



STATE OF ALASKA

QUALIFIED DOMESTIC RELATIONS ORDER (QDRO)

Divorce and Dissolution Information Packet



Defined Benefit Plans

- Public Employees' Retirement System (PERS)
- Teachers' Retirement System (TRS)
- Judicial Retirement System (JRS)
- National Guard & Naval Militia Retirement System (NGNMRS)

Defined Contribution Plans *(separate interest plans)*

- Alaska Supplemental Annuity Plan (SBS-AP)
- Alaska Deferred Compensation Plan (DCP)

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Special Notice and Instructions

This booklet provides information and guidance on preparing Qualified Domestic Relations Orders for the Defined Benefit plans administered by the Department of Administration, Division of Retirement and Benefits.

Domestic Relations Orders (DRO) for the following Defined Contribution plans:

- Public Employees' Defined Contribution Retirement plan (PERS DCR) Tier IV;
- Teachers' Defined Contribution Retirement plan (TRS DCR) Tier III;
- Alaska Supplemental Annuity plan; and
- Public Employees' Deferred Compensation plan

are reviewed and qualified by the plans recordkeeper, Empower Retirement. For information regarding domestic relations order drafting in compliance with the appropriate statutes and plan document, please contact:

Regular Mail:

Empower Retirement
P.O. Box 173764
Denver, CO 80217-3764

Express Mail:

Empower Retirement
8515 E. Orchard Road
Greenwood Village, CO 80111

Phone: (866) 360-1192, option 1

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All of the plans are considered jointly owned by the member and that person's spouse. At the time of a divorce or dissolution of marriage, benefits from these plans may be split between the member and spouse or may be awarded to one individual. The plans are governmental pension plans. Therefore, the following rules apply:

- The plans are exempt from the Qualified Domestic Relations Order (QDRO) law under the 1984 Retirement Equity Act.
- The plans are not governed by the provisions of the Employee Retirement Income Security Act of 1974 (ERISA), which includes QDRO law.

Although this packet uses the terms alternate payee and Qualified Domestic Relations Order, drafters should not confuse those with ERISA or Code concepts.

Section I. Introduction

The Division of Retirement and Benefits is required by Alaska statute and by federal law to protect individual interests in the retirement plans managed by the Division. Those plans are:

- Public Employees' Retirement System Tiers I, II, and III(PERS)
- Teachers' Retirement System Tiers I and II (TRS)
- Judicial Retirement System (JRS)
- National Guard & Naval Militia Retirement System (NGNMRS)

All of the listed retirement plans are considered jointly owned by the member or participant and that person's spouse. At the time of a divorce or dissolution of marriage, benefits from these plans may be split between the two people or may be awarded to one. The information in this booklet has been prepared to aid all parties in the development of an acceptable qualified domestic relations order (QDRO). This packet is not intended as legal advice and should not replace consultation with an attorney. The Division of Retirement and Benefits (Division) is required by Alaska Statute and by the Internal Revenue Code to protect the individual interests in the retirement plans managed by the Division.

Benefits Do Not Have To Be Split

Generally, benefits are considered as jointly held assets in a similar manner as the house, the car, or other items of value. Benefits do not have to be divided if the member or participant and spouse have agreed to exchange other assets instead of splitting the retirement benefits.

If the member or participant is to retain full "ownership" of his/her benefit, the property settlement must **clearly** state that the account is not to be divided, and that the member/participant has full ownership—*specify the retirement plan by name*. If the member/participant has defined contribution accounts, such as Alaska Supplemental Annuity or Deferred Compensation, divorce or dissolution documents should individually name each account and clearly declare that the former spouse has no claim against that specific account. **Various accounts should not be grouped together under a generic term such as "Retirement Benefits."**

For example, statements such as the following should be included in property settlement agreements or as attachments to Petitions for Dissolution of Marriage:

"John Q. Public waives all rights and entitlements to the portion of Jane D. Public's PERS retirement benefits that was earned during the marriage."

If Benefits Are Divided

Qualified Domestic Relations Orders

A qualified domestic relations order (QDRO) is a specialized court order that is usually processed at the same time as the divorce or dissolution (processing could happen later, after the final decree). This document authorizes the Division to make payments to both the member or participant and to the former spouse. *QDROs are necessary only if benefits are to be divided. One QDRO is needed for each benefit that is being split.* DROs for the defined contribution accounts must be filed with the plan recordkeeper, Empower Retirement.

Defined Benefit Plans

PERS, TRS, JRS, and NGNMRS all recognize that a former spouse may have an entitlement to a portion of the member's benefit. However, certain rules apply:

- The accounts are **not** divided at the time of the divorce or dissolution,
- The member retains the right to decide when to retire and has considerable latitude relative to the retirement option elected,
- The former spouse (called the "alternate payee") is entitled to only some portion of the member's **monthly** benefit payment,
- The alternate payee's portion is paid only when the member receives benefits, and
- The alternate payee **may not** name beneficiaries for continued payments after his/her death.

Not Yet Retired

Under the PERS, TRS, JRS, and NGNMRS, a stream of payments QDRO may be filed that would divide future retirement benefits once *the member* starts **receiving** those benefits. The former spouse is considered to be the alternate payee and will receive payments directly from the retirement system, but the retirement account **is not** split and the alternate payee **does not** have a choice in benefit options. The future payments may be expressed as one of the following:

- A specified amount,
- A percentage of the total benefit, or
- A formula using years of marriage or the dates of the marriage.

Survivor Benefits

A QDRO may award a portion of the member's benefit to a former spouse as a survivor's benefit in the event the member dies before being able to retire. If the member remarries before the date of retirement, the survivor's benefit may be *split* between the former spouse and the present spouse, unless the member did not accrue retirement benefits after the divorce, or unless a QDRO awards a former spouse sole survivor entitlement. The alternate payee's survivor benefit would be calculated on the percent granted by the QDRO, and the current spouse would be entitled to the remainder.

The QDRO can require the member select one of the survivor options when applying for retirement benefits. The alternate payee would then receive a prorated survivor benefit if he or she survives the member. In most cases the "cost" of providing the survivor benefits to the former spouse will be shared, but can be fully assigned to either person. The "cost" is expressed as an actuarial reduction to the benefit and is based on the member's age, the age of the alternate payee, and the prorata share of the benefits set out in the QDRO.

If the member has remarried before applying for retirement benefits, he or she may elect survivor coverage for the current spouse that is different than the one required by the QDRO covering the former spouse (see the above restrictions). After the member's death, both the spouse and the former spouse would **share** the survivor benefit

Medical benefits are not provided by the retirement plan to alternate payees. However, the former spouse may purchase health coverage from the Division of Retirement and Benefits.

Already Retired

If the member is already receiving benefits from the PERS, TRS, JRS, or NGNMRS, a QDRO may be filed that would divide that monthly benefit. Although the former spouse will receive payments directly from the retirement system, **the retirement account will not be split**. The payments may be expressed as one of the following:

- A specified amount,
- A percentage of the total benefit, or
- A formula using years of marriage or the dates of the marriage.

