his or her death or the termination of the program. The surviving spouse, as holder of the HRA, may receive an increased stipend amount for an eligible surviving child until the end of the calendar year. The increased stipend amount for a child will cease and he or she will cease to be eligible to participate in the HRA program when the surviving spouse dies or ceases to be eligible for an HRA. A surviving child shall not be permitted to become the holder of the HRA.

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742-7-12

Low income assistance program.

- (A) OP&F may offer an increase in the stipend amount to an eligible benefit recipient who meets the criteria established by OP&F's board of trustees for such an increase. If such an increase is offered, the eligible benefit recipient requesting the increase shall annually file a request with OP&F in a form provided by OP&F and submit a copy of their most recently filed federal income tax return. If the eligible benefit recipient does not file federal income tax, the eligible benefit recipient shall complete an affidavit provided by OP&F certifying this fact.
- (B) A request for a stipend increase shall be filed prior to the date provided on the request form in order to be eligible for an increased stipend for the applicable period. If the eligible benefit recipient fails to file the request by the deadline date provided by OP&F, no increase in the stipend may be granted for that year, even if the eligible benefit recipient meets the criteria established by the board of trustees to receive an increase in the stipend. There will be no retroactive increases in the stipend amount.
- (C) The stipend increase amounts established by board of trustees shall be effective on January first of each year through and including December thirty-first of that year.
- (D) To be receive any increase in a stipend, an eligible benefit recipient shall have a total household income equal to or less than a percentage, which shall be annually established by the board of trustees, of the poverty level established annually by the United States department of health and human services.
- (E) If an increase in a stipend is granted by OP&F, a change in the household income of the eligible benefit recipient shall not impact the increased stipend granted to that person for the increase period provided the person originally met the criteria at the time the request for a stipend increase was filed. If an increase in the stipend has not been granted by OP&F, and a decline in the household income of that eligible benefit recipient occurs from and after the deadline date referenced in paragraph ~~(E)~~ (B) of this rule, the eligible benefit recipient shall not be allowed to receive an increased stipend.
- (F) By filing a request for an increase in a stipend, the eligible benefit recipient authorizes OP&F to recover any increase in a stipend granted as a result of a false or inaccurate statement made by the eligible benefit recipient or their authorized representative. OP&F reserves the right to request additional information for verification purposes.

Effective:

Five Year Review (FYR) Dates: 2/5/2024

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.45
Prior Effective Dates: 01/01/2019 (Emer.), 03/29/2019

742-10-02

Qualified investment manager.

- (A) For the purposes of division (A)(4) of section 742.114 and section 742.116 of the Revised Code, an investment manager may be designated as an "Ohio-qualified investment manager" if the investment manager and/or any parent, affiliates, or subsidiaries of the investment manager meets the requirements of divisions (A)(1) and (A)(2) of section 742.116 of the Revised Code.
- (B) For purposes of sections 742.114 and 742.116 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.

Five Year Review (FYR) Dates: 2/5/2024 and 02/05/2029

CERTIFIED ELECTRONICALLY

Certification

02/05/2024

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.114, 742.116
Prior Effective Dates: 09/26/2005, 10/04/2010, 01/17/2016

742-15-01

Rules of compliance with "sunshine law".

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

(B) OP&F will post to its website, www.op-f.org, notice of the time and place of all regularly scheduled meetings of the OP&F board of trustees and notice of the time, place, and purpose of any special meeting of the OP&F board of trustees.

~~(B)~~(C) Any person or organization may request advance notification of the time and place of all regularly scheduled meetings and the time, place, and purpose of ~~all~~ any special meetings ~~for meeting of~~ the OP&F board of trustees ~~of the Ohio police and fire pension fund (OP&F)~~ by:

(1) Writing to the following address:

"Ohio Police & Fire Pension Fund, Attention: Executive Director, 140 East Town Street, Columbus, Ohio 43215."

(2) ~~Calling one of the following telephone numbers during OP&F's~~ OP&F during normal business hours:

~~(614) 228-2975, at~~ (888) 864-8363.

(3) Sending an email to questions@op-f.org.

OP&F shall maintain a list of the persons and organizations who have requested advance notification of meetings of the OP&F board of trustees.

~~(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 OP&F's executive director at the address outlined in paragraph (B) of this rule.~~

~~(1) The request shall provide the name of the individual media representative to be contacted, the mailing address and a maximum of two telephone numbers where such representative can be reached. OP&F shall maintain a list of all representatives of the news media who have requested notice of special meetings pursuant to this rule.~~

~~(2) In the event of a special meeting not of an emergency nature, OP&F shall notify all media representatives on the list of such meeting by doing at least one of the following:~~

- ~~(a) Sending written notice, which must be mailed not later than four calendar days prior to the day of the special meeting;~~
 - ~~(b) Notifying such representatives by telephone no later than twenty-four hours prior to the special meeting, with proper telephone notice if a message has been left for the representatives at the telephone numbers provided to OP&F from such representative or if, after reasonable effort, OP&F has been unable to provide such telephone notice;~~
 - ~~(c) Informing such representatives personally no later than twenty-four hours prior to the special meeting.~~
- ~~(3) In the event of a special meeting of an emergency nature, OP&F shall notify all media representatives on the list of such meeting by providing the notice described in paragraph (C)(1)(b) or (C)(1)(e) of this rule, or notifying the clerk of the state house press room. In such event, however, the notice need not be given twenty-four hours prior to the meeting, but shall be given as soon as possible.~~
- ~~(4) In giving the notices required by this rule, OP&F may rely on assistance provided by any member of OP&F and any such notice is given if such notice is given by a member in the manner provided in this rule.~~
- ~~(D) OP&F shall maintain a list of all persons, other than media representatives, who have requested, in writing, notice of all meetings of OP&F.~~
- (D) OP&F shall provide notice to the list of persons and organizations who have requested advance notification of meetings of the OP&F board of trustees as follows:
- (1) For a regularly scheduled meeting, OP&F shall send notification by email at least one week before the meeting.
 - (2) In the event of a special meeting, OP&F shall send notification by email at least twenty-four hours before the meeting, except in the event of an emergency requiring immediate official action.
 - (3) In the event of an emergency requiring immediate official action by the board of trustees, OP&F shall immediately send notification by email.

For persons who have requested advance notification of meetings but do not have an email address, OP&F shall send written notification to such persons by first class U.S. mail.

Effective:

Five Year Review (FYR) Dates: 2/5/2024

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 742.10
Rule Amplifies: 742.22
Prior Effective Dates: 01/01/1977, 06/12/1999, 10/13/2005, 12/19/2010,
01/17/2016

742-21-02

Information to be released pursuant to court order issued under section 3105.87 of the Revised Code.

For purposes of complying with an order issued pursuant to section 3105.87 of the Revised Code that does not specifically reference the information to be disclosed from a member's personal history record, Ohio police and fire pension fund ("OP&F") shall provide the following information about the member:

- (A) Status with OP&F;
- (B) Contribution history;
- (C) Service credit history;
- (D) If receiving a periodic benefit from OP&F, the gross monthly amount of the member's benefit;
- (E) If the member is participating in, or has participated in, the deferred retirement option plan under section 742.43 of the Revised Code, the amounts accrued to the member's benefit pursuant to section 742.443 of the Revised Code; and
- (F) Date of entry into OP&F and, if applicable, the member's effective date of retirement.

Five Year Review (FYR) Dates: 2/5/2024 and 02/05/2029

CERTIFIED ELECTRONICALLY

Certification

02/05/2024

Date

Promulgated Under:	111.15
Statutory Authority:	742.10
Rule Amplifies:	3105.87
Prior Effective Dates:	07/19/2004, 09/28/2014

3307:1-4-01 **Compensation includible in the determination of final average salary.**

The following criteria and procedures are established by the retirement board pursuant to section 3307.501 of the Revised Code.

(A) As used in section 3307.501 of the Revised Code and this rule, a percentage increase shall be considered to be generally applicable if:

- (1) It is paid by a school board or governing board, school district, or governing authority of a community school or a science, technology, engineering, and mathematics school pursuant to a teacher salary schedule with the same employer including performance based payments that are paid in accordance with uniform criteria applicable to all members employed by the employer without regard to supplemental or extended pay contracts; or
- (2) It is paid by a school board or governing board, school district, or governing authority of a community school or a science, technology, engineering, and mathematics school to an employee not paid under the teacher salary schedule up to the amount payable under the teacher salary schedule including performance based payments that are paid in accordance with uniform criteria applicable to all members employed by the employer to teachers with equivalent service and education without regard to supplemental or extended pay contracts; or
- (3) It is paid by a university or college as an average salary increase attributable to academic services as certified by an authorized representative of the university or college; or
- (4) It is paid by a school board or governing board, school district, or governing authority of a community school or a science, technology, engineering, and mathematics school that does not use a teacher salary schedule as an average salary increase as certified by an authorized representative of the employer.

(B) In determining the highest percentage increase in compensation under division (B)(1) of section 3307.501 of the Revised Code, increases in compensation from one fiscal year earnings to another for which a member has not performed full-time service as defined in paragraph (A)(1) of rule 3307:1-2-01 of the Administrative Code in either or both year(s) shall be the greater of:

- (1) The projected salary increase established by an actuary for the retirement board based on the member's years of service credit at the beginning of the fiscal year used in calculating the member's final average salary, or

- (2) The percentage increase considered generally applicable to members employed by the employer.
- (C) Where the two highest years of compensation certified for an applicant for service retirement include a percentage increase otherwise excluded by division (B) of section 3307.501 of the Revised Code, the executive director of the retirement system or his or her designee may include all or part of such percentage increase in the calculation of final average salary, up to a maximum of seventy-five hundred dollars, if:
- (1) The increase is related to a diminution of compensation as the result of illness or incapacitation, provided that completion of contributions is not authorized under the terms of section 3307.77 of the Revised Code; or
 - (2) The executive director of the retirement system or his or her designee determines that other good cause exists for inclusion.
- (D) Where a percentage increase is excluded from compensation used to determine final average salary under the provisions of division (B) of section 3307.501 of the Revised Code and paragraph (A) or (B) of this rule, the applicant shall be given written notice of the right to an appeal pursuant to this paragraph, provided:
- ~~(1) The maximum of seventy-five hundred dollars has not already been included under paragraph (C) of this rule.~~
 - ~~(2)~~(1) Requests for an appeal shall be made by the applicant in writing within thirty days of such notice.
 - ~~(3)~~(2) The applicant shall be afforded the opportunity to ~~present~~provide written information explaining the arguments for making an exception to the statutory limitation ~~and to appear before a review committee designated by the retirement board.~~ The applicant shall be informed of the date the ~~committee~~retirement system will review and consider the appeal. ~~An applicant who has requested a personal appearance before the committee may for good cause request delay of consideration, provided that no prior request for delay has been granted.~~
 - ~~(4)~~(3) All information supporting an applicant's assertion that good cause exists for making an exception to the statutory limitation ~~shall~~must be received by the retirement system at least two weeks before the ~~committee's~~ scheduled review.
 - ~~(5) After consideration of the information presented by the applicant, the committee shall submit its recommendation to the board.~~

- (E) In determining final average salary under division (C) of section 3307.501 of the Revised Code if disability benefits to a member began before August 1, 2015, the benefits beginning date shall be the effective date disability benefits were granted, provided that monthly benefits continue without any interruption in the monthly stream of benefits to the member pursuant to section 3307.57, 3307.58 or 3307.59 of the Revised Code or to a survivor of the member pursuant to section 3307.66 of the Revised Code.

Effective:

Five Year Review (FYR) Dates: 5/7/2025

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.01, 3307.50, 3307.501
Prior Effective Dates: 08/15/1986 (Emer.), 10/30/1986, 09/15/1989 (Emer.),
11/30/1989, 04/29/1991, 10/29/1991 (Emer.),
01/27/1992, 07/01/2001 (Emer.), 09/17/2001,
09/17/2002, 08/19/2004, 08/01/2005, 09/12/2009,
02/15/2013 (Emer.), 05/02/2013, 05/07/2015,
05/07/2020, 07/07/2022

3307:1-5-03

Court orders.

