



## Ohio Administrative Code Rule 3309-1-46 Retirement - option selection.

Effective: March 31, 2011

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(A) If an applicant is married at the time of filing an application for retirement, the applicant shall receive a retirement allowance designated as "Plan A" under division (B)(1) of section 3309.46 of the Revised Code, unless:

(1) The spouse consents on a form provided by the school employees retirement system to the applicant's election to receive an annuity or payment pursuant to an optional plan under division (B)(3) or (B)(4) of section 3309.46 of the Revised Code; or

(2) The school employees retirement board waives the requirement of a spousal consent upon receipt of one of the following:

(a) The written statement of the spouse's physician certifying that the spouse is medically incapable of consenting to the plan of payment elected by the applicant; or

(b) A certified copy of a probate court order appointing a guardian for the spouse due to a finding of incompetence.

(c) The affidavits of the applicant and at least two other persons, one of whom must be unrelated to the applicant, attesting that the whereabouts of the spouse is unknown.

(3) The applicant is required to elect a plan of payment providing a specified amount to a former spouse after the applicant's death 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

(a) The applicant elects a plan of payment designated as "Plan F" under division (B)(3)(e) of section 3309.46 of the Revised Code that is in accordance with the court order and also designates the applicant's current spouse as a beneficiary under the plan; or



(b) The total amount required by court order, or orders, is equal to or greater than one hundred per cent of the applicant's lesser allowance.

(B) An applicants current spouse must also consent to the election of a plan of payment described in division (B)(3)(e) of section 3309.46 of the Revised Code if the applicant is required to elect a plan of payment providing a specified amount to a former spouse after the applicants death 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 also designates a beneficiary under the plan other than the former spouse and current spouse.