Survivor Benefits

When the member applied for retirement, he/she had the opportunity to elect a survivor's option. This election is irrevocable and the former spouse is the **only** person eligible for this benefit after the member dies. The member cannot name another person to receive them. Although a QDRO is not necessary for the former spouse to receive these survivor benefits, it would be better for the QDRO to address these benefits to prevent the possibility of any future misunderstandings. **If a survivor option was not elected at retirement, one cannot be ordered now.**

Section II. Defined Benefit Plans

PERS, TRS, JRS, & NGNMRS

The Public Employees' Retirement System Tiers I, II, and III (PERS), the Teachers' Retirement System Tiers I and II (TRS), the Judicial Retirement System (JRS), and the National Guard & Naval Militia Retirement System (NGNMRS) are all defined benefit plans. Benefit payments are defined by a formula, and the payments are not directly related to the amount of contributions paid to the plan. The defined benefit plans cannot be divided into a member's account and a separate alternate payee's account by a QDRO. However, benefit payments will be made directly to each individual as a stream of payments ordered by the QDRO. The former spouse does not have a **separate interest** in these plans.

When Benefits Begin

Benefits paid to an alternate payee can begin only at such time as the member starts receiving benefits from the retirement plan. If the member is already receiving benefits when a QDRO is filed, the alternate payee's portion will commence as soon as is administratively possible after the QDRO is accepted by the plan. Alaska statutes give the option of deciding when to apply for benefits to eligible members. A QDRO cannot order commencement of payments to the alternate payee prior to the member receiving benefits.

Types of Payments

Lump Sum Refund (except for NGNMRS)

Generally, a lump sum pay out to the alternate payee **is not** an acceptable payment option. However, if the member and the alternate payee agree, a member may request a lump sum refund from his/her retirement account if that person is no longer employed in a covered position. A QDRO or an amended QDRO may be filed that allows for the refund and divides the one time distribution. This must be by mutual agreement. Neither party can force the other into giving up monthly entitlements.

Members electing a refund forfeit future monthly payments and *future medical benefits* unless the entire refund (including amounts paid to the alternate payee and interest) has been restored or the member becomes re-vested. A member must reemploy in a covered position before becoming eligible to reinstate refunded service. **It is the member's decision to ask for either monthly payments or to request a refund.** A QDRO awarding the alternate payee a monthly amount will prevent the member from getting a lump sum refund until the QDRO is amended by the court.

The NGNMRS allow members to receive their whole retirement in one payment or to elect smaller payments over time. **The one-payment option is not a refund of contributions and an amended QDRO is not required.** An alternate payee will share in the benefit regardless of the option elected by the member without modification to the original QDRO. It is the *member's* choice as to what option to elect.

Benefit Options

Monthly Payments

The QDRO can award monthly benefit payments to an alternate payee. The amount of these payments are subtracted from the total the member is entitled to receive and sent directly to the alternate payee. The payments are made at the same time the member's portion is paid. Calculating the amount the alternate payee is to receive is discussed in a later section.

Regular Benefits

The QDRO can award the alternate payee some portion of the member's monthly benefit. This award can be stated as:

- A specified monetary amount,
- A percentage of what the member will receive or is receiving in the case where the member is already receiving benefits,
- A formula based on years of marriage and years of service, or
- A formula based on the dates of the marriage and the dates of the member's service.

This amount would then be paid to the alternate payee as long as the *member* is alive. **In the event the alternate payee dies before the member, all benefits revert back to the member.** There are no Alaska statutory provisions allowing alternate payees to name beneficiaries.

Survivor Benefits

If the member has not yet started to receive retirement benefits, the QDRO could entitle the former spouse to some portion of survivor benefits if the member dies. Depending on the years of marriage during the period of employment, the former spouse may receive a proportionate share of the benefits payable after death.

The QDRO can order a nonretired member to elect either a 50% or a 75% joint and survivor option when applying for retirement benefits. The alternate payee would then receive a portion of the survivor benefits after the member's death. The same formula used to determine the regular benefit allotment may be used to determine the former spouse's proportionate share of the survivor benefits.

A QDRO written before retirement can specify the former spouse be considered a sole survivor, but *please make note of the entitlement to medical benefits described below*. Otherwise, the former spouse's survivor benefits must be prorated.

In the event the member remarries and is still actively employed, the new spouse would also be entitled to prorated survivor benefits. The member may elect a different joint and survivor option for the spouse than the one the QDRO specifies for the alternate payee unless the former spouse is to be considered the sole survivor by the QDRO.

If the member is already retired at the time of the divorce or dissolution, the option previously elected remains in force and **cannot be changed**. If a joint and survivor benefit was elected, the law considers a former spouse the sole survivor. Marriage after retirement never gives the new spouse an entitlement to survivor benefits even if the first marriage ended with the death of the first spouse.

There is one exception to this rule in the TRS. Some teachers while actively employed are participating in a program where he or she is contributing an extra amount to purchase survivor's benefits. This is usually referred to as the "1% Supplemental Benefits Program." If a TRS member elected this option, the Division of Retirement and Benefits should be contacted, because there are special provisions connected to this survivor benefit.

Disability Benefits

A QDRO issued while a member is receiving disability benefits may award a portion of those benefits to the alternate payee. Disability benefits are payable until such time as the member becomes eligible for regular retirement benefits. The order should address the disability benefits separately from the regular retirement benefits, but one order can address both benefits.

Cost-of-Living Allowance (COLA)

The Alaska cost-of-living allowance is an extra benefit a PERS or TRS retired or disabled member may receive if he or she continues to live in Alaska. The QDRO can award a portion of this allowance to the alternate payee in the same proportion as the regular benefit. Although it is highly recommended the order specifically address this allowance, in those orders that do not and where the alternate payee is not receiving a flat dollar amount of the regular benefit, we will assume COLA is also a shared entitlement. Eligibility to receive COLA is based on where the *member* resides. No alternate payee may receive a portion of the COLA if the *member* lives outside Alaska. COLA and PRPAs (see below) may be either shared benefits or may be excluded by the QDRO.

Post-Retirement Pension Adjustment (PRPA)

The post retirement pension adjustments are extra amounts a retired member receives from time to time to help offset inflation. The QDRO can award a portion of this adjustment to the alternate payee in the same ratio as the regular benefit. Although it is highly recommended the order specifically address this adjustment, for those orders that do not, we will assume the PRPA, too, is a shared entitlement unless the alternate payee is receiving a flat dollar amount. PRPAs and COLA may be either shared benefits or may be excluded by the QDRO.

Medical Benefits

Alternate payees are **never** provided with free medical benefits from the retirement system. All insurance benefits stop the moment the judge signs the final divorce or dissolution decree. In cases where the divorce or dissolution happens before retirement, the alternate payee will be given an opportunity to purchase medical coverage *when the member retires*. The alternate payee must pay the full premium for this coverage. The alternate payee will not be given the option to purchase any additional coverage like dental, vision, and audio insurance (DVA) or long-term care (LTC) insurance.