- (A) All retirants subject to division ~~(H)(1)(b)~~(I)(1)(b) of section 3307.60 of the Revised Code shall indicate such requirement on his or her application for service retirement benefits submitted to the retirement system and shall provide a copy of the court order or court orders when making application for benefits pursuant to section 3307.57, 3307.58 or 3307.59 of the Revised Code.
- (1) The retirement system in its sole discretion shall determine whether a retirant elects a plan of payment on the application for service retirement benefits that complies with any court orders.
- (2) The retirement system may request the retirant to provide additional court orders or other information, as determined solely by the retirement system, to clarify the plan of payment that the retirant is required to elect.
- (a) The retirement system shall not commence payment of retirement benefits until it receives the requested additional court orders or other information.
- (b) If the retirement system does not receive the requested additional court orders or other information within twelve months of the date of the initial request, the retirant's application for service retirement benefits shall be cancelled.
- (B) At any time, before or after monthly benefits begin, a former spouse may waive his or her rights to any part of a lump-sum payment paid before or after the member's death or any portion of a continuing benefit payable after the retirant's death as required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding division of marital property. Such waiver shall be effective upon receipt of a notarized statement approved by the retirement system and signed by the affected former spouse. Such waiver shall be a full discharge and release to the board and system from any future claim for such payment.
- (C) For purposes of determining the priority of court orders issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property that require a member to elect the plan of payment set forth in division (A)(4) of section 3307.60 of the Revised Code and designate a former spouse as a beneficiary, the retirement system shall process such court orders in the order in which they were filed with the clerk of courts.

Effective:

Five Year Review (FYR) Dates: 5/7/2025

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.60
Prior Effective Dates: 10/27/2006, 06/11/2010, 05/07/2020

3307:1-12-01 **Distributions.**

(A) Notwithstanding any provision in Chapter 3307. of the Revised Code or in the rules governing the ~~state teachers~~ retirement system to the contrary, distributions to members and beneficiaries shall be made in accordance with section 401(a)(9) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 401, as amended, and applicable regulations thereunder and with the following rules.

(1) The entire interest of a member shall be distributed to such member:

(a) Not later than the required beginning date; or

(b) Beginning not later than the required beginning date, in accordance with applicable regulations, over the life of such member or the lives of such member and a designated beneficiary (or over a period not extending beyond the life expectancy of such member) within the meaning of section 401(a)(9) of the Internal Revenue Code.

(2) ~~Required~~The required beginning date ~~means April first of the calendar year following the later of:~~

~~(a) If the member attains the age of seventy and one-half prior to January 1, 2020, the required beginning date means April first of the calendar year following the later of:~~

~~(i) The calendar year in which the member attains age seventy and one-half; or~~

~~(ii) The calendar year in which the member retires; or~~

~~(b) If the member does not attain the age of seventy and one-half prior to January 1, 2020, the required beginning date means April first of the calendar year following the later of:~~

~~(i) The calendar year in which the member attains age seventy-two (or any such later age specified in section 401(a)(9)(C) of the Internal Revenue Code); or~~

~~(ii) The calendar year in which the member retires.~~

(a) The calendar year in which the member attains the required minimum distribution age specified in section 401(a)(9)(C) of the Internal Revenue Code; or

(b) The calendar year in which the member retires.

- (3) If distribution of a member's benefit has begun pursuant to the provisions of section 401(a)(9) of the Internal Revenue Code and the applicable regulations and the member dies, any survivor benefits will be distributed at least as rapidly as under the plan of payment selected and effective as of the date of the member's death.
- (4) Beneficiary distributions.
- (a) If a member dies before the distribution of the member's interest has begun pursuant to the provisions of section 401(a)(9) of the Internal Revenue Code and the applicable regulations, the entire interest of the member will be distributed by the end of the calendar year which contains the fifth anniversary of the date of such member's death.
- (b) ~~Furthermore, if~~ If a benefit is payable to or for the benefit of a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code, the entire interest of the member will be distributed by the end of the calendar year which contains the tenth anniversary of the date of such member's death.
- (c) However, if a benefit is payable to or for the benefit of an eligible designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code, the benefit may be distributed, in accordance with applicable regulations, over the life of such beneficiary or, in the case of an eligible designated beneficiary who is younger than eighteen at the time of the member's death, such other amount of time as set forth in section 401(a)(9)(E)(iii) of the Internal Revenue Code, provided that in all cases, such distributions begin not later than the end of the calendar year immediately following the calendar year in which the member died.
- (d) If the beneficiary is the surviving spouse of the member, distributions shall begin, pursuant to this paragraph, not later than the end of the calendar year in which the member would have attained ~~age seventy and one-half (if the member would have attained age seventy and one-half prior to January 1, 2020), or age seventy-two (if the member would not have attained age seventy and one-half prior to January 1, 2020)~~ the required minimum distribution age as specified in section 401(a)(9)(C) of the Internal Revenue Code; provided, however, that ~~in either case~~; if the surviving spouse dies before such distributions begin, the provisions set forth in this paragraph shall be applied as if the surviving spouse were the member.

- (5) Any death benefit amounts payable under Chapter 3307. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code and regulations thereunder.
 - (6) Any amount paid to a qualified child as defined in section 3307.66 of the Revised Code shall be treated as if it had been paid to the surviving spouse if the amount becomes payable to the surviving spouse upon such child ceasing to be a qualified survivor.
- (B) No payment in an amount of two hundred dollars or more shall be made to any person until any applicable requirements of sections 401(a)(31), 402(c), 402(f), 408A, and 3405 of the Internal Revenue Code or any provision of federal law governing withholding from or rollover of distributions from a qualified trust have been satisfied, provided that:
- (1) The ~~state teachers~~ retirement system shall give notice of options available to any such person as required by federal law.
 - (2) The ~~state teachers~~ retirement system will permit any such person, except a trust or an estate, to direct that an amount at least equal to the entire payment due from the state teachers retirement system or five hundred dollars, whichever is less, be paid as a direct rollover to one eligible retirement plan or Roth IRA designated by the person. ~~Effective September 21, 2007, a~~ nonspouse beneficiary of a deceased member may only rollover directly to an individual retirement plan that shall be treated as an inherited individual retirement account or annuity to the extent permitted by section 402(c)(11) of the Internal Revenue Code.
 - (3) Application by the person to have all or part of a payment paid as a direct rollover shall be on a form provided by the state teachers retirement system which shall contain the name and address of the retirement plan or Roth IRA to which the payment or portion thereof is to be made. The form provided by the system shall further contain the person's representation and certification that, if the person is rolling an amount over to a retirement plan, such retirement plan is an eligible retirement plan.
 - (4) Any part of a payment that is a required minimum distribution, as that term is defined in section 401(a)(9) of the Internal Revenue Code and the applicable regulations thereunder, is ineligible to be paid as a direct rollover.
- (C) When a member applies for the restoration of service credit under section 3307.71 of the Revised Code or the purchase of service credit under section 3307.72, 3307.73, 3307.74, 3307.751, 3307.752, 3307.76, 3307.761, 3307.763, division (D) of section

3307.77, 3307.771 or 3307.78 of the Revised Code, to the extent permitted by federal law, the member may also apply to have the state teachers retirement system accept, in full or partial payment of the cost of such restoration or purchase, pretax funds transferred to the state teachers retirement system as a direct rollover on and after July 2, 2002 from a plan or account eligible under the terms of the Internal Revenue Code to roll funds over to a trust qualified under the terms of section 401(a) of the Internal Revenue Code provided the funds were not commingled in the individual retirement plan with funds from any source other than a trust qualified under section 401(a) of the Internal Revenue Code. Acceptance of a direct rollover under this paragraph shall be subject to the following:

- (1) Application shall be on a form approved by the ~~state teachers~~ retirement system;
 - (2) Application shall be subject to determination by the ~~state teachers~~ retirement system of the amount that will be accepted;
 - (3) The amount accepted by the ~~state teachers~~ retirement system shall in no case exceed the cost of restoration or purchase determined by the system.
- (D) For purposes of section 3307.563 of the Revised Code, interest rates on amounts to be paid under section 3307.56 or 3307.562 of the Revised Code shall be determined by the board not to exceed four per cent, compounded annually, for members with less than three full years of qualifying service credit and not to exceed six per cent, compounded annually, for members with three or more full years of qualifying service credit. Interest for all years withdrawn shall begin to accrue in the fiscal year following deposit. No interest will be payable if a former member applies to withdraw an account consisting only of contributions made during the current fiscal year. Interest stops accruing as of the end of the month immediately preceding withdrawal.
- (E) For purposes of division (A)(3)(b) of section 3307.563 of the Revised Code, contributions restored under section 3307.712 of the Revised Code shall be considered the same as contributions restored under section 3307.71 of the Revised Code to the extent that the amount paid to restore the credit included amounts received by the member under division (A)(3)(b) of section 3307.563 of the Revised Code.
- (F) Pursuant to division (A)(2) of section 3307.56 of the Revised Code, consent of a spouse shall not be required for withdrawal:
- (1) If the retirement system receives the written statement of a physician certifying that the spouse is medically incapable of acknowledging the request for withdrawal by the applicant, and receives consent by and through a duly appointed guardian, as specified by rule 3307-7-01 of the Administrative Code or

- (2) If the affidavits of the applicant and at least two other persons, one of whom must be unrelated to the applicant, are received attesting that the whereabouts of the spouse are unknown.
- (G) If a superannuate fails to elect a benefit as provided in section 3307.352 of the Revised Code by February first in the calendar year immediately following the later of the calendar year of the superannuate's attainment of ~~age seventy and one-half (if the member would have attained age seventy and one-half prior to January 1, 2020), or the calendar year of the superannuate's attainment of age seventy-two (if the member would not have attained age seventy and one-half prior to January 1, 2020)~~; the required minimum distribution age as specified in section 401(a)(9)(C) of the Internal Revenue Code or the calendar year of retirement, the state teachers retirement board shall make a lump sum distribution to the superannuate no later than the required beginning date for the superannuate.

Effective:

Five Year Review (FYR) Dates: 3/19/2026

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.56, 3307.563, 3307.71, 3307.72, 3307.73,
3307.74, 3307.751, 3307.752, 3307.76, 3307.761,
3307.77, 3307.771, 3307.78
Prior Effective Dates: 01/01/1993, 03/18/1993, 07/01/2001 (Emer.),
09/17/2001, 07/01/2002 (Emer.), 09/17/2002,
01/01/2006 (Emer.), 04/01/2006, 09/21/2007 (Emer.),
12/20/2007, 01/22/2009 (Emer.), 04/29/2009 (Emer.),
07/16/2009, 01/07/2013 (Emer.), 03/24/2013,
06/10/2016, 08/06/2020

3307:1-12-02 **Maximum permissible benefits.**

Applicability of the final 415 regulations effective beginning on the limitation year commencing on January 1, 2008.

- (A) In general. The final regulations for section 415 of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 401, as amended ("final regulations") were made applicable to distributions to members and beneficiaries as of January 1, 2008. As of ~~the last effective date of this rule~~ June 7, 2019, the final regulations are incorporated by reference.
- (B) Pursuant to section 3307.58 of the Revised Code and section 415 of the Internal Revenue Code, the maximum annual benefit distributed to a member or beneficiary under the defined benefit plan and/or the combined plan shall be determined as of the date the benefit commences, except as otherwise set forth in section 3307.46 of the Revised Code, and shall be limited to the maximum amount permitted under section 415(b)(1)(A) of the Internal Revenue Code, as adjusted in accordance with section 415(d) of the Internal Revenue Code, for the limitation year.
- (C) Any adjustments applicable to governmental plans (as defined in section 414(d) of the Internal Revenue Code) that are required or permitted under section 415(b) of the Internal Revenue Code shall be applied in calculating the maximum annual benefit, except that the adjustment for commencement after age 65 under section 415(b)(2) (D) and the minimum benefit permitted by section 415(b)(4) of the Internal Revenue Code shall not apply.
- (D) The application of the provisions of this rule shall not cause the maximum annual benefit provided to a member under the defined benefit plan to be less than the member's accrued benefit as of December 31, 2007 under provisions of Chapter 3307. of the Revised Code and division 3307:1 of the Administrative Code that were both adopted and in effect prior to April 5, 2007.
- (E) To the extent section 415(c) of the Internal Revenue Code applies to contributions made to the defined contribution plan or the combined plan, the annual contributions made to the member's account by the member or the member's employer shall be subject to the limits of section 415(c) of the Internal Revenue Code, which limits shall be adjusted in accordance with section 415(d) of the Internal Revenue Code. For this purpose, compensation shall mean compensation as defined in section 415(c)(3) of the Internal Revenue Code and section 1.415-2(d)(3) of the final regulations, and effective January 1, 2009, compensation shall include differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code.
- (F) The limitation year under this rule shall be the calendar year.

