
Sample Domestic Relations Order For Defined Benefit Plan Pension

*This Sample DRO is for members who have contributed to the Defined Benefit Plan
but not to the Defined Contribution Plan.*

**SAMPLE DOMESTIC RELATIONS ORDERS FOR MEMBERS AND PARTICIPANTS WHO HAVE
CONTRIBUTED TO THE DEFINED CONTRIBUTION PLAN ARE AVAILABLE AT SERS'
REGIONAL OFFICES OR SERS' WEBSITE. (SERS.pa.gov)**

NOTE: The materials contained in this document provide general guidance for drafting domestic relations orders in the format suggested by the Commonwealth of Pennsylvania State Employees' Retirement System ("SERS"). These materials are provided as a courtesy.

These materials are not legal advice and do not replace consultation with an attorney. Using these materials does not guarantee that SERS will approve a particular domestic relations order. Likewise, using these materials to draft a domestic relations order does not guarantee that a person will receive a particular benefit or payment amount. Benefit estimates SERS provides are subject to audit, review, and correction before any benefit is paid; benefit estimates are not guarantees of payment.

Persons with questions or concerns regarding SERS retirement benefit payments should contact SERS. Persons with questions or concerns regarding equitable distribution or domestic relations orders should contact their attorney.

The statements in these materials are not binding on SERS, the Commonwealth of Pennsylvania or its agencies, officers, or employees and do not alter any law of the Commonwealth. In the event of a conflict between the materials contained herein and the statutes, regulations, or administrative policies of SERS and/or the Commonwealth, the statutes, regulations and administrative policies will control.

COURT OF COMMON PLEAS OF [COUNTY NAME] COUNTY, PENNSYLVANIA

[PLAINTIFF] :
 :
 Plaintiff: : FAMILY DIVISION
 :
 v. : NO. _____
 :
 [DEFENDANT], :
 : IN DIVORCE
 Defendant: :
 :

ORDER

AND NOW, this _____ day of _____, 20__, the attached Stipulation and Agreement dated _____ of the parties in this case is incorporated, but not merged, into this Order of Court.

J.

ATTEST:

COURT OF COMMON PLEAS OF [COUNTY NAME] COUNTY, PENNSYLVANIA

[PLAINTIFF]	:	
	:	FAMILY DIVISION
Plaintiff:	:	
	:	
v.	:	NO. _____
	:	
[DEFENDANT],	:	
	:	IN DIVORCE
Defendant:	:	
	:	

STIPULATION AND AGREEMENT^{1, 2}
FOR THE ENTRY OF “DOMESTIC RELATIONS ORDER”
STATE EMPLOYEES’ RETIREMENT SYSTEM
DEFINED BENEFIT PLAN

AND NOW, this ____ day of _____, 20____, the parties, [PLAINTIFF], Plaintiff, and [DEFENDANT], Defendant, having been divorced by Decree dated _____ of the Court of Common Pleas of [COUNTY NAME] County, entered at Docket Number _____, do hereby stipulate and agree as follows:

1. **PLAINTIFF³:** [PLAINTIFF], (hereinafter referred to as “Member”) is a member of the defined benefit plan of the Commonwealth of Pennsylvania State Employees’ Retirement System (hereinafter referred to as “SERS”). Member’s date of birth and Social Security Number shall be provided on a separate document submitted together with a certified copy

¹ This sample form presumes that the Plaintiff and Defendant have agreed to the terms upon which the Member’s benefit will be divided. SERS does not require that the parties stipulate to the DRO.

² This sample form presumes that the Member has not yet retired and is or will be eligible for an annuity. If the Member has already retired or is not eligible for an annuity, please contact SERS for more information on how to divide the benefit.

³ This sample form presumes that the Plaintiff is the Member and the Defendant is the Alternate Payee. If your situation is different, please make the appropriate adjustments to your DRO.

of this Stipulation and Agreement at the time the Stipulation and Agreement is submitted for final approval.

