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San Bernardino County Employees'
Retirement Association

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Area	Benefits
Applicability	SBCERA systemwide

Payment of Benefits in Relation to Community Property Law

POLICY NO. 010

I. Background

California is a community property state. In California, all property acquired during a marriage or registered domestic partnership is community property, except for property owned by a spouse or partner prior to the marriage or domestic partnership or property obtained by means not relevant to this policy. An SBCERA member's accumulated contributions and retirement allowance are subject to division under the community property laws of the State of California if such benefits were acquired during a marriage or domestic partnership.

This policy ensures that the member is fully informed of the steps necessary, in the event there is a division of the member's retirement, for the member to receive his or her retirement benefit without delay, while protecting SBCERA against possible liability for improper payment of benefits or disposition of funds.

SBCERA cannot provide legal advice to members, spouses of members, or former spouses of members. Retirement benefits paid by SBCERA may constitute a substantial asset of the parties. SBCERA advises that the parties consult an attorney who is knowledgeable in the areas of California community property law and division of retirement benefits for advice and assistance.

II. Notice of a Dissolution, Legal Separation, or Termination of Domestic Partnership

In the event a member has divorced, legally separated, or terminated a domestic partnership during

membership in SBCERA, and prior to retirement, wishes to change beneficiary designations(s) or request a refund of accumulated contributions, the member shall submit for review a complete conformed copy of a court filed Judgment or State filed Notice of Termination of Domestic Partnership, including any attached agreement addressing property issues, specifically the member's SBCERA retirement account.

A complete conformed copy of the Judgment means that the Judgment has been signed by the judge/judicial officer, has the court stamp on the front page or has been electronically filed, and all pages are included. Should member have a pending dissolution or legal separation before the court, the member shall submit a complete conformed copy of the court filed Judgment once the dissolution or legal separation action is resolved.

Chief Counsel or designee shall review the Judgment or Notice of Termination, including all attachments to determine whether it makes an effective disposition of the SBCERA retirement account, or whether further action is needed, including but not limited to: a) a Joinder and Domestic Relations Order (DRO); b) a modification of the Judgment to provide for a final disposition of the SBCERA retirement account other than through a DRO; or c) a liability release and indemnification from the member, if in the opinion of counsel such release is sufficient to protect against any claim of improper payments by SBCERA in light of ambiguities in the Judgment.

In no event will SBCERA pay out funds prior to the receipt and review of the Judgment or Notice of Termination. SBCERA will notify the member in writing regarding the aforementioned review.

III. SBCERA Joined as an Employee Benefit Plan

If SBCERA is joined to a dissolution or legal separation action as an Employee Benefit Plan, and thereafter pays out benefits to the member, SBCERA does so at its peril and may be liable to the non-member spouse for benefits that should have been paid to the non-member. SBCERA will notify the member in writing of the joinder and the consequences thereof.

IV. Payment of Benefits Before Retirement

If SBCERA receives a Joinder in a dissolution or legal separation action involving a member, the member's account will be flagged. SBCERA will not pay out retirement benefits until the dissolution or legal separation action is resolved. Resolution of a dissolution or legal separation action shall mean one of the following:

1. A Judgment whereby the court addresses property issues, specifically a member's SBCERA retirement account and the disposition of such property. In the event, the court divides the member's SBCERA retirement, the member will need to submit to SBCERA a proposed Domestic Relations Order (DRO) for review and approval.
2. In the alternative, if the Judgment clearly awards the SBCERA retirement account to the member as the member's sole and separate property, SBCERA will release the flag on the member's account, note the Joinder as "inactive," and allow the member to make changes, including changing beneficiary designations, withdrawal, or retirement, to the member's account without interference or permission from the non-member former spouse or domestic

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partner. Determination of whether the Judgment clearly awards the account to the member is in the sole discretion of the SBCERA Chief Counsel or designee.

3. A Domestic Relations Order (DRO) setting forth the legal terms and requirements for the division of the community property interest in the member's retirement awarded to the nonmember spouse.
4. A court order whereby the nonmember spouse or domestic partner waives his or her interest in the member's SBCERA retirement.

If SBCERA becomes aware of a dissolution or legal separation proceeding other than through the formal service of a Joinder, SBCERA shall contact the member in writing to inform the member of the requirements of this policy and the steps the member may take to ensure the timely payment of benefits or refund.

SBCERA will not pay out partial benefits with a temporary court order, unless the member is retired and the order meets the necessary guidelines for SBCERA to administer the benefits to the member and non-member spouse.

Where SBCERA has received a Domestic Relations Order (DRO), payment to the nonmember spouse will commence upon approval of a conformed DRO so long as the member is retired for service or in the case of a disability retirement, when the member would have been eligible to receive a service retirement. If there is a delay in obtaining necessary documents from the non-member former spouse, SBCERA may commence payments to the member as soon as practicable based upon the terms set forth in the DRO if the DRO provides sufficient information to determine the community property division.

V. Payment of Benefits After Retirement

If SBCERA receives a Joinder in a dissolution or legal separation action involving a retired member and the retired member is already receiving retirement benefits, SBCERA will continue to pay full benefits to the retired member unless SBCERA also receives a Notice of Adverse Interest pursuant to Family Code section 755 from the non-member spouse. The Notice of Adverse Interest must identify the amount of benefit the non-member spouse is claiming and the formula for dividing community property used to calculate this amount. However, SBCERA will not pay the calculated interest to the non-member spouse until SBCERA is joined as an Employee Benefit Plan and SBCERA receives a conformed copy of a Domestic Relations Order (DRO) that meets SBCERA's guidelines.

Approval Signatures

Step Description	Approver	Date
Policy Owner & Chief Counsel Review	Barbara Hannah: Chief Counsel	Pending

Applicability

SBCERA, SBCERA Internal

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