



DISSOLUTION OF MARRIAGE OR REGISTERED DOMESTIC PARTNERSHIP POLICY

Stanislaus County Employees' Retirement Association (StanCERA) retirement benefits are generally payable only to members or their beneficiaries and cannot be paid to others. California state law recognizes an exception to this rule in the case of dissolution of marriage or registered domestic partnership. Because retirement benefits earned during marriage or registered domestic partnership are considered community property assets, they must be considered in the property settlement agreement and are subject to disposition by the court.

For consistency, the parties referenced in all documents, including court documents, **shall** be referred to as "Member" or "Non-Member."

- "**Member**" represents the member of StanCERA, and
- "**Non-Member**" represents the party with a community property interest in the Member's StanCERA account.

The Non-Member has an interest in the Member's retirement account if he/she was married or registered to a StanCERA Member while the Member worked for a StanCERA employer. To protect the Member and Non-Member's interest in the plan, StanCERA **must be notified in writing** that the Non-Member is asserting a claim for a community property interest in the Member's benefit.

StanCERA requires that it be joined as a party to the dissolution proceeding pursuant to California Family Code Sections 2060-2065.

I. Active/Deferred Members

When StanCERA is served with a Joinder, and the Member has **not** retired, the pending dissolution is noted in the Member's account. StanCERA will not distribute any payments from the Member's account until the dissolution is resolved and the Member has retired or withdraws his/her monies.

Prior to filing the Domestic Relations Order ("DRO") with the court, the parties shall submit their draft DRO to StanCERA's Counsel to obtain preapproval **before** obtaining the signatures of the Member and Non-Member. StanCERA's staff and StanCERA's Counsel will review the draft DRO for consistency with StanCERA's policies. Once the DRO is preapproved, the DRO will be returned for signing by the Member and Non-Member and their attorneys, if any. After the parties and their attorneys have signed the DRO, it must be returned to StanCERA's Counsel for final approval and the signatures of StanCERA and StanCERA's Counsel. To be clear, this process involves both preapproval and final approval by StanCERA and StanCERA's Counsel. The fully executed DRO will then be returned to the appropriate party for filing with the court. Once the court approves and signs the DRO Order, StanCERA requires that it be provided with a conformed, file-marked copy. StanCERA will not recognize any court orders addressing a Member's account unless StanCERA and StanCERA's Counsel have approved the DRO pursuant to the foregoing process.

II. Retired Members

For retired Members who are receiving a benefit, the retirement option a Member previously elected cannot be changed. If the Member's marriage or registered domestic partnership is



dissolved after retiring, the Member's retirement benefit is reduced to provide retirement income to the Non-Member based on the retirement option selected at retirement and the percentage formula provided in the DRO.

After StanCERA is served with a Joinder, StanCERA will pay the retired member only fifty percent (50%) of the retirement benefit and will withhold the remaining 50% of the retirement benefit until StanCERA receives the DRO which has been executed by all parties and signed by the Court. StanCERA will disburse the 50% of the retirement benefit that was withheld pursuant to the terms of the DRO.

If, at the time of retirement, the unmodified option was chosen, the marriage or registered domestic partnership is dissolved and the retired Member dies first, the Non-Member is no longer eligible to receive a retirement benefit. A Non-Member is not considered a surviving spouse or registered domestic partner for any purpose under the County Employees Retirement Law of 1937; therefore, the Non-Member's community interest terminates upon the death of the retired Member.

If the Non-Member dies first, the portion of the retired Member's benefit payable to the Non-Member will continue to be paid to the Non-Member's estate or designated beneficiary during the Member's lifetime, unless otherwise stated in the Domestic Relations Order.

Prior to filing the DRO with the court, the parties shall submit their draft DRO to StanCERA's Counsel to obtain preapproval **before** obtaining the signatures of the Member and Non-Member. StanCERA's staff and StanCERA's Counsel will review the draft DRO for consistency with StanCERA's policies. Once the DRO is preapproved, the DRO will be returned for signing by the Member and Non-Member and their attorneys, if any. After the parties and their attorneys have signed the DRO, it must be returned to StanCERA's Counsel for final approval and the signatures of StanCERA and StanCERA's Counsel. To be clear, this process involves both preapproval and final approval by StanCERA and StanCERA's Counsel. The fully executed DRO will then be returned to the appropriate party for filing with the court. Once the court approves and signs the DRO Order, StanCERA requires that it be provided with a conformed, file-marked copy.

StanCERA will not recognize any court orders addressing a Member's account unless StanCERA and StanCERA's Counsel have approved the DRO pursuant to the foregoing process.



III. Revocation of California Government Code Section 31764

Upon the StanCERA Retirement Board's approval of this policy, California Government Code Section 31764¹ (Option Settlement 4) will no longer be an option for StanCERA members. California Government Code Section 31764 is repealed from policy adoption forward.

Policy Review

This Board shall review this policy at least every three years.

Policy History

Adopted by the Retirement Board on April 24, 2012

Reviewed and amended by the Board of Retirement

_____ Rick Santos, Executive Director
Approval/Adoption Date: <u>4/24/12</u>

¹ Cal. Gov't Code § 31764 states, "[o]ptional settlement 4 consists of the right to elect in writing to have a retirement allowance paid him or her until his or her death and thereafter to have other benefits as are approved by the board, upon the advice of the actuary, continued throughout the life of and paid to the persons, having an insurable interest in his or her life, as he or she nominates by written designation duly executed and filed with the board at the time of his or her retirement. The designation shall not, in the opinion of the board and the actuary, place any additional burden upon the retirement system."