

# Rules

February 12, 2026

## **PERS – Deferred Compensation**

- 148-1-01 Ohio public employees deferred compensation program (Rescinded)
- 148-1-02 Notice of meetings (Rescinded)
- 148-1-03 Notice on rules (Rescinded)

## **OP&F**

- 742-8-07 Penalties and interest under section 742.352 of the Ohio Revised Code (No change)
- 742-9-16 Federal tax compliance provisions (No change)

## **SERS**

- 3309-1-09 Federal taxation (Refiled)
- 3309-1-12 Contributing service credit; determination of (No change)
- 3309-1-44 Purchase of service credit; pregnancy and adoption resignation (No change)
- 3309-1-45 Release of names, addresses and information (Refiled)
- 3309-1-56 Alternative retirement programs
- 3309-1-58 Retirement of member pursuant to section 3309.343 of the Revised Code (No change)
- 3309-1-63 Plan F – multiple beneficiaries (No change)
- 3309-1-65 Medicare part B reimbursement account (Refiled)

## TO BE RESCINDED

148-1-01 **Ohio public employees deferred compensation program.**

- (A) The purpose of this rule is to provide all necessary standards or conditions for the administration of the Ohio public employees deferred compensation program created by sections 148.01 to 148.10 of the Revised Code.
- (B) The following terms, when used herein, shall have the designated meaning unless a different meaning is plainly required by the context.
- (1) "Program" - The Ohio public employees deferred compensation program as set forth in sections 148.01 to 148.10 of the Revised Code.
  - (2) "Board" - The Ohio board established pursuant to section 148.02 of the Revised Code for the purpose of administering the program.
  - (3) "Employer" - The state and various political subdivisions whose employees are permitted under division (A) of section 148.01 of the Revised Code to participate in the program.
  - (4) "Eligible employees" - Those employees defined in division (A) of section 148.01 of the Revised Code.
  - (5) "Employer agreement" - An agreement between an eligible employer and the board designed to facilitate the board's common administration of all employer plan agreements adopted under the program.
  - (6) "Plan(s) or plan agreement(s)" - The document adopted by an eligible employer under the program that sets forth the terms and conditions governing the deferral of an eligible employee's compensation.
  - (7) "Participating employees or participants" - Those eligible employees who have elected to defer a portion of their compensation pursuant to a participation agreement or who have been automatically enrolled.
  - (8) "Participation agreement" - The agreement between the eligible employer and the eligible employee by which an eligible employee adopts the plan agreement and elects to become a participating employee under the plan.
  - (9) "Automatic enrollment" - Employers may adopt an arrangement under which in the absence of an affirmative election by their eligible employee, a certain amount of compensation may be automatically withheld from the eligible employee's pay and contributed to the plan as a deferral.

- (10) "Investment options" - The various financial products offered as investments under the program.
  - (11) "Funding agents" - Those insurance companies, banks and other financial institutions that the board shall select to invest compensation deferred under plans adopted under the program.
  - (12) "Participant's account" - An account or accounts maintained by the plan administrator reflecting the interest of a participant, alternate payee or beneficiary under the plan.
  - (13) "Payroll center(s)" - Those facilities where the participating employees' paychecks are computed and issued.
  - (14) "Trust or plan-trust document" - The document that sets forth the terms and conditions governing the trust by which all funds of the plan are held in trust by the board on behalf of an eligible employer for the exclusive benefit of an eligible employee.
- (C) The board or its designees shall observe the following procedures in implementing and administering the program.
- (1) The board shall, with the advice and assistance of counsel, formulate and design plan agreements for adoption by those eligible employers electing to offer a plan of deferred compensation to their eligible employees under the program.
  - (2) The plan agreements prepared by the board shall be designed to obtain the desired federal and state income tax treatment of all amounts deferred by a participating employee under the plan agreement. The plan agreement may be amended from time to time, to reflect those changes that are necessary to assure the desired tax treatment and the proper administration of the individual plans under the program. Nothing in agency 148 of the Administrative Code shall be interpreted to prohibit a Roth 457 or other similar post-tax contribution or deferral. The limit on the portion of a participating employee's compensation that may be deferred shall be the maximum annual deferral permitted under section 457 of the "Internal Revenue Code," or any other applicable section of the "Internal Revenue Code," provided that such a limit does not cause a reduction of compensation in any given pay period that is greater than the amount of compensation available for such pay period.
  - (3) The board shall advise all eligible employees of the existence of the program and shall supply them with sufficient information to assist them in determining whether to participate in the program. Each employer shall execute an employer

agreement upon an eligible employee's application to participate in a plan under the program. The employer shall assist the board in communicating the availability of the plan to all eligible employees including any personal explanation prepared and deemed necessary by the board for an eligible employee to make an informed decision regarding his right to participate. The different investment options into which the participating employees' deferred income may be invested shall be fairly and impartially presented to the eligible employees. The employer's payroll center shall recompute the participant's income as specified in the participation agreement and shall remit such deferred amounts to the board.

- (4) Each eligible employee who elects to participate under a plan of deferred compensation established by an eligible employer under the program, shall execute a participation agreement by which he becomes a member of the plan. The board shall undertake to provide all the necessary services required to implement, offer and administer the program on behalf of the eligible employer, and shall be empowered in the employer agreement to perform any and all acts incidental to the administration of the plan.
- (5) The board shall contract with funding agents who are selected by the board to provide investment options under plans adopted by the program. The board's contract with such funding agents shall provide that all amounts deferred under plans adopted under the program will be invested by the board with the funding agents for the period of time that the investment option is made available under an eligible employer's plan and is selected by the participating employee.
- (6) Plan assets are not the property of the participating employees. All plan assets and income shall be held by the board in trust on behalf of the eligible employer for the exclusive benefit of eligible employees and their beneficiaries. All assets, whenever contributed to the plan, are assigned to the trust established by the board. To facilitate administration of the program, the board shall create individual participant accounts, bearing the participant's name, but all assets and income of plans under the program shall be held in trust by the board on behalf of the employer for the exclusive benefit of eligible employees and their beneficiaries. The board shall issue to the participating employees, on behalf of the employer, at least annually, a statement of account values, setting forth the value of a participating employee's account as of such date.
- (7) The board, on behalf of the employer, may assess a participant's account to pay the cost of administering the plan adopted under the program. Interest earned on any employer's funds prior to investment with the funding agent may be applied by the board to fund any costs incident to the operation of the program.

