

Sec. 3309.92. If a member participating in a plan established under section 3309.81 of the Revised Code is married at the time benefits under the plan are to commence, before making any payment the school employees retirement system, or the entity administering the plan pursuant to a contract with the school employees retirement board, shall obtain the consent of the member's spouse to the form of payment selected by the member, unless the spouse's consent is waived under this section.

A plan established under section 3309.81 of the Revised Code shall include requirements for consent under this section that are the same as the requirements specified in section 417(a)(2) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C.A. 417(a)(2), as amended. A plan may waive consent if the spouse cannot be located or for any other reason specified in the regulations adopted under that section.

A plan shall waive the requirement of consent if a plan of payment that provides for payment in a specified portion of the retirement allowance continuing after the member's death to a former spouse is required by a court order issued under section 3105.171 or 3105.65 of the Revised Code or laws of another state regarding division of marital property prior to the effective date of the member's retirement. If a court order requires this plan of payment, the member shall be required to annuitize the member's accumulated amounts in accordance with the order. If the member is married, the plan of payment selected by the member also shall provide for payment to the member's current spouse, unless the current spouse consents in writing to not being designated a beneficiary under the plan of payment or the current spouse's consent is waived by reason other than the court order.

Consent or waiver is effective only with regard to the spouse who is the subject of the consent or waiver.

(eff. 10/27/06)