

**Rules of the
OHIO PUBLIC EMPLOYEES
RETIREMENT SYSTEM**

2011



PUBLIC EMPLOYEES RETIREMENT BOARD
277 East Town Street Columbus, Ohio 43215-4642

(Effective January 2011)

KIMBERLY ANN RUSSELL
Non-Teaching Employees of State
Universities and Colleges

CINTHIA SLEDZ
Miscellaneous Employees

MATTHEW SCHULZ
State Employees

HELEN YOUNGBLOOD
County Employees

SHARON DOWNS
Retirees

KEN THOMAS
Municipal Employees

JOHN W. MAURER
Retirees

Statutory Member

ROBERT BLAIR
Director, Ohio Department of Administrative Services

Appointed Members

LENNIE WYATT
Governor Appointed Investment Expert

JIM TILLING
General Assembly Appointed Investment Expert

CHARLIE ADKINS
Treasurer Appointed Investment Expert

CHRIS DeROSE
Executive Director

**RULES OF THE
OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM**

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145-1-01 Organization

(A) Offices

- (1) The general offices of the public employees retirement board and its address of record is “277 East Town Street, Columbus, Ohio 43215-4642.”
- (2) The location of the office may be changed or additional offices may be established or closed by appropriate board resolution.

(B) Meetings

- (1) Regular meetings shall be held at nine a.m. on the third Wednesday of each calendar month. The date and hour of a regular meeting may be changed by appropriate board resolution.
- (2) Special meetings may be held at the call of the chair, or in the event of the chair’s incapacity, at the call of the vice chair. Should both the chair and vice chair be incapacitated, a special meeting of the board may be called by any two members of the board.
- (3) The January meeting in each year shall be the annual meeting, at which time as the first order of new business the board shall elect from its members a chair and a vice chair who shall take office immediately following their election. The chair-elect shall announce committee appointments for the coming year no later than the regular February meeting. The composition of the committees shall remain the same until the new appointments. New board members and re-elected board members shall be sworn in at the annual meeting.
- (4) The director of administrative services may designate a member of such individual’s staff to act on the board in such individual’s absence, provided the person designated is not disqualified by operation of law to act as such a representative.
- (5) A majority of the actual number of members that have been elected or appointed to and are serving on the board at the time of a meeting where official action is to be taken constitutes a quorum to conduct a meeting. A majority of those members present and voting yes on a proposal shall constitute a favorable vote. An abstention from voting shall not be counted as either an affirmative or negative vote, and a member who abstains shall not be counted as a member present to determine whether a majority needed for a favorable vote has been reached. A roll call shall occur if there is a division in the vote. Any board member may request a roll call on any vote.
- (6) The regular order of business for any meeting of the board shall be as follows.
 - (a) Roll call. An employee or retirant member of the board not able to be present may request to be excused. A request to be excused shall be moved by the chair and voted on by the board.

145-1-01

(continued)

- (b) Items of business as presented on a written agenda sent to each board member, and made available to the public, prior to the meeting and such other items that may arise between the release date of the written agenda and the meeting date.
 - (c) Announcement of next regular or special meeting date, hour and place.
 - (d) Adjournment.
 - (e) Without objection, the regular order of business may be changed by the chair or upon the request of a board member. If there is an objection, a motion, second and vote to consider an item out of turn is in order.
 - (7) When a question of parliamentary procedure arises, the most current edition of “Robert’s Rules of Order” shall be followed unless in conflict with Chapter 145. of the Revised Code, or this rule.
 - (8) The minutes shall be the record of the proceedings of the board. Draft copies of the written minutes shall be circulated to the board in advance of each meeting. After approval, the final form shall be inserted in the minutes book of the board.
- (C) Officers and their duties
- (1) The chair shall be elected and take office at the annual meeting in January of each year for a one-year term. The chair shall be the voice of the board and shall preside at all board meetings. The chair may call upon the vice chair to preside during a meeting. The chair shall appoint committees; make the determination whether a special meeting of the board is required; and when required, call the meeting. The chair shall present to the board for a vote the member’s request to be excused for members unable to attend meetings.
 - (2) The vice chair shall be elected and take office at the annual meeting in January of each year for a one-year term. The vice chair shall succeed to the chair in the event of the resignation, retirement or death of the chair. The vice chair shall preside in the event of the absence or incapacity of the chair or upon the request of the chair.
 - (3) Under the direction of the chair, the executive director or other designated person shall keep the minutes of board proceedings.
 - (4) Other officers of the board shall include the chairs of standing or special committees.
- (D) Committees
- (1) The investment committee shall consist of all board members. The chair of the investment committee shall be appointed by the board chair. The investment committee shall, through its chair and its written reports, make recommendations to the board on investment related policies and actions. Meetings of the

investment committee will be held on the Tuesday before the third Wednesday of each calendar month, however, such meetings may be changed by vote of the committee.

- (2) The personnel and salary review committee shall consist of five board members. The committee chair and members shall be appointed by the board chair. This committee shall meet at the call of its chair as occasion requires, to review compensation and personnel matters and to make recommendations through its chair and reports to the board on these matters.
- (3) The audit committee shall consist of five members: the board chair, the director of administrative services, an employee member appointed by the board chair, a retirant member appointed by the board chair, and one additional member appointed by the board chair. The board chair shall make appointments to the committee by considering the accounting, finance, or business management background of the board members. This committee shall meet twice annually, and at any other time at the call of the board chair, to review audit plans and audit findings of the retirement system's independent and/or internal auditors. The committee shall, through the board chair, make its reports to the board. The committee shall prepare and submit an annual report of its activities to the Ohio Retirement Study Council.
- (4) Appointments of the committee chairs and appointments of members to the regular committees listed are concurrent with the board chair who makes the appointment.
- (5) The chair of the board may, at times as required, appoint temporary or special committees for such purposes as the chair deems necessary. The chair of a temporary or special committee shall be announced when the members are named. Unless otherwise stated for a shorter period in the appointment, temporary or special committee appointments shall be concurrent with the board chair who makes such appointment.
- (6) The minutes shall be the record of the proceedings of a committee or subcommittee. Draft copies of the written minutes shall be circulated to the committee or subcommittee for approval. After approval, the final form shall be signed by the chair of the committee or subcommittee and inserted in the minutes book of the board.

Promulgated Under: R.C. 111.15.

Authorized By: R.C. 145.09.

Rule Amplifies: R.C. 145.04, 145.05, 145.06,
145.07, 145.08, 145.09.

Rule Review Date: 10/29/97; 9/14/07; 10/15/02;
9/29/12;

Effective Date History: 3/29/76. 12/12/76; 2/1/88;
5/9/88; 10/11/88; 4/5/93; 4/30/94; 6/1/96; 7/6/00; 1/5/01;
3/22/02; 12/24/04; 11/30/07; 10/1/09 (Emer.); 1/1/10.

145-1-02 Election of board members

(A) Notifications

- (1) At its regular March meeting in each year that an election of members to the board is required, the public employees retirement board shall establish an election time schedule. The schedule shall establish the first Monday in October as the date and place for the election count to be conducted under the supervision of the secretary of state's office.
- (2) This schedule shall include the release of news articles to interested employee and employer organizations and other interested parties, a preliminary notice to employers, the mailing of notice of elections and nominating petitions, the last date for receipt of nominating petitions and required forms, the date of the meeting at which the board shall certify candidates for election, the date by which voting materials must be mailed to eligible voters at their home addresses, and the final date for receipt of votes.

(B) Nominations

- (1) Candidates for board members shall be nominated by petition on forms provided by the public employees retirement system.
- (2)
 - (a) Petitions and required forms for candidates as an employee representative on the board shall be mailed to employers by the system with the notice of election posters not later than the thirtieth day of June. At that time petitions and required forms may be sent to members who have requested them.
 - (b) Any member, except a member receiving a disability benefit pursuant to sections 145.35 and 145.36 of the Revised Code, who is not otherwise ineligible under Chapter 145. of the Revised Code, may be nominated to represent the employee group to which the member belongs by submitting petitions that contain at least five hundred valid nominating signatures. Petitions for an employee representative candidate shall contain not less than twenty signatures of members from each of at least ten counties in Ohio. The member's place of employment shall determine the county for such member.
 - (c) Members shall be eligible to sign a petition for an employee representative candidate if they are contributing members under an employing unit which would be represented by the candidate as of June thirtieth of the election year.

145-1-02 (continued)

- (3)
 - (a) A notice of election procedures shall be sent to retirants at their home addresses of record with, or at the same time that the June benefit payment is released in the year of a retirant representative election. Petitions and required forms for candidates as the retirant representative board member shall be sent, to retirants who have requested them, on the date set by the board pursuant to paragraph (A) of this rule; however, such date shall be no later than June thirtieth.
 - (b) Any retirant, who is not otherwise ineligible under Chapter 145. of the Revised Code, may be nominated to represent the retirant group with petitions which contain at least two hundred fifty valid nominating signatures. Petitions for a retirant representative candidate shall contain not less than ten signatures of retirants from each of at least five counties in Ohio. The retirant's place of residence shall determine the county of such retirant.
 - (c) Individuals shall be eligible to sign a petition for a retirant representative candidate if they are retirants eligible to receive a monthly benefit as of July first of the election year.
- (4)
 - (a) Petitions and completed required forms for a candidate shall be received by the system no later than the petition filing date established by the board in the election time schedule. A petition received after such date is invalid.
 - (b) Petition signatures shall be verified based on records of the retirement system and the requirements of Chapter 145. of the Revised Code. Signatures that cannot be conclusively verified shall not be counted.
 - (c) The board shall certify qualified candidates for election. A qualified candidate is an individual who meets the requirements of Chapter 145. of the Revised Code and this rule as established by the records of the system. Based on the certification, the names of qualified candidates shall be placed on the ballot for election.

(C) Voting

- (1) The board may conduct an election by paper ballots or through electronic methods.
- (2)
 - (a) Voting materials for each voting member or retirant of the system shall include a list of candidates, a biographical statement for each candidate, voting instructions, a disclaimer that neither the board nor the system endorses any particular candidate or statement, and any other materials the board deems necessary.

145-1-02 (continued)

- (b)
 - (i) The biographical statement of a candidate shall be completed on a template provided by the system. The biographical statement of an employee representative shall carry the name, county of residence, public employer, job title, brief description of work, and relevant industry knowledge or specific experience of each candidate. The biographical statement of a retirant ballot shall carry the name, county of residence, brief description of prior work, and relevant industry knowledge or specific experience of each candidate. The biographical statement is not to exceed two hundred words. The candidate must provide an affidavit signed by the candidate verifying the accuracy and truthfulness of the statement. The board reserves the right to edit such statement for length or inappropriate content with notice to the candidate.
 - (ii) In addition, a candidate must provide a disclaimer on or with any written or spoken campaign material that neither the board nor the system endorses any particular candidate or statement, and submit such materials to staff to pre-approve the disclaimer prior to disseminating.
 - (3) If a candidate is elected by a margin of less than one percent of the votes cast, a recount will automatically be conducted.
 - (4) In the event there is a tie vote, the vote shall be decided by a coin toss. Certification of the election results shall be provided by the secretary of state at the office of the system.
- (D) Protests
- (1)
 - (a) An individual who fails to obtain sufficient valid nominating signatures by the petition filing date may file a protest on the insufficiency of such individual's petitions. The protest shall be in writing and received by the system no later than five calendar days after notice of the insufficiency.
 - (b) A protest shall be heard at the board's next meeting. The individual may be represented by legal counsel at the hearing and may present any information and/or documents relevant to the protest for the board's consideration. The executive director shall notify the individual in writing of the board's decision. If the board determines that the protest is valid, it shall certify the individual for that representative group election.
 - (c) Once the board makes a determination of a protest on the sufficiency of an individual's petitions, neither the insufficiency nor determination shall be the basis for any other protest to the board pertaining to that individual. The board's decision is final.

145-1-02 (continued)

- (2) (a) An unsuccessful candidate in an election may file a protest in the candidate's representative group election. This protest shall be in writing and received by the system no later than five calendar days after notice of the unofficial election results.
- (b) A protest shall be heard at the board's next meeting.
 - (i) The protesting candidate may be represented by legal counsel at the hearing. The successful candidate may appear, and may be represented by legal counsel. The protesting candidate and the successful candidate may submit any information and/or documents relevant to the protest for the board's consideration.
 - (ii) The executive director shall notify the protesting candidate in writing of the board's decision.
 - (iii) If the board determines that the protest is valid, it shall declare the election for that representative group void, and the position vacant. A new election for that representative group shall be held pursuant to division (C) of section 145.06 of the Revised Code. The board's decision is final.

(E) Vacancies

- (1) Except as provided in this paragraph, if a vacancy occurs in the term of an employee member or retirant member of the board, the remaining retirement board members shall determine the schedule and manner in which they will select a successor member. The board is not required to elect a successor member for a vacancy that occurs on or after the first day of October of the year in which the vacated term ends, as described in section 145.06 of the Revised Code.
 - (a) The board shall notify the membership or retirant group affected by the vacancy in the same manner as is done for elections of retirement board members. This notice shall state the procedure for candidates for the vacancy to submit their names to the board, and the procedures for selection by the board of the candidate to fill the vacancy. Candidates shall qualify under the same eligibility requirements as the predecessor in office.
 - (b) The board shall select a successor member from those names submitted to it. A successor member shall be selected by a majority vote in which successive ballots shall occur until one candidate receives a majority. However, in the event there is a tie vote, the vote shall be decided by a coin toss.

145-1-02 (continued)

- (2) If a vacancy occurs because an individual is unable to assume the office at the January meeting of the board following the individual's election, the board shall conduct a new election as provided in this rule, except that the time schedule for the election shall occur in order to comply with section 145.06 of the Revised Code.
- (3) All documents regarding filling the vacancy, including resumes and forms required by the system, shall be made available to any person upon request and payment of the cost of compiling, copying, and mailing the documents.

Promulgated Under: R.C. 119.03

Authorized By: R.C. 145.09.

Rule Amplifies: R.C. 145.04, 145.05, 145.051, 145.058, 145.06, 145.27.

Rule Review Date: 10/15/97; 10/15/02; 9/14/07; 9/29/12.

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145-1-03 Board travel and expense reimbursement policy

- (A) (1) As provided in section 145.08 of the Revised Code and this rule, members of the public employees retirement board described in section 145.04 of the Revised Code shall be reimbursed by the public employees retirement system for travel expenses incurred for retirement system business that are:
 - (a) Actual, necessary and reasonable, and
 - (b) (i) Incurred during attendance at meetings of the retirement board or its committees, or,
 - (ii) At meetings, conferences, seminars, workshops or sessions presented by other organizations and other group meetings as authorized by the retirement board.
 - (2) Meetings shall provide education to board members, be necessary for the performance of their duties, be appropriate to the general purpose of the retirement system and be in the interest of the retirement system's participants.
 - (3) “Actual, necessary and reasonable expenses” mean expenses which are incurred, appropriate in the circumstances and within prudent judgment.
- (B) Travel expenses for approved travel that are reimbursable from the retirement system include, but are not limited to, the following:
- (1) Transportation
 - (a) Travel by common carrier shall be reimbursed in an amount limited to the actual cost of a coach or economy class ticket, except if no such ticket is available and the travel is necessary then at the actual cost of the available ticket.
 - (b) In-state travel by personal vehicle shall be reimbursed for mileage at the established reimbursable rate. Out-of-state travel by personal vehicle shall be reimbursed at the lesser of “portal to portal” or “air travel cost.”
 - (i) “Portal to portal” expenditures for this calculation include the actual cost of lodging, meals, parking at place of lodging in route, and mileage at the established reimbursable rate.

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- (ii) “Air travel cost” expenditures for this calculation include the actual cost of a thirty-day advance coach air fare, airport parking, transportation from the airport to destination lodging, and mileage between home and the airport at the established reimbursable rate.
 - (c) The cost of a rental automobile if it is a reasonable alternative means of transportation under the circumstances.
 - (d) The cost of parking for a personal or rental vehicle if necessary and required.
 - (e) The cost of taxi cabs or public transportation where reasonable under the circumstances.
- (2) Lodging at the single occupancy rate.
- (3) Meals and beverages, excluding alcohol, at reasonable amounts not to exceed limits set by the board.
- (4) Tips based on reasonable and customary amounts, not to exceed limits set by the board.
- (5)
 - (a) Telephone calls or other electronic transmissions that are for retirement system business.
 - (b) Personal telephone calls to home/family when travel will require an overnight stay and then such calls must not exceed limits set by the retirement board .
- (C) Reimbursement shall not be made for personal expenditures which include, but are not limited to, the following.
 - (1) Entertainment such as movies, theater or sports tickets, or green fees.
 - (2) Personal services such as valet service, laundry or dry cleaning, or other such goods or services. However, if travel is seven days or longer, reasonable laundry and dry cleaning expenses may be reimbursed.
- (D)
 - (1) The board, at a regular or other meeting, shall approve in advance all travel for its board members except travel:
 - (a) To and from meetings of the board or its committees or other retirement system business within the state of Ohio, or

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- (b) For which a board member will not seek reimbursement.
 - (2) Requests for travel authorization shall be made in writing and submitted to the executive director who shall present the request to the board at its next meeting.
 - (3) A board member shall not be reimbursed for any expense if the travel for which the expense was incurred was not for system business, or the travel has not been authorized by the board.
- (E) Requests for reimbursement of expenses for travel shall be submitted with the required documentation on a form provided by the system and in accordance with the system's reimbursement procedures.

Promulgated Under: R.C. 111.15.

Authorized By: R.C. 145.08.

Rule Amplifies: R.C. 145.08.

Rule Review Date: 9/14/07; 9/29/12.

Effective Date History: 12/9/95; 4/10/05; 11/30/07.

145-1-05 Investment department incentive plan payouts policy

- (A) Pursuant to section 145.09 of the Revised Code, payment of employee bonuses are subject to the guidelines established by the public employees retirement board as reflected in the investment department annual 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. The plan shall establish target incentive awards weighted against quantitative performance components, focusing on the public 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, require the board's prior approval.

- (B) Participation in the plan is limited to certain public 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.

Promulgated Under: R.C. 111.15.
Authorized By: R.C. 145.09.
Rule Amplifies: R.C. 145.09, 145.092
Rule Review Date: 9/29/09; 9/24/14.
Effective Date History: 4/10/05.

145-1-06 Ohio-qualified agents and investment managers

- (A) For purposes of division (A)(4) of section 145.114 and section 145.116 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 145.116 of the Revised Code.
- (B) For purposes of sections 145.114 and 145.116 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.
- (C) For purposes of division (E)(4) of section 145.114 of the Revised Code, "compensation" shall mean the commissions paid on equity securities transactions and the cost or proceeds on fixed income securities transactions.

Promulgated Under: R.C. 111.15.
Authorized By: R.C. 145.09.
Rule Amplifies: R.C. 145.114, 145.116.
Rule Review Date: 9/29/09; 9/24/14.
Effective Date History: 4/10/05.

145-1-07 Investment entities

The retirement board, pursuant to sections 145.09 and 145.11 of the Revised Code, may create limited liability companies, partnerships, trusts, corporations or other qualified entities to facilitate the investment of its funds.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.11; 145.98.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 7/17/74; 9/27/97; 12/7/00;
1/1/03; 1/1/06.

145-1-09 **Staff authority**

- (A) The public employees retirement board authorizes its staff to make determinations required under Chapter 145. of the Revised Code, including, but not limited to, membership, exemptions or exclusions from membership, earnable salary, benefits, and employer reporting. Membership determinations may be appealed to the retirement board pursuant to rule 145-1-11 of the Administrative Code. Determinations mandated by statute may not be appealed to the board.

- (B) The public employees retirement board authorizes its staff to establish payment plans with public employers within staff's discretion to satisfy employer billings issued pursuant to Chapter 145. of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01, 145.012, 145.03, 145.32, 145.33, 145.331, 145.34, 145.35, 145.36, 145.361, 145.38, 145.382, 145.383, 145.40, 145.43, 145.45, 145.46, 145.47, 145.48, 145.483, 145.51.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 3/17/76; 11/2/91; 9/27/97; 11/2/00; 1/1/03; 6/20/03; 4/24/07 (Emer.); 8/9/07; 1/1/11.

145-1-11 Appeal of staff determination

- (A) Any affected person may appeal a senior staff membership determination made pursuant to the staff's authority provided in rule 145-1-09 of the Administrative Code to the public employees retirement board as provided in this rule.

- (B) The senior staff determination shall be in writing and sent by certified mail, return receipt requested. An appeal shall be submitted to the executive director in writing not later than sixty days after the date of the senior staff membership determination. It shall state the senior staff membership determination to be reviewed and the basis for the review.

- (C) (1) The retirement board may delegate its authority to hear an appeal to an independent hearing examiner prior to the retirement board making its final decision on the appeal.
 - (a) The independent hearing examiner must be licensed to practice law in the state of Ohio. The independent hearing examiner shall conduct a hearing and issue a report and recommendation to the retirement board.

 - (b) There shall be a transcript of the hearing. At the hearing, parties to the appeal and staff are permitted to submit evidence in the form of witness testimony and any form of documentation. At the hearing, parties to the appeal may be represented by counsel or other representative, and staff may be represented by the office of the attorney general.

 - (c) The original report and recommendation shall be sent to the retirement board. Copies of the report and recommendation shall be provided to the parties to the appeal and to staff. Within fifteen days of the date of issuance of the report and recommendation by the hearing examiner, the parties to the appeal and staff may submit written objections to the report and recommendation. The written objections shall be submitted to the retirement board and shall not exceed fifteen pages in length. Copies of the written objections shall be sent to the parties to the appeal and to staff.

- (2) The retirement board may permit the parties to the appeal and staff to make a personal appearance before the retirement board prior to the retirement board's final review of the appeal.
 - (a) If a personal appearance is permitted, the parties to the appeal shall be notified in writing by certified mail, return receipt requested, of the time and place of such appearance.

 - (b) A party to the appeal may be represented by counsel or other representative at the retirement board meeting at which the personal appearance is scheduled and staff may be represented by the office of the attorney general.

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- (c) Each party and staff will be give the opportunity to make final arguments, not to exceed five minutes, to the retirement board, and answer any questions of the retirement board.
- (d) No additional testimony or documentation from the parties will be accepted by the retirement board during the personal appearance. The staff shall prepare and submit a summary memorandum.
- (3) The record of any appeal shall consist of the information submitted by the parties and staff to the hearing examiner, the report and recommendation, the transcript of the hearing, any objections to the report and recommendation and the minutes of any personal appearance.
- (4) The retirement board shall review the report and recommendation and any objections to the report and recommendation in determining whether to accept, reject, or modify the report and recommendation and may remand to the hearing examiner for further findings before making its final decision.
- (5) The parties to the appeal and their representatives shall be notified in writing by certified mail, return receipt requested, of the retirement board's final decision.
- (D) The retirement board's decision on any determination conducted pursuant to this rule shall be final and determinative and may be summarily applied to all similarly situated employees of the same employer.
- (E) The executive director or the director's designee shall notify the parties to the appeal in writing of any notice required by this rule.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.09.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 11/17/76; 11/2/91; 2/3/00; 1/5/01; 3/25/02 (Emer.); 6/15/02; 1/1/03; 4/24/07 (Emer.); 8/9/07; 11/30/07.

145-1-13 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:

“Ohio Public Employees Retirement System
277 East Town Street
Columbus, Ohio 43215-4642”
 - (2) Calling the following telephone number during normal business hours: (800) 222-7377 (800-222-pers).
 - (3) By consulting the statehouse press room.
- (B) 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 system’s executive director at the address listed in paragraph (A) of this rule.
- (1) The request shall provide the name, mailing address, and no more than two telephone numbers of the individual media representative to be contacted. The system shall maintain a list of all representatives of the media who have requested notice of special meetings pursuant to this paragraph.
 - (2) In the event of a special meeting which is not an emergency, the system shall notify all media representatives on its list of such requests by doing at least one of the following:
 - (a) Sending written notice, which must be mailed no later than four calendar days prior to the day of the special meeting;
 - (b) Notifying such representative 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 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 which is an emergency, the system shall notify all media representatives on its list of such requests by providing either the notice described in paragraph (B)(2)(b) or (B)(2)(c) of this rule, or notifying the clerk of the statehouse press room, except the notice is not required to be given twenty-four hours prior to the meeting but shall be given as soon as possible.

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- (D) In giving notices required by this rule, the system 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.
- (E) The system shall maintain a list of all persons who have requested, in writing, notice of all meetings of the public employees retirement board.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 121.22.

Rule Amplifies: 145.07, 121.22.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 1/21/76; 4/30/94; 1/1/03;
1/1/06.

145-1-15 **Rule on rules**

- (A) Except as otherwise provided in Chapter 145. of the Revised Code, the public employees retirement board shall adopt rules pursuant to section 111.15 of the Revised Code.
- (B) Any person or organization may obtain notice of any proposed amendment, rescission, or adoption of a rule by making a written request that their name be placed on the mailing list to receive the retirement board's meeting agenda. Notice shall be provided to only one representative of an organization.
- (C) Notice of adopted rules after such rules are effective shall be mailed to public employers, and, when applicable, reported in publications sent to members, contributors, or retirants and benefit recipients.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.09.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 9/22/76; 9/27/97; 1/1/03;
1/1/06.

145-1-21 Federal tax compliance provisions

- (A) This rule is applicable to Chapter 145. of the Revised Code excluding sections 145.80 to 145.98 of the Revised Code.
- (B) The board shall distribute the funds established in Chapter 145. 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.
- (C) A member who satisfies the eligibility requirements of section 145.32 of the Revised Code shall have a non-forfeitable right to receive the benefit payable as allowed by Chapter 145. of the Revised Code. If there is a termination of the plan described in sections 145.201 to 145.79 of the Revised Code, the rights of each affected member to the benefits accrued at the date of termination, to the extent then funded, are non-forfeitable.
- (D) Employer contribution forfeitures arising from severance of employment, death, or for any other reason of the member may not be applied to increase the benefits any participant would otherwise receive under Chapter 145. of the Revised Code in accordance with section 401(a)(8) of the Internal Revenue Code and applicable regulations thereunder.
- (E) Notwithstanding any provision in PERS rules or Chapter 145. 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 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 and a designated beneficiary within the meaning of section 401(a)(9) of the Internal Revenue Code.
 - (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 age seventy and one half years of age; or
 - (b) The calendar year in which the member retires.

- (3) If distribution of a member's benefit has begun in accordance with section 401(a)(9) of the Internal Revenue Code and the accompanying 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) 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 and the accompanying regulations, 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 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 over a period not extending beyond the life expectancy of such 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, pursuant to this section, to begin until the end of the calendar year in which the member would have attained age seventy and one-half.
- (5) Any death benefit amounts payable under Chapter 145. 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) A reasonable and good faith interpretation of section 401(a)(9) of the Internal Revenue Code and the final regulations issued December 29, 2004 shall apply to all plan years commencing on and after January 1, 2006.
- (7) A retiree or beneficiary who would have been required to receive required minimum distributions for 2009 from an additional annuity or money purchase account but for the enactment of section 401(a)(9)(H) of the Internal Revenue Code ("2009 RMDs"), and who would have satisfied that requirement by receiving distributions that are (a) equal to the 2009 RMDs or (b) one or more payments in a series of substantially equal distributions (that include the 2009 RMDs) made at least annually and expected to last for the life (or life expectancy) of the retiree, the joint lives of the retiree and retiree's designated beneficiary, or for a period of at least ten years ("Extended 2009 RMDs"), will not receive those distributions for 2009 unless the retiree or beneficiary chooses to receive such distributions. Retirees and beneficiaries described in this paragraph shall be given the opportunity to elect to receive the distributions described in this paragraph.

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- (F) Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, the assumptions shall be specified by resolution of the board in a way that precludes employer discretion.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.09.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 12/27/01 (Emer.); 3/22/02;
1/1/03; 4/1/08 (Emer.); 6/23/08; 1/1/11.

145-1-23 Determination of employer contribution rate

- (A) The employer contribution rate for a newly created public employer shall be established by examining the enabling statute, ordinance or resolution. If such enabling authority creates a local government employer, or which is primarily funded by such employers, the local government employer contribution rate shall apply. If the enabling authority creates a state government employer, or which is primarily funded by such employers, the state government employer contribution rate shall apply.

- (B) If there is a change in an enabling statute, ordinance or resolution that causes an employer contribution rate to no longer be accurate, the employer's rate shall change to the appropriate rate described in paragraph (A) of this rule.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.48.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 7/19/72; 9/27/97; 1/1/03;
1/1/06.

145-1-24 Contribution rates

Pursuant to sections 145.22, 145.47, 145.48, and 145.49 of the Revised Code the public employees retirement board shall establish employee, state government employer, local government employer, public safety, and law enforcement contribution rates after the recommendation by the retirement board's actuary.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.22, 145.47, 145.48, 145.49.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 6/16/76; 7/31/89; 1/1/91;
9/30/91; 9/27/97; 11/2/00; 4/5/01; 3/22/02; 1/1/03;
1/1/10.

145-1-26 Definition of earnable salary

- (A) This rule amplifies and is in addition to the provisions of division (R) of section 145.01 of the Revised Code.
- (B) As used in division (R)(1)(e) of section 145.01 and section 145.296 of the Revised Code, “sponsored by the employer” means the employer funded a program in whole or in part.
- (C) For the purposes of the calculations required pursuant to sections 145.47, 145.48, and 145.49 of the Revised Code, a public employee’s salary, wages, or earnings shall include amounts:
 - (1) Treated as deferred income for federal income taxation under Internal Revenue Code section 401(k), 403(b) or 457;
 - (2) Designated by the employer as picked-up contributions under Internal Revenue Code section 414(h)(2) by either a salary reduction method or the gross salary under a fringe benefit method; or
 - (3) Not treated as income for federal income taxation under Internal Revenue Code section 125 except as provided in paragraph (E)(5) of this rule.
- (D) For purposes of section 145.01 of the Revised Code and this rule:
 - (1) “Conversion program” means the employer’s annual program for conversion of sick leave, personal leave, and vacation time, as described in division (R)(1)(b) of section 145.01 of the Revised Code, and for which the retirement system has received a copy of the employer’s resolution, meeting minutes, or other formal documentation detailing the terms and adoption of the conversion program;
 - (2) “During the year” means in the year or not later than one month following the year in which a payment is earned under a conversion program for its employees. Such earnable salary shall be reported on a report of retirement contributions for the year in which such payment was accrued.
- (E) The following payments made by the public employer are “earnable salary”:
 - (1) Payments for overtime worked and payments for accrued but unused compensatory time for overtime worked if such payments are made during the year in which the compensatory time is accrued.
 - (2) Payments made annually or more frequently as a supplement for longevity of service.
 - (3) Stipends paid to a student that are subject to federal income taxation.

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- (4) Payments made for assuming call or stand-by responsibility.
 - (5) Payments made in lieu of salary, wages, or other earnings for sick leave used under a donated sick leave program.
- (F) The following payments made by the public employer are not “earnable salary”:
- (1) Payments made by the employer for accrued overtime worked or for compensatory time for overtime worked that are made at any time other than in the year in which the overtime or compensatory time is accrued;
 - (2) Payments made by the employer as a residency bonus to employees;
 - (3) Payments made pursuant to an agreement and representing either one-time lump-sum payments or bonus payments made periodically but not related to or not made upon the basis of the individual employee’s basic rate of pay;
 - (4) Retroactive payments made by the employer within thirty-six months of the employee’s effective date of retirement and with an understanding that the employee would retire;
 - (5) Monetary amounts that are in excess of the employee’s gross salary paid in lieu of a fringe benefit or a cash value placed on that fringe benefit;
 - (6) The amount in excess of gross salary paid under a fringe benefit method as picked-up contributions under Internal Revenue Code section 414(h)(2);
 - (7) Stipends paid to a student that are not subject to federal income taxation;
 - (8) Payments made as honoraria that means a nominal payment made for services for which there is no binding legal obligation to pay;
 - (9) Payments made as fees or commissions that are fixed charges or calculated as a percentage of an amount not directly related to work or services performed;
 - (10) Payments paid by the employer to an individual who is not a public employee; and
 - (11) Payments for accrued, but unused sick leave, personal leave, or vacation that are made at the time of termination of employment.
- (G) (1) If a member or retirant is reinstated without interruption or loss of time to the member or retirant’s former or comparable position of employment and awarded back wages pursuant to a final court order, arbitration or personnel board of

review order, grievance award, or other settlement or order, the earnable salary upon which employee and employer contributions are due is the earnable salary that would have been due the employee for the entire period of reinstatement.

