

TACOMA EMPLOYEES' RETIREMENT SYSTEM

EXPLANATION OF QUALIFIED DOMESTIC RELATIONS ORDERS AND ORDERS TO WITHHOLD AND DELIVER

The Tacoma Municipal Code governs a Member's pension, annuity, or retirement allowance ("retirement benefit") payable by the Tacoma Employees' Retirement System ("System"). Tacoma Municipal Code ("TMC") Section 1.30.690 (B) sets forth two procedures for third persons to obtain an interest in a Member's retirement benefit. These two procedures are (1) a Qualified Domestic Relations Order ("QDRO"), and (2) an Order to Withhold and Deliver ("OWD"), both of which are discussed in more detail below.

As a Member, you should be aware that a QDRO and an OWD may give another person (an alternate payee) a right to receive part or all of your retirement benefits. Without offering legal advice, this explanation is intended to inform you of the general characteristics and ramifications of a QDRO and an OWD.

BACKGROUND INFORMATION

- The Tacoma Retirement System cannot provide you legal advice. You should consult with your own lawyer.
- The System will honor a QDRO only if it complies with the provisions of T.M.C. Section 1.30.690B and the Tacoma Retirement System Board of Administration rules governing QDROs.
- The System is required to report any amounts paid to an alternate payee to the Internal Revenue Service.

QUALIFIED DOMESTIC RELATIONS ORDER

As stated above, the first procedure under which an alternate payee may be granted the right to receive all or part of your retirement benefit is called a QDRO. The System is required to notify a Member upon the System's receipt of an order purporting to be a QDRO. At that time, the System will also notify a Member of the System's procedures for determining if an order is a QDRO. You should seek legal advice upon receiving the System's notice to protect your rights.

Definition of QDRO

A QDRO is a judgment, decree, or order that relates to the provision of child support, alimony payments, or marital property rights, and recognizes an alternate payee's rights to all or part of a Member's retirement benefit. Division of a Member's retirement benefit agreed to by the parties, but not approved by a court, is not a QDRO.

Definition of Alternate Payee

The "alternate payee" may be a spouse, former spouse, child, or other dependent of a Member.

FORM AND TYPE OF BENEFITS AVAILABLE UNDER A QDRO

If the Member is an active Member or is a former employee who has not yet retired, the alternate payee's form of benefits will be a life annuity measured by the Member's life. There are no benefits payable to the alternate payee upon the Member's death subsequent to retirement.

If the Member has retired, the QDRO may not permit a change in the option under which benefits are being paid but may only require that a portion of the benefit which is being paid the Member must be paid the alternate payee. For example, if the monthly benefit being paid the retiree is \$1,000, the order could require \$500 of that amount must be paid to the alternate payee.

However, a QDRO must not require the System to provide any form or type of benefits, or any option not otherwise allowed by the TMC or the rules.

WHEN BENEFITS ARE AVAILABLE UNDER A QDRO

Benefits are available under a QDRO on the date stated in the QDRO or date of the entry of the order as per TMC1.30.690 (B) (5), but not before the first day of the month following the date on which a Member's benefits commence.

IMPACT OF OTHER QDRO OR OWD

If an OWD or another QDRO already requires that the retirement benefits be paid to another person, a subsequent QDRO must not require the payment of benefits to an alternate payee.

IMPACT OF MEMBER REEMPLOYMENT

If the benefits are in pay status when the QDRO is entered and later payments to the Member or beneficiary end as a result of reemployment, then payments to the alternate payee also end.

SAMPLE FORMS

Attached are sample forms which may be used when preparing a QDRO. While strict compliance with the sample form is not required by the System, its use will facilitate the review of the QDRO and provide greater assurance that it will be determined to meet the requirements of the TMC. The System will not honor a court order which is not in compliance with the requirements of the TMC and the rules adopted by the Board of Administration with respect to Qualified Domestic Relations Orders.

ORDER TO WITHHOLD AND DELIVER

The second procedure to recover all or part of a Member's retirement benefit is called an Order to Withhold and Deliver ("OWD"). This procedure is used by the Department of Social and Health Services ("DSHS") to recover past-due child support for a dependent child if public assistance money is paid to or for the benefit of that child. DSHS may obtain the past-due child support from many sources, including a Member's retirement benefit. DSHS is required to send a notice to a Member of an OWD twenty days before its effective date. You should seek legal advice if you receive this 20-day notice to protect your rights.

Definition of OWD

There must be a judgment, decree, or order of a court, establishing the existence of a child support obligation and ordering the payment of an amount of money. The OWD will also include a statement that certain property of the debtor-Member, such as the Member's retirement benefit, is subject to a collection action. In other words, DSHS may issue an OWD to the System, ordering it to withhold and deliver part or all of a Member's periodic payments from the System to the Washington state support registry.

As stated above, the OWD is effective twenty days after the Member receives notice of it. Members may contest the amount listed in the OWD or their responsibility for the child in an adjudicative proceeding.

An OWD does not expire until: (a) released in writing by the office of support enforcement; (b) terminated by court order.

Payee

The payee is the Washington State support registry.

Amount of Benefits Available Under an OWD

The OWD must set forth the amount of benefits it covers. The amount of benefits is the same amount that the state of Washington has expended through public assistance funds for the care of the child.