



Domestic Relations Guide



School Employees Retirement System of Ohio
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This publication is written in plain language for members of the School Employees Retirement System of Ohio (SERS). It provides general information and is not meant to be a substitute for, or conflict with, the laws and rules governing SERS, nor will its interpretation prevail should a conflict arise between it and any law or rule.

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School Employees Retirement System of Ohio

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SERS ACCOUNTS AND TERMINATION OF MARRIAGE

Retirement benefits earned during a marriage are considered by Ohio courts to be marital property that may be divided upon termination of marriage. This Guide is intended to provide general information to members about the impact of such proceedings on their SERS account, but should in no way be construed as providing legal advice. Members should consult with an attorney for advice concerning their specific circumstances.

ASSIGNMENT OF SERS BENEFITS

- A Qualified Domestic Relations Order (QDRO) is commonly used to divide a private pension plan account. QDROs are a product of the Employee Retirement Income Security Act (ERISA). SERS, as a governmental pension plan, is exempt from ERISA and therefore not required to honor QDROs. As a general rule, members' rights to their SERS benefits are protected from legal processes to enforce a judgment or collect a debt and cannot be given (assigned) to another. There are exceptions, however, a QDRO does not fit within any of the exceptions.
- Although SERS is not subject to QDROs, Ohio law permits a domestic relations court to order SERS to withhold a specified amount from a member's lump sum payment or monthly benefit and pay it directly to a former spouse. This order is called a Division of Property Order (DOPO), and the DOPO form created under Ohio Revised Code section 3105.90 must be used. The form is included as Appendix A to this Guide and is also available on SERS' website. Please see page 6 of this Guide for a more detailed discussion of DOPOs.

A DOPO is more limited than a QDRO. A DOPO does not create any survivorship or beneficiary rights for the former spouse in relation to the member's account. A DOPO does not confer membership status and rights, split a member's account, or establish a separate account for the former spouse.

OBTAINING ACCOUNT INFORMATION

- SERS does not provide account valuations. SERS can, however, provide certain account information to the parties, their attorneys, or a third party pension evaluator for the purpose of determining the account value for property division. Under Ohio Revised Code section 3309.22, SERS is prohibited from releasing account information without the member's written authorization or a court order or subpoena issued pursuant to Ohio Revised Code section 3105.87. Upon receipt of the member's written authorization, subpoena, or court order, SERS will provide the member's account status, a breakdown of service credit and contributions by fiscal year, and a retirement estimate (if not receiving a benefit, but have enough service credit to retire once old enough) or benefit amount (if receiving a benefit).
- An Authorization for Release of Account Information form is available on SERS' website, and a sample court order is included as Appendix B to this Guide.

BENEFICIARY/SURVIVORSHIP ISSUES

TERMINATION OF MARRIAGE PRIOR TO RETIREMENT

- Prior to retirement, a member's termination of marriage automatically revokes the member's last beneficiary designation. SERS survivor benefits are paid as authorized in Ohio Revised Code sections 3309.44 and 3309.45; SERS has no authority to enforce any contrary language in a divorce or dissolution decree or separation agreement.

Designating a former spouse as beneficiary of a joint life retirement plan

- Generally, SERS has no legal duty or authority to require a SERS member to comply with terms of their divorce or dissolution decree or separation agreement in relation to their SERS account. However, under Ohio Revised Code section 3309.46(B)(1) and Ohio Administrative Rule 3309-1-62, SERS must require a member to elect a joint life retirement plan with the former spouse as beneficiary if prior to retirement: (1) SERS has been provided with a copy of a court order requiring such election, and (2) the order specifies the percentage of the member's retirement allowance to continue to the former spouse after the member's death. Although no specific language is required, SERS would find the following acceptable:

“At the time of retirement, _____ [member's name], shall select a plan of payment that provides for payment continuing after his/her death to _____ [former spouse's name] as designated beneficiary, who shall receive a lifetime monthly allowance equal to ___ percent (___%) of _____'s [member's name] reduced monthly allowance.”

