

**TACOMA RETIREMENT SYSTEM
BOARD OF ADMINISTRATION**

**RULES GOVERNING
QUALIFIED DOMESTIC RELATIONS ORDERS (QDRO)**

The term “Order” or “QDRO” as it is used in these Rules is intended to refer to a Qualified Domestic Relations Order (QDRO) as defined in Tacoma Municipal Code (TMC) Provision 1.30.690 B.

These Rules are intended to supplement the provisions of the TMC governing QDROs, TMC 1.30.690. The relevant provisions of TMC 1.30.690 are incorporated by reference into these rules and, for convenience, are set out below:

1.30.690 Exemption from process.

A. The right of a person to a pension, an annuity or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit, any other right accrued or accruing to any person under the provisions of this chapter, and the moneys in the fund created under this chapter, shall not be subject to execution, garnishment, attachment or any other process whatsoever, and shall be unassignable except as in this chapter specifically provided.

B. Notwithstanding the foregoing, benefits due a member hereunder pursuant to the provisions of this chapter shall be paid to an alternate payee in accordance with the applicable requirements of any Qualified Domestic Relations Order, or as directed in an Order to Withhold and Deliver under RCW 74.20A.080. A Qualified Domestic Relations Order means a domestic relations order which creates or recognizes the existence of an alternate payee’s right to, or assigns to the alternate payee the right to, receive all or a portion of the benefits payable with respect to a member under this chapter. A Domestic Relations Order means any judgment, decree, or order (including approval of a property settlement agreement) which relates to the provisions of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a member and is made pursuant to a state domestic relations law. A Domestic Relations Order will be qualified only if it:

1. Unambiguously specifies the amount or percentage of the member’s benefits to be paid by the Retirement System to each alternate payee or the manner in which such amount or percentage is to be determined;
2. Does not require the Retirement System to provide any type of form or benefits or any option not otherwise provided under this chapter;
3. Does not require the Retirement System to provide increased benefits (determined on the basis of actuarial value);
4. Does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee or to a person pursuant to an Order to Withhold and Deliver;
5. Does not require the Retirement System to pay a benefit to the alternate payee before the earliest date on which a benefit could be elected by a member who had the same years of City Service as a member had at the date of the entry of the order; and
6. Complies in all respects with the requirements of the Board of Administration’s rules with respect to Qualified Domestic Relations Orders as they are in effect from time to time.

C. In order for a member to obtain the increased benefit upon divorce, as provided in Options D and E under Section 1.30.660, the member must submit either a Qualified Domestic Relations Order that meets the requirements of this section and specifies that the former husband or wife shall have no survivor benefit upon the member’s death and does not purport to provide a survivor benefit to anyone else, or other proof satisfactory to the Board of Administration that the former husband or wife has irrevocably waived any survivor benefit. If the conditions in the preceding sentence are not met, a member who has retired with Option D or E under Section 1.30.660, and divorced, cannot change the form of benefit and the member’s former husband or wife retains the survivor benefit, but the member’s lesser retirement allowance under Option D or E may be divided

by a Qualified Domestic Relations Order while the member and former husband or wife are both living.

A. General Provisions

1. The Director of the Tacoma Employees' Retirement System (TERS) is authorized to reject any Order that is not in compliance with the criteria contained in Tacoma Municipal Code 1.30.690 and in these rules as adopted by the Board of Administration.
2. TERS will keep a QDRO on file until such time as the member makes a withdrawal of accumulated contributions or draws benefits. If an Order is on file as to a member, the Director may delay payment of benefits or of accumulated contributions for up to thirty (30) days in order to determine whether or not the Order is current and in effect.
3. An alternate payee has the responsibility of supplying and keeping current with the TERS a current mailing address for making payments; if payments are to commence upon occurrence of an event, informing the TERS when the event occurs; and in the event of an erroneous overpayment, returning to TERS the warrant or check for issuance of another.
4. The alternate payee shall be entitled to a proportionate share of any cost of living adjustment applicable to the members' benefit.

B. Rules Applicable to All Orders

1. The Order must be a judgment or decree of a state court (including approval of a property settlement agreement), signed by a judicial officer and filed with the clerk of that court.
2. The Order must create or recognize the existence of an alternate payee's right to, or assign to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a member.
3. Payments to the alternate payee will end upon the death of the alternate payee.
4. Payments to the alternate payee will cease upon the death of the member if payment to the member would end upon the members' death.
5. The order may not grant the alternate payee any disability retirement rights under TMC. 1.30.640.
6. If the member retires and subsequently returns to City service and his or her benefit is suspended, then the alternate payee's benefit will also be suspended.
7. If the alternate payee dies survived by the member, the member's benefits are increased by the amounts otherwise payable to the alternate payee.
8. The Order may not award to an alternate payee benefits, which are not accrued vested benefits on the effective date of the Order.

C. Specific Requirements for Orders Where Benefits Are "In Pay Status" or where the member is receiving benefits or has arranged to receive benefits at a proximate date.

1. Orders in pay status must state the dollar amount or fixed percentage of the member's benefits to be paid to each alternate payee under the payment option that the member has selected.

2. The member will not be permitted to name a different joint annuitant subsequent to dissolution of marriage when in conflict with an existing QDRO.

D. Specific Requirements for Orders Where Benefits Are “Not In Pay Status” or where the member is not yet receiving benefits or has not arranged to receive benefits at a proximate date.

1. Upon request, TERS will provide years of service and member contributions for specific time periods.
2. Orders not in pay status must determine the amount payable to an alternate payee by a specific dollar amount OR a percentage (such as 50%).
3. If the parties intend the portion due to the alternate payee to correspond with the length of the marriage or partnership, the order must include a formula or ratio that defines the marital/partnership portion of the benefit intended to be distributed to the alternate payee. Examples of formulas defining the marital/partnership portion include the member's contributions during stated dates divided by the member's total contributions at the time benefits commence; or years of service during specific dates vs. total years of service when the member terminates or retires.
4. Formulas contained in orders not in pay status will be applied to either the monthly retirement benefit, or the withdrawal amount (as described below.) If the order uses a specific dollar amount for the monthly retirement benefit due the alternate payee, in case of a withdrawal of contributions the alternate payee will be entitled to a fraction of the withdrawal amount, the numerator of which is the monthly retirement allowance due the alternate payee, and the denominator of which is the monthly retirement allowance due the Member in the normal form before subtracting the amount specified as due the alternate payee.
5. The Director will not increase payments by an interest factor or adjust dollar values by a price index in calculating the payment to an alternate payee.
6. If the member retires before the date on which he or she is entitled to an unreduced benefit, the alternate payee's benefit will begin on the same date as the member's benefit and will be reduced in the same proportion as the member's benefit is reduced.
7. In the event the Member elects to withdraw contributions at any point after termination or retirement, interest will be credited to date of withdrawal. If the Member qualifies for 150% of accumulated contributions pursuant to TMC 1.30.550, the alternate payee will share in this benefit.
8. A Member may repay the accumulated contributions distributed to him or her and the benefit restored shall be adjusted to reflect the cancellation of the benefit awarded the alternate payee. In no event will the alternate payee be entitled to repay withdrawn contributions.
9. If the Member dies before benefits begin, and is survived by the alternate payee, then the alternate payee will receive a lump sum benefit equal to the alternate payee's share of contributions.