

# DIFFERENCE BETWEEN PERA LAW AND FEDERAL QDRO

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PERA will accept language similar to the federal Qualified Domestic Relations Order (QDRO), to the extent it conforms with Minnesota law. The QDRO generally states that payments may be made to a former spouse on the earliest date the member is eligible for retirement, even if the participant does not retire on that date. Under Minnesota law, however, payments to a former spouse can be made only at the time a member terminates employment, applies for a monthly benefit or a refund, and benefits become payable.

Under Minnesota law, the former spouse cannot receive a lump sum payment if the PERA member selects monthly benefits. In addition, a separate account cannot be created for the former spouse, although that is permitted under a QDRO.

A surviving spouse for PERA purposes is the person legally married to the PERA member at the time of death. No surviving spouse benefits are due if the deceased member is not married. A former spouse may receive the marital portion of any pre-retirement survivor payments, if the disposition of survivor benefits was negotiated in the court order. This holds true only if the PERA member remarries and dies while an active member of a PERA plan.

Payments to the former spouse after the member retires continue for the lifetime of the PERA member, unless a survivor option is selected with the former spouse as survivor for their marriage period. In that event, the former spouse would receive the designated share of the marital portion of the benefit for their lifetime and the member may name another survivor for the portion of the benefit not covered by the marriage period.

It is suggested that a copy of proposed language be sent to PERA before the court order is finalized. PERA will review the language to determine whether the court order can be administered as written. If PERA cannot administer the court order as filed, we will advise the parties and request that an amended court order be filed.

Once PERA receives a certified copy of the Court Order filed by the court administrator's office, PERA will write to all parties involved, advising how distribution will be made when payments begin. The PERA office should be contacted immediately with any questions or concerns on how PERA has interpreted the Court Order. If a divorce occurred in another state, the court order must be filed in Minnesota before PERA can administer it.

## WHEN PAYMENTS BEGIN TO MEMBER AND FORMER SPOUSE

PERA cannot guarantee a certain dollar amount will be paid to a benefit recipient other than the employee deductions paid to PERA. When a PERA member retires, the monthly benefit is first paid from accumulated employee deductions. After that amount is exhausted, payments continue for the lifetime of the benefit recipient(s) from the income of the pension fund (including employer contributions and investment income). If both the member and former spouse die after monthly payments begin and no monthly payments are due any other person, a refund of any balance of employee deductions remaining in the account is paid to the designated beneficiary(ies).

It is recommended that, approximately 90 days prior to retirement, the PERA member contact the PERA offices for estimates of his or her pension. When the member applies for monthly

benefits, copies of birth and marriage documents for the member and for each survivor are required. Upon receipt of the member's application, PERA will write to the former spouse, requesting tax withholding information. If the former spouse is named as a survivor, we will also require birth and marriage documents.

It is important for future payment purposes that both the member and former spouse keep PERA informed of all name and address changes.

PERA will make the division based on a retired member's account as soon as practicable upon receipt of the court order. Generally, if we receive the court order by the 15th of the month, the payment will be split by the first of the following month.

