

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDER**

OAR 459-045-0012

OPSRP Pension Program Division of Benefits

(1) A final court order that provides for a division of pension benefits or disability benefits must use a method described in this rule. The PERS divorce forms provide all available benefit division options, conditions, and restrictions and may not be altered.

(a) The method must be provided *[identified]* on PERS divorce forms.

Directions to PERS not included on existing forms will not be accepted as administrable.

(b) The PERS divorce forms must be attached as labeled exhibits to the court order, and incorporated by reference in the court order.

(2) Award of Pension Benefits (Non-Retired Member). If a final court order awards an alternate payee a reduction or deduction amount from the monthly pension benefit that shall be paid in the future to the member, a court order must provide:

[(a) The date of annulment, separation, divorce, or property settlement. If no date is provided, PERS will use the date the judge signed the court order.]

(a) Whether the award is a reduction or deduction from the member's monthly pension. If the award is a reduction, the court order must provide whether the alternate payee is eligible to elect a separate benefit option at any time after the member reaches earliest retirement eligibility.

- 1 (b) The method by which the monthly award is to be calculated. One of the
2 following methods must be used:
- 3 (A) A percentage, expressed with up to two decimal points; or
4 (B) A dollar amount; or
5 (C) A percentage of the married time ratio. If this method is used,
6 the court order must provide:
- 7 (i) The percentage, expressed with up to two decimal points; and
8 (ii) The *[years and months]* starting and ending date of retirement credit
9 accrued by the member during a specified period or while married to
10 the alternate payee.
- 11 (c) If there is a specific end date or dollar amount limit to the award, and what
12 that date or limit is.
- 13 (d) If not taken as a separate benefit, *[Whether]* whether the member must
14 select a specific benefit payment option at retirement.
- 15 *(e) [Whether the member must designate the alternate payee as beneficiary.]*
- 16 (f) Whether the court order designates the alternate payee *[and any minor*
17 *children are awarded]* a percentage of any pre-retirement death benefit
18 pursuant to ORS 238A.230.
- 19 (g) *[Whether]* If not taken as a separate benefit, whether the alternate
20 payee award continues or ends after the member retires if:
- 21 (A) The member dies before the alternate payee and the member's
22 beneficiary is not the alternate payee.
23 (B) If the alternate payee dies before the member.

1 **(h) Whether the member is restricted from withdrawing from IAP which**
2 **cancels OPSRP membership.**

3 **(i) If not taken as a separate benefit, whether the member is required to**
4 **designate the alternate payee as beneficiary at retirement.**

5 (3) Award of Pension Benefits (Retired Member). If a final court order awards an
6 alternate payee an amount to be paid from a retired member's monthly pension,
7 the court order must provide:

8 *[(a) The date of annulment, separation, divorce, or property settlement. If*
9 *no date is provided, PERS will use the date the judge signed the court*
10 *order.]*

11 (a) Whether the award is a reduction or deduction from the member's
12 monthly pension.

13 (b) The method by which the monthly award is to be calculated. One of the
14 following methods must be used:

15 (A) A percentage, expressed with up to two decimal points; or

16 (B) A dollar amount.

17 (c) If there is a specific end date or dollar amount limit to the award, and what
18 that date or limit is.

19 (d) Whether the member may *[or must]* change the beneficiary designation. If
20 the member's beneficiary is changed, the member's pension must be
21 recalculated.

(e) Whether a member, who elected to receive their pension under ORS 238A.190(1)(b) or (d), is *[allowed to receive]* restricted from receiving the higher pension benefit under ORS 238A.190(2)(b).

(f) Whether the alternate payee will be the sole beneficiary or any remaining share not awarded to the alternate payee shall be paid to the member's secondary beneficiary if the member dies before the alternate payee and the alternate payee was the member's beneficiary.

(g) Whether an alternate payee award continues or ends if:

(A) The member dies before the alternate payee and the member's beneficiary is not the alternate payee.

(B) The alternate payee dies before the member.

(4) Award of Disability Benefits. If a final court order awards an alternate payee an amount to be paid from the monthly disability benefit that is being paid or may be paid in the future to the member, the court order must provide:

(a) The date of annulment, separation, divorce, or property settlement. If no date is provided, PERS will use the date the judge signed the court order.

(b) Whether the award is a reduction or deduction from the member's monthly disability benefit.

(c) *[A percentage, expressed with up to two decimal points, of the member's monthly disability benefit that is awarded to the alternate payee.]*

The method by which the monthly award is to be calculated. One of the following methods must be used:

(A) A percentage, expressed with up to two decimal points; or

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(B) A dollar amount; or

(C) A percentage of the married time ratio. If this method is
used, the court order must provide:

(i) The percentage, expressed with up to two decimal
points; and

(ii) The starting and ending date of retirement credit
accrued by the member during a specified period
or while married to the alternate payee.

Stat. Auth.: ORS 238.465, 238.650 & 238A.450
Stats. Implemented: ORS 238.465