TERMINATION OF MARRIAGE AFTER RETIREMENT

Removing a former spouse as beneficiary of a joint life retirement plan

- If a SERS member was married at the time of retirement and elected a joint life retirement plan with the spouse as beneficiary, upon divorce or dissolution, the retirement plan and beneficiary do not automatically change as a matter of law. Under Ohio Revised Code section 3309.46(E)(2), the retired member may only remove the former spouse as beneficiary with either: (1) an order from the court with jurisdiction over the divorce that authorizes the retired member to change the retirement plan of payment, or (2) the written consent of the former spouse. The member must contact SERS to request the appropriate form for the plan change.

Health Care Coverage

- Upon termination of marriage, the former spouse is no longer eligible for SERS' health care program. COBRA coverage is available for those who qualify.

DIVISION OF PROPERTY ORDERS (DOPO)

A domestic relations court can issue a DOPO when the parties want SERS to withhold a portion of a member's benefit(s) and pay the amount directly to the former spouse. The member is referred to as the Participant and the former spouse is referred to as the Alternate Payee. DOPOs are generally addressed in Ohio Revised Code sections 3105.80 – 3105.90. As specifically related to SERS, DOPOs are addressed in Ohio Revised Code section 3309.671 and Ohio Administrative Rule 3309-1-60.

Upon request, SERS staff will review a proposed DOPO for preapproval prior to filing with the court. The DOPO must be filed in an Ohio domestic relations court, and then a certified copy must be transmitted to SERS by the clerk of courts. SERS cannot accept a copy sent directly by a party or attorney. SERS will review and either retain or reject the DOPO within 60 days; SERS will notify the clerk of courts and the parties of its determination.

The basic rules for payment to the Alternate Payee are:

- Payments to the Alternate Payee do not begin until the Participant receives payment, as either a lump sum payment or monthly benefit. In addition, the Alternate Payee must receive payment in the same manner as the Participant. In other words, if the Participant receives a lump sum payment, the Alternate Payee is only entitled to receive a lump sum payment. If the Participant receives a monthly benefit, the Alternate Payee is only entitled to receive a monthly payment.
- SERS cannot apply the DOPO to payments made to the Participant prior to SERS' retention of the DOPO. A DOPO can only be applied prospectively.
- Regardless of the amounts specified in the DOPO, a maximum amount of 50 percent of the Participant's lump sum or monthly payment can be withheld for payment to the Alternate Payee. The 50 percent limitation applies even if there are multiple DOPOs.
- An Alternate Payee receiving a monthly payment will receive a proportionate share of any cost-of-living adjustments the Participant receives while the DOPO remains in effect.
- The Participant and Alternate Payee are only responsible for the tax liability associated with the payment they receive, and SERS will issue a separate IRS Form 1099 to each individual.
- A DOPO does not provide any beneficiary or survivorship rights. By its terms, the DOPO terminates upon the death of either the Participant or Alternate Payee, upon termination of the benefit (whichever occurs first), or upon SERS' receipt of a court order setting aside the DOPO. If the Participant dies before receiving a benefit, no payment will be made to the Alternate Payee.

SUPPORT WITHHOLDING ORDERS

A domestic relations court or Child Support Enforcement Agency may issue a withholding order for payment of child or spousal support. If SERS receives a withholding order, the specified amount will be withheld from the member's payment, subject to certain statutory withholding limits, and sent to the appropriate agency.

APPENDIX A

IN THE COURT OF COMMON PLEAS OF _____ COUNTY, OHIO
DIVISION OF DOMESTIC RELATIONS

_____	:	
Plaintiff/Petitioner,	:	Case No. _____
v.	:	Judge _____
_____	:	
Defendant/Petitioner.	:	

DIVISION OF PROPERTY ORDER

The Court finds the following facts and issues the following Order pursuant to Sections 3105.80 to 3105.90, Revised Code: ¹

I. Terms:

A. The “Plan Participant” or “Participant” means _____, Social Security number _____, whose date of birth is _____, whose current address is _____, and whose current mailing address is _____.

B. The “Alternate Payee” means _____, Social Security number _____, whose date of birth is _____, whose current address is _____, and whose current mailing address is _____.

