NEBRASKA ADMINISTRATIVE CODE

TITLE 303, NEBRASKA ADMINISTRATIVE CODE, CHAPTER 21

RETIREMENT SYSTEMS, PUBLIC EMPLOYEES
PUBLIC EMPLOYEES RETIREMENT BOARD

RULES AND REGULATIONS FOR
QUALIFIED DOMESTIC RELATIONS ORDERS

Last Revision: November 14, 1997
Current Revision: June 20, 2011
Effective Date: _____

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TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 21 – QUALIFIED DOMESTIC RELATIONS ORDERS

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TITLE 303 – PUBLIC EMPLOYEES RETIREMENT BOARD

CHAPTER 21 – QUALIFIED DOMESTIC RELATIONS ORDERS

001 ~~General~~ Scope of the Rule

This regulation sets forth the procedures of the Nebraska Public Employees Retirement Systems (NPERS) for the administration of qualified domestic relations orders under the Spousal Pension Rights Act, Chapter 42, article 11, of the Nebraska Revised Statutes. All terms used in this regulation which are defined terms in the Spousal Pension Rights Act shall have the same meaning as provided in the Spousal Pension Rights Act.

002 Procedure to Determine Qualified Status

002.01 Upon receipt of a court certified or authenticated domestic relations order involving benefits under a statewide public retirement system, NPERS shall, within ten (10) business days, notify in writing the member and the alternate payee that NPERS has received the domestic relations order. If the order pertains to a member receiving benefits from the retirement system, NPERS shall suspend and segregate that portion of the member's benefit payment which would be payable to the alternate payee under the order if it is determined to be a qualified domestic relations order.

002.02 NPERS shall review the domestic relations order to determine whether it meets all of the requirements to be deemed a qualified domestic relations order as set forth in the Spousal Pension Rights Act and this regulation. NPERS shall specifically determine that the order clearly specifies:

002.02(a) The name~~, social security number,~~ and last-known mailing address, if any, of the member;

002.02(b) The name~~, social security number,~~ and last-known mailing address, if any, of the alternate payee covered by the order;

002.02(c) The statewide public retirement system ~~or systems~~ to which the order applies;

002.02(d) The number of payments or period to which such order applies; and

002.02(e) The amount or percentage of the member's benefits to be paid by the ~~each~~ statewide public retirement system to each alternate payee or the manner in which such amount or percentage is determined.

002.02(f) The social security number and date of birth of the member, as well as the social security number and date of birth of the alternate payee shall be provided in a separate document.

002.03 NPERS shall ascertain that the order does not require the retirement system to:

002.03(a) Provide any type or form of benefit, or any option, not otherwise provided under the plan;

002.03(b) Provide increased benefits determined on the basis of actuarial value;

002.03(c) Pay to an alternate payee benefits which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order;

002.03(d) Pay benefits to an alternate payee before the earliest retirement date of a member;

002.03(e) Provide a joint and survivor annuity to the alternate payee and the alternate payee's subsequent spouse; or

002.03(f) Act contrary to the statutory provisions of the statewide public retirement system.

002.04 If NPERS determines that the domestic relations order does not meet all of the requirements set forth in the Spousal Pension Rights Act and these regulations, NPERS shall, within seven days of making such determination, notify the member and the alternate payee of the basis for such determination. If NPERS is notified in writing within thirty (30) days of the date NPERS makes the notification required under this subsection that the member or the alternate payee is seeking an amended order correcting the deficiencies noted, NPERS shall continue to suspend and segregate that portion of the member's benefit payment which would be payable to the alternate payee under the order if it were to be determined to be a qualified domestic relations order.

002.05 In no event shall NPERS suspend and segregate benefits under sections 002.01 or 002.04 for a period longer than eighteen (18) months from the date the original order is filed with NPERS or the date payments to the alternate payee would commence under the order if qualified, whichever is later. If the order or an amended order is not qualified within the eighteen month period, NPERS shall pay the segregated funds, plus interest, to the member or other beneficiaries entitled thereto, and any order qualified after the eighteen month period will be applied prospectively only.

003 Distribution Procedures

003.01 If the Agency Director determines an order is ~~determined to be~~ a qualified domestic relations order, then as soon as is administratively possible, NPERS shall allocate and distribute retirement benefits to the member and the alternate payee according to the terms of the order. Payment of the benefit to the alternate payee shall commence either on the member's retirement date or on the first day of the month immediately following the month in which the alternate payee notifies NPERS of the election to begin payment, but not before the member's earliest retirement date.