If the divorce or dissolution happens after the member starts receiving benefits, the alternate payee may, at his/her expense, maintain the insurance coverage in effect prior to the ending of the marriage. The alternate payee must pay the full premium for this coverage, and cannot elect additional options not already in force. DVA may be only purchased in conjunction with medical coverage.

In cases where the divorce or dissolution happens *after the member retires*, by law, alternate payees are considered sole survivors after the member's death if the member elected a joint and survivor option. In these cases, the alternate payee may receive system-paid medical coverage after the member's death. The coverage would be immediate if the retired member was "Tier I" member (see glossary) or at age 60 if the member was "Tier II" (see glossary). PERS "Tier III" members must have 10 years of PERS service for system-paid medical eligibility at age 60.

It is important to note that if the divorce or dissolution occurs *before* the member has retired, even if the former spouse is named as the sole survivor, **system-paid medical benefits will not be provided to the alternate payee.**

Federal Income Taxes

The member and the alternate payee will each be responsible for federal income tax on the amount they receive from the plan. Both will be required to complete a W-4P withholding form prior to receiving any benefits. Any penalties and interest assessed by the Internal Revenue Service will be directed to the individual receiving money from the plan.

Determination of Alternate Payee's Share

The alternate payee's share of the member's benefit may be calculated in any number of ways. It is up to the parties (and the court) to decide exactly how the benefit is to be divided. It is important to remember that regardless of the method used, the QDRO must clearly communicate to the Division of Retirement and Benefits what is required. **The Division has the final word on the interpretation of the QDRO.** Once received and accepted, any other interpretation of the QDRO must resubmitted through the court for clarification. We strongly suggest draft QDROs be sent to the Division of Retirement and Benefits for a complete review prior to submitting them to the court. Please allow 2-3 weeks for the Division to review draft documents.

The following are some of the most common methods to determine the alternate payee's portion of the benefit. However, any number of other calculation methodologies may be used.

- The most frequently used method to determine the alternate payee's share of a benefit is by developing a formula. There are four basic components in the formula, but the QDRO need only address the first two listed below:
 - ~ "*Marital service*" is a routinely used term that means the amount of service credit earned during the marriage. The QDRO can either list the dates of the marriage (we will calculate the service credit during the period of the marriage), or can simply state the total years of the marriage during the employment of the member.
 - ~ The percentage of the benefits accruing during the marriage to which the alternate payee is entitled — usually 50%. Although 50% is commonly used, this percentage may vary because of other assets that are being divided.
 - ~ Total service credit used to calculate a member's retirement benefit. This is a number based on the member's retirement date.
 - ~ The amount of the member's benefit.

Example

"[Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to 50% of the benefits that accrued between June 21, 1985 (the date of the marriage) and May 22, 2002 (the date of separation or divorce). The *average earnings** used in the calculation of the benefit will be the highest earned throughout the member's career. The alternate payee will share in any COLA and PRPA benefits that may be paid to the member."

In this example, if the member's total benefit is \$2,000 per month and had worked 20.00000 years, the formula would look like this:

- ~ 16.92039 years of marriage x \$2,000 x 50%
- ~ 20.00000 total service

In this example, the member would receive \$1,153.98 and the alternate payee would get \$846.02.

*As an alternative, the average earnings used in the calculation could be the highest earned at the time of the divorce or dissolution. The theory of using the earnings over the entire career is to allow for some inflation.

If the intent is for the alternate payee to share in COLA and PRPAs, then there should be a statement to that effect in the QDRO. **However, if the QDRO is silent, we will assume that COLA and PRPAs are to be paid.**

- The QDRO can specify a certain dollar amount that is to be paid to the alternate payee. **If a flat amount is ordered, the Division of Retirement and Benefits will assume that NO COLA or PRPAs are to be paid.** If the intent is for the alternate payee to share in COLA and PRPAs, then there should be a statement to that effect in the QDRO. It is always safer to specify all parts of the benefit that are to be shared or identify those that are to be exclusive.

Example

“[Former spouse’s name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to \$846.02 per month. The alternate payee will not be entitled to any COLA and PRPA benefits that may be paid to the member.”

- The QDRO can specify a certain percentage of the member’s benefit to be paid to the alternate payee. Some consultant hired by either the member or the alternate payee often derives this percentage. Factors used to calculate this percentage often times include years of marriage, years of service, contributions to the plan made by the member, interest paid on those contributions, estimates of the monthly benefits that may be paid at retirement, and may include the distribution of other joint assets, to name just a few. Actuaries, CPAs, or other experts can use these elements individually but most often in a combination to calculate the percentage of the alternate payee’s marital share of the benefit.

The Division of Retirement and Benefits **does not** provide valuation calculation services. If these types of calculations are needed, an independent actuary or CPA must be retained. However, the Division can provide benefit information as needed for their calculations. **If account details are to be sent other than directly to the member, the member must sign a release authorizing another person access to his/her account.** Please allow 2-3 weeks for all requests for this type of information.

Example

“[Former spouse’s name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to 22.345% of the gross benefit. The alternate payee will receive the same proportionate share of any COLA and PRPA benefits when these are paid to the member.”

WARNING: The QDRO should clearly and succinctly set out the payment to the alternate payee. Once the Division of Retirement and Benefits interprets and accepts the QDRO, the parties must clarify any disputed interpretations by amending the order with the trial court so that the intended meaning is clear.

QDRO Minimum Requirements

Each qualified domestic relations order must, at a minimum, contain the list of elements below. The QDRO will be rejected if any component on the list is omitted or if the intent of a statement is unclear to the Division. State and federal laws give the Division of Retirement and Benefits the authority to reject any QDRO that does not meet the technical requirements or for statements that are vague or ambiguous—even if already approved by the court. We have provided sample QDROs in a later section of this booklet that can be used as models or just for the “boiler plate” statements and declarations. The samples are not intended to be the only form in which an acceptable QDRO can be written.

The following can be also used as a checklist.

- The Alaska statute authorizing the QDRO.
- The name and address of the plan being attached.
- The member’s name, address, social security number, and date of birth.
- The alternate payee’s name, address, social security number, and date of birth.
- The date of the marriage and the date of the divorce or dissolution (and separation if applicable).
- The amount, formula, or percentage the alternate payee is to receive.
- A statement as to the alternate payee’s eligibility for COLA and PRPAs.
- A declaration concerning survivor benefits for the alternate payee before the member retires (unnecessary if the member is already retired).
- A statement concerning whether or not the member must elect a joint and survivor option when applying for retirement (unnecessary if the member is already retired).
- A statement to the effect that remarriage does not alter the alternate payee’s entitlement.
- A statement to the effect that all benefits revert back to the member in the event of the alternate payee death.
- A provision assigning the taxability of benefits to the person receiving funds.
- A declaration the QDRO does not require the plan to pay increased benefits or those not authorized by statute.
- A provision requiring both parties to advise the Division of Retirement and Benefits of any address changes.
- A provision recognizing the court has the authority to amend the order at a later date.

Glossary

Alternate Payee

The former spouse of a member or participant who has been granted a benefit entitlement under the terms of a Qualified Domestic Relations Order (QDRO).