2. **DEFENDANT:** [DEFENDANT], (hereinafter referred to as “Alternate Payee”) is the former spouse of Member. Alternate Payee’s date of birth and Social Security Number shall be provided to SERS on a separate document submitted together with a certified copy of this Stipulation and Agreement at the time the Stipulation and Agreement is submitted for approval.

3. **STATUS OF SERS:** SERS is a creation of statute controlled by the State Employees’ Retirement Code (“Retirement Code”), published at 71 Pa. C.S. §5101 *et seq.*

4. (a) **MEMBER’S ADDRESS:** Member’s current mailing address will be supplied to SERS on a separate document submitted together with a certified copy of this Stipulation and Agreement at the time the Stipulation and Agreement is submitted for final approval.

(b) **ALTERNATE PAYEE’S ADDRESS:** Alternate Payee’s current mailing address will be supplied to SERS on a separate document submitted together with a certified copy of this Stipulation and Agreement at the time the Stipulation and Agreement is submitted for final approval. It is the responsibility of Alternate Payee to keep a current mailing address on file with SERS at all times.

5. **CALCULATION OF ALTERNATE PAYEE’S PORTION:**

- a. The marital property component of Member’s retirement benefit equals:⁴
 - 1) The Coverture Fraction, multiplied by
 - 2) Member’s retirement benefit on the effective date of Member’s retirement

⁴ This sample uses the coverture fraction to determine the Alternate Payee’s share of the Member’s retirement benefit. The parties are free to define the Alternate Payee’s share using another method if they so desire. Please note that using a different method to divide the benefit may require the Member to select specific retirement options and/or use other provisions in the DRO which differ from the language in this sample form.

If the parties have determined that the Alternate Payee’s share of the benefit is an aggregate dollar amount, Paragraph 9 must specify the annuity option the Member is required to select and the terms by which the Alternate Payee’s share is to be paid (for example, a certain dollar amount per month for a period of months). If you want to pay the Alternate Payee’s share in this manner, contact SERS for information regarding how these terms may be incorporated in the DRO

calculated using the Retirement Code in effect on [mm/dd/yyyy], the date of the parties' separation, and Member's final average salary at the time of retirement, provided however, that if an amount other than the Member's final average salary is used to calculate the Member's retirement benefit, then that number shall be used.

- b. The Coverture Fraction is a fraction with a value less than or equal to one. The numerator is the amount of Member's service, as defined by SERS, for the period of time from [mm/dd/yyyy] (date of marriage), to [mm/dd/yyyy] (date of separation). The denominator is the total amount of Member's service, as defined by SERS, on the effective date of Member's retirement.
- c. [NUMERAL] percent ([NUMBER] %) of the marital property component of Member's retirement benefit is to be allocated to Alternate Payee as the equitable distribution portion of this marital asset.

6. DEFINITION OF MEMBER'S RETIREMENT BENEFIT: Member's retirement benefit is defined as all monies paid to or on behalf of Member by SERS, including any lump sum withdrawals or scheduled or ad hoc increases, but excluding the disability portion of any disability annuities paid to Member by SERS as a result of a disability which occurs before Member's marriage to Alternate Payee or after the date of Member's and Alternate Payee's final separation. Member's retirement benefit does not include any deferred compensation benefits paid to Member by SERS or any enhancements to the Member's retirement benefit arising from post-separation monetary contributions made by Member. The equitable distribution portion of the marital property component of Member's retirement benefit, as set forth in Paragraph Six (6), shall be payable to Alternate Payee and shall commence as soon as administratively feasible on or about the date Member actually enters pay status and SERS approves a Domestic Relations Order incorporating this Stipulation and Agreement, whichever is later.

7. DEATH BENEFITS: Member hereby nominates Alternate Payee as an irrevocable beneficiary to the extent of Alternate Payee's equitable distribution portion of Member's retirement benefit for any death benefits payable by SERS. This nomination shall become effective upon approval by the Secretary of the Retirement Board, or other authorized

representative of the Secretary, of any Domestic Relations Order incorporating this Stipulation and Agreement. The balance of any death benefit remaining after the allocation of the equitable distribution portion payable to Alternate Payee and any other alternate payees named under other SERS-approved Domestic Relations Orders (“Balance”) shall be paid to the beneficiaries named by Member on the last Nomination of Beneficiaries Form filed with the Retirement Board prior to Member’s death.