003.02 If the order pertains to a defined contribution plan or a cash balance plan, NPERS shall segregate the alternate payee's interest in the member's benefit into a separate account pending distribution. Unless the domestic relations order provides otherwise, the

amounts allocated to the alternate payee shall be deducted from each of the member's employer and employee accounts in the same percentage as the total percentage awarded to the alternate payee under the order. If the member has a defined contribution plan, the alternate payee shall have the right to allocate the amounts in such account to the various investment options available to members of the plan and shall be subject to the same restrictions upon transfers between investment options as may be applicable to other members of the plan.

003.03 If the order pertains to a defined benefit plan, NPERS shall indicate in the member's account file the existence of the qualified domestic relations order. Upon the triggering of a distribution under the plan to the alternate payee or the member, NPERS shall compute the alternate payee's interest in the member's accrued benefit under the order and shall reduce the member's benefit accordingly.

003.04 If the order does not specify the form of benefit to be taken by the alternate payee, the alternate payee may select any form of benefit available to the member except a joint and survivor annuity covering the alternate payee and the alternate payee's subsequent spouse

003.05 If the alternate payee dies prior to receiving any payment of his or her interest in the member's benefit under a qualified domestic relations order, such interest reverts to the member. If the alternate payee dies after commencement of payments of his or her interest, then the alternate payee's beneficiary is entitled to the balance of the alternate payee's interest under the payment option provided by the order or selected by the alternate payee, except a joint and survivor annuity option with the alternate payee and the alternate payee's subsequent spouse. For purposes of this section, payment of the alternate payee's interest in the member's benefit shall be deemed to have commenced on the earlier of the member's retirement date or on the first day of the month immediately following the month in which the alternate payee notifies NPERS of the election to begin payment, but not before the member's earliest retirement date.

004 Pre-approved QDRO Language

004.01 A member or an alternate payee, or their legal representatives, may submit a proposed domestic relations order to NPERS for review and tentative qualification prior to the order being submitted to the court having jurisdiction over the domestic relations matter.

004.02 NPERS shall develop and provide, upon request, model domestic relations order language that meets all of the requirements of the Spousal Pension Rights Act.

004.03 Failure to use the model language provided pursuant to this regulation shall not be a basis for determining that the domestic relations order is not a qualified domestic relations order.

005 Administrative Hold on Account

005.01 NPERS may place an administrative hold on a member's account prohibiting such member from withdrawing the account balance upon receiving written or emailed notice from a person claiming an interest in the member's account advising NPERS that proceedings to obtain a domestic relations order have been initiated and requesting an administrative hold on the account to protect their interest in the account.

005.02 NPERS shall ~~immediately~~ within ten (10) business days acknowledge receipt of the request for an administrative hold and shall notify the member and the person claiming an interest in the member's account of the action NPERS will be taking in response thereto.

005.03 NPERS shall release an administrative hold placed on the member's account if:

005.03(a) The member is awarded his or her entire benefit by the court and provides NPERS with a certified copy of the court's order;

005.03(b) The claim is released by a notarized written statement signed by the person claiming an interest in the member's account or by his or her legal representative;

005.03(c) NPERS receives a domestic relations order for qualification and the member's account is segregated accordingly; or,

005.03D(d) The person claiming an interest in the member's account does not provide a domestic relations order to be qualified within a reasonable period of time, not to exceed six (6) months, after requesting the administrative hold. Before releasing an administrative hold pursuant to this subsection, NPERS shall notify the person claiming an interest in the member's account, or his or her legal representative, of the intention to release the hold. NPERS shall provide the person claiming an interest in the member's account thirty (30) days within which to file a written objection to such action. For good cause shown, NPERS may extend the administrative hold for an additional period of time.

006 Notices

006.01 Any notice required by this regulation shall be sent by first class mail, postage prepaid, to the last-known mailing addresses of the member and the alternate payee.

006.02 The member and the alternate payee may designate alternative representatives for receipt of copies of notices. Such designation of a representative must be in writing and received by NPERS before such designation shall become effective.

ENABLING LEGISLATION:

NEB. REV. STAT. §§ 42-1101 and 84-1503.