- (a) Employee and employer contributions shall be reported and paid in the same amount as would have been contributed if the member or retirant had been reported to the retirement system during the period of reinstatement. If the amount of earnable salary cannot be reasonably determined, then the amount shall be the average earnable salary during the twelve-month period immediately preceding the date of termination.
 - (b) If a member had previously taken a refund of the member's accumulated contributions pursuant to section 145.40 of the Revised Code or Article VIII of the combined plan document at the time of termination, the member may purchase the refunded service pursuant to section 145.31 of the Revised Code or rule 145-3-22 of the Administrative Code.
 - (c) If a member on or after the date of termination, applied for and received a benefit pursuant to section 145.32, 145.33, 145.34, 145.35, 145.36, 145.361, 145.37, or 145.46 of the Revised Code, article IX or X of the combined plan document, or article IX of the member-directed plan document, and any period of reinstatement is concurrent with a period for which the member received a benefit, section 145.362, 145.38, 145.382, or 145.383 of the Revised Code, whichever is applicable, shall apply.
- (2) If a member or retirant is awarded additional earnable salary pursuant to a final court order, arbitration or personnel board of review order, grievance award, or other settlement or order for any period of employment for which contributions were made, the earnable salary upon which employee and employer contributions are due is the additional earnable salary that would have been due for the period of the award. Employee and employer contributions shall be reported and paid in the same amount as would have been contributed if the member or retirant had been reported to the retirement system during the period of employment.
- (H) (1) Prior to remitting deductions on compensation on which there is a question of whether such compensation is earnable salary, the employer shall request a determination by the retirement board.
- (2) If the employer fails to request a prior determination and the board determines the salary, wage or earning to be earnable salary, then the employer shall be liable for employee and employer contributions pursuant to section 145.483 of the Revised Code if no deductions have been remitted.

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- (3) If the employer fails to request a prior determination and the board determines the salary, wage or earning is not earnable salary, then any contributions received prior to the determination shall be unauthorized and shall be refunded.
- (4) A determination by the board will be applicable to similar pending requests while the board amends this rule or one hundred twenty days, whichever occurs first.

Promulgated Under: 111.15.

Statutory Authority: 145.01, 145.09.

Rule Amplifies: 145.01, 145.47, 145.48, 145.49.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 6/18/86 (Emer.); 8/28/86, 5/27/88; 10/31/88; 3/17/89; 8/31/91; 8/31/92; 6/1/96; 9/27/97; 11/2/00; 1/1/03; 1/1/06; 1/1/07.

145-1-27 Remittance of employer liabilities

- (A) For the purposes of this rule:
- (1) “Employer account summary” means the statement issued each calendar month, quarter, or year by the public employees retirement system to a public employer that represents the obligations for the preceding calendar period.
 - (2) “Employer liabilities” means any amount due to the retirement system under Chapter 145. of the Revised Code or section 3305.06 of the Revised Code but does not mean nor include employee contributions or deductions due pursuant to section 145.47 or 145.294 of the Revised Code.
 - (3) “Received” means actual receipt by the retirement system, the postmark date, or the date scheduled to pay via electronic payment.
 - (4) “Supplemental report” has the same meaning as in rule 145-1-28 of the Administrative Code.
 - (5) The ninetieth day and thirtieth day shall be computed in the method as described in section 1.14 of the Revised Code.
- (B) (1) Employer liabilities shall be received by the retirement system not later than the ninetieth day after the calendar end of the quarter in which it became a liability.
- (2) Beginning on January 1, 2008, employer liabilities shall be received by the retirement system not later than the thirtieth day after the last day of the calendar month for which related member contributions are withheld.
- (C) Employer liabilities received after the due date described in paragraph (B) of this rule shall be assessed penalties and interest pursuant to division (C) of section 145.51 of the Revised Code.
- (D) (1) Notwithstanding division (B)(1) of this rule, amounts due from an employer based on a supplemental report shall be received by the retirement system not later than the end of the quarter following the date the supplemental report was received.
- (2) Notwithstanding division (B)(2) of this rule, amounts due from an employer based on a supplemental report shall be received by the retirement system not later than the thirtieth day after the last day of the calendar month following the date the supplemental report was received.

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- (3) If the amount due under the supplemental report as described in this paragraph is past due, interest and penalty on the amount shall be assessed in the same manner as described in division (C) of section 145.51 of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.51.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 5/31/97; 9/27/97; 1/1/03;
1/1/06; 4/6/07 (Emer.); 7/1/07.

145-1-28 Remittance of employee contributions

- (A) For the purposes of this rule and sections 145.294 and 145.47 of the Revised Code:
- (1) “Employee deduction” means the full amount of employee deductions due for a particular reporting period pursuant to section 145.47 or 145.294 of the Revised Code.
 - (2) “Filed” means actual receipt by the public employees retirement system, the postmark date, or the date scheduled to pay via electronic payment.
 - (3) “Report” means a record of the employee deductions that is free from errors or omissions and is in the form required by the public employees retirement board.
 - (4) “Reporting period” means the established interval for which an employer reports employee deductions.
 - (5) “Supplemental report” means a report of employee deductions that is submitted by the employer in addition to the regular report due to the employer’s need to report additional deductions for the employer’s payment of a disability payment, retroactive salary payment, payment pursuant to a settlement agreement, or payment to a terminated or deceased employee.
 - (6) The thirtieth day shall be computed in the method as described in section 1.14 of the Revised Code.
- (B) For employee deductions filed on or after the effective date of this rule, both employee deductions to the retirement system and a corresponding report shall be filed with the system no later than the thirtieth day after the last day of the reporting period for which they are due.
- (C) For employee deductions due on or after the effective date of this rule, if either an employee deduction or the corresponding report is not filed on or before the thirtieth day after the last day of the reporting period for which they were due, a penalty as described in section 145.47 of the Revised Code shall be added.
- (D) (1) Upon submission of a supplemental report, the employer shall also submit additional documentation, as required by the retirement system, to substantiate the nature and reason for the supplemental report.
- (2) Notwithstanding paragraph (B) of this rule, the supplemental report, the corresponding deductions, and the documentation required in paragraph (D)(1) of this rule shall be received by the system not later than the thirtieth day after the last day of the month during which the member was paid the supplemental amount.

145-1-28 (continued)

- (3) Failure to provide any of the items in paragraph (D)(2) of this rule by the date specified in that paragraph shall cause the deductions to be subject to the penalty described in paragraph (C) of this rule.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.294, 145.47.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 1/1/06; 1/1/11.

145-1-31 Payment for periods of noncontributing service

- (A) This rule amplifies section 145.483 of the Revised Code.
- (B) For purposes of this rule:
 - (1) “Exempt” means exempt from membership in the public employees retirement system pursuant to Chapter 145. of the Revised Code as effective during the period of noncontributing service and for which there is a properly executed written exemption.
 - (2) “Excluded” means excluded from membership in the retirement system because Chapter 145. of the Revised Code specifically excludes a person, or the person is not a public employee.
 - (3) “Noncontributing service” means a period of employment or service for which employee contributions pursuant to section 145.47 of the Revised Code were due, but not deducted by an employer, because the service was neither exempt nor excluded.
 - (4) “Properly executed written exemption” means:
 - (a) For employment which began before November 20, 1973, an exemption form provided by the retirement system which was signed by both the employee and employer and received by the retirement system within one month from the date employment began.
 - (b) For employment beginning on or after November 20, 1973, an exemption form provided by the retirement system, which was signed by both the employee and employer, received by the retirement system within one month from the date employment began, and approved by the retirement system.
- (C) An employer that failed to deduct employee contributions from a public employee during a period of employment, after January 1, 1935, for state employees or after July 1, 1938, for all other employees, for which employee contributions were required shall certify the earnable salary for such noncontributing service period on a form provided by the retirement system. This certification must be based on records available to the employer.
- (D)
 - (1) After receipt of the employer’s certification, the retirement system shall prepare an employer billing statement for employee and employer contributions and interest for the period of noncontributing service.
 - (2) Interest shall be calculated through the end of the year preceding the date of the employer billing statement.

145-1-31 (continued)

- (3) The amount of employee contributions shall be calculated using the employee contribution rate, earnable salary and maximum contribution limits in effect during the period of noncontributing service.
 - (4) The amount of employer contributions shall be calculated using the employer contribution rate in effect during the period of noncontributing service.
 - (5) The employer is liable for the total amount due in the employer billing statement.
 - (6) If the amount contained in the employer billing statement is not paid it will be added to the employer's quarterly billing summary.
- (E)
- (1) An employer shall not be billed for a period of noncontributing service that occurred before a period of contributing service for which a member received a refund of the member's accumulated contributions, pursuant to section 145.40 of the Revised Code or article VIII of the combined plan document, until the member has made a redeposit of the refund, pursuant to section 145.31 of the Revised Code or rule 145-3-22 of the Administrative Code.
 - (2) The following applies when an employee who is or was exempt from membership pursuant to section 145.03 of the Revised Code with a public employer also has noncontributing service and is an employee with the same public employer.
 - (a) Absent a written exemption, the period of noncontributing service shall be billed to the employer pursuant to section 145.483 of the Revised Code and this rule.
 - (b) An employer shall not be billed for periods of exempt service that are subsequent to a period of noncontributing service unless the subsequent period of exempt service begins within three months from the last date of compensation for the noncontributing service.
 - (3) A member who has service that was exempt and not billed to an employer may purchase such exempt service pursuant to section 145.28 of the Revised Code and PERS rules.
- (F) Except as provided in paragraph (F)(4) of this rule:
- (1) Employee contributions paid by the employer pursuant to section 145.483 of the Revised Code and this rule shall be held in the employers' accumulation fund as defined in division (B) of section 145.23 of the Revised Code.
 - (2) Employee contributions paid by the employer, pursuant to section 145.483 of the Revised Code and this rule, shall be refunded to such employer in the event the member receives a refund of the member's accumulated contributions pursuant to

section 145.40 of the Revised Code or a distribution under article VIII of the combined plan document. Amounts paid for employer contributions, interest or other fees, pursuant to section 145.483 of the Revised Code, shall remain with the retirement system.

- (3) The employer which received employee contributions, pursuant to paragraph (F)(2) of this rule, shall be liable for a return of such employee contributions if the employee again becomes a member of the retirement system and either makes a redeposit pursuant to section 145.31 of the Revised Code or rule 145-3-22 of the Administrative Code. The retirement system shall bill the employer for the employee contributions plus interest calculated from the date of the refund through the end of the year preceding the date of the statement.
- (4)
 - (a) For members participating in the member-directed plan, employee contributions paid by the employer pursuant to section 145.483 and this rule shall be held in the member's employer contribution account, as defined in section 1.19 of the member-directed plan document. The amount credited to the member's employer contribution account pursuant to section 145.483 of the Revised Code shall vest in accordance with section 7.02 of the member-directed plan document. If the member receives a distribution under article VII of the member-directed plan document, the non-vested portion of the employee contributions shall be refunded to the employer.
 - (b) For members participating in the member-directed plan, employer contributions and interest paid by the employer pursuant to section 145.483 of the Revised Code and this rule shall be credited to the member's employer contribution account, as defined in section 1.19 of the member-directed plan document, and the retiree medical account, as defined in rule 145-4-01 of the Administrative Code, in the percentages determined by the OPERS board. The amount credited shall vest in accordance with the relevant provisions of the member-directed and VEBA health plan documents. If the member receives a distribution under article VIII of the member-directed plan document, the non-vested portion of the amounts paid for employer contributions, corresponding interest or other fees pursuant to section 145.483 of the Revised Code shall be transferred as described in section 7.04 of the member-directed plan document or section 4.02 of the VEBA health plan document, as applicable.
- (G) If a member has contributions in more than one retirement plan, the contributions paid by the employer pursuant to section 145.483 of the Revised Code shall be credited to the plan in which the noncontributing service would have been earned, if it were remitted at

145-1-31 (continued)

the time the service occurred. If the member no longer has contributions in the retirement plan in which the noncontributing service would have been earned, the contributions paid by the employer pursuant to section 145.483 of the Revised Code shall be credited to the plan in which the member is now contributing.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.47, 145.48, 145.483, 145.49.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 12/20/72; 11/2/91; 10/4/93;
5/3/97; 11/2/00; 1/1/03; 1/1/06; 1/1/09; 7/11/09.

145-1-33 **Omitted contributions**

All payments made by employees and their employers for omitted contributions, completed before January 25, 1972, having been made in accordance with the board policy interpreting the statute in effect at the time of payment, are proper and are not subject to recomputation.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.47, 145.48.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 6/18/75; 1/1/03.

145-1-35 Service purchase

- (A) For purposes of Chapter 145. of the Revised Code and PERS rules:
- (1) “Service purchase” means both of the following:
 - (a) For members participating in the traditional pension plan, payment for the purchase of service credit pursuant to division (Y) of section 145.01, section 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.295, 145.299, 145.2911, 145.2913, 145.301, 145.302, 145.31, 145.42, 145.44, or 145.47 of the Revised Code, or rule 145-2-18 of the Administrative Code.
 - (b) For members participating in the combined plan, payment for the purchase of service credit pursuant to rule 145-3-21 of the Administrative Code, division (Y) of 145.01 and section 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.295, 145.299, 145.2911, 145.2913, 145.301, 145.302, 145.44, or 145.47 of the Revised Code, or rule 145-3-40 of the Administrative Code.
 - (2) “One-time or lump-sum payment” means a service purchase that is the full cost of the entire service credit to which a member is entitled and is paid directly to the retirement system.
 - (3) “Partial payment” means a service purchase that is less than the full cost of the entire service credit to which a member is entitled and is paid directly to the public employees retirement system.
 - (4) “Payroll deduction” means a service purchase made pursuant to section 145.294 of the Revised Code and rule 145-1-38 of the Administrative Code.
 - (5) A “statement of cost” means a bill prepared by the retirement system stating the cost of the service credit to be purchased.
- (B)
- (1) A member participating in the traditional pension plan or combined plan may make a service purchase, pursuant to Chapter 145. of the Revised Code, PERS rules, and federal Internal Revenue Code section 415, either directly to the retirement system or by payroll deduction.
 - (2) Except as otherwise provided in rule 145-1-38 of the Administrative Code, a member is not eligible to purchase concurrently by direct payment and payroll deduction the same period of service purchase.
- (C)
- (1) Except as otherwise provided in Chapter 145. of the Revised Code, the interest rate to be used in calculating the cost of a service purchase by a one-time or lump sum payment, partial payment, or payroll deduction shall be six per cent compounded annually. Interest shall be calculated under the applicable Revised Code section from the first date through the end of the month of payment;

145-1-35 (continued)

- (2) Interest shall be applied to unpaid balances of service purchases by partial payment or payroll deduction at a rate of six per cent compounded annually after the first payment.
 - (3) The public employees retirement board may adjust the interest rates in paragraphs (C)(1) and (C)(2) of this rule. If adjusted, the new interest rate shall apply to any statement of cost issued or initial payroll deduction begun after the adjustment.
- (D) If the retirement system is required to apply the member's contribution rate at the time the service occurred against the member's earnable salary in calculating the cost of a service purchase, such rate shall not exceed the maximum employee contribution limits that were applicable at the time the service occurred.
- (E)
- (1) Service credit shall be granted following receipt of all lump-sum payments, partial payments, or payroll deductions received in a month.
 - (2) Except as otherwise provided in Chapter 145. of the Revised Code, when a member makes a service purchase by partial payment or by payroll deduction, interest at six per cent compounded annually shall be applied to the unpaid balance. The member's payment shall first be applied to the amount of current interest on the unpaid balance and the remainder of the member's payment shall be used to reduce the unpaid balance. Service credit shall be granted by multiplying the service credit not yet purchased by a fraction having as the numerator the payment amount less current interest paid and as the denominator the unpaid balance on which the current interest was calculated.
- (F) Except as provided in this paragraph, all service purchases shall be completed prior to issuance of the initial benefit payment. A disability benefit recipient may purchase service credit while on a leave of absence described in section 145.362 of the Revised Code. Any service purchased by a disability benefit recipient during the leave of absence described in this paragraph shall take effect on the first day of the month following the date of purchase.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.80, 145.82.

Rule Amplifies: 145.01, 145.02, 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.294, 145.295, 145.299, 145.2913, 145.301, 145.302, 145.31, 145.42, 145.44, 145.47, 145.81.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 8/20/76; 1/1/78; 12/14/89; 5/29/95; 11/2/96; 9/27/97; 9/27/98; 3/27/99; 2/3/00; 3/22/02; 1/1/03; 12/24/04; 1/1/06; 7/1/07 (Emer.); 8/9/07; 1/12/08; 4/1/08 (Emer.); 6/23/08.

145-1-37 **Purchases made with a rollover distribution**

- (A) For purposes of these rules, “eligible rollover distribution” or “rollover distribution” means any amount that qualifies as an eligible rollover distribution under section 402(c)(4) of the Internal Revenue Code of 1986, as amended, and paid to a member or the surviving spouse of the member from:
- (1) Another employer plan qualified under section 401(a) of the Internal Revenue Code;
 - (2) An individual retirement account, or annuity other than an endowment contract, under section 408 of the Internal Revenue Code;
 - (3) A governmental deferred compensation plan under section 457 of the Internal Revenue Code;
 - (4) An annuity plan under section 403(a) of the Internal Revenue Code;
 - (5) A tax-sheltered annuity qualified under section 403(b) of the Internal Revenue Code; or
 - (6) A governmental plan under section 414(d) of the Internal Revenue Code.
- (B) (1) The public employees retirement system may accept eligible rollover distributions for the purchase of service credit pursuant to division (Y) of section 145.01, section 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.295, 145.299, 145.2911, 145.2913, 145.301, 145.302, 145.31, 145.42, 145.44, or 145.47 of the Revised Code, or the purchase of an additional annuity pursuant to section 145.62 of the Revised Code.
- (2) (a) A member or surviving spouse must be otherwise eligible to purchase the service credit or annuity pursuant to Chapter 145. of the Revised Code and PERS rules.
 - (b) A retirant reemployed under section 145.38, 145.382, or 145.383 may use a rollover distribution to purchase only an additional annuity.
 - (c) A combined or member-directed plan retirant may use a rollover distribution to purchase an additional annuity or as provided in article V of the combined or member-directed plan document.
- (3) The retirement system shall accept rollover distributions for a purchase of service that is made only by post-tax payroll deduction, partial, or one-time lump-sum payment as defined in rule 145-1-35 of the Administrative Code.

145-1-37 (continued)

- (4)
 - (a) If the amount of the rollover distribution accepted by the retirement system for a member in the traditional pension plan exceeds the cost of the service to be purchased by one hundred fifty dollars or more, the amount in excess shall be used to purchase an additional annuity in accordance with this rule.
 - (b) If the amount of the rollover distribution accepted by the retirement system for a member in the traditional pension plan exceeds the cost of the service to be purchased by less than one hundred fifty dollars, the amount in excess shall be paid to the member by the retirement system, unless the member requests, on a form provided by the retirement system, that such amount be used to purchase an additional annuity
 - (5) If the amount of the rollover distribution accepted by the retirement system for a member in the combined plan exceeds the cost of the service being purchased, the amount in excess shall be deposited to the member's rollover account.
- (C) An eligible rollover distribution of a member participating in the member-directed plan shall be credited to the member's rollover account, as defined in section 1.31 of the member-directed plan document.
- (D) An eligible rollover distribution of a member participating in the combined plan may be:
 - (1) Credited to the member in the member's rollover account, as defined in section 1.35 of the combined plan document; or,
 - (2) If used to purchase any service credit available under the combined plan, as described in rule 145-3-21 of the Administrative Code, credited to the member in the employee's savings fund or any other appropriate fund under section 145.23 of the Revised Code.
- (E) Any non-taxable portion of an eligible rollover distribution to a member of the combined plan or member-directed plan shall be treated in accordance with section 5.01 of the member-directed or combined plan document.

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- (F) A member who is entitled to a distribution from this retirement system that qualifies as an eligible rollover distribution pursuant to sections 401(a)(31) and 402(f)(2)(A) of the Internal Revenue Code may request that the distribution be paid in a direct rollover to another eligible retirement plan to the extent permitted by section 401(a)(31) of the Internal Revenue Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.80, 145.82.

Rule Amplifies: 145.01, 145.20, 145.201, 145.23, 145.28, 145.29, 145.291, 145.293, 145.295, 145.299, 145.2911, 145.2913, 145.301, 145.302, 145.31, 145.42, 145.44, 145.452, 145.47, 145.62, 145.81.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 7/1/07; 4/6/07 (Emer.); 1/1/06; 1/1/03; 3/22/02; 1/1/02 (Emer.); 3/27/99; 11/2/96; 12/6/93.

145-1-38 **Purchase of service credit by payroll deduction**

- (A) (1) (a) A member of the public employees retirement system who is participating in the traditional pension plan may purchase service credit by payroll deduction, pursuant to this rule, rule 145-2-18 of the Administrative Code, division (Y) of section 145.01, and section 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.295, 145.2911, 145.301, 145.302, 145.31, or 145.42 of the Revised Code.
- (b) A member who is participating in the combined plan may purchase service credit by payroll deduction pursuant to this rule, rule 145-3-40 of the Administrative Code, division (Y) of section 145.01, and section 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.295, 145.2911, 145.301, or 145.302 of the Revised Code.
- (c) Under a plan that is in compliance with Internal Revenue Code section 414(h)(2), a member may purchase any such service credit by payroll deduction with amounts designated by the member's employer as picked-up contributions which is also known as an irrevocable pre-tax payroll deduction agreement.
- (2) A member may purchase service credit in any combination of lump sum payment, partial payment, or post-tax payroll deductions. A member who has entered into a payroll deduction agreement as described in paragraph (A)(1)(c) of this rule, may not purchase a period of service credit by any other method while the agreement is in effect.
- (B) (1) Upon a member's request for purchase of service credit by payroll deduction, the retirement system shall prepare a payroll deduction form which states:
 - (a) The service to be purchased;
 - (b) The total cost of the service credit to be purchased; and
 - (c) Alternate plans of monthly payments.
- (2) The member shall complete such payroll deduction form by marking a plan of payment, signing the authorization for payroll deduction and returning the form to the retirement system.
- (3) A separate payroll deduction form shall be completed for each separate type of service credit.

145-1-38 (continued)

- (C) (1) After receipt of the member's payroll deduction form, the retirement system shall notify the member's employer that payroll deductions shall begin within sixty days.
- (2) The employer shall report all members who have authorized payroll deductions on one report provided by the retirement system. Payment shall be remitted with this report. If the employer fails to timely file a report or remit payment to the retirement system, the employer shall be subject to the same penalty and interest described in section 145.47 of the Revised Code.
- (D) (1) A member may increase or decrease the member's post-tax payroll deduction by written notice to the member's employer.
- (2) Except as prohibited in this paragraph, a payroll deduction shall be terminated:
 - (a) Within thirty days after a member's written notice to the member's employer;
 - (b) Upon termination of employment; or
 - (c) Upon termination of participation in the plan under which the payroll deduction commenced.
- (3) Except as prohibited in this paragraph, a payroll deduction shall be suspended for any period that the payroll deduction exceeds the member's net pay.
- (4) A member may request to purchase the remainder of a service purchase that is being made by payroll deduction. Upon receipt of such request, the retirement system shall issue a statement of cost for the remaining service credit available. A member shall notify the member's employer to terminate deductions upon payment of the amount in the statement of cost.
- (5) (a) Notwithstanding any provision in this rule, a member who is purchasing credit pursuant to this rule with amounts described in paragraph (A)(1)(c) of this rule cannot:
 - (i) Decrease or increase such payroll deduction;
 - (ii) Terminate such payroll deduction unless the member has terminated employment, terminated participation in the plan under which the payroll deduction commenced, is reported by the employer as laid off for at least six consecutive months, or all of such service credit has been purchased by such payroll deduction; or

145-1-38 (continued)

- (iii) Make a partial payment as defined in rule 145-1-35 of the Administrative Code.
- (b) The member's employer shall not decrease, increase or terminate such payroll deduction unless the member has terminated employment, has been reported as laid-off for at least six consecutive months, or all of such service credit has been purchased.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.80, 145.82.

Rule Amplifies: 145.01, 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.294, 145.295, 145.2911, 145.301, 145.302, 145.31, 145.42, 145.81.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 12/4/89; 12/3/90; 11/2/96; 2/1/97; 3/27/99; 1/1/03; 1/1/06; 7/1/07 (Emer.); 8/9/07; 1/1/09; 1/1/11.

145-1-39 Replacement of payments

The public employees retirement system may issue a replacement payment for a previously issued payment which has been lost, stolen or destroyed if the payee of such payment makes application for a replacement payment on a form provided by the retirement system. The replacement payment shall not be issued any earlier than five business days or any later than thirteen business days after a stop payment order is made on the previous payment. Any replacement payments issued by a third-party administrator shall be issued in accordance with the operating policies of the third-party administrator.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.80.

Rule Amplifies: 145.33, 145.331, 145.34, 145.36, 145.361, 145.37, 145.384, 145.40, 145.43, 145.45, 145.46, 145.63, 145.64, 145.65, 145.81.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 10/21/70; 4/5/93; 1/1/03; 1/1/06; 4/6/07 (Emer.); 7/1/07; 1/1/11.

145-1-41 Membership determination

- (A) If a public employer is unable to determine whether an individual is a public employee, as defined in division (A) of section 145.01 of the Revised Code, it shall make a request in writing to the public employees retirement board for a determination of whether the individual is a public employee eligible for membership in the public employees retirement system.

- (B)
 - (1) If a public employer is unable to determine whether an individual performing services under a contract is eligible for membership, it shall make a request in writing to the public employees retirement board for a determination.

 - (2) In making any determination as to whether an individual is a contract employee or independent contractor, the retirement board shall review, including but not limited to, the elements described in paragraphs (A)(1) and (A)(2) of rule 145-1-42 of the Administrative Code.

- (C) If the employer fails to request a prior determination and the retirement board determines the individual should be a member, then the employer shall be liable for employee and employer contributions pursuant to section 145.483 of the Revised Code if no deductions have been made.

- (D) If the employer fails to request a prior determination and the retirement board determines the individual shall not be a member, then any contributions received prior to the determination are unauthorized and shall be returned.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.01, 145.012, 145.38.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 8/31/92; 9/27/98; 1/1/03;
1/1/06.

145-1-42 Services under a contract

(A) For purposes of Chapter 145. of the Revised Code, and Chapter 145-1 of the Administrative Code, the following definitions apply:

(1) “Contract employee” means an individual who:

- (a) Is a party to a bilateral agreement which may be a written document, ordinance, or resolution that defines the compensation, rights, obligations, benefits and responsibilities of the individual as an employee;
- (b) Is paid earnable salary at a specific periodic rate for services personally performed for the public employer and who appears on the employer’s payroll;
- (c) Is eligible for workers’ compensation or unemployment compensation;
- (d) May be eligible for employee fringe benefits such as vacation or sick leave;
- (e) Is controlled or supervised by personnel of the public employer as to the manner of work; and
- (f) Should receive an Internal Revenue Service form W-2 for income tax reporting purposes.

(2) “Independent contractor” means an individual who:

- (a) Is a party to a bilateral agreement which may be a written document, ordinance, or resolution that defines the compensation, rights, obligations, benefits and responsibilities of both parties;
- (b) Is paid a fee, retainer or other payment by contractual arrangement for particular services;
- (c) Is not eligible for workers’ compensation or unemployment compensation;
- (d) May not be eligible for employee fringe benefits such as vacation or sick leave;
- (e) Does not appear on a public employer’s payroll;
- (f) Is required to provide his own supplies and equipment, and provide and pay his assistants or replacements if necessary;

145-1-42 (continued)

- (g) Is not controlled or supervised by personnel of the public employer as to the manner of work; and
 - (h) Should receive an Internal Revenue Service form 1099 for income tax reporting purposes.
 - (3) “Personal service contract” means the same as a contract for an independent contractor.
- (B)
 - (1)
 - (a) A contract employee is a public employee and shall become a contributor to the public employees retirement system.
 - (b) Contributions are due on the employee’s earnable salary, as defined in division (R) of section 145.01 of the Revised Code and rule 145-1-26 of the Administrative Code, which is paid by the public employer to the employee for services actually performed by the employee.
 - (2) An independent contractor is not a public employee and shall not become a contributor to the retirement system.
- (C) Notwithstanding rule 145-1-26 or 145-1-53 of the Administrative Code, if a contract employee performs services for which the employee also receives a payment, fee or commission over and above services for which the employee receives earnable salary, and for which the individual is an independent contractor, the payments for those services over and above their salary services are not earnable salary. The employee is not a member for such additional services, no contributions are due, and no service credit shall be granted.
- (D) An individual who entered into a personal service contract with a public employer prior to August 20, 1976, shall be a member of the retirement system and contributions shall be remitted for the remaining period of the contract if the duties and working relationship are substantially similar to a classification position paid on the payroll of the public employer.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.01, 145.012, 145.38.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 8/31/92; 9/27/98; 1/1/03;
1/1/06.

145-1-43 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 public 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 an administrative employee who was eligible to make an election 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 or the employee was reclassified as an administrative employee.
 - (b) For administrative employees who were eligible to make 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 an eligible employee who is eligible to make an election under division (B)(1) of section 3305.05 of the Revised Code, the one hundred twenty days after August 1, 2005.
 - (d) For an eligible employee who is eligible to make an election 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 or, in the case of a part-time employee who is transferred to a full-time position, one hundred twenty days from the first date of full-time employment.
 - (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 notify the retirement system of its adoption of the plan on a form provided by the retirement system. A copy of the plan adopted shall be attached to the form. The institution also shall file a report in the manner and form prescribed by the retirement system of all current employees.
- (C) (1) Each institution that employs an employee eligible to elect an alternative retirement program shall:

145-1-43 (continued)

- (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 such change.
- (2) The notice required under paragraph (C)(1) of this rule shall be given on a form provided by the retirement system, and shall include the employee's name, address, social security number, date of birth, and any other information required by the retirement system.
- (D)
 - (1) Elections by an employee of an alternative retirement plan shall be made on a form 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 copy with the retirement system of the election made by an employee.
- (E)
 - (1) Elections made by employees under division (B)(2) or (B)(3) of section 3305.05 of the Revised Code or division 3305.051 of the Revised Code will be implemented no later than thirty days after a 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 retirement system, the death of the employee shall not affect such election and the election 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 the copy of the employee's election is filed with the retirement system.
 - (2) The election, when implemented, shall be effective as of the date described in division (C)(2)(a) of section 3305.05 of the Revised Code.
 - (3) Once an election is filed with the retirement system, the death of the employee shall not affect such election and the election shall be implemented and effective as set forth in this rule.

145-1-43 (continued)

- (G) (1) Elections made by employees under division (C) of section 3305.051 of the Revised Code will be implemented no later than thirty days after the copy of the employee's election is filed with the retirement system.
- (2) The election, 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 retirement system, the death of the employee shall not affect such election and the election 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 returned as unauthorized contributions to the provider identified on the form required by paragraph (D) of this rule. The amount of employer contributions refunded shall be less the amount due pursuant to division (D) of section 3305.06 of the Revised Code.
- (I) (1) An application under division (B) of section 145.40 of the Revised Code for transfer of a member's accumulated contributions to the provider of an alternative retirement plan shall be made on a form provided 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) If an employee dies prior to the transfer of their account to an alternative retirement plan, the application shall be cancelled.

145-1-43 (continued)

- (J) Not later than the thirtieth day of each month following a month in which an employee who elected an alternative retirement plan was on the institution's payroll, 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 in a form and manner prescribed by the retirement system of all employees who elected an alternative retirement plan and appeared on the institution's payroll for the preceding month.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.012, 145.40, 3305.05,
3305.051, 3305.052, 3305.06.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 8/1/98; 10/31/98; 3/27/99;
4/5/01; 1/1/03; 1/1/06.

145-1-45 Retirement deductions during faculty improvement leave

- (A) Section 3345.28 of the Revised Code provides, in part, that no university faculty member shall suffer a reduction in his regular employee retirement benefits during a professional leave of absence.
- (B) During a professional leave the member shall contribute the prevailing member deduction rate applied to the salary he would have received had he been working at the university, on the regular reports of contribution submitted by the university.
- (C) The full salary also shall be the base on which the corresponding employer contribution shall be remitted.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 3345.28.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 12/31/77; 1/1/03.

145-1-47 Humane society employment

Employees of humane societies are not eligible for membership in the public employees retirement system unless they are employed by and paid directly by a public employer.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.01.
Rule Review Dates: 9/29/10; 9/29/15.
Effective Date History: 5/16/40; 9/30/91; 1/1/03.

145-1-48 Board and commission members

Membership is required for all appointed members of boards and commissions who receive salary for their services. Members who serve without pay, or who receive reimbursement for expenses, or who serve on a fee basis are not eligible for membership in the public employees retirement system.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 4/16/75; 9/30/91; 1/1/03;
1/1/06.

145-1-49 Mental health and developmental disability boards

- (A) “648 board” means a county or community mental health and developmental disability board established pursuant to Am. H.B. 648 of the 107th General Assembly.
 - (1) A 648 board is a public employer as defined in division (D) of section 145.01 of the Revised Code.
 - (2) An employee of a 648 board is a public employee as defined in division (A) of section 145.01 of the Revised Code.
- (B) (1) “Contract agency” means an agency with whom a 648 board contracts for services pursuant to section 340.03 of the Revised Code. A “public contract agency” means any public agency as specifically named in division (D) of section 145.01 of the Revised Code. A “private contract agency” means one other than a public contract agency.
 - (2) The following are public employees.
 - (a) An employee of a public contract agency.
 - (b) An employee of a private contract agency who was a member of public employees retirement system at the time of his employment with the private contract agency and who continues to perform the same or similar duties under the direction of the private contract agency.
 - (3) Except as provided in paragraph (B)(2)(b) of this rule, an employee of a private contract agency is not a public employee and is not subject to retirement system coverage during their employment with the private contract agency.
- (C) (1) On or before September 30, 1975, each 648 board shall certify a list showing, as of September 30, 1975, each of the following:
 - (a) All of its own employees;
 - (b) All employees of contract agencies who qualify as public employees under paragraph (B) of this rule; and,
 - (c) All employees of contract agencies who although members are not public employees as defined in paragraph (B) of this rule.
- (2) (a) Employees who are certified as public employees shall continue membership.
 - (b) Employees who are not certified by a 648 board as public employees shall receive refunds of unauthorized contributions for their employment.