If the last Nomination of Beneficiaries Form filed by Member prior to Member’s death (a) predates any approved Domestic Relations Order incorporating this Stipulation and Agreement, and (b) names Alternate Payee as a beneficiary, then: (1) the terms of the Domestic Relations Order shall alone govern Alternate Payee’s share of any death benefit, and (2) for purposes of paying the Balance via the last Nomination of Beneficiaries Form filed with the Retirement Board prior to Member’s death, Alternate Payee shall be treated as if Alternate Payee predeceased Member. No portion of the Balance shall be payable to Alternate Payee’s estate.

8. AUTHORIZATION TO ACCESS INFORMATION: In accordance with the requirements of 71 Pa. C.S. §5953.1(a)(7), Member shall execute and deliver to Alternate Payee an authorization, in a form acceptable to SERS, which will authorize the release to Alternate Payee of all relevant information concerning Member’s SERS retirement benefit so that Alternate Payee shall be able to monitor Member’s compliance with the provisions of this Stipulation and Agreement. Such authorization shall be construed as an authorization for the Alternate Payee to receive information concerning the Member that relates to the administration, calculation, and payment of the Alternate Payee’s share of the Member’s benefit.

9. MEMBER’S OPTION ELECTION⁵: The term and amounts of Member’s retirement benefits payable to Alternate Payee after SERS approves a Domestic Relations Order incorporating this Stipulation and Agreement depends upon which option(s) Member selects at retirement. Member and Alternate Payee expressly agree that upon filing a regular Application for Retirement Allowance with SERS:

⁵ This sample form presumes that the Member has not yet retired and is or will be eligible for an annuity. If the Member has already retired or is not eligible for an annuity, please contact SERS for more information on how to divide the Member’s annuity payments.

- a. **LUMP SUM WITHDRAWAL FOR ACCUMULATED DEDUCTIONS:** Member may elect to withdraw an amount equal to or less than Member's total accumulated deductions at the time of retirement. Alternate Payee's portion of such withdrawal shall be calculated in accordance with the provisions of this Stipulation and Agreement and paid to the Alternate Payee by SERS.
- b. **MONTHLY ANNUITY⁶:** Member and Alternate Payee agree that Member shall select the following options for Member's monthly annuity⁷:

Special Option 4. --A joint and equitable distribution portion (as defined in paragraph 6) annuity payable during the lifetime of the Member, with an equitable distribution portion (as defined in paragraph 6) of such annuity payable thereafter, to the Member's survivor annuitant, if living at the Member's death, as set forth in 71 Pa. C.S. §5705(a)(4), or any succeeding statute.

The Member shall designate the Alternate Payee as an irrevocable survivor annuitant. The intent of this Special Option 4 selection is to maintain level payments to the Alternate Payee for the Alternate Payee's life in the event of Member's death after retirement. The Alternate Payee's portion of the Member's benefit will be deducted from the Member's monthly annuity payment and paid by SERS to the Alternate Payee during the Member's lifetime. If the Alternate Payee dies while the Member is receiving retirement benefits, the Alternate Payee's portion of the Member's annuity shall [*choose one AND ONLY ONE ALTERNATIVE: (revert to the Member) OR (be paid to the Alternate Payee's estate)*] for the remainder of the Member's lifetime. If the Member predeceases the Alternate Payee after retiring, the Alternate

⁶ Retirement options are codified at 71 Pa. C.S. §5705. Please note that the survivor annuities payable under Option 2 and Option 3 as described in that section are based upon the entire amount of the Member's annuity payment, and NOT the marital portion of the benefit. Further information regarding retirement benefit options can be found on SERS' website at www.sers.pa.gov.

