



City of Austin Employees' Retirement System

**City of Austin Employees' Retirement System
Board Approved Policy**

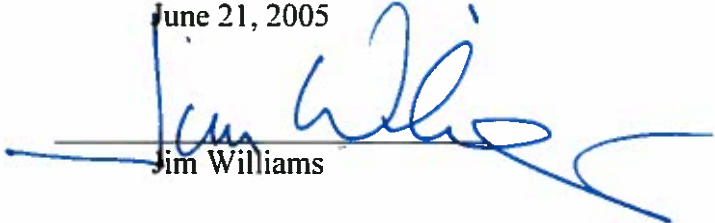
Policy: Q - 1

Subject: Qualified Domestic Relations Orders

Review Committee: Benefits and Services

Date Implemented: March 23, 2004

Date Revised or Reviewed: September 27, 2016
March 29, 2016
March 25, 2008
June 21, 2005

Signature of Chair: 
Jim Williams

I. PURPOSE AND SCOPE

This policy establishes guidelines with respect to Qualified Domestic Relations Orders authorized by Chapter 804, Texas Government Code.

A "Qualified Domestic Relations Order" (QDRO) is a legal instrument which provides for the redirection of a portion of City of Austin Employees' Retirement System (COAERS or System) benefits from a COAERS Member (or "Participant") to another person (the "Alternate Payee"). A QDRO may be in conjunction with a divorce or the support of a minor child.

II. REQUIREMENTS FOR QUALIFIED DOMESTIC RELATIONS ORDERS RELATED TO DIVORCE

- A. The Executive Director will establish, in consultation with the General Counsel, one or more model QDRO forms. The model form(s) will be provided to assist in the development of individual QDROs acceptable to the System, but will not be mandatory provided that the required provisions of the model QDRO form are included and provided that, in the case of an award of a portion of the Participant's monthly annuity, the dollar amount of the Alternate Payee's portion of the Participant's monthly annuity is specified in the QDRO. Any QDRO found by the Executive Director to meet the requirements of Chapter 804 and this policy may be approved by the Executive Director. A copy of the final divorce decree may be required in addition to the proposed QDRO. All proposed QDROs will be reviewed by the General Counsel and will become effective only upon final approval by the Executive Director.
- B. QDROs may be approved and paid either in the form of a lump-sum payment or as a portion of the benefits otherwise payable to the Participant under the Plan.
- C. **Lump-Sum Disbursement** - The following are applicable to QDROs that provide for a lump-sum payment:
 1. **Specified Lump-Sum Less Than Participant's Deposits**
 - a. If the lump-sum amount does not exceed the amount of the Participant's contributions plus accumulated interest on deposit with the System at the time the QDRO is approved, the lump-sum amount will be paid to the Alternate Payee as soon as administratively feasible.
 - b. Upon approval of a QDRO providing for payment of a lump-sum amount that is less than the amount of the Participant's contributions plus accumulated interest then on deposit with the System, the lump-sum amount shall become an asset payable by the System to the Alternate Payee. Such amount shall be segregated from the

Participant's account and paid to the Alternate Payee as provided in this policy. In the event of the Alternate Payee's death, when payable, the amount will be paid to a beneficiary designated by the Alternate Payee on the most recent valid Beneficiary Designation Form filed with the System or, if none, to the Alternate Payee's estate.

2. Specified Lump-Sum Greater Than Participant's Deposits

- a. A QDRO should not award a lump-sum amount that exceeds the Participant's contributions plus accumulated interest on deposit with the System.
- b. If a QDRO purports to award the Alternate Payee a lump-sum amount greater than the amount of the Participant's contributions and accumulated interest on deposit with the System, the lump-sum will not be paid as a lump-sum unless the Participant thereafter voluntarily terminates membership by withdrawal of deposits prior to retirement. However, in that event, the amount of the lump-sum to the Alternate Payee may not exceed the amount of the Participant's contributions and accumulated interest.
- c. If the lump-sum amount is not paid and the Participant retires, the lump-sum amount will be converted to the actuarially equivalent proportionate amount of the periodic payments payable to the Participant as a retirement benefit, as determined by the actuarial consultant to the System (see Section D. below).
- d. Upon approval of a QDRO that provides for the payment of a lump-sum amount that is greater than the amount of the Participant's contributions plus accumulated interest then on deposit with the System, the lump-sum amount shall not become an asset payable by the System to the Alternate Payee. Such amount shall not be segregated from the Participant's account but shall be paid to the Alternate Payee only as provided in and subject to this policy.

3. Participant's Retirement Benefit

If a lump-sum payment is made, the Participant's benefits will be reduced and any subsequent retirement annuity will be reduced in an actuarially equivalent amount as determined by the actuarial consultant to the System.