Effective:

Five Year Review (FYR) Dates: 3/25/2024

Certification

Date

Promulgated Under: 111.15
Statutory Authority: 3307.04
Rule Amplifies: 3307.46, 3307.58, 3307.63, 3307.67
Prior Effective Dates: 07/16/2009, 09/03/2012, 08/07/2014, 06/07/2019

3307:2-1-01

Definitions.

Except where another definition is specified, for the purposes of sections 3307.80 to 3307.89 of the Revised Code and Chapters 3307:2-1 to 3307:2-6 of the Administrative Code all definitions can be found in the plan document, which is the document or documents adopted by the retirement board to establish the defined contribution program or any of its constituent plans.

Five Year Review (FYR) Dates: 3/25/2024 and 03/25/2029

CERTIFIED ELECTRONICALLY

Certification

03/25/2024

Date

Promulgated Under: 111.15
Statutory Authority: 3307.80
Rule Amplifies: 3307.25, 3307.251, 3307.81
Prior Effective Dates: 09/17/2001, 07/16/2004, 06/18/2009, 01/07/2013
(Emer.), 03/24/2013, 06/12/2014, 06/07/2019

3307:2-2-01

Establishment of defined contribution program, including a defined contribution plan and combined plan.

- (A) Defined contribution program. Pursuant to section 3307.81 of the Revised Code, the ~~state teachers~~ retirement board hereby establishes a defined contribution program effective July 1, 2001, consisting of such plans as the board may from time to time establish.

The terms and conditions of each such plan shall be as specified by a plan document adopted by the board. The plan document may be amended from time to time without prior notice as the retirement board deems necessary or appropriate. The plans established by the board may include plans in which the performance of investment choices specified by the board and selected by the member are used to determine the cash accumulation in each account and available to the participant upon retirement or withdrawal. The investment choices specified by the board may include a guaranteed return option. Such plans may provide definitely determinable benefits, or any combination of the foregoing.

Contributions made by participants and employers pursuant to sections 3307.26 and 3307.28 of the Revised Code shall be allocated in accordance with the applicable plan documents and as the board may from time to time specify. An account in the defined contribution fund created by division (G) of section 3307.14 of the Revised Code shall be maintained for each member who elects to participate in any such plan.

- (B) Defined contribution plan. Pursuant to section 3307.81 of the Revised Code, the retirement board hereby establishes the defined contribution plan effective July 1, 2001. The terms and conditions of the defined contribution plan shall be as specified in a plan document adopted by the retirement board.

Contributions made by a participant pursuant to section 3307.26 of the Revised Code and a portion of employer contributions pursuant to section 3307.28 of the Revised Code specified by the retirement board shall be credited to the participant's account in the defined contribution fund. Contributions ~~so~~ credited shall be allocated by the participant among investment choices specified by the retirement board.

- (C) Combined plan. Pursuant to section 3307.81 of the Revised Code, the retirement board hereby establishes the combined plan effective July 1, 2001. The terms and conditions of the combined plan shall be as specified in a plan document adopted by the retirement board.

A portion of the participant contributions made pursuant to section 3307.26 of the Revised Code as specified by the retirement board shall be credited to a participant's account in the defined contribution fund. Such contributions shall be allocated by the participant among investment choices specified by the retirement board.

A portion of the participant contributions made pursuant to section 3307.26 of the Revised Code and a portion of the employer contributions made pursuant to section 3307.28 of the Revised Code shall be applied as specified by the retirement board to provide retirement, disability and survivor benefits under the terms, conditions and schedules specified by the plan document. A portion of the employer contributions may be allocated to the health care fund under the terms, conditions and schedules specified by the retirement board.

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3307:2-3-01

Initial election by new members.

(A) For purposes of section 3307.25 of the Revised Code, Chapter 3307:2-3 of the Administrative Code and the plan document:

(1) "Teacher" shall be a contributing member of the retirement system employed in a position that meets the requirements set forth in division (B) of section 3307.01 of the Revised Code.

(2) "New member" shall mean:

(a) An individual who is employed for the first time as a teacher and who has never previously been a member of the retirement system; or

(b) An individual who is not a member of the retirement system upon employment as a teacher, notwithstanding prior membership in the retirement system if:

(i) The individual terminated covered employment and withdrew contributions pursuant to section 3307.56 of the Revised Code before July 1, 2001; and

(ii) On June 30, 2001 the individual was not a member of the retirement system; and

(iii) The individual thereafter returned to teaching service; or

(c) An individual who is not a member of the retirement system upon employment as a teacher, notwithstanding prior membership in the retirement system, if:

(i) On June 30, 2001, the individual was a member of the retirement system with five or more years of service credit; and

(ii) The individual terminated covered employment and withdrew contributions pursuant to section 3307.56 of the Revised Code after July 1, 2001; and

(iii) The individual thereafter returns to teaching service; or

(d) An individual who is not a member of the retirement system upon employment as a teacher, notwithstanding prior membership in the retirement system if:

- (i) The prior membership in the system was established on or after July 1, 2001; and
 - (ii) Upon such prior membership, the individual made an election pursuant to section 3307.25 of the Revised Code to participate in the defined contribution plan or the combined plan; and
 - (iii) The individual thereafter terminated covered employment and withdrew all contributions or had the account exhausted through fees under the terms of the plan in which he or she was participating prior to the first day of June immediately preceding the fourth anniversary of the June thirtieth of the entry year; and
 - (iv) The individual thereafter returns to teaching service.
- (B) An election of the defined contribution or combined plans made pursuant to section 3307.25 of the Revised Code shall govern future participation in the retirement system, notwithstanding subsequent terminations of employment as a teacher, changes of employer, or new employment as a teacher, except as otherwise specifically provided by the Revised Code, the Administrative Code or the plan document.
- (C) An election or an active election of the defined benefit plan made pursuant to section 3307.25 of the Revised Code shall govern future participation in the retirement system, notwithstanding subsequent terminations of employment as a teacher, changes of employer, withdrawal from membership or new employment as a teacher except as otherwise specifically provided by the Revised Code, the Administrative Code or the plan document.
- (D) The retirement system shall establish an account in the defined contribution fund created by division (G) of section 3307.14 of the Revised Code for an individual who elects participation in a plan established under section 3307.81 of the Revised Code within fourteen days of receipt of a form with a valid plan election.

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3307:2-4-02

Military service.

- (A) A participant in the defined contribution plan or the combined plan may make contributions for periods when Ohio teaching service was interrupted by military service under the same terms and conditions as specified for participants in the defined benefit plan by section 3307.752 of the Revised Code. The interest rate used to calculate the cost of any such purchase shall be at the same rate established pursuant to rule 3307:1-3-01 of the Administrative Code for purchases of military service under section 3307.752 of the Revised Code.
- (B) The retirement board shall specify the portion of contributions that would have been paid by the participant pursuant to section 3307.26 of the Revised Code, and interest thereon as directed by section 3307.752 of the Revised Code, to be credited as specified by the plan document to the participant's account in the defined contribution fund created by division (G) of section 3307.14 of the Revised Code. The remaining contributions that would have been paid by the participant ~~for Ohio teaching service interrupted by military service, if applicable,~~ and all employer contributions that would have been paid by the employer pursuant to section 3307.28 of the Revised Code for the participant's period of interrupted military service shall be applied ~~to provide retirement, disability, and survivor benefits under the terms, conditions, and schedules~~ as specified by the plan document. A portion of the employer contributions may be allocated to the health care fund under the terms, conditions and schedules specified by the retirement board.
- (C) No refund will be made of amounts paid by a participant to purchase credit as herein provided, except as a part of a total withdrawal of funds.
- (D) A participant in the combined plan may make contributions for periods of service as outlined in paragraph (A) of this rule up to three months after the earlier of either:
- (1) The annuity starting date for the participant's defined benefit portion of the combined plan; or
 - (2) The annuity starting date for the participant's defined contribution portion of the combined plan.

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3307:2-4-03

Combined plan participant leaves of absence.

Section 3307.77 of the Revised Code permits a teacher in the combined plan to complete contributions for a period during which the teacher was prevented by illness, injury, a leave granted pursuant to section 3319.13 or 3319.131 of the Revised Code, or other reasons approved by the state teachers retirement board, from making regular retirement contributions.

To facilitate crediting of such contributions, employer contributions and associated service credit, the following rule shall apply:

- (A) A participant in the combined plan may purchase credit for a period of leave or absence that would qualify for purchases by a defined benefit plan participant under the requirements set forth in section 3307.77 of the Revised Code and rule 3307:1-3-06 of the Administrative Code, provided leave of absence purchases made pursuant to section 3307.77 of the Revised Code shall be made by a lump-sum payment.
- (B) Except as provided in paragraph (F) of this rule, a participant in the combined plan may complete retirement contributions and secure retirement credit for non-paid professional leaves in accordance with rule 3307:1-3-05 of the Administrative Code up to three months after the earlier of either:
 - (1) The annuity starting date for the participant's defined benefit portion of the combined plan; or
 - (2) The annuity starting date for the participant's defined contribution portion of the combined plan.
- (C) Except as provided in paragraph (F) of this rule, a participant in the combined plan may make contributions for periods of leave of absence as outlined in paragraph (A) of this rule up to three months after the earlier of either:
 - (1) The annuity starting date for the participant's defined benefit portion of the combined plan; or
 - (2) The annuity starting date for the participant's defined contribution portion of the combined plan.
- (D) Upon payment by the participant, service will be posted to the defined benefit portion of the participant's account. The retirement board shall specify the portion of the amount paid by the participant equal to the teacher contributions under section 3307.26 of the Revised Code and interest thereon to be posted to the participant's account in the defined contribution fund. The remaining amount paid by the participant for a leave of absence and all employer contributions paid by the employer for the participant's

leave of absence shall be applied to provide retirement, disability, and survivor benefits under the terms, conditions and schedules specified by the plan document. A portion of the employer contributions may be allocated to the health care fund under the terms, conditions and schedules specified by the retirement board.

- (E) No refund will be made of amounts paid by a participant to purchase credit as herein provided, except as a part of a total withdrawal of funds.
- (F) If a participant service retires under the defined benefit portion of their account with an effective benefit date later than their service retirement under the defined contribution portion of the account, they may purchase a leave of absence as outlined in rule 3307:1-3-06 of the Administrative Code if the additional contributions will reduce or eliminate the limitation of compensation allowed in final average salary under section 3307.501 of the Revised Code. The purchase must be made within two months of notification by the retirement system to the participant that the purchase of the leave of absence will reduce or eliminate limitation of compensation allowed in final average salary.

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3307:2-5-01

Distributions.

Application for a distribution from the defined contribution program shall be in accordance with the terms and conditions specified by the plan document. In no case shall a distribution be made prior to the termination of covered employment. Calculation and payment of a distribution shall be as specified by Chapter 3307:2-5 of the Administrative Code, the plan document, and the rates, factors and conditions established by the retirement board. Application shall be on a form provided by the retirement system and shall be deemed made as of the date a complete application is received by the retirement system.

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3307:2-5-02

Distributions from the defined contribution plan.

Upon termination of teaching service, a participant in the defined contribution plan may apply for a distribution, as follows:

(A) Application may be made for withdrawal of the amount determined under the plan document and this rule.