- (8) In accordance with the payment option selected by a participant on the withdrawal form, or the default benefit methods if applicable:
- (a) The board may at any time direct the funding agents to distribute benefits to the participants or their beneficiaries in the manner the board designates.
  - (b) The board may establish a commercial checking account from which it will distribute benefits to participants or their beneficiaries.
- (9) If any plan is curtailed, terminated, or the acceptance of additional deferred amounts suspended permanently, the board shall nonetheless be responsible for the supervision and the payment of all participant benefits under such plan.
- (10) The board is authorized to decide or to resolve any questions of fact regarding a participant or his deferred account needed or necessary to decide the participant's rights under the program and such decision is final and binding on the participant and any beneficiary thereof.
- (11) The participant shall not be permitted to seek recovery against his employer, the board or any other participant, contractee, or agent of the board, or as against any other person having an administration or investment position relative to the program, for any loss, if any, sustained by the participant or his beneficiary, for the nonperformance of their duties, negligence, or any other misconduct of the above-named persons except that such persons shall not be excused from fraud or any wrongful taking of the participant's property.
- (12) The members of the board shall be trustees of the funds created by sections 148.01 to 148.10 of the Revised Code. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the eligible employees and beneficiaries.
- (13) The board shall, with the advice and assistance of counsel, formulate and design a plan-trust document setting forth the terms under which the board shall hold all plan assets and income earned on those assets contributed by those eligible employers electing to offer a plan of deferred compensation to eligible employees under the program. The plan-trust document prepared by the board shall be designed for the exclusive purpose of investing plan accounts and paying plan distributions for the benefit of eligible employees and their beneficiaries.
- (D) If any paragraph, term or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other paragraph, term, or

provision of this rule, but the remaining paragraphs, terms, and conditions shall be and continue in full force and effect.

Effective:

Five Year Review (FYR) Dates: 12/4/2025

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 148.04  
Rule Amplifies: 148.04  
Prior Effective Dates: 02/09/1976, 01/31/1983, 11/02/1993, 03/27/1998,  
03/06/2000, 06/02/2005, 10/07/2010, 08/14/2015

## TO BE RESCINDED

148-1-02                    **Notice of meetings.**

- (A) This rule is adopted in compliance with, and under the authority of, division (F) of section 121.22 of the Revised Code. Subject to the provisions of section 121.22 of the Revised Code, all meetings of the public employees deferred compensation board, and all meetings of any committee or subcommittee of the board, shall be open to the public.
- (B) 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: "Ohio Public Employees Deferred Compensation Board, 257 East Town Street, Suite 400, Columbus, Ohio 43215-4623."
  - (2) Calling the following telephone number during normal business hours: (614) 466-7245.
  - (3) By consulting the state house press room.
- (C) Any representative of the news media may obtain notice of all special meetings by making a written request that such notice be provided. However, such notice will be given to only one representative of any particular publication or radio or television station. A request for such notification shall be sent to the program's executive director at the address listed in paragraph (B) of this rule.

The request shall provide the name, mailing address, and no more than two telephone numbers of the individual media representative to be contacted. The program shall maintain a list of all representatives of the media who have requested notice of special meetings pursuant to this paragraph.

In the event of a special meeting which is not an emergency, the program shall notify all media representatives on the list of such meeting by doing at least one of the following:

- (1) Sending written notice, which must be mailed no later than four calendar days prior to the day of the special meeting.
- (2) 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 program has been unable to provide such telephone notice;

- (3) Informing such representative personally no later than twenty-four hours prior to the special meeting.

In the event of a special meeting which is an emergency, the program shall notify all media representatives on the list of such meeting by providing either the notice described in paragraph (C)(2) or (C)(3) 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.

In giving the notices required by this rule, the program may rely on assistance provided by any member of the Ohio legislative correspondents association. Such notice is complete if given to such member as provided in this rule.

- (D) The program shall maintain a list of all persons who have requested, in writing, notice of all meetings of the public employees deferred compensation board.

Effective:

Five Year Review (FYR) Dates: 12/4/2025

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 148.04, 121.22  
Rule Amplifies: 148.04, 121.22  
Prior Effective Dates: 12/29/1975, 03/06/2000, 06/02/2005, 10/07/2010,  
08/14/2015

## TO BE RESCINDED

148-1-03                    **Notice on rules.**

The procedure of the Ohio public employees deferred compensation board for giving public notice relative to the adoption, amendment or rescission of rules under Chapter 119. of the Revised Code shall be:

- (A) The board shall cause a statement of its intention to consider adopting, amending or rescinding a rule, a brief synopsis or a general statement of said proposed rule for adoption, amendment or rescission, a statement of the reason or purpose for adopting, amending or rescinding the rule, and the date, time and place of hearing on the proposed action, shall be published in the register of Ohio ([www.registerofohio.state.oh.us](http://www.registerofohio.state.oh.us)) pursuant to division (A) of section 119.03 of the Revised Code.
- (B) The board shall furnish the public notice required under section 119.03 of the Revised Code and as detailed by paragraph (A) of this rule to any person who requests notice in writing and pays the cost of copying and mailing.
- (C) The board shall file in electronic form the proposed rule to be adopted, amended or rescinded as required under division (B) of section 119.03 of the Revised Code.
- (D) The board shall have available for review at the board's office by any person upon request a legible copy of the text of the proposed rule to be adopted, amended or rescinded.
- (E) If after public hearing the board determines that the proposal shall be adopted, amended or rescinded, or in the case of an emergency rule, that the adoption shall be made final, a copy of said rule as adopted, amended or rescinded shall be filed in electronic form with the secretary of state and the director of the legislative service commission as required under Chapter 119. of the Revised Code.
- (F) Prior to the effective date of the rule, amendment or rescission, the board shall make a reasonable effort to inform those affected by the rule, amendment or rescission and to have available for distribution to those requesting it, the full text of the rule as adopted, amended or rescinded.

