

COMMONWEALTH OF KENTUCKY
 FAMILY/CIRCUIT COURT
DIVISION
CASE NO.

PETITIONER

V.

RESPONDENT

QUALIFIED DOMESTIC RELATIONS ORDER
TO DIVIDE TRS 4 MEMBER'S BENEFITS

On this _____ day of _____, 20__, this matter coming on upon application of the parties for a Qualified Domestic Relations Order under the Internal Revenue Code and KRS 161.700:

And this Court having personal jurisdiction over both the parties to the above-styled action and the subject matter of this Order, having examined and considered the pleadings files herein, and being well and duly advised, makes the following findings of fact and issues the following orders:

FINDINGS OF FACT

1. "Participant" _____
Participant TRS Member ID _____
Mailing Address: _____
City _____ State ____ Zip _____
2. "Alternate Payee" _____
Mailing Address: _____
City _____ State ____ Zip _____
3. The Alternate Payee is the Participant's :
_____ Current or Former Spouse _____ Child or Other Dependent
4. "Retirement System" is the Teachers' Retirement System ("TRS")
479 Versailles Road
Frankfort, Kentucky 40601
5. The parties were married on_____.
6. The parties' decree of dissolution of marriage was entered on_____.

7. An action seeking an equitable dissolution of the parties' marital property was filed and a judgment dividing said property was entered by this Court, including the parties' agreement regarding the division of retirement benefits in a defined benefit plan containing marital property. "Benefits" as referred to in this Order refers to the monthly service or disability retirement allowance which the Participant may receive in the future or is currently receiving from the foundational benefit, a one-time disbursement, or if the participant is retired and receiving a retirement allowance, an annuity from the Participant's supplemental benefit or a refund of the contributions posted to the Participant's foundational or supplemental benefit upon Participant's request, should the Participant terminate employment in a TRS-covered position before becoming eligible for a retirement allowance.

8. This Order applies to:

an active account from which the Participant is **not** currently receiving a benefit; **or**

a retired account from which the Participant **is** currently receiving a benefit. The date of retirement was _____, 20____.

the Participant's foundational benefit

the Participant's supplemental benefit

WHEREFORE, based upon the foregoing Findings of Fact, the Court concludes as a matter of law that the non-member spouse child(ren) or other dependent(s) is entitled to the entry of this Order directing the distribution, in the manner set forth, to him/her or his/her marital share of a portion of the benefits payable by TRS to the Participant.

THEREFORE, IT IS HEREBY ORDERED:

1. FOUNDATIONAL BENEFIT – ACTIVE OR RETIRED MEMBERS TRS shall withhold from the monthly benefits payable to the Participant and pay to the Alternate Payee, in accordance with 102 KAR 1:380, **either Option A, Option B or Option C** as indicated by the parties or their legal counsel, as follows:

OPTION A - Indefinitely Recurring Payments

(FILL IN ONE LINE ONLY)

\$ per month until the death of either the Participant or Alternate Payee and only when the Participant receives a benefit (subject to discount pursuant to 102 KAR 1:380 Sec. 7(4));

OR

% per month until the death of either the Participant or Alternate Payee and only when the Participant receives a benefit.

OPTION B – Payment of a Fixed Sum over a Definite Period of Time

\$ per month for a period of months only when the Participant receives a benefit (subject to discount pursuant to 102 KAR 1:380 Sec. 7(4));

OPTION C – Payment Determined at Retirement

A percentage per month to be determined by TRS utilizing a fraction, the numerator of which shall be the number, to be provided by the parties or their legal counsel, of the years of marriage during which the Participant was an active, contributing member of TRS (including service credit purchased during the marriage) divided by the number of years of accrued service credit at the Participant's retirement. The percentage shall be calculated pursuant to the formula set forth in 102 KAR 1:380 Section 7.

