



PERA BENEFITS AND DIVORCE

REVISED SEPTEMBER 2022



CONTENTS

Overview	1
Completing a DRO Order.....	3
Completing a DRO Agreement	4
PERA DB Plan Account—PERA and DPS Benefit Structures	4
Methods for Division of Future Payment.....	6
PERAPlus 401(k)/457 and PERA DC Plan Accounts	9
Modification of a Prior DRO	10
Additional Information About DROs.....	10
Frequently Asked Questions	11



OVERVIEW

This booklet is designed to give Colorado PERA Participants and their spouses (by marriage or civil union) information about the PERA Domestic Relations Order (DRO) procedures.

A DRO is a court order that approves an agreement between the parties to a divorce or legal separation concerning the division of PERA retirement benefits.

A DRO is not appropriate or necessary in every case involving PERA benefit plan(s) as it depends upon the particular facts and circumstances of each individual party. It is important that the parties consult with their respective attorneys regarding the use and effect of a DRO.

The information contained in this booklet should not be considered legal advice.

PERA BENEFIT PLANS

The following PERA plans are subject to a DRO:

- » PERA Defined Benefit (DB) Plan, which covers Participants under the PERA and Denver Public Schools (DPS) benefit structures.
- » PERAPlus 401(k) Plan, which is a voluntary defined contribution plan.
- » PERAPlus 457 Plan, which is a voluntary defined contribution plan.
- » PERA Defined Contribution (DC) Plan, which covers certain Participants in the State and Local Government Divisions who elected the PERA DC Plan instead of the PERA DB Plan.

REQUIRED FORMS FOR A DRO

- » Domestic Relations Order (Order)
- » Agreement For Domestic Relations Order (DRO Agreement)

REQUIREMENTS FOR A VALID DRO

- » The parties' signed and notarized DRO Agreement must be submitted to PERA within 90 days after entry of the decree.
- » The DRO Agreement and Order must be entered by the court upon or before entry of the decree or within 90 days after entry of the decree.
- » Certified copies of the DRO Agreement and Order, along with a copy of the decree, must be received by PERA within 90 days after entry of the DRO Agreement and Order. PERA must receive both the DRO Agreement and Order at least 30 days before PERA will make its first payment pursuant to the DRO.

PARTIES TO A DRO

Participant: The PERA member or retiree in a marriage or civil union in the divorce proceedings.

Alternate Payee: Former spouse or civil union partner of a PERA Participant in the divorce proceedings.

PERA cannot provide legal or other advice to any party regarding a DRO. PERA can provide information, calculations, and education concerning how each PERA benefit plan operates so the parties may have a better understanding of how a DRO might function should they elect to enter into a DRO Agreement.

PAYMENT TO THE PARTIES

A DRO does not require any payment by PERA to the Participant or Alternate Payee in any amount, form, or type except as permitted under a PERA plan. No payment will be made to the Alternate Payee unless and until PERA has reviewed the DRO Agreement and Order and determined that it complies with the statutes, rules, and procedures governing the PERA plan and DROs.

Under both the PERA and DPS DB benefit structures, the payment to the Alternate Payee will be in the same form as selected by the Participant. Except as provided under the Alternate Retirement Age exception under the DB Plans, the Alternate Payee must wait until the Participant retires or terminates employment and requests a lump-sum rollover/refund to receive payment under the DRO. As stated in the DRO Agreement, within 30 days of applying for a benefit, the Participant will notify the Alternate Payee in writing of such application at the Alternate Payee's last known address.

The payment for the PERAPlus 401(k) Plan, the PERAPlus 457 Plan, and the PERA DC Plan can be made immediately to the Alternate Payee once the DRO is final and the Alternate Payee submits the appropriate forms.

PERA will mail required forms to the Alternate Payee which must be completed and returned to PERA before payment to the Alternate Payee will begin. It is the responsibility of the Alternate Payee to notify PERA of any change of mailing address.

TAXES

PERA must report payments of retirement benefits to the IRS. The amount paid to the Alternate Payee is reported to the IRS as the Alternate Payee's income, not the Participant's income. The cost recovery of after-tax contributions, if any, is prorated between the Alternate Payee and the Participant. Each individual should consult with his or her own tax adviser about the tax consequences of entering into a DRO.