Effective:

Five Year Review (FYR) Dates: 12/4/2025

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Certification

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Date

Promulgated Under: 119.03  
Statutory Authority: 148.04  
Rule Amplifies: 148.04  
Prior Effective Dates: 01/31/1983, 03/06/2000, 06/02/2005

742-8-07

**Penalties and interest under section 742.352 of the Ohio Revised Code.**

- (A) Pursuant to the authority outlined in division (C) of section 742.352 of the Revised Code, the board of trustees hereby modifies the statutory penalties and interest in accordance with the following provisions.
- (B) Subject to the provisions of paragraph (D) of this rule, an employer with no more than twenty members shall be penalized for failing to transmit reports and payment in accordance with sections 742.32 and 742.56 of the Revised Code and corresponding administrative rules or payments in accordance with section 742.35 of the Revised Code as follows:
- (1) If a report or payment is at least one but not more than fifteen days past due, fifty dollars;
  - (2) If a report or payment is at least sixteen but not more than sixty days past due, one hundred dollars;
  - (3) If a report or payment is at least sixty-one but not more than one hundred eighty days past due, the greater of five hundred dollars or two per cent of the payment.
  - (4) If a report or payment is at least one hundred eighty-one days but not more than two hundred forty days past due, the greater of one thousand dollars or three per cent of the payment;
  - (5) If a report or payment is at least than two hundred forty-one days past due, the greater of three thousand dollars or four per cent of the payment.
- (C) Pursuant to division (C) of section 742.352 of the Revised Code, an employer with twenty-one or more members shall be penalized for failing to transmit reports and payment in accordance with sections 742.32 and 742.56 of the Revised Code and corresponding administrative rules or payments in accordance with section 742.35 of the Revised Code as follows:
- (1) If a report or payment is at least one but not more than fifteen days past due, one hundred dollars;
  - (2) If a report or payment is at least sixteen but not more than sixty days past due, the greater of five hundred dollars or one per cent of the payment;
  - (3) If a report or payment is at least sixty-one but not more than one hundred eighty days past due, the greater of one thousand dollars or two per cent of the payment.

- (4) If a report or payment is at least one hundred eighty-one days but not more than two hundred forty days past due, the greater of three thousand dollars or three per cent of the payment;
  - (5) If a report or payment is at least two hundred forty-one days past due, the greater of seven thousand five hundred dollars or four per cent of the payment.
- (D) Notwithstanding the provisions of paragraph (B) of this rule, employers with no more than five members shall have a cap on penalties equal to five hundred dollars for each failure to transmit reports and payment in accordance with sections 742.32 and 742.56 of the Revised Code or payments in accordance with section 742.35 of the Revised Code. Such employers shall also be eligible to participate in the payment plan outlined in rule 742-7-15 of the Administrative Code to the extent that they require an additional amount of time to repay penalties and interest.

Five Year Review (FYR) Dates: 2/2/2026 and 02/02/2031

CERTIFIED ELECTRONICALLY

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Certification

02/02/2026

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Date

Promulgated Under: 111.15  
Statutory Authority: 742.10, 742.352  
Rule Amplifies: 742.352  
Prior Effective Dates: 03/20/2006 (Emer.), 04/03/2006 (Emer.), 05/15/2006,  
04/07/2016

742-9-16

**Federal tax compliance provisions.**

- (A) The board shall distribute the funds established in Chapter 742. of the Revised Code to participants and their beneficiaries in accordance with the provisions of such chapter. No part of the corpus or income of these funds may be used for or diverted to any purpose other than the exclusive benefit of the participants and their beneficiaries.
- (B) If there is a termination of the plan described in Chapter 742. of the Revised Code or a complete discontinuance of contributions to the plan, the rights of each affected member to the benefits accrued at the date of termination or discontinuance of contributions, to the extent then funded, are non-forfeitable.
- (C) Employer contribution forfeitures of a member arising from severance of employment, death, or for any other reason shall not be applied to increase the benefits any member would otherwise receive under Chapter 742. of the Revised Code in accordance with section 401(a)(8) of the Internal Revenue Code or its successor provision and applicable regulations thereunder.
- (D) Notwithstanding any provisions in OP&F rules or Chapter 742. of the Revised Code to the contrary, distributions to members and beneficiaries shall be made in accordance with section 401(a)(9) of the Internal Revenue Code or its successor provision and applicable regulations thereunder and with the following rules.
- (1) The entire interest of a member shall be distributed to such member:
- (a) No 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 and a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code or its successor provision.
- (2) The required beginning date means April first of the calendar year following the later of:
- (a) The calendar year in which the member attains the required minimum distribution age; 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 or its successor provision and the accompanying regulations, and the member dies, any survivor benefits will be distributed as reasonably practicable under the plan of payment selected

under Chapter 742. of the Revised Code and effective as of the date following the member's death.

- (4) 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 or its successor provision and the accompanying regulations, any remaining interest of the member will be distributed within five years after the death of such member. Notwithstanding the foregoing, if any 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 or its successor provision, the benefit may be distributed (in accordance with applicable regulations) over the life of such beneficiary (or over a period not extending beyond the life expectancy of such beneficiary), provided that such distribution begin not later than one year after the date of the member's death. If the beneficiary is the surviving spouse of the member, distributions shall not be required, pursuant to this rule, to begin until the end of the calendar year in which the member would have attained the required minimum distribution age and, if the spouse dies before the distribution to the spouse commences, then the spouse shall be treated as the member for purposes of this rule.
  - (5) Any death benefit amounts payable under Chapter 742. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code or its successor provision and regulations thereunder.
- (E) Whenever the amount of the benefit is to be determined on the basis of actuarial assumptions, no employer discretion will be permitted.
- (F) A member who is entitled to a distribution which qualifies as an eligible rollover distribution pursuant to sections 401(a)(31)(D) and 402(f)(2)(A) of the Internal Revenue Code, their regulations, or successor provisions may request that the distribution be paid in a direct rollover to another eligible retirement plan to the extent permitted by sections 401(a)(31)(A) and 408A of the Internal Revenue Code, their regulations, or successor provisions. A qualified non-spouse beneficiary of a deceased member may only rollover directly to an inherited individual retirement account or annuity to the extent permitted by section 402(c)(11) of the Internal Revenue Code.
- (G) The annual compensation of each member taken into account in determining benefit accruals in any plan year beginning after December 31, 2001 shall not exceed two hundred thousand dollars. Annual compensation means "salary," as such term is defined in section 742.01 of the Revised Code and rule 742-3-02 of the Administrative Code during the plan year or such other consecutive twelve month period over

which salary is otherwise determined under the plan (hereinafter referred to as the "Determination Period"). In determining benefit accruals in plan years beginning after December 31, 2001, the annual compensation limit for the determination period beginning before January 1, 2002 shall be two hundred thousand dollars. The two hundred thousand dollar limit on annual compensation in this paragraph shall be adjusted for cost-of-living increases in accordance with section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to annual "salary" for the determination period that begins with or within such calendar year.