Alaska Cost-of-Living Allowance (COLA)

The Alaska cost-of-living allowance is an extra amount paid to eligible PERS and TRS members who live in Alaska while receiving benefits. The allowance equals 10% of the base benefit (PERS has a \$50 minimum for members receiving less than \$500 per month).

Court Certified Copy

This is an original copy of the decree, property settlement agreement or petition for dissolution, or QDRO that has been certified as a true original copy by the Clerk of the Court. In Alaska, court certified copies are usually distinguished from photocopies by either an embossing seal or by a blue ink seal.

Defined Benefit

“Defined” benefits are those whose plan document, or enabling statute, sets out exactly how benefit amounts are calculated, the amount of which is not subject to changes in the value by changes of the stock market or some other index. In Alaska, defined benefits are not considered separate interest, and are subject to only stream of payments QDROs. The following Alaska retirement systems are defined benefit plans:

- Public Employees’ Retirement System Tiers I, II and III(PERS),
- Teachers’ Retirement System Tiers I and II (TRS),
- Judicial Retirement System (JRS),
- National Guard & Naval Militia Retirement System (NGNMRS).

Disability Benefits

These are benefits that are paid to eligible members who are unable to work because of physical or mental reasons.

Foreign Order

A QDRO that originates in a state other than Alaska.

Marital Service

This term means the period of the marriage during which the member receives credit in the retirement system. Credit can include periods of actual employment in a covered position and extra credit for periods in the armed forces, temporary employment or other creditable service.

Qualified Domestic Relations Order (QDRO)

A QDRO is a specialized court order that is usually processed at the same time as the divorce or dissolution, although processing could happen later after the final decree. This document authorizes the Division of Retirement and Benefits to make payments to both the member and to the former spouse, and specifies what benefits are being divided.

Post Retirement Pension Adjustment (PRPA)

PRPAs are benefit increases awarded to recipients periodically to help offset the effects of inflation.

Retirement Benefits

Retirement benefits are monthly amounts paid to members once they have met early or normal retirement eligibility.

Separate Interest Plans

This term refers to the division of a retirement account. When a plan recognizes a former spouse's individual interest, the account is divided between the member and the alternate payee with the alternate payee having substantially the same rights and privileges as the member with respect to payment and investment options and beneficiaries. SBS-AP and DCP accounts are examples of separate interest plans.

Service Credit

Under the Alaska defined benefit plans, the amount of monthly retirement benefits are calculated in part using the years of service the member has accrued. This service can include actual employment in a covered position and extra credit for periods of military service, working in nonpermanent positions, or in the case of TRS members, teaching outside of Alaska.

Stream of Payment Plans

This term refers to plans like the PERS, TRS, JRS, or NGNMRS where an alternate payee is entitled only to a portion of a member's monthly benefit. The retirement account **is not** divided and the former spouse has no individual interest in the plan. There are no choices as to payment options and the alternate payee cannot name beneficiaries.

Survivor Benefits

These are continuing monthly benefit payments made after a member's death to a spouse and/or an alternate payee. In the PERS and TRS, the benefits are referred to as "joint and survivor" benefits, and the amounts paid equal either 50% or 75% of the member's gross benefit. The member makes an irrevocable election for these benefits at the time of retirement. The survivor must be either the spouse or alternate payee (or in some cases both) and cannot be changed after benefits begin.

Some TRS members have taken advantage of a survivors' program where the cost is paid while the member is employed. The surviving spouse is entitled to 50% of the retiree's gross benefit. The spouse or alternate payee at the time of death becomes eligible for payments.

In the JRS, the surviving spouse is entitled to 50% of the retiree's gross benefit. The spouse or alternate payee at the time of death becomes eligible for payments.

The NGNMRS does not offer continuing monthly survivor benefits.

Tiers

The PERS and the TRS are both multi-tiered retirement systems.

PERS has three distinct tiers:

- Tier I – members first joining PERS before July 1, 1986.
- Tier II – members joining PERS between July 1, 1986, and June 30, 1996.
- Tier III – members joining PERS July 1, 1996, and later.

TRS has two distinct tiers:

- Tier I – members first joining TRS before July 1, 1990.
- Tier II – members joining PERS July 1, 1990, and later.

Benefit entitlements vary somewhat between the tiers.

**Model
Qualified Domestic Relations Order (QDRO)
Forms and Language for Defined Benefit Plans**

Sample Qualified Domestic Relations Orders

The following are examples of QDROs for each of the defined benefit retirement plans. They have been created to help illustrate the common types of terms that are included and include those items termed as “boiler plate.” Some situations will require additions. Please contact the Division of Retirement and Benefits if you need further assistance.

Public Employees’ Retirement System (PERS)

In the Superior Court for the State of Alaska, (1st, 2nd, 3rd, or 4th) Judicial District at _____)

_____)		
Plaintiff/Petitioner,)		
		v.)
))
_____)		
Defendant/Respondent)		
		Case No. _____)

QUALIFIED DOMESTIC RELATIONS ORDER

This court, having jurisdiction to issue a Qualified Domestic Relations Order regarding the distribution of the Plaintiff’s/Petitioner’s (*or* Defendant’s/Respondent’s) Alaska Public Employees’ Retirement System benefits, now makes the following findings of Fact and Order:

1. This Order is intended to be and shall constitute a Qualified Domestic Relations Order (QDRO) in accordance with the Internal Revenue Code Section 401(a) and conforming to the requirements of Code Section 414(p), and the plan document found in AS 39.35.001 through 39.35.690.
2. The plan to which this order applies is known as the State of Alaska Public Employees’ Retirement System Defined Benefit plan.
3. The plan administrator is the State of Alaska, whose address is Department of Administration, Division of Retirement and Benefits, P.O. Box 110203, Juneau, AK 99811-0203.
4. The plan participant is _____
 whose address is _____
 and whose Social Security number is _____
 and whose date of birth is _____
5. The alternate payee is _____
 whose address is _____
 and whose Social Security number is _____
 and whose date of birth is _____

6. The participant and alternate payee were married on date, separated on date, and divorced (had a dissolution of marriage on) date. During the course of the parties' marriage, the participant accrued benefits in the above-named retirement plan.

Editorial comment: the following are examples of how this section can be worded. An actual QDRO should be written to reflect the actual benefit split.

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to 50% of the benefits that accrued between date and date. The *average earnings* used in the calculation of the alternate payee's portion of the benefit will be the highest earned throughout the member's career. The alternate payee will share in any COLA (cost of living allowance) and PRPA (post-retirement pension adjustments) benefits that may be paid to the member. Payments will continue for the life of the benefits paid to the member.

OR as an alternative:

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to 50% of the benefits that accrued between date and date. The *average earnings* used in the calculation of the alternate payee's portion of the benefit will be the highest earned up to the date of the divorce or dissolution. The alternate payee will share in any COLA and PRPA benefits that may be paid to the member. Payments will continue for the life of the benefits paid to the member.

OR as an alternative:

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to \$x,xxx.xx per month. The alternate payee will not be entitled to any COLA and PRPA benefits that may be paid to the member. Payments will continue for the life of the benefits paid to the member.

