

ARKANSAS REGISTER

FILED Transmittal Sheet

OCT 14 1993



W. J. "BILL" McCUEN
SECRETARY OF STATE

W. J. "Bill" McCuen
Secretary of State
State Capitol Rm. 010
Little Rock, Arkansas 72201-1094

For Office
Use Only:

Effective Date 11/4/93 Code Number 088.00.93--001

Name of Agency Arkansas Teacher Retirement System

Department Administration

Contact Person Dr. Betty Anderson

Statutory Authority for Promulgating Rules Arkansas Code Sec. 24-7-301

Intended Effective Date		Date
<input type="checkbox"/> Emergency	Legal Notice Published	<u>7-12-93</u>
<input checked="" type="checkbox"/> 20 Days After Filing	Final Date for Public Comment	<u>8-10-93</u>
<input type="checkbox"/> Other	Filed With Legislative Council	<u>8-12-93</u>
	Reviewed by Legislative Council	<u>8-20-93</u>
	Adopted by State Agency	<u>8-10-93</u>

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.

Betty R. Anderson
Signature

.Deputy Director
Title

10/8/93
Date

FILED

**QUALIFIED DOMESTIC RELATIONS ORDERS
FOR ACTIVE MEMBERS**

OCT 14 1993

W. J. "BILL" McCUEN
SECRETARY OF STATE

BY _____

DEFINITIONS

(1) "Alternate payee" means a spouse, former spouse, child or other dependent of a participant under Arkansas law.

POLICIES

1. Qualified domestic relations orders issued by a chancery court of the State of Arkansas and which apply to a participant of the Teacher Retirement System (retirement plan) shall be accepted by the system, subject to the following restrictions:
 - (a) Benefits to the alternate payee shall begin when the participant retires, or ceases employment in a covered position and receives a refund of contributions.
 - (b) participants receiving disability benefits, as defined in Section 24-7-704 of the Arkansas Code of 1987, Annotated, from the retirement plan shall not be subject to qualified domestic relations orders.
 - (c) Pursuant to Act 1143 of 1993, a model qualified domestic relations order is added as Addendum A to these policies. Any qualified domestic relation order issued by a chancery court must comply with the content of and substantially follow the form set out in the addendum.
 - (d) When a qualified domestic relations order is received by the retirement plan,
 - (1) the plan administrator shall promptly notify the participant and the alternate payee of the receipt of such order, and
 - (2) within a reasonable time after receipt of the order, determine whether the order is a qualified domestic relations order as set out in Addendum A to these policies and notify the participant and the alternate payee of such determination.

- (e) Qualified domestic relations orders received prior to a participant's retirement or cessation of employment will be handled as set out in (d) above, but any amounts payable to the alternate payee will be held in the participant's account until due to be paid.
- (f) Nothing contained in the qualified domestic relations order shall be construed to require the retirement plan to provide an alternate payee any type or form of benefit or option not otherwise available to the participant; to provide the alternate payee actuarial benefits not available to the participant; or to pay an benefits to the alternate payee which are required to be paid to another alternate payee under a previous qualified domestic relations order.
- (g) Should the alternate payee die prior to the receipt of benefits under the qualified domestic relations order, the entire amount due the alternate payee shall revert to the participant.
- (h) Should the participant die prior to retirement, the alternate payee shall receive the same percentage of the participant's contributions, if any, as was awarded by the court in dividing the marital property. In no case shall be the alternate payee receive monthly benefits from the retirement plan.
- (i) Monthly benefits paid the alternate payee shall be computed on the benefit formula in effect at the time of the participant's retirement, but shall include only service credit earned by the participant during the marital relationship.
- (j) The retirement plan shall have the right to make any necessary correction to the monthly benefit amount paid both to the participant and the alternate payee and to recover from either, or both, any overpayments made.

- (k) If the alternate payee fails at any time to notify the retirement plan of any mailing address change, the retirement plan shall not be eligible for failure to make the payments as due.
- (l) Should the retirement plan determine that the alternate payee's monthly benefits are less than \$20.00, the participant shall be paid the total benefit due and shall be responsible for paying the alternate payee the amount due.
- (m) Qualified domestic relations order received by the retirement plan before the effective date of Act 1143 of 1993 may be honored but only if the participant or the alternate payee notifies the plan, and it is determined that the order is a qualified order as set out in Addendum A.

QUALIFIED DOMESTIC RELATIONS ORDERS FOR RETIRED MEMBERS

DEFINITIONS

(1) "Alternate payee" means a spouse, former spouse, child or other dependent of a participant under Arkansas law.

