



## Ohio Administrative Code

### Rule 145-1-63 Guardianship and power of attorney.

Effective: January 1, 2021

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(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 Ohio law or as described in this rule, the member or benefit recipient who is not subject to guardianship of the person or estate shall execute all forms and applications under his or her own power and signature, including electronic forms and signatures, and shall personally direct and manage all aspects of his or her account with the public employees retirement system.

(C) Guardianship of estate shall be required to perform any of the following actions on behalf of a person who suffers from a legal disability as defined in division (B) or (D) of section 2131.02 of the Revised Code:

(1) Apply for retirement on behalf of a recipient and only upon providing a court order approving the selection of the retirement plan of payment and beneficiary designation, unless expressly authorized as provided in paragraph (F)(2)(a) of this rule;

(2) Apply for and receive a refund that is in excess of twenty-five thousand dollars (gross) under section 145.40 of the Revised Code or article VIII of the member-directed or combined plan document on behalf of a recipient;

(3) Receive benefits that are in excess of twenty-five thousand dollars (gross) annually on behalf of a recipient;

(4) In the case of a qualified child who is eligible for a survivor benefit, only a guardian acting with the court's approval may elect to waive a survivor benefit on behalf of the qualified child; and

(5) Designate a beneficiary, unless expressly authorized as provided in paragraph (F)(2)(c) of this



rule.

(D) Unless guardianship has been established, a recipient who is incarcerated may continue to direct and manage his or her account or permit an attorney in fact to direct the account.

(E) A guardian of the person is eligible to receive the account information of his or her ward, but shall not make any changes or elections regarding the account.

(F) The following apply to the power a member or benefit recipient grants to an attorney in fact in writing and on file with the retirement system:

(1) If authorized by general language regarding retirement plan transactions, an attorney in fact may perform the following actions:

(a) Authorize the release of account information;

(b) Provide and update bank account information for direct deposit of a recipient's benefits;

(c) Update the address of a recipient;

(d) Receive correspondence and account information on behalf of a recipient;

(e) Make additional deposits and purchase service credit;

(f) Make an initial plan selection under section 145.19 of the Revised Code or change the plan selection under section 145.814 of the Revised Code;

(g) Direct the OPERS investment options for participants in the combined and member-directed plans;

(h) Receive benefits on behalf of a recipient that do not exceed twenty-five thousand dollars (gross) annually.



(2) If authorized by express language regarding retirement plan transactions or health care decisions, as applicable, in a power of attorney, an attorney in fact may perform the following actions:

(a) Apply for retirement or other annuity on behalf of a recipient that is a joint and survivor annuity leaving one-half to the spouse if the recipient is married, a single life annuity if the recipient is single, and excluding any plan that includes a partial lump sum option payment or election to change a plan of payment;

(b) Apply for and receive a refund that is not in excess of twenty-five thousand dollars (gross) under section 145.40 of the Revised Code or article VIII of the member-directed or combined plan document on behalf of a recipient;

(c) Designate a beneficiary under section 145.384, 145.43, 145.431, 145.451, or 145.64 of the Revised Code;

(d) Make health care decisions and changes.

(G) In lieu of guardianship, a court of competent jurisdiction may issue 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.

(H) 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.

(I) Payments due to minor recipients that are less than twenty-five thousand dollars (gross) annually may be issued to the natural parent caring for the recipient or the legal custodian of the recipient. After the age of eighteen, payments shall be issued directly to the recipient unless the recipient is subject to an ongoing guardianship.