- (1) The amount payable upon withdrawal shall be paid in a lump sum, except to the extent as otherwise provided by section 3307.87 of the Revised Code and the plan document.
- (2) Membership and participation in the retirement system shall terminate upon withdrawal. Any credit for periods of service paid out upon withdrawal shall be cancelled.
- (3) Participation in the defined contribution plan shall resume in the event the participant thereafter returns to teaching service, except to the extent that upon the return to teaching service the participant meets the requirements specified by rule 3307:2-3-01 of the Administrative Code to qualify as a new member.
- (4) Payment from an account in the defined contribution plan shall be based upon the closing net asset value as of the day an application for distribution is processed by using the investment choices made by the participant to determine the amount accumulated by reason of contributions.

(B) Application may be made for a monthly benefit by a participant who has attained at least fifty years of age, as follows:

- (1) Benefits shall be effective on the first of the month following the later of termination of covered teaching service or the first application for a distribution received by the retirement system.
- (2) Subject to the requirements of section 3307.87 of the Revised Code and Chapter 3307:2-5 of the Administrative Code, the participant may elect a plan of payment pursuant to rule 3307:2-5-09 of the Administrative Code. The minimum monthly benefit amount shall be one hundred dollars.
- (3) Membership in the retirement system shall terminate as of the effective benefit date. On and after that date, the participant shall be a superannuate as defined by section 3307.01 of the Revised Code.

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3307:2-5-03

Distributions from the combined plan.

Upon termination of teaching service, a participant in the combined plan may apply for a distribution, as follows:

(A) Application may be made for withdrawal of the amounts determined under the plan document and this rule.

(1) An application to withdraw the defined benefit portion of an account will not be accepted unless application is also made to withdraw the defined contribution portion.

(2) Prior to attainment of age fifty:

(a) A participant who has terminated covered employment may leave contributions on deposit in the plan or may apply for withdrawal, but is not eligible for retirement or retirement distributions.

(b) An application to withdraw the defined contribution portion of an account will not be accepted unless application is also made to withdraw the defined benefit portion;

(c) The amounts payable upon withdrawal shall be paid in a lump sum except as otherwise provided by section 3307.87 of the Revised Code and the plan document.

(3) After attainment of age fifty:

(a) A participant in the combined plan who has established at least five years of qualifying service credit may apply to withdraw the defined contribution portion but leave the defined benefit portion on deposit to provide benefits at a future date.

(b) If a participant has established less than five years of qualifying service credit, an application to withdraw the defined contribution portion of an account will not be accepted unless an application is also made to withdraw the defined benefit portion.

(4) Regardless of age or when the withdrawal payment was made, in the event a participant who has received a payment under paragraph (A) of this rule subsequently returns to teaching service:

(a) The member shall participate in the combined plan if the withdrawal payment was made under paragraph (A)(1), (A)(2) or (A)(3)(b) of this

rule, unless the participant meets the requirements specified by rule 3307:2-3-01 of the Administrative Code to qualify as a new member.

- (b) The participant shall be a superannuate as defined by section 3307.01 of the Revised Code if the withdrawal payment was made under paragraph (A) (3)(a) of this rule.
- (5) Payment from the defined contribution portion of an account in the combined plan shall be based upon the closing net asset value as of the day an application for distribution is processed by using the investment choices made by the participant to determine the amount accumulated by reason of contributions.
- (B) A participant who has terminated covered employment and attained at least fifty years of age may apply for a monthly benefit of the defined contribution portion of the account, whether or not the participant is eligible and applying for a benefit under the defined benefit portion of the account. If the participant has established less than five years of qualifying service credit, an application to receive a monthly benefit of the defined contribution portion of an account will not be accepted unless application is also made to withdraw the defined benefit portion.
- (1) Benefits shall commence the later of the first of the month following the termination of covered employment, the first of the month following receipt of an application for payment under paragraph (B) of this rule, or the retirement date, which shall be a first of a month, specified on the application received for payment under paragraph (B) of this rule. Active membership in the retirement system shall terminate as of that date and the participant shall on and after that date be a superannuate as defined by section 3307.01 of the Revised Code.
 - (2) Benefits are subject to the requirements of section 3307.87 of the Revised Code and Chapter 3307:2-5 of the Administrative Code. The participant shall elect on the application form to annuitize such balance.
 - (3) The minimum monthly benefit amount shall be one hundred dollars.
- (C) Application for retirement under the defined benefit portion of an account may be made by a participant who has terminated covered employment and who meets the defined benefit age and service eligibility requirements specified by the plan document, whether or not the participant is applying for a distribution of the defined contribution portion of the account, provided:
- (1) Benefits shall commence as of the effective date specified by the application, which shall in no case be earlier than the first of the month following the last day of covered employment.

- (2) Membership shall terminate as of the effective date of retirement and the participant shall thereafter be a superannuate as defined by section 3307.01 of the Revised Code.
- (3) The minimum monthly benefit amount shall be one hundred dollars.
- (D) A participant who has attained age fifty, has at least five years of qualifying service credit and who has elected either to take a withdrawal of the defined contribution portion of the account pursuant to paragraph (A)(3)(a) of this rule or to receive a monthly retirement benefit from the defined contribution portion of the account pursuant to paragraph (B) of this rule may apply to withdraw the defined benefit portion of the account any time prior to receiving a monthly retirement benefit under the defined benefit portion of the account.
- (E) Retirement shall be effective on the earlier of the dates benefits or payments commence under paragraph (A)(3)(a), (B)(1) or (C)(1) of this rule.

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3307:2-5-09

Plans of payment for monthly benefit.

- (A) A defined contribution program participant granted a monthly benefit from the member account upon attainment of a minimum age of fifty and termination of covered employment may elect a monthly benefit in accordance with the terms and conditions of the plan document under any of the plans of payment available for defined benefit members under the terms of rule 3307:1-5-02 of the Administrative Code and section 3307.60 of the Revised Code, except for a lump-sum payment made under division (B) of section 3307.60 of the Revised Code. A plan of payment selected may be changed or reselected only as therein provided. If the participant elects to annuitize such payment, no change may be made in the plan of payment selected for such annuity after the fifteenth day of the month of the first regular benefit payment. Regular benefits begin once a final benefit, as defined by paragraph ~~(H)~~(G) of rule 3307:1-1-01 of the Administrative Code, is paid.
- (B) A combined plan participant granted a monthly benefit under the defined benefit portion of the account may elect a monthly benefit in accordance with the terms and conditions of the plan document under any of the plans of payment available for defined benefit members under the terms of section 3307.60 of the Revised Code and rule 3307:1-5-02 of the Administrative Code. A plan of payment selected may be changed or reselected only as therein provided. No change may be made in the plan of payment selected after the fifteenth day of the month of the first regular benefit payment. Regular benefits begin once a final benefit, as defined by paragraph ~~(H)~~(G) of rule 3307:1-1-01 of the Administrative Code, is paid.

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3307:2-6-01

Combined plan disability benefits.

- (A) A participant in the combined plan may apply for disability benefits specified by the plan document.
- (B) An application for a disability benefit under the combined plan and continuing eligibility for such a benefit shall be evaluated, reevaluated, and administered as specified by sections 3307.48, 3307.62, and 3307.631 of the Revised Code and Chapter 3307:1-7 of the Administrative Code.
- (C) Neither service credit established under nor contributions to the public employees retirement system created by Chapter 145. of the Revised Code or the school employees retirement system created by Chapter 3309. of the Revised Code may be combined with credit or contributions to this retirement system for either determination of eligibility for disability benefits or calculation of any such benefits.

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3307:2-6-02

Combined plan survivor benefits.

- (A) In the event of the death of a combined plan participant prior to payment to the participant of both the defined benefit and defined contribution portions of the account, payment shall be made as permitted by this rule.
- (B) Dependent, service, or retirement based survivor benefits may be granted in accordance with sections 3307.501, 3307.66, and 3307.67 of the Revised Code and Chapter 3307:1-8 of the Administrative Code to the qualified survivors of the deceased participant in lieu of payment pursuant to Chapter 3307:2-5 of the Administrative Code, calculated, paid and terminated as though all requirements of section 3307.66 of the Revised Code were applicable, except those set forth in division (G) of section 3307.66 of the Revised Code.
- (C) A surviving spouse or sole survivor of a participant at the time of the participant's death may receive a lump-sum payment of both the defined contribution and the defined benefit portions of the account and receive the same lump-sum payments the participant would have received as defined in the plan document. To receive a monthly annuity, the following applies:
- (1) The surviving spouse or sole survivor may receive a monthly annuity from the defined contribution portion of the participant's combined plan account if the monthly annuity benefit is not less than one hundred dollars monthly when computed as a one hundred per cent joint survivor annuity without reversion; otherwise, a lump-sum payment of the defined contribution portion of the account shall be paid. The effective date for the monthly annuity payment from the defined contribution portion shall be the first of the month following the participant's date of death.
 - (2) The surviving spouse or sole survivor may receive a monthly annuity from the defined benefit portion of the participant's combined plan account if the participant at the time of death was eligible, or would have been eligible the first of the month following the date the deceased participant would have attained the minimum age necessary to qualify for benefits, for a monthly annuity benefit of not less than one hundred dollars monthly when computed as a one hundred per cent joint survivor annuity without reversion; otherwise, a withdrawal of the defined benefit portion of the account shall be paid. The effective date for the monthly annuity payment from the defined benefit portion shall be the first of the month following the later of the participant's date of death or the date the deceased participant would have attained the minimum age necessary to qualify for benefits under the defined benefit portion, based upon service credit accrued as of the date of death. Such a benefit shall be computed under the terms of the combined plan and payable in the form of the one hundred per cent joint survivor annuity without reversion the participant would have received had the

participant been retired on that same first of the month and selected such a joint survivor annuity.

- (3) For purposes of this rule, "without reversion" refers to an annuity where neither the plan of payment nor the primary beneficiary may be changed after retirement.
- (D) Neither service credit established under nor contributions to the public employees retirement system created by Chapter 145. of the Revised Code or the school employees retirement system created by Chapter 3309. of the Revised Code may be combined with this retirement system, either for the determination of eligibility for survivor benefits or the calculation of benefits.
- (E) In the event of the death of a combined plan participant prior to payment of the defined benefit portion of the account but after payment was made of the defined contribution portion as specified by paragraph (A)(3) or paragraph (B) of rule 3307:2-5-03 of the Administrative Code, a benefit may be granted to a surviving spouse or sole survivor. Such a benefit shall be effective as of the first of the month following the date the deceased participant would have attained the minimum age necessary to qualify for benefits under the defined benefit portion, based upon service credit accrued as of the date of death. Such a benefit shall be computed under the terms of the combined plan and payable in the form of the one hundred per cent joint survivor annuity without reversion the participant would have received had the participant been retired on that same first of the month and selected such a joint survivor annuity or, in lieu of a benefit computed as a one hundred per cent joint survivor annuity, the benefit is payable as a lump sum equal to the withdrawal value as defined in the plan document.
- (F) In the event of the death of a combined plan participant prior to payment of the defined contribution portion of the account but after payment was made of the defined benefit portion as specified by paragraph (C) of rule 3307:2-5-03 of the Administrative Code, the surviving spouse or sole survivor may withdraw or immediately annuitize the defined contribution portion of the account.

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3309-1-02

Definition of compensation.

- (A) This rule amplifies and is in addition to the provisions of division (V) of section 3309.01 of the Revised Code.
- (B) Except as otherwise provided by division (V) of section 3309.01 of the Revised Code, the following payments made by an employer are not "compensation."
- (1) Payments made by the employer for accrued but unused compensatory time for overtime worked;
 - (2) One-time and/or lump-sum payments made by the employer to an employee where such payments are not based upon the employee's standard rate of pay or identified in paragraph (C) of this rule;
 - (3) Retroactive payments or pay increases made or granted by the employer in whole or in part in consideration of retirement or an agreement to retire; and
 - (4) Any terminal payments or other additional remuneration paid by the employer in consideration of retirement or an agreement to retire.
- (C) The following payments made by an employer shall be "compensation":
- (1) Payments on behalf of the contributor to an eligible retirement plan as defined in section 402(c)(8) of the Internal Revenue Code of 1986, 26 U.S.C. 402(c)(8).
 - (2) Back wages awarded pursuant to a final order or final settlement award that reinstates the contributor to the contributor's former position, or comparable position, without interruption or loss of time.
 - (3) Effective January 1, 2009, differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code, 26 U.S.C. 3401(h)(2).
 - (4) Payments based on an employee's length of service.
 - (5) A one-time or lump sum payment by the employer that is paid in lieu of a salary or wage increase, to all persons in a class of employees, in the same dollar amount or same percentage of salary or wages, and in accordance with a written contractual agreement.
 - (6) A one-time or lump sum payment made by the employer for additional services rendered.

