

**FIRE AND POLICE PENSION FUND, SAN ANTONIO
QUALIFIED DOMESTIC RELATIONS ORDERS**

POLICY STATEMENT

1.01 PURPOSE

The Board of Trustees ("Board") of the Fire and Police Pension Fund, San Antonio (the "The Fund") has adopted Subchapters A and C of Chapter 804 of the Government Code, as permitted by Section 804.002 of the Government Code, at its regular meeting held on the **30th day of December, 2008**, adopted this policy and procedure for determining the qualified status of domestic relations orders and administering distributions thereunder, which shall be effective for all purposes on **1st day of January, 2009**. This policy may change from time to time as approved by the Board.

1.02 DEFINITIONS

- **Alternate Payee:** means any spouse, former spouse, child or other dependent of a Member or Retired Member who is recognized by a DRO as having a right to receive all or a portion of the benefits payable by the Fund with respect to such Member or Retired Member.
- **Domestic Relations Order ("DRO"):** means any judgment, decree or order (including approval of a property settlement agreement) which relates to the provision of child support, alimony payments or marital property rights to a spouse, former spouse, child or other dependent of a Member or Retired Member, and is made pursuant to the domestic relations laws of a state (including community property law).
- **Member:** means a member of the Fund as defined in Article 6243o, V.T.C.S.
- **Plan:** means the pension plan created under and administered in accordance with the provisions of Article 6243o, V.T.C.S., as such pension plan may be amended from time-to-time.
- **Qualified Domestic Relations Order ("QDRO"):** means a DRO which creates or recognizes the existence of the rights of an Alternate Payee, or assigns to an Alternate Payee the right to receive all or a portion of the benefits payable to a Member or Retired Member of the Fund, which directs the Fund to disburse benefits to the Alternate Payee, and which meets the requirements of Section 804.003 of the Government Code.
- **Retired Member:** means a retiree as defined in Article 6243o, V.T.C.S. who was a Member.

1.03 STATE LAW

Pursuant to Section 804.003 of the Texas Government Code, antialienation provisions contained in any public retirement system shall apply to the creation, assignment, recognition, or enforcement of a right to any benefit payable with respect to a member or retiree of a public retirement system pursuant to a domestic relations order unless the order is determined to be a QDRO. Also, the administrative head of the retirement system to which a DRO is submitted (or his or her designee) has exclusive authority to determine whether any DRO is a QDRO, and such a determination may be appealed only to the board of trustees of the public retirement system. Furthermore, a court does not have jurisdiction over a public retirement system that has adopted Subchapters A and C of Chapter 804 of the Government Code with respect to a divorce or other domestic relations action in which an alternate payee's right to receive all or a portion of the benefits payable to a member or retiree under the public retirement system is created or established. A party to such an action who attempts to make a public retirement system, such as the Fund, a party to the action contrary to the provisions of Section 804.003 of the Government Code shall be liable to the public retirement system for its costs and attorney's fees.

1.04 IN ORDER TO QUALIFY AS A QDRO, A DRO MUST:

1. Clearly specify the name, social security number, and last known mailing address (if any) of the Member or Retired Member and the name, social security number, and mailing address of each Alternate Payee covered by the DRO.
2. Clearly specify the amount or percentage of the Member's or Retired Member's benefits to be paid by the Fund to each Alternate Payee covered by the DRO, or the manner in which such amount or percentage is to be determined.
3. Clearly specify the number of payments or the period to which such order applies.
4. Clearly specify that the DRO applies to the Fund.
5. Provide clearly for each possible benefit distribution allowable to each Alternate Payee.
6. Provide that the amount awarded to the Alternate Payee will be reduced proportionately if the benefits of the Member or Retired Member are reduced due to a change in law or early retirement.

1.05 A DRO WILL NOT BE A QDRO IF IT:

1. Requires the election of a particular benefit payment plan or option.
2. Attempts to award any future benefit increases that may be provided or required by the legislature, earned by the performance of services after the date of the DRO, or attributable to promotions or pay increases after the date of the DRO.

3. Attempts to designate or treat the former spouse (or some other person) as an eligible survivor for purposes of entitlement to survivor benefits or otherwise requires payments to any Alternate Payee after the death of the Member or Retired Member.
4. Requires the Fund to provide any type or form of benefit, or any option, not otherwise provided under the terms of the Plan or to provide increased benefits determined on the basis of actuarial value at the time payments commence.
5. Requires the Fund to pay any benefits to an Alternate Payee which are required to be paid to another alternate payee under another order previously determined to be a QDRO.
6. Requires the Fund to pay any benefits to an Alternate Payee before the date the Member retires, receives a refund of Member contributions, or receives any other distribution from the Fund that is required by law;
7. Requires the payments awarded to an Alternate Payee to continue after the Alternate Payee's death.
8. Requires any action on the part of the Fund contrary to its governing statutes or the Plan, other than the direct payment of the benefit awarded to an Alternate Payee.
9. Makes the award of an interest to an Alternate Payee contingent upon any condition other than those conditions resulting in the liability of the Fund for payments under the Plan.
10. Requires the designation of a particular person as the recipient of benefits in the event of the death of a Member or Retired Member.