QDRO DISTINCTION

PERA will not accept or honor a Qualified Domestic Relations Order (QDRO) under any circumstances. As a governmental plan, PERA is not subject to the QDRO provisions of the Employee Retirement Income Security Act (ERISA).

CONSEQUENCES OF DEATH

The death of either the Participant or the Alternate Payee stops all payment or possible future payments to the Alternate Payee based on the designation as an Alternate Payee. If in payment status, if the Alternate Payee predeceases the Retiree, the payment being issued to the Alternate Payee will revert to the Retiree.

ACCESS TO PERA RECORDS

PERA Participant records are confidential. Should the PERA Participant wish to release any information, PERA must receive a properly executed Authorization to Release Financial Information in a Divorce Matter (Divorce Release) from the Participant before it can provide copies of a Participant's records to anyone other than the Participant. In a divorce, the Participant should either obtain the records from PERA and provide them to the other party or provide PERA with a Divorce Release to provide the records directly to the other party.

To request an Authorization to Release Financial Information in a Divorce Matter, records, or estimates:

- » Visit PERA's website at copera.org and log into your secure account
- » Call PERA's Customer Service Center at 1-800-759-7372
- » Email PERA's Legal Department at LegalDRO@copera.org



DESIGNATION OF A NEW COBENEFICIARY OR BENEFICIARY

In those instances where a new cobeneficiary or beneficiary(ies) of the Participant's benefits is to be named, the parties should request the appropriate forms or information from PERA to make the effective change. It is important that the parties follow the proper PERA procedures and complete the required documentation before PERA can change a cobeneficiary or beneficiary(ies).

For retirees only, you do not necessarily need a PERA DRO Agreement to change or delete your cobeneficiary, but you do need a court order allowing you to do so. For your convenience, the PERA DRO Agreement provides a section in which the parties can indicate their desire to allow a change or deletion of the cobeneficiary as applicable. For more information specifically regarding a change of cobeneficiary or beneficiary(ies), please review the Changing Your Cobeneficiary or Benefit Option booklet or contact PERA's Legal Department.

Note: Retirees under the DPS benefit structure are only allowed to delete and not change their cobeneficiary under the process outlined above and only if a P2 or P3 benefit option was elected at retirement.

COMPLETING A DRO ORDER

A DRO includes two documents, the DRO Order and the DRO Agreement.

The parties must complete all of the information at the top of the page (see red area at the right). This includes:

- » The District Court name, County, and Court Address;
- » The names of the parties and case name;
- » Case Number, Court Division or Courtroom number; and
- » Choose the type of Order to be entered.

In addition, in the body of the Order, the parties must check the appropriate boxes indicating whether the Order is for a DRO or a modification of a prior DRO.

The DRO Order with attached DRO Agreement must be filed with and entered by the Court upon or before entry of the decree or within 90 days after entry of the decree and permanent orders. If the parties do not want to state their Social Security numbers on these forms, the parties may inform PERA of their Social Security numbers in a separate writing. A certified copy of the Order and attached DRO Agreement must be received by PERA, along with a copy of the decree, within 90 days of the date of the entry of the Order and DRO Agreement, but must always be received at least 30 days before PERA will make its first payment pursuant to the DRO with respect to the Defined Benefit Plans.

District Court _____ County, Court Address: _____ <hr/> In re <input type="checkbox"/> The Marriage of: <input type="checkbox"/> The Civil Union of: Petitioner: _____ Co-Petitioner or Respondent: _____	▲ COURT USE ONLY ▲ Case Number: _____ Division Courtroom
<input type="checkbox"/> DOMESTIC RELATIONS ORDER FOR A PERA BENEFIT PLAN <input type="checkbox"/> MODIFICATION OF A PRIOR DOMESTIC RELATIONS ORDER FOR A PERA BENEFIT PLAN	
<p>This matter comes before the Court for approval upon:</p> <input type="checkbox"/> An agreement for a Domestic Relations Order concerning a PERA Benefit Plan (the "Agreement") attached hereto. <input type="checkbox"/> An agreement for a Domestic Relations Order concerning Modification of a Prior Domestic Relations Order for a Benefit Plan (the "Agreement") attached hereto.	
<p>The Court having reviewed and considered the Agreement and being fully advised in the premises, the Court hereby makes the following findings:</p> <ol style="list-style-type: none"> 1. The Court has jurisdiction over both parties to this order, and the parties have consented to the entry of this Order. 2. The Courts finds the Agreement, which is attached hereto and incorporated into this Order, has been signed by both parties and entered into by them pursuant to §14-10-113(6), C.R.S. 3. The Court further finds that the parties have entered into this Agreement voluntarily and knowingly, and that the Agreement is reasonable and not unconscionable. 	
<p>The Court therefor Orders:</p> <input type="checkbox"/> that the attached Agreement be and hereby is approved and adopted and incorporated into the Decree and Permanent Orders entered by the Court in the parties' Dissolution of Marriage, Dissolution of Civil Union, Legal Separation (Marriage or Civil Union) or Invalidation of Marriage or Civil Union, as if fully set forth herein. <input type="checkbox"/> that the Agreement be and hereby is approved and adopted and the prior Domestic Relation Order for a PERA Benefit Plan previously entered in this matter be and hereby is modified accordingly.	
Date: _____ _____ <div style="text-align: right;"><input type="checkbox"/> Judge <input type="checkbox"/> Magistrate</div>	
JDF 1202 R7/13 DOMESTIC RELATIONS ORDER FOR A PERA BENEFIT PLAN – ORIGINAL OR MODIFIED	