OR as an alternative:

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to xx.xxx% of the gross benefit. The alternate payee will receive the same proportionate share of any COLA and PRPA benefits when these are paid to the member. Payments will continue for the life of the benefits paid to the member.

Editorial comment: if a payment option other than the ones listed above is desired, please call the Division of Retirement and Benefits to discuss the best way to word the QDRO.

8. The remarriage of the alternate payee does not alter the rights of the alternate payee to receive all benefits awarded by the QDRO, however, in the event of the alternate payee's death, all benefits shall revert to the member.

Editorial comment: the following are examples of how this document can be worded to include survivor's benefits for the former spouse. An actual QDRO should be written to reflect the actual benefit split.

*Survivor Provisions—Divorce **Before** Retirement*

9. In the event of the death of the member prior to retirement, the alternate payee shall be treated as a surviving spouse to the extent provided by the retirement statute and by this order. The alternate payee's survivor benefit will be prorated and based on the years of marital service date through date.

At retirement, the member shall elect the 50% joint and survivor option (or possibly the 75% option) with the alternate payee designated as the survivor eligible for a proportionate share of the survivor's benefit payable in the event the member predeceases the alternate payee after retirement. The alternate payee's share will be prorated based on the years of marital service as defined above. The cost of the survivor benefit will be shared between the member and the alternate payee. (Or possibly – The alternate payee (member) will pay the full cost of the survivor benefit.)

OR Survivor Provisions—Divorce After Retirement

- 9. The alternate payee shall continue to be treated as the sole surviving spouse eligible for 100% of the survivor benefit under the 50% joint and survivor option (Note: this could be the 75% joint and survivor or the 66-2/3% last survivor option) already in effect.
- 10. The member and alternate payee shall each be responsible, on a pro-rata basis, for any income taxes and penalties arising or accruing out of the distribution made to each party under the terms of this QDRO. In other words, the member shall be solely responsible for any income taxes and penalties arising out of income distributed to her/him pursuant to this QDRO and the alternate payee shall be solely responsible for any income taxes and penalties arising out of his/her distribution made hereunder.
- 11. This Order does not:
 - a. Require the above-named plan to provide any type or form of benefit, or any option not otherwise provided under the plan;
 - b. Require the above-named plan to provide increased benefits; or
 - c. Require the payment of benefits to the alternate payee which are required to be paid to another alternate payee under another Order previously determined to be a QDRO.
- 12. Each party is directed to provide the plan administrator with a correct and sufficient mailing address for the payment of all benefits due him or her.
- 13. This Order may be amended by any subsequent Order of the Court if it is later determined that this Order does not satisfy the requirements of a QDRO sufficient to effectuate the distribution of benefits in the above-named plan ordered by the Court at the time of their divorce. This Court retains continuing jurisdiction over this matter to order or supervise distribution of benefits as may be required.

We hereby consent to the form and entry of this Order:

Note: the following may be modified by the circumstances.

By: _____
Plaintiff or Petitioner

By: _____
Defendant or Respondent

AND/OR

By: (OPTIONAL) _____
Attorney for the Plaintiff

By: (OPTIONAL) _____
Attorney for the Defendant

Dated at _____, Alaska, this _____ day of _____, 20_____.

Superior Court Judge

Teachers' Retirement System (TRS)

In the Superior Court for the State of Alaska, (1st, 2nd, 3rd, or 4th) Judicial District at _____)

_____))
Plaintiff/Petitioner,)
)
v.)
)
_____))
Defendant/Respondent)
)

Case No. _____

QUALIFIED DOMESTIC RELATIONS ORDER

This court, having jurisdiction to issue a Qualified Domestic Relations Order regarding the distribution of the Plaintiff's/Petitioner's (*or* Defendant's/Respondent's) Alaska Teachers' Retirement System benefits, now makes the following findings of Fact and Order:

1. This Order is intended to be and shall constitute a Qualified Domestic Relations Order ("QDRO") under a plan established in accordance with the Internal Revenue Code Section 401(a) and conforming to the requirements of Code Section 414(p), and the terms of the plan document found in AS 14.25.001 through 14.25.220.
2. The plan to which this order applies is known as the State of Alaska Teachers' Retirement System Defined Benefit plan.
3. The plan administrator is the State of Alaska, whose address is Department of Administration, Division of Retirement and Benefits, P.O. Box 110203, Juneau, AK 99811-0203.
4. The plan participant is _____
whose address is _____
and whose Social Security number is _____
and whose date of birth is _____
5. The alternate payee is _____
whose address is _____
and whose Social Security number is _____
and whose date of birth is _____
6. The participant and alternate payee were married on date , separated on date , and divorced (had a dissolution of marriage on) date . During the course of the parties' marriage, the participant accrued benefits in the above-named retirement plan.

Editorial comment: the following are examples of how this section can be worded. An actual QDRO should be written to reflect the actual benefit split.

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to 50% of the benefits that accrued between date and date. The *average earnings* used in the calculation of the alternate payee's portion of the benefit will be the highest earned throughout the member's career. The alternate payee will share in any COLA (cost of living allowance) and PRPA (post-retirement pension adjustments) benefits that may be paid to the member. Payments will continue for the life of the benefits paid to the member.

OR as an alternative:

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to \$x,xxx.xx per month. The alternate payee will not be entitled to any COLA and PRPA benefits that may be paid to the member. Payments will continue for the life of the benefits paid to the member.

OR as an alternative:

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to xx.xxx% of the gross benefit. The alternate payee will receive the same proportionate share of any COLA and PRPA benefits when these are paid to the member. Payments will continue for the life of the benefits paid to the member.

Editorial comment: if a payment option other than the ones listed above is desired, please call the Division of Retirement and Benefits to discuss the best way to word the QDRO.

8. The remarriage of the alternate payee does not alter the rights of the alternate payee to receive all benefits awarded by the QDRO, however, in the event of the alternate payee's death, all benefits shall revert to the member.

Editorial comment: the following are examples of how this document can be worded to include survivor's benefits for the former spouse. An actual QDRO should be written to reflect the actual benefit split.

*Survivor Provisions—Divorce **Before** Retirement*

9. In the event of the death of the member prior to retirement, the alternate payee shall be treated as a surviving spouse to the extent provided by the retirement statute and by this order. The alternate payee's survivor benefit will be prorated and based on the years of marital service date through date. At retirement, the member shall elect the 50% joint and survivor option (*or possibly the 75% option*) with the alternate payee designated as the survivor eligible for a proportionate share of the survivor's benefit payable in the event the member predeceases the alternate payee after retirement. The alternate payee's share will be prorated based on the years of marital service as defined above. The cost of the survivor benefit will be shared between the member and the alternate payee. (*Or possibly – The alternate payee (member) will pay the full cost of the survivor benefit.*)

OR Survivor Provisions—Divorce **Before Retirement AND if Supplemental Contributions are Being Made**

9. In the event of the death of the member prior to retirement, the alternate payee shall be treated as a surviving spouse to the extent provided by the retirement statute and by this order. The alternate payee's survivor benefit will be prorated and based on the years of marital service. After retirement, the former spouse shall be designated as a survivor eligible for a proportionate share of the survivor's benefit payable in the event the member predeceases the alternate payee. If the member had remarried, the alternate

payee's share will be prorated based on the years of marital service. If there is no surviving spouse, the alternate payee will be treated as the sole survivor.

