

**SAMPLE ORDER RE GOVERNMENT
CODE SECTION 31760** — Revised August 2018

**StanCERA Member is assumed
to be Member in this Sample**

**Note: Please replace bold language
with appropriate party or pronoun
and omit fn. 1 or para. 8 as needed**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF STANISLAUS

In re the Marriage of:)	Case No.:
Petitioner,)	STIPULATION AND ORDER FOR MODIFICATION OF JUDGMENT RE: StanCERA RETIREMENT BENEFITS UNDER GOVERNMENT CODE SECTION 31760
and)	
Respondent:)	
_____)	
Claimant:)	
STANISLAUS COUNTY)	
EMPLOYEES' RETIREMENT)	
ASSOCIATION (StanCERA).)	
_____)	

Member _____ (hereinafter "Member") and Non-Member
_____ (hereinafter "Non-Member") and the Stanislaus County
Employees' Retirement Association (hereinafter "StanCERA") hereby stipulate as
follows:

RECITALS

1. Member and Non-Member were married to each other on _____.
They separated on _____, and this Court entered a judgment of dissolution
in this action on _____.

1	Non-Member's		Number of months of				
2	allocated monthly	=	StanCERA service				
3	benefit		between marriage	X	50%	X	Member's
4			<u>date & separation date</u>				retirement
5			Number of months of				allowance
6			StanCERA service at				
7			retirement of Member				

6 (a) To the extent Member receives a disability retirement benefit, the
7 community property interest in the Member's disability retirement benefit shall not
8 exceed the amount that would otherwise be payable as a service retirement allowance.
9 Any amount in excess of the service allowance amount is and remains Member's sole
10 and separate property.

11 (b) Non-Member's community share shall terminate upon the death of
12 Member.

13 5. In the event StanCERA inadvertently or otherwise pays to Member (or
14 Member's designated beneficiary or Non-member) any benefits that are assigned to
15 Non-member (or Member/Member's designated beneficiary, respectively) hereunder,
16 Member (or Member's designated beneficiary or Non-member, respectively) shall be
17 deemed a constructive trustee of said amounts.

18 6. If any return of accumulated contributions becomes payable as the result
19 of the death of Member, the Non-Member is entitled to the community property share of
20 the accumulated contributions.

21 7. If Member withdraws **his/her** accumulated contributions, Non-Member
22 shall be entitled to receive, at the time Member receives **his/her** accumulated
23 contributions, Non-Member's community property share of the accumulated
24 contributions.

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1 8. If Member is married to an eligible surviving spouse¹ on Member's
2 date of retirement, Member shall elect the "Unmodified Option" under the Plan,
3 and name such eligible spouse as beneficiary for the surviving spousal continuance
4 under this option. Non-Member shall receive Non-Member's community property
5 interest in any surviving spousal continuance, pursuant to the calculation described
6 above in paragraph 4. **His/her** share shall terminate upon the death of the surviving
7 spouse. (See *In re Marriage of Carnall* (1989) 216 Cal.App.3d 1010.) Non-Member
8 recognizes that the right to any portion of the survivor's allowance shall be based on the
9 lifetime of the eligible surviving spouse.

10 9. If Non-Member predeceases Member, any benefits otherwise payable to
11 Non-Member by StanCERA, including benefits paid to a surviving spouse, shall be paid
12 to Non-Member's named beneficiary or estate, pursuant to *In re Marriage of Powers*
13 (1990) 218 Cal.App.3d 626.

14 10. Member and Non-Member shall each keep **his/her** current address and
15 phone number on file with StanCERA.

16 11. Member's name, current mailing address, phone number, Social Security
17 number and date of birth are:

18 Name: _____

19 Address: _____

20 _____

21 Phone: _____

22 SSN: to be provided to StanCERA under separate cover

23 Date of Birth: _____

24
25 _____
26 ¹Generally, an eligible surviving spouse is a spouse to whom the Member has been married one year
27 prior to retirement. The Non-Member is not an eligible spouse pursuant to *In re Marriage of Cramer*
28 (1993) 20 Cal.App.4th 73.

1 12. Non-Member's name, current mailing address, phone number, Social
2 Security number and date of birth are:

3 Name: _____

4 Address: _____

6 Phone: _____

7 SSN: to be provided to StanCERA under separate cover

8 Date of Birth: _____

9 13. In the event that StanCERA does not approve the form of this Order, then
10 each party shall cooperate and do all things reasonably necessary to devise a form of
11 Order acceptable to StanCERA.

12 14. Each party shall be responsible for and pay any taxes due in connection
13 with his or her (or its, if Non-Member's estate or designated beneficiary is receiving
14 benefits due to Non-Member predeceasing Member) receipt of distributions from
15 StanCERA. Member hereby authorizes StanCERA to release such information to
16 Non-Member so that each party may determine the taxable and non-taxable portions
17 of any benefit paid by virtue of this Order.

18 15. Each party shall perform any act, which is reasonably necessary to
19 carry into effect the terms of this Order including, but not limited to, the names of
20 beneficiaries. In addition, Member and Non-Member shall execute and deliver to
21 StanCERA, at StanCERA's request, any and all necessary documents including, but
22 not limited to, the appropriate tax withholding documents, as may be required by
23 StanCERA.

24 16. This Order shall continue to be effective with respect to any successor or
25 transferee plan of StanCERA, including any plan into which StanCERA is merged.

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DATED: _____

Benefits Manager
Stanislaus County Employees'
Retirement Association

APPROVED AS TO FORM:

DATED: _____

General Legal Counsel
Attorney for Stanislaus County
Employees' Retirement
Association

IT IS SO ORDERED:

ORDER

DATED: _____

Judge of the Superior Court