COMPLETING A DRO AGREEMENT

Page one of the DRO Agreement must contain the names of the respective parties to the DRO Agreement and the Case Number, County, and State. The Participant is either the PERA member or retiree, and the Alternate Payee is the spouse (by marriage or civil union) of the Participant.

SECTION 1—PERA BENEFIT PLANS COVERED BY THIS AGREEMENT

PERA has four benefit plans to which this DRO Agreement may apply:

- » The PERA DB Plan, which includes the PERA and/or Denver Public Schools (DPS) benefit structures
- » The PERAPlus 401(k) Plan,
- » The PERAPlus 457 Plan, or
- » The PERA DC Plan.

The parties should check the applicable Plan(s) that applies.

COMPLETING THE REMAINING SECTIONS

Depending on which Plan(s) applies, please complete the following sections:

- » For the PERA DB Plan under the PERA benefit structure complete Section 2 or 3.
- » For the PERA DB Plan under the DPS benefit structure complete Section 4 or 5.
- » For the PERAPlus 401(k) Plan complete Section 6.
- » For the PERAPlus 457 Plan complete Section 7.
- » For the PERA DC Plan complete Section 8.
- » If multiple plans are to be covered by this DRO Agreement, the parties must complete all appropriate sections of the DRO Agreement.

It is essential that these instructions are followed if the parties desire to create a valid DRO that PERA will recognize and deem valid and enforceable.

PERA DB PLAN ACCOUNT—PERA AND DPS BENEFIT STRUCTURES

SECTION 2 OR 4—PAYMENT TO THE ALTERNATE PAYEE OF A RETIREE

Section 2 of the DRO Agreement should be completed for a current retiree under the PERA benefit structure and Section 4 of the DRO Agreement should be completed for a current retiree under the DPS benefit structure.

There are two selections for the Participant to make in these sections:

- » The method of division of the monthly retirement benefit; and
- » The cobeneficiary designation (if applicable).

METHOD OF DIVISION OF MONTHLY BENEFIT PAYMENT TO THE ALTERNATE PAYEE

In Subsection 1 of both Sections 2 and 4, the parties must select one of the following methods: Percentage of Monthly Dollar Amount or Fixed Monthly Dollar Amount.

If the Percentage of Monthly Dollar Amount method is chosen, check the box and write in the agreed upon percentage. Under this method, the amount paid to the Alternate Payee is determined by applying the specified percentage to the amount of the Participant's monthly gross retirement benefit, including all subsequent annual increases.

If the parties choose the Fixed Monthly Dollar Amount method, check the box and write in the dollar amount in the appropriate blank. Under this method, the initial payment to the Alternate Payee will be the amount specified in the "Fixed Monthly Dollar Amount" in the DRO Agreement, including all subsequent annual increases.

CHANGING OR DELETING THE COBENEFICIARY

For the PERA benefit structure, if the Participant selected Option 2 or 3 and named the Alternate Payee as the cobeneficiary at the time the Participant began his/her monthly retirement benefits, the parties can indicate whether the retiree is allowed to change or delete the cobeneficiary by selecting "Yes" in Subsection 2 of Section 2.

