

***Stanislaus County Employees'
Retirement Association***



**DISSOLUTION OF MARRIAGE OR
REGISTERED DOMESTIC PARTNERSHIP POLICY**

Policy 3003

April 24, 2012

Stanislaus County Employees' Retirement Association (StanCERA) retirement benefits are generally payable to members or their beneficiaries. California state law recognizes an exception to this rule in the case of dissolution of marriage or registered domestic partnership. Retirement benefits earned during marriage or registered domestic partnership are considered community property assets, these benefits 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 was employed by 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 the draft DRO to StanCERA for review by StanCERA's Legal Counsel prior to obtaining signatures of the Member and Non-Member. The draft DRO will be reviewed by StanCERA's Legal Counsel and StanCERA staff for consistency with StanCERA's policies. Once the draft DRO is preapproved, it is returned for signing by the Member and Non-Member and attorneys, if applicable. After the parties and attorneys, if applicable, signed the DRO, it must be returned to StanCERA's Legal Counsel for final approval and signatures.

StanCERA will return the fully executed DRO to the appropriate party for filing with the court. Once the court approves and signs the DRO, StanCERA is to be provided with a conformed, file-marked copy. *StanCERA will not recognize any court orders addressing a Member's account unless StanCERA Legal Counsel and StanCERA staff have approved the DRO pursuant to the foregoing process.*

II. Retired Members

If the Member's marriage or registered domestic partnership is dissolved after retiring, the Member's retirement benefit is reduced in order to provide retirement income to the Non-Member. This is based on the retirement option selected at retirement and the percentage formula provided in the DRO. *Retired Members who are receiving a benefit may not change their retirement option election, which was chosen at the time of retirement.*

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

If, at the time of retirement, the Member chooses the unmodified option, and the marriage or registered domestic partnership is dissolved, should the Member predecease the Non-Member, the Non-Member is not 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.

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StanCERA will return the fully executed DRO to the appropriate party for filing with the court. Once the court approves and signs the DRO, StanCERA is to be provided with a conformed, file-marked copy. *StanCERA will not recognize any court orders addressing a Member's account unless StanCERA Legal Counsel and StanCERA staff 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 31764 (Option Settlement 4) is repealed from policy adoption and no longer an option for StanCERA members.

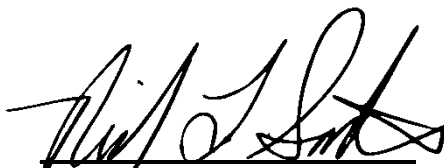
Policy Review

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

Policy History

Adopted by the Retirement Board on April 24, 2012.

Reviewed and updated June 10, 2020.



Richard Santos, Executive Director

POLICY APPROVAL DATE: April 24, 2012