

manner (by the same witnesses) as the form itself, and must follow the format of the TSP designation of beneficiary form. A witness must be age 21 or older. A witness designated as a beneficiary will not be entitled to receive a death benefit payment; if a witness is the only named beneficiary, the designation of beneficiary is invalid. If more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries *pro rata*.

(d) *Will*. A participant cannot use a will to designate a TSP beneficiary.

[70 FR 32216, June 1, 2005]

§ 1651.4 How to change or cancel a designation of beneficiary.

(a) *Change*. To change a designation of beneficiary, the participant must submit to the TSP record keeper a new TSP designation of beneficiary form meeting the requirements of §1651.3 to the TSP record keeper. If the TSP receives more than one valid TSP designation of beneficiary form, it will honor the form with the latest date signed by the participant. A participant may change a TSP beneficiary at any time, without the knowledge or consent of any person, including his or her spouse.

(b) *Cancellation*. A participant may cancel all prior designations of beneficiaries by sending the TSP record keeper either a new valid designation of beneficiary form meeting the requirements of §1651.3, or a letter. If the participant uses a letter to cancel a designation of beneficiary, it must be signed and witnessed in the same manner as a TSP designation of beneficiary form; it must explicitly state that all prior designations are canceled; and the TSP record keeper must receive it 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), 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. State law of the participant's domicile will be used to determine whether the participant was married at the time 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.

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

§ 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.