

# Rights of Spouses and Dependents



Under the TRS, there are provisions that recognize the rights of spouses and dependents to receive TRS benefits. These provisions:

- Require that the benefit payable to a married member who retires be in the form of a joint and survivor (J&S) annuity, unless the spouse consents to another form of benefit or benefits are payable under the supplemental contributions provision; and
- Require that a survivor's annuity under a J&S annuity option be provided to the surviving spouse of a vested member who dies before retirement (the spouse may waive the survivor's annuity); and
- Allow a former spouse to be treated as a spouse or surviving spouse of a member, to the extent required in a divorce decree that constitutes a qualified domestic relations order (QDRO). Rights of a former spouse and dependents under a QDRO may take precedence over other rights under the retirement system statutes.

## Retirement Benefits

At retirement time, there are various types of benefits available, including the 50%, 66-2/3%, and 75% joint and survivor (J&S) options. Selection of any one of the J&S options will provide a continuing, lifetime monthly benefit to your spouse, or other eligible dependent, if you die before your spouse.

Married members are required by TRS statutes to select a J&S option when they retire, unless benefits are payable under the supplemental contributions provision. This requirement will be waived if a member's spouse gives written consent to another type of benefit to the TRS administrator.

### *The TRS administrator may waive the required written consent before retirement if:*

1. The member was not married to the spouse during any part of the member's TRS employment;
2. The spouse has no rights to the J&S benefit because of the terms of a qualified domestic relations order (QDRO);
3. The spouse cannot be located;
4. The member and spouse have been married less than two years and the member has established that they are not living together; or
5. Another reason established by regulation exists.

The 50% J&S option is automatically required when:

1. A member fails to select a J&S option, and
2. The spouse does not consent to another type of benefit.

If the spouse consents, the member may select either a normal or early retirement option that will pay monthly benefits to the member during his or her lifetime, but will not pay monthly benefits to the spouse after the member's death. The spouse's consent to another type of benefit may be made **before** the member's retirement date on the TRS Application for Retirement Benefits (trs025).

Only a spouse who was married to a member at the time the member retired may be treated as a surviving spouse.

In the event of a divorce, a QDRO **must** be filed with the administrator in order for the ex-spouse to continue to be treated as the surviving spouse. A future spouse of a retired member who married the member **after** the member retired may not be treated as a surviving spouse under any circumstances.

## Beneficiary Designation

If you are married at the time of your death and you were married to the same person during part of your TRS employment, your spouse is automatically your beneficiary, regardless of your written designation, unless:

- your spouse consents to another beneficiary on form 02-822; or
- another person (such as a former spouse) is eligible for the benefits under a qualified domestic relations order (QDRO). That person would be entitled to the portion of the benefit that is ordered by the QDRO.

See *Designation of Beneficiary* in the *TRS Information Handbook* for more information.

## Former Spouses

A former spouse may be eligible for all or part of a TRS benefit under a qualified domestic relations order (QDRO).

A former spouse who is entitled to a joint and survivor benefit under a QDRO may give written consent to the TRS administrator to allow the member to select another form of benefit before the member retires.

Rights under a QDRO do not take effect until the QDRO is filed with the TRS administrator.

Benefits ordered under a QDRO must conform to the TRS statutes.

### Prompt Claim for Benefits

Individuals who are entitled to benefits because of marriage or a qualified domestic relations order (QDRO) must file evidence of their entitlement with the TRS administrator to protect their rights.

Evidence of entitlement (marriage certificate, divorce or dissolution decree, or QDRO) should be filed with the TRS administrator immediately after the change in marital status.

It is important that you provide the TRS administrator with notice of your entitlement within 10 days of the member's death.

If notice is not provided within 10 days and benefits are paid to another person before your claim is filed, you will not receive the benefits already paid. However, any benefits remaining to be paid will be paid according to entitlement.

### Supplemental Contributions

A former spouse may receive benefits under the supplemental contributions provision under a qualified domestic relations order (QDRO) if the required contributions were made.

Only members first hired under the TRS before July 1, 1982, who participate and pay the 1% supplemental contributions are covered under this provision. See *Supplemental Contributions* in the *TRS Information Handbook* for more information.

### Medical Benefits

In the event of a divorce, the medical coverage for the spouse terminates on the date of the divorce.

Receipt of part or all of a monthly benefit by a former spouse under a qualified domestic relations order (QDRO) does **not** entitle that person or his or her dependents to major medical insurance coverage. However, that coverage may be received if the person elects it in a timely manner and pays the required premiums.

See *Insurance* in the *TRS Information Handbook* for details.

### Refund of Contributions

Terminated, married members who are vested in either the TRS or Public Employees' Retirement System (PERS) who are or will be eligible for retirement benefits, including conditional service benefits, may not receive refunds of their employee contribution accounts unless:

- Their spouses give their written consent to the administrator, or
- Consent is waived.

The TRS administrator may waive the required written consent if:

1. The member was not married to the spouse during any part of the member's TRS employment; or
2. The spouse has no rights under the terms of a qualified domestic relations order (QDRO);
3. The spouse cannot be located;
4. The member and spouse have been married less than two years and the member establishes that they are not living together;
5. Another reason established by regulation exists.

If another person (alternate payee) is entitled to a member's TRS benefits or contributions under a QDRO, the member may **not** receive a refund unless the alternate payee relinquishes his or her rights to those benefits by signing a consent form.

The administrator may waive the written consent if the alternate payee cannot be located or another reason exists by regulation.



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