

**OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM**  
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**MEMORANDUM**

**DATE:** March 9, 2007

**TO:** OPERS Retirement Board Members

**FROM:** Julie E. Becker, General Counsel  
Lauren N. Gresh, Associate Counsel

**RE:** **IV. Action Items:**  
**A. Rules**  
**Administrative Code and Defined Contribution Plan Document Amendments for H.B. 272 and other topics:**  
**Rule 145-1-11, Appeal of staff determination**  
**Rule 145-1-27, Remittance of employer liabilities**  
**Rule 145-1-37, Purchases made with a rollover distribution**  
**Rule 145-1-39, Replacement of warrants**  
**Rule 145-1-63, Guardianship and power of attorney**  
**Rule 145-1-64, Death of designated beneficiary**  
**Rule 145-1-65, Interim benefit payment**  
**Rule 145-1-70, Waiver of spousal consent**  
**Rule 145-1-71, Withdrawal of benefit application**  
**Rule 145-1-73, Withdrawal of application for refund or money purchase or additional annuity lump sum payments**  
**Rule 145-2-07, Additional service credit under section 145.201 of the Revised Code**  
**Rule 145-2-15, Cincinnati retirement system**  
**Rule 145-2-35, Validity of marriage**  
**Rule 145-2-38, Survivors of law enforcement officers killed in the line of duty**  
**Rule 145-2-43, Additional annuity accounts**  
**Rule 145-2-44, Selection of payment plan – spousal consent**  
**Rule 145-2-46, Beneficiary’s percentage under “plan C”**  
**Rule 145-2-48, Beneficiary and payment plan changes after commencement of additional annuity**  
**Rule 145-2-60, Designation of beneficiaries under “plan F”**  
**Rule 145-2-62, Calculation of amount due retirant or contributor with multiple beneficiaries under “plan F”**  
**Rule 145-2-64, Priority of multiple court orders under “plan F”**  
**Rule 145-3-31, Additional service credit under section 145.201 of the Revised Code**  
**Amendment Three to the Combined Plan Document**  
**Amendment Three to the Member-Directed Plan Document**

Action requested: \_\_\_\_\_ moved, \_\_\_\_\_ seconded, to do all of the following:

(1) Approve for submission to the Joint Committee on Agency Rule Review (JCARR) and the Legislative Service Commission (LSC), Rules 145-1-11, 145-1-27, 145-1-37, 145-1-39, 145-1-63, 145-1-64, 145-1-65, 145-1-70, 145-1-71, 145-1-73, 145-2-07, 145-2-15, 145-2-35, 145-2-38, 145-2-43, 145-2-44, 145-2-46, 145-2-48, 145-2-60, 145-2-62, 145-2-64, and 145-3-31, as set forth in this memorandum;

(2) Authorize the Executive Director to execute Amendment Three to the plan document for the Combined Plan, as set forth in this memorandum; and

(3) Authorize the Executive Director to execute Amendment Three to the plan document for the Member-Directed Plan, as set forth in this memorandum.

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## **I. Summary of H.B. 272 amendments**

Am. Sub. House Bill 272 amends several sections of Chapter 145 of the Ohio Revised Code and enacts several new sections of law. H.B. 272 is effective on April 6, 2007; however, some of its provisions will not be implemented immediately because the statute provides for delayed or voluntary implementation dates.

### **(A) Non-substantive and cross-reference changes**

Rule 145-1-27, Remittance of employer liabilities

Rule 145-1-37, Purchases made with a rollover distribution

Rule 145-1-39, Replacement of warrants

Rule 145-1-63, Guardianship and power of attorney

Rule 145-1-65, Interim benefit payment

Rule 145-1-70, Waiver of spousal consent

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

Rule 145-2-15, Cincinnati retirement system

Rule 145-2-35, Validity of marriage

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

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

Rule 145-2-60, Designation of beneficiaries under "plan F"

Rule 145-2-62, Calculation of amount due retiree or contributor with multiple beneficiaries under "plan F"

Rule 145-2-64, Priority of multiple court orders under "plan F"

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

Amendment Three to the Combined Plan Document

Amendment Three to the Member-Directed Plan Document

### **(B) HB 272 substantive amendments and new rules**

**Rule 145-1-64, Death of designated beneficiary** – H.B. 272 permits members to designate beneficiaries to share in the member's account in specific percentages.