(H) For purposes of the limit established by section 415 of the Internal Revenue Code (as used in section 742.37, 742.3716, 742.3717, 742.3719 or 742.39 of the Revised Code), effective January 1, 1998, compensation shall include amounts excludable from the employee's gross income under sections 125, 132(f), 402(e)(3), 402(h), 403(b), or 457 of the Internal Revenue Code. Effective January 1, 2009, compensation shall include differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code of 1986, 26 U.S.C.A. 3401(h)(2).

(I)

(1) Effective for the limitation year beginning on January 1, 2012, the final regulations promulgated April 5, 2007 with respect to section 415 of the Internal Revenue Code are incorporated herein by reference, including any provisions of the pension funding equity act of 2004 that apply to governmental plans.

(2) "Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code (as used in section 742.37, 742.3716, 742.3717, 742.3719 or 742.39 of the Revised Code) have been exceeded with respect to a member or retirant in the plan described in Chapter 742. of the Revised Code. The limitation year for the plan is the calendar year.

(J)

(1) Within the Ohio police and fire pension fund ("OP&F") described in section 742.02 of the Revised Code, a separate account was established to comply with section 401(h) of the Internal Revenue Code known as the "401(h) account." The 401(h) account provided for the funding of health care benefits authorized under section 742.45 of the Revised Code. Subsequently, as authorized by the board of trustees, and based on a report and advice of an actuary and tax counsel, on and after January 1, 2006, the 401(h) account shall be used to fund only the payment of medicare part B premiums under rule 742-7-09 of the Administrative Code. On and after January 1, 2006, the section 115

trust established by OP&F shall be used to fund all other health care benefits authorized in the Revised Code and the Administrative Code.

- (2) The assets in the 401(h) account shall be accounted for separately from the other assets of the pension fund, but may be commingled with the other assets of the system for investment purposes. Investment earnings and expenses shall be allocated on a reasonable basis. All assets in the 401(h) account shall be held in trust for the exclusive benefit of eligible members of the fund, their spouses, and their eligible dependents.
- (3) OP&F shall designate the amount of employer contributions, if any, that are to be allocated to the 401(h) account for any year. Any contributions shall be funded by employer contributions and shall include any employer contributions previously allocated by OP&F for health care benefits described in section 742.45 of the Revised Code, together with any earnings credited thereon, with respect to individuals participating in the pension fund. Contributions to the 401(h) account are subordinate to the contributions to the pension fund. At no time shall contributions to the 401(h) account be in excess of twenty-five per cent of the total aggregate actual contributions made to the pension fund since the inception of the 401(h) account, excluding contributions to fund past service credit. In any event, all contributions to the 401(h) account shall be reasonable and ascertainable.
- (4) If any rights of an individual who was eligible to receive health care benefits as described above prior to or after January 1, 2006, and paid from the 401(h) account shall be forfeited, an amount equal to the amount of the forfeiture shall be applied as soon as administratively possible to reduce employer contributions allocated to the 401(h) account.
- (5) At no time prior to the satisfaction of all liabilities under this rule or section 742.45 of the Revised Code, shall any assets in the 401(h) account be used for, or diverted to, any purpose other than as provided in paragraph (J)(1) of this rule and for the payment of administrative expenses relating to the 401(h) account. Assets in the 401(h) account may not be used for retirement, disability, or survivor benefits, or for any other purpose for which the other funds of the pension fund are used.
- (6) Upon satisfaction of all liabilities under this rule, any assets in the 401(h) account, if any, that are not used as provided in paragraph (J)(1) of this rule shall be returned to the employers, as required by section 401(h)(5) of the Internal Revenue Code.

- (7) It is the intent of OP&F in adopting this rule to comply in all respects with sections 401(a) and 401(h) of the Internal Revenue Code and regulations interpreting those sections. In applying this rule, OP&F will apply the interpretation that achieves compliance with those sections and preserves the qualified status of the pension fund as a governmental plan under sections 401(a) and 414(d) of the Internal Revenue Code.
- (8) This rule is intended to codify OP&F's past and current practices and procedures with respect to the funding and payment of health care coverage and does not confer any new rights to or create any vested interest in receiving health care coverage for members, retirees, survivors, beneficiaries, or their dependents.
- (K) Effective January 1, 2007, notwithstanding any provision in Chapter 742. of the Revised Code to the contrary, the survivor of a member on a leave of absence to perform military service with reemployment rights described in section 414(u) of the Internal Revenue Code of 1986, 26 U.S.C.A. 414(u), where the member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accrual relating to the period of qualified military service) that would be provided under Chapter 742. of the Revised Code had the member resumed employment and then terminated employment on account of death.

Five Year Review (FYR) Dates: 2/2/2026 and 02/02/2031

CERTIFIED ELECTRONICALLY

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Certification

02/02/2026

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Date

Promulgated Under: 111.15  
Statutory Authority: 742.10  
Rule Amplifies: 742.10  
Prior Effective Dates: 06/26/2002 (Emer.), 09/13/2002, 01/02/2003 (Emer.),  
04/27/2003, 01/22/2009, 01/27/2009 (Emer.),  
04/19/2009, 11/23/2011 (Emer.), 02/09/2012,  
01/07/2013 (Emer.), 03/24/2013, 05/15/2021

3309-1-09

**Federal taxation.**

(A) For purposes of this rule, ~~"benefit" refers to a payment from the accumulated contributions of the member or the employer, or both, under Chapter 3309. of the Revised Code and includes an account refund, pension, annuity, disability benefit, or survivor benefit.~~

(1) "Applicable age" is defined as the age of the member as provided in Internal Revenue Code (401)(a)(9)(C)(v), as amended.

(2) "Benefit" refers to a payment from the accumulated contributions of the member or the employer, or both, under Chapter 3309. of the Revised Code and includes an account refund, pension, annuity, disability benefit, or survivor benefit.