1.06 THE FUND WILL PROVIDE INFORMATION

1. To the extent consistent with efficient administration and applicable law, the administrative head of the Fund (or designee) will provide information to persons who expect to be parties to a QDRO involving benefits under the Plan.
2. The Fund will request that a Member or Retired Member execute an appropriate authorization and consent regarding the disclosure of benefit information necessary in order to prepare a proposed DRO.
3. Persons who expect to be parties to a QDRO are encouraged to obtain a copy of the Fund's Model QDRO or request a review of their proposed DRO before its submission to the domestic relations court.

4. The Fund will, if requested, provide the Member, and other parties that have been authorized to receive the information, with a computation of the Member's accrued benefit and Member contributions as of the actual or, as the case may be, anticipated date of the divorce.

1.07 PROCEDURE

1. Upon receipt of a certified copy of a DRO, the administrative head of the Fund (or designee) will:

(A) Notify the Member or Retired Member in writing and each Alternate Payee designated under the certified copy of a DRO of the date of receipt of such certified copy of the DRO by the Fund.

(B) Send copies of this Policy Statement to:

(i) The Member or Retired Member and each Alternate Payee specified in the certified copy of the DRO (at the mailing address specified in the order); and

(ii) The attorneys of record for the Member or Retired Member and each Alternate Payee set forth in the certified copy of the DRO.

2. The administrative head of the Fund (or designee) will notify the Member or Retired Member and the Alternate Payee(s) of the determination of whether or not the certified copy of the DRO is a QDRO no later than one hundred twenty (120) days after the Fund's receipt of the certified copy of a DRO ("Notice of Determination").

3. If the determination is made that the certified copy of the DRO is not "qualified" the Notice of Determination will state the basis upon which such determination is made.

4. While the issue of whether a certified copy of a DRO is a QDRO is being determined in accordance herewith any amounts which would have been payable to an Alternate Payee if the QDRO had been determined to be a QDRO shall be separately accounted for. Such amounts shall not be paid to the Member or Retired Member during the determination period.

5. If the certified copy of a DRO is determined to be a QDRO, the administrative head of the Fund (or designee) shall pay the separately accounted for amounts to the person or persons entitled thereto without interest.

6. If it is determined that the certified copy of a DRO is not a QDRO, or if no determination is made within 18 months following the Fund's receipt of the certified copy of a DRO, then the Fund shall, when and to the extent otherwise appropriate, pay the separately accounted for amounts without interest to the person or persons who would have been entitled to such amounts as if there had been no DRO and thereafter may treat the DRO as having no applicability.

7. Any determination that the certified copy of a DRO is a QDRO which is made after the 18-month period described above will be applied prospectively only.

8. If any person attempts to make the Fund a party in any divorce or other domestic relations action in which an Alternate Payee's right to receive any portion of benefits payable by the Fund to a Member or Retired Member, the administrative head of the Fund may hire legal counsel to take any and all appropriate action to (i) have the Fund dismissed as a party to such action or proceeding, and (ii) recover all costs and attorneys fees incurred by the Fund in connection therewith from the party or parties who made the Fund a party to such action or proceeding.

9. From time to time, various parties may provide the Fund with a certified copy of an order directing an employer to withhold earnings for child support from a Member's or Retired Member's pay and/or pension ("Child Support DRO"). The Fund has been advised by its legal counsel that such a Child Support DRO may not be considered a QDRO unless it clearly designates the FUND as the plan to which it applies. In the event the Fund receives a Child Support DRO that does not specifically identify the Fund as the plan to which it applies, such DRO will not be determined to be a QDRO. In addition, the administrative head of the Fund (or designee) will deliver a notice to the appropriate office of the Attorney General's Child Support Division or other source of the DRO indicating why the Child Support DRO is not a QDRO.

10. Alternate Payees will be treated by the Fund in the same manner as Members and Retired Members for notice and reporting requirements, such as for providing copies of Summary Plan Descriptions, Summary Annual Reports, etc.

11. Alternate Payees who are former spouses will receive Forms 1099R or such other tax forms as may be required by the Internal Revenue Service from time to time.

12. The administrative head's designee, for purposes hereof, need not be an employee of the Fund and may, for example, be the Fund's legal counsel.