⁷ Instead of describing the specific option the Member is required to elect, this section may state that the Member may elect any option offered by SERS under the Retirement Code at the time the Member files for retirement benefits. In that case, the Alternate Payee's share will be deducted from all payments made to or on behalf of the Member by SERS, including any lump sum withdrawals, death benefits and/or survivor annuities payable to persons other than the Alternate Payee.

Payee will receive the Alternate Payee's equitable distribution portion of the Member's benefit in the form of a survivor annuity payable to the Alternate Payee for the duration of the Alternate Payee's life.

Member may select any option offered by SERS for the portion of the retirement payable to Member after the Alternate Payee's share of the benefit has been calculated.⁸

c. **DISABILITY RETIREMENT:**⁹ Member and Alternate Payee agree that if Member applies for a disability retirement benefit from SERS and such application is approved, Member shall elect the Disability Maximum Single Life Annuity option. Alternate Payee's share of the Member's retirement benefit shall be calculated in accordance with the provisions of this Stipulation and Agreement and shall be deducted from the annuity and death benefits paid to or on behalf of Member pursuant to Member's election of the Disability Maximum Single Life Annuity.

d. **LUMP SUM REFUND:** In the event Member is not eligible for an annuity or chooses to take a lump sum refund in lieu of an annuity, the Alternate Payee shall receive a portion of the lump sum refund equal to [PERCENTAGE] of the lump sum amount that accrued between [DATE OF MARRIAGE] and [DATE OF SEPARATION].

10. TAX REPORTING: SERS shall issue individual tax forms to Member and Alternate Payee for amounts paid to each.

11. DEATH OF ALTERNATE PAYEE: In the event of the death of Alternate Payee prior to receipt of all of payments payable from SERS under a Domestic Relations Order incorporating

⁸ If this provision is not included, the Member's share of the retirement benefit will cease to be paid upon the Member's death, and the Member will not be permitted to create a death benefit or survivor annuity for anyone other than the Alternate Payee.

⁹ The benefit options for disability retirement benefits are significantly different from those available under a non-disability retirement. Special Option 4 benefits (including the joint and equitable distribution portion annuity described in Paragraph 10(b) of this sample) are NOT available to disability annuitants under any circumstances. More information about disability benefit options can be found on SERS' website at www.sers.pa.gov.

this Stipulation and Agreement, any death benefit or retirement benefit payable to Alternate Payee by SERS shall:

[

[CHOOSE EITHER (a) OR (b); DO NOT INCLUDE BOTH OPTIONS IN THE DRO]

- a. Be paid to Alternate Payee's Estate to the extent of Alternate Payee's equitable distribution portion of Member's retirement benefit as set forth in paragraphs 7 through 9. The parties acknowledge that this provision does not entitle the Alternate Payee's Estate to receive survivor annuity payments after the Member's death.

OR

- b. Revert to Member.

12. LIMITATIONS: Alternate Payee acknowledges that the Alternate Payee's share of the Member's benefit is derivative of the Member's right to receive benefits pursuant to the Retirement Code and does not constitute a separate account, subaccount, or benefit. Alternate Payee may not exercise any right, privilege, or option offered by SERS. In no event shall Alternate Payee have benefits or rights greater than those that are available to Member. Alternate Payee is not entitled to any benefit not otherwise provided by SERS. Alternate Payee is only entitled to the specific benefits offered by SERS as provided in this Stipulation and Agreement. All other rights, privileges and options offered by SERS not granted to Alternate Payee by this Stipulation and Agreement are preserved for Member. Member and Alternate Payee acknowledge that benefits paid pursuant to this Stipulation and Agreement are and shall remain subject to the Public Employee Pension Forfeiture Act, 43 P.S. §1311, *et seq.*

13. CONSTRUCTION OF DRO: It is specifically intended and agreed by the parties hereto that any Domestic Relations Order incorporating this Stipulation and Agreement:

- a. Does not require SERS to provide any type of benefit, or any option, not otherwise provided under the Retirement Code;
- b. Does not require SERS to provide increased benefits (determined on the basis of

actuarial value) unless increased benefits are paid to Member based upon cost of living adjustments or increases based on other than actuarial values.