145-1-49 (continued)

- (c) Employees who are not certified as public employees, but who have accounts from other public employment may apply for a refund or may leave their funds on deposit. A refund application shall be certified by the executive director of the 648 board.
- (D) All individuals employed by either a 648 board or a contract agency after September 30, 1975, who are public employees as defined in paragraph (A) or (B) of this rule shall be certified as such by a 648 board by letter accompanying the report of deductions on which the first deduction is reported.
- (E) A 648 board shall report all deductions for its own employees and for employees of a private contract agency who are defined in paragraph (B)(2)(b) of this rule. Membership and employee and employer contributions begun must continue as long as the employment continues. All members appearing on the report of retirement contributions of a 648 board shall be deemed to be employees of that board.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.01, 145.03.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 8/20/75; 9/27/98; 1/1/03;
1/1/06; 1/1/10.

145-1-50 Firefighters

- (A) For the purposes of Chapter 145. of the Revised Code, this rule, and rule 145-2-17 of the Administrative Code:
- (1) “Firefighter” means a person who:
- (a) Is employed as a firefighter by a public employer; and
- (b) Is hired or appointed, controlled and paid earnable salary and otherwise treated as an employee by the public employer.
- (2) “Volunteer firefighter” means a person who:
- (a) Is an employee of a private fire company or association;
- (b) Performs service as a firefighter for no compensation or for an honorarium;
- (c) Is an employee of a nonprofit fire company or association; or
- (d) Is not a firefighter pursuant to paragraph (A)(1) of this rule.
- (B) (1) Except as otherwise provided by law, effective May 1, 1991, a firefighter shall be a member of the retirement system subject to all the rights and obligations of Chapter 145. of the Revised Code.
- (2) Notwithstanding paragraph (B)(1) of this rule, a firefighter employed before May 1, 1991, shall be a member of the retirement system unless an exemption from membership on a form approved by the public employees retirement board is filed on or before May 31, 1991.
- (3) Once filed an approved exemption is valid pursuant to the limitations in section 145.03 of the Revised Code or through June 29, 1991, whichever is later.
- (C) Effective May 1, 1991, a volunteer firefighter is not a public employee and shall not be a member of the retirement system.
- (D) A firefighter employed before May 1, 1991, who is or becomes a member on May 1, 1991, may purchase the firefighter service as described in rule 145-2-17 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.01, 145.012, 145.03.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 1/21/76; 10/30/78; 5/1/91;
8/1/92; 1/1/03; 1/1/06.

145-1-51 **County agricultural societies**

Employees and officials of a county agricultural society are not public employees as defined in section 145.01 of the Revised Code, and are not eligible for membership in the public employees retirement system.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 1/14/59; 9/30/91; 1/1/03.

145-1-53 Payment by fee, commission, stipend or honorarium

- (A) For purposes of this rule:
- (1) “Fee or commission” means compensation which is a fixed charge or calculated as a percentage of an amount not directly related to work or services performed.
 - (2) “Stipend” means compensation paid to a student that is not subject to federal income taxation.
 - (3) “Honorarium” means a nominal payment made for services for which there is no binding legal obligation to pay.
- (B) An individual whose sole compensation is a fee or commission, stipend or honorarium is not a public employee pursuant to Chapter 145. of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.01.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 11/30/60; 3/17/89; 8/31/92;
1/1/03.

145-1-55 Exemption termination

An exemption from membership in the public employees retirement system pursuant to section 145.03 of the Revised Code shall be valid only during the current period of employment for the public employer by whom a public employee is employed at the time the exemption is approved. When the employment is terminated the exemption also terminates. Upon a return to public employment either for the former employer or another employer membership in the system is mandatory unless the employee may be exempt or excluded from membership.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.03.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 11/13/46; 9/30/91; 1/1/03.

145-1-57 Accounts of law enforcement members

(A) Definitions

(1) “Law enforcement service” means service as a law enforcement officer as described in division (WW) and defined in divisions (AA) to (VV) of section 145.01 of the Revised Code.

(2) “Non-law enforcement service” means service covered by the public employees retirement system which is other than law enforcement service.

(B) Pursuant to the version of division (A) of section 145.02 of the Revised Code, effective prior to June 30, 1991, a law enforcement officer was not eligible to make contributions and receive credit for concurrent service covered by Chapter 145. of the Revised Code which was not law enforcement service. If the retirement system received employee and employer contributions for concurrent non-law enforcement service prior to June 30, 1991, the retirement system shall return employee and employer contributions for the concurrent non-law enforcement service as unauthorized.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01, 145.02.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 8/20/76; 7/31/89; 12/30/91; 12/6/93; 2/3/00; 4/5/01; 3/22/02; 1/1/03; 1/1/06.

145-1-61 Release of names, addresses and individual case information and maintenance of records

- (A) The name, account number, address, including electronic mail address, or other individual case information of a member or benefit recipient shall not be released to anyone other than the member or benefit recipient except as provided in this rule.
- (B) Except as otherwise provided in section 145.27 of the Revised Code, the following individual case information may be released to a third party only upon the written authorization of the member or benefit recipient.
 - (1) Any part of an individual's personal history record, including but not limited to, any record identifying beneficiary information or an account balance, benefit or allowance paid or payable to that member or benefit recipient or any record identifying the service history or service credit of that member or benefit recipient.
 - (2) Medical reports and recommendations shall not be released, except that such reports and recommendations shall be made available to a member or benefit recipient's physician, attorney or authorized agent upon the member or benefit recipient's written authorization, and further, may be released to a physician assigned by the public employees retirement system when necessary for the proper administration of the retirement system.
- (C) Except as otherwise provided by law, all other individual case information not described in paragraph (B) of this rule shall be made available for inspection by the public as follows:
 - (1) Requests to inspect or receive copies of information contained in records kept by the retirement system shall be made in writing on forms provided by the retirement system.
 - (2) For all services required in preparing, copying and mailing retirement system records available to the public, a reasonable cost shall be assessed for materials, copying and electronic processing, to be paid before release of the requested information.
- (D) Except as otherwise provided by law, all other retirement system information shall be made available to the public after a request for inspection and for copies provided the requesting person pays any applicable costs for copying and mailing such information.
- (E) The executive director may designate any staff member to authenticate retirement system records to be sent to a court or officer of this state.

145-1-61 (continued)

- (F) The retirement system may maintain all information and records in electronic or printed format.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.27.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 8/20/76; 10/29/09; 9/30/91;
3/18/00; 8/22/02; 1/1/03; 1/1/10; 1/1/11.

145-1-62 Proof of date of birth and legal name change

- (A) For the purpose of proving a date of birth, an individual may submit the following documents or certified copies wherein the certifying official indicates that the original bears no alteration or erasure:
- (1) A birth certificate;
 - (2) An official baptismal record;
 - (3) A parent's affidavit;
 - (4) A life insurance policy issued at least ten years ago which contains a penalty clause for misstatement of age and which states age or date of birth;
 - (5) An original family bible which contains entries of family births;
 - (6) A child's birth certificate which states the parent's age or date of birth for proof of the parent's age;
 - (7) An official hospital record of birth;
 - (8) A United States' census bureau record;
 - (9) An original United States' certificate of citizenship or naturalization; or
 - (10) An original United States' passport.
- (B) If none of the above documents exists, an individual may submit for review:
- (1) An affidavit stating that none of the above-listed documents exist; and
 - (2) Any other document(s) which state(s) a date of birth.
- (C) For the purpose of proving a name change, an individual may submit a copy of one of the following documents:
- (1) A marriage certificate, certified abstract of marriage, or marriage license that evidences the marriage has been legally solemnized;
 - (2) A decree of divorce or dissolution that restores the individual to a prior name;

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- (3) An entry of change of name pursuant to section 2717.01 of the Revised Code, or a comparable entry of legal name change issued by a probate court in another jurisdiction;
- (4) A copy of a social security card.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.32, 145.35, 145.37,
145.43, 145.45, 145.46.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 1/16/38; 4/1/88; 1/1/03;
1/1/06; 1/1/09.

145-1-63 Guardianship and power of attorney

- (A) For the purpose of this rule, “recipient” means a member, contributor, retirant, or beneficiary as provided in Chapter 145. of the Revised Code.
- (B) Unless expressly authorized by the language in a power of attorney or in division (F) of this rule, guardianship of the estate shall be required and the guardian shall obtain a court order approving an initial plan selection under section 145.19 of the Revised Code, change of retirement plan, selection of a plan of payment, designation of a beneficiary, or application for and receipt of a refund if the recipient is eighteen years of age or older and suffers from a legal disability as defined in division (B), (C), or (D) of section 2131.02 of the Revised Code.
- (C) Except as provided in division (F) of this rule, guardianship of estate shall be required for receipt of a survivor benefit or refund if the recipient is a beneficiary and is under eighteen years of age. If applying for a refund, the guardian shall also obtain a court order approving the guardian’s application and receipt of payment on behalf of the beneficiary.
- (D) An attorney in fact granted general power with respect to retirement plan transactions is permitted to do the following:
 - (1) Authorize the release of account information;
 - (2) Provide and update bank account information for direct deposit of a recipient’s benefits;
 - (3) Update the address of a recipient;
 - (4) Receive correspondence on behalf of a recipient;
 - (5) Make additional deposits and purchase service credit;
 - (6) Make an initial plan selection under section 145.19 of the Revised Code;
 - (7) Direct the OPERS investment options for participants in the combined and member-directed plans;
 - (8) Select a plan of payment and designate a one or more beneficiaries under section 145.384, 145.46, or 145.64 of the Revised Code, section 9.02 or 9.03 of the combined plan document, section 9.02 of the member-directed plan document or rule 145-1-76 of the Administrative Code that meets the minimum requirements of 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 that requires the member or contributor to elect the plan of payment under which a portion of the member’s or contributor’s benefit continues, after the death of the member or contributor, to the member’s or contributor’s former spouse.

- (E) If expressly authorized by the language in a power of attorney, an attorney in fact may do any of the following:
- (1) Elect or change a retirement allowance plan of payment under section 145.384, 145.46, or 145.64 of the Revised Code, section 9.02 or 9.03 of the combined plan document, section 9.02 of the member-directed plan document, or rule 145-1-76 of the Administrative Code, other than a joint and survivor annuity leaving one-half to the spouse if the member is married, a single life annuity if the member is single, or any plan that includes a partial lump sum option payment;
 - (2) Elect to participate in a different defined contribution plan or the PERS defined benefit plan, as provided under section 145.814 of the Revised Code;
 - (3) Apply for and receive a refund of a member's accumulated contributions and any applicable amounts pursuant to section 145.40 of the Revised Code or article VIII of the member-directed or combined plan document;
 - (4) Designate a beneficiary under section 145.384, 145.43, or 145.64 of the Revised Code.
- (F) Notwithstanding paragraphs (B), (C), and (D) of this rule, power of attorney and guardianship of estate shall not be required if:
- (1) The lump sum amount payable to a recipient, regardless of the recipient's legal disability or age and when the recipient who is in the care of the recipient's parent, that does not exceed ten thousand dollars per recipient.
 - (2) The annual amount payable to a recipient under eighteen who is in the care of the recipient's parent will not exceed five thousand dollars per recipient.
 - (3) A court of competent jurisdiction has issued a limited order pursuant to section 2111.02, 2111.021, 2111.05 or 2111.131 of the Revised Code or a comparable non-Ohio statute that directs the retirement system to issue a recipient's payment to a specific person or entity and specifies the address and direct deposit routing and account numbers for the financial institution to receive such payment.
 - (4) The recipient is a member who is eligible to receive a refund pursuant to section 145.40 of the Revised Code or article VIII of the member-directed or combined plan document and is under eighteen years of age and otherwise competent.

145-1-63 (continued)

- (G) The retirement system shall accept the direction of the guardian of the estate or attorney in fact until such time as the retirement system receives a copy of the court order terminating the guardianship or the written instrument signed by the principal that revokes the authority granted to the attorney in fact.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.32, 145.35, 145.36, 145.361, 145.384, 145.40, 145.43, 145.45, 145.46, 145.64.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 10/17/73; 9/27/85; 12/9/88; 1/1/90; 8/31/92; 5/29/95; 1/1/03; 12/24/04; 1/1/06; 1/1/07; 12/30/07.

145-1-64 Death of designated beneficiary

- (A) This rule applies to a beneficiary designation in which two or more persons are designated as beneficiaries under section 145.384, 145.43, or 145.65 of the Revised Code, section 13.02 of the combined plan document, or section 11.02 of the member-directed plan document.

- (B) The death of a designated beneficiary prior to the death of a contributor shall cancel only the designation of the deceased beneficiary. The percentage of the lump sum payment that would have been paid to the deceased beneficiary shall be apportioned equally to the contributor's remaining designated beneficiaries.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.384, 145.43, 145.65.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 4/6/07 (Emer.); 7/1/07.

145-1-65 Interim benefit payment

- (A) For purposes of this rule and rules 145-1-71 and 145-1-73 of the Administrative Code:
- (1) “Finalized retirement benefit” means:
 - (a) Any monthly benefit amount paid to a benefit recipient pursuant to section 145.32, 145.33, 145.331, 145.34, 145.35, 145.36, 145.361, 145.37 or 145.46 of the Revised Code calculated after the receipt of the final report of retirement contributions upon which the member appears;
 - (b) Any monthly benefit amount paid to a beneficiary pursuant to section 145.45 of the Revised Code calculated after the receipt of the final report of retirement contributions upon which the member appears;
 - (c) Any monthly benefit amount paid pursuant to section 9.03 of the combined plan document calculated after the receipt of the final report of retirement contributions upon which the member appears;
 - (d) Any monthly annuity paid pursuant to section 9.02 of the combined or member-directed plan documents after the receipt of the final report of retirement contributions upon which the member appears.
 - (2) “Interim benefit payment” means:
 - (a) Any monthly benefit amount paid to a benefit recipient pursuant to section 145.32, 145.33, 145.331, 145.34, 145.35, 145.36, 145.361, 145.37 or 145.46 of the Revised Code prior to the payment of a finalized retirement benefit;
 - (b) Any monthly benefit amount paid to a beneficiary pursuant to section 145.45 of the Revised Code prior to the payment of a finalized retirement benefit;
 - (c) Any monthly benefit amount paid pursuant to section 9.03 of the combined plan document prior to the payment of a finalized retirement benefit;
 - (d) Any monthly annuity paid pursuant to section 9.02 of the combined or member-directed plan documents prior to the payment of a finalized retirement benefit.
 - (3) “Beneficiary” means a person qualified to receive a monthly benefit pursuant to section 145.45 of the Revised Code after the death of a member or disability recipient.

145-1-65 (continued)

- (4) “Partial lump sum option payment” means the lump sum payment described in division (A)(2) of section 145.45, division (B)(4) of section 145.46 of the Revised Code, or section 9.03(e)(3) of the combined plan document. In the case of a monthly annuity paid pursuant to section 9.02 of the combined or member-directed plan document, “partial lump sum option payment” means the lump sum payment a member may elect for the member’s monthly annuity plan of payment.
 - (5) “Initial benefit payment” means the first benefit, check, or payment to a member or beneficiary. In the case that more than one initial payment is disbursed from one or more of the retirement plans defined in rule 145-1-81 of the Administrative Code, the first payment issued by the retirement system shall constitute the initial benefit payment for purposes of determining whether a benefit recipient is eligible to withdraw an application.
- (B) Interim benefit payments may be paid in accordance with this rule.
- (C) A beneficiary applying for a benefit under division (A)(2) of section 145.45 of the Revised Code, or a member or contributor applying for a monthly benefit under section 145.32, 145.33, 145.331, 145.34, 145.37, 145.46, or 145.64 of the Revised Code, sections 9.02 or 9.03 of the combined plan document, or section 9.02 of the member-directed plan document, that includes a partial lump sum option payment, shall receive the partial lump sum option payment no earlier than ninety days after issuance of the initial benefit payment.
- (D) A member or contributor of the public employees retirement system may receive an interim benefit payment if either of the following is fully satisfied:
- (1)
 - (a) The member is eligible for retirement pursuant to section 145.32, 145.33, 145.331, 145.34, 145.37, or 145.46 of the Revised Code or article IX of the combined or member-directed plan document at the time the retirement application is filed;
 - (b) The member has filed all applications, forms and documents necessary to process the retirement benefit at least thirty days prior to the effective retirement benefit date;
 - (c) The member’s employer has certified the last day for which the member will receive earnable salary;
 - (d) The member or contributor who makes payment for an additional annuity, pursuant to section 145.62 of the Revised Code, has at least one hundred dollars in an additional annuity account.

145-1-65 (continued)

- (2) (a) The member or contributor is eligible for disability benefits pursuant to section 145.35, 145.36, 145.361, or 145.37 of the Revised Code;
 - (b) The public employees retirement board has approved the application for disability benefits by the member or contributor; and
 - (c) In the case of a member, the member's employer has certified the last day for which the member will receive earnable salary.
- (E) A beneficiary may receive an interim benefit payment if all of the following are satisfied:
- (1) The beneficiary is eligible for a benefit pursuant to section 145.45 of the Revised Code at the time the application is filed;
 - (2) The beneficiary has filed all applications, forms and documents necessary to process the benefit;
- (F) (1) For benefits payable under the traditional pension plan and section 9.03 of the combined plan document, an interim benefit payment shall be calculated using the earnable salary and service credit available in the account of a member or contributor at the time of the calculation. For a monthly annuity payment option under section 9.02 of the combined or member-directed plan document, an interim benefit payment shall be calculated using the portion of the member's individual defined contribution account specified by the member on the member's retirement application.
- (2) (a) Except as provided in paragraph (F)(3) of this rule, the retirement system shall revise the monthly benefit to which the member is entitled following the receipt of the final report of retirement contributions upon which the member appears.
 - (b) The retirement system shall revise the monthly benefit to which a beneficiary is entitled upon receipt of a report of contributions on which the deceased member appears if the contributions were not used in the calculation of the interim benefit payment. If no additional contributions are received by the retirement system, the interim benefit payment shall be the finalized retirement benefit.
 - (c) (i) If the finalized retirement benefit is greater than the interim benefit payment, the retirement system shall increase the current benefit and issue a retroactive payment for the difference between the prior interim benefit payment and the finalized retirement benefit.

- (ii) If the finalized retirement benefit is less than the interim benefit payment, the retirement system shall decrease the current benefit. The benefit recipient or the beneficiary shall repay to the retirement system the amount of the overpayment of benefits. If the benefit recipient or the beneficiary fails to repay such amount, the retirement system shall withhold the amount from any benefit due the benefit recipient or the beneficiary.
- (3) Monthly additional annuity payments shall commence as described in rule 145-2-43 of the Administrative Code.
- (G) A member or a beneficiary may withdraw their application for benefits prior to receipt of the initial benefit payment by providing the retirement system with a written request to withdraw the application over the signature of the member or beneficiary.
- (H)
 - (1) A beneficiary applying for a benefit under division (A)(2) of section 145.45 of the Revised Code, or a member or contributor applying for a monthly benefit under section 145.32, 145.33, 145.331, 145.34, 145.37, 145.46, or 145.64 of the Revised Code, section 9.02 or 9.03 of the combined plan document, or section 9.02 of the member-directed plan document that does not include a partial lump sum option payment may make a one-time election to receive a partial lump sum option payment, or the member or contributor may make a one-time change to their plan of payment, at any time prior to issuance of the finalized retirement benefit payment.
 - (2) A beneficiary applying for a benefit under division (A)(2) of section 145.45 of the Revised Code, or a member or contributor applying for a monthly benefit under section 145.23, 145.32, 145.33, 145.331, 145.34, 145.37, or 145.46 of the Revised Code, section 9.02 or 9.03 of the combined plan document, or section 9.02 of the member-directed plan document that includes a partial lump sum option payment may make a one-time change to their partial lump sum option payment amount, or the member or contributor may make a one-time change to their plan of payment, at any time prior to issuance of the partial lump sum option payment or transfer of the partial lump sum option payment by the retirement system to their financial institution.
 - (3) A member or contributor is ineligible to name a different beneficiary under a plan of payment selected by the member unless the member or contributor reselects or elects a different plan of payment under this rule. The spouse of a member or

145-1-65 (continued)

contributor who reselects or elects a different plan of payment shall consent on a form provided by the retirement system to the new plan of payment selected by the retirant.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.80.

Rule Amplifies: 145.32, 145.33, 145.331, 145.34, 145.35, 145.36, 145.361, 145.37, 145.43, 145.45, 145.46, 145.64, 145.82.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 3/30/92; 10/31/94; 5/29/95; 1/1/03; 6/20/03; 1/1/04 (Emer.); 2/16/04; 12/24/04; 1/1/06; 10/27/06; 4/6/07 (Emer.); 7/1/07; 1/12/08; 4/1/10; 1/1/11.

145-1-67 Monthly benefit payment date

Monthly benefit payments shall be issued by the public employees retirement system at the beginning of each month for which due. If a benefit recipient dies on or after the first day of a month, the entire benefit payment for such month shall still be payable.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.80.
Rule Amplifies: 145.23, 145.33, 145.331,
145.36,145.361, 145.37, 145.384, 145.45, 145.46,
145.81.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 2/21/73; 2/1/93; 10/7/01;
1/1/03; 1/1/06; 1/1/09.

145-1-69 Waiver of benefits by guardian of estate

A waiver pursuant to section 145.562 of the Revised Code shall be made by the beneficiary's guardian of estate and pursuant to a court order approving the waiver of benefits under either of the following circumstances:

- (A) The beneficiary is under eighteen years of age;
- (B) The beneficiary is eighteen years of age or older and has a legal disability as defined in division (B), (C), or (D) of section 2131.02 of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.562.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 3/17/65; 11/2/91; 1/1/03;
1/1/06.

145-1-70 **Waiver of spousal consent**

- (A) The public employees retirement board may waive the requirement of spousal consent upon receipt of one of the following:
- (1) A written statement of the spouse's physician certifying that the spouse is medically incapable of consent;
 - (2) The affidavits of the contributor and at least two other persons, one of whom must be unrelated to the contributor, attesting that currently and during the year prior to the contributor's application for benefits the whereabouts of the spouse are unknown;
 - (3) A court order or 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 requiring the contributor to designate the maximum amount payable to a joint and survivor beneficiary or beneficiaries.
- (B) The affidavits described in paragraph (A)(2) of this rule shall be on forms approved by the board.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.46.

Rule Amplifies: 145.32, 145.33, 145.331, 145.34, 145.37, 145.384, 145.40, 145.46, 145.63, 145.64.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 8/6/90; 2/1/93; 9/27/98; 11/2/00; 4/5/01; 1/1/03; 1/1/06; 10/27/06 (Emer.); 4/6/07 (Emer.); 7/1/07; 1/1/11.

145-1-71 Withdrawal of benefit application

- (A) Except as provided in paragraph (F) of this rule, a member or contributor of the public employees retirement system may withdraw an application for retirement, disability, or annuity payments pursuant to section 145.384 or 145.64 of the Revised Code by either of the following methods:
 - (1) Returning to the retirement system not later than thirty days after issuance of the initial benefit payment, all uncashed payments, along with a written request over the member's or retirant's signature to withdraw the application;
 - (2) Remitting to the retirement system a personal check or money order repaying the benefit payment(s) transmitted by or on behalf of the retirement system to the member's or retirant's financial institution not later than thirty days after the institution's receipt of the initial benefit payment, along with a written request over the member's or retirant's signature to withdraw the application.

- (B) Except as provided in division (C)(1) of section 145.45 of the Revised Code or paragraph (F) of this rule, a beneficiary eligible for monthly benefits pursuant to division (A) or (B) of section 145.45 of the Revised Code may withdraw an application for those benefits by either of the following methods:
 - (1) Returning to the retirement system not later than thirty days after issuance of the initial benefit payment, all uncashed payments, along with a written request over the beneficiary's signature to withdraw the application and a completed application for a lump sum payment of the member's accumulated account;
 - (2) Remitting to the retirement system a personal check or money order repaying the benefit payment(s) transmitted by the retirement system to the beneficiary's financial institution, not later than thirty days after the institution's receipt of the initial benefit payment, along with a written request over the beneficiary's signature to withdraw the application and a completed application for a lump sum payment of the member's accumulated account.

- (C) If a member participating in the member-directed or combined plan, or the member's beneficiary, withdraws an application as provided in this rule and all or any portion of the member's individual defined contribution account is used to pay the benefit, the member or the beneficiary is not entitled to any investment gains or losses on the amount that was used to pay the benefit for the period beginning on the date the retirement system converts the units in the account for payment and ending on the date the account is reestablished by the retirement system as provided in this rule. The amount used to pay the benefit as provided in this rule shall be credited to the member's individual defined contribution account and invested in the same OPERS investment options and in the same proportion as the account existed immediately prior to the payment.

- (D) Any non-vested amounts that were forfeited by a member participating in the member-directed plan or the member's beneficiary who withdraws a retirement application under this rule shall be restored to the member's individual defined contribution account or retiree medical account as defined in rule 145-4-01 of the Administrative Code. Investment gains or losses shall not be applied to the amounts for the period that the amounts were not in the member's individual defined contribution account
- (E)
 - (1) If a member or contributor participating in the traditional pension plan withdraws an application as provided in this rule, the application of the member or contributor for an additional annuity payment under section 145.64 of the Revised Code, if any, shall also be withdrawn.
 - (2) All payments issued pursuant to section 145.64 of the Revised Code shall be returned to the retirement system in accordance with paragraph (A) of this rule.
 - (3) A member is not entitled to any investment gains or losses on the additional annuity account for the period beginning on the date the retirement system converts the units in the account for payment and ending on the date the account is reestablished by the retirement system. The member's additional annuity account shall be credited based on the daily value of the OPERS stable value fund on the date the account is reestablished by the retirement system.
- (F) A member, contributor, or beneficiary may not withdraw an application as described in this rule if any of the following have occurred:
 - (1) The retirement system has made a distribution from a retiree medical account or 401(h) retiree medical account, as those terms are defined in rule 145-4-01 of the Administrative Code.
 - (2) The retirement system has paid a portion of the benefit to satisfy a court order.
 - (3) The retirement system has made a distribution in accordance with paragraph (E) of rule 145-1-21 of the Administrative Code.

145-1-71 (continued)

- (4) In the case of an application for an additional annuity payment under section 145.64 of the Revised Code, the member, contributor, or beneficiary fails to also withdraw the individual's application for retirement, disability, or annuity payments under section 145.384 of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.32, 145.33, 145.331, 145.34, 145.35, 145.36, 145.361, 145.37, 145.384, 145.45, 145.46.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 6/19/74; 8/6/90; 3/30/92; 10/9/00; 1/1/03; 1/1/04 (Emer.); 2/16/04; 12/24/04; 1/1/06; 4/6/07 (Emer.); 7/1/07; 1/12/08.

145-1-72 Division of property orders

- (A) For purposes of this rule:
- (1) “Order” means an order described in section 3105.81 of the Revised Code.
 - (2) “Alternate payee,” “benefit,” “lump sum payment,” and “participant” have the meanings set forth in divisions (A) to (D) of section 3105.80 of the Revised Code.
- (B)
- (1) The retirement system may retain an order that provides the last four digits of the participant or alternate payee’s Social Security numbers.
 - (2) After the public employees retirement system retains an order, the alternate payee shall provide information required on a form provided by the retirement system. The retirement system shall not issue payment to the alternate payee until the retirement system receives the information required for payment. The alternate payee shall notify this retirement system in writing of any change in the information.
- (C) Pursuant to section 3105.90 of the Revised Code, an order shall be on the form prescribed by the appendix to this rule. The retirement system shall accept both the version of the form prescribed by the appendix to former rule 145-1-72 of the Administrative Code that was effective August 22, 2003, and the version of the form prescribed by the current appendix until June 30, 2010. After June 30, 2010, the retirement system shall only accept the form prescribed by the current appendix.
- (D) Any benefit or lump sum payment that is owed and unpaid to an alternate payee at the time of the alternate payee’s death shall be paid to the estate of the alternate payee.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.561, 3105.80, 3105.81,
3105.82, 3105.821, 3105.83, 3105.84, 3105.85,
3105.86, 3105.87, 3105.88, 3105.89, 3105.90.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 1/1/02 (Emer.); 3/22/02;
1/1/03; 8/22/03; 1/1/10.

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, OHIO
DIVISION OF DOMESTIC RELATIONS

_____	:	
Plaintiff/Petitioner,	:	
	:	Case No.
v.	:	
_____	:	
Defendant/Petitioner.	:	

DIVISION OF PROPERTY ORDER

The Court finds the following facts and issues the following Order pursuant to Sections 3105.80 to 3105.90, Revised Code¹:

I. Terms:

- A. The "Plan Participant" or "Participant" means _____, Social Security number _____, whose date of birth is _____, whose current address is _____, and whose current mailing address is _____.
- B. The "Alternate Payee" means _____, Social Security number _____, whose date of birth is _____, whose current address is _____, and whose current mailing address is _____.
- C. The "Public Retirement Program(s)" means (please check the name and address of the public retirement program(s) and/or University/College Alternative Retirement Plan Administrator):
 - Ohio Public Employees Retirement System
277 East Town Street
Columbus, Ohio 43215-4642
 - State Teachers Retirement System of Ohio
275 East Broad Street
Columbus, Ohio 43215-3771

¹ This form was created under Ohio Revised Code Section 3105.90. Since Ohio Revised Code Section 3105.82 requires that this form be used, variance from this form will result in con-acceptance of the order by the Public Retirement Program.

- School Employees Retirement System of Ohio
300 East Broad Street
Suite 100
Columbus, Ohio 43215-3746

- Ohio Police and Fire Pension Fund
140 East Town Street
Columbus, Ohio 43215

- Ohio State Highway Patrol Retirement System
6161 Busch Boulevard
Suite 119
Columbus, Ohio 43229-2553

- University/College Alternative Retirement Plan
Name and address of University/College Plan Administrator:

D. Obligation of Plan Participant and Alternate Payee: The Plan Participant and the Alternate Payee are ordered to notify in writing the Public Retirement Program of a change in the individual's mailing address.

II. Amount Payable to the Alternate Payee: Upon the Plan Participant receiving a payment from the Public Retirement Program, the court orders that the Alternate Payee shall receive payment in accordance with and subject to the limitations set forth in Sections 3105.82 to 3105.90, Revised Code. The Public Retirement Program is required to distribute amounts to the Alternate Payee in the same manner selected by the Participant. For example, if only a lump sum dollar amount is provided in Paragraphs II(B)(1)(a) and (b), then the Alternate Payee also receives a lump sum payment. Please designate the type and the method of payment:

A. Type of Payment: If the Participant is eligible to receive more than one benefit payment or more than one lump sum payment, please check the benefit(s) or lump sum payment(s) from which payment to the Alternate Payee shall be made. If no benefit or lump sum payment is designated, the Alternate Payee shall receive payment from the first benefit payment or lump sum payment for which the Participant is eligible to apply and to receive. Please check ALL APPLICABLE BENEFIT(S) OR LUMP SUM PAYMENT(S):

- Age and service retirement benefit, INCLUDING Partial Lump Sum Payments received under Sections 145.46(B)(4), 3307.60(B), 3309.46(B)(4), or 5505.162(A)(3), Revised Code, and Deferred Retirement Option Plan under Section 742.43 or 5505.50, Revised Code.
- Age and service retirement benefit, BUT EXCLUDING Partial Lump Sum Payments received under Sections 145.46(B)(4), with the Public Retirement Program or, in the case of a Participant in a retirement plan established 3307.60(B), 3309.46(B)(4) or 5505.162(A)(3), Revised Code, and Deferred Retirement Option Plan under Section 742.43 or 5505.50, Revised Code.
- Disability monthly benefit
- Account refund
 - Additional money purchase annuity/additional annuity lump sum refund
 - Reemployed retiree money purchase annuity (when monthly payment exceeds \$25.00) or lump sum refund
- Defined contribution plan benefit

B. Method of Payment: If the Plan Participant is a reemployed retiree contributing to a money purchase annuity or is eligible to receive or is receiving monthly benefits or a lump sum payment from a reemployed retiree money purchase annuity, the Alternate Payee shall receive payment from the reemployed retiree money purchase annuity and any other type of payment designated in Paragraph II(A) above in a monthly or one-time dollar amount as specified in Paragraph II(B)(1)(a) below. If the Plan Participant is participating in the defined contribution program, or any of its constituent plans, the Alternate Payee shall receive payment from the defined contribution program, or any of its constituent plans, and any other type of payment designated in Paragraph II(A) above in a percentage of a fraction as specified in Paragraph II(B)(2) below. If the Plan Participant is participating in any other plan in a Public Retirement Program, the Alternate Payee shall receive payment in either a dollar amount **OR** a percentage of a fraction as specified below (i.e. Please complete Dollar Amount **OR** Percentage).