This new rule describes how remaining designated beneficiaries share in a deceased beneficiary's percentage.

**Rule 145-1-71, Withdrawal of benefit application** – Amended for cross-references in H.B. 272 and to prohibit the withdrawal of a benefit application when OPERS has made a distribution from a retiree medical account or paid a portion of the benefit pursuant to a court order. These amendments are consistent with the processing of refund and lump sum payment applications in Rule 145-1-73(E).

**Rule 145-2-07, Additional service credit under section 145.201 of the Revised Code** – H.B. 272 permits members with additional elected official service credit to refund that credit when it does not enhance the retirement allowance. Enhancement of the retirement allowance is described as exceeding 100% of the member's final average salary or the limits on distributions pursuant to federal law (Section 415 of the Internal Revenue Code). The amendments to this rule describe when and how the purchase amounts are returned to the member.

**Rule 145-2-38, Survivors of law enforcement officers killed in the line of duty** – H.B. 272 expands the eligibility requirements for the surviving spouse's benefits when a law enforcement officer is killed in the line of duty. This new rule requires the law enforcement officer's employer to certify that the officer's death was in the line of duty.

**Rule 145-2-43, Additional annuity accounts** – H.B. 272 relocated the statutory authority for the Additional Annuity program from R.C. 145.23 to R.C. 145.62 – 145.65. As a result, the provisions of the existing version of this rule were largely placed in the new statutes. The crediting of interest and conversion of the program to the stable value fund and other administrative functions are memorialized in the new version of this rule.

**Rule 145-2-48, Beneficiary and payment plan changes after commencement of additional annuity** – At retirement, members are permitted to select annuity payment plans and designate beneficiaries for Additional Annuity payments. Those payment plans and beneficiaries may be changed within the limits described in H.B. 272's new provisions and this rule. This new rule is consistent with beneficiary and payment plan changes on retirement accounts in Rule 145-2-74.

### **III. Summary of other amendments**

**Rule 145-1-11, Appeal of staff determination** – Rule amended to provide for a 60-day limit on the appeal of staff determinations issued after the effective date of the amendment.

#### **145-1-11 Appeal of staff determination**

- (A) Except as provided in rule 145-2-23 of the Administrative Code, any affected person may appeal a final determination of the staff of the public employees retirement board as provided in this rule.
- (B) An appeal shall be submitted to the executive director in writing not later than sixty days after the date of the final determination of the staff. It shall state the determination to be reviewed and the basis for the review.
- (C)
  - (1) Unless the staff determination is mandated by statute, 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. Parties to the appeal may be represented by counsel or other representative at the hearing.
    - (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. Copies of the written objections shall be sent to the parties to the appeal and to staff.
  - (2) The retirement board may permit the person requesting an appeal to make a personal appearance before the board prior to the 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 in the meeting at which the personal appearance is scheduled.
  - (3) The record of any appeal shall consist of information in the member or employer file submitted by the parties and staff, the report and recommendation, the transcript of the hearing, and any objections to the report and recommendation.

145-1-11 (continued)

- (4) The retirement board shall review the report and recommendation, any objections to the report and recommendation, and submitted documentation in determining whether to uphold the staff determination. The retirement board may 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.
- (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; 9/29/05.

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

**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 which that represents the obligations for the preceding calendar quarterperiod.
- (2) “Employer ~~liability~~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) ~~“Prime rate” means the prime commercial lending rate as quoted by the retirement system’s custodial bank.~~
- ~~(4)~~ “Received” means actual receipt by the retirement system, the postmark date, or the date scheduled to pay via electronic payment.
- ~~(5)~~(4) “Supplemental report” has the same meaning as in rule 145-1-28 of the Administrative Code.
- ~~(6)~~(5) The ninetieth day and ~~tenth-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 ~~no 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) ~~(1)~~ For employer liabilities due on or after March 31, 1997, if an employer payment is not received on or before the ninetieth day when due, simple interest in an amount equal to the prime rate plus five per cent per annum shall be charged for each day from the ninetieth day through the earlier of the date received or the tenth day after the ninetieth day.

~~(2)~~ If an employer liability is not received on or before the tenth day after the ninetieth day, the interest described in paragraph (C)(1) of this rule shall be charged for the first ten days and, in addition, a penalty of five per cent shall be charged on the employer liability. Simple interest after the first ten days shall be charged in an amount equal to six per cent per annum.