(B) Notwithstanding any provision in rules of school employees retirement system ("SERS") or Chapter 3309. of the Revised Code to the contrary, distributions to members and beneficiaries shall be made in accordance with a good faith interpretation of the requirements of section 401(a)(9) of the Internal Revenue Code of 1986, 26 U.S.C. 401(a)(9), as applicable to a governmental plan within the meaning of section 414(d) of the Internal Revenue Code, 26 U.S.C. 414(d), and the following:

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

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

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

(2)

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

~~(i)~~(a) The calendar year in which the member attains the applicable age; or

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

~~(b)~~ For purposes of compliance with section 401(a)(9) of the Internal Revenue Code, "applicable age" means:

~~(i) Age seventy and one-half (if the member was born before July 1, 1949);~~

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

~~(iii) Age seventy-three (if the member was born after December 31, 1950, but before January 1, 1960); or~~

~~(iv) Age seventy-five (if member was born on or after January 1, 1960).~~

- (3) If distribution of a member's benefit has begun in accordance with section 401(a)(9) of the Internal Revenue Code, and the member dies, any survivor benefits will be distributed at least as rapidly as under the plan of payment selected and effective as of the date of the member's death.
- (4) If a member dies before the distribution of the member's interest has begun in accordance with section 401(a)(9) of the Internal Revenue Code, the entire interest of the member will be distributed within five years after the death of such member. However, if a benefit is payable to or for the benefit of a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code, the benefit may be distributed, over the life of such beneficiary, or over a period not extending beyond the life expectancy of the beneficiary, provided that such distributions begin not later than one year after the date of the member's death. If the beneficiary is the surviving spouse of the member, distributions shall not be required to begin, pursuant to that section, until the end of the calendar year in which the member would have attained the applicable age. When the beneficiary is the surviving spouse and the surviving spouse dies before distributions commence, then the surviving spouse shall be treated as the member for purposes of this rule. Effective for calendar years beginning after December 31, 2023, a surviving spouse who is the member's sole designated beneficiary may elect to be treated as if the surviving spouse were the member as provided under section 401(a)(9)(B)(iv) of the Internal Revenue Code, provided such election is consistent with applicable Treasury Regulations.
- (5) Any death benefit amount payable under Chapter 3309. of the Revised Code must comply with the incidental death benefit requirements of section 401(a)(9)(G) of the Internal Revenue Code.
- (C) When the retirement system is required to make a distribution in accordance with section 401(a)(9) of the Internal Revenue Code, and has confirmed that it has accurate contact information for the member, ~~or~~ retirant, or member's surviving spouse but the member, ~~or~~ retirant, or member's surviving spouse does not respond after notification

of the requirement to begin distributions, the following shall apply notwithstanding any provision in SERS rules or Chapter 3309. of the Revised Code to the contrary.

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

spouse as if the spouse was the member as described in Treas. Reg. 1.401(a)(9)-3(b)(3),(d) for the purposes of this rule.

(D)

- (1) ~~Effective for the limitation year beginning on January 1, 2012, the final regulations promulgated April 5, 2007 with respect to section 415 of the Internal Revenue Code, 26 U.S.C. 415 are incorporated herein by reference. The 5.5 per cent interest rate assumption established by the Pension Funding Equity Act of 2004, which is applicable to any actuarial adjustments required because the member or retirant elects a form of payment to which section 415(b)(2)(E) of the Internal Revenue Code and section 417(e)(3) of the Internal Revenue Code, 26 U.S.C. 417(e)(3) apply based on the form of benefit and not the status of the plan, shall be effective as of that same date. Under Section 3309.36 of the Revised Code, and solely for purposes of testing compliance with section 415(b) of the Internal Revenue Code, member contributions paid to and retirement benefits paid from the retirement system shall be limited to such extent necessary to conform to the requirements of section 415 of the Internal Revenue Code for a qualified pension plan.~~
- (2) ~~"Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code have been exceeded with respect to a member or retirant in the plan describe in sections 3309.18 to 3309.70 of the Revised Code. The limitation year for the plan is the calendar year. For purposes of testing compliance with section 415(b) of the Internal Revenue Code only, for a benefit paid in a form to which section 417(e)(3) of the Internal Revenue Code does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit shall be the greater of:~~
- ~~(a) The annual amount of the straight life annuity (if any) payable to the member under the plan commencing at the same annuity starting date as the form of benefit to the member, or~~
- ~~(b) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the member, computed using a 5% interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code.~~
- (3) For purposes of testing compliance with section 415(b) of the Internal Revenue Code only, for a benefit paid in a form to which section 417(e)(3) of the

Internal Revenue Code applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit shall be the greatest of:

(a) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;

(b) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5 percent interest assumption (or the applicable statutory interest assumption) and the applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code; or

(c) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the applicable interest rate for the distribution under Treasury Regulation section 1.417(e)-1(d)(3) (using the rate in effect for the first day of the plan year with a one-year stabilization period and the applicable mortality tables described in section 417(e)(3)(B) of the Internal Revenue Code, divided by 1.05.

(4) "Limitation year" is the year used in determining whether the limits set forth in section 415 of the Internal Revenue Code have been exceeded with respect to a member or retirant in the plan described in sections 3309.18 to 3309.70 of the Revised Code. The limitation year for the plan is the calendar year.

(E) ~~Effective January 1, 2007, to~~ To the extent required by section 401(a)(37) of the Internal Revenue Code, 26 U.S.C. 401(a)(37) and notwithstanding any provision in Chapter 3309. of the Revised Code to the contrary, the survivor of a member on a leave of absence to perform military service with reemployment rights described in section 414(u) of the Internal Revenue Code, 26 U.S.C. 414(u), where the member cannot return to employment on account of his or her death, shall be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) that would be provided under Chapter 3309. of the Revised Code had the member resumed employment and then terminated employment on account of death.

(F) If there is a termination of the plan described in Chapter 3309. of the Revised Code or a complete discontinuance of contributions to the plan, the rights of each affected member, retirant, and beneficiary to the pension, annuity, or benefits accrued at the

date of termination or discontinuance of contributions, to the extent then funded, are non-forfeitable.

- (G) For purposes of the limit established by section 415 of the Internal Revenue Code, 26 U.S.C. 415, ~~effective January 1, 2009~~, compensation shall include differential wage payments as defined in section 3401(h)(2) of the Internal Revenue Code, 26 U.S.C. 3401(h)(2).