1. Dollar Amount: Paragraphs II(B)(1)(a) and (b) must be fully completed, even if the indication is to pay the Alternate Payee "\$0.00" from the Participant's periodic benefit or/and lump sum payment.

a. If the Participant elects a plan of payment that consists of a lump sum payment **OR** a plan of payment that consists of periodic benefits:

\$_____ per benefit from the Participant's periodic benefit upon the Participant's receipt of the aggregate periodic benefit; **or**

\$_____ from the Participant's lump sum payment upon the Participant's receipt of the payment.

b. If the Participant elects a plan of payment consisting of both a lump sum benefit **AND** a periodic benefit:

\$_____ per benefit from the Participant's periodic benefit upon the Participant's receipt of the periodic benefit; **and**

\$_____ from the Participant's lump sum benefit upon the Participant's receipt of the payment.

OR

2. Percentage: Please provide percentages in both Paragraph II(B)(2)(a) and (b) even if the percentage is "0%".

a. If the Participant elects a plan of payment that consists of either periodic benefits **OR** a lump sum payment, the Public Retirement Program shall pay directly to the Alternate Payee per benefit or in a one-time lump sum payment _____ percent (____%) of a fraction as set forth in Paragraph II(B)(2)(c) below of the Plan Participant's periodic benefit or one-time lump sum payment.

b. If the Plan Participant elects a plan of payment consisting of both a lump sum benefit **AND** a periodic benefit, the Public Retirement Program shall pay directly to the Alternate Payee _____ percent (____%) of a fraction as set forth in Paragraph II(B)(2)(c) below of the Plan Participant's periodic benefit and _____ percent (____%) of a fraction as set forth below of the Plan Participant's lump sum benefit.

c. Fraction:

- i. The numerator of the fraction shall be _____ which is the number of years during which the Plan Participant was both a contributing member of the Public Retirement Program and married to the Alternate Payee. The date of marriage is _____.
- ii. The denominator, which shall be determined by the Public Retirement Program at the time that the Plan Participant elects to take a benefit or a payment, shall be the Participant's total years of service credit with the Public Retirement Program or, in the case of a Participant in a retirement plan under Chapter 3305, Revised Code, the years of participation in the plan.

C. Applicable Benefit: The monthly benefit amount used to determine the amount paid to the Alternate Payee from the Participant's monthly benefit shall be whichever applies:

1. If the Participant is receiving a monthly benefit, the monthly benefit shall be the gross monthly benefit the Participant is receiving at the time the decree of divorce or dissolution becomes final. The effective date of the decree of divorce, dissolution, or legal separation is _____;
2. If the Participant has applied for but is not yet receiving a monthly benefit, the monthly benefit shall be the benefit for which the Participant is eligible;
3. If the Participant has not applied for a benefit, the monthly benefit shall be the benefit calculated at the time the Participant elects to take the benefit.

D. Minimum Benefit Notice: The total amount paid to the Alternate Payee pursuant to this order plus any administrative fee charged to the Participant and Alternate Payee as authorized by Section 3105.84, Revised Code, shall not exceed fifty percent of the amount of a benefit or lump sum payment that the Plan Participant is to receive or, if withholding is to be made from more than one benefit or lump sum payment, fifty percent of the total of the benefits or lump sum payments that the Plan Participant is to receive. If the Plan Participant's benefit or lump sum payment is or will be subject to more than one order issued pursuant to Section 3105.81,

Revised Code, the Public Retirement Program shall not withhold an aggregate amount for all the orders plus the administrative fee(s) charged to the Participant and Alternate Payee as authorized by Section 3105.84, Revised Code, that exceeds fifty percent of the benefit or lump sum payment.

- III. Notification to Alternate Payee: The Alternate Payee is hereby notified of the following:
- A. The Alternate Payee's right to payment under this Order is conditional on the Plan Participant's right to a benefit payment or lump sum payment from the Public Retirement Program;
 - B. When the Plan Participant's benefit or lump sum payment is subject to more than one order under Section 3105.81, Revised Code, or to an order described in Section 3105.81, Revised Code and a withholding order under Section 3121.03, Revised Code, the amount paid to the Alternate Payee under this order may be reduced based on the priority of the other orders;
 - C. The Alternate Payee's right to receive an amount from the benefit payment or lump sum payment to the Plan Participant shall terminate upon:
 - 1. The death of the Plan Participant;
 - 2. The death of the Alternate Payee;
 - 3. The termination of a benefit pursuant to the governing laws of the Public Retirement Program.
- IV. Administrative Fee: Pursuant to Section 3105.84, Revised Code, this order authorizes the Public Retirement Program that is or will be paying the benefit or lump sum payment to withhold from any benefit or payment that is subject to this order an amount determined by the Public Retirement Program to be necessary to defray the cost of administering the order. This amount shall be divided equally between the Plan Participant and the Alternate Payee.
- V. Application of Order: This order applies to payments made by the Public Retirement Program after retention of the Order under Section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261, Revised Code.
- VI. Additional Limitations on Order:
- A. Payments under this order shall commence as provided under Section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261, Revised Code.

- B. The Alternate Payee has no right or privilege under the law governing the Public Retirement Program that is not otherwise provided in the governing law.
- C. This order shall not require the Public Retirement Program to take any action or provide any benefit, allowance, or payment not authorized under the law governing the Public Retirement Program.

VII. Notice of Order:

- A. The clerk of courts shall transmit a certified copy of this order to the Public Retirement Program(s) named in the order.
- B. On receipt of this order, the Public Retirement Program shall determine whether the order meets the requirements as set forth in Sections 3105.80 to 3105.90, Revised Code.
- C. The Public Retirement Program shall retain the order in the Plan Participant's record if the order meets the requirements in Sections 3105.80 to 3105.90, Revised Code.
- D. The Public Retirement Program shall return, by regular mail, to the clerk of courts of the court that issued the order any order the Public Retirement Program determines does not meet the requirements in Sections 3105.80 to 3105.90, Revised Code, no later than sixty days after the Public Retirement Program's receipt of the order.

VIII. Jurisdiction of the Court: The Court shall retain jurisdiction to modify, supervise, or enforce the implementation of this order notwithstanding Section 3105.171(I), Revised Code.

APPROVED:

Signature of Attorney for Plaintiff/Petitioner

Attorney for Plaintiff/Petitioner (please type or print name)

Supreme Court No.

Address

Address

Signature of Attorney for Defendant/Petitioner

Attorney for Defendant/Petitioner (please type or print name)

Supreme Court No.

Address

Address

SO ORDERED.

Judge

Division of Property Order approved per Section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261, Revised Code, for filing and submission.

Retirement System

Retirement System

145-1-73 Withdrawal of application for refund or money purchase or additional annuity lump sum payments

- (A) (1) Except as provided in paragraph (A)(2), (B), or (E) of this rule, a member or contributor of the public employees retirement system may withdraw a refund application by returning all uncashed refund payments to the retirement system not later than thirty days after issuance of the initial payment, along with a written request over the member's or contributor's signature to withdraw the application.
- (2) A member or contributor who requested a rollover of a refund or lump sum payment to a financial institution may withdraw the application if both of the following occur:
 - (a) The member or contributor submits to the retirement system, not later than thirty days after issuance of the initial rollover payment, a written request over the member's or contributor's signature to withdraw the application;
 - (b) The financial institution transmits to the retirement system, not later than sixty days after issuance of the initial rollover payment, the amounts transmitted to the financial institution.
- (B) (1) Except as provided in paragraph (B)(2) or (E) of this rule, a beneficiary who elects to receive a lump sum payment of the member's contributions in lieu of a benefit pursuant to division (A) or (B) of section 145.45 of the Revised Code or article XI of the combined plan document may withdraw an application for that payment by returning all uncashed refund payments to the retirement system not later than thirty days after issuance of the initial payment, along with a written request over the beneficiary's signature to withdraw the application and a completed application for a benefit under division (A) or (B) of section 145.45 of the Revised Code or article XI of the combined plan document.
- (2) A qualified spouse who elects to rollover the member's contributions to a financial institution may withdraw a refund application if all of the following occur:
 - (a) The qualified spouse submits to the retirement system, not later than thirty days after issuance of the initial rollover payment, a written request over the spouse's signature to withdraw the application;
 - (b) The qualified spouse submits to the retirement system, not later than thirty days after issuance of the initial rollover payment, a completed application for benefits pursuant to division (A) or (B) of section 145.45 of the Revised Code or article XI of the combined plan document;
 - (c) The financial institution transmits to the retirement system, not later than sixty days after issuance of the initial rollover payment, the amounts transmitted to the financial institution.

- (C) If a member participating in the member-directed or combined plan, or the member's beneficiary, withdraws an application as provided in this rule, the member or the beneficiary is not entitled to any investment gains or losses on the amount that was paid from the member's individual defined contribution account for the period beginning on the date the retirement system converts the units in the account for payment and ending on the date the payment(s) is reestablished in the account by the retirement system as provided in this rule. The amount paid from the member's individual defined contribution account that is returned to the retirement system as provided in this rule shall be credited to the member's individual defined contribution account and invested in the same OPERS investment options and in the same proportion as the account existed immediately prior to the refund.
- (D) Any non-vested amounts forfeited by a member participating in the member-directed plan or the member's beneficiary who withdraws a refund application under this rule shall be restored to the member's individual defined contribution account or retiree medical account, as defined in rule 145-4-01 of the Administrative Code. Investment gains and losses shall not be applied to the amounts for the period that the amounts were not in the member's individual defined contribution account.
- (E) A member, contributor, or beneficiary may not withdraw a refund application as provided in this rule if any of the following have occurred:
 - (1) The retirement system has made a distribution from a retiree medical account or 401(h) retiree medical account, as those terms are defined in rule 145-4-01 of the Administrative Code;
 - (2) The retirement system has paid a portion of the refund or lump sum payment to satisfy a court order.
 - (3) The retirement system has made a distribution in accordance with paragraph (E) of rule 145-1-21 of the Administrative Code.
 - (4) In the case of an application for payment under section 145.63 of the Revised Code, the member, contributor, or beneficiary fails to also withdraw the individual's application for a refund or for retirement, disability, or annuity payments under section 145.384 of the Revised Code.
- (F) A member, contributor, or beneficiary who withdraws an application for an additional annuity payment under section 145.63 of the Revised Code is not entitled to any investment gains or losses on the additional annuity account for the period beginning on

145-1-73 (continued)

the date the retirement system converts the units in the account for payment and ending on the date the account is reestablished by the retirement system. The member's additional annuity account shall be credited based on the daily value of the OPERS stable value fund on the date the account is reestablished by the retirement system.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.384, 145.40, 145.401.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 1/1/04 (Emer.); 2/16/04;

1/1/06; 4/6/07 (Emer.); 7/1/07; 1/12/08.

145-1-74 Re-employment restrictions applicable to a member

- (A) For the purpose of this rule and section 145.38 or 145.382 of the Revised Code:
 - (1) “Effective retirement benefit date” means the date upon which a retirement allowance begins.
 - (2) “Nonuniformed retirement system” means the public employees retirement system, state teachers retirement system and school employees retirement system.
 - (3) “Ohio retirement system” means public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, highway patrol retirement system, and Cincinnati retirement system.
 - (4) “Uniformed retirement system” means the Ohio police and fire pension fund and the highway patrol retirement system.
- (B)
 - (1) Forfeiture of a retirement allowance under section 145.38 of the Revised Code for employment in a position covered by another Ohio retirement system shall apply only to a PERS retirant whose effective retirement benefit date is on or after September 1, 1991.
 - (2) A PERS retirant who has received a retirement allowance for less than two months and who becomes employed in a position covered by an Ohio retirement system shall forfeit such allowance for any month in which the PERS retirant is so employed during the two month period immediately following such retirant’s effective retirement benefit date.
 - (3) Notwithstanding paragraphs (B)(1) and (B)(2) of this rule, forfeiture of a retirement allowance shall not apply to a PERS 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 nonuniformed retirement system or systems is terminating all employment covered by all the systems, and is electing to take a retirement benefit from one or more of the other systems as of the effective retirement benefit date, the member shall elect to:
 - (i) Apply for a benefit if eligible pursuant to section 145.32, 145.33, 145.34, 145.37 or 145.46 of the Revised Code; or
 - (ii) Apply for a refund of contributions pursuant to section 145.40 of the Revised Code.

145-1-74 (continued)

- (b) If the member applies for a benefit described in paragraph (C)(1)(a)(i) of this rule, the system shall calculate the benefit with any necessary reduction for concurrent service among the systems.
- (2) Where a member of this system who also has established membership in a uniformed retirement system or systems is terminating all employment covered by all the systems, and is electing to take a retirement benefit from one or more of the other systems as of the effective retirement benefit date, the member shall elect to:
- (a) Apply for a benefit if eligible pursuant to section 145.32, 145.33, 145.34, or 145.46 of the Revised Code;
 - (b) Apply for a refund of contributions pursuant to section 145.40 of the Revised Code; or
 - (c) If as of the effective retirement benefit date from a uniformed retirement system the member has sufficient service credit to qualify for a benefit in this system, the member's effective retirement benefit date shall be the first of the month following the later of the member's benefit date in the uniformed retirement system or attainment of eligibility for a benefit in this system.
- (3) (a) A member of this system who also is a member of a uniformed retirement system and who has applied for a retirement benefit in the uniformed system may continue employment in the position covered by this system, provided that contributions made to this system after the member's effective retirement benefit date in the uniformed system shall accrue only a benefit as described in section 145.384 of the Revised Code.
- (b) If the member has been continuously employed in such position for at least two months prior to the member's effective retirement benefit date in the uniformed system, the member may, upon termination of all service, elect to have the contributions to this system made prior to the effective retirement benefit date in the uniformed system also accrue the same benefit or payment described in section 145.384 of the Revised Code. The accrual of allowable interest shall not begin until after the effective retirement benefit date in the uniformed system.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.38.
Rule Amplifies: 145.38, 145.382.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 8/1/92; 3/17/94; 2/3/00;
4/5/01; 1/1/03; 1/1/06.

145-1-75 Re-employment of a retirant

(A) Definitions

For the purpose of this rule and section 145.362, 145.37, 145.38, 145.382, 145.384, or 145.385 of the Revised Code:

- (1) "PERS retirant" means any former member of the public employees retirement system who retires as provided in section 145.32, 145.331, or 145.37 of the Revised Code and is receiving a retirement allowance as provided in section 145.33, 145.331, 145.34 or 145.46 of the Revised Code.
- (2) "Combined retirement" means retirement based upon section 145.37 of the Revised Code.
- (3) "A contract to provide services, or for services, as an independent contractor" means an agreement that establishes a relationship in which the individual is an independent contractor and not a public employee.
- (4) "Disability benefit recipient" means an individual defined in division (N) of section 145.01 of the Revised Code.
- (5) "Employed" means the relationship between a public employer and an individual who is a public employee rather than an independent contractor.
- (6) "Other system retirant" means an individual defined in division (A)(2) of section 145.38 of the Revised Code.

(B) Elective positions

- (1) The provisions of section 145.38 of the Revised Code, and this rule shall apply to an age and service or other system retirant who is elected to an office, or is appointed to an elective office, of the state or its political subdivisions covered by this retirement system.
- (2) The provisions of section 145.362 of the Revised Code, and these rules shall apply to a disability retirant who is elected to an office of the state or its political subdivisions covered by this retirement system.

(C) Employed positions

A PERS retirant who has received a retirement allowance for less than two months and who becomes employed by a public employer shall forfeit the retirement allowance for any month in which such retirant is employed during the two month period immediately following such retirant's effective retirement benefit date.

(D) Employment by legislative authority

- (1) A PERS retirant may be employed irrespective of the length of time such retirant has received a retirement benefit:
 - (a) In a position authorized by section 101.31, 121.03 or 121.04 of the Revised Code; or
 - (b) In a position to which appointment is made by the governor with the advice and consent of the senate; or
 - (c) As the head of a division of a state department.
- (2) A retirant described in paragraph (D)(1) of this rule, upon employment, shall elect in writing to the retirement system to have such employment covered either by:
 - (a) Section 145.38 of the Revised Code; or
 - (b) Section 145.382 of the Revised Code and paragraph (D)(3) of this rule.
- (3)
 - (a) A retirant described in paragraph (D)(1) of this rule who elects to have such employment covered by section 145.382 of the Revised Code, upon employment, shall become a member of the retirement system based upon such employment with all obligations and rights except those pursuant to section 145.45 of the Revised Code, and shall forfeit such retirant's retirement allowance.
 - (b) Upon termination of employment, the retirant shall have a retirement allowance recalculated based on an allowance described in division (A) of section 145.33 or section 145.46 of the Revised Code utilizing the retirant's original service and service after retirement covered by section 145.382 of the Revised Code.

(E) Health care coverage

- (1) The public employer for which a PERS retirant is employed on February 9, 1994, or after, shall provide health care coverage for such retirant if such coverage is provided to its employees doing comparable work or in a comparable position.
- (2) The employer shall notify the retirement system of the status of health care coverage for a PERS retirant who is re-employed.

145-1-75 (continued)

- (3) If the retirant is covered under the employer's health care plan, health care claims paid by the retirement system shall be reduced by the benefits provided under the employer's health care plan. If the retirant should be covered under the employer's health care plan as required by section 145.38 of the Revised Code but fails to enroll in the employer's health care plan, the retirement system shall not pay any reduced or primary coverage claims for any period that the retirant failed to enroll in the employer's health care plan.

(F) Re-employment of a disability benefit recipient

- (1) The retirement board shall terminate the benefit of a disability benefit recipient who is employed by, or who provides services under a contract as an independent contractor for, a public employer.
- (2) The retirement board shall review the employment of a disability benefit recipient who is employed or compensated by an employer other than a public employer in a position similar to the position the recipient held as a public employee to determine if the recipient must undergo a medical examination to determine if the disability is ongoing or whether the benefit should be terminated.

(G) Determinations

A retirant or benefit recipient may request a determination from the retirement system as to the effect on the benefit of the retirant or recipient of a return to employment covered by Chapter 145. of the Revised Code or other employment.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.38.
Rule Amplifies: 145.362, 145.37, 145.38, 145.382.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 2/19/60; 9/6/88; 8/1/92;
2/1/93; 3/17/94; 1/31/98; 8/1/98; 4/5/01; 2/14/02;
1/1/03; 1/1/06; 1/1/07; 1/1/09; 7/11/09.

145-1-76 Benefits payable to a reemployed retiree

- (A) (1) Benefits payable to a PERS or other system retiree pursuant to section 145.384 of the Revised Code shall be effective as provided in that section.
- (2) Benefits payable to the beneficiary of a PERS or other system retiree shall be effective the first of the month following the retiree's date of death.
- (B) A PERS or other system retiree may withdraw an application for benefits in the same method as described in rule 145-1-71 of the Administrative Code.
- (C) Unless voided by an event as described in division (G) of section 145.384 of the Revised Code, the designation of a beneficiary by a PERS or other system retiree shall apply for all re-employment periods except for a period for which a benefit has already been paid or for which a retiree is accruing a supplemental benefit.
- (D) If a retiree makes an application for a benefit pursuant to division (B)(2) of section 145.384 of the Revised Code, the retiree shall select a plan of payment as described in divisions (B)(1), (B)(3)(a) to (B)(3)(c), and (B)(3)(e) of section 145.46 of the Revised Code, and designate a beneficiary.
- (E) For those contributors whose benefit under section 145.384 of the Revised Code is commenced under plan B in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, not later than one year after the effective date of the benefit described in this paragraph, a contributor who was married on the effective date of the benefit may elect plan A, C, or D based on the actuarial equivalent of the contributor's single life annuity as determined by the board. The election shall be made on a form approved by the retirement system and shall be effective on the effective date of the benefit paid under plan B. Any benefit overpayment may be recovered as provided in section 145.563 of the Revised Code.
- (F) Except as provided in section 145.384 of the Revised Code or this rule, beneficiary and plan of payment changes shall be made in accordance with rules 145-2-44 and 145-2-47 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.38, 145.383, 145.384.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 8/1/92; 4/5/01; 1/1/03;
6/20/03; 10/27/06; 4/1/08 (Emer.); 6/23/08; 1/1/10.

145-1-77 Re-employment of member-directed or combined plan participant

- (A) This rule amplifies sections 145.38, 145.382, 145.383, and 145.384 of the Revised Code and rules 145-1-74 to 145-1-78 of the Administrative Code.

- (B) As used in rules 145-1-74 to 145-1-78 of the Administrative Code, “PERS retirant” includes a member or former member of the public employees retirement system who is or has received a payment under article IX of the combined plan document or member-directed plan document, and has not withdrawn the application for retirement pursuant to rule 145-1-71 of the Administrative Code.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.38, 145.382, 145.383, 145.384.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 1/1/03; 1/1/06.

145-1-78 Retirement of a member pursuant to section 145.383 of the Revised Code

- (A) For purposes of section 145.383 of the Revised Code and this rule:
- (1) “Active position” means a position for which contributions were being received by a state retirement system at the time of retirement pursuant to section 145.383 of the Revised Code.
 - (2) “PERS annual earnable salary” means a member’s earnable salary for each active position reported by a public employer to the public employees retirement system for a calendar year. If a member has held an active position for less than a calendar year this system shall convert the earnable salary to an annual amount.
 - (3) “Other retirement system annual compensation” means a member’s annual compensation for an active position as certified to this system by the state teachers retirement system or the school employees retirement system.
 - (4) “Highest annual compensation” means the highest of the PERS annual earnable salary or the other retirement system annual compensation for an active position.
 - (5) “Position” means employment for which a member is covered and contributing to a state retirement system.
 - (6) “State retirement system” means the public employees retirement system, school employees retirement system or state teachers retirement system.
 - (7) “Other retirement system” means the school employees retirement system or 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 145.383 of the Revised Code, the member shall:
- (a) Apply for a benefit pursuant to section 145.32, 145.33, 145.34, or 145.46 of the Revised Code, for the active position which has the highest PERS annual salary, 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:

145-1-78 (continued)

- (a) Apply for a benefit pursuant to section 145.32, 145.33, 145.34 or 145.46 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 an other retirement system.
- (2) In computing the benefit described in paragraph (C)(1) of this rule all service credit in this system shall be used.
- (D) Employment in any position covered by this system that begins subsequent to the effective retirement benefit date under section 145.383 of the Revised Code shall be subject to section 145.38 or 145.382 of the Revised Code, and rule 145-1-75 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.383.
Rule Amplifies: 145.383.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 4/5/01; 1/1/03.

145-1-79 Reemployment covered by section 145.381 of the Revised Code

A board, commission, or legislative authority that proposes to continue the employment as a reemployed retirant or rehire as a reemployed retirant in the same position, a person who is or most recently has been employed by a public employer in a position that is customarily filled by a vote of members of a board or commission or by the legislative authority of a county, municipal corporation, or township, shall certify on a form provided by the public employees retirement system that the employer has done both of the following:

- (A) Not less than sixty days before the employment as a reemployed retirant was to begin, gave public notice that the person is or will be retired and is seeking employment with the public employer;
- (B) Between fifteen and thirty days before the employment as a reemployed retirant was to begin and after complying with paragraph (A) of this rule, held a public meeting on the issue of the person being employed by the public employer.

Promulgated Under: 111.15.

Statutory Authority: 145.09; 145.381.

Rule Amplifies: 145.381.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 10/23/03 (Emer.); 1/12/04;
1/1/06.

145-1-80 Effect of applicant's death on payment plan

- (A) If a member has filed an application for retirement pursuant to section 145.32, 145.33, 145.331, 145.34, 145.37 or 145.46 of the Revised Code or article IX of the combined or member-directed plan documents and the member's death occurs subsequent to the effective retirement benefit date, the beneficiary and benefit payable shall be determined by the plan of payment and beneficiary designated by the member on the application for retirement benefits.

- (B) If a PERS retirant or other system retirant as defined in section 145.38 of the Revised Code, or a retirant described in section 145.382, or 145.383 of the Revised Code has filed an application for a benefit pursuant to section 145.382, 145.383 or 145.384 of the Revised Code, and the retirant dies subsequent to the effective date of the benefit, the benefit payable to the beneficiary shall be determined by the plan specified by the retirant on the application.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.38.

Rule Amplifies: 145.32, 145.33, 145.331, 145.34, 145.37, 145.38, 145.382, 145.383, 145.384, 145.46.

Rule Review Date: 5/26/10; 9/29/12.

Effective Date History: 2/15/67; 8/6/90; 2/3/92; 2/1/93; 11/2/00; 3/22/02; 1/1/03; 6/6/05 (Emer.); 8/11/05; 1/1/09.

145-1-81 Retirement plans

- (A) “Traditional pension plan” means the PERS defined benefit plan established under sections 145.201 to 145.79 of the Revised Code.
- (B) “Combined plan” means the PERS combined defined benefit/defined contribution plan established under section 145.81 of the Revised Code.
- (C) “Member-directed plan” means the PERS defined contribution plan established under section 145.81 of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.81.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 1/1/03; 1/1/06.

145-1-82 **Exceptions to duty to notify**

- (A) This rule amplifies sections 145.16, 145.17, and 145.171 of the Revised Code.
- (B) The public employees retirement system is not required to inform a public employee of the requirements of section 145.19 of the Revised Code if either of the following apply:
 - (1) The public employee fails to file the statement required under section 145.16 of the Revised Code.
 - (2) The head of each department, as defined in section 145.01 of the Revised Code, fails to provide the notice required by section 145.17 of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.80
Rule Amplifies: 145.171, 145.81.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 1/1/03.

145-1-83 Application of USERRA to one hundred eighty day election period

- (A) This rule amplifies sections 145.19 and 145.191 of the Revised Code.
- (B) As used in this rule, “service in the uniformed services” and “uniformed services” have the same meanings as in section 145.302 of the Revised Code.
- (C) This rule applies to a member whose service in the uniformed services occurs during the member’s one hundred eighty day election period as described in section 145.19 or 145.191 of the Revised Code.
- (D) Upon a member described in paragraph (C) of this rule being reemployed with the same public employer that employed the member prior to the member’s service in the uniformed services, the member may, not later than ninety days after the reemployment, apply to the public employees retirement system on a form provided by the system to reestablish all or a portion of the member’s one hundred eighty day election period.
 - (1) On receipt of the application, the system shall request from the public employer that employed the member prior to the military service a certification that the member was employed by the public employer prior to, and returned to employment with the employer within three months of honorable discharge or release from, service in the uniformed services. If the public employer can so certify, the employer shall do so.
 - (2) The member shall submit to the system report(s) of separation (form DD214) or other satisfactory documentation as evidence of the member’s military service.
- (E) On receipt of the certification and documentation under paragraph (D) of this rule and approval of the certification, the system shall reestablish the member’s election period as follows:
 - (1) If all of the member’s one hundred eighty day election period was interrupted by the member’s service in the uniformed services, the member shall have one hundred eighty days after the date certification is approved by the system to make an election under section 145.19 or 145.191 of the Revised Code.
 - (2) If a portion of the member’s one hundred eighty day election period was interrupted by the member’s service in the uniformed services, the member shall have the same portion of the member’s one hundred eighty day election period after the date certification is approved by the system to make an election under section 145.19 or 145.191 of the Revised Code.
- (F) The election of a member under this rule takes effect as follows:
 - (1) For members who are eligible to make an election under section 145.191 of the Revised Code, the election shall take effect on January 1, 2003.

145-1-83 (continued)

- (2) For members who are eligible to make an election under section 145.19 of the Revised Code, the election shall take effect on the date employment began.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.19, 145.191.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 11/15/03.

145-1-84 Transfer of accumulated contributions to new plan

- (A) This rule amplifies division (C) of section 145.191 of the Revised Code.
- (B) For each member or contributor who requests a transfer of accumulated contributions under division (C) of section 145.191 of the Revised Code, the public employees retirement system shall do all of the following:
 - (1) Credit to the participant contribution account the accumulated contributions of the member or contributor, other than those described in paragraph (B)(2) of this rule.
 - (2) Credit to the miscellaneous contribution account or rollover account, as appropriate, the portion of the accumulated contributions that represent additional deposits made under division (C) of section 145.23 of the Revised Code, as that section existed immediately prior to April 6, 2007.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.191(C), 145.81.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 1/1/03; 1/1/06; 1/1/09.

145-1-86 Provisions applicable to law enforcement officers

- (A) This rule amplifies section 2.04(b) of the combined plan document and member-directed plan document.

- (B) A member participating in the combined plan or member-directed plan described in section 2.04(b) of the combined plan document and member-directed plan document, as appropriate, may elect to have the amounts standing to the member's credit under the member's prior plan deposited and credited to the traditional pension plan in accordance with rules 145-1-88, 145-1-89, and 145-2-18 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.19(D)(1), 145.191(E)(2),
145.193, 145.81.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 1/1/03.

145-1-88 Changes to election to participate

- (A) This rule amplifies section 145.814 of the Revised Code and section 2.03 of the combined plan document and member-directed plan document.
- (B) As used in this rule and rules 145-1-89, 145-2-18, and 145-3-40 of the Administrative Code:
 - (1) “Additional liability” and “eligible member” have the same meanings as in section 145.814 of the Revised Code;
 - (2) “Amount on deposit” means the sum of the amounts available to a member to purchase service credit in the member’s new plan as described in section 6.01 of the combined plan or section 6.01 or 6.02 of the member-directed plan.
- (C)
 - (1) As used in this rule, “total service credit” means the sum of a member’s service credit in the traditional pension plan, service credit in the combined plan, and contributing months in the member-directed plan.
 - (2) Subject to the requirements of this rule and rule 145-1-89 of the Administrative Code, in addition to the enrollment period described in sections 145.19 and 145.191 of the Revised Code, an eligible member who is actively contributing to the retirement system may elect to participate in a different plan during the following periods of service as a public employee:
 - (a) Once prior to attaining five years of total service credit;
 - (b) Once after attaining five and prior to attaining ten years of total service credit;
 - (c) Once after attaining ten years of total service credit.
 - (3) An election that is not used within the specified time period may not be made in subsequent time period.
- (D) Except as provided in rule 145-1-89 of the Administrative Code, an election under this rule applies only to employer and employee contributions made after the effective date of the election.
- (E) An election to transfer to the traditional pension plan under section 10.03(a) of the combined plan document for the payment of a disability benefit is irrevocable. If the eligible member subsequently returns to service as a public employee, the member shall

145-1-88 (continued)

remain a member of the traditional pension plan and is not eligible to make an election under paragraph (C)(2) of this rule.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.81, 145.814.

Rule Review Date: 9/29/10; 9/29/15.

Effective Date History: 1/1/03; 11/15/03; 1/1/06;
1/1/09; 1/1/11.

145-1-89 Transfer of contributions under rule 145-1-88 of the Administrative Code

- (A) This rule amplifies section 145.814 of the Revised Code and article VI of the combined plan document and member-directed plan document.

- (B) Not later than one hundred eighty days after the effective date of an election under rule 145-1-88 of the Administrative Code, an eligible member who elects a different plan under that rule may have the amounts on deposit for the prior plan transferred in accordance with the member's new plan if one of the following applies:
 - (1) The member, by an election under rule 145-1-88 of the Administrative Code, will cease participation in the member-directed plan and begin participating in the combined plan or traditional pension plan;
 - (2) The member, by an election under rule 145-1-88 of the Administrative Code, will cease participating in the combined plan and begin participating in the traditional pension plan.

- (C)
 - (1) For a member described in paragraph (B)(1) or (B)(2) of this rule who will begin participating in the traditional pension plan, the amount on deposit shall be transferred in accordance with rule 145-2-18 of the Administrative Code.
 - (2) For a member described in paragraph (B)(1) of this rule who will begin participating in the combined plan, the amount on deposit shall be transferred in accordance with rule 145-3-40 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.81, 145.814.
Rule Review Date: 9/29/10; 9/29/15.
Effective Date History: 1/1/03.

145-2-01 Service credit definitions

- (A) The term “three years of contributing service or membership” as used in section 145.20, 145.28, as effective prior to May 4, 1992, or 145.30 of the Revised Code, as effective prior to August 1, 1959, means thirty-six months of contributing service to the public employees retirement system.
- (B) For service purchased or restored in the traditional pension plan under section 145.28, 145.295, 145.2911, 145.2913, 145.31, and 145.311 of the Revised Code, “eighteen months of contributing service credit in the system,” means eighteen months of contributing service credit under the traditional pension plan.
- (C) For purposes of division (H)(1) of section 145.01 of the Revised Code, “contributing service in this system” means contributing service credit under the traditional pension plan.
- (D) For purposes of division (T) of section 145.01 of the Revised Code, “contributing service” includes service credit that is purchased in the traditional pension plan under articles VI, X, or XI of the combined plan document and article VI of the member-directed plan document.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01, 145.20, 145.28, 145.295, 145.2911, 145.2913, 145.30, 145.31, 145.311.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 6/19/47; 12/4/89; 10/3/92; 1/1/03; 1/1/09; 1/1/11.

145-2-02 Prior service credit claimed after retirement

A retirant shall be permitted to reopen the retirant's case for the purpose of receiving additional prior service credit, as defined in section 145.01 of the Revised Code, not claimed at the time of retirement. The increased allowance on such additional service credit shall become payable the month after evidence is submitted to and accepted by the public employees retirement board.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 7/14/55; 12/4/89; 1/1/03;
1/1/07.