OR Survivor Provisions—Divorce After Retirement

- 9. The alternate payee shall continue to be treated as the sole surviving spouse eligible for 100% of the survivor benefit under the 50% joint and survivor option (*Note: this could be the 75% joint and survivor or the 66-2/3% last survivor option*) already in effect.
- 10. The member and alternate payee shall each be responsible, on a pro-rata basis, for any income taxes and penalties arising or accruing out of the distribution made to each party under the terms of this QDRO. In other words, the member shall be solely responsible for any income taxes and penalties arising out of income distributed to her/him pursuant to this QDRO and the alternate payee shall be solely responsible for any income taxes and penalties arising out of his/her distribution made hereunder.
- 11. This Order does not:
 - a. Require the above-named plan to provide any type or form of benefit, or any option not otherwise provided under the plan;
 - b. Require the above-named plan to provide increased benefits; or
 - c. Require the payment of benefits to the alternate payee which are required to be paid to another alternate payee under another Order previously determined to be a QDRO.
- 12. Each party is directed to provide the plan administrator with a correct and sufficient mailing address for the payment of all benefits due him or her.
- 13. This Order may be amended by any subsequent Order of the Court if it is later determined that this Order does not satisfy the requirements of a QDRO sufficient to effectuate the distribution of benefits in the above-named plan ordered by the Court at the time of their divorce. This Court retains continuing jurisdiction over this matter to order or supervise distribution of benefits as may be required.

We hereby consent to the form and entry of this Order:

Note: the following may be modified by the circumstances.

By: _____
Plaintiff or Petitioner

By: _____
Defendant or Respondent

AND/OR

By: _____ (OPTIONAL)
Attorney for the Plaintiff

By: _____ (OPTIONAL)
Attorney for the Defendant

Dated at _____, Alaska, this _____ day of _____, 20_____.

Superior Court Judge

Judicial Retirement System (JRS)

In the Superior Court for the State of Alaska, (1st, 2nd, 3rd, or 4th) Judicial District at _____)

_____))

Plaintiff/Petitioner,)

v.)

_____))
Defendant/Respondent)

Case No. _____

QUALIFIED DOMESTIC RELATIONS ORDER

This court, having jurisdiction to issue a Qualified Domestic Relations Order regarding the distribution of the Plaintiff's/Petitioner's (*or* Defendant's/Respondent's) Alaska Judicial Retirement System benefits, now makes the following findings of Fact and Order:

1. This Order is intended to be and shall constitute a Qualified Domestic Relations Order ("QDRO") under a plan established in accordance with the Internal Revenue Code Section 401(a) and conforming to the requirements of Code section 414(p), and the terms of the plan document found in AS 22.25.010 through 22.25.900.
2. The plan to which this order applies is known as the State of Alaska Judicial Retirement System.
3. The plan administrator is the State of Alaska, whose address is Department of Administration, Division of Retirement and Benefits, P.O. Box 110203, Juneau, AK 99811-0203.
4. The plan participant is _____
whose address is _____
and whose Social Security number is _____
and whose date of birth is _____
5. The alternate payee is _____
whose address is _____
and whose Social Security number is _____
and whose date of birth is _____
6. The participant and alternate payee were married on date, separated on date, and divorced (had a dissolution of marriage on) date. During the course of the parties' marriage, the participant accrued benefits in the above-named retirement plan.

Editorial comment: *the following are examples of how this section can be worded. An actual QDRO should be written to reflect the actual benefit split.*

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to 50% of the benefits that accrued between date through date. The calculation of the alternate payee's portion of the benefit will be based on Judicial salary used for the member's benefit.

OR as an alternative:

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to 50% of the benefits as of date. The calculation of the alternate payee's portion of the benefit will be based on Judicial salary used for the member's benefit.

OR as an alternative:

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to \$x,xxx.xx per month. Payments will continue for the life of the benefits paid to the member.

OR as an alternative:

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to xx.xxx% of the gross benefit. Payments will continue as long as benefits paid to the member.

Editorial comment: if a payment option other than the ones listed above is desired, please call the Division of Retirement and Benefits to discuss the best way to word the QDRO.

8. The remarriage of the alternate payee does not alter the rights of the alternate payee to receive all benefits awarded by the QDRO, however, in the event of the alternate payee's death, all benefits shall revert to the member.

Editorial comment: the following are examples of how this document can be worded to include survivor's benefits for the former spouse. An actual QDRO should be written to reflect the actual benefit split.

Survivor Provisions—Divorce *Before* Retirement

9. In the event of the death of the member prior to retirement, the alternate payee shall be treated as a surviving spouse to the extent provided by the retirement statute and by this order. The alternate payee's survivor benefit will be prorated and based on the years of marital service, date through date.

OR Survivor Provisions—Divorce *Before* Retirement with Survivor Benefits after Retirement

9. In the event of the death of the member prior to retirement, the alternate payee shall be treated as a surviving spouse to the extent provided by the retirement statute and by this order. The alternate payee's survivor benefit will be prorated and based on the years of marital service, date through date. After retirement, the former spouse shall be designated as a survivor eligible for a proportionate share of the survivor's benefit payable in the event the member predeceases the alternate payee. If the member remarried, the alternate payee's share will be prorated based on the years of marital service as defined above. If there is no surviving spouse, the alternate payee will be treated as the sole survivor

OR Survivor Provisions—Divorce *After* Retirement

9. The alternate payee shall continue to be treated as the sole surviving spouse eligible for 100% of the survivor benefit already in effect.
10. The member and alternate payee shall each be responsible, on a pro-rata basis, for any income taxes and penalties arising or accruing out of the distribution made to each party under the terms of this QDRO. In other words, the member shall be solely responsible for any income taxes and penalties arising out of income distributed to her/him pursuant to this QDRO and the alternate payee shall be solely responsible for any income taxes and penalties arising out of his/her distribution made hereunder.

- 11. This Order does not:
 - a. Require the above-named plan to provide any type or form of benefit, or any option not otherwise provided under the plan;
 - b. Require the above-named plan to provide increased benefits; or
 - c. Require the payment of benefits to the alternate payee which are required to be paid to another alternate payee under another Order previously determined to be a QDRO.
- 12. Each party is directed to provide the plan administrator with a correct and sufficient mailing address for the payment of all benefits due him or her.
- 13. This Order may be amended by any subsequent Order of the Court if it is later determined that this Order does not satisfy the requirements of a QDRO sufficient to effectuate the distribution of benefits in the above-named plan ordered by the Court at the time of their divorce. This Court retains continuing jurisdiction over this matter to order or supervise distribution of benefits as may be required.

We hereby consent to the form and entry of this Order:

Note: the following may be modified by the circumstances.