(D)

- (1) Prior to remitting contributions on salary, wages or other earnings where there is a question on whether such payments or earnings are "compensation," the employer shall request in writing a determination by the retirement board.
- (2) The retirement board shall give the employer written notice of its determination.
- (3) If the employer fails to request a prior determination and the retirement board determines that the salary, wages or other earnings are not "compensation," then any contributions received on such salary, wages and other earnings shall be deemed unauthorized and shall be refunded.
- (4) If the employer fails to request a prior determination and the retirement board determines that the salary, wages, or other earnings are "compensation," then the retirement board may certify for collection pursuant to sections 3309.47 and 3309.51 of the Revised Code the amount of contributions not remitted.

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3309-1-05

Policy on investment department incentive plan payouts.

- (A) Pursuant to section 3309.14 of the Revised Code, payment of employee bonuses are subject to the guidelines established by the school employees retirement board as reflected in the investment department incentive plan. The plan 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, provided, however, that no such action by the board will be given effect if it is inconsistent with the requirements of section 409A of the Internal Revenue Code of 1986, as amended. The plan shall establish target incentive awards weighted against performance components, focusing on the school employees retirement system's actual relative investment performance compared with external benchmarks. Any and all material modifications to the plan, including, but not limited to, those related to the assignment of target incentive awards, identification of performance measures and standards, and determination of plan payouts and actual payouts, requires the board's prior approval.
- (B) Participation in the plan is limited to certain school employees retirement system full-time investment professionals. Participation in the plan in any one year does not confer the right to participate in the plan in the current or any other year and does not confer the right to continued employment.

Five Year Review (FYR) Dates: 2/1/2024 and 02/01/2029

CERTIFIED ELECTRONICALLY

Certification

02/01/2024

Date

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Statutory Authority: 3309.04
Rule Amplifies: 3309.041, 3309.14
Prior Effective Dates: 04/10/2005, 04/02/2010, 05/03/2019

3309-1-06

Ohio-qualified agents and investment managers.

- (A) For purposes of division (A)(4) of section 3309.157 and section 3309.159 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 3309.159 of the Revised Code.
- (B) For purposes of sections 3309.157 and 3309.159 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.

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Rule Amplifies:	3309.157, 3309.159
Prior Effective Dates:	04/10/2005, 04/01/2016

3309-1-08

Payment of benefits and allowances.

- (A) Effective July 1, 1953 all annuities, retirement allowances, and benefits provided by law and payable in monthly installments shall be due and payable in full on the first day of the month.
- (B) All annuities, retirement allowances, and benefits shall be paid on the first day of the month due.
- (C) The retirement system may suspend any annuity, retirement allowance or benefit under the following circumstances:
- (1) If the system has good cause to believe either of the following:
 - (a) That a retirant or benefit recipient may be incapacitated, and no other person has authority to act or receive payment on the retirant or benefit recipient's behalf; or
 - (b) That a retirant or benefit recipient is deceased or missing.
 - (2) If correspondence sent to the most recent mailing address provided by a retirant or benefit recipient is returned to the system as undeliverable and the system does not receive an updated mailing address within thirty days of receipt of the undeliverable correspondence.

Five Year Review (FYR) Dates: 2/1/2024 and 02/01/2029

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Rule Amplifies: 3309.341, 3309.35, 3309.36, 3309.381, 3309.40,
3309.401, 3309.45, 3309.46
Prior Effective Dates: 12/24/1976, 01/07/2013, 03/30/2015, 10/11/2018

3309-1-18

Payment of contributions.

(A) For purposes of this rule:

- (1) "Employer" has the same meaning as in section 3309.01 of the Revised Code.
- (2) "Contribution report" means payroll data for each pay date that has been cleared of any errors or warnings.
- (3) "Surcharge" means the employer minimum compensation contribution amount determined pursuant to section 3309.491 of the Revised Code.

(B) Payments due under section 3309.47 of the Revised Code shall be received by the school employees retirement system by the fifth business day following the pay date.

(C) Contribution reports shall be posted online with the retirement system by the fifth business day following the pay date.

(D) Payments due under section 3309.51 of the Revised Code and paid by an employer directly to the employers' trust fund shall be received by the retirement system by the fifth business day following the pay date.

(E) 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 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) Surcharge payments due to the employers' trust fund shall be collected in one of the following ways:

- (1) An employer who chooses direct pay or an employer who does not receive amounts allocated under Chapter 3317. of the Revised Code shall pay its surcharge directly to the employers' trust fund 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 (G) (1) of this rule, as well as science, technology, engineering and mathematics schools and community schools, 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) For any payments made pursuant to paragraphs (B), (D), (F) and (G)(1) of this rule, payment remittance information shall be submitted in the manner specified by the retirement system no later than the date the payment is received by the retirement system.
- (I) The retirement system may extend a due date for an employer upon a finding that good cause has been shown.
- (J) For purposes of section 3309.571 of the Revised Code, “days” refers to “business days.”
- (K) An employer shall repay the retirement system for any amounts paid by the retirement system as the result of employer errors in reporting or certifying information to the retirement system.

Five Year Review (FYR) Dates: 2/1/2024 and 02/01/2029

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02/01/2024

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Statutory Authority: 3309.04
Rule Amplifies: 3309.47, 3309.49, 3309.491, 3309.51, 3309.55,
3309.571
Prior Effective Dates: 07/01/2010, 01/07/2013, 12/04/2014, 02/27/2017
(Emer.), 05/15/2017, 05/03/2019, 09/30/2021,
10/02/2023

3309-1-22

Disability retirement - effective date.

For purposes of section 3309.40 of the Revised Code, a member who files an application for disability retirement prior to the member's sixtieth birthday and whose last date of contributing service is prior to the member's sixtieth birthday "has not attained age sixty."

Five Year Review (FYR) Dates: 2/1/2024 and 02/01/2029

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Certification

02/01/2024

Date

Promulgated Under: 111.15
Statutory Authority: 3309.04
Rule Amplifies: 3309.39, 3309.40
Prior Effective Dates: 12/24/1976, 01/02/1993, 05/08/2004, 04/03/2009

3309-1-25

Notice of meetings.

(A) Any person may determine the time and place of all regularly scheduled meetings and the time, place, and purpose of all special meetings by:

(1) Writing to the following address -

"School Employees Retirement System

300 East Broad Street, Suite 100

Columbus, Ohio 43215"

(2) Calling the following telephone number during normal business hours -

614/222-5853

(3) Accessing the SERS website -

www.ohsers.org

(B) 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

School Employees Retirement System

300 East Broad Street, Suite 100

Columbus, Ohio 43215"

(1) The request shall provide the name, United States postal service address and/or electronic mail address, and a maximum of two telephone numbers of the individual media representative to be contacted. The school employees retirement system shall maintain a list of all representatives of the news media who have requested notice of special meetings pursuant to this rule.

(2) In the event of a special meeting not of an emergency nature, the school employees retirement system shall notify all media representatives on the list of such meeting by doing at least one of the following:

- (a) Sending written notice, by electronic mail or United States postal service, which must be sent no later than four calendar days prior to the day of the special meeting;
 - (b) 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 school employees retirement system has been unable to provide such telephone notice;
 - (c) Informing such representative personally no later than twenty-four hours prior to the special meeting.
- (C) In the event of a special meeting of an emergency nature, the school employees retirement system shall notify all media representatives on the list of such meeting by providing either the notice described in paragraph (B)(2)(b) of this rule, or that described in paragraph (B)(2)(c) 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.
- (D) In giving notices required by this rule, the school employees retirement board may rely on assistance provided by any member of the staff of the school employees retirement system, and such notice is complete if given by such member in the manner provided in this rule.
- (E) The school employees retirement system shall maintain a list of all persons who have requested, in writing, notice of all meetings of the school employees retirement board.

Five Year Review (FYR) Dates: 2/1/2024 and 02/01/2029

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02/01/2024

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Statutory Authority: 3309.04
Rule Amplifies: 3309.09
Prior Effective Dates: 12/24/1976, 02/01/1992, 05/09/2003, 04/02/2010,
03/30/2015

3309-1-27

Intersystem transfers with non-uniform systems.

- (A) This rule amplifies section 3309.35 of the Revised Code and applies to members who retire with an effective date of retirement on or after February 1, 2013.
- (B) For the purpose of this rule:
- (1) "State retirement system" and "retention percentage" have the same meanings as in section 3309.35 of the Revised Code.
 - (2) "Fiscal year" means, for the public employees retirement system, a calendar year and, for the school employees retirement system and state teachers retirement system, the twelve-month period beginning on July first and ending on June thirtieth.
- (C) For purposes of determining the amount transferred under division (B)(5)(a) of section 3309.35 of the Revised Code, all of the following apply:
- (1) The amount contributed by the member includes any amounts paid to restore service credit under section 3309.26 of the Revised Code.
 - (2) The amount of employer contributions shall be determined using the lesser of the employer's contribution rate in effect at the beginning of the fiscal year for each of the state retirement systems involved in the transfer, less the retention percentage.
 - (3) Any amounts paid by the member to purchase service credit shall include, if applicable, any amounts paid by the employer to purchase service credit.
 - (4) Except as provided in this paragraph, interest shall be calculated beginning on the first day of the fiscal year following the year in which the contributions were made and ending on the last day of the month in which the transfer occurs. If the amount to be transferred includes any amounts paid to purchase service credit, other than amounts paid to restore service credit under section 3309.26 of the Revised Code, interest on the amounts paid to purchase service credit shall be calculated beginning on the first day of the fiscal year following the year in which the payment to purchase the credit was made and ending on the last day of the month in which the transfer occurs. For each year of service credit to be transferred, the interest rate shall be determined by using the lesser of the actuarial assumption rate in effect at the beginning of the fiscal year for each of the state retirement systems involved in the transfer.
- (D) If a member of the public employees retirement system has contributions to more than one employer division of the system, the employer contribution rate for the

system shall be determined using the last division to which the member contributed. If the period of service and contributions to be transferred includes service that occurred prior to the date the member's most recent division was established, the school employees retirement system shall use the employer contribution rate for its system for that year.

Five Year Review (FYR) Dates: 2/1/2024 and 02/01/2029

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02/01/2024

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Statutory Authority:	3309.04
Rule Amplifies:	3309.05
Prior Effective Dates:	08/13/2015

3309-1-28

Purchase of service credit; military.

- (A) Compound interest at a rate to be set by the board shall be applied from the date of the member's first service covered by the school employees retirement system, public employees retirement system or state teachers retirement system following the termination of military duty to date of payment.
- (B) The number of years to be purchased shall not exceed five years or the total number of years of Ohio contributing service credit accumulated at time of purchase, whichever is the lesser.
- (C) The member may purchase any portion of the military service, provided that a member with less than five years of military service who buys all of his service will be credited with the total days of the final month of service.
- (D) The rate of contribution will be that which is in effect at the time the member entered into active military service.
- (E) The maximum salary limitation stipulated in Chapter 3309. of the Revised Code when the member completed his first year of Ohio service, will be observed in the calculation of the cost to purchase.

Five Year Review (FYR) Dates: 2/1/2024 and 02/01/2029

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Statutory Authority: 3309.04
Rule Amplifies: 3309.021
Prior Effective Dates: 12/24/1976, 07/01/1983, 11/01/1996, 05/14/2005

3309-1-32

Cost-of-living; base allowance change.