If the Participant selected an Option 1 at retirement, the cobeneficiary designation is not applicable and the "Not Applicable" box should be checked. Additionally, if the Alternate Payee was not named as the cobeneficiary of the Participant, check the "Not Applicable" box. If the Alternate Payee is to remain as cobeneficiary then the "Not Applicable" box should be checked.



DEFINED BENEFIT PLAN

For the DPS benefit structure, if the Participant is retired under Option P2 or P3 and has named the Alternate Payee as the cobeneficiary, the parties can indicate whether the retiree under the DPS benefit structure is allowed to delete the cobeneficiary by selecting “Yes” in Subsection 2 of Section 4.

If deletion of the cobeneficiary is allowed, the benefits of the retiree under the DPS benefit structure will thereafter be payable under Option A upon completion of all required information by the Participant. If the Participant named the Alternate Payee as the cobeneficiary at the time of retirement, but the Participant is not allowed to delete the cobeneficiary, or if the Alternate Payee was not named as the cobeneficiary of the Participant at retirement, check the “Not Applicable” box. Please note that retirees under the DPS benefit structure may only be allowed to delete, but not change, their cobeneficiary in a dissolution of marriage action.

If the Participant is retired under Option A, B, or D, the cobeneficiary designation is not applicable and the “Not Applicable” box should be checked.

If the Participant is retired under Option C or E, the Participant is not allowed to delete the cobeneficiary selection, and the “Not Applicable” box should be checked.

SECTION 3 OR 5—PAYMENT TO THE ALTERNATE PAYEE OF A MEMBER UNDER THE PERA BENEFIT STRUCTURE OR THE DPS BENEFIT STRUCTURE

Section 3 of the DRO Agreement should be completed if the Participant is a current member under the PERA benefit structure and Section 5 of the DRO Agreement should be completed for a current member under the DPS benefit structure. This section establishes how PERA will calculate the future gross lump-sum rollover/refund or monthly payment to an Alternate Payee of a current PERA member under the PERA benefit structure in the PERA DB Plan.

Under Sections 3 or 5, there are two subsections for the parties to complete:

- » The Method of Division of Future Monthly Retirement Benefit; and
- » The Alternate Retirement Age.

METHOD OF DIVISION OF FUTURE MONTHLY RETIREMENT BENEFIT

The parties can only select one method which must be indicated in the DRO Agreement. The methods for division of future payments under the PERA DB Plans are listed below and described in detail on pages 7–9:

- » Percentage Method
- » Fixed Dollar Amounts Method
- » Time Rule Formula Method
- » Date of Decree Formula Method
- » Other Method or Formula

ALTERNATE RETIREMENT AGE

Colorado law allows the DRO Agreement to direct PERA to begin making payments to the Alternate Payee when the member reaches 65 or older if the member is still working. When the Participant reaches age 65 or a whole year above and no payment is being made to the Participant by the Plan, then the Alternate Payee may begin to receive a monthly payment (but not a lump-sum rollover/refund) in accordance with existing PERA policy. Age 65 is the default age of the member when the Alternate Payee may begin receiving payments. Any age above 65 may be indicated in the blank in this subsection if the parties desire a later age of the member to start payments to the Alternate Payee.

After the payment to the Alternate Payee begins, the payment to the Alternate Payee will be increased to include all subsequent annual increases. The payments to the Alternate Payee will be deducted from the Participant’s member DB Plan account.

If the Participant later retires and receives a monthly retirement benefit, the monthly payment to the Alternate Payee will not be adjusted to reflect the Participant’s actual benefit as of the Participant’s subsequent retirement date (based on the Participant’s actual age, service credit, and salary at retirement).

Upon retirement, PERA will calculate two benefit segments for the Participant: one through the commencement of payment to the Alternate Payee and one through the Participant’s retirement effective date. The two benefit segments will be added together and PERA will subtract the Alternate Payee’s base benefit amount to determine the benefit amount paid to the Participant. The PERA Participant may contact PERA to have benefit estimates calculated under this situation which will provide estimated monthly benefit payments which will take into account this situation.

If the Participant selects a lump-sum rollover/refund rather than a monthly retirement benefit, the monthly payment to the Alternate Payee will cease. The total sum of monthly payments already paid to the Alternate Payee will be deducted from the Alternate Payee’s portion of the lump-sum rollover/refund. If the sum of payments already made to the Alternate Payee exceeds the Alternate Payee’s portion of the lump-sum rollover/refund, no further payment will be made to the Alternate Payee. In such case, the amount in excess will be subtracted from the Participant’s portion of the lump-sum rollover/refund. If the sum of payments made to the Alternate Payee exceeds the Participant’s total gross lump-sum rollover/refund amount, no lump-sum rollover/refund will be made to the Participant.

