

**[Use the disclaimer as it appears in the current version]**

## **General Information**

This pamphlet provides general information about domestic relations orders (DROs) that attach benefits paid from the State Employees' Retirement System's (SERS) Defined Benefit Plan and Defined Contribution Plan. The information provided here also applies to those earning benefits in SERS' Hybrid Plan; they are both Members and Participants. SERS strongly recommends that a Defined Benefit Plan Member (Member) and Defined Contribution Plan Participant (Participant) – including those in the Hybrid Plan – who is divorcing seek legal advice about the equitable distribution of their SERS benefit.

## **General Information**

A "Guide for SERS Domestic Relations Orders" and Sample DROs are available on SERS' website at [www.sers.pa.gov](http://www.sers.pa.gov). You may also obtain additional DRO information by contacting your Regional Retirement Counseling Center at 800-633-5461.

Attorneys representing Members, Participants, or their spouses (Alternate Payees) may speak with a SERS attorney by calling 717 783-7317 or writing to SERS Legal Office; 30 North Third Street, Suite 150; Harrisburg, PA 17101-1716. SERS attorneys will not speak directly with a Member, Participant, or Alternate Payee who is represented by an attorney without counsel's written consent.

## **Retirement Benefits as Marital Property**

Under Pennsylvania law, the SERS retirement benefit earned during a marriage is marital property subject to equitable distribution. A DRO could require that some or all of your SERS retirement benefit be paid to your former spouse as part of the equitable distribution of your marital assets. When and how those payments are made depends on many factors, including which retirement plan or plans you contribute to.

Payments from the Defined Benefit Plan to an Alternate Payee do not begin until the Member retires or dies. Payments from the Defined Contribution Plan are made at the time SERS approves the DRO.

## **Legal Requirements for DROs**

SERS operates under the State Employees' Retirement Code (Retirement Code), which states the requirements for DROs. SERS will only approve a DRO that complies with the Retirement Code; and a DRO will not become effective until SERS approves it. A "Guide for SERS Domestic Relations Orders" and Sample DROs are available on SERS' website at [www.sers.pa.gov](http://www.sers.pa.gov).

Because SERS is a governmental retirement plan, it is not subject to the Employee Retirement Income Security Act (ERISA) or the Retirement Equity Act of 1984. ***Unlike in private sector plans, NO SPOUSAL NOTICE OR CONSENT IS REQUIRED for Members and Participants to make important retirement decisions.*** Unless there is a court order on file with SERS, restricting a Member or Participant's ability to make SERS benefit changes, SERS cannot prevent a Member or Participant from taking any action permitted by the Retirement Code, even if a divorce is pending.

### **Release of Account Information**

Members should call their SERS retirement counselor at 800-633-5461 to request their Defined Benefit Plan account information. Attorneys and others may request Member account information in writing from the SERS Regional Counseling Center which serves the Member's area. You may call 800-633-5461 for your Regional Counseling Center's address. Requests for account information submitted by someone other than the Member must include the Member's written authorization to release the account information.

Participants should contact the plan administrator, Empower Retirement to request Defined Contribution Plan account valuations by calling [NUMBER] or through [WEBSITE].

Attorneys and others may request Participant account valuations by calling the Plan administrator, Empower Retirement. Empower Retirement will require the Participant's written authorization to release any account information.

### **SERS Approval of DROs**

A DRO does not become effective until it is approved by SERS, even if it is entered as an order of court. SERS will review your draft DRO for compliance with the Retirement Code before you file it with the Court. SERS' review does not assess the accuracy of information in the draft DRO or determine whether it complies with your marital settlement agreement. SERS does not provide legal advice to either party or express an opinion on the desirability of any provision in a draft DRO. ***SERS will notify you (or your attorney, if you are represented by one) by mail whether or not your draft DRO appears to be approvable.*** If your draft DRO does not appear to be approvable, SERS might suggest technical corrections, depending on the nature of the deficiency. You are not required to have SERS review your draft DRO, but doing so may avoid your needing to return to court for an amendment.

After your DRO is entered as an Order of Court, you must submit a certified copy of the DRO to SERS for review and final approval. The DRO you submit must have an original Court certification seal or stamp. Photocopied, scanned or faxed copies of the certification are not acceptable. Additional requirements for DRO approval are listed in the "Guide for SERS Domestic Relations Orders" on SERS' website at [www.sers.pa.gov](http://www.sers.pa.gov).

**In the absence of an appropriate court order, a Member or Participant may take any action permitted by the Retirement Code, including changing beneficiaries or applying for retirement benefits, without notice to or the consent of anyone, including a spouse or former spouse, even if a divorce is pending.**

### **Guidelines for Court-Ordered Support**

Pennsylvania law also provides for the attachment of retirement benefits to satisfy spousal support and child support orders. A court's official "Order/Notice to Withhold Income for Support" must

be specifically directed to SERS. Payments from a SERS Defined Benefit Plan can only be paid after the member retires or dies.

For a Support Order attaching a Member's retirement benefit to be effective, it must contain the member's name, Social Security number, the amount of the attachment, the judge's signature, and the date. A copy of the support order must be sent to the SERS Benefits Determination Division, 30 North Third Street, Suite 150, Harrisburg, PA 17101-1718.

Support attachments cannot exceed 50% of the Member's gross annuity unless support arrearages exceed 12 weeks at the time the order is entered. SERS will deduct fees for administration costs as permitted by law. SERS will send payments made pursuant to Support Orders issued by Pennsylvania Courts directly to the State Collections and Disbursement Unit (SCDU). Orders for child support must list the Pennsylvania Automated Child Support Enforcement System (PACSES) case number under which the payments are being made. Support payments made pursuant to orders from any other state will be sent to the appropriate county Domestic Relations Office or Family Court Division and must list the appropriate case and/or docket numbers.

SERS will stop support payments only if:

- The Member returns to State employment;
- The Member's disability retirement benefit is discontinued;
- The Member dies; or
- SERS receives a certified copy of an order of court amending or terminating the attachment.

**[Blurb for more information from the website or by calling the toll-free number]**