By: _____
Plaintiff or Petitioner

By: _____
Defendant or Respondent

AND/OR

By: _____ (OPTIONAL)
Attorney for the Plaintiff

By: _____ (OPTIONAL)
Attorney for the Defendant

Dated at _____, Alaska, this _____ day of _____, 20_____.

Superior Court Judge

National Guard & Naval Militia Retirement System (NGNMRS)

In the Superior Court for the State of Alaska, (1st, 2nd, 3rd, or 4th) Judicial District at _____)

_____)

Plaintiff/Petitioner,)

v.)

_____)
Defendant/Respondent)

Case No. _____

QUALIFIED DOMESTIC RELATIONS ORDER

This court, having jurisdiction to issue a Qualified Domestic Relations Order regarding the distribution of the Plaintiff's/Petitioner's (*or* Defendant's/Respondent's) Alaska National Guard & Naval Militia Retirement System benefits, now makes the following findings of Fact and Order:

1. This Order is intended to be and shall constitute a Qualified Domestic Relations Order ("QDRO") under a plan established in accordance with the Internal Revenue Code Section 401(a) and conforming to the requirements of Code Section 414(p), and the terms of the plan document found in AS 26.05.222 through AS 26.05.229.
2. The plan to which this order applies is known as the State of Alaska National Guard & Naval Militia Retirement System.
3. The plan administrator is the State of Alaska, whose address is Department of Administration, Division of Retirement and Benefits, P.O. Box 110203, Juneau, AK 99811-0203.
4. The plan participant is _____
whose address is _____
and whose Social Security number is _____
and whose date of birth is _____
5. The alternate payee is _____
whose address is _____
and whose Social Security number is _____
and whose date of birth is _____
6. The participant and alternate payee were married on date, separated on date, and divorced (had a dissolution of marriage on) date. During the course of the parties' marriage, the participant accrued benefits in the above-named retirement plan.

Editorial comment: the following are examples of how this section can be worded. An actual QDRO should be written to reflect the actual benefit split.

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to 50% of the benefits that accrued between date through date.

OR as an alternative:

7. [Former spouse's name] as the alternate payee, shall receive from the plan benefits that otherwise would be paid to the member, an amount equal to 50% of the benefits as of date.

Editorial comment: if a payment option other than the ones listed above is desired, please call the Division of Retirement and Benefits to discuss the best way to word the QDRO.

8. The remarriage of the alternate payee does not alter the rights of the alternate payee to receive all benefits awarded by the QDRO, however, in the event of the alternate payee's death, all benefits shall revert to the member.

Editorial comment: the following are examples of how this document can be worded to include survivor's benefits for the former spouse. An actual QDRO should be written to reflect the actual benefit split.

*Survivor Provisions—Divorce **Before** Retirement*

9. In the event of the death of the member prior to retirement, the alternate payee shall be treated as a surviving spouse to the extent provided by the retirement statute and by this order. The alternate payee's lump sum survivor benefit will be prorated and based on the years of marital service.

***OR** Survivor Provisions—Divorce **After** Retirement*

9. The alternate payee shall be treated as a surviving spouse to the extent provided by the retirement statute and by this order. The alternate payee's lump sum survivor benefit will be prorated and based on the years of marital service.
10. The member and alternate payee shall each be responsible, on a pro-rata basis, for any income taxes and penalties arising or accruing out of the distribution made to each party under the terms of this QDRO. In other words, the member shall be solely responsible for any income taxes and penalties arising out of income distributed to her/him pursuant to this QDRO and the alternate payee shall be solely responsible for any income taxes and penalties arising out of his/her distribution made hereunder.
11. This Order does not:
- a. Require the above-named plan to provide any type or form of benefit, or any option not otherwise provided under the plan;
 - b. Require the above-named plan to provide increased benefits; or
 - c. Require the payment of benefits to the alternate payee which are required to be paid to another alternate payee under another Order previously determined to be a QDRO.
12. Each party is directed to provide the plan administrator with a correct and sufficient mailing address for the payment of all benefits due him or her.

13. This Order may be amended by any subsequent Order of the Court if it is later determined that this Order does not satisfy the requirements of a QDRO sufficient to effectuate the distribution of benefits in the above-named plan ordered by the Court at the time of their divorce. This Court retains continuing jurisdiction over this matter to order or supervise distribution of benefits as may be required.

We hereby consent to the form and entry of this Order:

Note: the following may be modified by the circumstances.

By: _____
Plaintiff or Petitioner

By: _____
Defendant or Respondent

AND/OR

By: _____ (OPTIONAL)
Attorney for the Plaintiff

By: _____ (OPTIONAL)
Attorney for the Defendant

Dated at _____, Alaska, this _____ day of _____, 20____.

Superior Court Judge

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Appendix

2 AAC 36.257. Qualified Domestic Relations Orders (QDROs).

- (a) After a member is divorced or the member's marriage is dissolved, the member's former spouse has no individual rights or entitlements to benefits from the system, but may, under a qualified domestic relations order, share in the stream of benefit payments paid to the member. To be valid and enforced by the administrator, a qualified domestic relations order must conform to both the requirements of AS 14.25 and the requirements of the United States Internal Revenue Code that the system must comply with in order to maintain its federal tax-qualified status.
- (b) An alternate payee
- (1) may only be the former spouse of a member who has been named by an order of a court of competent jurisdiction to receive all or a portion of the member's retirement benefit;
 - (2) may not elect benefit options, but may only share in benefit options elected by the member;
 - (3) may not name survivors or beneficiaries to the alternate payee's portion of the member's benefit;
 - (4) will not be provided medical or insurance benefits at the system's expense but may purchase coverage from the system at the full calculated cost to the system; the alternate payee must elect to purchase the coverage within 60 days after appointment to benefits.
- (c) The administrator will review all domestic relations orders that the administrator receives, and will reject a domestic relations order that does not meet the requirements of AS 14.25 or this chapter. A qualified domestic relations order that is accepted by the administrator is effective on the first day of the month following the month in which the order is accepted, or on the date of retirement, whichever is later. The administrator will accept only a domestic relations order that is prospective. The administrator will reject an order that:
- (1) purports to have a retroactive effective date;
 - (2) orders payment of the alternate payee's benefits to someone other than the member upon the death of the alternate payee;
 - (3) orders payment of benefits to an alternate payee, other than survivor benefits, after the death of the member.
- (d) The administrator will approve a domestic relations order that orders payment of a monthly benefit to an alternate payee only if the alternate payee's portion of the member's monthly stream of benefit payments is expressed as a set monthly dollar amount, as a percentage of the monthly benefit payment, or as a monthly formula based on a defined period of time divided by the member's total years of credited service.
- (e) Unless a qualified domestic relations order specifically states otherwise, the administrator will follow the following rules in implementing qualified domestic relations orders:
- (1) no death or survivor benefits shall be paid to the alternate payee if the member dies before retirement;
 - (2) a member may not elect a survivor option at the time of retirement naming an alternate payee as a beneficiary;