METHODS FOR DIVISION OF FUTURE PAYMENT

PERCENTAGE METHOD

The parties must agree on payment to the Alternate Payee as a percentage of the Participant’s benefit when the Participant retires or terminates employment. If the Participant selects a lump-sum rollover/refund, the payment to the Alternate Payee is determined by applying the specified percentage to the Participant’s lump-sum rollover/refund amount.

If the Participant selects a monthly retirement benefit, the payment to the Alternate Payee is determined by applying the specified percentage to the amount of the Participant’s monthly retirement benefit, including all annual increases. An example of this method is illustrated below.

Alternate Payee percentage	x	Benefit at retirement	=	Alternate Payee’s payment
50%	x	\$2,500	=	\$1,250/month

FIXED DOLLAR AMOUNT METHOD

The parties must agree to the Fixed Dollar Amount that the Alternate Payee will receive depending on whether the Participant selects a lump-sum rollover/refund or a monthly retirement benefit. There are two amounts that the parties must provide in the DRO Agreement: a Lump-Sum Dollar Amount and a Monthly Dollar Amount.

If the Participant selects a lump-sum rollover/refund, the payment to the Alternate Payee will be the amount specified in the “Lump-Sum Dollar Amount” in the DRO Agreement.

If the Participant selects a monthly retirement benefit, the initial payment to the Alternate Payee will be the amount specified in the “Monthly Dollar Amount” in the DRO Agreement. This Monthly Dollar Amount will later be increased to include all subsequent annual increases.

If the parties only designate one of the Fixed Dollar Amounts, and the Participant does not select that particular type of payment, the Alternate Payee will not receive any payment pursuant to the DRO unless the DRO is properly modified prior to payment from PERA to the Participant. For example, if the parties only designate the Lump-Sum Dollar Amount of the Fixed Dollar Amounts, without designating a Monthly Dollar Amount, and the Participant selects a monthly benefit at retirement, the Alternate Payee will not receive any monthly payment unless the DRO is properly modified to add a Monthly Dollar Amount.

TIME RULE FORMULA METHOD

The time rule formula calculates a payment for the Alternate Payee that is determined by dividing the number of months of service credit acquired during the marriage by the total number of months of service credit earned at the time of the Participant’s retirement or at the time of payment of a lump-sum rollover/refund, with that quotient multiplied by an Alternate Payee percentage to which the parties have agreed. At the date of retirement or lump-sum rollover/refund the resulting percentage will be multiplied by the amount of the Participant’s benefit or lump-sum rollover/refund to determine the Alternate Payee’s payment.

If the parties agree to use this formula, the parties must provide:

1. The months of service credit acquired during the marriage. The months of service credit acquired during the marriage should not exceed the Participant’s total accrued months of service credit.
2. The agreed-upon Alternate Payee percentage.

PERA will determine the total number of months of service credit in accordance with applicable state law only at the time of retirement or termination of employment. The result of the division above cannot create a quotient greater than 1.0; if the result would be greater than 1.0, PERA will reduce the result of this division to 1.0 before proceeding with the remainder of the determination.

TIME RULE FORMULA METHOD—LUMP-SUM ROLLOVER/REFUND

If the Participant selects a lump-sum rollover/refund, the Time Rule Formula Method will be applied to the Participant's gross lump-sum rollover/refund amount. An example of this method is illustrated below.

Months of service credit acquired during marriage	÷	Months of service credit at retirement or rollover/refund	x	Agreed upon Alternate Payee percentage	x	Participant's account balance plus matching amounts, if any, at time of payment of lump-sum rollover/refund	=	Alternate Payee's payment
120	÷	240	x	50%	x	\$145,000	=	\$36,250

TIME RULE FORMULA METHOD—MONTHLY RETIREMENT BENEFIT

If the Participant selects a monthly retirement benefit, the Time Rule Formula Method will be applied to the benefit amount received by the Participant based on the Option and gross monthly payment elected by the Participant at the time of retirement. An example of this method is illustrated below.