4. Lump-Sum Distribution After Retirement

A QDRO providing for a lump-sum distribution will not be approved after the retirement of the Participant.

- D. **Retirement Benefit** – An approved QDRO may award the Alternate Payee a portion of any benefits payable with respect to the Participant which the Participant may be entitled to receive under the Plan by way of any annuity that may become payable as a result of the Participant’s participation in the Plan; provided that no portion of the Alternate Payee’s award shall be paid from the portion of the Participant’s benefit, if any, paid from the Restoration Plan provided for in Resolution No. 1999-11-23. The portion of the Alternate Payee’s award that would have been paid from the Restoration Plan, if the formula for determining the Alternate Payee’s award was applied proportionately to the Participant’s payments from the Basic Plan and the Restoration Plan, respectively (the “Restoration Plan Portion”), shall be added to the amount paid to the Alternate Payee from the Basic Plan and subtracted from the amount paid to the Alternate Payee from the Restoration Plan (with the result being that no amount is paid to Alternate Payee from the Restoration Plan). The Restoration Plan Portion shall be subtracted from the amount paid to the Participant from the Basic Plan and added to the amount paid to the Participant from the Restoration Plan¹. The Participant’s benefits will be reduced in an actuarially equivalent amount as determined by the actuarial consultant to the System.
- E. **Death of Participant and/or Alternate Payee** - If the Participant dies prior to termination of membership or retirement, no amount will be paid to the Alternate Payee unless the Alternate Payee is designated as a beneficiary on the most recent valid Beneficiary Designation Form executed and filed with the System by the Participant. If the Participant dies after retirement, any amounts then being paid to the Alternate Payee will terminate and be paid to the Participant’s designated beneficiary (which may include the Alternate Payee if so designated by the Participant on the most recent valid Beneficiary Designation Form on file with COAERS). Upon the Alternate Payee’s death, all remaining benefits are paid to the Participant or his/her designated beneficiary.
- F. **Life Annuity or Lump-Sum Payment In Lieu of Benefits Awarded by QDRO**

1. **Withdrawal of Deposits Prior to Payment of Future Monthly Annuity Payments.**

Under the authority set forth in Section 804.004 of the Texas Government Code, if a Participant applies for a withdrawal of deposits after a QDRO

¹ Example: Alternate Payee is awarded 50% of the Participant’s benefit, which is \$1,000 per month (making the Alternate Payee’s award \$500). Of the \$1,000, \$800 is paid to the Participant from the Basic Plan and \$200.00 is paid to the Participant from the Restoration Plan. (If the Alternate Payee’s award was applied proportionately to the payments from the Basic Plan and the Restoration Plan, the Alternate Payee would receive \$400 from the Basic Plan and \$100 from the Restoration Plan. The \$100 is the Restoration Plan Portion). In accordance with this policy, the Alternate Payee’s \$500 award shall be paid from the Basic Plan. The Participant’s monthly post-QDRO benefit would be \$500, with \$300 paid from the Basic Plan and \$200 from the Restoration Plan.

awarding a portion of the Participant's future monthly annuity to an Alternative Payee has been accepted by COAERS, the annuity awarded to the Alternate Payee shall be converted to a lump sum payment in an amount that is the actuarial equivalent of the interest awarded to the Alternate Payee under the QDRO. The lump sum payment will be disbursed to Alternate Payee at the time that the deposits are disbursed to the Participant.

2. Request of Participant and Alternate Payee.

The Executive Director is further authorized to approve a written request signed by both the Participant and the Alternate Payee to convert the Alternate Payee's award under a QDRO that has been accepted by COAERS as provided in Section 804.004 and this paragraph. If the QDRO awards the Alternate Payee a monthly annuity, the Executive Director may authorize a lump sum in an amount that is the actuarial equivalent of the annuity awarded in the QDRO be paid in lieu of the annuity. If the QDRO awards the Alternate Payee a lump sum, the Executive Director may authorize that a monthly annuity in an amount that is the actuarial equivalent of the lump sum awarded in the QDRO be paid in lieu of the lump sum. The Executive Director's decision to deny a request to convert a QDRO award as provided in this section is final and may not be appealed.

3. Effect of Conversion of Award on Participant's Benefits.

When an interest in a QDRO is converted to an alternative method of payment as authorized in this Section, the benefit payable to the Participant shall be reduced by the interest in the benefit awarded to the Alternate Payee by the QDRO.

III. REQUIREMENTS FOR QUALIFIED DOMESTIC RELATIONS ORDERS RELATED TO CHILD SUPPORT

Any QDRO for support of a dependent child which meets appropriate legal requirements may be approved by the Executive Director.