Effective:

Five Year Review (FYR) Dates: 2/1/2028

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3309.03, 3309.34, 3309.344, 3309.36, 3309.44,  
3309.45, 3309.46, 3309.50  
Prior Effective Dates: 01/06/2009 (Emer.), 04/03/2009, 09/26/2010,  
04/01/2013, 04/10/2014, 05/01/2018, 06/05/2020,  
06/01/2023, 04/01/2024, 04/07/2025

3309-1-12

**Contributing service credit; determination of.**

- (A) Any contribution or contributions received for a particular month, beginning with September 1, 1937 and ending June 30, 1955, for credit to a member's savings account shall receive .125% of a year's service credit for that particular month, provided, that no more than one year of service credit shall be granted for all service rendered in any one fiscal year.
- (B) Any contribution or contributions received for a particular month, subsequent to June 30, 1955, but prior to July 1, 1977, for credit to a member's savings account, shall receive one-ninth of a year's service credit for that particular month, provided that not more than one year of service credit shall be granted for all service rendered in any one fiscal year.
- (C) Service credit granted under the provisions of paragraphs (A) and (B) of this rule, shall be subject to such adjustment by the retirement board as provided by law.
- (D) Contributing service credit for school employment rendered on or after July 1, 1977 shall be credited to members as follows:
- (1) A full year of service credit will be credited for one hundred twenty or more days of paid school employment during a year.
  - (2) For less than the above described one hundred twenty days during a year, a fraction of a year credit shall be credited, and shall be determined by dividing the actual number of days paid in a year by one hundred eighty days.
- (E) Contributing service as a school board member or governing board member will be credited as provided in paragraph (D) of this rule. A day of "paid school employment" for a board member shall mean any day for which the board member was compensated for attending a regular or special meeting of the board or an approved training program. Payment or reimbursement of fees or expenses by the school district or educational service center does not constitute compensation.
- (F) The number of days and the number of hours of paid school employment shall be certified by the employer in a manner specified by the retirement board.
- (G) A "year" shall mean the period July first through the following June thirtieth.
- (H) Any portion of a day paid shall be considered a full day.
- (I) Credit for school service rendered before July 1, 1977 shall continue to be determined pursuant to paragraphs (A) to (C) of this rule.

Five Year Review (FYR) Dates: 1/30/2026 and 02/01/2030

CERTIFIED ELECTRONICALLY

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Certification

01/30/2026

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3309.30, 3309.012  
Prior Effective Dates: 12/24/1976, 02/18/1977, 02/01/1992, 02/06/1998,  
10/28/2002, 11/03/2008

3309-1-44

**Purchase of service credit; pregnancy and adoption resignation.**

A member who resigned due to pregnancy or adoption of a child may purchase service credit for such period(s) of resignation during which no contributions were made to the system and no service credit granted under any other section of the Revised Code in accordance with section 3309.473 of the Revised Code and this rule.

(A)

- (1) The member must have resigned from a contributing position under Chapter 3309. of the Revised Code due to pregnancy or adoption of a child;
- (2) The member must have returned to a contributing position under Chapter 3309. of the Revised Code not later than the first day of classes of the third school year following the date of the resignation; and
- (3) The member must have earned a minimum of one year of school employees retirement system contributing service credit after the resignation.

(B)

- (1) A member who meets the requirements of paragraph (A) of this rule shall apply to the system to purchase service credit for a period of resignation on a form provided by the system;
- (2) The member shall provide, with the application to purchase service credit, documentation satisfactory to the system that the resignation was due to pregnancy or adoption of a child. Such documentation may include, but is not limited to:
  - (a) In case of resignation due to pregnancy, copies of the member's child's birth certificate, copies of hospital or medical records, or an attending physician's statement; or
  - (b) In the case of resignation due to adoption, copies of the adoption decree.
- (3) The employer who accepted the resignation shall certify on a form provided by the system, the date of the member's resignation and the reason, if any, given for the resignation;
- (4) For each year of service credit purchased, the member shall pay to the system for credit to the member's accumulated account an amount equal to the member's retirement contributions for full-time employment for the first year of contributing service subsequent to the member's return from the period of resignation, plus interest thereon compounded annually at a rate set by the board

of the school employees retirement system from the date of the member's return to contributing service to the date of payment.

- (5) For each year of service credit purchased, the employer who accepted the resignation shall pay to the system an amount equal to the employer contribution for full-time employment for the member's first year of contributing service subsequent to the member's return from the period of resignation, plus interest thereon compounded annually at a rate set by the board of the school employees retirement system from the date of the member's return to contributing service to the date of payment. Payment shall be made:
- (a) In one lump-sum payment from the employer directly to the school employees retirement system; or
  - (b) By authorization of the employer from the amounts allocated to the employer under Chapter 3317. of the Revised Code.
- (C) A member who meets the foregoing requirements is eligible to purchase service credit for the lesser of the actual period of time from the resignation to the return to employment in a contributing position or two years.

Five Year Review (FYR) Dates: 1/30/2026 and 02/01/2030

CERTIFIED ELECTRONICALLY

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Certification

01/30/2026

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3309.473  
Prior Effective Dates: 05/02/2001, 05/11/2006

3309-1-45

**Release of names, addresses and information.**

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

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

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

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

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

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

- (C) Except as otherwise provided by law, all other system information not described in paragraph (A) or (B) of this rule shall be made available for inspection and copies provided upon request and payment of any applicable costs for copying and mailing.

The person requesting a copy may choose to obtain the copy on paper, in the same medium in which the record is kept, or in any other medium in which the system determines that it can reasonably duplicate the record as an integral part of normal operations. A list of names and addresses of members, former members, retirants, contributors, former contributors, or beneficiaries shall be made available upon written request and payment of the cost of compiling, copying and mailing the list.

- (D) As used in division (D)(3) of section 3309.22 of the Revised Code and this rule:

- (1) "Contributor" means a SERS retirant or other system retirant who has an account with SERS based on contributions to SERS pursuant to section 3309.341 of the Revised Code.
- (2) "Former contributor" means a current recipient of a monthly annuity under section 3309.344 of the Revised Code.
- (3) "Former member" means a member who has not contributed to SERS in twelve months and is considered inactive.

Effective: 12/12/2025

Five Year Review (FYR) Dates: 2/1/2027

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04, 149.43  
Rule Amplifies: 3309.22, 149.43  
Prior Effective Dates: 02/16/1989, 02/11/2000, 05/03/2002, 12/10/2009,  
01/07/2013, 04/06/2017, 05/01/2022

3309-1-56

**Alternative retirement programs.**

(A) For the purpose of this rule:

- (1) "Administrative employee" means an administrative employee as defined in division (A) of section 3305.05 of the Revised Code for whom the school employees retirement system would be the applicable state retirement system.
- (2) "Eligible employee" means an employee as defined in division (C) of section 3305.01 of the Revised Code for whom this retirement system would be the applicable state retirement system.
- (3) "Election period" means:
  - (a) For administrative employees who made elections under division (B) of section 3305.051 of the Revised Code, the one hundred twenty days after the employee's first day on the institution's payroll.
  - (b) For administrative employees who made elections under division (C) of section 3305.051 of the Revised Code, the one hundred twenty days after the effective date of the alternative retirement program adopted by the institution.
  - (c) For eligible employees who make elections under division (B)(1) of section 3305.05 of the Revised Code, the one hundred twenty days after August 1, 2005.
  - (d) For eligible employees who make elections under division (B)(2) or (B) (3) of section 3305.05 of the Revised Code, the one hundred twenty days after the employee's first day on the institution's payroll.
- (4) "Employee" means either an administrative employee or an eligible employee.
- (5) "Institution" means a public institution of higher education as defined in division (A) of section 3305.01 of the Revised Code.