C. The “Public Retirement Program(s)” means (please check the name and address of the public retirement program(s) and/or University/College Alternative Retirement Plan Administrator):

Ohio Public Employees Retirement System
277 East Town Street
Columbus, Ohio 43215

State Teachers Retirement System of Ohio
275 East Broad Street
Columbus, Ohio 43215

¹ This form was created under Ohio Revised Code Section 3105.90. Since Ohio Revised Code Section 3105.82 requires that this form be used, variance from this form will result in non-acceptance of the order by the Public Retirement Program.

- School Employees Retirement System of Ohio
300 East Broad Street
Suite 100
Columbus, Ohio 43215
- Ohio Police and Fire Pension Fund
140 East Town Street
Columbus, Ohio 43215
- Ohio State Highway Patrol Retirement System
1900 Polaris Parkway
Suite 201
Columbus, Ohio 43240
- University/College Alternative Retirement Plan
Name and address of University/College Plan Administrator:

D. Obligation of Plan Participant and Alternate Payee: The Plan Participant and the Alternate Payee are ordered to notify in writing the Public Retirement Program of a change in the individual’s mailing address.

II. Amount Payable to the Alternate Payee: Upon the Plan Participant receiving a payment from the Public Retirement Program, the court orders that the Alternate Payee shall receive payment in accordance with and subject to the limitations set forth in Sections 3105.82 to 3105.90, Revised Code. The Public Retirement Program is required to distribute amounts to the Alternate Payee in the same manner selected by the Participant. For example, if only a lump sum dollar amount is provided in Paragraphs II(B)(1)(a) and (b), then the Alternate Payee also receives a lump sum payment. Please designate the type and the method of payment:

A. Type of Payment: If the Participant is eligible to receive more than one benefit payment or more than one lump sum payment, please check the benefit(s) or lump sum payment(s) from which payment to the Alternate Payee shall be made. If no benefit or lump sum payment is designated, the Alternate Payee shall receive payment from the first benefit payment or lump sum payment for which the Participant is eligible to apply and to receive. Please check ALL APPLICABLE BENEFIT(S) OR LUMP SUM PAYMENT(S):

- Age and service retirement benefit, INCLUDING Partial Lump Sum Payments (“PLOS”) received under Sections 145.46(E)(1), 3307.60(B), 3309.46(B)(4), or 5505.162(A)(3), Revised Code, and Deferred Retirement Option Plan (“DRO”) under Section 742.43 or 5505.50, Revised Code.
- Age and service retirement benefit, BUT EXCLUDING Partial Lump Sum Payments (“PLOS”) received under Sections 145.46(E)(1), 3307.60(B), 3309.46(B)(4) or 5505.162(A)(3), Revised Code, and Deferred Retirement Option Plan (“DRO”) under Section 742.43 or 5505.50, Revised Code.

- Disability monthly benefit
- Account refund
- Additional money purchase annuity/additional annuity lump sum refund
- Reemployed retiree money purchase annuity (when monthly payment exceeds \$25.00) or lump sum refund
- Defined contribution plan benefit

B. Method of Payment: If the Plan Participant is a reemployed retiree contributing to a money purchase annuity or is eligible to receive or is receiving monthly benefits or a lump sum payment from a reemployed retiree money purchase annuity, the Alternate Payee shall receive payment from the reemployed retiree money purchase annuity and any other type of payment designated in Paragraph II(A) above in a monthly or one-time dollar amount as specified in Paragraph II(B)(1)(a) below. If the Plan Participant is participating in the defined contribution program, or any of its constituent plans, the Alternate Payee shall receive payment from the defined contribution program, or any of its constituent plans, and any other type of payment designated in Paragraph II(A) above in a percentage of a fraction as specified in Paragraph II(B)(2) below. If the Plan Participant is participating in any other plan in a Public Retirement Program, the Alternate Payee shall receive payment in either a dollar amount **OR** a percentage of a fraction as specified below (i.e. Please complete Dollar Amount **OR** Percentage).

1. Dollar Amount: Paragraphs II(B)(1)(a) and (b) must be fully completed, even if the indication is to pay the Alternate Payee "\$0.00" from the Participant's periodic benefit or/and lump sum payment.

a. If the Participant elects a plan of payment that consists of a lump sum payment **OR** a plan of payment that consists of periodic benefits:

\$ _____ per benefit from the Participant's periodic benefit upon the Participant's receipt of the aggregate periodic benefit; **or**

\$ _____ from the Participant's lump sum payment upon the Participant's receipt of the payment.

