

OCERS Administrative Procedure (OAP) **Death Benefit Payments on Behalf of Children Age 18 or Older**

Authority

The County Employees Retirement Law of 1937 allows for the payment of certain death benefits to the unmarried children of deceased members or to their family. Generally, death benefits will only be paid to unmarried children under the age of 18. However, Gov. Code §§ 31760.1, 31760.2, 31765, 31765.1, 31781.1, 31781.2, 31785, 31785.1, 31786, 31786.1, 31787, and 31787.5 each contain the following exception to that general rule:

Notwithstanding any other provisions of this section, the benefits otherwise payable to the children of the member shall be paid to those children through the age of 21 if the children remain unmarried and are regularly enrolled as full-time students in an accredited school as determined by the board.

Process

1. This procedure will apply to payments directly to the child and payments to the family of the child or the guardian or person to whom custody of the child has been awarded (herein, "family"). In all cases, payments will be made only if the child is unmarried at the date of death of the member and all times during which payments are made. For purposes of this procedure, "unmarried" includes not having a registered domestic partner or "spouse" as defined under California law.
2. Upon receiving notice of the death of the member, OCERS will determine whether a surviving child who is at least age 18 and not yet age 22 is enrolled as a full-time student in an accredited school. OCERS will request proof of age and full-time enrollment on a semester or quarterly basis (according to the school's calendar) transcripts at an accredited school. If the child fails to provide such proof of age or full-time enrollment at an accredited school in a manner acceptable to OCERS, OCERS will not pay a benefit to that child or the family. A surviving child who is at least age 18 who is not enrolled as a full-time student on the date of the death of the member (or the child's family) cannot receive the benefit by subsequently enrolling in a school program.
3. Full-time enrollment means enrollment in the number of units or courses required to be considered a full-time student by the accredited school in which the child is enrolled.
4. Full-time enrollment is for the accredited school's school year calendar. A break in enrollment for regular summer or term breaks shall not be considered a break in full-time enrollment as long as the child returns to a full-time course schedule upon the commencement of the next regular term of the accredited school.
5. In the event that (a) the child must take a leave of absence from full-time enrollment due to the child's own serious health condition and (b) the child provides OCERS with a written statement that he or she intends to return to full-time enrollment as soon as enrollment is permitted after the serious health condition that prevents full-time enrollment no longer exists, OCERS will suspend the benefit to that child or family of that child. If there is another qualifying child or children, OCERS will pay the amount of the ill child's benefit to the other qualifying child/children or the family.

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6. Serious health conditions must be documented by a licensed physician, and the physician must state that the child cannot attend courses full time due to the health condition. OCERS will require a physician's statement documenting the illness at least annually if the illness persists.
7. If the child is able to return to full-time enrollment (as soon as enrollment is permitted after the serious health condition that prevents full-time enrollment no longer exists) prior to reaching age 22, OCERS will reinstate the benefit and pay the child or family all suspended amounts without interest, but only to the extent that the suspended amount was not previously paid as a benefit to or on behalf of another qualifying child. If the child is not able to return to full-time enrollment prior to reaching age 22, OCERS will terminate the benefit with no reinstatement of suspended amounts and no further payments to that child or the family on behalf of that child.
8. In the event that there are multiple surviving children of a deceased member, OCERS will pay the full amount of the benefit whenever there is a surviving child under 18 or a surviving child at least age 18 and not yet age 22 who qualifies for an allowance under the applicable statute. The benefit will be paid in equal parts to each surviving child or family who qualifies for the benefit; provided, however, the special death benefit described in Gov. Code § 31787.5 will be paid according to the formula set forth in that section.
9. In the event that this procedure conflicts with statute or authoritative case law, the statute or case law will control.