(B) Within thirty days of its adoption of an alternative retirement plan under Chapter 3305. of the Revised Code, an institution shall file notice with the retirement system of its adoption of the plan. The notice shall:

- (1) Be given in the manner and form prescribed by the retirement system.
- (2) Include a copy of the plan adopted.

- (3) Include a report in the manner and form prescribed by the retirement system of all current employees.

(C)

- (1) Each institution of higher education that employs an employee eligible to elect an alternative retirement program shall:
  - (a) Notify the retirement system at the time it employs the employee, but in no event later than ten days after the employee's first day on the institution's payroll.
  - (b) Notify the retirement system at the time an employee of the institution changes to a classification which qualifies the employee to elect an alternative retirement plan but in no event later than ten days after the effective date of the employee's reclassification.
- (2) The notice required under paragraph (C)(1) of this rule shall be given in the manner and form prescribed by the retirement system, and shall include the employee's name, address, social security number, date of birth, sex, annual compensation, first date on the institution's payroll, and any other information required by the school employees retirement system.

(D)

- (1) Elections by an employee of an alternative retirement plan shall be made on forms provided by the retirement system and completed by the employee and the institution.
- (2) Not later than ten days after an election is filed with the institution, the institution shall file a certified copy with the retirement system.

(E)

- (1) Elections made by employees under divisions (B)(2) and (B)(3) of section 3305.05 or division (B) of section 3305.051 of the Revised Code will be implemented no later than thirty days after a certified copy of the employee's election is filed with the retirement system.
- (2) The election, when implemented, shall be effective as of the first day upon which the employee appears on the institution's payroll or was reclassified to a position as an administrative or eligible employee.

- (3) Once an election is filed with the system, it is not affected by the death of the employee and it shall be implemented and effective as set forth in this rule.

(F)

- (1) Elections made by employees under division (B)(1) of section 3305.05 of the Revised Code will be implemented no later than thirty days after a certified copy of the employee's election is filed with the retirement system.
- (2) The election, when implemented, shall be effective as of the day the employee's election is irrevocable:
- (3) Once an election is filed with the system, it is not affected by the death of the employee and it shall be implemented and effective as set forth in this rule.

(G)

- (1) Elections made by administrative employees under division (C) of section 3305.051 of the Revised Code will be implemented no later than thirty days after the certified copy of the employee's election is filed with the retirement system.
- (2) The elections, when implemented, shall be effective as of the following dates:
  - (a) On March 31, 1998 where the public institution's alternative retirement program is established on or after December 8, 1998 but no later than March 31, 1999; or
  - (b) On the first day of the month in which the public institution's alternative retirement program is established where the program is established after March 31, 1999.
- (3) Once an election is filed with the system, it is not affected by the death of the employee and it shall be implemented and effective as set forth in this rule.

(H)

- (1) Employee and employer contributions for an employee shall be collected and remitted to the retirement system until an election is implemented pursuant to paragraph (E)(1), (F)(1) or (G)(1) of this rule.
- (2) Those employee and employer contributions received after the effective date of an election as determined by this rule for an employee who elects an alternative retirement plan shall be refunded as unauthorized contributions to the provider identified as provided in paragraph (D) of this rule. The amount of employer

contributions refunded shall be less the amount due pursuant to division (D) of the section 3305.06 of the Revised Code.

(I)

(1) An application under division (B) of section 3309.42 of the Revised Code for payment of a member's accumulated contributions to the provider of an alternative retirement plan shall be made in a manner and form prescribed by the retirement system.

(2) The institution shall certify:

(a) The name and address of the institution's plan administrator; and

(b) The plan is eligible to receive a trustee-to-trustee transfer from the retirement system which is a plan qualified under Internal Revenue Code section 401(a).

(3) The death of the employee prior to payment of the accumulated contributions to an alternative retirement plan cancels the application for payment.

(J) Not later than the fifteenth day of each month following a month in which an institution employed an employee who elected an alternative retirement; plan the institution shall:

(1) Remit to the retirement system the contributions required under division (D) of section 3305.06 of the Revised Code.

(2) Submit a report on all employees who have elected an alternative retirement plan in a form and manner prescribed by the retirement system.

Effective:

Five Year Review (FYR) Dates: 1/30/2026

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3305.05,3305.051,3305.052,3305.06,3309.011,3309.42  
Prior Effective Dates: 08/10/1998, 04/11/1999, 05/02/2001, 08/11/2005

3309-1-58

**Retirement of member pursuant to section 3309.343 of the Revised Code.**

(A) For purposes of section 3309.343 of the Revised Code and this rule:

- (1) "Active position" means a position a member worked in the month before retirement and for which contributions were being received by a state retirement system at the time of retirement pursuant to section 3309.343 of the Revised Code.
- (2) "SERS annual compensation" means a member's compensation for an active position reported by an employer to the school employees retirement system for the most recent twelve-month period. If the compensation has been reported for less than a twelve-month period, the system shall convert the compensation to an annual basis.
- (3) "Other retirement system annual compensation" means a member's annual earnable salary or compensation for an active position as certified to this system by the public employees retirement system or the state teachers retirement system.
- (4) "Highest annual compensation" means the highest of the SERS annual compensation or the other retirement system annual compensation for an active position.
- (5) "Position" means employment for which a member is covered and contributes to a state retirement system.
- (6) "State retirement system" means the school employees retirement system, the public employees retirement system or the state teachers retirement system.
- (7) "Other retirement system" means the public employees retirement system or the state teachers retirement system.

(B)

- (1) When a member holds more than one active position in this system, no active positions in an other retirement system, and is electing to take a retirement benefit pursuant to section 3309.343 of the Revised Code, the member shall:
  - (a) Apply for a benefit pursuant to section 3309.35, 3309.36, or 3309.46 of the Revised Code, for the active position which has the highest SERS annual compensation; and

(b) Select which other active position or positions upon which the member shall continue to contribute to this system.

(2) In computing the benefit described in paragraph (B)(1) of this rule all service credit in this system shall be used.