(A) For purposes of this rule:

- (1) "Base allowance" means the benefit amount due a benefit recipient on the later of July 1, 1979 or the effective date of such benefit, as adjusted pursuant to this rule. A base allowance excludes subsequent allowances for cost-of-living pursuant to section 3309.374 of the Revised Code, reimbursements for medicare part "B" pursuant to section 3309.69 of the Revised Code, or additional annuity payments pursuant to section 3309.47 of the Revised Code.
- (2) "Benefit" means a periodic payment under an allowance, pension, or benefit granted under Chapter 3309. of the Revised Code, other than an annuity paid under section 3309.341 of the Revised Code.
- (3) "Benefit amount" means the amount due a benefit recipient on the effective date of such benefit.
- (4) "Benefit recipient" means an age and service retirant, disability benefit recipient, or a beneficiary as defined in section 3309.01 of the Revised Code, who is receiving monthly benefits due to the death of a member, age and service retirant or disability benefit recipient.
- (5) "CPI-W" means the consumer price index for urban wage earners and clerical workers, not seasonally adjusted, U.S. city average, "All items 1982-84=100."

(B) A base allowance upon which a cost-of-living is calculated shall be adjusted when any of the following occur:

- (1) The enactment of any statutory ad hoc allowance increase but only if such statutory authority provides that such increase become part of the base allowance.
- (2) Recalculation of a retirant's benefit due to a change in a plan of payment as permitted in section 3309.46 of the Revised Code.
- (3) Recalculation of a benefit recipient's benefit amount after an audit.
- (4) If a benefit recipient waives any portion of a benefit amount pursuant to section 3309.662 of the Revised Code, the base allowance shall be the portion being paid. If a waiver is revoked, the base allowance shall be the amount allowed under this rule.

(C) For purposes of this rule and section 3309.374 of the Revised Code, the percentage increase in the CPI-W shall be determined by calculating the percentage change

between the CPI-W for June of the immediately preceding calendar year and the CPI-W for June of the next preceding calendar year.

(D)

(1) The recipient of any allowance, pension, or benefit that was effective before April 1, 2018 shall be eligible to receive an increase under section 3309.374 of the Revised Code upon receiving an allowance, pension, or benefit for twelve months.

(2)

(a) The recipient of any allowance, pension, or benefit that becomes effective on or after April 1, 2018 shall be eligible to receive an increase under section 3309.374 of the Revised Code upon attainment of the fourth anniversary of the allowance, pension, or benefit.

(b) For purposes of paragraph (D)(2)(a) of this rule, a recipient shall be credited with anniversaries for any previous allowance, pension, or benefit attributable to the same member account in the retirement system that occurred on or after January 1, 2018.

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Rule Amplifies: 3309.374
Prior Effective Dates: 12/24/1976, 11/23/1979, 01/02/1993, 08/02/2002,
04/02/2010, 03/26/2018, 06/05/2020

3309-1-33

Retirement and benefit effective dates.

- (A) For purposes of this rule, "retirement allowance" refers to a monthly retirement allowance, including an "estimated retirement allowance" as defined in paragraph (A) of rule 3309-1-21 of the Administrative Code, as well as a lump sum payment made under a plan described in division (B)(4) of section 3309.46 of the Revised Code.
- (B)
- (1)
- (a) The effective date of a service retirement under sections 3309.34, 3309.35, 3309.36, and 3309.46 of the Revised Code shall be as follows:
- The first of the month following the last date of compensated service, the first of the month following the date that age and service credit eligibility is met, the first of the month after all purchases of service credit are completed, or at the date requested by the applicant in writing at retirement, whichever is later.
- (b) The effective date of a service retirement under section 3309.343 of the Revised Code shall be as follows:
- The first of the month following the last date of compensated service for the position from which the member is retiring, the first of the month following the date that age and service credit eligibility is met, the first of the month after all purchases of service credit are completed, or at the date requested by the applicant in writing at retirement, whichever is later.
- (c) Notwithstanding any other provision of this rule to the contrary, the effective date of a service retirement under this rule of a member who is an other system retiree as defined in division (A)(2) of section 3309.341 of the Revised Code shall not be sooner than the effective date of retirement in the other system.
- (2) The effective date of reemployment, conversion retirement, disability, and survivor benefits shall be the date as provided by section 3309.344, 3309.381, 3309.39, 3309.40, 3309.401, or 3309.45 of the Revised Code.
- (C) A member, a beneficiary eligible for benefits pursuant to section 3309.45 of the Revised Code, or a SERS retiree or other system retiree as defined in section 3309.341 of the Revised Code, may withdraw an application for a retirement allowance, survivor benefit or annuity by delivering to the retirement system a signed written request over the applicant's signature and as follows:

- (1) If the payment was made by check, by returning to the retirement system the warrant uncashed no later than thirty days after issuance of the check.
 - (2) If the payment was transmitted by direct deposit to the member, beneficiary, or retirant's financial institution(s), by remitting to the retirement system a personal check or money order repaying all payments transmitted no later than thirty days after the institution's receipt of the payment.
 - (3) If any portion of a payment was delivered as a direct rollover pursuant to rule 3309-1-53 of the Administrative Code, the retirement plan that received the distribution must return to the retirement system the amount transferred not later than sixty days after the transfer.
 - (4) If any portion of a payment was paid to satisfy a court order or was otherwise deducted as required by law, the application may not be withdrawn as provided in this rule.
- (D) The retirement laws in effect on the benefit effective dates shall determine the amount and eligibility for a retirement allowance, survivor benefit, or annuity.
- (E) The annuity and option tables as adopted by the board and in effect shall be used to determine reserve liability and retirement allowance, survivor benefit payments and annuity.

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3309.381 , 3309.39 , 3309.40 , 3309.401 , 3309.45 ,
3309.46
Prior Effective Dates: 12/24/1976, 02/01/1992, 01/02/1993, 05/02/2001,
07/30/2001 (Emer.), 11/01/2001, 01/02/2003,
01/02/2004, 05/11/2006, 04/02/2010, 01/07/2013,
12/14/2013, 03/30/2015, 05/03/2019

3309-1-34

Combined disability benefits.

(A) This rule amplifies section 3309.35 of the Revised Code.

(B) As used in this rule:

"Last date of service" means last day of compensated service, either for a day worked or used paid leave, under the school employees retirement system, public employees retirement system, or state teachers retirement system, whichever is latest.

(C) If this system is the paying system and a member of school employees retirement system files an application for a disability benefit pursuant to section 3309.39 of the Revised Code and also chooses to apply for a combined disability benefit with the public employees retirement system or the state teachers retirement system, the following shall apply:

(1) This system shall request and pay for the examining physician(s) report(s).

(2) Disability shall be determined on the basis of the member's ability to perform the duties for the position held on the member's last date of service. If the member's last date of service is concurrent under two or more systems, disability for performance of duty shall be determined on the basis of the duties for the position with the greater annual compensation or earnable salary at the time of the application.

(3) If a disability benefit is granted, this system shall notify the other retirement system(s) of the decision and the member's intent to combine.

(D) If this system is the paying system of a combined disability, this system's rules and statutes shall govern the disability benefits, and this system will be responsible for subsequent medical examinations.

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3309.381, 3309.39, 3309.40, 3309.401, 3309.45,
3309.46
Prior Effective Dates: 04/02/2010, 01/07/2013, 03/30/2015, 05/03/2019

3309-1-35

Health care.

(A) Definitions

As used in this rule:

- (1) "Benefit recipient" means an age and service retirant, disability benefit recipient, or a beneficiary as defined in section 3309.01 of the Revised Code, who is receiving monthly benefits due to the death of a member, age and service retirant or disability benefit recipient.
- (2) "Member" has the same meaning as in section 3309.01 of the Revised Code.
- (3) "Age and service retirant" means a former member who is receiving a retirement allowance pursuant to section 3309.34, 3309.35, 3309.36 or 3309.381 of the Revised Code. A former member with an effective retirement date after June 13, 1986 must have accrued ten years of service credit, exclusive of credit obtained after January 29, 1981 pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code.
- (4) "Disability benefit recipient" means a member who is receiving a benefit or allowance pursuant to section 3309.35, 3309.39, 3309.40 or 3309.401 of the Revised Code.
- (5) "Dependent" means an individual who is either of the following:
 - (a) A spouse of an age and service retirant, disability benefit recipient, or member,
 - (b) A biological, adopted or step-child of an age and service retirant, disability benefit recipient, member, deceased age and service retirant, deceased disability benefit recipient, or deceased member or other child in a parent-child relationship in which the age and service retirant, disability benefit recipient, member, deceased age and service retirant, deceased disability benefit recipient, or deceased member has or had custody of the child, so long as the child:
 - (i) Is under age twenty-six, or
 - (ii) Regardless of age is permanently and totally disabled, provided that the disability existed prior to the age and service retirant's, disability benefit recipient's, or member's death and prior to the child reaching age twenty-six. For purposes of this paragraph "permanently and totally disabled" means the individual is unable to engage in any substantial gainful activity by reason of any

medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than twelve months.

- (6) "Health care coverage" means any of the following group plans offered by the system:
- (a) A medical and prescription drug plan;
 - (b) Limited wraparound coverage, which provides limited benefits that wrap around an individual health insurance plan; or
 - (c) An excepted benefit health reimbursement arrangement, which provides reimbursement of medical expenses incurred under an individual health insurance plan.
- (7) "Premium" means a monthly amount that may be required to be paid by a benefit recipient to continue enrollment for health care coverage for the recipient or the recipient's eligible dependents.
- (8) "Employer" and "public employer" have the same meaning as in section 3309.01 of the Revised Code.
- (9) "Marketplace counselor" means an individual licensed to determine eligibility for, and enroll individuals in, a marketplace plan.
- (10) "Marketplace plan" means an individual health plan available through either a state or federal health insurance marketplace.

(B) Eligibility

- (1) A person is eligible for health care coverage under the school employees retirement system's health care plan so long as the person qualifies as one of the following:
- (a) An age and service retiree or the retiree's dependent,
 - (b) A disability benefit recipient or the recipient's dependent,
 - (c) The dependent of a deceased member, deceased age and service retiree, or deceased disability benefit recipient, if the dependent is receiving a benefit pursuant to section 3309.45 or 3309.46 of the Revised Code,

- (d) The dependent child of a deceased member, deceased disability benefit recipient, or deceased age and service retiree if the spouse is receiving a benefit pursuant to section 3309.45 or 3309.46 of the Revised Code and the spouse elects to be covered.
- (2) Eligibility for SERS health care coverage shall terminate when the person ceases to qualify as one of the persons listed in paragraph (B)(1) of this rule, except that a dependent described in paragraph (A)(5)(b)(i) of this rule shall cease to qualify on the first day of the calendar year following the dependent's twenty-sixth birthday.
- (3) Except for a dependent described in paragraph (A)(5)(b) of this rule, eligibility for SERS health care coverage shall terminate when the person is not enrolled in medicare part B and on or after January 1, 2016 commences employment that provides access to a medical plan with prescription coverage through the employer, or if employees of that employer in comparable positions have access to a medical plan available through the employer, provided the medical plan with prescription drug coverage available through the employer is equivalent to the medical plan with prescription coverage at the cost available to fulltime employees as defined by the employer. For purposes of this paragraph, employer means a public or private employer.
- (4) On or after January 1, 2021, eligibility for SERS health care coverage shall terminate when a person listed in paragraph (B)(1) of this rule becomes eligible for medicaid and is ineligible for medicare. For purposes of this rule, a benefit recipient and their dependent(s) shall be presumed to be eligible for medicaid if their gross monthly SERS benefit is less than the percentage of the federal poverty level used by the Ohio department of medicaid to determine medicaid eligibility under agency 5160 and division 5160:1 of the Administrative Code. Upon request, a benefit recipient presumed to be eligible for medicaid must provide SERS with satisfactory proof of ineligibility for medicaid in their state of residence within ninety days from the date of SERS' request.
- (5) Eligibility for SERS health care coverage shall terminate when a person eligible for medicare part B fails to:
- (a) Enroll in medicare part B during the person's initial enrollment period or special enrollment period under 42 U.S.C. 1395p that includes a date on or after January 1, 2019. If the failure to enroll occurred on or after January 1, 2019 and prior to January 1, 2022, the person must enroll in medicare part B during the general enrollment period ending March 31, 2022; or

(b) Enroll in medicare part B during the general enrollment period available under 42 U.S.C. 1395p immediately following a loss of medicare part B coverage that began on or after January 1, 2019. If the loss of medicare part B coverage began on or after January 1, 2019 and prior to January 1, 2022, the person must enroll in medicare part B during the general enrollment period ending March 31, 2022.