- b. If the Participant elects a plan of payment consisting of both a lump sum benefit **AND** a periodic benefit:

\$_____per benefit from the Participant’s periodic benefit upon the Participant’s receipt of the periodic benefit; **and**

\$_____from the Participant’s lump sum benefit upon the Participant’s receipt of the payment.

OR

2. Percentage: Please provide percentages in both Paragraph II(B)(2)(a) and (b) even if the percentage is “0%”.

- a. If the Participant elects a plan of payment that consists of either periodic benefits **OR** a lump sum payment, the Public Retirement Program shall pay directly to the Alternate Payee per benefit or in a one-time lump sum payment_____percent (_____%) of a fraction as set forth in Paragraph II(B)(2)(c) below of the Plan Participant’s periodic benefit or one-time lump sum payment.

- b. If the Plan Participant elects a plan of payment consisting of both a lump sum benefit **AND** a periodic benefit, the Public Retirement Program shall pay directly to the Alternate Payee_____percent (_____%) of a fraction as set forth in Paragraph II(B)(2)(c) below of the Plan Participant’s periodic benefit and_____percent (_____%) of a fraction as set forth below of the Plan Participant’s lump sum benefit.

- c. Fraction:

- i. The numerator of the fraction shall be_____, which is the number of years during which the Plan Participant was both a contributing member of the Public Retirement Program and married to the Alternate Payee. The date of marriage is _____.

- ii. The denominator, which shall be determined by the Public Retirement Program at the time that the Plan Participant elects to take a benefit or a payment, shall be the Participant’s total years of service credit with the Public Retirement Program or, in the case of a Participant in a retirement plan established under Chapter 3305, Revised Code, the years of participation in the plan.

- C. Applicable Benefit: The monthly benefit amount used to determine the amount paid to the Alternate Payee from the Participant's monthly benefit shall be whichever applies:
1. If the Participant is receiving a monthly benefit, the monthly benefit shall be the gross monthly benefit the Participant is receiving at the time the decree of divorce or dissolution becomes final. The effective date of the decree of divorce, dissolution, or legal separation is _____;
 2. If the Participant has applied for but is not yet receiving a monthly benefit, the monthly benefit shall be the benefit for which the Participant is eligible;
 3. If the Participant has not applied for a benefit, the monthly benefit shall be the benefit calculated at the time the Participant elects to take the benefit.
- D. Minimum Benefit Notice: The total amount paid to the Alternate Payee pursuant to this order plus any administrative fee charged to the Participant and Alternate Payee as authorized by Section 3105.84, Revised Code, shall not exceed fifty percent of the amount of a benefit or lump sum payment that the Plan Participant is to receive or, if withholding is to be made from more than one benefit or lump sum payment, fifty percent of the total of the benefits or lump sum payments that the Plan Participant is to receive. If the Plan Participant's benefit or lump sum payment is or will be subject to more than one order issued pursuant to Section 3105.81, Revised Code, the Public Retirement Program shall not withhold an aggregate amount for all the orders plus the administrative fee(s) charged to the Participant and Alternate Payee as authorized by Section 3105.84, Revised Code, that exceeds fifty percent of the benefit or lump sum payment.
- E. Cost of living allowances: Any cost-of-living allowance ("COLA") granted to a Participant while this Order is in effect shall be apportioned between the Participant and Alternate Payee in the same proportion that the amount being paid the Alternate Payee bears to the amount paid the Participant, as provided under Sections 145.323(B), 742.3711(G), 742.3716(F), 742.3717(B)(3), 3307.67(C), 3309.374(B), and 5505.174(C), Revised Code.
- III. Notification to Alternate Payee: The Alternate Payee is hereby notified of the following:
- A. The Alternate Payee's right to payment under this Order is conditional on the Plan Participant's right to a benefit payment or lump sum payment from the Public Retirement Program;
 - B. When the Plan Participant's benefit or lump sum payment is subject to more than one order under Section 3105.81, Revised Code, or to an order described in Section 3105.81, Revised Code and a withholding order under Section 3121.03, Revised Code, the amount paid to the Alternate Payee under this order may be reduced based on the priority of the other orders;