Months of service credit acquired during marriage	÷	Months of service credit at retirement or rollover/refund	x	Agreed upon Alternate Payee percentage	x	Participant's benefit at retirement	=	Alternate Payee's payment
120	÷	240	x	50%	x	\$2,500	=	\$625/month

DATE OF DECREE FORMULA METHOD

The date of decree formula calculates a payment for the Alternate Payee by applying the Date of Decree Formula Method to the amount of the Participant's Option 1 or A benefit or lump-sum rollover/refund as of the date of the decree were the Participant then eligible to retire.

PERA will determine the total number of months of service credit in accordance with applicable state law. The result of the division above cannot create a quotient greater than 1.0; if the result would be greater than 1.0, PERA will reduce the result of this division to 1.0 before proceeding with the remainder of the determination.

DATE OF DECREE FORMULA METHOD—LUMP-SUM ROLLOVER/REFUND

If the Participant selects a lump-sum rollover/refund, the Date of Decree Formula Method is determined by dividing the number of months of service credit acquired by the Participant under the Plan during the marriage by the number of months of service credit in the Plan as determined by PERA as of the date of the decree, which quotient is then multiplied by the agreed-upon Alternate Payee percentage. The resulting Alternate Payee percentage is then multiplied by the gross amount of the lump-sum rollover/refund as of the date of the decree, as if the Participant were eligible for retirement as of the date of the decree (whether or not the Participant actually is eligible for retirement on that date). The resulting amount will be the one-time payment to the Alternate Payee if the Participant later receives a lump-sum rollover/refund. An example of this method is illustrated below.

Months of service credit acquired during marriage	÷	Months of service credit as of date of decree	x	Agreed upon Alternate Payee percentage	x	Participant's lump-sum refund amount including 100% match as of the date of decree	=	Alternate Payee's payment
120	÷	120	x	50%	x	\$15,000	=	\$7,500

DATE OF DECREE FORMULA METHOD—MONTHLY RETIREMENT BENEFIT

If the Participant selects a lifetime monthly benefit at retirement, the Date of Decree Formula Method is determined by dividing the number of months of service credit acquired by the Participant under the Plan during the marriage by the number of months of service credit in the Plan as determined by PERA as of the date of the decree, which quotient is then multiplied by the agreed-upon Alternate Payee percentage. The resulting percentage is multiplied by the monthly Option 1 or A benefit amount based on actual salary and service credit as of the date of the decree, as if the Participant were eligible for retirement as of the date of decree (whether or not the Participant actually is eligible for retirement on that date). The resulting amount will be the monthly payment to the Alternate Payee. This method is illustrated below.

Months of service credit acquired during marriage	÷	Months of service credit as of date of decree	x	Agreed upon Alternate Payee percentage	x	Participant's monthly Option 1 or A benefit as of the date of decree as if Participant were eligible for retirement	=	Alternate Payee's payment
120	÷	120	x	50%	x	\$832	=	\$416/month

OTHER METHOD OR FORMULA

The parties may agree to use their own specific method or formula to divide the benefit. The parties may select any method or formula agreed upon by the parties that specifies a dollar amount or percentage to be paid to the Alternate Payee. This formula must result in either a percentage or two fixed dollar amounts being selected. If a percentage is selected, this percentage will be applied to the Participant's monthly retirement benefit or lump-sum rollover/refund amount to determine the amount of the Alternate Payee's payment.

If the parties select two fixed dollar amounts, one fixed dollar amount will apply if the Participant selects a lump-sum rollover/refund, and the other fixed dollar amount will apply if the Participant selects a lifetime monthly retirement benefit. The appropriate fixed dollar amount will be applied to the Participant's monthly retirement benefit or lump-sum rollover/refund amount to ascertain the amount payable to the Alternate Payee.

If the parties use their own Other Method or Formula, they must sufficiently define each item contained in the formula so that each item in the formula is determinable by PERA either at the present time or at some future date, but in no event later than either when the Participant retires or elects a lump-sum rollover/refund of the DB Plan account. If this method is used, the parties must attach a detailed description of the method to the DRO Agreement. It is strongly recommended that the parties contact PERA to obtain specific instructions and prior approval by PERA if this method or formula is being considered.



