

## MEMORANDUM

TO: All Retirement Boards

FROM: Joseph E. Connarton, Executive Director

RE: Domestic Relations Orders

DATE: January 24, 2017

A Domestic Relations Order (“DRO”) is a judicial order that splits a retirement benefit by recognizing the joint marital ownership interest in the benefit by the plan participant and his or her former spouse. The purpose of this memorandum is to clarify PERAC’s role regarding the review and implementation of such orders, including the actual calculation of the member’s retirement benefit.

A retirement board has two main concerns in dealing with a DRO: (1) ensuring that the DRO conforms to the provisions of Chapter 32 (specifically that it does not create a benefit that is not otherwise provided by Chapter 32) and (2) determining the allocation of the benefit into payments for the Participant and the Alternate Payee.

As DROs become more commonplace, it is important to clarify PERAC’s role with regard to DROs.

### **Does a DRO conform to the provisions of Chapter 32**

With regard to the first concern, retirement board staff should be able to read most DROs and conclude immediately whether the DRO is providing benefits that are not otherwise provided under Chapter 32. With increasing frequency, some retirement boards have been sending in every DRO they receive for review by PERAC, to make sure that the DRO in question conforms with the provisions of Chapter 32. This is not necessary. We believe retirement board administrators are knowledgeable and familiar with what is required in a DRO, and should not need to seek PERAC’s assistance each and every time a DRO is received by them. If the retirement board staff has doubts or questions, they should ask their board counsel to determine if the DRO can be implemented as drafted. It is unnecessary to send every DRO to PERAC to make such a determination. Furthermore, in no circumstance is it appropriate for the Board to instruct a third party to send a DRO directly to PERAC.



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Therefore, **effective July 1, 2017**, PERAC will no longer review DROs for the retirement boards to opine as to whether the DRO may be implemented as written. That is the responsibility of each individual retirement board.

That being said, in complicated cases where guidance is needed, and where board counsel is unable to make a determination about a particular DRO, PERAC will review a DRO upon request. However, the retirement board must be able to state with particularity which paragraph or paragraphs in the DRO they are questioning, and why they are questioning them. They must explain the nature of their concern. A letter which merely asks PERAC to examine "Paragraph 6" will result in a request for clarification of what issue the board staff has identified and is concerned about implementing.

**How Should the Retirement Allowance be Calculated?**

Also with increasing frequency, many retirement boards sending in a retirement benefit to be approved by PERAC will also send along a copy of a DRO, requiring PERAC to review the DRO and issue a letter detailing the proper payment to be made to the Participant and Alternate Payee. Board staff should be reading the DRO to determine the proper payments to the two parties before sending the information into PERAC.

**Beginning July 1, 2017**, PERAC will no longer be calculating the first determination of the allocation of benefits to the Participant and the Alternative Payee. This is the responsibility of each individual retirement board.

Again, as noted above, we are willing to help with difficult or unique cases, but not as a matter of course. If a retirement board is struggling with a calculation involving a DRO, they should submit a detailed request to PERAC's Calculation Department, explaining what issue they are having in arriving at the benefit to be paid out.

**Course offerings**

To assist board staff in this transition, PERAC will be offering training sessions during the first half of 2017, and periodically thereafter, with regard to DROs. Specifically, we will conduct trainings to help board staff determine whether a DRO can be implemented as written and to help explain how to determine the payments to be made to the Participant and Alternate Payee. Please look for information on these courses in our 2<sup>nd</sup> quarter educational memorandum.

**Conclusion**

If you have any questions, please do not hesitate to contact PERAC's Legal and/or Calculation Departments.