POLICIES

1. Qualified domestic relations orders issued by a chancery court of the State of Arkansas and which apply to a participant of the Teacher Retirement System (retirement plan) shall be accepted by the system, subject to the following restrictions:
 - (a) Participants receiving disability benefits, as defined in Section 24-7-704 of the Arkansas Code of 1987, Annotated, from the retirement plan shall not be subject to qualified domestic relations orders.
 - (b) Pursuant to Act 1143 of 1993, a model qualified domestic relations order is added as Addendum A to these policies. Any qualified domestic relation order issued by a chancery court must comply with the content of and substantially follow the form set out in the addendum.
 - (c) When a qualified domestic relations order is received by the retirement plan,
 - (1) the plan administrator shall promptly notify the participant, and the alternate payee of the receipt of such order, and
 - (2) within a reasonable time after receipt of the order, determine whether the order is a qualified domestic relations order as set out in Addendum A to these policies and notify the participant and the alternate payee of such determination.
 - (d) Nothing contained in the qualified domestic relations order shall be construed to require the retirement plan to provide an alternate payee any type or form of

benefit or option not otherwise available to the participant; to provide the alternate payee actuarial benefits not available to the participant; or to pay an benefits to the alternate payee which are required to be paid to another alternate payee under a previous qualified domestic relations order.

- (e) Should the alternate payee die prior to the receipt of benefits under the qualified domestic relations order, the entire amount due the alternate payee shall revert to the participant.
- (f) Should the participant die prior to retirement, the alternate payee shall receive the same percentage of the participant's contributions, if any, as was awarded by the court in dividing the marital property. In no case shall be the alternate payee receive monthly benefits from the retirement plan.
- (g) The retirement plan shall have the right to make any necessary correction to the monthly benefit amount paid both to the participant and the alternate payee and to recover from either, or both, any overpayments made.
- (h) If the alternate payee fails at any time to notify the retirement plan of any mailing address change, the retirement plan shall not be liable for failure to make the payments as due.
- (i) Should the retirement plan determine that the alternate payee's monthly benefits are less than \$20.00, the participant shall be paid the total benefit due and shall be responsible for paying the alternate payee the amount due.
- (j) Qualified domestic relations order received by the retirement plan before the effective date of Act 1143 of 1993 may be honored but only if the participant or

the alternate payee notifies the plan, and it is determined that the order is a qualified order as set out in Addendum A.

- (k) During any period while it is being determined if the order is a qualified domestic relations order, the plan administrator shall separately account for the amounts which would have been payable to the alternate payee during that time.

MODEL QDRO LANGUAGE FOR RETIRED MEMBERS
OF THE ARKANSAS TEACHER RETIREMENT SYSTEM

IN THE CHANCERY COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF

_____ NO.

DEFENDANT

QUALIFIED DOMESTIC RELATIONS ORDER

(Introduction describing how the case came before the Court for disposition.) The Court finds and orders that this Qualified Domestic Relations Order, pursuant to Act 1143 of 1993 as amended, is an integral part of and is incorporated into the judgment, decree or order of this Court entered _____ (date) which relates to the provisions therein for child support, alimony or marital property rights, including approval of a property settlement agreement, awarded to a spouse or former spouse, child or other dependent of _____ (name of party), a participant in _____ (name of plan), hereafter referred to as "the Plan."

I.

BACKGROUND INFORMATION

[MEMBER'S NAME AND SOCIAL SECURITY NUMBER] is the participating member whose last know address is [MEMBER'S ADDRESS]. The member's date of birth is [MEMBER'S D.O.B.].

[ALTERNATE PAYEE'S NAME AND SOCIAL SECURITY NUMBER] is the alternate payee whose last know address is [ALTERNATE PAYEE'S ADDRESS]. The alternate payee's date of birth is [ALTERNATE PAYEE'S D.O.B.].

The participating member and the alternate payee were married on [DATE OF MARRIAGE].

II.

BENEFITS

Benefits under the plan are distributed as follows: (Choose one)

1. The alternate payee is awarded [_____%] of the monthly retirement benefits as of [DATE OF DIVORCE].

[OR]

2. The alternate payee is awarded [\$_____] of the member's monthly retirement benefit as of [DATE OF DIVORCE].

III.

TIME OF BENEFIT RECEIPT

The benefits are payable to the alternate payee within a reasonable time following determination by the plan administrator that the order is a qualified relations order.

IV.

DURATION OF PAYMENTS TO ALTERNATE PAYEE (Choose one)

NOTE: Choose the appropriate optional language as applicable under the following alternatives:

- Choose option A if the benefits to the alternate payee are to be paid over the member's life under the single life annuity option with no surviving spouse annuity benefits upon the member's death.
- Choose option B if the benefits to the alternate payee are to be paid as an actuarial equivalent of the alternate payee's share of the benefit payable over the alternate payee's life.
- A. Alternate payee shall receive a single life annuity that is equal to the alternate payee's share of the benefit payable throughout the life of the participating member.
- B. Alternate payee shall receive an adjusted single life annuity that is equal to the actuarial equivalent of the alternate payee's share of the benefit payable throughout the life of the alternate payee. The alternate payee's monthly benefit may not exceed the amount that would be paid under the single life annuity.

V.