145-2-04 Purchase of credit pursuant to section 145.293 of the Revised Code

- (A) For the purpose of section 145.293 of the Revised Code:
- (1) “Comparable position” means a comparable public position that if it had been performed for an Ohio public employer would have been covered by an Ohio state retirement system;
 - (2) “First year of Ohio service” means first twelve successive months of full-time contributing service in the public employees retirement system subsequent to the termination date of the service to be purchased.
- (B)
- (1) The retirement system shall prepare a statement of the cost, including interest, for the service to be purchased based on the request of a member who shall provide a certification of the service on a form provided by the retirement system.
 - (2) Interest at a rate set by the public employees retirement board shall be charged from the first day of membership in the retirement system subsequent to the termination date of the service to be purchased through the last day of the month in which payment is made.
- (C) Service credit under section 145.293 of the Revised Code may be purchased if such credit cannot be purchased in another Ohio state retirement system and will not exceed the limitations of section 145.293 of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.293.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 5/21/75; 1/1/78; 8/6/90;
1/1/03; 1/1/07.

145-2-05 Free credit for military service

- (A) This rule amplifies section 145.30 of the Revised Code.
- (B) Definitions
 - (1) “Maintained membership” means any of the following:
 - (a) The member’s contributions remained with the public employees retirement system during the military service;
 - (b) The member’s accumulated contributions before the member’s military service were refunded pursuant to section 145.40 of the Revised Code and redeposited pursuant to section 145.31 of the Revised Code;
 - (c) The member was exempt from membership or not a contributor to the retirement system before the member’s military service, but Chapter 145. of the Revised Code authorizes a retroactive payment to establish membership before the member’s military service.
 - (2) “Military service” means active duty in the branches of the armed forces as defined in section 145.30 of the Revised Code.
 - (3) “Total service credit as defined in section 145.01 of the Revised Code of twenty years” means twenty years of Ohio credit exclusive of military or uniformed service.
 - (4) “Was a member” means membership before the member’s military service was established in the same manner as defined in paragraph (B)(1) of this rule.
 - (5) “Was or is out of active service as a public employee by reason of having become a member of the armed forces” means:
 - (a) On or before November 13, 1965, the member established membership in the retirement system with one deduction and no more than three months had elapsed between the termination of the member’s contributing service and the date the member entered military service.
 - (b) After November 13, 1965, the member established one year of service credit in the retirement system and no more than three months have elapsed between the termination of the member’s contributing service and the date the member entered military service.

145-2-05 (continued)

- (c) For military service that begins before November 13, 1965, and terminates after such date, free military service credit shall be granted if the member meets the eligibility requirements pursuant to section 145.30 of the Revised Code in effect during each period of military service before and after November 13, 1965, and not more than three months had elapsed between the termination of the member's contributing service and the date the member entered military service.
- (C) (1) The service credit to which a member is entitled shall be calculated from the date the member entered military service through the date the military service terminated.
- (2) The member shall submit report(s) of separation (form DD214) or other satisfactory documentation as evidence of military service and discharge to the retirement system.
- (D) Military service shall be the equivalent of prior service credit only if the member made the one-half additional payment as required by section 145.31 of the Revised Code to the employers' accumulation fund, as defined in section 145.23 of the Revised Code, during the period between November 30, 1953, and August 20, 1976.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.30.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 7/13/72; 1/2/90; 11/2.96;
3/27/99; 11/2/00; 1/1/03; 1/1/07.

145-2-06 Purchase of military service credit

- (A) This rule amplifies sections 145.301 and 145.302 of the Revised Code.
- (B) The member shall submit report(s) of separation (form DD214) or other satisfactory documentation to the public employees retirement system as evidence of the member's military service and discharge.
- (C) If a member has been in military service more than once as evidenced by more than one report of separation or service and wishes to purchase credit under section 145.302 of the Revised Code for more than one period of military service, interest as set in rule 145-1-35 of the Administrative Code shall be charged from the date the member last terminated military service.
- (D)
 - (1) For military service purchased under section 145.301 of the Revised Code, the retirement system shall calculate the cost by using the member's earnable salary for the twelve months of contributing service under Chapter 145., 3307., or 3309. of the Revised Code immediately preceding the month in which the application to purchase is received by the system.
 - (2) Annually the public employees retirement board shall set the percentage rate for the cost of service allowed under section 145.301 of the Revised Code, based upon its actuary's recommendation.
- (E) Where applicable, the member's public employer shall certify information including, but not limited to, the earnable salary the member would have earned during the member's military service on a form provided by the retirement system.
- (F) The employer contributions due pursuant to section 145.302 of the Revised Code shall be billed to the employer for payment after the member has paid all or part of the employee contributions due. If the employer fails to make the payments required, any employer amounts not paid shall be certified for collection and subject to the same penalty and interest described in section 145.51 of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.301, 145.302.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 8/15/73; 1/1/78; 1/2/90;
8/6/90; 11/2/96; 5/4/00; 1/1/03; 1/1/07.

145-2-07 Additional service credit under section 145.201 of the Revised Code

- (A) This rule amplifies the provisions of section 145.201 of the Revised Code.
- (B)
 - (1) “Full-time service” does not include service computed as part-time pursuant to division (T) of section 145.01 of the Revised Code.
 - (2) The public employees retirement system shall prepare a statement of cost for the additional service credit to be purchased based on the request of an eligible member.
 - (3) The statement of cost shall be based on thirty-five per cent of all eligible full-time service.
 - (4) The retirement system shall issue a statement of cost that shall include full calendar years of eligible service; however, payment for the service credit may be made in full or partial year increments, provided the system has issued a full calendar year statement of cost for the service credit being purchased or a partial calendar year statement of cost as provided in this rule. A statement of cost may include a partial calendar year if the partial calendar year is:
 - (a) The only eligible service;
 - (b) The first year of a term of eligible service; or
 - (c) The last year of a term of eligible service.
- (C) A member who purchased service under section 145.201 of the Revised Code may elect, on a form provided by the retirement system, to receive all or a portion of the amount paid under that section if, in calculating the member’s age and service retirement allowance, either of the following apply:
 - (1) In the case of a member of the Traditional Pension Plan whose retirement allowance is calculated under division (A)(5) of section 145.33 of the Revised Code, the member’s total annual single lifetime allowance exceeds the lesser of one hundred per cent of the member’s final average salary or the limit established by section 415 of the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S. C.A. 415, as amended.
 - (2) In the case of a participant in the combined plan, the participant’s single total annual single lifetime allowance exceeds the lesser of the limits described in section 9.03(a) of the combined plan document.
- (D) The retirement system shall refund to a member eligible under paragraph (C) of this rule all or a portion of the amount paid to purchase service only in increments of thirty-five

145-2-07 (continued)

per cent of a full calendar year of service or such partial years of service as described in paragraph (B)(4) of this rule. The retirement system shall refund the amounts paid to purchase service credit in the reverse order of the member's purchase, with the most recent service purchased being the first amount refunded.

- (E) The amount refunded to the member shall not exceed the actual amount paid by the member for the service credit to be refunded. No interest shall be paid on the amount refunded. If applicable, the retirement system shall withhold taxes on amounts paid to a member that have not yet been taxed.
- (F) The amount refunded to the member shall not be paid prior to the issuance of the member's finalized retirement benefit, as defined in rule 145-1-65 of the Administrative Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.201.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 4/7/88; 9/6/88; 1/1/03;
1/1/07; 12/30/07; 1/1/09.

145-2-08 **Purchase of school board member service**

- (A) This rule amplifies section 145.299 of the Revised Code.
- (B)
 - (1) The member shall submit a written request that shall include a certification of the service on a form provided by the public employees retirement system.
 - (2) A member shall purchase credit for such service only by a lump-sum payment as defined in rule 145-1-35 of the Administrative Code.
 - (3) A member may purchase credit only for such qualified service that occurred prior to June 30, 1991.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.299.
Rule Amplifies: 145.299.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 9/30/91; 1/1/03; 1/1/07.

145-2-09 Purchase of exempted service credit

- (A) (1) For service which would have been covered by Chapter 145. of the Revised Code, but was exempted, a member shall make a request to purchase credit for this service on a form provided by the public employees retirement system.
- (2) The employer for which the service was performed shall complete the certification of such service on the form and attach to the form a copy of each approved written exemption from membership on file with the employer for such member.
- (3) After receipt of the completed form, the retirement system shall determine the amount of service credit that would have been earned had the service not been exempted.
- (B) For service which would have been covered by Chapter 3307. or 3309. of the Revised Code, but was exempted and must be purchased in this system, this retirement system shall request certification from the other retirement system that such service was exempted and the amount of the credit for such service, which shall be determined from a certification of the employer for which the service was performed.
- (C) The service credit purchased pursuant to section 145.28 of the Revised Code and this rule shall be adjusted to the extent:
 - (1) The service is concurrent with any other service that will be used in calculating a benefit;
 - (2) The purchase of the service credit results in more than twelve months of credit in a year.
- (D) (1) This retirement system shall calculate the cost to purchase exempted service credit by using the member's earnable salary for the twelve months of contributing service under Chapter 145., 3307., or 3309. of the Revised Code immediately preceding the month in which the application to purchase is received by this system.
- (2) Annually, the public employees retirement board shall set the percentage rate for the cost of such service credit in the traditional pension plan, based upon its actuary's recommendation, and the interest rate to be charged if the service credit is purchased in more than one payment.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.28.
Rule Amplifies: 145.28.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 5/21/92 (Emer.); 8/1/92;
1/1/03; 1/1/07.

145-2-11 Police and fire or highway patrol service

- (A) This rule amplifies sections 145.295 and 145.2913 of the Revised Code.
- (B)
 - (1) Any payments made by a member to purchase credit pursuant to section 145.295 of the Revised Code shall not be refunded to a member except as authorized under section 145.40 or division (D) of section 145.295 of the Revised Code.
 - (2) Any payments made by a member to purchase credit pursuant to section 145.2913 of the Revised Code shall not be refunded to a member except as authorized under section 145.40 of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.295.
Rule Amplifies: 145.295, 145.2913.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date: 4/5/93; 12/9/95; 9/27/98; 3/22/02;
1/1/03; 1/1/07.

145-2-13 Purchase of leave of absence

- (A) This rule amplifies section 145.291 of the Revised Code.
- (B) A member can purchase service credit for a leave of absence period that occurred during a period of contributing service for which the member received a refund of contributions pursuant to section 145.40 of the Revised Code, only if the member has made a redeposit of the refund pursuant to section 145.31 of the Revised Code.
- (C) The service credit purchased pursuant to section 145.291 of the Revised Code shall be adjusted to the extent:
 - (1) The service is concurrent with any other service that will be used in calculating a benefit;
 - (2) The purchase of the service credit results in more than twelve months of credit in a year.
- (D)
 - (1) The member's employer at the time the member was off the payroll shall certify the member's earnable salary for the period, and the member's authorized leave or resignation.
 - (2) A member purchasing service credit for a period of time when the member was off the payroll due to resignation because of pregnancy shall submit a certified copy of the child's birth certificate or, because of adoption of a child, shall submit evidence of such adoption.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.291.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 3/27/99; 11/2/00; 1/1/03;
1/1/07.

145-2-15 Cincinnati retirement system

- (A) This rule amplifies sections 145.2910, 145.2911, and 145.2912 of the Revised Code.
- (B) “Eligible service credit” means service earned under this system or the Cincinnati retirement system or military service credit purchased or obtained in this system or the Cincinnati retirement system.
- (C)
 - (1) A member of this system, who is eligible to obtain eligible service credit in this system for service credit with the Cincinnati retirement system, shall make a request to obtain credit for such service on a form provided by this system.
 - (2) Except as otherwise provided in this rule, a member shall make payments required under division (C)(1) of section 145.2911 of the Revised Code pursuant to rule 145-1-35 or 145-1-38 of the Administrative Code. A member may use an eligible rollover distribution for such payments as allowed by rule 145-1-37 of the Administrative Code.
 - (3) Service credit for a member who obtains credit pursuant to section 145.2911 of the Revised Code and this rule shall accrue in the same amount as described in division (T)(1) of section 145.01 of the Revised Code upon payment of the following amounts:
 - (a) Any required amounts due from the member under section 145.2911 of the Revised Code and this rule; and,
 - (b) The required amounts due from the Cincinnati retirement system under division (C)(2) of section 145.2911 of the Revised Code.
 - (4)
 - (a) If the Cincinnati retirement system fails to transfer those amounts required under division (C)(2) of section 145.2911 of the Revised Code, this system shall notify the member, and shall not grant the service credit.
 - (b) The member may choose to receive a return of any payments made by the member to this system, or have such payments accrue in an additional annuity pursuant to section 145.62 of the Revised Code.
- (D)
 - (1) This system shall transfer those amounts required under section 145.2912 of the Revised Code for a member or former member of this system, who is eligible to obtain eligible service credit in the Cincinnati retirement system for service credit with this system pursuant to section 145.2912 of the Revised Code, after:
 - (a) Receiving notification from the Cincinnati retirement system that the member has requested such transfer;

145-2-15 (continued)

- (b) The member has paid any required amounts to this system; and,
 - (c) This system has notified the member.
- (2) If a member's request for a transfer under division (B) of section 145.2912 of the Revised Code is for less than the member's total eligible service credit with this system, any benefits or payments to which the member or the member's beneficiary or beneficiaries may be entitled shall be based on the remaining service credit with this system.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.2910, 145.2911, 145.2912.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 11/30/01 (Emer.); 2/14/02;
1/1/03; 1/1/07; 4/6/07 (Emer.); 7/1/07.

145-2-16 Conversion of service credit to law enforcement service credit

- (A) For purposes of this rule and section 145.2914 of the Revised Code:
- (1) "Law enforcement service credit" means service earned as a PERS law enforcement officer, as defined in section 145.01 of the Revised Code.
 - (2) "Public safety service credit" means service credit earned as a PERS public safety officer, as defined in section 145.01 of the Revised Code.
 - (3) "Regular service credit" means service credit earned as a contributor under section 145.47 of the Revised Code including service purchased under section 145.31, 145.312, 145.814, or for which contributions should have been deducted as described in section 145.483 of the Revised Code. "Regular service credit" does not include any other type of service credit that may be purchased or transferred under Chapter 145. of the Revised Code.
 - (4) "Notice of the additional liability" is the cost statement provided to the member that specifies the number of years, or portions of a year, the member has agreed to convert.
- (B) A member who has contributed to the retirement system as a PERS public safety officer or PERS law enforcement officer may convert up to five total years of regular service credit or public safety service credit, or a combination of both, if the member meets the requirements described in section 145.2914 of the Revised Code and this rule. If the member is eligible to retire as a PERS law enforcement officer or will be eligible to retire as a PERS law enforcement officer as a result of the conversion, the member may convert regular service credit, public safety service credit, or both to law enforcement service credit. If the member is eligible to retire as a PERS public safety officer or will be eligible to retire as a PERS public safety officer as a result of the conversion, the member may convert regular service credit to public safety service credit.
- (C) The cost to convert service credit shall be an amount specified by the public employees retirement board that is not less than one hundred per cent of the additional liability resulting from the conversion of a year, or portion of a year, of service as recommended by the actuary for the board. The actuary shall recommend to the board a cost calculation to convert each of the types of service credit described in this rule. The cost calculation shall be based on the final average salary that will be used in calculating the member's monthly benefit as determined at the time the cost statement is prepared. The actuary may recommend modifications to the cost calculations if the actuary determines it is necessary to mitigate any negative financial impact on the retirement system.
- (D) (1) The retirement system shall not accept any other payments for the purchase or transfer of service credit after the issuance of the cost statement for conversion of service credit, except for payments made pursuant to an irrevocable, pre-tax payroll deduction agreement.

145-2-16 (continued)

- (2) If a member converts only a portion of the service credit that is eligible for conversion or the member has more than five years of service credit that is eligible for conversion, the service credit that is converted shall be the most recent eligible service credit that is not concurrent with any public safety or law enforcement service credit.
 - (3) Service credit converted under this rule shall be considered in determining the member's final average salary.
- (E) Not later than ninety days after receiving notice of the additional liability, the member shall agree to retire by submitting to the retirement system an executed cost statement and the first partial or total payment for the service credit conversion. The member may make direct payment to the retirement system for the cost of the conversion or cause a financial institution to transmit the amount directly to the retirement system.
- (F) The member's effective date of retirement shall be no earlier than the first day of the month following receipt by the retirement system of the first partial payment or total payment, if paid in full in one payment. The member's effective date of retirement shall be no later than the first day of the month following the ninetieth day after receipt by the retirement system of the first partial payment or total payment, if paid in full by one payment. If the member fails to retire before the ninetieth day after the first partial payment or total payment is received, the retirement system shall return the amount paid by the member to the member. If the payment was transmitted to the retirement system by a financial institution, the amount received by the retirement system shall be deposited in accordance with section 145.62 of the Revised Code or returned to the financial institution.
- (G) Notwithstanding rule 145-1-71 of the Administrative Code, a member who converts service credit and retires as provided in this rule may not withdraw his or her retirement application.
- (H) No amount paid under this rule to convert service credit shall be used in calculating the additional payment described in section 145.401 of the Revised Code.

Promulgated Under: 111.15
Statutory Authority: 145.09.
Rule Amplifies: 145.2914, 145.33, 145.401
Rule Review Date: 9/29/11.
Effective Date History: 8/3/09 (Emer.); 10/19/09.

145-2-17 **Purchase of firefighter service**

A firefighter employed before May 1, 1991, who is or becomes a member of the public employees retirement system on May 1, 1991, may purchase firefighter service before May 1, 1991 for any year of non-contributing service as a firefighter not covered by an approved exemption. The cost of such service shall equal the amount of employee contributions at the contribution rate at the date of payment plus interest through the last day of the month in which payment is made pursuant to section 145.29 of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01, 145.012, 145.03.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 1/21/76; 10/30/78; 5/1/91;
8/1/92; 1/1/03; 1/1/07.

145-2-18 Service credit in the traditional pension plan for participation in combined plan or member-directed plan

- (A) This rule amplifies section 145.814 of the Revised Code and section 6.01 of the combined plan document and member-directed plan document.
- (B) For each member participating in the traditional pension plan who elects under division (C)(2) of section 145.814 of the Revised Code, the public employees retirement system shall prepare a statement of cost for service credit to be purchased in the traditional pension plan based on participation in the combined plan or member-directed plan, as appropriate, at the request of an eligible member. An actuary employed by the public employees retirement board shall determine the additional liability, as defined in section 145.814 of the Revised Code, if any.
- (C) An eligible member shall purchase the service credit only by a lump-sum payment of the amount on deposit, as defined in rule 145-1-35 of the Administrative Code, except that a member described in division (C)(3)(a) of section 145.814 of the Revised Code may pay any additional liability that exceeds the amount on deposit by initiating payroll deduction under rule 145-1-38 of the Administrative Code or by direct partial payment not later than one hundred eighty days after the effective date of an election to participate in the traditional pension plan under section 2.03 of the combined plan document. Service credit purchased under this rule shall be included in the member's total service credit in the traditional pension plan but shall not be used in the calculation of a benefit under division (B)(2) of section 145.33 of the Revised Code. If the member elects to receive pro-rated service credit, for purposes of paragraph (D) of rule 145-2-01 of the Administrative Code, the period of service upon which contributing service is based shall be the member's earliest service credit available to purchase under this rule.
- (D) Any funds remaining in an eligible member's accounts, as defined in section 1.01 of the combined plan document and member-directed plan document, after the purchase of service credit under this rule, shall be deposited in an additional annuity account in accordance with rule 145-2-43 of the Administrative Code, except that an eligible member may elect, at the time of the service purchase, to leave those funds on deposit in the member's prior plan; any funds remaining shall be credited to the member's rollover account, as defined in section 1.35 of the combined plan document or section 1.31 of the member-directed plan document, and treated as a rollover.
- (E)
 - (1) Service credit purchased under this rule cancels the corresponding years of service credit in the combined plan or years of participation in the member-directed plan, as applicable.
 - (2) Service credit that is not purchased under this rule shall be cancelled immediately upon the expiration of the one hundred eighty day period following the effective date of an election to participate in the traditional pension plan under section 2.03 of the combined or member-directed plan document.

- (F) For each member described in paragraph (B) of this rule who transferred the member's accumulated contributions under section 145.191 of the Revised Code, the statement of cost shall include the cost to restore in the traditional pension plan the accumulated contributions and service credit cancelled under that section. The cost shall consist of the amount transferred, with interest on such amount, compounded annually at a rate to be determined by the public employees retirement board from the first day of the month of transfer to and including the month of redeposit. The amount redeposited shall be considered the accumulated contributions of the member and shall be credited in the same manner as a redeposit under section 145.31 of the Revised Code.
- (G) For each member described in paragraph (B) of this rule who purchased service credit under rule 145-3-21 of the Administrative Code, the statement of cost shall include, if applicable, the difference between the amount paid in the combined plan to purchase the service credit and the cost to purchase the service credit in the traditional pension plan. Pursuant to section 6.01 of the combined plan document, if the amount paid in the combined plan to purchase the service credit was less than the cost to purchase the service credit in the traditional pension plan, the member may elect to receive a pro-rated amount of service credit in the traditional pension plan or may make an additional payment equal to the difference in order to receive the full amount of service credit.
- (H) For purposes of service purchased in the combined plan under section 145.28, 145.299, 145.301, or 145.44 of the Revised Code, the twelve months of earnable salary used in calculating the cost of the service credit in the traditional pension plan shall be the same twelve months of earnable salary used in determining the cost of the service in the combined plan.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.28, 145.299, 145.301, 145.44, 145.81, 145.814.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 1/1/03; 11/15/03; 1/1/09; 1/1/10; 1/1/11.

145-2-21 Application for a disability benefit

- (A) For the purpose of sections 145.35, 145.36, 145.361, and 145.37 of the Revised Code and PERS rules:
- (1) “Disability” means presumed permanent mental or physical incapacity for the performance of a member’s present duty or similar service that is the result of a disabling condition that has occurred or has increased since an individual became a member.
 - (2) “Has not attained age sixty” means a member has filed an application for a disability retirement with the public employees retirement system and not become sixty years old before the last day public service terminated.
 - (3) “On-duty illness or injury” means an illness or injury that: (a) occurred during or resulted from performance of duties under the direct supervision of a member’s appointing authority, and (b) is not an exacerbation of an existing illness or injury medically diagnosed before the first day of employment with the employer reporting to the retirement system.
 - (4) “Original disability plan” means the plan that provides a benefit pursuant to section 145.36 of the Revised Code.
 - (5) “Revised disability plan” means the plan that provides a benefit pursuant to section 145.361 of the Revised Code.
 - (6) “Examining physician” means a physician appointed by the PERS board.
- (B) A member shall make application for a disability benefit on a form provided by the retirement system.
- (1) Consideration of a member’s application shall be limited to the disabling condition(s) listed in the application or disclosed by the examination of the physician(s) selected by the retirement system.
 - (2) Upon receipt of a completed application, report of employer, report of attending physician(s), report of examining physician(s) and, if available, reports of employment physical examinations, the retirement system’s medical consultant(s) shall review all such documentation and prepare a recommendation to the public employees retirement board.
 - (a) Payment of any fees for the preparation of the report of the attending physician(s) shall be the responsibility of the member.
 - (b) Payment of any fees for the preparation of the report of the examining physician(s) shall be the responsibility of the retirement system.

- (C) The board at its regular meetings shall review disability applications and the written recommendations of its medical examiners and medical consultant. The determination by the board on any application is final.
 - (1) The retirement board may approve a member's application contingent on the following conditions.
 - (a) The medical consultant determines that:
 - (i) The member has a disability as defined in section 145.35 of the Revised Code and this rule; and
 - (ii) Additional medical treatment offers an expectation of improvement of the disabling condition to the extent a member may return to the member's previous or similar job duties.
 - (b) Such additional medical treatment shall be of common medical acceptance and readily available, and may include, but is not limited to, medicine, alcohol or drug rehabilitation, or mechanical devices but would exclude surgery or other invasive procedures.
 - (c) Such additional medical treatment is an allowable medical expense under the retirement system's health care plan.
 - (d) The member, prior to receipt of disability benefits, shall agree in writing on a form provided by the retirement board to obtain the recommended treatment and submit required medical reports during the treatment period.
 - (2)
 - (a) After receipt of the member's signed agreement, the retirement system shall begin payment of benefits due pursuant to section 145.35, and 145.36 or 145.361 of the Revised Code. The period for recommended treatment shall begin the month following receipt of the member's signed agreement.
 - (b) If the member fails to submit a required medical report or does not continue treatment the member's disability benefit shall be suspended until such report is received by the retirement system, the member resumes treatment or the physician providing the treatment certifies, and the medical consultant concurs, that treatment is no longer helpful or advisable. If such failure continues for one year, the disability benefit shall be terminated.

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- (D) The retirement board may require a member to submit to a subsequent medical examination by a physician selected by the retirement board provided the medical consultant recommends such examination in order to evaluate continued eligibility for disability benefits.
- (E) After the retirement board has acted on a member's application it shall notify, by regular mail, the member and the member's last employer reporting to the retirement system of its action.
- (F) A member may withdraw an application for a disability benefit prior to receipt of the initial benefit payment in the same method as described in rule 145-1-65 of the Administrative Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.35, 145.36, 145.361, 145.37.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 6/30/61; 2/1/93; 10/4/93;
9/27/98; 1/5/01; 1/1/03; 12/24/04; 1/1/07.

145-2-23 Disability appeals

- (A) This rule applies when the public employees retirement board either denies an application for a disability benefit filed pursuant to section 145.35 of the Revised Code or terminates a disability benefit pursuant to section 145.362 of the Revised Code.

- (B)
 - (1) After the retirement board has either denied an application for, or terminated, a disability benefit, the member shall be notified in writing of such action.

 - (2) The notice shall be sent by regular mail.

 - (3) The notice shall include the following information:
 - (a) The retirement board's denial or termination of the disability benefit.

 - (b) The member's right to file a written notice of intent to provide additional objective medical evidence. Such notice of intent must be received by the retirement board no later than thirty days from the date of the notice of denial or termination.

 - (c) Failure of a member to submit a notice of intent to provide additional medical evidence shall make the retirement board's action final as to such application or benefit.

 - (d) Such additional evidence shall be current medical evidence documented by a licensed physician specially trained in the field of medicine covering the illness or injury for which the disability is claimed and such evidence has not been considered previously by the retirement board. Such additional medical evidence shall be presented in writing by the member and shall constitute an appeal of the denial or termination.

 - (e) Failure to provide the additional medical evidence within forty-five days of the member's notice of intent to provide such evidence shall make the retirement board's action final to such application or benefit unless an extension for submission of such evidence has been requested and granted within the forty-five days. Only one extension, not to exceed forty-five days, may be granted by the retirement board's staff.

 - (f) All medical costs of physicians selected by the member and incident to the appeal shall be at the expense of the member.

- (C)
 - (1) After submission of any additional medical evidence as described in paragraph (B)(3)(d) of this rule, all evidence shall be reviewed by the retirement board's medical consultant(s) who shall recommend action for concurrence by the board.

145-2-23 (continued)

- (2) If the board concurs with a recommendation for approval of the appeal, disability benefits shall be paid from the date that was established when the original application for a disability benefit was filed. If a recommendation for termination of a disability benefit was appealed and the appeal is approved by the board, the payments shall be resumed from the date of termination. The member shall be notified by regular mail of the board's decision.
- (3) If the board concurs with a recommendation for denial of the appeal, the member shall be notified by regular mail of the board's decision and such decision shall be final.
- (4) Any subsequent applications for a disability benefit filed after a denial of an appeal shall be submitted with medical evidence supporting progression of the disabling condition or evidence of a new disabling condition. If two years have elapsed since the date the member's contributing service terminated, no subsequent application shall be accepted.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.35, 145.36, 145.361, 145.362, 145.37.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 9/18/63; 2/1/93; 10/7/99; 1/1/03.

145-2-25 Combined disability benefits

- (A) This rule amplifies section 145.37 of the Revised Code.
- (B) As used in this rule, “last date of service” means the last day of compensated service, either for a day worked or used paid leave, under the public employees retirement system, state teachers retirement system, or school employees retirement system.
- (C) If a member of the public employees retirement system files an application for a disability benefit pursuant to section 145.35 of the Revised Code, and also chooses to apply for a combined disability benefit with the state teachers retirement system or school employees retirement system, the following shall apply.
 - (1) If this system receives the application for combined disability, it shall notify the other retirement system(s).
 - (2) This system shall request and pay for the examining physician(s) report(s) if:
 - (a) The member’s last date of service was covered by this system or;
 - (b) The member’s last date of service was concurrent under two more systems and this system would be responsible for paying the member’s benefit under section 145.37 of the Revised Code.
 - (3) If this system is paying for the examining physician(s) report(s), disability for performance of duty shall be determined on the basis of the duties for the most recent service covered by this system.
 - (4) If this system is requesting the examining physician(s) report(s), it shall determine the projected service credit, if any, to be used in a benefit calculated under the original disability plan. Such credit shall be paid for by this system only if the member’s service credit is greater in this system excluding any projected service credit.
 - (5) If this system paid for the original examining physician(s) report(s), it shall provide and pay for any examining physician(s) report(s) required subsequent to a disability benefit recipient’s effective benefit date, and notify the other retirement system(s) of the results of such report(s).
- (D) If this system is the paying system of a combined disability benefit, this system’s rules and statutes shall govern the disability benefits.

145-2-25 (continued)

- (E) For purposes of division (B)(2) of section 145.37 of the Revised Code, “employment amenable to coverage in any state retirement system” means employment that would impact a retirement or disability benefit under any state retirement system that participated in the former member’s combined retirement or disability benefit.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.35, 145.37.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 6/30/61; 2/1/93; 1/1/03;
1/1/07; 1/1/11.

145-2-27 Disability benefit recipient's annual statement

- (A) On or before April fifteenth of each year, a disability benefit recipient shall file a notarized statement with the public employees retirement system providing information including, but not limited to: work performed during the preceding calendar year, compensation received for work performed, and current medical information.
- (B) The recipient's statement shall be made on a form provided by the retirement system.
- (C) The failure of a recipient to file such statement shall result in the suspension of a disability benefit until such statement is filed. If such failure continues for one year, the disability benefit shall be terminated.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.362.
Rule Amplifies: 145.35, 145.36, 145.361, 145.362,
145.37.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 6/4/82; 2/1/93; 9/27/98;
1/1/03; 1/1/07.

145-2-31 **Proof of dependency**

Where dependency as defined in division (A) of section 145.43 of the Revised Code is required for eligibility of benefits pursuant to section 145.43 or 145.45 of the Revised Code, a beneficiary shall file a copy of the deceased member's federal income tax return for the year preceding the member's death, or other satisfactory evidence of dependency to the public employees retirement board.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.43, 145.45.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 8/18/65; 9/27/98; 1/1/03.

145-2-33 **Educational benefits**

- (A) For the purpose of this rule and division (B)(2) of section 145.45 of the Revised Code:
- (1) “Qualified student” means a qualified child as defined in division (B)(2)(b)(i) of section 145.45 of the Revised Code;
 - (2) “School year” means the twelve-month period commencing on the first date of instruction at the institution of learning or training program and ending on that date twelve months later;
 - (3) “Two-thirds of the full-time curriculum” means that in any one school year, the number of semester or credit hours required to maintain two-thirds of the full-time status for the entire school year with one semester or quarterly break.
- (B) (1) Benefits payable to a qualified student shall be paid to the qualified student for the month in which eligibility is attained or terminated, providing the child is over eighteen years of age and under age twenty-two and a student in a school pursuing a program designed to complete at least two-thirds of the full-time curriculum in each school year.
- (2) If a qualified spouse is eligible for a monthly benefit as provided in division (B)(2)(a) of section 145.45 of the Revised Code solely due to the qualified spouse’s care of a qualified student, the qualified spouse’s benefits shall be suspended or terminated for any period that the qualified student is not eligible for a monthly benefit.
- (C) Benefits to a qualified student shall be paid during a school vacation period that does not exceed four calendar months provided the child
- (1) Was qualified to receive benefits before the vacation period began;
 - (2) Intends to, and subsequently does, return to qualified attendance after the end of the vacation period, unless the child has otherwise met the two-thirds of the full-time curriculum requirement for the school year and,
 - (3) Does not receive such benefits for more than one vacation period during any one school year.
- (D) Not later than the last day of the month next following the public employees retirement system’s request, a qualified student shall provide proof of registration and completion of all courses for which monthly benefits are paid.

145-2-33 (continued)

- (E) Any overpayment of benefits may be recovered by withholding the amount of the overpayment from any benefits due to the beneficiary(ies) who accrued the overpayment. If no benefits are due to the beneficiary(ies) who accrued an overpayment, the amount may be collected pursuant to section 145.563 of the Revised Code.

- (F) At no time shall a child be eligible for a monthly benefit as a qualified student for the period following completion of the course of study or graduation from the institution of learning or training program, unless the qualified student continues in the qualified attendance of an institution of learning or training program while under the age of twenty-two.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.45, 145.563.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 8/27/70; 9/27/98; 1/1/03;
7/1/04; 1/1/09.