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.
- (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 paragraph division (C) of this rule 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; 9/29/05.

Effective Date History: 1/1/06; 1/1/03; 9/27/97;  
5/31/97.

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

- (A) For purposes of these rules, “eligible rollover distribution” or “rollover distribution” means ~~all or any portion of a taxable~~ 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 ~~145.23~~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 which is made only by payroll deduction, partial, or one-time lump-sum payment as defined in rule 145-1-35 of the Administrative Code.
  - (4) (a) The amount of the rollover distribution accepted by the retirement system for a member in the traditional pension plan may exceed the cost of the



service to be purchased if the member directs the amount in excess to be used to purchase an additional annuity in accordance with this rule.

- (b) ~~Notwithstanding rule 145-2-43 of the Administrative Code, a~~ member may purchase an additional annuity in an amount of less than one hundred dollars if the purchase is due to a rollover amount that exceeds the cost of the service to be purchased as described in paragraph (B)(4)(a) of this rule.
- (5) The amount of the rollover distribution accepted by the retirement system for a member in the combined plan may exceed the cost of the service being purchased if the participant directs the amount in excess to be deposited to the participant's rollover account ~~in accordance with this rule.~~
- (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, ~~shall be~~ 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.
- (F) A member who is entitled to a distribution from this retirement system which 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; 9/29/05.

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

**145-1-39      Replacement of warrants**

The public employees retirement system may issue a replacement warrant for a previously issued warrant which has been lost, stolen or destroyed if the payee of such warrant makes application for a replacement warrant on a form provided by the retirement system. The replacement warrant 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 warrant. Any replacement warrants 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; 9/29/05.

Effective Date History: 1/1/06; 1/1/03; 4/5/93; 10/21/70.

**145-1-63      Guardianship and power of attorney**

- (A) For the purpose of this rule, “recipient” means a member, contributor, retirant, or a 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 ~~a-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 beneficiary(ies)~~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, ~~or~~ 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; 9/29/05.

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

**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.

Effective Date History: New.

**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 and purchase of any service credit for which the member was eligible;
- (b) Any monthly additional annuity benefit paid to a member or contributor pursuant to section ~~145.231~~145.64 of the Revised Code ~~and rule 145-2-43 of the Administrative Code~~ calculated after the receipt of any eligible rollover distributions as allowed pursuant to rule 145-1-37 of the Administrative Code;
- (c) 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 and purchase of any service credit for which the member was eligible;
- (d) 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 and purchase of any service credit for which the member was eligible;
- (e) 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 additional annuity amount paid to a member or contributor pursuant to section ~~145.231~~145.64 of the Revised Code, ~~and rule 145-2-43 of the Administrative Code,~~ prior to the receipt of any eligible rollover distribution as allowed pursuant to rule 145-1-37 of the Administrative Code;
- (c) 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;

145-1-65 (continued)

- (d) Any monthly benefit amount paid pursuant to section 9.03 of the combined plan document prior to the payment of a finalized retirement benefit;
  - (e) 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.
- (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 warrant, 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 ~~145.23~~, 145.32, 145.33, 145.331, 145.34, 145.37, ~~or~~ 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 thirty 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;



145-1-65 (continued)

- (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 ~~145.23~~145.62 of the Revised Code, has at least one hundred dollars in an additional annuity account.
- (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;
  - (3) The member's employer has certified the last day for which the member received earnable salary.
- (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 and, if the member or contributor makes payment for an additional annuity pursuant to section ~~145.23~~145.62 of the Revised Code, using the additional annuity account available in the member's account 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.

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- (2) (a) The retirement system shall revise the monthly benefit to which the member or beneficiary is entitled following the receipt of the final report of retirement contributions upon which the member appears and the earliest of the following:
    - (i) The purchase of any service credit for which the member is eligible, or refusal to purchase such credit, by the member or beneficiary;
    - (ii) One hundred eighty days after the member's effective retirement benefit date or one hundred eighty days after the beneficiary's effective benefit date;
    - (iii) The receipt of any eligible rollover distribution.
  - (b) (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.
- (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 ~~145.23~~, 145.32, 145.33, 145.331, 145.34, 145.37, ~~or~~ 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 elect to receive a partial lump sum option payment, or the member or contributor may change 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, or 145.64 of the Revised Code, section 9.02 or 9.03 of the combined plan document, or section 9.02 of the

145-1-65 (continued)

member-directed plan document that includes a partial lump sum option payment may change their partial lump sum option payment amount, or the member or contributor may change 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 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: ~~145.23~~, 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; 9/29/05.