PERAPLUS 401(K)/457 AND DC PLAN ACCOUNTS

PAYMENT TO THE ALTERNATE PAYEE UNDER THE PERAPLUS 401(K) PLAN, PERAPLUS 457 PLAN AND PERA DC PLAN ACCOUNT

Sections 6, 7, and 8 establishes how the Alternate Payee is to be paid from the PERAPLus and DC Plan Accounts. Section 6 is for the PERAPLus 401(k) Plan, Section 7 is for the PERAPLus 457 Plan, and Section 8 is for the DC Plan. The PERAPLus Plans are defined contribution plans with separate accounts for a Participant who voluntarily elects to participate in the Plans. The PERA DC Plan is a defined contribution plan which covers certain Participants who are allowed to elect the PERA DC Plan instead of the PERA DB Plan with a separate account for a Participant who elects to participate in the Plan. For all three of these Plans, the Participant's account balance is increased by contributions and earnings on investments and decreased by withdrawals, losses on investments, and the Participant's share of the Plan's expenses.

In the DRO Agreement, the parties must indicate whether the Alternate Payee is to receive a specified Percentage as of a set date or a Fixed Dollar Amount the Plans.

If the Percentage Method is selected, the parties should provide a date to value these Plan accounts for distribution purposes. The valuation date provided cannot be later than the actual date the distribution is made to the Alternate Payee. If the parties do not designate a date, PERA will use the date of PERA's receipt of the certified copies of the valid and enforceable DRO Agreement and Order.

Payment under these Plans cannot exceed the balance of the Participant's account in the Plan, reduced by any outstanding loan(s) to the Participant. If the DRO is a valid DRO recognizable by PERA, distribution of the Alternate Payee's amount will be paid to the Alternate Payee once all required forms and other required information are received by PERA from the Alternate Payee.

The amount paid to the Alternate Payee will reduce the Participant's account balance. The payment to the Alternate Payee will be allocated to the investment funds in the Participant's account and also will be allocated to the tax-deferred and after-tax portions of the Participant's account on a pro rata basis as provided in the Plan documents. If the Participant has a balance in a Self-Directed Brokerage account, PERA may require the Participant to move funds from that account to the core investments to ensure that funds are available to satisfy the DRO Agreement.

Upon receipt of PERA's required forms that have been properly completed by the Alternate Payee, a transfer will be made from the Participant's 401(k), 457 and/or DC Plan Account(s) to a temporary account created for the Alternate Payee for distribution purposes only. Once the funds are transferred to the distribution only account, the final distribution may be greater or less than the amount of transfer from the 401(k), 457 and/or DC Plan Account(s) to the Alternate Payee due to market fluctuations.

If the Participant dies before all of these requirements are satisfied, no payment will be made to the Alternate Payee based on that designation in the DRO. Under such circumstances, the beneficiary of the Participant's Plan account will be paid the Participant's entire account.

MODIFICATION OF A PRIOR DRO

An existing DRO may be modified only by written DRO Agreement of the parties to the DRO and approval by the court. Only the sections selected in the original valid DRO may be modified. The DRO Agreement and appropriate sections must then be completed by the parties. The standardized forms provided by PERA must be used by the parties to modify a DRO. Certified copies of the DRO Agreement and Order of Modification must be submitted to and received by PERA at least 30 days before PERA will make its first payment or modified payment pursuant to the modified DRO. If there is no existing valid DRO, then no modification is permitted under Colorado law.

ADDITIONAL INFORMATION ABOUT DROS

- » A valid DRO does not entitle the Alternate Payee to immediate payment from the PERA DB Plan unless otherwise noted in this booklet.
- » With respect to the DB Plan, no payment will be made to the Alternate Payee until an amount is payable to the PERA Participant or the Alternate Retirement Age is reached. This may occur years after entry of the divorce decree, if ever (see Consequences of Death section for further information).
- » Being named an Alternate Payee may not result in any payment if the Participant dies prior to any payment to the Alternate Payee.
- » A Participant cannot receive a monthly retirement benefit or lump-sum rollover/refund from the PERA DB Plan until he or she terminates PERA-covered employment or retires.
- » The benefit selection by the Participant determines the type of payment the Alternate Payee receives. For example, if the Participant selects a lifetime monthly retirement benefit, the payment to the Alternate Payee is also a monthly payment. If the Participant selects a lump-sum rollover/refund, the Alternate Payee also will receive a lump-sum rollover/refund.
- » With either a lump-sum rollover/refund or monthly payment, the amount paid to the Alternate Payee cannot exceed the amount that otherwise would be paid to the Participant.
- » Colorado law does not permit any early or partial payment from the PERA DB Plan under a DRO when the Participant has not received a lump-sum rollover/refund or a monthly retirement benefit unless the Participant has reached age 65 (or the designated Alternate Retirement Age). At which point, only a monthly payment is available to the Alternate Payee.
- » Without a valid DRO for PERA's DB Plan, under no circumstances will PERA make any payment directly to the Alternate Payee. However, where there is an invalid DRO, the court may require the Participant to pay the former spouse a specified amount directly, but PERA will not be involved in those payments.
- »
- »