145-2-35 Validity of marriage

In the absence of a valid marriage certificate, the public employees retirement board will accept only a decision rendered by a court, having jurisdiction in the state in which the member was domiciled at the time of death, that the relationship constituted a valid marriage at time of death, or the “spouse” would have the same status as a widow or widower for purposes of sharing in the distribution of the member’s or retirant’s intestate personal property.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.43, 145.65.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 5/4/00; 1/1/03; 1/1/07;
4/6/07 (Emer.); 7/1/07.

145-2-37 Deferral of survivor benefits

- (A) This rule applies to the payment of a benefit to a surviving spouse who has not attained age sixty-five and who elects, pursuant to division (A) of section 145.45 of the Revised Code, to defer receipt of such benefit.
- (B)
 - (1) The benefit shall be calculated as if payable on the first day of the month following the death of the member.
 - (2) Notwithstanding paragraph (B)(1) of this rule, the monthly benefit will accumulate and be paid in a single sum no earlier than the first of the month following the surviving spouse's attainment of age sixty-five.
 - (3) Interest shall accumulate during the time of deferral at the interest rate described in division (B) of section 145.473 of the Revised Code.
- (C) The amount calculated under this rule shall not be reduced due to a later recalculation as provided in section 3 of Amended Substitute House Bill 268 of the 111th General Assembly.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.45, 145.473.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 8/20/76; 8/31/92; 11/2/00;
1/1/03; 1/1/07.

145-2-38 **Survivors of law enforcement officers killed in the line of duty**

- (A) As used in this rule:
- (1) “Law enforcement officer” has the same meaning as in rule 145-2-39 of the Administrative Code.
 - (2) “Killed in the line of duty” has the same meaning as in section 145.45 of the Revised Code.
- (B) For purposes of determining the eligibility of a qualified spouse under division (B)(2)(a)(i) of section 145.45 of the Revised Code, the employer of the law enforcement officer at the time of the officer’s death shall certify, on a form provided by the public employees retirement system, that the law enforcement officer was killed in the line of duty.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.45.
Rule Review Date: 9/29/11.
Effective Date History: 4/6/07 (Emer.); 7/1/07.

145-2-39 **Survivors of law enforcement officers with non law enforcement service**

(A) Definitions

- (1) “Law enforcement officer” means a member defined in divisions (AA) to (VV) of section 145.01 of the Revised Code and described in division (WW) of section 145.01 of the Revised Code.
- (2) “Law enforcement service” means service as a law enforcement officer.
- (3) “Non law enforcement service” means service covered by the public employees retirement system that is other than law enforcement service.

(B) If a member who has both law enforcement service credit and non law enforcement service credit dies prior to retirement, the member’s qualifying beneficiary or beneficiaries as determined in accordance with section 143.43 or 145.45 of the Revised Code may elect to have benefits paid pursuant to section 145.33, 145.43, or 145.45 of the Revised Code. If the benefit is calculated pursuant to division (E)(1)(c) of section 145.33 of the Revised Code, the beneficiary shall be paid a lump sum payment discounted to present value for the non law enforcement service.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.01, 145.33, 145.43, 145.45.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 8/20/76; 7/31/89; 12/30/91;
12/6/93; 2/3/00; 4/5/01; 1/1/03; 1/1/07; 1/1/10.

145-2-41 Bonus points eligibility

The anniversary of the birth date must have been on or before August 31, 1976, to vest as described in division (A)(5)(b) of section 145.33 of the Revised Code as of September 1, 1976.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.33.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 8/20/76; 1/1/03; 1/1/07.

145-2-42 Retirement incentive plans

(A) For the purpose of this rule:

- (1) “Effective benefit date” means the first day of the month immediately following the later of:
 - (a) The last day for which compensation was paid; or
 - (b) The attainment of minimum age or service credit eligibility provided under Chapter 145. of the Revised Code.
- (2) “Employee” means each contributing member of the public employees retirement system who is an employee described in division (C) of section 145.297 of the Revised Code regardless of the years of service credit in the retirement system;
- (3) “Employing unit” means an employer as defined in division (A) of section 145.297 or division (A) of section 145.298 of the Revised Code, and if any subordinate designation of an employing unit is made then the retirement system shall be notified in accordance with paragraph (B) of this rule; and
- (4) “Retirement incentive plan” means a plan established pursuant to section 145.297 or 145.298 of the Revised Code.

- (B) (1) (a) Upon adoption of a retirement incentive plan, an employing unit shall notify the retirement system of the adoption on a form provided by the public employees retirement board. A copy of the proposed plan shall be attached to the form. In the case of a retirement incentive plan established under section 145.297 of the Revised Code, the employing unit shall notify the retirement system at least sixty days prior to the date the plan goes into effect. In the case of a retirement incentive plan established under section 145.298 of the Revised Code, the employing unit shall notify the retirement system immediately upon adoption of the plan.
- (b) Notwithstanding paragraph (B)(1)(a) of this rule, in the event a subordinate designation of an employing unit is made:
- (i) If by a state entity, notice to the retirement system shall be submitted by the appointing authority and include the signatures of the fiscal officer reporting to the retirement system and head of the subordinate employing unit; or
 - (ii) If by a county board of commissioners, notice to the retirement system shall be submitted by the commissioners and include the signatures of the county auditor and head of the subordinate employing unit; or

145-2-42 (continued)

(iii) If by a municipal corporation legislative authority, notice to the retirement system shall be submitted by the legislative authority and include the signatures of the fiscal officer reporting to the retirement system and head of the subordinate employing unit.

- (2) The plan must be in writing and meet the following minimum requirements:
- (a) Incorporate the approval of the employing unit;
 - (b) Provide for the employing unit's purchase and payment of service credit;
 - (c) For retirement incentive plans adopted under section 145.297 of the Revised Code and received by the retirement system on or after January 1, 2008, provide for a prospective effective date of the plan that shall be at least sixty days after receipt by the retirement system of the notice described in paragraph (B) of this rule;
 - (d) Specify the maximum number of years that can be purchased, not to exceed five years, and in no event to exceed an amount of service credit equal to one-fifth of the total service credited to an eligible employee under Chapter 145. of the Revised Code, exclusive of service credit purchased under the plan;
 - (e) Be in effect for a minimum of one year except as provided in division (D) of section 145.298 of the Revised Code;
 - (f) No more than one plan shall be in effect at one time for an employing unit or subordinate employing unit;
 - (g) Be offered to not less than five per cent of the employing unit or subordinate employing unit's employees who are members of the retirement system as of the date the plan goes into effect;
 - (h) Provide a grievance procedure for timely and impartial resolution of disputes arising under the plan; and
 - (i) Provide thirty days prior notice to employees of the termination of the retirement incentive plan.
- (3) In addition to providing thirty days prior notice to its employees of the termination of a retirement incentive plan, the employing unit shall provide similar written notice to the retirement system at the same time.

145-2-42 (continued)

- (4) Upon the written request of an employing unit or a subordinate employing unit, a retirement incentive plan may be extended beyond the date designated in the original plan. Such request shall be submitted in the same manner as notice of adoption of the original plan is required in this paragraph.
- (C) Requests by an employing unit for the cost of service credit to be purchased for an employee under a retirement incentive plan shall be submitted to the retirement system on a form provided by the retirement board.
- (D)
 - (1) The additional liability resulting from a retirement incentive plan is established under contract as an employer liability by the employee-employer agreement. The cost to the employing unit for each year or fraction of a year of credit to be purchased will be determined by factors recommended by the retirement system's actuary that yield an amount equal to the additional liability for the service credit to be purchased. Factors to establish actuarial cost will be revised no more than once annually and after such revision is approved by the retirement board shall apply to new credit calculations. The cost shall be stated in a statement of cost to the employer that shall be valid when computed for payment not earlier than three months preceding the effective benefit date.
 - (2) Except as otherwise provided in this rule, the employing unit shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan:
 - (a) In one payment, after notice by the retirement system to the employing unit of the cost; or,
 - (b) In equal quarterly or annual installment payments not to exceed the number of full years purchased under the retirement incentive plan.
 - (3) Notwithstanding paragraph (D)(2) of this rule, a state employing unit that has established a mandatory retirement incentive plan pursuant to section 145.298 of the Revised Code as the result of institutional closings shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan:
 - (a) In one payment, after notice by the retirement system to the employing unit of the cost; or,
 - (b) In equal quarterly or annual installment payments with the first payment due not later than sixty days after announced closings.

- (4) Notwithstanding paragraph (D)(2) of this rule, a state employing unit that has established a mandatory retirement incentive plan pursuant to section 145.298 of the Revised Code as the result of lay-offs shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan:
 - (a) In one payment, after notice by the retirement system to the employing unit of the cost; or,
 - (b) In equal quarterly or annual installment payments not to exceed the number of full years purchased under the retirement incentive plan.
- (5) Notwithstanding paragraph (D)(2) of this rule, an employing unit that has established a voluntary retirement incentive plan pursuant to section 145.297 of the Revised Code, and that is terminating operations as a whole or in part shall pay or contract to pay the cost of the service credit to be purchased by the earlier of either the last day of the month preceding the employee's effective benefit date, or the last day of operations:
 - (a) In one payment, after notice by the retirement system to the employing unit of the cost; or,
 - (b) In equal quarterly or annual installment payments with the first payment due not later than sixty days after the announced termination of operations.
- (6) Notwithstanding paragraph (D)(2) of this rule, an employing unit that does not receive revenue from a levy or direct tax settlement shall pay the cost of the service credit purchased in one payment, after notice by the retirement system to the employing unit of the cost, by the earlier of either the last day of the month preceding the employee's effective benefit date, or the termination date of the retirement incentive plan.
- (7) If an employing unit contracts to pay the cost in installment payments, interest shall be charged beginning with the employee's effective benefit date on the remaining installment payments at a rate set by the retirement board.
- (8) Once the initial installment payment is received by the retirement system, all remaining installment payments become due and payable in accordance with the original statement of cost to the employer.
- (9) Any amounts not paid timely by the employing unit shall be certified for collection pursuant to section 145.51 of the Revised Code.

145-2-42 (continued)

- (E) (1) The service credit contracted for purchase under the retirement incentive plan shall be credited to the employee by the retirement system under the terms of the employee-employer agreement and the employee shall retire within ninety days thereafter.
- (2) If an employee dies prior to an effective benefit date, a qualifying beneficiary shall be entitled only to those benefits provided by section 145.43 or 145.45 of the Revised Code exclusive of service credit that may have been available under a retirement incentive plan.
- (F) Except as provided in sections 145.297 and 145.298 of the Revised Code, an employee who retires with service credit purchased pursuant to a retirement incentive plan is subject to the rights, privileges and obligations under sections 145.01 to 145.59 of the Revised Code in effect at the time of retirement.
- (G) (1) “Total service credit” as used in section 145.297 or 145.298 of the Revised Code means all service that is credited pursuant to Chapter 145. of the Revised Code.
- (2) Third-party requests for the total service credit of a member shall be honored only if accompanied by the member’s written authorization that includes the member’s federal identification number.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.297.
Rule Amplifies: 145.297, 145.298.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 12/22/86 (Emer.); 4/3/87;
2/1/88; 10/9/00; 1/1/03; 1/1/07; 1/1/08 (Emer);
1/19/08.

145-2-43 Additional annuity accounts

- (A) A member or contributor who makes a deposit for an additional annuity pursuant to section 145.62 of the Revised Code shall remit the first deposit with a form provided by the public employees retirement system. The retirement system shall not accept a payment for less than fifteen dollars.

- (B) A member or contributor shall make application for an additional annuity payment under section 145.64 of the Revised Code or a one-time lump sum payment under section 145.63 of the Revised Code on a form provided by the public employees retirement system. In the event a member or contributor is deceased, the qualifying beneficiary shall make application. If a member, contributor, or beneficiary fails to file an application for an additional annuity payment prior to receipt of an age and service retirement benefit from the public employees retirement system or, in the case of a contributor under section 145.38 or 145.383 of the Revised Code, a benefit under section 145.384 of the Revised Code, the member or contributor shall be eligible only for a refund under section 145.63 of the Revised Code.

- (C) Except as provided in this paragraph, monthly additional annuity payments shall commence at the time of issuance of an initial benefit payment, as defined in paragraph (A)(5) of rule 145-1-65 of the Administrative Code. In the case of a member or contributor who indicates on a form provided by the retirement system that the member or contributor will be making additional deposits into their additional annuity account, monthly additional annuity payments shall not be issued until one hundred twenty days following the initial benefit payment or, in the case of an additional annuity commenced in connection with a benefit under section 145.384 of the Revised Code, one hundred twenty days from issuance of the first payment under that section.

- (D) Except as provided in paragraph (D) of this rule, interest at a rate of four per cent per annum shall be earned as follows:
 - (1) For deposits received on or before December 31, 2006, interest shall be earned beginning on January 1, 2007, and ending on December 31, 2007.
 - (2) For deposits received during calendar year 2007, interest shall be earned beginning on the last day of the month in which the deposit was made, and ending on December 31, 2007.

Interest earned under this paragraph shall be credited on December 31, 2007.

- (E) In the case of a one-time lump sum payment made under section 145.63 of the Revised Code prior to December 31, 2007, interest at a rate of four per cent per annum shall be earned as follows:
 - (1) For deposits received during calendar year 2006, interest shall be earned beginning on January 1, 2007, and ending on the last day of the month prior to the date of the lump sum payment.

- (2) For deposits received during calendar year 2007, interest shall be earned beginning on the last day of the month in which the deposit was made, and ending on the last day of the month prior to the lump sum payment.
- (F) All amounts on deposit with the retirement system on December 31, 2007, for an additional annuity, including any interest as may have been allowed by the public employees retirement board under former section 145.23 of the Revised Code, section 145.62 of the Revised Code, or this rule, and any deposits made on or after January 1, 2008, shall be invested in the OPERS stable value fund, as described in the statement of investment objectives and policies for the defined contribution fund. The retirement system shall value the amounts described in this paragraph in accordance with the daily values determined for the OPERS stable value fund and acceptable industry practices. The board and the retirement system are not liable for losses or depreciation in the value of the amounts described in this paragraph.
- (G) Pursuant to division (B)(6) of section 145.64 of the Revised Code, a member or contributor who fails to select a plan of payment for the monthly additional annuity shall receive monthly annuity payments under a plan of payment that is consistent with the marital status of the member or contributor.
- (H) On application for a payment under section 145.63 or 145.64 of the Revised Code by a member, contributor, or beneficiary whose deposits were transferred to the income fund as described in section 145.41 of the Revised Code, the retirement system shall credit interest on the deposits as described in paragraph (D)(1) of this rule and shall thereafter invest the deposits as described in paragraph (F) of this rule.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.62.

Rule Amplifies: 145.62, 145.63, 145.64, 145.65.

Rule Review Date: 9/29/11.

Effective Date History: 2/3/92; 10/9/00; 1/1/02 (Emer.); 3/22/02; 1/1/03; 1/1/07; 4/6/07 (Emer.); 7/1/07; 1/1/08 (Emer); 1/19/08; 4/1/08 (Emer.); 6/23/08; 1/1/11.

145-2-44 Selection of payment plan – spousal consent

- (A) A contributor who is married at the time of retirement under section 145.32, 145.33, 145.331, 145.34, 145.37, or 145.46 of the Revised Code, section 9.02 or 9.03 of the combined plan document, or section 9.02 of the member-directed plan document, or at the time benefits are to commence under section 145.384 or 145.64 of the Revised Code, shall receive a retirement benefit under payment plan A unless one of the following apply:
- (1) The spouse consents on a form provided by the public employees retirement system that the spouse is aware that the contributor has selected plan A and a partial lump sum option payment as defined in rule 145-1-65 of the Administrative Code, or a payment plan other than plan A; or
 - (2) The public employees retirement board waives the requirement of spousal consent in accordance with rule 145-1-70 or rule 145-3-11 of the Administrative Code.
 - (3) The contributor is required to elect a plan of payment and designate a former spouse as beneficiary pursuant to a court order issued under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property and the contributor also designates the contributor's current spouse as a beneficiary under that plan.
 - (4) The retirement system is required to commence a benefit described in this paragraph in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations thereunder.
- (B) This paragraph applies to a contributor who elects a plan of payment under which a portion of the contributor's benefit continues, after the death of the contributor, to two, three, or four surviving beneficiaries. A contributor's current spouse must also consent to the election of a plan of payment described in this paragraph if either of the following applies:
- (1) The contributor is not subject 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 that requires the contributor to elect the plan of payment described in this paragraph;

145-2-44 (continued)

- (2) The contributor is ordered to designate a former spouse as beneficiary of a specified portion of the benefit under section 3105.171 or 3105.65 of the Revised Code or the laws of another state regarding the division of marital property, but also designates a beneficiary or beneficiaries other than the contributor's current spouse and former spouse under that plan of payment.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.46.

Rule Amplifies: 145.32, 145.33, 145.331, 145.34, 145.37, 145.384, 145.46, 145.64.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 8/6/90; 2/1/93; 9/27/98; 11/2/00; 1/1/03; 1/1/04 (Emer.); 2/16/04; 10/27/06; 4/6/07 (Emer.); 7/1/07; 4/1/08 (Emer.); 6/23/08.

145-2-45 **Benefit payable pursuant to section 145.331 of the Revised Code**

- (A) Benefits available under section 145.331 of the Revised Code shall be effective as provided in that section.

- (B) A disability benefit recipient who applies for retirement under section 145.331 of the Revised Code shall select a plan of payment and designate a beneficiary pursuant to section 145.46 of the Revised Code. A plan of payment or a beneficiary may be changed only pursuant to section 145.46 of the Revised Code and rule 145-2-47 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.331.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 2/1/93; 10/9/00; 1/1/03;
1/1/07.

145-2-46 Beneficiary's percentage under "plan C"

Unless a court order specifically requires a member to allocate to the member's former spouse less than ten per cent of the member's monthly retirement allowance, the portion of a retirement allowance that continues after death to a member's sole surviving beneficiary pursuant to the plan of payment described in division (B)(3)(b) of section 145.46 of the Revised Code or section 9.03(e)(2)(ii) of the combined plan document shall be expressed as a whole percentage and shall meet or exceed the greater of the following:

- (A) Ten percent of the member's monthly retirement allowance;
- (B) A percentage that causes the beneficiary's monthly benefit to be at least one hundred dollars.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.46.

Rule Amplifies: 145.32, 145.33, 145.331, 145.34, 145.37, 145.46.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 7/01/04; 10/27/06; 4/6/07 (Emer.); 7/1/07; 1/1/10.

145-2-47 Beneficiary and payment plan changes after retirement

- (A) Section 145.46 of the Revised Code as effective July 24, 1990 renames the plans of payment available under sections 145.32, 145.33, 145.34 and 145.46 of the Revised Code. For purposes of Chapter 145. of the Revised Code and PERS rules such payment plans shall be treated the same as follows:
 - (1) A straight or single life annuity payment plan and plan B.
 - (2) An option 1 payment plan and plan D.
 - (3) An option 2 payment plan and plan A when the retirant's spouse is the retirant's beneficiary and the amount payable after the retirant's death is fifty per cent.
 - (4) An option 2 payment plan and plan C when the beneficiary is someone other than the retirant's spouse or the amount payable to a beneficiary after the retirant's death is other than fifty per cent.
 - (5) An option 3 payment plan and plan E.

- (B) Except as provided in paragraph (I) of this rule, a designation of beneficiary may be changed after retirement when the retirant is receiving benefits under:
 - (1) A payment plan B.
 - (2) A payment plan E, but the payment plan cannot be changed.

- (C) When a retirant is receiving benefits under plan A, C, or D, the plan shall be changed to plan B and a new beneficiary may be designated:
 - (1) The first day of the month following the date on which the public employees retirement system receives the death certificate of the spouse or other individual designated as beneficiary under the plan, but any change in the benefit amount shall be effective the first day of the month following notice of the death of the spouse or beneficiary.
 - (2) On the first day of the month after receipt of the election of the retirant to revert to plan B following divorce, annulment or dissolution of marriage with a spouse designated as beneficiary under the plan, except that no benefit shall be increased without the written consent of the former spouse who was the designated beneficiary or an order from the court with jurisdiction over the termination of the marriage.

- (D) The right to have plan A, C, or D recomputed as plan B upon notice of the death of the beneficiary, or upon divorce, annulment or dissolution of marriage with a spouse who was designated as beneficiary, applies to all retirants who are receiving benefits under plan A, C, or D regardless of the original effective date of benefits.
- (E) Upon the marriage or remarriage of a retirant receiving benefits under plan F, the retirant may designate the new spouse as a beneficiary under plan F only if the retirant does not already have four beneficiaries designated under that plan at the time the retirant applies to add the new spouse.
- (F) The death of any designated beneficiary under plan F shall not change the plan of payment. The plan F benefit shall continue to the remaining designated beneficiaries in their same percentages and the deceased beneficiary's portion shall revert to the retirant for the remainder of his or her lifetime. A retirant may not cancel the plan of payment and return to a single lifetime benefit equivalent until notice of the death of all designated beneficiaries under that plan.
- (G) A retirant who is receiving benefits under plan B may, upon the retirant's later marriage or remarriage, elect to have the retirant's benefit recomputed as plan A, C or D and designate only the new spouse as beneficiary, as provided in division (E) of section 145.46 of the Revised Code, sections 9.02(f) and 9.03(h) of the combined plan document, and section 9.02(f) of the member-directed plan document. The actuarial factors shall be based on the actuarial ages of the retirant and beneficiary at the time the benefit is recomputed.
- (H) A retirant who elected to receive a partial lump sum option payment, as defined in rule 145-1-65 of the Administrative Code, shall have the partial lump sum option payment accounted for upon the recomputation of the retirant's benefit.
- (I) Any request for a change of plan of payment or of beneficiary shall be made on a form approved by the public employees retirement board. If a retirant dies prior to the retirement system's receipt of the form, the retirant's request for a change of plan of payment or beneficiary is void.
- (J) For those retirants whose benefit is commenced under plan B in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, not later than one year after the effective date of the benefit described in this paragraph, a retirant who was married on the effective date of the benefit may elect plan A, C, or D based on the actuarial equivalent of the retirant's single life annuity as determined by the board and

145-2-47 (continued)

designate the retirant's current spouse as beneficiary. The election shall be made on a form approved by the retirement system and shall be effective on the effective date of the benefit paid under plan B. Any benefit overpayment may be recovered as provided in section 145.563 of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.32, 145.33, 145.34, 145.43, 145.46.

Rule Review Date: 7/10/06; 9/29/11.

Effective Date History: 8/20/76; 10/30/78; 8/6/90; 9/27/98; 1/1/03; 1/1/04 (Emer.); 2/16/04; 6/6/05 (Emer.); 8/11/05; 10/27/06; 5/8/07 (Emer.); 8/9/07; 4/1/08 (Emer.); 6/23/08; 1/1/10.

145-2-48 Beneficiary and payment plan changes after commencement of additional annuity

- (A) Except as provided in paragraph (G) of this rule, a designation of beneficiary may be changed after commencement of benefits under section 145.64 of the Revised Code when the contributor is receiving benefits under plan B.
- (B) When a contributor is receiving an additional annuity under a plan providing continuing lifetime payments to a designated beneficiary, the plan shall be changed to plan B and a new beneficiary may be designated:
 - (1) The first day of the month following the date on which the public employees retirement system receives the death certificate of the individual designated as beneficiary under the plan but any change in the benefit amount shall be effective the first day of the month following notice of the death of the beneficiary.
 - (2) On the first day of the month after receipt of the election of the contributor to revert to plan B following divorce, annulment, or dissolution of marriage with a spouse designated as beneficiary under the plan, except that no benefit shall be increased without the written consent of the former spouse who was the designated beneficiary or an order from the court with jurisdiction over the termination of the marriage.
- (C) The right to have a plan providing continuing lifetime payments to a designated beneficiary recomputed as plan B upon notice of the death of the beneficiary, or upon divorce, annulment or dissolution of marriage with a spouse who was designated as beneficiary, applies to all contributors who are receiving benefits under former section 145.23 or section 145.64 of the Revised Code, regardless of the original effective date of the benefits.
- (D) Upon the marriage or remarriage of a contributor receiving benefits under plan F, the contributor may designate the new spouse as a beneficiary under plan F only if the contributor does not already have four beneficiaries designated under that plan at the time the contributor applies to add the new spouse.
- (E) The death of any designated beneficiary under plan F shall not change the plan of payment. The plan F benefit shall continue to the remaining designated beneficiaries in the same percentages and the deceased beneficiary's portion shall revert to the contributor for the remainder of his or her lifetime. A contributor may not cancel the plan of payment and return to a single lifetime benefit equivalent until notice of the death of all designated beneficiaries under that plan.
- (F) A contributor who is receiving benefits under plan B may, upon the contributor's later marriage or remarriage, elect to have the contributor's benefit under plan B recomputed

as plan A and designate only the new spouse as beneficiary, as provided in division (F) of section 145.64 of the Revised Code. The actuarial factors shall be based on the actuarial ages of the retirant and beneficiary at the time the benefit is recomputed.

- (G) Any request for a change of plan of payment or beneficiary shall be made on a form approved by the public employees retirement board. If a contributor dies prior to the retirement system's receipt of the form, the contributor's request for a change of plan of payment or beneficiary is void.
- (H) For those contributors whose benefit under section 145.64 of the Revised Code is commenced under plan B in accordance with section 401(a)(9) of the Internal Revenue Code and the regulations thereunder, not later than one year after the effective date of the benefit described in this paragraph, a contributor who was married on the effective date of the benefit may elect plan A based on the actuarial equivalent of the contributor's single life annuity as determined by the board. The election shall be made on a form approved by the retirement system and shall be effective on the effective date of the benefit paid under plan B. Any benefit overpayment may be recovered as provided in section 145.563 of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.62.
Rule Amplifies: 145.64.
Rule Review Date: 9/29/11.
Effective Date History: 4/6/07 (Emer.); 7/1/07;
7/30/07 (Emer.); 11/18/07; 4/1/08 (Emer.); 6/23/08;
1/1/10.

145-2-49 Retirement benefits for law enforcement officers

(A) Definitions

- (1) “Law enforcement officer” means a member defined in divisions (AA) to (VV) of section 145.01 of the Revised Code and described in division (WW) of section 145.01 of the Revised Code.
- (2) “Law enforcement service” means service as a law enforcement officer.
- (3) “Non-law enforcement service” means service covered by the public employees retirement system that is other than law enforcement service.

(B) If a law enforcement officer is eligible, applies for, and elects to receive retirement benefits pursuant to division (E)(1)(c) of section 145.33 of the Revised Code, the law enforcement officer shall elect to receive the benefit amount for the non-law enforcement service as one of the following:

- (1) A monthly annuity for life;
- (2) A lump sum payment discounted to the present value.

If the monthly annuity would be less than twenty-five dollars per month, the law enforcement officer shall receive a lump sum payment. If, at the time of the retirant’s death, the retirant has received a total amount of monthly benefits that were less than the retirant would have received as a lump sum payment discounted to the present value of the non-law enforcement service benefit, the difference between the amount the retirant received and the amount the retirant would have received shall be paid to the retirant’s beneficiary in a lump sum payment.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.33.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 8/20/76; 7/31/89; 12/30/91;
12/6/93; 2/30/00; 4/5/01; 1/1/03; 1/1/06; 1/1/07;
1/1/10.

145-2-51 **Effective date of benefits**

- (A) Benefits available pursuant to section 145.32, 145.33, 145.34, 145.35, 145.36, 145.361, 145.37, 145.43, 145.45 or 145.46 of the Revised Code shall be effective the first day of the month following the latest of the following:
- (1) For a member:
 - (a) Termination of public employment;
 - (b) Eligibility by attaining the required minimum age;
 - (c) Eligibility by accumulating the required service credit;
 - (d) A date specified by the member.
 - (2) For a beneficiary:
 - (a) The death of the contributor or retirant;
 - (b) Attainment of eligibility.
- (B) (1) When the application of paragraph (A) of this rule results in a retroactive effective benefit date, this rule shall apply even though such retroactive date is before August 20, 1976.
- (2) Retroactive benefits shall be calculated under the law in effect at the effective benefit date so established.
- (3) Benefit increases occurring after the established effective benefit date shall be included.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.32, 145.33, 145.331, 145.34,
145.35, 145.36, 145.361, 145.37, 145.43, 145.45,
145.46.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 8/20/76; 8/1/92; 2/1/93;
9/27/98; 1/1/03; 1/1/07; 1/12/08.

145-2-52 Application by a contributor for refund of accumulated contributions

For purposes of division (A)(2) of section 145.40 of the Revised Code, “eligible for age and service retirement” means a contributor is eligible for a retirement benefit under section 145.32, 145.33, 145.331, or 145.34 of the Revised Code on or before the first of the month following the date the application for a refund is received by the public employees retirement system.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.40.

Rule Review Date: 9/29/06; 9/29/11.

Effective Date History: 4/5/01; 1/1/03; 12/24/04.

145-2-53 **Cost of living adjustment**

- (A) As used in this rule, “alternate payee” has the same meaning as in section 3105.80 of the Revised Code.
- (B) A benefit recipient who has received an allowance for at least twelve months shall have such allowance increased pursuant to section 145.323 of the Revised Code and as provided in this rule on the annual anniversary of the recipient’s effective benefit date.
- (C) A new benefit base upon which a cost of living adjustment shall be calculated shall be established when:
 - (1) A post retirement increase is granted, other than a cost of living adjustment or a payment representing reimbursement of premium for medicare part “B”.
 - (2) A retirant receiving under plan A or C dies and the surviving beneficiary begins receiving a portion of the amount previously paid to the retirant.
 - (3) A survivor benefit is adjusted as the result of adding or removing survivor dependents.
 - (4) A retirant receiving under plan A, C, or D reverts to plan B as a result of the death of the beneficiary spouse, or divorce or dissolution of marriage as authorized in section 145.46 of the Revised Code and rule 145-2-47 of the Administrative Code.
 - (5) A retirant receiving under plan F reverts to plan B as a result of the removal of all beneficiaries as authorized in section 145.46 of the Revised Code and rule 145-2-47 of the Administrative Code.
 - (6) The benefit established at retirement is recalculated for any reason except for a cost of living adjustment or reimbursement of premium for medicare part “B.”
 - (7) A part of a benefit is waived then the base shall be the portion being paid. If a waiver is withdrawn, the full base shall be re-established.
- (D) For allowances that became payable before October 27, 2006, the apportionment of a cost of living adjustment between a benefit recipient and an alternate payee pursuant to division (B) of section 145.323 of the Revised Code shall begin with the next cost of living adjustment granted on or after October 27, 2006, and shall continue while the order is in effect.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.323.
Rule Review Date: 7/10/06; 9/29/11.
Effective Date History: 8/20/76; 10/11/88; 8/6/90;
1/31/98; 10/7/01; 3/22/02; 1/1/03; 10/27/06.

145-2-55 Death benefit payment

- (A) This rule shall apply only to the death benefit payable pursuant to section 145.451 of the Revised Code.
- (B) A retirant or a disability benefit recipient may designate a beneficiary or beneficiaries to receive only the death benefit payment.
 - (1) Such designation must be on a form provided by the public employees retirement system and filed with the system prior to the retirant or disability benefit recipient's death.
 - (2) Unless a different distribution is specified, the death benefit payment shall be divided equally among the surviving beneficiaries if the retirant or the disability benefit recipient designated multiple beneficiaries.
- (C) If the death benefit is payable to the person responsible for the retirant's or disability benefit recipient's burial expenses, such person shall submit proof of financial liability for these expenses by paid bills or cancelled checks.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.451.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 8/20/76; 9/29/86; 8/6/90;
12/6/93; 5/29/95; 8/31/96; 1/1/03; 11/30/07.

145-2-57 Annual interest credited to contributor accounts

The public employees retirement board shall set the annual interest rate to be credited to contributor accounts pursuant to division (A) of section 145.473 of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.473.
Rule Review Date: 9/29/06; 9/29/11.
Effective Date History: 4/5/01; 1/1/03.

145-2-60 Designation of beneficiaries under “plan F”

The portion of the lesser amount continuing after death to two, three, or four surviving beneficiaries designated at the time of a member’s retirement or at the time of commencement of a contributor’s benefit under section 145.384 or 145.64 of the Revised Code shall be allocated among the beneficiaries in whole percentages only.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.384, 145.46, 145.64.

Rule Review Date: 9/29/11.

Effective Date History: 10/27/06; 4/6/07 (Emer.);
7/1/07.

145-2-62 Calculation of amount due retirant or contributor with multiple beneficiaries under “plan F”

- (A) This rule applies to a retirant or contributor who elects a plan of payment under which a portion of the contributor’s benefit continues, after the death of the contributor, to two, three, or four surviving beneficiaries. Amounts due to a retirant or contributor receiving a monthly benefit and unpaid to the retirant or contributor at death, shall be paid as provided in division (D) of section 145.43 of the Revised Code and this rule.

- (B) The amount payable to each surviving designated beneficiary shall be determined by multiplying the amount due the retirant or contributor under the plan of payment described in paragraph (A) of this rule by a fraction whose numerator is the gross monthly amount that the beneficiary will be paid and whose denominator is the total gross monthly amount that all beneficiaries will be paid.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.384, 145.43(D), 145.46,
145.64.
Rule Review Date: 9/29/11.
Effective Date History: 10/27/06; 4/6/07 (Emer.);
7/1/07.