(6) Eligibility for SERS health care coverage shall terminate when a benefit recipient who is not eligible for medicare, and whose initial SERS health care eligibility date or reinstatement to SERS health care coverage under paragraph (I) of this rule is on or after June 1, 2023, fails to complete counseling with a SERS approved marketplace counselor to review marketplace plan options.

(a) A benefit recipient whose initial SERS health care eligibility date is on or after June 1, 2023 shall complete counseling before the later of the following:

(i) December thirty-first of the calendar year of initial health care eligibility; or

(ii) Within three months of initial health care eligibility.

(b) A benefit recipient requesting reinstatement to SERS health care coverage under paragraph (I) of this rule on or after June 1, 2023 shall complete counseling before the later of the following:

(i) December thirty-first of the calendar year of the qualifying event entitling the benefit recipient to reinstatement; or

(ii) Within three months of the request for reinstatement.

(c) The benefit recipient shall provide the marketplace counselor with all information required to determine the cost of available marketplace plans. The marketplace counselor shall notify SERS when such counseling has been completed.

(d) A benefit recipient who fails to complete counseling in accordance with this rule shall be deemed to have waived SERS health care coverage until the individual becomes eligible for reinstatement as permitted under paragraph (I) of this rule.

(e) Counseling shall not be required if the marketplace counselor is unable to determine available marketplace plans based on the benefit recipient's address or other demographic information. The marketplace counselor

will notify SERS when a marketplace plan cannot be determined based on the circumstances.

(C) Enrollment

- (1) Except as otherwise provided in this rule, an eligible benefit recipient may enroll in school employees retirement system's health care coverage only at the time the benefit recipient applies for an age and service retirement, disability benefit, or monthly benefits pursuant to section 3309.45 of the Revised Code.
- (2) An eligible spouse of an age and service retiree or disability benefit recipient may only be enrolled in the system's health care coverage at the following times:
 - (a) At the time the retiree or disability benefit recipient enrolls in school employees retirement system's health care coverage.
 - (b) Within thirty-one days of the eligible spouse's:
 - (i) Marriage to the retiree or disability benefit recipient; or
 - (ii) Involuntary termination of health care coverage under another plan, including a medicare advantage plan, or medicare part D plan.
 - (c) Within ninety days of becoming eligible for medicare.
- (3) An eligible dependent child of an age and service retiree, disability benefit recipient, or deceased member may be enrolled in the system's health care coverage at the following times:
 - (a) At the time the retiree, disability benefit recipient, or surviving spouse enrolls in school employees retirement system's health care coverage.
 - (b) Within thirty-one days of the eligible dependent child's:
 - (i) Birth, adoption, or custody order; or
 - (ii) Involuntary termination of health care coverage under another plan, including a medicare advantage plan, or medicare part D plan.
 - (c) Within ninety days of becoming eligible for medicare.

(D) Cancellation of health care coverage

- (1) Health care coverage of a person shall be cancelled when:

- (a) The person's eligibility terminates as provided in paragraph (B)(2) of this rule;
- (b) The person's eligibility terminates as provided in paragraph (B)(3) of this rule;
- (c) The person's eligibility terminates as provided in paragraph (B)(4) of this rule;
- (d) The person's eligibility terminates as provided in paragraph (B)(5) of this rule;
- (e) The person's health care coverage is cancelled for default as provided in paragraph (F) of this rule;
- (f) The person's health care coverage is waived as provided in paragraph (G) of this rule;
- (g) The person's health care coverage is cancelled due to the person's enrollment in a medicare advantage plan or medicare part D plan as provided in paragraph (H) of this rule;
- (h) The health care coverage of a dependent is cancelled when the health care coverage of a benefit recipient is cancelled; or
- (i) The person's benefit payments are suspended for failure to submit documentation required to establish continued benefit eligibility under division (B)(2)(b)(i) of section 3309.45 of the Revised Code, division (F) of section 3309.39 of the Revised Code, division (D) of section 3309.41 of the Revised Code, or division (D) of section 3309.392 of the Revised Code.

(E) Effective date of coverage

- (1) Except as provided in paragraph (E)(2) of this rule, the effective date of health care coverage for persons eligible for health care coverage as set forth in paragraph (B) of this rule shall be as follows:
 - (a) For a disability benefit recipient or dependent of a disability benefit recipient, health care coverage shall be effective on the first of the month following the determination and recommendation of disability to the retirement board or on the benefit effective date, whichever is later.

- (b) For an age and service retiree or dependent of an age and service retiree, health care coverage shall be effective on the first of the month following the date that the retirement application is filed with the retirement system or on the benefit effective date, whichever is later.
 - (c) For an eligible dependent of a deceased member, deceased disability benefit recipient, or deceased age and service retiree, health care coverage shall be effective on the effective date of the benefit if the appropriate application is received within three months of the date of the member's or retiree's death, or the first of the month following the date that the appropriate application is received if not received within three months of the date of the member's or retiree's death.
- (2) The effective date of coverage for a person described in paragraph (B)(6) of this rule shall be the later of the following:
- (a) The date provided under paragraph (E)(1) of this rule; or
 - (b) The first of the month following completion of counseling.

A benefit recipient may elect to defer SERS health care coverage until their first available marketplace plan effective date.

(F) Premiums

- (1) Payment of premiums for health care coverage shall be by deduction from the benefit recipient's monthly benefit. If the full amount of the monthly premium cannot be deducted from the benefit recipient's monthly benefit, the benefit recipient shall be billed for the portion of the monthly premium due after any deduction from the monthly benefit.
- (2) Premium payments billed to a benefit recipient shall be deemed in default after the unpaid premiums for coverage under this rule and supplemental health care coverage under rule 3309-1-64 of the Administrative Code reach a total cumulative amount of at least three months of billed premiums. The retirement system shall send written notice to the benefit recipient that payments are in default and that coverage will be cancelled on the first day of the month after the date of the notice unless payment for the total amount in default is received prior to the date specified in the notice. If coverage is cancelled due to a recipient's failure to pay premium amounts in default, the recipient shall remain liable for such amounts due for the period prior to cancellation of coverage.
- (3) After cancellation for default, health care coverage can be reinstated as provided in paragraph (I) of this rule, or upon submission of an application for reinstatement

supported by medical evidence acceptable to SERS that demonstrates that the default was caused by the benefit recipient's physical or mental incapacity. "Medical evidence" means documentation provided by a licensed physician of the existence of the mental or physical incapacity causing the default. Health care coverage reinstated after termination for default shall be effective on the first of the month following the date that the application for reinstatement is approved and payment for the total amount in default is received.

- (4) A person enrolled in SERS' health care plan cannot receive a premium subsidy unless that person is:
- (a) A dependent child.
 - (b) An age and service retiree who:
 - (i) Has an effective retirement date before August 1, 1989; or
 - (ii) Has an effective retirement date on or after August 1, 1989 and before August 1, 2008 who had earned fifteen years of service credit; or
 - (iii) Has an effective retirement date on or after August 1, 2008 who had earned twenty years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, and who:
 - (a) Was eligible to participate in the health care plan of his or her employer at the time of retirement or separation from SERS service; or
 - (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding retirement or separation from SERS service.
 - (c) A disability benefit recipient, except as provided in paragraph (F)(4)(d) of this rule who:
 - (i) Has an effective benefit date before August 1, 2008; or
 - (ii) Has an effective benefit date on or after August 1, 2008 who:
 - (a) Was eligible to participate in the health care plan of his or her employer at the time of separation from SERS service; or

- (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding separation from SERS service.
- (d) A disability benefit recipient who is not enrolled in medicare part B on or after January 1, 2024, who:
 - (i) Has an effective benefit date before August 1, 1989; or
 - (ii) Has an effective benefit date on or after August 1, 1989 and before August 1, 2008 who had earned fifteen years of service credit; or
 - (iii) Has an effective benefit date on or after August 1, 2008 who had earned twenty years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, and who:
 - (a) Was eligible to participate in the health care plan of his or her employer at the time of separation from SERS service; or
 - (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding separation from SERS service.
- (e) A spouse:
 - (i) A spouse or surviving spouse of an age and service retirant or disability benefit recipient with an effective retirement date or benefit date before August 1, 2008 who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code;
 - (ii) A spouse or surviving spouse of an age and service retirant or disability benefit recipient with an effective retirement date or benefit date on or after August 1, 2008 who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, and who:
 - (a) Was eligible to participate in the health care plan of his or her employer at the time of retirement or separation from SERS service; or

- (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding retirement or separation from SERS service.
- (iii) A surviving spouse of a deceased member who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, with an effective benefit date before August 1, 2008; or
- (iv) A surviving spouse of a deceased member who had earned twenty-five years of service credit, exclusive of credit obtained after January 29, 1981, pursuant to sections 3309.021, 3309.301, 3309.31, and 3309.33 of the Revised Code, with an effective benefit date on or after August 1, 2008, and the member;
 - (a) Was eligible to participate in the health care plan of his or her employer at the time of death or separation from SERS service; or
 - (b) Was eligible to participate in the health care plan of his or her employer at least three of the last five years of service preceding the member's death or separation from SERS service.
- (f) For purposes of determining eligibility for a subsidy under paragraph (F)(4) of this rule, when the last contributing service of an age and service retiree, disability benefit recipient, or member was as an employee as defined by division (B)(2) of section 3309.01 of the Revised Code, the health care plan participation requirement shall be if the individual would have been eligible for the public employer's health care plan if the individual were an employee as defined by division (B)(1) of section 3309.01 of the Revised Code.
- (g) Any other individual covered under a SERS health care plan shall be eligible for a premium subsidy under the standard set forth for spouses.
- (h) In all cases of doubt, the retirement board shall determine whether a person enrolled in a SERS health care plan is eligible for a premium subsidy, and its decision shall be final.

(G) Waiver

- (1) A benefit recipient may waive health care coverage by completing and submitting a SERS waiver form to SERS.
- (2) The health care coverage of a benefit recipient's dependent may be waived as follows:
 - (a) For non-medicare eligible dependents, the benefit recipient may waive their coverage by completing and submitting a signed written request to SERS on their behalf.
 - (b) For medicare eligible dependents, the dependent may waive their coverage by completing and submitting a signed written request to SERS.

(H) Medicare advantage or medicare part D

SERS shall cancel the health care coverage of a benefit recipient or dependent who enrolls in a medicare advantage or medicare part D plan that is not offered by the system.

(I) Reinstatement to SERS health care coverage

- (1) An eligible benefit recipient, or dependent of a benefit recipient with health care coverage, whose coverage has been previously waived or cancelled may be reinstated to SERS health care coverage by filing a health care enrollment application as follows:
 - (a) The application is received no later than ninety days after becoming eligible for medicare. Health care coverage shall be effective the later of the first day of the month after becoming medicare eligible or receipt of the enrollment application by the system;
 - (b) The application is received no later than thirty-one days after involuntary termination of coverage under medicaid. Health care coverage shall be effective the later of the first day of the month after termination of coverage or receipt of proof of termination and the enrollment application by the system; or
 - (c) The application is received no later than thirty-one days after involuntary termination of coverage under another plan, medicare advantage plan, or medicare part D plan with proof of such termination. Health care coverage shall be effective the later of the first day of the month after termination of the other plan or receipt of proof of termination and the enrollment application by the system.