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

**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; 9/29/05.

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

**145-1-71      Withdrawal of benefit application**

- (A) ~~A-Except as provided in paragraph (E) of this rule, a~~ member or ~~retirant 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 (E) 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 issues the initial benefit payment and ending on the date the payment(s) is returned to the retirement system as provided in this rule. The amount used to pay the benefit that is returned to the retirement system as provided in this rule shall be credited to the member's individual defined contribution account and allocated to the OPERS investment options in the same percentages as last selected by the member.

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(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, as if the member had not submitted a retirement application.

(E) A member, contributor, or beneficiary may not withdraw an application as described in this rule if either of the following has 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.

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, 145.64.

Rule Review Date: 9/29/10; 9/29/05.

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

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

- (A)    (1)    Except as provided in paragraph (A)(2), (B), or (E) of this rule, a member or ~~retirant-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 ~~retirant's-contributor's~~ signature to withdraw the application.
- (2)    A member ~~or retirant of the retirement system~~ who requested a rollover of the member's account pursuant to section 145.40 or 145.63 of the Revised Code or the ~~retirant's-contributor's~~ account ~~pursuant to under~~ section 145.384 or 145.63 of the Revised Code to a financial institution may withdraw a refund application if both of the following occur:
- (a)    The member or ~~retirant-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 ~~retirant's-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 accumulated 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 accumulated 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 issues the initial refund payment and ending on the date the payment(s) is returned to 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 allocated to the OPERS investment options in the same percentages as last selected by the member.
- (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, as if the member had not submitted a refund application.
- (E) A member, contributor, or beneficiary may not withdraw a refund application as provided in this rule if either of the following has occurred:
- (1) The retirement system member or survivor has ~~applied for or received~~ made a distribution from a retiree medical account or 401(h) retiree medical account, as those terms are defined in rule ~~145-4-08~~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.

Promulgated Under: 111.15.

Statutory Authority: 145.09.

Rule Amplifies: 145.384, 145.40, 145.401, 145.63.

Rule Review Date: 9/29/10; 9/29/05.

Effective Date History: 1/1/06; 2/16/04; 1/1/04 (Emer.).



145-2-07 ~~Purchase of additional~~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)~~ (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.
- ~~(2)(3)~~ (3) The statement of cost shall be based on thirty-five per cent of all eligible full-time service.
- ~~(3)(4)~~ (4) The retirement system shall issue a statement of cost that shall include full calendar years of eligible service and 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) “Full-time service” does not include service computed as part time pursuant to division (T) of section 145.01 of the Revised Code. 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)~~ (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)~~ (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 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: 9/29/11; 9/29/06.  
Effective Date History: 1/1/07; 1/1/03; 9/6/88;  
4/7/88.

**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 ~~145.23~~145.62 of the Revised Code ~~and rule 145-2-43 of the Administrative 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;

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- (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: 9/29/11; 9/29/06.  
Effective Date History: 1/1/07; 1/1/03; 2/14/02;  
11/30/01 (Emer.).

**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: 9/29/11; 9/29/06.

Effective Date History: 1/1/07; 1/1/03; 5/4/00.

