



## Ohio Administrative Code

### Rule 3333-1-40 Designation for alternative or optional retirement programs.

Effective: May 25, 2020

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#### (A) Authority

This rule is adopted under authority conferred upon the chancellor of the Ohio department of higher education by section 3305.032 of the Revised Code.

#### (B) Purpose

The purpose of this rule is to establish procedures and set objective standards for the designation and periodic review of entities seeking to provide or providing investment options under alternative retirement plans maintained by public institutions of higher education and to ensure that the entities remain in compliance with the requirements and purposes of Chapter 3305. of the Revised Code, and this rule.

#### (C) Definitions

Unless otherwise defined in the rule, terms used in this rule have the same meaning as defined in Chapter 3305. of the Revised Code.

(D) Procedure for applying for designation, or continued designation, as an entity eligible to provide investment options under alternative retirement plans maintained by public institutions of higher education by the chancellor:

(1) Each entity applying for designation shall provide the following documentation to the chancellor or the chancellor's designee evidencing that the applicant meets the standards, qualifications, and requirements for designation:

(a) The entity is authorized to conduct business in this state with regard to the investment options to be offered under an alternative retirement plan maintained by a public institution of higher education.



(b) The entity must meet one of the following requirements:

(i) The entity must have provided investment options for not less than ten years under alternative retirement plans maintained by public institutions of higher education in this state; or

(ii) The entity must offer the same or similar investment options under alternative retirement plans, optional retirement plans, or similar types of plans with respect to which all of the following apply:

(a) The plans are defined contribution plans that are qualified plans under Internal Revenue Code 401(a) or 403(b).

(b) The plans are maintained by institutions of higher education in at least ten other states.

(c) The plans are established as primary retirement plans that are alternatives to, or a component of, the applicable state retirement system.

(2) Each entity applying for designation shall provide the following information in a format approved by the chancellor:

(a) The experience of the entity providing investment options in this state or other states under alternative retirement plans, optional retirement plans, or similar types of plans that meet the requirements of division (B)(2)(a) or (B)(2)(b) of section 3305.03 of the Revised Code;

(b) The potential effectiveness of the entity in recruiting eligible employees to select that entity for purposes of participating in an alternative retirement plan and in retaining those employees' accounts;

(c) Whether the entity intends to offer a broad range of investment options to the electing employees;

(d) The suitability of the investment options to the needs and interests of the electing employees and their beneficiaries;

(e) The capability of the entity to offer sufficient information to the electing employees and their



beneficiaries to make informed decisions with regard to investment options offered by the entity;

(f) The capability of the entity to perform in a manner that is in the best interests of the electing employees and their beneficiaries;

(g) The fees and expenses associated with the entity's investment options and the manner in which the entity intends to disclose those fees and expenses;

(h) The rights and benefits to be provided under the investment options;

(i) The capability of the entity to provide the rights and benefits under the investment options;

(j) Any other information the chancellor, or consultant selected by the chancellor, deems relevant, which may include, but is not limited to:

(i) Whether the entity sells, services, supports, and otherwise represents the investment options solely with employees of the entity and its affiliates;

(ii) A response to a comment submitted by a college during the review and evaluation process.

(E) Evaluation and review of an entity applying for designation or continued designation.

(1) The chancellor, or consultant selected by the chancellor, shall review the submissions:

(a) To ensure the requirements of paragraph (D)(1) of this rule are met; and

(b) To identify, consider and evaluate the information provided under paragraph (D)(2) of this rule.

(2) The chancellor, or consultant selected by the chancellor, shall also consider as part of the evaluation of an entity comments submitted by a public institution of higher education.

(F) During the review and evaluation process conducted by, or on behalf of, the chancellor, the chancellor shall do all of the following:



(1) Provide written notice to each public institution of higher education that an entity has applied to be designated as a vendor under section 3305.03 of the Revised Code or is a designated entity scheduled for review and continued designation:

(a) The notice shall inform the public institution of higher education of the start and end date of the comment period, which shall be at least thirty days, and shall provide the address to which the public institution of higher education shall submit any comments;

(b) During the comment period a public institution of higher education may request a meeting with the chancellor concerning the application or review;

(2) If a meeting is requested by a public institution of higher education, the chancellor shall do all of the following:

(a) Notify each public institution of higher education of the meeting and its time and place;

(b) Hold the meeting not less than ten but not more than thirty days after the end of the comment period;

(c) Continue to accept comments concerning the application or review, as applicable, until five business days after the meeting is held.

(G) Not later than fourteen days after the chancellor makes a decision with respect to an application or review, including any rescission of a vendor's designation, provide written notice to each public institution of higher education of the chancellor's decision.

(H) Any notices provided to a public institution of higher education under this rule shall be mailed to the most recent address of record provided by the institution to the chancellor for purposes of receipt of such notices.

(I) Any entity that held a designation under section 3305.03 of the Revised Code on September 9, 2012 shall submit an application under this rule for review within sixty days after the effective date



of this rule.

(1) The chancellor shall follow the process in paragraph (F) of this rule for those entities submitting an application within sixty days of the effective date of this rule.

(2) Any entity not submitting an application within sixty days of this rule has fifteen days to submit an application before the chancellor begins the process in paragraph (F) of this rule for rescission of designation.

(J) The chancellor shall conduct periodic reviews of entities designated to provide or providing investment options under alternative retirement plans maintained by public institutions of higher education. Such reviews shall occur not less frequently than once every three years. When a vendor is up for review, the chancellor shall send a notice of the review to the vendor. If the vendor desires to continue its designation, the vendor shall within three months of that notice of review, submit the continuation application. If a vendor fails to submit the application by the deadline or is found to not satisfactorily meet the requirements of this rule, the chancellor shall rescind the vendors designation.

(K) Fees

Any entity submitting an application for designation or for continued designation agrees upon submission to pay the amount necessary to cover the chancellors reasonable costs to review its submission, including but not limited to, the chancellors costs to administer the process and the actual costs of any consultant evaluating the submission.