14. **INTENTION OF THE PARTIES:** The parties intend and agree that the terms of this Stipulation and Agreement shall be approved, adopted and entered as a Domestic Relations Order.

15. **AMENDMENTS TO DRO:** The Court of Common Pleas of [COUNTY NAME], County, Pennsylvania, shall retain jurisdiction to amend any Domestic Relations Order incorporating this Stipulation and Agreement, but only for the purpose of establishing it or maintaining it as a Domestic Relations Order; provided, however, that such amendment shall not require SERS to provide any type or form of benefit, or any option not otherwise provided by SERS, and further provided that such amendment or right of the Court to so amend will not invalidate the parties' existing Domestic Relations Order.

16. **EFFECTIVE DATE OF DRO:** Upon entry of a Domestic Relations Order incorporating this Stipulation and Agreement, a certified copy of the Domestic Relations Order and this Stipulation and Agreement and any attendant documents shall be served upon SERS by immediately mailing a certified hard copy of the document together with all confidential information necessary to process the document to:

**State Employees' Retirement System
Domestic Relations Order Approval
30 N. 3rd Street, Suite 150
Harrisburg, PA 17101-1716**

The Domestic Relations Order shall take effect immediately upon the approval of the Order as a Domestic Relations Order and the approval of any attendant documents and then shall remain in effect until such time as a further Order of Court amends or vacates the Domestic Relations Order. The parties understand and acknowledge that such approval cannot be granted unless and until all confidential information required for the processing and approval of the DRO is received by SERS.

WHEREFORE, the parties, intending to be legally bound by the terms of this Stipulation and Agreement, do hereunto place their hands and seals.

Plaintiff/Member

Date

Attorney for Plaintiff/Member

Date

Defendant/Alternate Payee

Date

Attorney for Defendant/Alternate Payee

Date

DO NOT FILE THIS DOCUMENT WITH THE COURT

CONFIDENTIAL ADDENDUM TO DOMESTIC RELATIONS ORDER

The following information is necessary for the Plan Administrator to approve and process the Domestic Relations Order once it is entered by the Court. This form must be filled out and submitted together with a CERTIFIED HARD COPY of the DRO after the DRO is entered by the Court. Photocopies or fax copies of DROs that do not bear the original seal or certification stamp of the Court will not be accepted for approval and processing.

NOTE: DROs NOT ACCOMPANIED BY THIS FORM WILL NOT BE REVIEWED, PROCESSED OR APPROVED UNTIL THIS INFORMATION IS RECEIVED. DROs which are not approved by SERS are NOT effective to attach the Primary Payee's account.

Member

Name: _____

Address: _____

Date of Birth: _____

Social Security No: _____

Member's Attorney

Name: _____

Firm: _____

Address: _____

Telephone: _____

Fax: _____

Alternate Payee

Name: _____

Address: _____

Date of Birth: _____

Social Security No.: _____

Alternate Payee's Attorney

Name: _____

Firm: _____

Address: _____

Telephone: _____

Fax: _____

Section 5954 of the State Employees' Retirement Code provides that any person who knowingly makes any false statements or falsifies or permits to be falsified any record or records of the State Employees' Retirement System in an attempt to defraud the State Employees' Retirement System is guilty of a misdemeanor of the second degree.

Authorization for Release of Account Information to Alternate Payee

I, _____, authorize the Pennsylvania State
(Print Name of Member)
Employees' Retirement System ("SERS") to release to _____ any
(Print Name of Alternate Payee)
and all information that he/she may request regarding my SERS benefits or retirement account.

This authorization is granted pursuant to the Approved Domestic Relations Order entered
by the _____ County Court of Common Pleas on _____
(County) (Date)
at Docket Number _____ which names _____ as
(Alternate Payee)
Alternate Payee, so that the Alternate Payee may monitor my compliance with the provisions of
the Domestic Relations Order as required by law.

A photocopy or faxed copy of this Authorization shall have the same force and effect as
the original.

Date

Member's Signature

Member's Printed Name

Member's Social Security Number