**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: New.

**145-2-43**      **Additional annuity payments [Repealed]**

- ~~(A) — (1) — A member or contributor who makes a payment for an additional annuity, pursuant to section 145.23 of the Revised Code, shall remit the payment with a form provided by the public employees retirement system. The retirement system shall not accept a payment for less than one hundred dollars, nor more than one payment a month, except as provided in rule 145-1-37 of the Administrative Code.~~
- ~~(2) — A member or contributor may designate a beneficiary to receive only the additional annuity account if the member or contributor dies while still a member or contributor.~~
- ~~(a) — Such designation shall be made on a form provided by the retirement system, and may be changed only on a form provided by the retirement system.~~
- ~~(b) — If a member fails to designate a beneficiary, or the beneficiary dies prior to the member, the beneficiary shall be the person determined to qualify for other payments pursuant to section 145.43 of the Revised Code.~~
- ~~(c) — If a contributor fails to designate a beneficiary, or the beneficiary dies prior to the contributor, the beneficiary shall be the person determined to qualify for other payments pursuant to section 145.384 of the Revised Code.~~
- ~~(B) — (1) — A member or contributor shall make application for an additional annuity payment 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.~~
- ~~(2) — The retirement system may pay a one-time lump-sum payment after receiving an application from a member, contributor or beneficiary.~~
- ~~(3) — The retirement system may pay monthly additional annuity benefits only if:~~
- ~~(a) — The member has applied for the additional annuity benefit and has applied for a retirement benefit pursuant to section 145.32 or 145.331 of the Revised Code; or~~
- ~~(b) — A contributor has applied for the additional annuity benefit and has applied for a monthly benefit pursuant to section 145.384 of the Revised Code.~~

~~145-2-43 (continued)~~

~~(4) If a member makes an application for a monthly additional annuity benefit, the member shall select a plan of payment as described in section 145.46 of the Revised Code, and designate a beneficiary.~~

~~(C) A member or contributor who makes a payment, for an additional annuity, pursuant to section 145.23 of the Revised Code, is eligible to receive an interim benefit payment as described in rule 145-1-65 of the Administrative Code.~~

~~Promulgated Under: 111.15.~~

~~Statutory Authority: 145.09, 145.23.~~

~~Rule Amplifies: 145.23.~~

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

~~Effective Date History: 1/1/07; 1/1/03; 3/22/02;  
1/1/02 (Emer.); 10/9/00; 2/3/92.~~



**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 one hundred dollars, nor more than one payment a month, except as provided in rule 145-1-37 of the Administrative Code.
- (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.
- (C) 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.
- (D) 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.
- (E) 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, as amended.

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.

Promulgated Under: 111.15.  
Statutory Authority: 145.09, 145.62.  
Rule Amplifies: 145.23 (version in effect prior to April 6, 2007), 145.62, 145.63, 145.64, 145.65.  
Replaces: 145-2-43.  
Rule Review Date: 9/29/11.  
Effective Date History:

**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, ~~145.38, 145.384~~, 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.
- (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;
  - (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, ~~145.38, 145.384~~, 145.46, 145.64.

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

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

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

~~The~~ 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 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: 9/29/11; 9/29/06.  
Effective Date History: 10/27/06; 7/01/04.

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

- (A) As used in this rule and section 145.64 of the Revised Code, “notice of the death” means the date on which the public employees retirement system receives the death certificate of the spouse or beneficiary.
- (B) 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.
- (C) 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 notice of the death of the individual designated as beneficiary under the plan.
  - (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.
- (D) 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.
- (E) 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.
- (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 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.
- (G) 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.

(H) Any request for a change of plan of payment or beneficiary shall be made on a form approved by the public employees retirement board.

Promulgated Under: 111.15.

Statutory Authority: 145.09, 145.62.

Rule Amplifies: 145.64.

Rule Review Date: 9/29/11.

Effective Date History: New

**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.

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 ~~to the surviving designated beneficiaries~~ as provided in division (D) of section 145.43 of the Revised Code and ~~paragraph (B) of~~ this rule.
- (B) The amount payable to each surviving designated beneficiary ~~described in paragraph (A) of this rule~~ 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.



**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.

**145-3-31** ~~Purchase of additional~~ **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: 9/29/09; 9/29/04.  
Effective Date History: 1/1/03.

**Amendment Three to the  
Public Employees Retirement System of Ohio  
Combined Defined Benefit/Defined Contribution Plan**

WHEREAS, the Public Employees Retirement System of Ohio Combined Defined Benefit/Defined Contribution Plan (“Plan”) was originally effective January 1, 2003;

WHEREAS, the Public Employees Retirement Board, as Trustees of the Plan (“Trustees”), reserved the right to amend the Plan pursuant to Article XXV of the Plan; and

WHEREAS, the Trustees now desire to amend the Plan due to the provisions of Amended Substitute House Bill 272 of the 126<sup>th</sup> General Assembly and other administrative purposes;

NOW, THEREFORE, the Plan is hereby amended as follows, effective April 6, 2007:

1. **Section 3.09 of the Plan**, describing Delinquent Contributions, is hereby amended to be and read as follows:

Upon a finding that the Employer failed to deduct contributions pursuant to section 145.85 of the Ohio Revised Code during a period of employment for which such contributions were required, a statement of delinquent contributions shall be prepared showing the amount the Contributor and Employer would have contributed had the regular payroll deductions been taken. Simple interest from the end of each calendar year at a rate set by the Board shall be included. If delinquent contribution statements are paid later than ~~ninety~~ thirty days after the end of the ~~quarterly period~~ calendar month in which they become an obligation of the Employer, any balance remaining shall be collected with penalties and interest pursuant to section 145.51 of the Ohio Revised Code, and subject to Article IV, as applicable.