- C. The Alternate Payee's right under this order to receive an amount from the benefit payment or lump sum payment to the Plan Participant shall terminate upon:
1. The death of the Plan Participant;
 2. The death of the Alternate Payee;
 3. The termination of a benefit pursuant to the governing laws of the Public Retirement Program.
- IV. Administrative Fee: Pursuant to Section 3105.84, Revised Code, this order authorizes the Public Retirement Program that is or will be paying the benefit or lump sum payment to withhold from any benefit or payment that is subject to this order an amount determined by the Public Retirement Program to be necessary to defray the cost of administering the order. This amount shall be divided equally between the Plan Participant and the Alternate Payee.
- V. Application of Order: This order applies to payments made by the Public Retirement Program after retention of the Order under Section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261, Revised Code.
- VI. Additional Limitations on Order:
- A. Payments under this order shall commence as provided under Section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261, Revised Code.
 - B. The Alternate Payee has no right or privilege under the law governing the Public Retirement Program that is not otherwise provided in the governing law.
 - C. This order shall not require the Public Retirement Program to take any action or provide any benefit, allowance, or payment not authorized under the law governing the Public Retirement Program.
- VII. Notice of Order:
- A. The clerk of courts shall transmit a certified copy of this order to the Public Retirement Program(s) named in the order.
 - B. On receipt of this order, the Public Retirement Program shall determine whether the order meets the requirements as set forth in Sections 3105.80 to 3105.90, Revised Code.
 - C. The Public Retirement Program shall retain the order in the Plan Participant's record if the order meets the requirements in Sections 3105.80 to 3105.90, Revised Code.
 - D. The Public Retirement Program shall return, by regular mail, to the clerk of courts of the court that issued the order any order the Public Retirement Program determines does not meet the requirements in Sections 3105.80 to 3105.90, Revised Code, no later than sixty days after the Public Retirement Program's receipt of the order.
- VIII. Jurisdiction of the Court: The Court shall retain jurisdiction to modify, supervise, or enforce the implementation of this order notwithstanding Section 3105.171(I), Revised Code.

APPROVED:

Signature of Attorney for Plaintiff/Petitioner

Attorney for Plaintiff/Petitioner (please type or print name)

Supreme Court No.

Address

Address

Signature of Attorney for Defendant/Petitioner

Attorney for Defendant/Petitioner (please type or print name)

Supreme Court No.

Address

Address

SO ORDERED.

Judge

Division of Property Order approved per Section 145.571, 742.462, 3305.21, 3307.371, 3309.671, or 5505.261, Revised Code, for filing and submission.

Retirement System

Retirement System

APPENDIX B

**IN THE COURT OF COMMON PLEAS, _____ COUNTY, OHIO
DOMESTIC RELATIONS DIVISION**

_____, :
Plaintiff, : Case No.:
vs. : Judge
_____, : Magistrate
Defendant. :

JUDGMENT ENTRY

This matter came before the Court upon Plaintiff’s / Defendant’s Motion asking for an Order requiring School Employees Retirement System of Ohio (“SERS”) to provide information from the personal history record of _____, necessary to prepare a Division of Property Order (“DOPO”), pursuant to R.C. 3105.87 & 3105.82.

Based upon Plaintiff’s / Defendant’s Motion and for good cause shown, the Court hereby grants the motion. **IT IS THEREFORE ORDERED** that, pursuant to R.C. 3105.87, SERS shall provide Plaintiff’s / Defendant’s counsel, _____, at _____, information from the personal history record of _____, date of birth: _____, necessary to prepare a DOPO.

The information from the personal history record of _____, to be provided by SERS, shall include:

- 1. Participant’s SERS account status (i.e. active member or benefit recipient),
- 2. Contribution history with SERS,
- 3. Service credit history with SERS,

4. If not currently receiving a benefit from SERS, an estimate of the age and service monthly retirement benefit under Plan B (single life annuity) at the earliest eligibility date, or
5. If currently receiving a benefit from SERS, the effective date, type, and gross amount of the benefit.

It is So Ordered

Judge



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