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## Sample Domestic Relations Order For Defined Contribution Plan Account

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

*SAMPLE DOMESTIC RELATIONS ORDERS FOR MEMBERS AND PARTICIPANTS WHO HAVE CONTRIBUTED TO THE DEFINED CONTRIBUTION PLAN ARE AVAILABLE AT SERS' RETIREMENT COUNSELING CENTERS 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.





2     **DEFENDANT:** [DEFENDANT], (hereinafter referred to as ‘Alternate Payee’) is the former spouse of Participant. Alternate Payee’s date of birth and Social Security Number shall be provided 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:** The Plan is a creation of statute controlled by the State Employees’ Retirement Code (‘Retirement Code’), published at 71 Pa. C.S. §5101 *et seq.*

4     **PARTICIPANT’S ADDRESS:** Participant’s current mailing address is:

[STREET ADDRESS]

[CITY, STATE, ZIP CODE]

5     **ALTERNATE PAYEE’S ADDRESS:** Alternate Payee’s current mailing address is:

[STREET ADDRESS]

[CITY, STATE, ZIP CODE]

It is the responsibility of Alternate Payee to keep a current mailing address on file with the Plan at all times.

6     **ALTERNATE PAYEE’S PORTION OF PARTICIPANT’S INDIVIDUAL INVESTMENT ACCOUNT:**

**[Choose ONLY (a) or (b) below; do not include both alternatives in your order]**

- a. Alternate Payee shall be entitled to \$\_\_\_\_\_ of the vested balance of the Participant’s individual investment account as of [mm/dd/yyyy], the date of valuation for purposes of this Domestic Relations Order, plus any gains or losses on the Alternate Payee’s flat amount that have accumulated from that date to the date of distribution of the Alternate Payee’s portion to the Alternate Payee by the Plan. The total amount assigned to Alternate Payee

may not exceed the vested balance of the Participant's individual investment account. The 'vested balance of the Participant's individual investment account' includes the vested portion of the Participant's accumulated employer defined contributions, the entire amount of the Participant's accumulated mandatory participant contributions and accumulated voluntary contributions, as well as all gains and losses on such contributions.

- b. Alternate Payee shall be entitled to \_\_\_\_\_ percent (\_\_\_\_%) of the vested balance of the Participant's individual investment account as of [mm/dd/yyyy], the date of valuation for purposes of this Domestic Relations Order. The 'vested balance of the Participant's individual investment account' includes the vested portion of the Participant's accumulated employer defined contributions, the entire amount of the Participant's accumulated mandatory participant contributions and accumulated voluntary contributions, as well as all gains and losses on such contributions.

The Alternate Payee's portion of the vested balance of the Participant's individual investment account shall be allocated to the Alternate Payee on a pro rata basis from all of the accounts and/or investment options maintained under the Plan by the Plan on behalf of the Participant.

- 7. **DISTRIBUTION OF ALTERNATE PAYEE'S PORTION:** The portion of the vested balance of Participant's individual investment account set forth in Paragraph Six (6) shall be payable to Alternate Payee and shall be distributed to the Alternate Payee by the Plan as soon as administratively feasible after SERS approves this Stipulation and Agreement in accordance with 71 Pa. C.S. §5953.1. The Plan shall not be required to recoup or make good for losses in value to the Participant's individual investment account incurred between the date of valuation used for equitable distribution purposes and the date of distribution to the Alternate Payee, nor shall the Plan be required to make payment of the Alternate Payees' portion of the

vested balance of Participant's individual investment account as set forth in Paragraph Six (6) pursuant to any lien regardless of the priority of such lien. The Alternate Payee's distribution will be made in a single lump sum payment, either as a direct payment to the Alternate Payee or as an eligible rollover or trustee-to-trustee transfer to an eligible retirement plan or other qualified account owned by the Alternate Payee. Alternate Payee's portion of the vested balance of Participant's individual investment account shall not be segregated into a subaccount or newly established individual account in the Plan titled in the name of the Alternate Payee. Nothing in this DRO shall be construed to prevent the Alternate Payee from treating the Alternate Payee's portion of the vested balance of Participant's individual investment account as 'voluntary contributions' as that term is defined in 71 Pa. C.S. §5102, if the Alternate Payee is otherwise eligible to do so.

**8. AUTHORIZATION TO ACCESS INFORMATION:** In accordance with the requirements of 71 Pa. C.S. §5953.1(a.1)(9), Participant shall execute and deliver to Alternate Payee an authorization, in a form acceptable to SERS, which will authorize SERS to release to Alternate Payee all relevant information concerning Participant's participation in the Plan so that Alternate Payee shall be able to monitor Participant'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 Participant that relates to the administration, calculation, and payment of the Alternate Payee's share of the Participant's individual investment account and shall not be valid after the Alternate Payee's share of the Participant's individual investment account has been distributed to the Alternate Payee by the Plan.

