

§ 1651.5

on or before the date of the participant's death.

(c) *Will.* A participant cannot use a will to change or cancel a TSP designation of beneficiary.

[70 FR 32216, June 1, 2005]

§ 1651.5 Spouse of participant.

(a) For purposes of payment under § 1651.2(a)(2) and establishment of beneficiary participant accounts under § 1651.19, the spouse of the participant is the person to whom the participant was married on the date of death. A person is considered to be married even if the parties are separated, unless a court decree of divorce or annulment has been entered. The laws of the jurisdiction in which the marriage was initially established will be used to determine whether the participant was married on the date of death.

(b) If a person claims to have a marriage at common law with a deceased participant, the TSP will pay benefits to the putative spouse under § 1651.2(a)(2) in accordance with the marital status shown on the most recent Federal income tax return filed by the participant. Alternatively, the putative spouse may submit a court order or administrative adjudication determining that the common law marriage is valid.

[71 FR 9897, Feb. 28, 2006, as amended at 75 FR 78879, Dec. 17, 2010; 78 FR 57784, Sept. 20, 2013]

§ 1651.6 Child or children.

If the account is to be paid to the child or children, or to descendants of deceased children by representation, as provided in § 1651.2(a)(3), the following rules apply:

(a) *Child.* A child includes a natural or adopted child of the deceased participant.

(b) *Descendants of deceased children.* "By representation" means that, if a child of the participant dies before the participant, all descendants of the deceased child at the same level will equally divide the deceased child's share of the participant's account.

(c) *Adoption by another.* A natural child of a TSP participant who has been adopted by someone other than the participant during the partici-

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part's lifetime will not be considered the child of the participant, unless the adopting parent is the spouse of the TSP participant.

(d) *Parentage disputes.* If the identity of the father or mother of a child is in dispute or otherwise unclear (e.g., only one parent is listed on a birth certificate), the purported child must submit to the TSP either:

(1) A court order or other administrative finding establishing parentage; or

(2) Documentation sufficient for establishing parentage under the law of the state in which the participant was domiciled at the time of death.

[62 FR 32429, June 13, 1997, as amended at 74 FR 63063, Dec. 2, 2009]

§ 1651.7 Parent or parents.

If the account is to be paid to the participant's parent or parents under § 1651.2(a)(4), the following rules apply:

(a) *Amount.* If both parents are alive at the time of the participant's death, each parent will be separately paid fifty percent of the account. If only one parent is alive at the time of the participant's death, he or she will receive the entire account balance.

(b) *Step-parent.* A step-parent is not considered a parent unless the step-parent adopted the participant.

§ 1651.8 Participant's estate.

If the account is to be paid to the duly appointed executor or administrator of the participant's estate under § 1651.2(a)(5), the following rules apply:

(a) *Appointment by court.* The executor or administrator must provide documentation of court appointment.

(b) *Appointment by operation of law.* If state law provides procedures for handling small estates, the Board will accept the person authorized to dispose of the assets of the deceased participant under those procedures as a duly appointed executor or administrator. Documentation which demonstrates that the person is properly authorized under state law must be submitted to the TSP record keeper.

§ 1651.9 Participant's next of kin.

If the account is to be paid to the participant's next of kin under