(C)

(1) When a member holds one or more active positions in this system and one or more active positions in an other retirement system, and the active position which has the highest annual compensation is in this system, the member shall:

(a) Apply for a benefit pursuant to section 3309.35, 3309.36, or 3309.46 of the Revised Code, for the active position which has the highest annual compensation; and

(b) Select which other active position or positions upon which the member shall continue to contribute to this system or to an other retirement system.

(2) In computing the benefit described in paragraph (C)(1) of this rule, all service credit in any state retirement system shall be used.

(D) Employment in any position covered by this system that begins subsequent to the effective retirement benefit date under section 3309.343 of the Revised Code shall be subject to section 3309.341 of the Revised Code, and rule 3309-1-50 of the Administrative Code.

Five Year Review (FYR) Dates: 1/30/2026 and 02/01/2030

CERTIFIED ELECTRONICALLY

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Certification

01/30/2026

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3309.343  
Prior Effective Dates: 05/02/2001, 05/11/2006, 07/10/2016, 10/11/2018

3309-1-63

**Plan F - multiple beneficiaries.**

- (A) Amounts due to a retirant receiving a retirement allowance under the plan described in division (B)(3)(e) of section 3309.46 of the Revised Code and unpaid at death shall be paid to the retirant's surviving beneficiaries under the plan on a prorated basis based on the monthly benefit payable to the beneficiary compared to the total monthly benefits payable to all beneficiaries.
- (B) Beneficiaries designated in a plan described in division (B)(3)(e) of section 3309.46 of the Revised Code shall be prioritized for purposes of calculation.
- (1) A beneficiary who is a former spouse whom the member has been ordered to provide a specified amount to in an order described in division (B)(1)(b)(ii) of section 3309.46 of the Revised Code shall have priority over all other beneficiaries. When a member is subject to more than one order described in division (B)(1)(b)(ii) of section 3309.46 of the Revised Code, the former spouses shall be entitled to beneficiary priority in order of earliest retention by the retirement system.
  - (2) A current spouse shall have priority over any beneficiaries who are not the subject of an order described in division (B)(1)(b)(ii) of section 3309.46 of the Revised Code.
  - (3) The member shall designate the priority of any beneficiary who is not a former spouse and the subject of an order described in division (B)(1)(b)(ii) of section 3309.46 of the Revised Code or a current spouse.
- (C) In no event shall a member have more than four beneficiaries under the plan described in division (B)(3)(e) of section 3309.46 of the Revised Code.

Five Year Review (FYR) Dates: 1/30/2026 and 02/01/2030

CERTIFIED ELECTRONICALLY

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Certification

01/30/2026

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3309.44, 3309.46  
Prior Effective Dates: 10/27/2006

3309-1-65

**Medicare part B reimbursement account.**

- (A) As used in this rule, "eligible benefit recipient" has the same meaning as in paragraph ~~(J)~~(K)~~(2)(b)~~ of rule 3309-1-35 of the Administrative Code.
- (B) The school employees retirement board has previously established a separate account within the funds described in section 3309.60 of the Revised Code for the purpose of reimbursing eligible benefit recipients for a portion of the cost of medicare part B coverage paid by the eligible benefit recipient, as authorized under section 3309.69 of the Revised Code, and in accordance with rule 3309-1-35 of the Administrative Code. The medicare part B reimbursement account shall be a separate account established pursuant to section 401(h) of the Internal Revenue Code, 26 U.S.C. 401(h). The assets in the medicare part B reimbursement account shall be accounted for separately from the other assets of the school employees retirement system, but may be commingled with the other assets of the system for investment purposes. Investment earnings and expenses shall be allocated on a reasonable basis.
- (C) Each year the board designates the amount of contributions that are to be allocated to the medicare part B reimbursement account for any year. The contributions are funded by employer contributions under section 3309.49 of the Revised Code and are subordinate to the contributions for payment of retirement allowance and other benefits provided under Chapter 3309. of the Revised Code. At no time shall contributions to the medicare part B reimbursement account, when added to contributions for any life insurance benefits provided on behalf of eligible benefit recipients, be in excess of twenty-five per cent of the total aggregate actual contributions made to the school employees retirement system, excluding contributions to fund past service credit. In any event, all contributions to the medicare part B reimbursement account shall be reasonable and ascertainable.
- (D) The assets of the medicare part B reimbursement account are only used to pay reimbursement of medicare part B premiums paid by eligible benefit recipients and authorized under section 3309.69 of the Revised Code and in accordance with rule 3309-1-35 of the Administrative Code.
- (E) If any rights of an individual who is eligible to receive medicare part B reimbursement authorized under section 3309.69 of the Revised Code and paid from the medicare part B reimbursement account are forfeited as provided in rule 3309-1-35 of the Revised Code, an amount equal to the amount of such forfeiture shall be applied as soon as administratively possible to reduce employer contributions allocated to the medicare part B reimbursement account.
- (F) At no time prior to the satisfaction of all liabilities under this rule shall any assets in the medicare part B reimbursement account be used for, or diverted to, any purpose other than as provided in paragraph (D) of this rule and for the payment

of administrative expenses relating to the medicare part B reimbursement account. Assets in the medicare part B reimbursement account may not be used for retirement, disability, or survivor benefits, or for any other purpose for which the other funds of the system are used.

- (G) If the school employees retirement board discontinues medicare part B reimbursement authorized under section 3309.69 of the Revised Code, or upon satisfaction of all liabilities under this rule, any assets in the medicare part B reimbursement account, if any, that are not used as provided in this rule shall be returned to the employers, as required by 26 U.S.C. 401(h)(5).
- (H) It is the intent of the school employees retirement board in adopting this rule to reflect its continuing compliance in all respects with sections 401(a) and 401(h) of the Internal Revenue Code, 26 U.S.C. 401, and regulations interpreting those sections. In applying this rule, the board will apply the interpretation that achieves compliance with those sections and preserves the qualified status of the system as a governmental plan under sections 401(a) and 414(d) of the Internal Revenue Code, 26 U.S.C. 401 and 414.
- (I) This rule is intended to reflect past and current policies, practices and procedures of the system with respect to the funding and payment of medicare part B reimbursements and does not confer any new rights to or create any vested interest in receiving medicare part B reimbursement for members, retirees, survivors, beneficiaries, or their dependents.

Effective:

Five Year Review (FYR) Dates: 1/31/2030

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Certification

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Date

Promulgated Under: 111.15  
Statutory Authority: 3309.04  
Rule Amplifies: 3309.03, 3309.60, 3309.69  
Prior Effective Dates: 10/30/2015 (Emer.), 01/15/2016