

Sample Language and Explanations for a Domestic Relations Order to Divide a Public Employees Retirement Association Account

These explanations and sample language are intended to provide general information and are not legal, tax or financial advice. PERA makes no representations or warranties, express or implied, with respect to the information in these instructions and the sample language. The sample language should be used in conjunction with your attorney's advice. The rights and obligations of PERA members are governed by state and federal laws, rules and regulations and court orders. The Minnesota Legislature or the federal government may change the statutes, rules and regulations governing PERA at any time. If there is a discrepancy between the law governing PERA and the information contained in these instructions or sample language, the statutes and regulations shall govern.

Please submit a proposed DRO to PERA for approval prior to submission to the court. PERA reviews the order to ensure that it can be administered pursuant to PERA rules and state law. PERA does not review the order for fairness or to ensure that the order comports with the parties' settlement agreement.

Caption	Domestic relations order issued in addition to the divorce decree.
----------------	---

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF []

[] JUDICIAL DISTRICT

CASE TYPE: [Dissolution With Children or
Dissolution Without Children]

In Re the Marriage of

[Name],

Petitioner,

Court File No. []

Hon. [Name of Judge]

and

DOMESTIC RELATIONS ORDER

[Name],

Respondent.

Introduction

Provides information regarding the original decree; specifies the length of the marriage, which may be used to calculate the divided benefits.

The above matter came before the undersigned on [date]. Based upon all the files, records and proceedings herein, the Court makes the following Order:

1. The Judgment and Decree (“Decree”) of dissolution in this matter was entered on [month, day, year].

2. The period of the parties’ marriage was [] years and [] months.

Identifying Information

Lists all PERA plans; obligates the parties to inform PERA if their addresses change so PERA can administer the order.

3. [Name of PERA member] (hereinafter “Participant”) has accounts in the following Public Employees Retirement Association (“PERA”) plans: [for example, Coordinated Plan, Correctional Plan, Police and Fire Plan].

4. This Order applies to all of the Participant’s PERA accounts **or** This Order applies to Participant’s [Police and Fire Plan, Coordinated Plan, Correctional Plan] account.

5. [Name of former spouse] is the Alternate Payee.

6. The Participant’s current address is [].

7. The Participant’s date of birth is [].

8. The Alternate Payee’s current address is [].

9. The Alternate Payee’s date of birth is [.....].

10. The Participant and the Alternate Payee shall notify PERA, 60 Empire Drive, Suite 200, St. Paul, MN 55103-2088, of any change of address.

Assignment of benefits and account structure	<p>States that there is insufficient liquid marital property to offset the value of the PERA benefits; this statement is required by law. Divides the PERA retirement annuity and disability benefits.</p> <p>Using 50% assigns one-half of the marital ratio to each party. This paragraph should specify what happens if the alternate payee dies before the participant, specifically, whether payments should be made to the alternate payee's estate or revert to the participant. If the court order is silent, payments will continue to the alternate payee's estate for the lifetime of the participant.</p> <p>States what happens to the Alternate Payee's payments if the Alternate Payee dies before the Participant.</p>
--	--

11. There is no liquid or readily liquidated martial property sufficient to offset the value of the Participant's PERA benefits, therefore this order divides the Participant's future PERA retirement annuity and disability benefits.

12. The Alternate Payee, the Alternate Payee's estate, or the Alternate Payee's survivors, shall receive from PERA a fixed percentage of the Participant's interest in the PERA pension plan when a retirement annuity or disability benefit becomes payable, as determined by application of the following formula:

[Fifty percent, thirty percent, twenty five percent] multiplied by the amount of each monthly retirement and disability benefit, multiplied by a fraction, the numerator of which shall be (*insert number of years, dates covered, during the parties' marriage during which that Participant was a contributing member of PERA*), representing the number of years of the parties' marriage during which the Participant was a contributing member of PERA, not to exceed the Participant's years of service credit, and the denominator of which shall be the total number of years that the Participant was a contributing member of PERA at time of termination, not including the years for which Participant took a refund of contributions. If the Participant receives a disability benefit from the PERA Police and Fire Plan, the denominator shall be the years Participant was a contributing member of the PERA Police and Fire Plan at the time of termination or the years of service the disability benefit is based upon, whichever is greater.

or

The Alternate Payee, the Alternate Payee's estate, or the Alternate Payee's survivors, shall receive from PERA [dollar amount] per month from Participant's interest in the PERA pension plan when a retirement annuity or disability benefit becomes payable.