REFUND OF PARTICIPANT'S CONTRIBUTIONS

If the Participant receives, at Participant's request, a **refund** of the contributions posted to the Participant's foundational benefit account as a result of termination of Participant's employment in a TRS-covered position before becoming eligible to apply for a benefit, TRS shall withhold from the refund and pay to the Alternate Payee either a sum certain or a percentage as determined by the Court or agreed by the parties or based upon the service accrued during the marriage. **(Complete ONLY ONE)**

\$
 %
 % based upon marital service

2. SUPPLEMENTAL BENEFIT – ACTIVE MEMBERS TRS shall withhold and, within sixty days of Participant's effective TRS retirement date from active contributing service, pay as a one-time disbursement to the Alternate Payee in accordance with 102 KAR 1:380, the amount indicated by the parties or their legal counsel, as follows:

\$ with or without interest, accrued as of the date of dissolution of marriage

REFUNDS – FOLLOWING TERMINATION OF PARTICIPANT'S EMPLOYMENT IN A TRS-COVERED POSITION (before becoming eligible to retire)

\$ or % of Participant's refund of the contributions posted to the Participant's supplemental benefit (to which the Participant is entitled under KRS 161.635(4) and 161.636(4)) shall be paid to the Alternate Payee.

3. SUPPLEMENTAL BENEFIT – RETIRED MEMBERS TRS shall withhold and pay to the Alternate Payee in accordance with 102 KAR 1:380, the following options as are applicable to the retired member’s supplemental benefit and as indicated by the parties or their legal counsel, as follows:

OPTION A - Annuity

\$

OR

%

OR

OPTION B – One-time disbursement from remaining balance

\$

OR

%

CHILD SUPPORT

The Retirement System shall pay to the Alternate Payee child(ren)/dependent(s) as follows:

Name of each child/dependent	Monthly Payment

Payments to Alternate Payee child(ren)/dependent(s) shall terminate:

upon attaining age eighteen (18); or

upon date certain of the first day of , 20 .

Payments withheld for support of child(ren)/dependent(s) shall be made payable to “Kentucky Child Support Enforcement” and mailed to:

Centralized Collections Unit
P.O. Box 14059
Lexington, Kentucky 40502-4059

Furthermore, in order to ensure that the Participant is properly credited for child support obligation, the Retirement System shall include the following information on the payment, Participant’s:

- (1) Name; **and** (2) Social Security number.

4. **If the Participant's retirement benefit has already commenced**, payments to the Alternate Payee shall commence in the calendar month following the date the Retirement System receives a certified copy of this Order from the court clerk.
5. **If the Participant's retirement benefit has not yet commenced**, payment to the Alternate Payee shall commence in the month in which the Participant receives the first benefit payment or the month in which the Participant receives a refund. One-time disbursements from the supplemental benefit are payable within sixty (60) days of Participant's effective retirement date with TRS.
6. The Alternate Payee shall receive his/her share of the Participant's retirement benefit in such payment form as said retirement benefit is paid to the Participant, except that the Alternate Payee shall be entitled to only a one-time distribution from the supplemental benefit if the Participant has not yet retired.
7. **If this Order awards a fixed dollar amount of the foundational benefit**, instead of a percentage, to be paid to the Alternate Payee spouse, the payments to the Alternate Payee shall:
(Select only one)
 - not** be recalculated or increased annually to include a share of the cost of living adjustment provided to the Participant; or
 - be recalculated or increased annually at the beginning of the fiscal year to include a share of the cost of living adjustment provided to the Participant pursuant to KRS 161.700(10)(b).
8. Payments to the Alternate Payee shall terminate upon the first of the following to occur: the death of the Participant; the death of the Alternate Payee; or, the termination or suspension of the Participant's retirement benefits, or for any other reason otherwise provided for in this Order.
9. Payments to the Alternate Payee shall or shall **not** terminate upon the remarriage of the Alternate Payee.
10. The processing fee due the Retirement System shall be paid: (check one)
 - by the Participant;
 - by the Alternate Payee;
 - equally by the Participant and Alternate Payee; or
 - N/A – child support only.
11. If the Alternate Payee dies before the Participant, the entire, remaining account value shall be restored to the Participant.
12. Nothing in this Order shall be construed to require the Retirement System to provide the Alternate Payee any type of form or benefit or any option otherwise payable to the Participant or to provide increased benefits to the Alternate Payee or to pay benefits to the Alternate Payee which are required to be paid to another alternate payee under another Order previously determined to be a Qualified Domestic Relations Order.
13. Nothing in this Order shall be construed to require the Retirement System to offer or provide the Alternate Payee a life insurance benefit or health insurance coverage via the plan administered for the benefit of the Participant.