145-2-64 Priority of multiple court orders under “plan F”

If, at the time of retirement or at the time of commencement of a benefit under section 145.384 or 145.64 of the Revised Code, a member or contributor is subject to more than one court order issued under section 3105.171 or 3105.65 of the Revised Code, or the laws of another state regarding the division of marital property, the public employees retirement system shall establish the priority in which the court orders will be administered by the retirement system. Priority shall be established by the earliest date on which the orders were received by the retirement system.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.384, 145.46, 145.64.

Rule Review Date: 9/29/11.

Effective Date History: 10/27/06; 4/6/07 (Emer.);
7/1/07.

145-2-65 Internal Revenue Code limitations on benefits

- (A) In addition to other limitations set forth in Chapter 145. of the Revised Code, the defined benefit payable to a member under the traditional pension plan or the defined benefit payable to a member under the combined plan shall not exceed the applicable limits under section 415(b) of the Internal Revenue Code, as periodically adjusted by the Secretary of the Treasury under section 415(d) of the Internal Revenue Code. This adjustment shall also apply to a member who has had a severance from employment or, if earlier, an annuity starting date. Benefits that are subject to section 415(b) of the Internal Revenue Code shall comply with the foregoing limit in each year during which payments are made. The foregoing limit shall be adjusted pursuant to the requirements of sections 415(b)(2)(C) and (D) of the Internal Revenue Code relating to the commencement of benefits at a date prior to age sixty-two or after age sixty-five, subject to other applicable rules. Any member whose benefits were limited by the application of section 415 of the Internal Revenue Code immediately prior to its amendment by the Economic Growth and Tax Relief Reconciliation Act of 2001 shall, for limitation years ending on or after July 1, 2002, have his or her benefit increased to the amount computed under the applicable plan, but not in excess of the limits of section 415(b)(1)(A) of the Internal Revenue Code, as amended by the Economic Growth and Tax Relief Reconciliation Act of 2001.
- (B) For purposes of this rule, "compensation" means compensation as defined in section 415(c)(3) of the Internal Revenue Code and section 1.415(c)-2(d)(3) of the Treasury Regulations. In general, section 415(c)(3) of the Internal Revenue Code defines compensation as all of a member's wages as defined in section 3401(a) of the Internal Revenue Code for the purposes of income tax withholding at the source, but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in section 3401(a)(2) of the Internal Revenue Code). Compensation shall also include the amount of any elective deferrals, as defined in section 402(g)(3) of the Code, and any amount contributed or deferred by the employer at the election of the employee and which is not includible in the gross income of the employee by reason of sections 125, 132(f)(4) or 457 of the Internal Revenue Code.
- (C) The application of this rule shall not cause the maximum annual retirement allowance for any member to be less than the member's accrued benefit under all applicable defined benefit plans as of the end of the last limitation year beginning before July 1, 2007, under provisions of the plans that were both adopted and in effect before April 5, 2007. The preceding sentence applies only if the provisions of such defined benefit plans that were both adopted and in effect before April 5, 2007 satisfied the applicable requirements of statutory provisions, regulations, and other published guidance relating to section 415 of the Internal Revenue Code in effect as of the end of the last limitation year beginning before July 1, 2007, as described in section 1.415(a)-1(g)(4) of the Treasury Regulations.
- (D) No adjustment shall be required to a benefit subject to an automatic benefit increase feature described in section 1.415(b)-1(c)(5) of the Treasury Regulations.

- (E) To the extent that section 415 of the Internal Revenue Code and the Treasury Regulations thereunder require that an interest rate under section 417(e) of the Internal Revenue Code apply, the applicable look-back month shall be the fourth calendar month preceding the start of a plan year.
- (F) Notwithstanding any provision of Chapter 145. of the Revised Code to the contrary, the defined benefit payable to a member under the traditional pension plan or the defined benefit payable to a member under the combined plan shall be determined in accordance with the requirements of section 415(b) of the Internal Revenue Code and the Treasury Regulations thereunder. The limitation year is the plan year.
- (G) Notwithstanding any provision of Chapter 145. of the Revised Code to the contrary, to the extent that any defined contribution feature of any plan under this chapter is subject to section 415(c) of the Internal Revenue Code and such feature does already have section 415(c) of the Internal Revenue Code limitation language applicable to the feature, the feature shall comply with section 415(c) of the Internal Revenue Code and the Treasury Regulations thereunder. For such purposes, the definition of "compensation" in paragraph (B) of this rule shall apply.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.09.
Rule Review Date: 9/29/12.
Effective Date History: 7/11/09.

145-2-70 **Mandatory direct deposit**

- (A) For purposes of this rule, “alternate payee” has the same meaning as defined in section 3105.80 of the Revised Code.
- (B) Except as provided in paragraph (C) of this rule, all benefits or payments paid in the form of a monthly annuity to individuals with a United States address on file with the public employees retirement system shall be paid by direct deposit, which is an electronic fund transfer directly to an individual’s account at a financial institution. Benefit recipients and alternate payees shall provide to the retirement system valid direct deposit account and routing numbers, the name and contact information of the financial institution, and such other information as may be required by retirement system. The retirement system may withhold a benefit or payment until the benefit recipient or alternate payee provides the information described in this paragraph.
- (C) If a benefit recipient or alternate payee resides more than fifteen miles from a financial institution that provides direct deposit accounts or resides in a nursing or convalescent home that is receiving payments on the recipient’s behalf, the benefit recipient or alternate payee may submit a request for exemption from direct deposit on a form provided by the retirement system. The retirement system shall approve or deny the request.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.32, 145.33, 145.331, 145.34, 145.36, 145.361, 145.37, 145.384, 145.45, 145.46, 145.571, 145.64.

Rule Review Date: 9/29/11.

Effective Date History: 3/1/10 (Emer.); 4/5/10; 1/1/11.

145-3-01 **Plan documents**

- (A) This rule amplifies sections 145.81 and 145.811 of the Revised Code.

- (B) To meet the requirements of section 401(a) of the Internal Revenue Code, the public employees retirement board shall adopt the documents entitled the “public employees retirement system of Ohio defined contribution plan” and the “public employees retirement system of Ohio combined defined benefit/defined contribution plan.” The board may amend the provisions of the plans in accordance with the provisions of the plan documents.

Promulgated Under: 111.15.
Statutory Authority: 145.80
Rule Amplifies: 145.81, 145.811.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-02 Combined and member-directed plan provisions

- (A) The combined plan consists of all of the following:
- (1) Sections 145.01 to 145.20 and 145.80 to 145.98 of the Revised Code and any corresponding administrative rules;
 - (2) The provisions of the plan document for the PERS combined defined benefit/defined contribution plan, and any amendments thereto;
 - (3) Any rules adopted pursuant to section 145.80 of the Revised Code.
- (B) The member-directed plan consists of all of the following:
- (1) Section 145.01 to 145.20 and 145.80 to 145.98 of the Revised Code and any corresponding administrative rules;
 - (2) The provisions of the plan document for the PERS defined contribution plan, and any amendments thereto;
 - (3) Any rules adopted pursuant to section 145.80 of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.81, 145.82.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03; 12/24/04.

145-3-04

Repealed

Effective Date History: 1/1/03; 1/1/10.

145-3-06 **Procedure for additional deposits**

- (A) This rule amplifies section 3.04 of the combined plan document and member-directed plan document.

- (B) A member participating in the combined plan or member-directed plan who makes a payment of additional after-tax contributions to the member's miscellaneous contribution account shall remit the payment with a form provided by the public employees retirement system.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.81.

Rule Review Date: 9/29/04; 9/24/09; 9/24/14.

Effective Date History: 1/1/03; 12/24/04; 7/1/07
(Emer.); 8/9/07.

145-3-08 **Active/inactive administrative fee**

- (A) This rule amplifies section 24.03(a)(2) and (3) of the combined plan document and section 21.03(a)(2) and (3) of the member-directed plan document.

- (B) The public employees retirement board shall establish the administrative fee, if any, to be assessed under section 24.03(a)(2) and (3) of the combined plan document and section 21.03(a)(2) and (3) of the member-directed plan document.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.81, 145.88(A).

Rule Review Date: 9/29/04; 9/24/09; 9/24/14.

Effective Date History: 1/1/03.

145-3-10 Application by participant for refund of contributions

- (A) This rule amplifies section 8.01(c) of the member-directed plan document and section 8.04(c) of the combined plan document.

- (B) For purposes of section 8.01(c) of the member-directed plan document and section 8.04(c) of the combined plan document, “eligible for benefits under article IX” means a participant is eligible for a benefit under section 9.01 of the member-directed plan document or combined plan document with an effective retirement benefit date on or before the first of the month following the date application for a refund is received by the public employees retirement system.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.81.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-11 **Waiver of spousal consent**

- (A) This rule amplifies sections 9.02(b) and 9.03(e) of the combined plan document and section 9.02(b) of the member-directed plan document.

- (B) For payment options under the combined plan or the member-directed plan, the board may waive the requirement of spousal consent in accordance with rule 145-1-70 of the Administrative Code.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.81.

Rule Review Date: 9/29/04; 9/24/09; 9/24/14.

Effective Date History: 1/1/03.

145-3-13 Beneficiary and payment plan changes after retirement

- (A) This rule amplifies section 9.03(e) of the combined plan document and, in the case of a monthly annuity payment option only, sections 9.02 of the combined and member-directed plan documents.
- (B) Beneficiary and plan of payment changes for a retirement allowance under section 9.03(e) of the combined plan document or for a monthly annuity under section 9.02 of the combined plan document shall be made in accordance with rules 145-2-44, 145-2-46, and 145-2-47 of the Administrative Code.
- (C) Beneficiary and plan of payment changes for a monthly annuity under section 9.02 of the member-directed plan document shall be made in accordance with rules 145-2-44 and 145-2-47 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.80.
Rule Review Date: 9/24/09; 9/24/14.
Effective Date History: 10/27/06.

145-3-14 Designation of beneficiaries under “plan F”

- (A) This rule amplifies section 9.03(e) of the combined plan document and, in the case of a monthly annuity payment option only, sections 9.02 of the combined and member-directed plan documents.

- (B) Designation of beneficiaries pursuant to a plan of payment under which a portion of the benefit continues, after the death of the retirant, to two, three, or four surviving beneficiaries shall be made in accordance with rule 145-2-60 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.80.
Rule Review Date: 9/24/09; 9/24/14.
Effective Date History: 10/27/06.

145-3-15 **Calculation of amount due retirant with multiple beneficiaries under “plan F”**

- (A) This rule amplifies section 9.03(e) of the combined plan document and, in the case of a monthly annuity payment option only, sections 9.02 of the combined and member-directed plan documents.

- (B) Calculation of the amount due to a retirant receiving a benefit pursuant to a plan of payment under which a portion of the benefit continues, after the death of the retirant, to two, three, or four surviving beneficiaries shall be calculated in accordance with rule 145-2-62 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.80.
Rule Review Date: 9/24/09; 9/24/14.
Effective Date History: 10/27/06.

145-3-16 **Priority of multiple court orders under “plan F”**

- (A) This rule amplifies section 9.03(e) of the combined plan document and, in the case of a monthly annuity payment option only, sections 9.02 of the combined and member-directed plan documents.

- (B) The priority of multiple court orders shall be established in accordance with rule 145-2-64 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.80.
Rule Review Date: 9/24/09; 9/24/14.
Effective Date History: 10/27/06.

145-3-21 Purchase of service credit by combined plan members

- (A) This rule amplifies division (C) of section 145.82 of the Revised Code and section 3.05 of the combined plan document.
- (B) Subject to the requirements of paragraph (C) of this rule, a member participating in the combined plan may purchase service credit under division (Y) of section 145.01 and section 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.295, 145.299, 145.2911, 145.2913, 145.301, 145.302, 145.44, or 145.47 of the Revised Code.
- (C) A member participating in the combined plan may purchase the service credit listed in paragraph (B) of this rule, subject to the following requirements:
 - (1) For purposes of determining the member's eligibility to purchase service credit under section 145.28, 145.295, 145.2911, or 145.2913 of the Revised Code, "eighteen months of contributing service credit in the system" means eighteen months of contributing service credit under the combined plan.
 - (2) For service credit purchased under section 145.299 of the Revised Code, the system shall obtain from its actuary certification of the additional liability to the combined plan for each month of credit the member is eligible to purchase.
 - (3) For service credit purchased under section 145.301 of the Revised Code, the cost shall be determined in accordance with rule 145-3-29 of the Administrative Code.
 - (4) For service credit purchased under section 145.44 of the Revised Code, "full liability" shall be determined by the actuary based on the member's participation in the combined plan.
 - (5) Any other requirements listed in this chapter.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.01, 145.20, 145.201, 145.28, 145.29, 145.291, 145.293, 145.295, 145.299, 145.2911, 145.2913, 145.301, 145.302, 145.44, 145.47, 145.81, 145.82.

Rule Review Date: 9/29/04; 9/24/09; 9/24/14.

Effective Date History: 1/1/03; 12/24/04; 1/1/09.

145-3-22 Restored service

- (A) This rule amplifies division (B) of section 145.97 of the Revised Code and section 3.06 of the combined plan document.
- (B) A member participating in the combined plan or a former member who participated in the combined plan may redeposit the amounts withdrawn under article VIII of the combined plan, subject to all of the following:
 - (1) The member or former member has at least eighteen months of contributing service in the combined plan or in the Ohio police and fire pension fund or state highway patrol retirement system;
 - (2) The member or former member shall redeposit the amount withdrawn with interest on that amount compounded annually at a rate to be determined by the public employees retirement board from the first day of the month of withdrawal to and including the month of redeposit.
 - (3) If a former member is eligible to buy the service credit as a member of the Ohio police and fire pension fund, state highway patrol retirement system, or the city of Cincinnati retirement system, the former member is ineligible to restore that service credit under this section.
- (C) The amount withdrawn shall be redeposited and credited as follows:
 - (1) To the employers' accumulation fund, the amount that equals the amount, if any, distributed under section 8.02 of the combined plan document.
 - (2) To the member's accounts, as defined in section 1.01 of the combined plan document, the amount distributed under section 8.01 of the combined plan document.
 - (3) To the member's account in the employees' savings fund, any remaining amount including the interest required in paragraph (B)(2) of this rule.
- (D) The member may choose to purchase only part of such credit in any one payment, subject to rules adopted by the board. Except for the amount described in paragraph (C)(1) of this rule, the amounts paid to restore service credit under this rule shall vest as described in section 7.01 of the combined plan document.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.81, 145.82, 145.97.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03; 12/24/04.

145-3-24 Three years of contributing service or membership defined

The term “three years of contributing service or membership” as used in section 145.20 of the Revised Code means thirty-six months of contributing service to the public employees retirement system.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.20, 145.81, 145.82.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-25 Prior service credit claimed after retirement

A retirant under the combined plan shall be permitted to reopen the retirant's case for the purpose of receiving additional prior service credit, as defined in section 145.01 of the Revised Code, not claimed at the time of retirement under the defined benefit component of the combined plan. The increased allowance on such additional service credit shall become payable the month after the evidence is submitted to and accepted by the public employees retirement board.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.01, 145.81, 145.82.

Rule Review Date: 9/29/04; 9/24/09; 9/24/14.

Effective Date History: 1/1/03.

145-3-27 Purchase of service credit pursuant to section 145.293 of the Revised Code

A member participating in the combined plan may purchase service credit under section 145.293 of the Revised Code in accordance with rule 145-2-04 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.293, 145.82, 145.81.
Rule Review Date: 9/29/04; 9/29/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-28 **Free military service credit**

- (A) This rule amplifies section 145.30 of the Revised Code as applicable to members participating in the combined plan.
- (B) Definitions
 - (1) “Maintained his membership” means any of the following:
 - (a) The member’s contributions to the combined plan under section 145.85 of the Revised Code remained with the public employees retirement system during the military service;
 - (b) The member’s contributions before the military service were refunded under article VIII of the combined plan document and redeposited in accordance with rule 145-3-22 of the Administrative Code;
 - (c) The member was exempt from membership or not a contributor to the retirement system before the member’s military service, but Chapter 145. of the Revised Code authorizes a retroactive payment to establish membership before the member’s military service.
 - (2) “Military service,” “total service credit as defined in section 145.01 of the Revised Code of twenty years,” and “was or is out of active service as a public employee by reason of having become a member of the armed forces” have the same meanings as described in rule 145-2-05 of the Administrative Code.
 - (3) “Was a member” means membership before the member’s military service was established in the same manner as described in paragraph (B)(1) of this rule.
- (C)
 - (1) The service credit to which a member is entitled shall be calculated from the date the member entered military service through the date the military service terminated.
 - (2) The member shall submit to the retirement system report(s) of separation (form DD214) or other satisfactory documentation as evidence of the member’s military service and discharge.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.30, 145.81, 145.82.
Rule Review Date: 9/29/04; 9/29/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-29 Purchase of military service credit

- (A) This rule amplifies sections 145.301 and 145.302 of the Revised Code as applicable to members participating in the combined plan and section 24.02 of the combined plan document.

- (B) A member participating in the combined plan may purchase service credit under sections 145.301 and 145.302 of the Revised Code in accordance with rule 145-2-06 of the Administrative Code. Notwithstanding section 145.301 of the Revised Code, the cost of the service credit shall be not less than fifty percent of the additional liability to the combined plan resulting from that year of service as determined by an actuary employed by the public employees retirement board.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.301, 145.302, 145.81, 145.82.
Rule Review Date: 9/29/04; 9/29/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-31 Additional service credit under section 145.201 of the Revised Code

- (A) This rule amplifies section 145.201 of the Revised Code as applicable to members participating in the combined plan.
- (B) A member participating in the combined plan may purchase service credit under section 145.201 of the Revised Code in accordance with rule 145-2-07 of the Administrative Code.
- (C) A member participating in the combined plan may elect to receive a refund of amounts paid to purchase service credit under section 145.201 of the Revised Code in accordance with rule 145-2-07 of the Revised Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.80.
Rule Amplifies: 145.201, 145.82.
Rule Review Date: 9/29/04; 10/7/09; 9/24/14.
Effective Date History: 1/1/03; 4/7/07 (Emer.);
7/1/07.

145-3-32 Purchase of school board member service

- (A) This rule amplifies section 145.299 of the Revised Code as applicable to members participating in the combined plan.
- (B) A member participating in the combined plan may purchase service credit under section 145.299 of the Revised Code in accordance with rule 145-2-08 of the Administrative Code.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.80.

Rule Amplifies: 145.299, 145.81, 145.82.

Rule Review Date: 9/29/04; 10/7/09; 9/24/14.

Effective Date History: 1/1/03.

145-3-34 Purchase of exempted service credit

- (A) This rule amplifies section 145.28 of the Revised Code as applicable to members participating in the combined plan.

- (B) A member participating in the combined plan may purchase service credit under section 145.28 of the Revised Code in accordance with rule 145-2-09 of the Administrative Code. Notwithstanding section 145.28 of the Revised Code, annually, the public employees retirement board shall set the percentage rate for the cost of such service credit for participation in the combined plan, based on its actuary's recommendation, and the interest rate to be charged if the service credit is purchased in more than one payment.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.80.
Rule Amplifies: 145.28, 145.81, 145.82.
Rule Review Date: 9/29/04; 10/7/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-35 Police and fire or highway patrol service

- (A) This rule amplifies section 145.295 of the Revised Code as applicable to members participating in the combined plan.
- (B) Any payments made by a member to purchase credit pursuant to section 145.295 of the Revised Code shall not be refunded to a member except as authorized under article VIII of the combined plan document or division (C) of section 145.295 of the Revised Code.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.295, 145.81, 145.82.

Rule Review Date: 9/29/04; 10/07/09; 9/24/14.

Effective Date History: 1/1/03; 12/24/04.

145-3-37 Purchase of leave of absence

- (A) This rule amplifies section 145.291 of the Revised Code as applicable to members participating in the combined plan.

- (B) A member participating in the combined plan may purchase service credit under section 145.291 of the Revised Code in accordance with rule 145-2-13 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.291, 145.81, 145.82.
Rule Review Date: 9/29/04; 10/7/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-38 Cincinnati retirement system

- (A) This rule amplifies sections 145.2910 and 145.2911 of the Revised Code as applicable to members participating in the combined plan.
- (B) Except as provided in paragraph (C) of this rule, a member participating in the combined plan may purchase service credit under sections 145.2910 and 145.2911 of the Revised Code in accordance with rule 145-2-15 of the Administrative Code.
- (C) A member participating in the combined plan who makes additional deposits as provided in paragraph (C)(4)(b) of rule 145-2-15 of the Administrative Code, may choose to receive a return of any payments made by the member to this system, or have such payment accrue in the member's miscellaneous contribution account pursuant to section 3.04 of the combined plan document or rollover account pursuant to article V of the combined plan document, as appropriate.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.2910, 145.2911, 145.81, 145.82.

Rule Review Date: 9/29/04; 9/24/09; 9/29/14.

Effective Date History: 1/1/03; 12/24/04; 1/1/09; 1/1/10.

145-3-39 **Purchase of firefighter service**

- (A) As used in this rule, “firefighter” has the same meaning as in rule 145-1-50 of the Administrative Code.
- (B) A firefighter employed before May 1, 1991, who is or becomes a member on May 1, 1991, may purchase the firefighter service as described in rule 145-2-17 of the Administrative Code.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.81, 145.82.

Rule Review Date: 9/29/04; 10/7/09; 9/24/14

Effective Date History: 1/1/03.

145-3-40 Service credit in the combined plan for participation in member-directed plan

- (A) This rule amplifies section 145.814 of the Revised Code and section 6.02 of the member-directed plan document.
- (B) For each member who elects to transfer funds from the member-directed plan to purchase service in the combined plan under division (C)(2) of section 145.814 of the Revised Code and section 2.03 of the member-directed plan document, the public employees retirement system shall prepare a statement of cost for service credit to be purchased in the combined plan based on participation in the member-directed plan, at the request of an eligible member. An actuary employed by the public employees retirement board shall determine the additional liability, as defined in section 145.814 of the Revised Code, if any.
- (C) An eligible member shall purchase the service credit only by a lump-sum payment of the amount on deposit, as defined in rule 145-1-35 of the Administrative Code, except that a member described in division (C)(3)(a) of section 145.814 of the Revised Code may pay any additional liability that exceeds the amount on deposit by initiating payroll deduction under rule 145-1-38 of the Administrative code or by direct partial payment not later than one hundred eighty days after the effective date of an election to participate in the combined plan under section 2.03 of the member-directed plan document. Service credit purchased under this rule shall be included in the member's total service credit in the combined plan. If the member elects to receive pro-rated service credit, for purposes of section 1.41 of the combined plan document, the period of service upon which contributing service is based shall be the member's earliest service credit available to purchase under this rule.
- (D) Any funds remaining in an eligible member's accounts, as defined in section 1.01 of the member-directed plan document, after the purchase of service credit under this rule shall be credited to the member's rollover account in the combined plan and treated as a rollover, except that amounts transferred to the member-directed plan under section 2.02 of the member-directed plan document shall be credited to the participant contribution account in the combined plan, as if the contributions had been originally transferred under section 2.02 of the combined plan document. A member may also elect, at the time of service purchase, to leave any remaining funds on deposit in the member-directed plan; any funds remaining shall be credited to the member's rollover account, as defined in section 1.31 of the member-directed plan document, and treated as a rollover.
- (E) (1) Service credit purchased under this rule cancels the corresponding years of participation in the member-directed plan.

145-3-40 (continued)

- (2) Years of participation in the member-directed plan that are not purchased under this rule shall be cancelled immediately upon the expiration of the one hundred eighty day period following the effective date of an election to participate in the combined plan under section 2.03 of the member-directed plan document.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.81, 145.814.

Rule Review Date: 9/24/09; 9/29/14.

Effective Date History: 1/1/03; 11/15/03; 12/24/04;
1/1/09; 7/11/09; 1/1/10; 1/1/11.

145-3-41 Application for a disability benefit

- (A) This rule amplifies division (C) of section 145.82 of the Revised Code and sections 10.02 and 10.03 of the combined plan document.
- (B) Subject to paragraph (C) of this rule, a member participating in the combined plan who has disability coverage under section 10.01 of the combined plan document may apply for disability benefits in accordance with rule 145-2-21 of the Administrative Code.
- (C) In addition to the agreement required under paragraph (C)(1)(d) of that rule, a member participating in the combined plan shall, prior to the public employees retirement board's approval of the member's application, elect one of the options listed in section 10.03 of the combined plan document.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.81, 145.82.

Rule Review Date: 9/29/04; 9/29/09; 9/24/10.

Effective Date History: 1/1/03.

145-3-43 Disability appeals

- (A) This rule applies when the public employees retirement board denies an application for a disability benefit filed under rule 145-3-41 of the Administrative Code.
- (B) After the board has denied an application under rule 145-3-41 of the Administrative Code, the board shall comply with rule 145-2-23 of the Administrative Code.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.81, 145.82.

Rule Review Date: 9/29/04; 9/24/09; 9/24/14.

Effective Date History: 1/1/03.

145-3-51 **Survivor benefits**

- (A) This rule amplifies division (C) of section 145.82 of the Revised Code and section 11.02 of the combined plan document.

- (B) Subject to division (C)(1) of section 145.45 of the Revised Code, the beneficiary or beneficiaries of a deceased member participating in the combined plan may elect to forfeit the sums payable under article VIII of the combined plan document and to substitute survivor benefits if the beneficiary or beneficiaries:
 - (1) Meet the requirements of section 145.45 of the Revised Code;

 - (2) Elect to transfer to the traditional pension plan under section 11.02 of the combined plan document.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.45, 145.81, 145.82.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03; 12/24/04.

145-3-52 **Proof of dependency**

Where dependency is required for eligibility for benefits under rule 145-3-51 of the Administrative Code, proof of dependency shall be made in accordance with rule 145-2-31 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.45, 145.81, 145.82.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-53 **Validity of marriage**

In the absence of a valid marriage certificate, validity of marriage shall be established in accordance with rule 145-2-35 of the Administrative Code.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.43, 145.81, 145.82.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-61 **Repealed**

Effective Date History: 1/1/03; 12/24/04; 10/27/06.

145-3-62 **Repealed**

Effective Date History: 1/1/03; 12/24/04.

145-3-71 **Repealed**

Effective Date History: 1/1/03; 1/1/09.

145-3-73 **Cost of living adjustment**

- (A) As used in this rule, “alternate payee” has the same meaning as in section 3105.80 of the Revised Code.
- (B) A benefit recipient who has received an allowance under section 9.03 of the combined plan document for at least twelve months shall have such allowance increased pursuant to section 145.323 of the Revised Code and as provided in this rule on the annual anniversary of the recipient’s effective benefit date.
- (C) A new benefit base upon which a cost of living adjustment shall be calculated shall be established when:
 - (1) A post retirement increase is granted, other than a cost of living adjustment or a payment representing reimbursement of premium for medicare part “B”.
 - (2) A retirant receiving under plan A or C dies and the surviving beneficiary begins receiving a portion of the amount previously paid to the retirant.
 - (3) A retirant receiving under plan A, C, or D reverts to plan B as a result of the death of the beneficiary spouse, or divorce or dissolution of marriage as authorized in section 9.03 of the combined plan document and rule 145-3-13 of the Administrative Code.
 - (4) A retirant receiving under plan F reverts to plan B as a result of the removal of all beneficiaries as authorized in section 9.03 of the combined plan document and rule 145-3-13 of the Administrative Code.
 - (5) The benefit established at retirement is recalculated for any reason except for a cost of living adjustment or reimbursement of premium for medicare part “B.”
 - (6) A part of a benefit is waived then the base shall be the portion being paid. If a waiver is withdrawn, the full base shall be re-established.
- (D) For allowances that became payable before October 27, 2006, the apportionment of a cost of living adjustment between a benefit recipient and an alternate payee pursuant to section 9.03(d) of the combined plan document shall begin with the next cost of living adjustment granted on or after October 27, 2006, and shall continue while the order is in effect.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.323, 145.81, 145.82.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03; 10/27/06.

145-3-75 Death benefit payment

- (A) This rule shall apply only to the death benefit payable pursuant to section 145.451 of the Revised Code.
- (B) A retirant may designate a beneficiary or beneficiaries to receive only the death benefit payment.
 - (1) Such designation may be changed on a form provided by the public employees retirement system.
 - (2) Unless a different distribution is specified, the death benefit payment shall be divided equally among the surviving beneficiaries if the retirant designated multiple beneficiaries.
- (C) If the death benefit is payable to the person responsible for the retirant's burial expenses, such person shall submit proof of financial liability for these expenses by paid bills or cancelled checks.

Promulgated Under: 111.15.
Statutory Authority: 145.80.
Rule Amplifies: 145.451, 145.81, 145.82.
Rule Review Date: 9/29/04; 9/24/09; 9/24/14.
Effective Date History: 1/1/03.

145-3-77 Annual interest credited to contributor accounts in the employee savings fund

The public employees retirement board shall set pursuant to division (A) of section 145.473 of the Revised Code the annual interest rate to be credited to the accounts in the employees' savings fund of members who are participating in the combined plan.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.473, 145.81, 145.82.

Rule Review Date: 9/29/04; 9/24/09; 9/24/14.

Effective Date History: 1/1/03.

145-3-81 **Military service**

- (A) This rule amplifies section 21.02 of the member-directed plan document.
- (B) A member participating in the member-directed plan may make contributions under section 145.302 of the Revised Code in accordance with rule 145-2-06 of the Administrative Code. Notwithstanding section 145.302 of the Revised Code, a member who makes contributions in accordance with that section shall receive a year or portion of a year of participation, as defined in section 1.38 of the member-directed plan document, rather than service credit.
- (C) Contributions received from a member described in paragraph (B) of this rule shall be deposited and credited in accordance with section 3.03 of the member-directed plan document. Contributions received from the member's employer shall be deposited and credited in accordance with section 3.02 of the member-directed plan document.

Promulgated Under: 111.15.

Statutory Authority: 145.80.

Rule Amplifies: 145.302, 145.81.

Rule Review Date: 9/29/04; 9/29/09; 9/24/14.

Effective Date History: 1/1/03.

145-3-83 **Repealed**

Effective Date History: 1/1/03; 12/24/04.

145-3-84 **Repealed**

Effective Date History: 1/1/03; 12/24/04.

145-4-01 Health care definitions

As used in this chapter:

- (A) “401(h) retiree medical account” means the retiree medical account of a benefit recipient within the account established by the public employees retirement board under rule 145-4-02 of the Administrative Code and described in rules 145-4-26, 145-4-28, and 145-4-30 of the Administrative Code.
- (B) “Age and service retirant” means a former member who is receiving a retirement allowance pursuant to section 145.33, 145.331, 145.34, 145.37 or 145.46 of the Revised Code or section 9.03 of the combined plan document.
- (C) “Benefit recipient” means the primary benefit recipient, if living. If the member or primary benefit recipient is deceased, “benefit recipient” shall mean the survivor benefit recipient.
- (D) “Health care coverage” means the coverage authorized under sections 145.325 and 145.58 of the Revised Code, except for reimbursement of the medicare part B premium, and dental and vision coverage.
- (E) “Initial benefit payment” has the same meaning as in rule 145-1-65 of the Administrative Code.
- (F) “Ohio retirement system” means the public employees retirement system, state teachers retirement system, school employees retirement system, Ohio police and fire pension fund, or highway patrol retirement system.
- (G) “Primary benefit recipient” means an age and service retirant or disability benefit recipient who is enrolled in health care coverage.
- (H) “Qualified medical expense” means medical care, as defined in section 213(d) of the Internal Revenue Code and applicable regulations thereunder and are excludable from income in accordance with sections 105 and 106 of the Internal Revenue Code as amended.
- (I) “Retiree medical account” means the voluntary employees beneficiary association (VEBA) established by the public employees retirement board in accordance with section 501(c)(9) of the Internal Revenue Code and described in the document entitled the “public employees retirement system of Ohio VEBA health plan.”
- (J) “Self-supporting rate” means the adjusted per capita cost for providing health care coverage for any given year, as determined by the board.

145-4-01 (continued)

- (K) “Service manager” means the individual or entity appointed by the public employees retirement system to administer the retiree medical accounts or the 401(h) retiree medical accounts.
- (L) “Survivor benefit recipient” means a beneficiary receiving a benefit pursuant to section 145.45 or 145.46 of the Revised Code or section 9.03 of the combined plan document.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.325, 145.58.
Rule Review Date: 9/26/08; 9/29/13.
Effective Date History: 1/1/07; 1/1/09.