**9. TAX REPORTING:** SERS shall issue individual tax forms to Participant and Alternate Payee for amounts paid to each. For tax reporting purposes, any Alternate Payee who is the spouse or former spouse of the Participant shall be treated as the distributee of any distribution made to the Alternate Payee under the terms of this Domestic Relations Order in accordance with applicable law and shall be required to pay the appropriate taxes on the distribution.

**10. DEATH OF ALTERNATE PAYEE:** In the event of the death of Alternate Payee prior to receipt of a distribution pursuant to a Domestic Relations Order incorporating this Stipulation and Agreement, any distribution 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.

**OR**

b. Revert to Participant.

Under no circumstances shall this provision be construed as requiring SERS to recover or attempt to claw back any distribution made to an Alternate Payee or Alternate Payee's Estate.

**11. LIMITATIONS:** Nothing in this Stipulation and Agreement shall be construed to:

a. Require the Plan to provide any type or form of benefit or any option applicable to members of the State Employees' Retirement System or participants in the Plan;

b. Require the segregation of the Alternate Payee's share of the Participant's individual investment account into a subaccount or newly established individual account titled in the name of the Alternate Payee;

c. Require the Plan to recover or distribute any funds distributed to the Participant or at the Participant's direction prior to the approval of this Stipulation and Agreement as an Approved Domestic Relations Order;

d. Require the payment of more than the lesser of the vested amount of the Participant's individual investment account balance as specified by this Stipulation and Agreement or the vested amount of the Participant's individual investment account as of the date of the transfer of the Alternate Payee's share to the Alternate Payee;

e. Require the recoupment or making good of losses in value to the Participant's individual investment account incurred between the date of valuation for equitable distribution purposes and the date of distribution to the Alternate Payee;

- f. Grant the Alternate Payee any of the rights, privileges, and options available to the Participant;
- g. Require distributions to the Alternate Payee after the death of the Participant and the final settlement of the Participant's individual investment account.

Participant and Alternate Payee acknowledge that the Participant's individual investment individual investment account is and shall remain subject to the Public Employee Pension Forfeiture Act, 43 P.S. §1311, *et seq.*

- 12. 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.
- 13. AMENDMENTS TO APPROVED DRO:** The Court of Common Pleas of [COUNTY NAME] County, Pennsylvania, shall retain jurisdiction to amend any Approved Domestic Relations Order incorporating this Stipulation and Agreement, but only for the purpose of establishing it or maintaining it as an Approved Domestic Relations Order; provided, however, that such amendment shall not require the Plan to provide any type or form of benefit, or any option not otherwise provided by the Plan, and further provided that such amendment or right of the Court to so amend will not invalidate the parties' existing Approved Domestic Relations Order.
- 14. EFFECTIVE DATE OF APPROVED DRO:** Upon entry of an Approved Domestic Relations Order incorporating this Stipulation and Agreement, a certified copy of the Approved Domestic Relations Order and this Stipulation and Agreement and any attendant documents shall be served upon the Plan by immediately mailing a certified hard copy of the document together with all confidential information necessary for the Plan to process the document to:

**State Employees' Defined Contribution Retirement Plan  
Domestic Relations Order Approval  
30 N. 3<sup>rd</sup> Street, Suite 150  
Harrisburg, PA 17101-1716**

The Domestic Relations Order shall take effect immediately upon the Plan's approval of the Order as a Domestic Relations Order and the Plan's approval of any attendant documents and then shall remain in effect until such time as a further Order of Court amends or vacates the Approved 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 the Plan.

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

\_\_\_\_\_  
Plaintiff/Participant

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Plaintiff/Participant

\_\_\_\_\_  
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 in order for the Court 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 Participant's account.**

**Participant**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Date of Birth: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

**Alternate Payee**

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Date of Birth: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

**Participant's Attorney**

Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

**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 State Employees' Defined Contribution Plan and/or the administrator thereof to release to \_\_\_\_\_ any and all information that he/she may request regarding my individual investment account and benefits available under the Plan, in accordance with 71 Pa. C.S. § 5953.1(a.1)(9).

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

Upon the distribution of the Alternate Payee's share of my individual investment account to the Alternate Payee in accordance with the terms of my Approved Domestic Relations Order, this authorization shall expire; and Alternate Payee, thereafter, may not access any information regarding my individual investment account or benefits from the State Employees' Defined Contribution Plan. A photocopy or faxed copy of this Authorization shall have the same force and effect as the original.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Participant's Signature

\_\_\_\_\_  
Participant's Printed Name

\_\_\_\_\_  
Participant's Social Security Number