- (3) if a survivor option must be elected by the member at the time of retirement, and the member does not, and is not required to, elect a specific option, the member shall be deemed to have elected the 50% joint and survivor option under AS 14.25.167(a)(2);
- (4) any Alaska cost-of-living allowance that is payable under AS 14.25.142 and all post retirement pension adjustments under the current or any former versions of AS 14.25.143 shall be divided between the member and the alternate payee in the same proportion as the base benefit is divided;
- (5) the cost of providing a joint and survivor benefit for the alternate payee will be equally shared by the member and the alternate payee, regardless of the split of the benefit entitlement; in this paragraph; “the cost of providing a survivor’s benefit” means the monthly difference between what the member’s regular retirement benefit would be, without the actuarial reduction for a joint and survivor benefit and the member’s actual benefit, after the actuarial reduction necessitated by the joint and survivor option;
- (6) the average monthly compensation determined using a member’s entire career will be used to calculate the alternate payee’s entitlement, whether or not the member and the alternate payee were married during the entire time; and
- (7) remarriage of the alternate payee does not in any way reduce or eliminate the alternate payee’s entitlement to benefits.
- (8) for a member who elected the one percent supplemental option while teaching, under AS 14.25.055,
 - (A) if the member’s divorce or dissolution becomes final prior to the member’s retirement, survivor benefits, if any, are payable only to the member’s current spouse, unless the qualified domestic relations order splits the benefit based on service accrued during the marriage; and
 - (B) if the member’s divorce or dissolution becomes final on or after the member’s retirement, the member’s spouse at the time of retirement is treated as the sole surviving spouse.
- (f) If a member divorces after the member has retired or if a member’s marriage is dissolved after the member has retired,
 - (1) the benefit selections made by the member at the time of retirement remain in force;
 - (2) the member’s spouse at the time of retirement will retain sole rights to survivor benefits after the member’s death if a survivor option was elected at retirement, except to the extent that a qualified domestic relations order approved before the member’s retirement requires payment of survivor benefits to an alternate payee and
 - (3) the administrator will not accept a domestic relations order that purports to alter the benefit selections made by the member at the time of retirement.
- (g) A lump sum payment to an alternate payee under a qualified domestic relations order may be made only if the member elects a full withdrawal from membership in the Teachers’ Retirement System. Lump sum entitlements in a qualified domestic relations order must be stated either as a specific dollar amount or as a specific percentage of the member’s contribution account.
- (h) A qualified domestic relations order affecting disability benefits under AS 14.25.130 shall be accepted by the administrator only after the member has been appointed to disability.

Authority AS 14.25.022 AS 14.25.200 AS 14.25.220

2 AAC 35.325. Qualified Domestic Relations Orders (QDROs).

- (a) After a member is divorced or the member's marriage is dissolved, the member's former spouse has no individual rights or entitlements to benefits from the system, but may, under a qualified domestic relations order, share in the stream of benefit payments paid to the member. To be valid and enforced by the administrator, a qualified domestic relations order must conform to both the requirements of AS 39.35 and the requirements of the United States Internal Revenue Code that the system must comply with in order to maintain its federal tax-qualified status.
- (b) An alternate payee
 - (1) may only be the former spouse of a member who has been named by an order of a court of competent jurisdiction to receive all or a portion of the member's retirement benefit;
 - (2) may not elect benefit options, but may only share in benefit options elected by the member;
 - (3) may not name survivors or beneficiaries to the alternate payee's portion of the member's benefit;
 - (4) will not be provided medical or insurance benefits at the system's expense but may purchase coverage from the system at the full calculated cost to the system; the alternate payee must elect to purchase the coverage within 60 days after appointment to benefits.
- (c) The administrator will review all domestic relations orders that the administrator receives, and will reject a domestic relations order that does not meet the requirements of AS 39.35 or this chapter. A qualified domestic relations order that is accepted by the administrator is effective on the first day of the month following the month in which the order is accepted, or on the date of retirement, whichever is later. The administrator will accept only a domestic relations order that is prospective. The administrator will reject an order that
 - (1) purports to have a retroactive effective date;
 - (2) orders payment of the alternate payee's benefits to someone other than the member upon the death of the alternate payee;
 - (3) orders payment of benefits to an alternate payee, other than survivor benefits, after the death of the member.
- (d) The administrator will approve a domestic relations order that orders payment of a monthly benefit to an alternate payee only if the alternate payee's portion of the member's monthly stream of benefit payments is expressed as a set monthly dollar amount, as a percentage of the monthly benefit payment, or as a monthly formula based on a defined period of time divided by the member's total years of credited service.
- (e) Unless a qualified domestic relations order specifically states otherwise, the administrator will follow the following rules in implementing qualified domestic relations orders:
 - (1) no death or survivor benefits shall be paid to the alternate payee if the member dies before retirement;
 - (2) a member may not elect a survivor option at the time of retirement naming an alternate payee as a beneficiary;
 - (3) if a survivor option must be elected by the member at the time of retirement, and the member does not, and is not required to, elect a specific option, the member shall be deemed to have elected the 50% joint and survivor option under AS 39.35.450(a)(2);

- (4) any Alaska cost-of-living allowance that is payable under AS 39.35.480 and all post retirement pension adjustments under the current or any former versions of AS 39.35.475 shall be divided between the member and the alternate payee in the same proportion as the base benefit is divided;
 - (5) the cost of providing a joint and survivor benefit for the alternate payee will be equally shared by the member and the alternate payee, regardless of the split of the benefit entitlement; in this paragraph; “the cost of providing a survivor’s benefit” means the monthly difference between what the member’s regular retirement benefit would be, without the actuarial reduction for a joint and survivor benefit and the member’s actual benefit, after the actuarial reduction necessitated by the joint and survivor option;
 - (6) the average monthly compensation determined using a member’s entire career will be used to calculate the alternate payee’s entitlement, whether or not the member and the alternate payee were married during the entire time; and
 - (7) remarriage of the alternate payee does not in any way reduce or eliminate the alternate payee’s entitlement to benefits.
- (f) If a member divorces after the member has retired or if a member’s marriage is dissolved after the member has retired,
- (1) the benefit selections made by the member at the time of retirement remain in force;
 - (2) the member’s spouse at the time of retirement will retain sole rights to survivor benefits after the member’s death if a survivor option was elected at retirement, except to the extent that a qualified domestic relations order approved before the member’s retirement requires payment of survivor benefits to an alternate payee; and
 - (3) the administrator will not accept a domestic relations order that purports to alter the benefit selections made by the member at the time of retirement.
- (g) A lump sum payment to an alternate payee under a qualified domestic relations order may be made only if the member elects a full withdrawal from membership in the Public Employees’ Retirement System. Lump sum entitlements in a qualified domestic relations order must be stated either as a specific dollar amount or as a specific percentage of the member’s contribution account.
- (h) A qualified domestic relations order affecting disability benefits under AS 39.35.400 and AS 39.35.410 shall be accepted by the administrator only after the member has been appointed to disability.
(Eff. ___/___/___, Register ___)

Authority AS 39.35.040 AS 39.35.455 AS 39.35.480 AS 39.35.680 AS 39.35.500

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