13. If the Alternate Payee dies prior to the end of the specified payment period, [any remaining payments shall be paid to the trustee of Alternate Payee's estate or group of survivors for subsequent apportionment by the trustee] **or** [any remaining payments shall revert to the Participant].

Prohibited Actions

Prohibits assigning, withdrawing or encumbering PERA contributions. A refund forfeits the right to a monthly benefit.

14. The Participant shall not apply to PERA for a refund of accumulated contributions and may not assign or otherwise encumber the Participant's PERA contributions.

Survivor Option

Optional paragraph requiring the participant to select a survivor option for the alternate payee. The survivor option is generally only for the period of the marriage. If a survivor option is required and the cost of the option is not addressed in the order, the cost of the option will be assessed equally to the participant and the alternate payee.

Note: Under Internal Revenue Service (IRS) regulations, there are restrictions on the age difference between the member and the former spouse when selecting the 75 and 100 percent options. Please see PERA's Survivor Options brochure for more information.

The former spouse could be required to bear the cost of the survivor option using the following language:

Alternate Payee shall credit Participant during (his/her) lifetime the difference in monthly benefit attributable to Participant's exercise of the [25, 50, 75, or 100 percent] Survivor Option payment as compared to the Single-life benefit. The purpose for such credit shall be to ensure that the Participant suffers no financial detriment as a result of the [25, 50, 75, or 100 percent] percent Survivor option election as compared to the Single-life benefit.

15. The Participant shall elect the [25, 50, 75, 100] percent survivor option, naming Alternate Payee as survivor for the period of their marriage.

Pre-Retirement Survivor Benefits	May be used if the participant has remarried and dies before monthly benefits begin. Awards a portion of the surviving spouse's benefit to the alternate payee.
---	--

16. The Alternate Payee is to be paid that part of the survivor benefits payable due to the Participant's death that is attributable to or was accumulated during the period of marriage between the Participant and the Alternate Payee.

Beneficiary	For divorces after April 19, 2002, the dissolution of marriage revokes any prior beneficiary designation. If the alternate payee is required to be named as beneficiary for the marital portion, the participant must file a change of beneficiary form with PERA. Payment to beneficiaries only occurs if an account balance remains and no other payment of any kind is payable.
--------------------	---

17. The Participant shall name the Alternate Payee as the designated beneficiary of a portion of the Participant's PERA account to receive one-half of deductions reported during the period of marriage plus interest.

Limitations on order	Ensures that the Order will be administered consistently with state and federal law and the terms of the Plan.
-----------------------------	---

18. This Order is not intended, and shall not be construed in such a manner as to require PERA to pay more than is payable under the terms and time period of its plans; to pay any type of benefit not available under its plans; to assign any benefits or payments previously required to be paid to another Alternate Payee; or to require any payment or option inconsistent with any federal or state law, rule, regulation or judicial decision.

Taxes	Assigns responsibility for tax payments states that the parties are responsible for paying taxes on their respective portions.
Post-Retirement Adjustments	States that both parties are to receive post-retirement increases.

19. The Participant and the Alternate Payee shall be responsible for paying state and federal income tax on their respective payments.

20. Any benefit increases paid after monthly benefits begin shall be prorated between the Participant's and the Alternate Payee's portions.

Errors	Explains how errant payments will be handled.
Jurisdiction	States that the court retains jurisdiction.

21. In the event that the PERA pays to the Participant or the Alternate Payee any payment or benefit that is assigned to the other party, the party receiving the errant payment shall reimburse the other party within ten days of receipt of the errant payment.

22. This Court retains jurisdiction over this matter to amend this Order and to enter such further orders as are necessary to enforce the assignment of the Participant's PERA account(s) to the Alternate Payee as set forth herein.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: _____

[Name]

JUDGE OF DISTRICT COURT