145-4-02 Health care fund

- (A) Within the funds described in section 145.23 of the Revised Code, there shall be a separate account established pursuant to section 401(h) of the Internal Revenue Code for the purpose of funding the coverage authorized under sections 145.325 and 145.58 of the Revised Code. This account shall be known as the “401(h) account.” The assets in the 401(h) account shall be accounted for separately from the other assets of the public 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. All assets in the 401(h) account shall be held in trust for the exclusive benefit of members, benefit recipients, and eligible dependents.
- (B) Contributions to the 401(h) account shall be funded by employer contributions as described in sections 145.325, 145.48, 145.51, and 145.58 of the Revised Code. Contributions to the 401(h) account are subordinate to the contributions to the funds for retirement benefits under the traditional pension plan and combined plan. At no time shall contributions to the 401(h) account be in excess of twenty-five percent of the total aggregate actual contributions made to the trust for the traditional pension plan and combined plan, excluding contributions to fund past service credit. In any event, such contributions shall be reasonable and ascertainable.
- (C) Forfeitures shall be used to fund health care coverage, qualified medical expenses, dental and vision coverage, administrative expenses of the 401(h) account, and to reimburse the medicare part B premium, and as provided in rule 145-4-30 of the Administrative Code.
- (D) The assets of the 401(h) account shall only be used for the payment of health care coverage, qualified medical expenses, dental and vision coverage, and to reimburse the medicare part B premium.
- (E) At no time prior to the satisfaction of all liabilities under this rule and sections 145.325 and 145.58 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 (D) of this rule and for the payment of administrative expenses. 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 system are used.
- (F) 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 (E) of this rule shall be returned to the employers, in accordance with section 401(h)(5) of the Internal Revenue Code.
- (G) It is the intent of the public employees retirement board 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, the board will apply the interpretation that achieves compliance with those sections and preserves the qualified status of the system as a governmental plan in accordance with sections 401(a) and 414(d) of the Internal Revenue Code.

145-4-02 (continued)

- (H) This rule is intended to codify past practices and procedures of the system with respect to the funding and payment of health care coverage and does not confer any new rights to members, retirants, survivors, beneficiaries, or their dependents.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.325, 145.58.
Rule Review Date: 9/26/08; 9/29/13.
Effective Date History: 1/1/07; 1/1/09.

145-4-03 Health care coverage

- (A) Dental, vision, and health care coverage for an eligible primary benefit recipient may be available upon application on a form provided by the public employees retirement system. A primary benefit recipient may enroll an eligible dependent as defined in rule 145-4-09 of the Administrative Code.
- (B) Applications for health care coverage must be received by the public employees retirement system not later than sixty days after the benefit recipient's initial benefit payment, unless the system determines that a physical or mental incapacity prevented the benefit recipient from making application within the initial sixty-day benefit period. Except as provided in this paragraph, if the application is received more than sixty days after the benefit recipient's initial benefit payment, the retirement system shall not accept the application and enrollment may occur only during the next annual health care open enrollment period.
- (C) Upon the recommendation of the actuary retained by the board, the board shall determine annually the portion of the self-supporting rate it shall pay for eligible benefit recipients and eligible dependents enrolled in health care coverage.
- (D) If the monthly premium for dental, vision, or health care coverage exceeds the monthly benefit, the benefit recipient shall pay the premiums as directly billed by the retirement system or a third party under contract with the board to administer collection of monthly premiums. Billings shall conform to a monthly billing schedule.
- (E) An ineligible individual, as defined in section 145.58 of the Revised Code, may be enrolled in a health care plan administered by a third party health care administrator(s). Such ineligible individual shall pay all required premiums directly to the health care administrator in the time and manner prescribed by the third party health care administrator. Except to the extent required under paragraph (I) of this rule, the retirement system shall not be responsible for any premiums, claims, or withholding of premiums for such health care plan.
- (F) An eligible benefit recipient may waive health care coverage. The waiver is effective as to both the benefit recipient waiving coverage and the benefit recipient's dependents.
 - (1) The effective date of the waiver shall be determined as follows:
 - (a) If the waiver is received by the retirement system not later than thirty days after issuance of the initial benefit payment, the waiver is effective on the effective date of benefits.
 - (b) If the waiver is received by the retirement system more than thirty days after the issuance of the initial benefit payment but not later than the tenth day of a month, the waiver is effective on the first day of the month following receipt of the waiver.

145-4-03 (continued)

- (c) If the waiver is received by the retirement system more than thirty days after the issuance of the initial benefit payment and after the tenth day of a month, the waiver is effective on the first day of the second month following receipt of the waiver.
- (2) A benefit recipient may revoke the waiver by filing an application for enrollment in health care coverage during one of the following:
 - (a) The annual open enrollment period for health care coverage, except that the waiver remains effective until January first of the next year;
 - (b) Within thirty-one days of involuntary termination of coverage under another group plan, and with proof of such termination, except that the waiver remains effective until the first day of the month following receipt if the application is received by the tenth day of the preceding month, otherwise the waiver remains effective until the first day of the second month following receipt of the application.
- (G) An individual who is eligible for health care coverage from more than one benefit may not enroll for health care coverage simultaneously under more than one benefit.
- (H)
 - (1) Regardless of the reason for eligibility, all enrolled benefit recipients and dependents shall enroll in medicare part B at the benefit recipient or eligible dependent's first eligible date.
 - (2) All enrolled benefit recipients and dependents shall enroll in medicare part A at the benefit recipient or eligible dependent's first eligible date if the benefit recipient or dependent can do so without payment of a premium for the coverage.
 - (3) For any period that a benefit recipient or dependent is eligible but fails to enroll in medicare part A or B as required by this paragraph, the health care claims paid by the retirement system shall be reduced by the coverage the individual should have received if enrolled in medicare part A or B.
- (I) The retirement system shall offer continuation coverage, as applicable, in accordance with the requirements of the Consolidated Omnibus Budget and Reconciliation Act of 1985 ("COBRA"), 42 United States Code 300gg-1.

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.325, 145.58.
Rule Review Date: 9/26/08; 9/29/13.
Effective Date History: 8/20/76; 12/9/88; 4/1/93;
6/29/96; 5/4/00; 10/9/00; 3/22/02; 8/8/02; 1/1/03;
4/15/04; 1/1/05; 1/1/07; 1/1/09; 1/1/11.

145-4-04 **Effective date of health care coverage**

- (A) Except as otherwise provided in this rule, the effective date of health care coverage shall be the effective benefit date of the benefit that is the basis of the health care coverage.
- (B) If the retirement system or health care administrator has not paid claims for health care coverage for an eligible benefit recipient or eligible dependent, the benefit recipient may elect an effective date of health care coverage that is after the date described in paragraph (A) of this rule but is not later than sixty days after the initial benefit payment. An election under this paragraph shall be made not later than sixty days after the initial benefit payment.
- (C) Notwithstanding paragraphs (A) and (B) of this rule, the effective date of health care coverage shall not be either of the following:
 - (1) More than one year prior to the date on which the retirement system receives an application for enrollment in health care coverage;
 - (2) A date that precedes the date described in paragraph (A) of this rule.
- (D) The effective date of health care coverage shall be on the first day of a month.

Promulgated Under: 111.15
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.58.
Rule Review Date: 9/26/08; 9/26/13.
Replaces: 145-4-01(C).
Effective Date History: 8/20/76; 12/9/88; 4/1/93;
6/29/96; 5/4/00; 10/9/00; 3/22/02; 8/8/02; 1/1/03;
4/15/04; 1/1/05; 1/1/07.

145-4-05 Monthly health care allowance

- (A) As used in this chapter, “monthly health care allowance” means the monthly amount that is allocated to each individual enrolled in health care coverage. This allowance is based on the self-supporting rate, as determined by the public employees retirement board, and as adjusted by the benefit recipient’s years and type of service credit.
- (B) The monthly health care allowance shall only be used to purchase dental, vision, and health care coverage. The remaining portion of the allowance that is not used as described in this paragraph shall be credited to a 401(h) retiree medical account.
- (C) The projected number of years and fractions thereof described in section 145.36 of the Revised Code shall not be included in determining the monthly health care allowance of a disability benefit recipient:

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.325, 145.58.
Rule Review Date: 9/26/08; 9/29/13.
Effective Date History: 1/1/07; 1/1/09.

145-4-06 **Changing health care plan selection**

The public employees retirement board shall establish the circumstances under which an enrolled benefit recipient may select a different third-party health care administrator or plan to provide the benefit recipient's dental, vision, or health care coverage.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.58.
Rule Review Date: 9/26/08; 9/26/13.
Effective Date History: 1/1/07.

145-4-07 **Repealed**

Effective Date History: 4/15/04; 1/1/07.

145-4-08 **Eligibility for health care coverage for the dependents and survivors of this system's members and retirants**

- (A) Dental, vision, and health care coverage may be available to an eligible survivor benefit recipient or an eligible dependent upon application on a form provided by the public employees retirement system.
- (B) Except as provided in this paragraph, an eligible survivor benefit recipient may enroll in health care coverage if the benefit recipient is an eligible dependent, as defined in rule 145-4-09 of the Administrative Code. A survivor benefit recipient receiving a benefit under section 145.46 of the Revised Code who is not an eligible dependent may enroll in health care coverage only if the effective date of the primary benefit recipient's benefit is before October 27, 2006.
- (C) The surviving spouse of an age and service retirant or member may enroll an eligible dependent as long as the surviving spouse is enrolled in health care coverage and the eligible dependent continues to meet the definition in rule 145-4-09 of the Administrative Code.
- (D) A spouse of a primary benefit recipient shall cease to be eligible for health care coverage on the first day of the month following the date of the final decree of divorce or dissolution from the primary benefit recipient.
- (E) An eligible dependent described in paragraph (B) of rule 145-4-09 of the Administrative Code shall cease to be eligible for health care coverage on the first day of the month following the dependent's twenty-sixth birthday. An eligible dependent described in paragraph (C) of rule 145-4-09 of the Administrative Code shall cease to be eligible for health care coverage on the first day of the month following the eighteenth birthday of the primary benefit recipient's child who is the parent of the primary benefit recipient's enrolled grandchild.
- (F) Upon the death of a primary benefit recipient, any individual who would have been treated as an eligible dependent of the benefit recipient but for the recipient's death shall be treated as an eligible dependent of the primary benefit recipient for purposes of this chapter until the individual reaches the age limitation set forth in rule 145-4-09 of the Administrative Code.
- (G) A benefit recipient shall inform the retirement system, in writing, not later than thirty days after an eligible dependent no longer meets the requirements of this rule.
- (H) The retirement system may require a benefit recipient to certify the status of an individual as an eligible dependent for purposes of health care coverage. Failure to provide certification within sixty days of the request by the retirement system shall result in the

145-4-08 (continued)

denial or withdrawal of health care coverage for such individual until the next annual health care open enrollment period.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.58.

Rule Amplifies: 145.58.

Rule Review Date: 9/26/08; 9/29/13.

Effective Date History: 1/1/05; 10/27/06; 1/1/09;
1/1/11.

145-4-09 Definition of "eligible dependent" for health care coverage

For coverage commencing on or after January 1, 2011, "eligible dependent" means any of the following:

- (A) The spouse of a primary benefit recipient. The spouse shall be an individual of the opposite gender who establishes a marriage by a valid marriage certificate recognized by Ohio law.
- (B) The biological or legally adopted child of a primary benefit who is under the age of twenty-six or is permanently and totally disabled prior to age twenty-two. 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.
- (C) The grandchild of a primary benefit recipient for whom the benefit recipient has been ordered pursuant to section 3109.19 of the Revised Code to provide for the health care coverage.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.38, 145.46, 145.58.
Rule Review Date: 9/26/08; 9/29/13.
Effective Date History: 1/1/05; 10/27/06; 1/1/09;
1/1/11.

145-4-10 Enrollment of eligible dependents outside of open enrollment period

- (A) A benefit recipient may enroll an eligible dependent in health care coverage at any time outside of the annual health care open enrollment period if any of the following apply:
- (1) The primary benefit recipient may enroll a new spouse upon marriage;
 - (2) The benefit recipient may enroll a child upon the birth or adoption of that child;
 - (3) The benefit recipient may enroll an eligible dependent who has involuntarily lost health care coverage from another source;
 - (4) The benefit recipient is ordered to enroll a child pursuant to a national medical support order;
 - (5) The dependent first achieves an eligibility threshold described in rule 145-4-09 of the Administrative Code.
- (B) Enrollment of an eligible dependent under this rule shall be made on an application provided by the public employees retirement system and must be received not later than sixty days after of the occurrence of the event described in paragraph (A) of this rule.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.58.
Rule Review Date: 9/26/08; 9/26/13.
Effective Date History: 1/1/07; 1/1/11.

145-4-11 Reimbursement of medicare part “B” premium

- (A) The public employees retirement board shall determine the monthly amount paid to reimburse for medicare part “B” coverage. The amount paid shall be not less than \$96.40, except that the board shall make no payment that exceeds the amount paid by the recipient for the coverage.
- (B) The amount described in paragraph (A) of this rule shall be reimbursed to an eligible benefit recipient in each monthly benefit payment when such benefit recipient submits both of the following:
 - (1) Proof of enrollment in and evidence of the premium amount paid for medicare part B coverage;
 - (2) Certification that the benefit recipient is not receiving reimbursement for the premium and that it is not being paid by any other source.
- (C) Except as provided in paragraph (D) of this rule, the effective date for the reimbursement of the premium amount pursuant to division (C) of section 145.58 of the Revised Code shall be the later of:
 - (1) The effective date of medicare part B coverage;
 - (2) The first day of the month following receipt by the system of the information described in paragraph (B) of this rule.
- (D) If the benefit recipient’s initial benefit payment was issued not later than thirty days prior to receipt of the information described in paragraph (B) of this rule, the effective date for the reimbursement shall be the first day of the month following the later of:
 - (1) The effective date of health care coverage under rule 145-4-04 of the Administrative Code;
 - (2) The effective date of medicare part B coverage.
- (E) The retirement system shall not pay more than one monthly medicare part B premium to an eligible benefit recipient who is receiving more than one monthly retirement allowance from this system.

145-4-11 (continued)

- (F) If a benefit recipient fails to certify the amount paid for medicare part B coverage, the board may, following notice to the benefit recipient, suspend the premium reimbursement for any month that the certification is not received. The board shall not reimburse the benefit recipient for any period of suspension.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.58.

Rule Amplifies: 145.58.

Rule Review Date: 9/26/08; 9/29/13.

Effective Date History: 8/20/76; 9/6/88; 3/22/02;
1/1/03; 1/1/07; 1/1/09; 4/5/10.

145-4-13 Waiver program grandfathered

- (A) This rule applies to a benefit recipient who irrevocably waived health care coverage under the version of rule 145-4-04 of the Administrative Code in effect prior to January 1, 2007, and an individual who irrevocably waived health care coverage in another Ohio retirement system prior to January 1, 2007.

- (B) (1) In the event that an eligible benefit recipient of this system who also was an eligible benefit recipient of another Ohio retirement system irrevocably waived health care coverage under rule 145-4-04 of the Administrative Code in order to be covered by the other Ohio retirement system, this system shall transfer to the other system annually for covered benefit recipients and dependents for each month covered an amount equal to the sum of:
 - (a) The lesser of this system's average monthly medical cost including health maintenance organization or health insuring corporation cost per benefit recipient less the cost paid by the benefit recipient, or the other system's average monthly medical cost including health maintenance organization or health insuring corporation cost per benefit recipient.
 - (b) The lesser of this system's average monthly cost of the prescription drug program per benefit recipient, or the other system's average monthly cost of the prescription drug program per benefit recipient.
 - (c) The lesser of the monthly cost of the medicare part B premium that would be reimbursed by this system for the benefit recipient, or the monthly cost of the medicare part B premium that would be reimbursed by the other system for the benefit recipient.

- (2) This system shall transfer the amounts due pursuant to paragraph (B)(1) of this rule no later than the last business day of February each year for the preceding calendar year after the following occur:
 - (a) This system receives from the other system a list containing the names of benefit recipients and the number of months during which the recipients were covered by the other system for the preceding calendar year; and
 - (b) This system prepares an itemized accounting of the amount transferred for each such benefit recipient.

- (C) Where an eligible benefit recipient or dependent of an eligible benefit recipient of this system has waived health care coverage in another Ohio retirement system prior to January 1, 2007, this system shall be responsible to provide health care coverage only if the other Ohio retirement system pays annually to this system for covered benefit recipients and dependents for each month covered, an amount equal to the sum of:

145-4-13 (continued)

- (1) The lesser of this system's average monthly medical including health maintenance organization or health insuring corporation cost per benefit recipient less the cost paid by the benefit recipient, or the other system's average monthly medical including health maintenance organization or health insuring corporation cost per benefit recipient.
- (2) The lesser of this system's average monthly cost of the prescription drug program per benefit recipient, or the other system's average monthly cost of the prescription drug program per benefit recipient.
- (3) The lesser of the monthly cost of the medicare part B premium that would be reimbursed by this system for the benefit recipient, or the monthly cost of the medicare part B premium that would be reimbursed by the other system for the benefit recipient.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.58.

Rule Amplifies: 145.325, 145.58.

Rule Review Date: 9/26/08; 9/29/13.

Effective Date History: 8/1/98; 2/3/00; 1/1/03;
1/1/07; 4/6/07 (Emer.); 7/1/07; 1/1/09.

145-4-14 Coordination of coverage

- (A) This rule amplifies division (D) of section 145.58 of the Revised Code.
- (B) As used in this rule, "available coverage" means health care coverage available from another Ohio retirement system.
- (C) Health care coverage provided by this retirement system under sections 145.325 and 145.58 of the Revised Code shall pay covered medical expenses for benefit recipients of this retirement system prior to payment under any available coverage if the available coverage is provided to the individual as the spouse or dependent of another person.
- (D) Health care coverage provided by this system shall pay only the covered medical expenses not paid or reimbursed by any available coverage if either of the following occurs:
 - (1) In the case of a benefit recipient, the available coverage is not provided as a dependent of another person, and has been in effect for a longer time than the health care coverage provided by this system;
 - (2) In the case of a dependent, the available coverage is not provided as the dependent of another person or is provided as the dependent of another person but has been in effect for a longer time than the health care coverage provided by this system.
- (E) Except as otherwise provided in this rule, the public employees retirement system shall not be the system responsible for health care coverage for eligible benefit recipients or eligible dependents of eligible benefit recipients of this system who waive or are otherwise eligible for any available coverage after January 1, 2007.
- (F) Each benefit recipient and eligible dependent enrolled in health care coverage provided by this system shall annually make a report to the system or, an entity designated by the system, stating whether the person has other available coverage. The report shall include any information requested by the system or entity.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.58.
Rule Review Date: 9/26/08; 9/29/13.
Effective Date History: 1/1/07; 1/1/09.

145-4-15 **Income-based discount program**

- (A) As used in this rule, "household income" means the aggregate of all income and wages of a benefit recipient enrolled in health care coverage, plus the income and wages of the benefit recipient's spouse and any individual that could be claimed as the dependent of the benefit recipient for purposes of federal income taxes.
- (B) The public employees retirement board may offer a discount on the monthly premium for health care coverage to eligible benefit recipients and eligible dependents whose household income is below an amount determined by the board. The board shall establish the requirements that must be met to qualify for the discount.
- (C) If offered under paragraph (B) of this rule, an eligible benefit recipient must apply for the discount annually on a form provided by the public employees retirement system. The system may request documentation to validate the benefit recipient's eligibility for the program. Failure to accurately complete the enrollment form or provide the requested documentation will prevent enrollment in the program for that year.
- (D) If the retirement system determines that the benefit recipient has made false or incomplete representations to qualify for the discount described in this rule, the benefit recipient shall reimburse the retirement system for any discounts improperly received and shall be ineligible to receive the discount at any time in the future.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.58.
Rule Review Date: 9/26/08; 9/26/13.
Effective Date History: 1/1/07.

145-4-20 Health care coverage for combined plan

- (A) A member participating in the combined plan shall be a member of the traditional pension plan for purposes of the coverage described in sections 145.325 and 145.58 of the Revised Code.

- (B) As used in section 145.58 of the Revised Code, "ineligible individual" includes all of the following:
 - (1) A former member receiving benefits pursuant to section 9.03 of the combined plan document for whom eligibility is established after June 13, 1986, and who, at the time of establishing eligibility, has accrued less than ten years of service credit in the combined plan, exclusive of service credit obtained in the combined plan after January 1, 2003, pursuant to section 145.293 or 145.301 of the Revised Code, and service credit obtained in the combined plan after January 1, 2003, pursuant to section 145.28 of the Revised Code;
 - (2) The spouse of the former member;
 - (3) The beneficiary of the former member receiving benefits pursuant to section 9.03(e) of the combined plan document.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58, 145.82.
Rule Amplifies: 145.325, 145.58, 145.82.
Rule Review Date: 9/26/08; 9/26/13.
Replaces: 145-4-07.
Effective Date History: 4/15/04; 1/1/07.

145-4-22 Eligibility for health care coverage for service in traditional pension and combined plans

For purposes of determining eligibility for health care coverage and the monthly health care allowance, the public employees retirement system shall aggregate service credit earned and purchased in both the traditional pension plan and the combined plan if both of the following apply:

- (A) The member is eligible to retire independently from both the traditional pension plan and the combined plan;
- (B) The member applies for retirement under both the traditional pension plan and the combined plan with the same effective date of benefits under both plans.

Promulgated Under: 111.15.
Statutory Authority: 145.09.
Rule Amplifies: 145.58, 145.82.
Rule Review Date: 9/26/08; 9/26/13.
Effective Date History: 1/1/07.

145-4-24 Retiree medical account for member-directed plan

- (A) For each member who is contributing to the member-directed plan under section 145.85 of the Revised Code, the public employees retirement system shall credit to a retiree medical account a portion of the employer contribution under section 145.86 of the Revised Code. The portion of employer contribution to be credited shall be determined by the board.

- (B) The rights of a member participating in the member-directed plan to reimbursement under a retiree medical account shall be governed exclusively by the provisions of the “public employees retirement system of Ohio VEBA health plan.” The member shall vest in amounts accumulated in the retiree medical account as provided in the “public employees retirement system of Ohio VEBA health plan.”

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.83, 145.88.
Rule Amplifies: 145.83.
Rule Review Date: 9/26/08; 9/26/13.
Effective Date History: 4/15/04; 10/27/06.

145-4-26 401(h) retiree medical account - excess health care allowance

- (A) If the monthly health care allowance for an enrolled benefit recipient and enrolled dependent exceeds the monthly cost of the health care coverage of the benefit recipient and dependent, the public employees retirement system shall credit an amount equal to the excess allowance to the 401(h) retiree medical account of the benefit recipient.
- (B) A 401(h) retiree medical account under this rule shall be invested by the public employees retirement board with other funds held in the 401(h) account. Each 401(h) retiree medical account shall be credited with interest or other earnings at a rate and at such intervals as determined by the board. An administrative fee may be assessed against a 401(h) retiree medical account as determined by the board.
- (C) A 401(h) retiree medical account established under this rule shall be available solely for the payment of the qualified medical expenses of a benefit recipient or eligible dependent.
- (D) Payment or reimbursement of a qualified medical expense shall occur only after submission of a claim and approval pursuant to rule 145-4-28 of the Administrative Code. Payment of a qualified medical expense shall occur only by payment of a premium for health care coverage. Reimbursement of a qualified medical expense shall occur by direct payment to the benefit recipient. Payment or reimbursement is limited to expenses not paid by social security, medicare, or any other medical and health insurance coverage held by the benefit recipient or eligible dependent, or their employers. Payment or reimbursement may not be made for qualified medical expenses that are deductible by the benefit recipient under any other section of the Internal Revenue Code.

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.325, 145.58.
Rule Review Date: 9/26/08; 9/29/13.
Effective Date History: 1/1/07; 1/1/09.

145-4-28 Administration of 401(h) retiree medical account-claims and appeals

- (A) An individual eligible for payment or reimbursement of a qualified medical expense shall submit a claim to the service manager. The service manager shall determine if the claim is a qualified medical expense, and if the claim is approved, the service manager shall make payment or reimburse the qualified medical expense not later than thirty days after the date of approval.

- (B) If a claim is denied, in whole or in part, by the service manager, the service manager shall provide the claimant with written notice of its decision within thirty days after receipt of the claim, unless special circumstances require an extension of time for review of the claim.
 - (1) If special circumstances require an extension of time for the service manager to review a claim, the claimant shall be advised, in writing, of the extension, the special circumstances giving rise to the extension, and the date by which the service manager expects to render its decision. The extension period shall not be more than ninety days after receipt of the claim.
 - (2) Any denial of a claim shall clearly describe the reason for the denial, the authority upon which the service manager relied in making the decision, any additional information necessary for the claimant to complete the claim, and the steps the claimant may take to submit the claim for review pursuant to paragraph (C) of this rule.
 - (3) In the event written notice of a denial of a claim is not provided to the claimant in the manner set forth in paragraph (B)(2) of this rule, the claim shall be deemed denied as of the date on which the service manager's time period for rendering its decision expires.

- (C) Any claimant whose request for payment or reimbursement has been denied, in whole or in part, or the claimant's authorized representative, may appeal the denial by submitting to the service manager a written request for a review of the denied claim. Except as provided in this paragraph, a request for review must be received by the service manager not later than sixty days from the date the claimant received written notification of the service manager's initial denial of the claimant's request or from the date the claim was deemed denied. The service manager, upon the written application of the claimant or authorized representative, may in its discretion agree in writing to an extension of the sixty-day period.

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

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

Promulgated Under: 111.15.
Statutory Authority: 145.09, 145.58.
Rule Amplifies: 145.325, 145.58.
Rule Review Date: 9/26/08; 9/29/13.
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145-4-30 Administration of 401(h) retiree medical account-forfeiture and unclaimed accounts

- (A) Amounts standing to the credit of a benefit recipient in the 401(h) retiree medical account at the time of death may be used by an eligible dependent of the benefit recipient for payment or reimbursement of qualified medical expenses.
- (B) Except as provided in paragraph (C) of this rule, the 401(h) retiree medical account shall be forfeited and used as provided in paragraph (D) of this rule if any of the following occur:
 - (1) The primary benefit recipient is not survived by any eligible dependents;
 - (2) All eligible dependents cease to meet the criteria set forth in rule 145-4-09 of the Administrative Code;
 - (3) All eligible dependents that have been identified by the service manager do not claim a payment or reimbursement for a period of one year from the date of death of the benefit recipient;
 - (4) The service manager is unable to locate any eligible dependent within one year of the death of the benefit recipient;
 - (5) No claim for payment or reimbursement has been received by the service manager for a five-year period.
- (C) If a 401(h) retiree medical account is forfeited pursuant to paragraph (B)(3), (B)(4), or (B)(5) of this rule, an eligible dependent may request in writing reinstatement of the 401(h) retiree medical account.
- (D) Forfeitures shall be used to fund the administrative expenses of the 401(h) account and may be used as a credit against future employer contributions to the 401(h) account.

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Statutory Authority: 145.09, 145.58.
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145-4-50 Health care plan provisions regarding the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)

- (A) As used in this rule:
- (1) “Electronic protected health information” means protected health information that is transmitted by electronic media or maintained in electronic media.
 - (2) “Enrollment/disenrollment information” means information on whether the individual is participating in the health plan, or is enrolled in or has disenrolled from a health insurance issuer, health maintenance organization, or health insuring corporation offered by the plan.
 - (3) “Plan” means any health plan maintained by the Ohio public employees retirement system under the authority granted in section 145.58 of the Revised Code.
 - (4) “Plan administration functions” means administrative functions performed by the plan sponsor of a health plan on behalf of the health plan and excludes functions performed by the plan sponsor in connection with any other benefit or benefit plan of the plan sponsor.
 - (5) “Plan sponsor” means the Ohio public employees retirement system.
 - (6) “Protected health information” means individually identifiable health information that is transmitted by electronic media; maintained in electronic media; or transmitted or maintained in any other form or medium
 - (7) “Summary health information” means information (1) that summarizes the claims history, claims expenses, or type of claims experienced by individuals for whom a plan sponsor has provided health coverage under the plan; and (2) from which the information described at 42 CFR Section 164.514(b)(2)(i) has been deleted, except that the geographic information described in 42 CFR Section 164.514(b)(2)(i)(B) need only be aggregated to the level of a five-digit ZIP code.
- (B) The plan may disclose to the plan sponsor enrollment/disenrollment information at any time.
- (C) The plan (or a health insurance issuer, health maintenance organization, or health insuring corporation with respect to the plan) may disclose summary health information to the plan sponsor, provided that the plan sponsor requests the summary health information for the purpose of (1) obtaining premium bids from health plans for providing health insurance coverage under the plan; or (2) modifying, amending, or terminating the plan.

145-4-50 (continued)

- (D) (1) Unless otherwise permitted by law, and subject to the conditions of disclosure described in paragraph (E) of this rule and obtaining written certification pursuant to paragraph (G) of this rule, the plan (or a health insurance issuer, health maintenance organization, or health insuring corporation on behalf of the plan) may disclose protected health information and electronic protected health information to the plan sponsor, provided that the plan sponsor uses or discloses such protected health information and electronic protected health information only for plan administrative purposes. "Plan administrative purposes" means administration functions performed by the plan sponsor on behalf of the plan, such as quality assurance, claims processing, auditing, and monitoring and other administrative services related to the plan. Plan administrative functions do not include functions performed by the plan sponsor in connection with any other benefit or benefit plan of the plan sponsor or any employment-related actions or decisions.
- (2) Notwithstanding any provisions of this plan to the contrary, in no event shall the plan sponsor be permitted to use or disclose protected health information or electronic protected health information in a manner that is inconsistent with 45 CFR Section 164.504(f).
- (E) (1) Plan sponsor agrees that with respect to any protected health information (other than enrollment/disenrollment information and summary health information, and information disclosed pursuant to a signed authorization that complies with the requirements of 45 CFR Section 164.508, which are not subject to these restrictions) disclosed to it by the plan (or a health insurance issuer, health maintenance organization, or health insuring corporation on behalf of the plan), plan sponsor shall:
 - (a) Not use or further disclose the protected health information other than as permitted or required by the plan or as required by law;
 - (b) Ensure that any agent, including a subcontractor, to whom it provides protected health information received from the plan agrees to the same restrictions and conditions that apply to the plan sponsor with respect to protected health information;
 - (c) Not use or disclose the protected health information for employment-related actions and decisions or in connection with any other benefit or employee benefit plan of the plan sponsor;
 - (d) Report to the plan any use or disclosure of the protected health information of which it becomes aware that is inconsistent with the uses or disclosures provided for;

145-4-50 (continued)

- (e) Make available protected health information to comply with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) right to access in accordance with 45 CFR Section 164.524;
 - (f) Make available protected health information for amendment, and incorporate any amendments to protected health information, in accordance with 45 CFR Section 164.526;
 - (g) Make available the information required to provide an accounting of disclosures in accordance with 45 CFR Section 164.528;
 - (h) Make its internal practices, books, and records relating to the use and disclosure of protected health information received from the plan available to the secretary of health and human services for purposes of determining compliance by the plan with HIPAA's privacy requirements;
 - (i) If feasible, return or destroy all protected health information received from the plan that the plan sponsor still maintains in any form and retain no copies of such information when no longer needed for the purpose for which disclosure was made, except that, if such return or destruction is not feasible, limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible; and
 - (j) Ensure that the adequate separation between plan and plan sponsor (i.e., the firewall), required by 45 CFR Section 504(f)(2)(iii), is established.
- (2) Plan sponsor further agrees that if it creates, receives, maintains, or transmits any electronic protected health information (other than enrollment/disenrollment information and summary health information, and information disclosed pursuant to a signed authorization that complies with the requirements of 45 CFR Section 164.508, which are not subject to these restrictions) on behalf of the plan, it will:
- (a) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic protected health information that it creates, receives, maintains, or transmits on behalf of the plan;
 - (b) Ensure that the adequate separation between the plan and plan sponsor (i.e., the firewall), required by 45 CFR Section 504(f)(2)(iii) is supported by reasonable and appropriate security measures;
 - (c) Ensure that any agent, including a subcontractor, to whom it provides electronic protected health information agrees to implement reasonable and appropriate security measures to protect the information; and

- (d) Report to the plan any security incident of which it becomes aware, as follows: plan sponsor will report to the plan, with such frequency and at such times as agreed, the aggregate number of unsuccessful, unauthorized attempts to access, use, disclose, modify, or destroy electronic protected health information or to interfere with systems operations in an information system containing electronic protected health information; in addition, plan sponsor will report to the plan as soon as feasible any successful unauthorized access, use, disclosure, modification, or destruction of electronic protected health information or interference with systems operations in an information system containing electronic protected health information.

- (F) (1) The plan sponsor shall allow only those employees or other persons under the control of the plan sponsor who are involved in the administration of the health plan access to the protected health information. No other persons shall have access to protected health information. These specified employees (or classes of employees) shall only have access to and use of protected health information to the extent necessary to perform the plan administration functions that the plan sponsor performs for the plan. In the event that any of these specified employees does not comply with the provisions of this rule, that employee shall be subject to disciplinary action by the plan sponsor for non-compliance pursuant to the plan sponsor's employee discipline and termination procedures.

- (3) The plan sponsor shall ensure that the provisions of this rule are supported by reasonable and appropriate security measures to the extent that the persons designated above create, receive, maintain, or transmit electronic protected health information on behalf of the plan.

- (G) The plan (or a health insurance issuer, health maintenance organization, or health insuring corporation with respect to the plan) shall disclose protected health information to the plan sponsor only upon the receipt of a certification by the plan sponsor that the plan has been amended to incorporate the provisions of 45 CFR Section 164.504(f)(2)(ii), and that the plan sponsor agrees to the conditions of disclosure set forth in paragraph (E) of this rule.

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