14. The Alternate Payee shall keep the Retirement System apprised of any changes in Alternate Payee's mailing address or instructions as to direct deposit of funds due pursuant to this Order. The Alternate Payee is directed to timely submit to the Retirement System all documents that are required to comply with this Order. The Retirement System shall not be liable for failure to make payments to the Alternate Payee if the Retirement System does not have the documents required under this Order or 102 KAR 1:320.
15. The Participant shall keep the Retirement system apprised in writing of any event which would cause the payments to the Alternate Payee to cease. The Retirement System shall not be liable for payments to the Alternate Payee if the Participant has not informed the Retirement System in writing of the need to cease such payments.
16. Should the Alternate Payee become aware of the Participant's death, Alternate Payee is ordered to immediately inform TRS in writing. The Alternate Payee is ordered to immediately return any payments made pursuant to this Order that are received by the Alternate Payee after the death of the Participant. The Alternate Payee is ordered to immediately inform the retirement system in writing of his or her remarriage if under this Order remarriage terminates payments to the Alternate Payee. The Alternate Payee is ordered to immediately return to TRS any payments made pursuant to this Order that may be received by Alternate Payee after the remarriage if under this Order remarriage terminates payments to the Alternate Payee.
17. The Alternate Payee shall report any payments received on any appropriate income tax return in accordance with the regulations or provisions of the Internal Revenue Code in effect at the time payments are issued by TRS. TRS is authorized to issue a Form W-2P or Form 1099R on any direct payments made to the Alternate Payee.
18. This Order shall be administered and interpreted in conformity with Section 414(p) and 401(a)(13) of the Internal Revenue Code of 1986, as amended and all other state or federal law applicable to qualified domestic relations orders.
19. In accordance with the federal Consumer Credit Protection Act (CCPA), the amount withheld shall not exceed: (1) fifty (50%) percent of a noncustodial parent's disposable benefits if he/she is supporting a spouse, dependent child or both, other than a party in this support Order; or (2) sixty (60%) percent of the noncustodial parent's disposable benefits if he/she is not supporting another individual.
20. This Court shall retain jurisdiction to modify or enforce this Order.
21. The Clerk of the Court shall serve upon the Administrator of the Retirement System a certified copy of this Order. So long as the parties have adhered to the requirements regarding preapproval of the Order set forth in 102 KAR 1:380, this Order shall take effect immediately upon receipt by the Retirement System and shall remain in effect until any date certain set forth herein or upon further orders from this Court.
22. This Order shall expire upon payment in full of the agreed sum set forth in Sections 1, 2 or 3, the satisfaction of the conditions set forth in Section 8 or Section 9, or emancipation of the child(ren)/dependent(s).

23. The Participant's eligibility to receive retirement benefits from the Retirement System and the amount of any such benefits shall be governed solely by the law of the Commonwealth of Kentucky.
24. This Order supersedes any previous order to divide the Participant's benefits issued in connection with the termination of this marriage, including the judgment, decree or order terminating this marriage.

SO ORDERED this day of , 20

Judge _____

_____ Family/Circuit Court, Div. _____

This Order was reviewed and approved as to compliance with KRS 161.700 & 102 KAR 1:380 on the ____ day of _____, 20 ____.

Teachers' Retirement System of the State of Kentucky

APPROVE/SUBMIT

Petitioner/Attorney for Petitioner

Date

Respondent/Attorney for Respondent

Date

CERTIFICATION OF SERVICE

I, Clerk of the above Court, do hereby certify that an attested copy of the foregoing Qualified Domestic Relations Order to Divide Teachers' Retirement System 4 Members' Benefits has been served by mailing same to the following on this the _____ day of _____, 20 ____ to:

1. Teachers' Retirement System
479 Versailles Road
Frankfort, KY 40601

2. _____

3. _____

4. _____

Clerk _____ Family/Circuit Court

By: _____ D.C.