FREQUENTLY ASKED QUESTIONS

Q. Can PERA determine the present value of my future retirement benefits?

A. No, PERA can only provide information regarding current account balance and/or retirement estimates. The parties are responsible for engaging the appropriate professional to perform a present value calculation if such calculation is desired by the parties.

Q. What will happen to my PERA records if they are subpoenaed?

A. If the Participant refuses to sign an Authorization to Release Financial Information in a Divorce Matter, PERA generally files a motion to quash the subpoena, provides the records to the court under seal for in camera review, and asks the court to make a determination regarding release of the records.

Q. Can a representative of PERA be called upon to testify in court?

A. PERA is required by statute to keep information contained in member records confidential. However, PERA will provide appropriate records and information to the parties and their respective attorneys if the proper Authorization to Release Financial Information in a Divorce Matter is provided.

Q. Do I have to obtain preapproval of our proposed DRO Agreement?

A. Because some DRO forms that PERA receives are not properly completed, PERA strongly recommends that the parties forward to PERA a copy of the completed DRO Agreement and Order at least one month prior to the anticipated entry of the DRO.

Q. If PERA determines my DRO Agreement is invalid, what can I do?

A. If the parties submitted the DRO to PERA for pre approval prior to entry of the decree of dissolution, they only need to make any required changes. Where pre-approval by PERA was not obtained and the DRO has been signed by the court, the parties must return to court for a new DRO to correct the error if correctable. Where the parties cannot correct the error, the DRO is not valid and enforceable with respect to PERA, and PERA will not recognize the DRO. Therefore, PERA strongly recommends that the parties submit their DRO to PERA for pre-approval.

Q. Can I make any changes to the PERA DRO forms?

A. No. Under state law, PERA DRO forms must be used without any change, alteration, or amendments to the preprinted text.

Q. What courses of action are available where the DRO is not valid with respect to PERA and the error in the DRO is not correctable?

A. There are two alternatives available to the parties. The first alternative is for the court to order the Participant to pay a specified amount directly to the Alternate Payee. This order is binding on the parties only. PERA will not subject to that order and will pay benefits according to the PERA statutes.

Another alternative is to vacate the decree and enter a new decree. However, in a situation like this, PERA will only recognize a vacation of the decree, not modification of the decree, and not the entry of a nunc pro tunc order. If the parties use this alternative, please forward a copy of the pleadings to PERA for review prior to submitting the motion and vacated decree to the court.

Q. Can I obtain a valid DRO recognizable by PERA through an out-of-state divorce?

A. Yes, provided all Colorado requirements for a valid DRO are met.

Q. As an Alternate Payee, what must I do to receive payment pursuant to a valid DRO?

A. PERA will contact the Alternate Payee when the payment is triggered and provide the necessary forms. PERA urges Alternate Payees to regularly update PERA with addresses and phone numbers for such contact. No payment will be made by PERA to the Alternate Payee until all of the necessary forms have been completed and received by PERA and all other statutory, regulatory, and rule requirements for payment are satisfied.

CONTACT PERA



Visit PERA's website at
copera.org



Call PERA's Customer Service
Center at 1-800-759-7372



Send mail to PERA at
PO Box 5800
Denver, CO 80217-5800



Downloadable forms and
publications can be found on
PERA's website



Connect with PERA on
social media:

- » [Twitter](#)
- » [Facebook](#)
- » [LinkedIn](#)
- » [YouTube](#)



This booklet provides information about the division of PERA benefits in conjunction with a divorce. Your rights, benefits, and obligations as a PERA member are governed by Title 24, Article 51, Colorado Revised Statutes, and the Rules of the Colorado Public Employees' Retirement Association, which take precedence over any interpretations in this booklet.