- (2) An eligible person whose coverage was cancelled pursuant to paragraph (D)(1)(h) of this rule shall be reinstated to SERS health care plan when benefit payments are reinstated.
- (3) An eligible person whose coverage was cancelled pursuant to paragraph (D)(1)(b) of this rule may be reinstated to SERS health care plan when they no longer have access to the medical plan of an employer by filing a health care enrollment application within thirty-one days of the employment ending.
- (4) An eligible benefit recipient or dependent of a benefit recipient with health care coverage, whose coverage has been previously cancelled and who is enrolled in medicare parts A and B or medicare part B only on December 31, 2007 may be reinstated to SERS health care coverage by filing a healthcare enrollment application during the period of time beginning October 1, 2007 and ending November 30, 2007. Health care coverage shall be effective January 1, 2008.
- (5) An eligible benefit recipient or dependent of a benefit recipient with health care coverage, whose coverage has been previously cancelled pursuant to paragraph (H) of this rule and who is enrolled in medicare parts A and B or medicare part B only on June 30, 2009 may be reinstated to SERS health care coverage by filing a health care enrollment application during the period of time beginning May 21, 2009 and ending July 15, 2009.
- (6) An eligible benefit recipient who had an effective retirement or benefit date on or after August 1, 2008, who qualifies for a premium subsidy under paragraph (F) (4) of this rule, and whose coverage has previously been waived as provided in paragraph (G) of this rule, may be reinstated to school employees retirement system health care coverage by submitting a complete health care enrollment application on or before December 14, 2012. Health care coverage shall be effective January 1, 2013.
- (7) An eligible benefit recipient for whom SERS is transferring funds to another Ohio retirement system in accordance with paragraph (G) of rule 3309-1-55 of the Administrative Code may be reinstated to SERS health care coverage by submitting a health care enrollment application during open enrollment periods for health care coverage starting January 1, 2015 or January 1, 2016.

(J) Medicare part B

- (1) A person who is enrolled in SERS' health care shall enroll in medicare part B at the person's first eligibility date for medicare part B. A person who fails to enroll in or maintain medicare part B coverage shall be ineligible for SERS health care coverage in accordance with paragraph (B)(5) of this rule.

- (2)
- (a) The board shall determine the monthly amount paid to reimburse an eligible benefit recipient for medicare part B coverage. The amount paid shall be no less than forty-five dollars and fifty cents, except that the board shall make no payment that exceeds the amount paid by the recipient for the coverage.
 - (b) As used in paragraph (J) of this rule, an "eligible benefit recipient" means:
 - (i) An eligible person who was a benefit recipient and was eligible for medicare part B coverage before January 7, 2013, or
 - (ii) An eligible person who is a benefit recipient, is eligible for medicare part B coverage, and is enrolled in SERS' health care.
- (3) The effective date of the medicare part B reimbursement to be paid by the board shall be as follows:
- (a) For eligible benefit recipients who were a benefit recipient and were eligible for medicare B coverage before January 7, 2013 the later of:
 - (i) January 1, 1977; or
 - (ii) The first of the month following the date that the school employees retirement system received satisfactory proof of coverage.
 - (b) For eligible benefit recipients not covered under paragraph (J)(3)(a) of this rule, the later of:
 - (i) The first month following the date that the school employees retirement system received satisfactory proof of coverage, or
 - (ii) The effective date of SERS health care.
- (4) The board shall not:
- (a) Pay more than one monthly medicare part B reimbursement when a benefit recipient is receiving more than one monthly benefit from this system; nor
 - (b) Pay a medicare part B reimbursement to a benefit recipient who is eligible for reimbursement from any other source.

Five Year Review (FYR) Dates: 2/1/2024 and 02/01/2029

CERTIFIED ELECTRONICALLY

Certification

02/01/2024

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3309-1-42

Options; pop-up and election of new option.

(A)

- (1) Upon the death of a spouse or a designated beneficiary, the lesser retirement allowance calculated as plan A, C, or D under division (B)(1)(a), (B)(3)(b), (B)(3)(c) or (B)(4) of section 3309.46 of the Revised Code or as option 1 or 2 under division (A) or (B) of section 3309.46 of the Revised Code as in effect prior to amendment effective July 24, 1990 shall be increased to the single lifetime retirement allowance.
- (2) Upon the death of a designated beneficiary under plan F under division (B)(3)(e) of section 3309.46 of the Revised Code, the retirant shall receive the actuarial equivalent of the retirant's single lifetime retirement allowance based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary.

(B)

- (1) Upon divorce, annulment, or marriage dissolution, the lesser retirement allowance calculated as plan A, C, or D under division (B)(1)(a), (B)(3)(b), (B)(3)(c) or (B)(4) of section 3309.46 of the Revised Code or as option 1 or 2 under division (A) or (B) of section 3309.46 of the Revised Code as in effect prior to amendment effective July 24, 1990 shall, at the election of the retirant, be increased to the single lifetime retirement allowance; except that no benefit first payable on or after August 1, 1990 shall be increased without the written consent of the ex-spouse or order of the court with jurisdiction over the termination of the marriage.
- (2) Upon the divorce, annulment, or marriage dissolution from a designated beneficiary under plan F, the retirant may elect to receive the actuarial equivalent of the retirant's single lifetime retirement allowance based on the number of remaining beneficiaries, with no change in the amount payable to any remaining beneficiary; except the retirant's benefit shall not be increased without the written consent of the ex-spouse or order of the court with jurisdiction over the termination of the marriage.

(C)

- (1) Upon marriage or re-marriage, a retirant receiving a single lifetime allowance may elect to have his allowance recalculated as plan A, C, or D, designating the current spouse as beneficiary.

- (2) Upon remarriage, a retirant receiving a benefit pursuant to a plan of payment providing for payment to a former spouse pursuant to a court order described in division (B)(1)(b)(ii) of section 3309.46 of the Revised Code may elect a new plan of payment adding the new spouse under division (B)(3)(e) of section 3309.46 of the Revised Code if the new plan of payment does not reduce the payment to the former spouse or to any other beneficiary designated at the time of retirement.
- (3) In the case of a retirant who marries or remarries on or after June 6, 2005, an election under paragraph (C) of this rule shall be received by school employees retirement system not later than one year after the marriage or remarriage.
- (4) A plan elected under paragraph (C) of this rule shall be calculated according to the actuarial factors in effect when such plan is elected and based on the age of the retirant and spouse at the time of selection.

(D) The effective date for a change in plan and benefit shall be as follows:

- (1) Death of spouse - the first of the month following death of spouse or September 1, 1976, whichever is later. The retirant shall furnish proof of date of death, satisfactory to the board.
- (2) Death of designated beneficiary other than spouse - the first of the month following the death, or November 1, 1978, whichever is later. The retirant shall furnish proof of date of death, satisfactory to the board.
- (3) Divorce, annulment or marriage dissolution - the first of the month following receipt of the application for a change of plan. The application shall be accompanied by proof of divorce, annulment or marriage dissolution, and any written consent of the ex-spouse or court order as required under paragraph (B) of this rule, satisfactory to the board.
- (4) Marriage or re-marriage - provided all documents are received prior to the retirant's death, the effective date for the change in the plan shall be the date the system receives the application, the marriage certificate, and any required consent or consent order; the effective date for the change in benefit shall be the first of the following month.

(E) The "single lifetime retirement allowance" determined under this rule shall be the original single lifetime allowance established at retirement plus any subsequent ad hoc pension increases and automatic cost-of-living increases which shall be applied to the original amounts granted. The original single lifetime allowance established at retirement shall be the portion of the allowance payable in monthly payments, if

the retirant elected a plan that included a lump sum payment under division (B)(4) of section 3309.46 of the Revised Code.

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3309-1-46

Retirement - option selection.

- (A) If an applicant is married at the time of filing an application for retirement, the applicant shall receive a retirement allowance designated as "Plan A" under division (B)(1) of section 3309.46 of the Revised Code, unless:
- (1) The spouse consents on a form provided by the school employees retirement system to the applicant's election to receive an annuity or payment pursuant to an optional plan under division (B)(3) or (B)(4) of section 3309.46 of the Revised Code; or
 - (2) The school employees retirement board waives the requirement of a spousal consent upon receipt of one of the following:
 - (a) The written statement of the spouse's physician certifying that the spouse is medically incapable of consenting to the plan of payment elected by the applicant; or
 - (b) A certified copy of a probate court order appointing a guardian for the spouse due to a finding of incompetence.
 - (c) The affidavits of the applicant and at least two other persons, one of whom must be unrelated to the applicant, attesting that the whereabouts of the spouse is unknown.
 - (3) The applicant is required to elect a plan of payment providing a specified amount to a former spouse after the applicant's death 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, and
 - (a) The applicant elects a plan of payment designated as "Plan F" under division (B)(3)(e) of section 3309.46 of the Revised Code that is in accordance with the court order and also designates the applicant's current spouse as a beneficiary under the plan; or
 - (b) The total amount required by court order, or orders, is equal to or greater than one hundred per cent of the applicant's lesser allowance.
- (B) An applicant's current spouse must also consent to the election of a plan of payment described in division (B)(3)(e) of section 3309.46 of the Revised Code if the applicant is required to elect a plan of payment providing a specified amount to a former spouse after the applicant's death 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 and also designates a beneficiary under the plan other than the former spouse and current spouse.

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

This rule implements section 3309.341 of the Revised Code and applies to Ohio public service after retirement in circumstances other than those subject to section 3309.343 of the Revised Code and rule 3309-1-58 of the Administrative Code.

(A) For the purpose of this rule and section 3309.341 of the Revised Code:

- (1) "Effective retirement benefit date" means the date upon which a retirement allowance begins.
- (2) "Ohio retirement system" means the school employees retirement system, state teachers retirement system, public employees retirement system, Ohio police and fire pension fund, ~~and~~ state highway patrol retirement system, and Cincinnati retirement system.
- (3) "Uniformed retirement system" means the Ohio police and fire pension fund and the state highway patrol retirement system.

(B)

- (1) Forfeiture of a retirement allowance under section 3309.341 of the Revised Code for employment in a position covered by another Ohio retirement system shall apply only to a SERS retirant whose effective retirement benefit date is on or after September 1, 1991.
- (2) A SERS retirant who has received a retirement allowance for less than two months and who is employed in a position covered by an Ohio retirement system shall forfeit such allowance for any month in which he is so employed during the two-month period after the effective benefit date.

The forfeited allowance shall be the retirement allowance payable under a plan described in division (B)(1) or (B)(3) of section 3309.46 of the Revised Code before any lump sum amount elected pursuant to division (B)(4) of section 3309.46 of the Revised Code.

- (3) Notwithstanding paragraphs (B)(1) and (B)(2) of this rule, the forfeiture provision shall not apply to a SERS retirant who is employed in a position covered by a uniformed retirement system if the retirant was continuously employed in the position for at least two months prior to the effective retirement benefit date in this system.

(C)

- (1)

- (a) Where a member of this system who also has established membership in another Ohio retirement system or systems is terminating all employment covered by all systems, and is electing to take a retirement benefit from one or more of the other systems, as of the effective retirement benefit date, the member shall elect to:
 - (i) Apply for a benefit if eligible pursuant to section 3309.34 or 3309.35 of the Revised Code; or
 - (ii) Apply for a refund of contributions pursuant to section 3309.42 of the Revised Code.
- (b) If as of the effective retirement benefit date from an Ohio retirement system the member has sufficient service credit to qualify for a benefit in this system, the effective retirement benefit date shall be the first of the month following the later of the benefit date in the Ohio retirement system or attainment of eligibility for a benefit in this system.

(2)

- (a) A member of this system who also is a member of an Ohio retirement system and who has applied for a retirement benefit in ~~the~~ that system may continue employment in the position covered by this system, provided that contributions made to this system after the member's effective retirement benefit date in the Ohio retirement system shall accrue only a benefit as described in section 3309.344 of the Revised Code.
- (b) If the member has been continuously employed in such position for at least two months prior to the effective retirement benefit date in the Ohio retirement system, the member may make an irrevocable election on a form provided by this system to have contributions to this system made prior to the effective retirement benefit date in the other system applied toward the same benefit described in section 3309.344 of the Revised Code. In the event this election is made, accrual of allowable interest shall not begin until after the effective retirement benefit date in the other system.

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