2. **Section 13.02 of the Plan**, describing Designation, is hereby amended to be and read as follows:

A Participant may file with the Administrator an Applicable Form designating a Beneficiary to receive the benefits payable to the Participant under the Plan in the event of the Participant’s death, subject to the provisions of this Article. A designation shall be signed by the Participant and filed with the Administrator prior to the Participant’s death. A Participant may designate two or more persons as Beneficiaries ~~jointly~~ to be paid the benefits payable under the Plan. Subject to rules adopted by the Board, a Participant who designates two or more persons as Beneficiaries under this Section shall specify the percentage of the lump sum that each Beneficiary is to be paid. If the Participant has not specified the percentages, the lump sum shall be divided equally among the Beneficiaries. The last designation of any Beneficiary revokes all previous designations. The Participant’s marriage, divorce, marriage dissolution, legal separation, or payment of benefits under Article VIII, or the birth of the Participant’s child, or adoption of a child, shall constitute an automatic revocation of the Participant’s previous designation.

3. In all other respects the Plan shall be and remain unchanged.

IN WITNESS WHEREOF the undersigned have executed this Amendment on the dates indicated:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christopher M. DeRose, Executive Director

**Amendment Three to the  
Public Employees Retirement System of Ohio  
Defined Contribution Plan**

WHEREAS, the Public Employees Retirement System of Ohio Defined Contribution Plan ("Plan") was originally effective January 1, 2003;

WHEREAS, the Public Employees Retirement Board, as Trustees of the Plan ("Trustees"), reserved the right to amend the Plan pursuant to Article XXV of the Plan; and

WHEREAS, the Trustees now desire to amend the Plan due to the provisions of Substitute House Bill 98 of the 125<sup>th</sup> General Assembly;

NOW, THEREFORE, the Plan is hereby amended as follows, effective October 27, 2006:

1. **Section 3.07 of the Plan**, describing Delinquent Contributions, is hereby amended to be and read as follows:

Upon a finding that the Employer failed to deduct contributions pursuant to section 145.85 of the Ohio Revised Code during a period of employment for which such contributions were required, a statement of delinquent contributions shall be prepared showing the amount the Contributor and Employer would have contributed had the regular payroll deductions been taken. Simple interest from the end of each calendar year at a rate set by the Board shall be included. If delinquent contribution statements are paid later than ~~ninety~~ thirty days after the end of the ~~quarterly period~~ calendar month in which they become an obligation of the Employer, any balance remaining shall be collected with penalties and interest pursuant to section 145.51 of the Ohio Revised Code, and subject to Article IV, as applicable.

2. **Section 11.02 of the Plan**, describing Designation, is hereby amended to be and read as follows:

A Participant may file with the Administrator an Applicable Form designating a Beneficiary to receive the benefits payable to the Participant under the Plan in the event of the Participant's death, subject to the provisions of this Article. A designation shall be signed by the Participant and filed with the Administrator prior to the Participant's death. A Participant may designate two or more persons as Beneficiaries ~~jointly~~ to be paid the benefits payable under the Plan. Subject to rules adopted by the Board, a Participant who designates two or more persons as Beneficiaries under this Section shall specify the percentage of the lump sum that each Beneficiary is to be paid. If the Participant has not specified the percentages, the lump sum shall be divided equally among the Beneficiaries. The last designation of any Beneficiary revokes all previous designations. The Participant's marriage, divorce, marriage dissolution, legal separation, or payment of benefits under Article VIII, or the birth of the Participant's child, or adoption of a child, shall constitute an automatic revocation of the Participant's previous designation.

3. In all other respects the Plan shall be and remain unchanged.

IN WITNESS WHEREOF the undersigned have executed this Amendment on the dates indicated:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christopher M. DeRose, Executive Director