LIMITATIONS OF THIS ORDER

- C. Nothing contained in this Order shall be construed to require any Plan or Plan administrator to apply the provisions of this Order to disability benefits that the participating member may be entitled to receive.
- D. If the alternate payee dies prior to receipt of benefits under this order, the entire amount that may be due to the alternate payee reverts to the participating member.
- E. The benefit enhancements provided by the Arkansas legislature for service during the marital relationship which are adopted after the end of the marital relationship apply to the alternate payee's portion of benefits under this Order.

- F. If the participant or alternate payee receives any distribution that should not have been paid per this Order, the party is designated a constructive trustee for the amount received and shall immediately notify ATRS and comply with written instructions as to the distribution of the amount received.
- E. Alternate payee is ORDERED to provide the Plan prompt written notification of any changes in alternate payee's mailing address. ATRS shall not be liable for failing to make payments to alternate payee if ATRS does not have a current mailing address for alternate payee at time of payment.
- F. Alternate payee shall furnish a certified copy of this Order to ATRS.
- G. If payment from the Plan to the alternate payee are determined to be less than \$20.00 a month, the court orders the Plan to disburse the money to the participating member and orders the participating member to pay the alternate payee.
- H. The Court retains jurisdiction to amend this Order so that is will constitute a qualified domestic relations order under the Plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If the System determines at any time that changes in the law, the administration of the Plan, or any other circumstances make it impossible to calculate the portion of the distributions awarded to alternate payee by this Order and so notifies the parties, either or both parties shall immediately petition the Court for reformation of the Order.

IT IS SO ORDERED THIS _____ DAY OF _____, 19____,

CHANCELLOR

MODEL QDRO LANGUAGE FOR ACTIVE MEMBERS
OF THE ARKANSAS TEACHER RETIREMENT SYSTEM

IN THE CHANCERY COURT OF _____ COUNTY, ARKANSAS

PLAINTIFF

_____ NO.

DEFENDANT

QUALIFIED DOMESTIC RELATIONS ORDER

(Introduction describing how the case came before the Court for disposition.) The Court finds and orders that this Qualified Domestic Relations Order, pursuant to Act 1143 of 1993 as amended, is an integral part of and is incorporated into the judgment, decree or order of this Court entered _____ (date) which relates to the provisions therein for child support, alimony or marital property rights, including approval of a property settlement agreement, awarded to a spouse or former spouse, child or other dependent of _____ (name of party), a participant in _____ (name of plan), hereafter referred to as "the Plan."

I.

BACKGROUND INFORMATION

[MEMBER'S NAME AND SOCIAL SECURITY NUMBER] is the participating member whose last know address is [MEMBER'S ADDRESS]. The member's date of birth is [MEMBER'S D.O.B.].

[ALTERNATE PAYEE'S NAME AND SOCIAL SECURITY NUMBER] is the alternate payee whose last know address is [ALTERNATE PAYEE'S ADDRESS]. The alternate payee's date of birth is [ALTERNATE PAYEE'S D.O.B.].

The participating member and the alternate payee were married on [DATE OF MARRIAGE].

II.

BENEFITS

Benefits under the plan are distributed as follows: (Choose one)

1. The alternate payee is awarded [_____%] of the member's accrued annuity benefit as of [DATE OF DIVORCE].
[OR]

2. The alternate payee is awarded [\$ _____] of the member's accrued annuity benefit as of [DATE OF DIVORCE].

III.

TIME OF BENEFIT RECEIPT

The Plan shall begin benefit payments to the alternative payee upon the earlier event: (1) when the participating member retires or (2) ceases employment in a covered position and requests a refund of contributions.

IV.

DURATION OF PAYMENTS TO ALTERNATE PAYEE (Choose one)

NOTE: Choose the appropriate optional language as applicable under the following alternatives:

- Choose option A if the benefits to the alternate payee are to be paid over the member's life under the single life annuity option with no surviving spouse annuity benefits upon the member's death.
- Choose option B if the benefits to the alternate payee are to be paid as an actuarial equivalent of the alternate payee's share of the benefits payable over the alternate payee's life.
- A. Alternate payee shall receive a single life annuity that is equal to the alternate payee's share of the benefit payable throughout the life of the participating member.
- B. Alternate payee shall receive an adjusted single life annuity that is equal to the actuarial equivalent of the alternate payee's share of the benefit payable throughout the life of the alternate payee. The alternate payee's monthly benefit may not exceed the amount that would be paid under the single life annuity.

V.

WITHDRAWAL FROM RETIREMENT SYSTEM (Choose one)

- C. If the participating member discontinues covered employment and withdraws the member contributions in a lump sum, the alternate payee shall receive [_____%] of the member's account balance as of [DATE OF DIVORCE] accumulated with interest as required by the Plan.
[OR]
- D. If the participating member discontinues covered employment and withdraws the member contributions in a lump sum, the alternate payee shall receive [\$ _____] from the member's account balance accumulated with interest as required by the Plan.

VI.

LIMITATIONS OF THIS ORDER

- A. Nothing contained in this Order shall be construed to require any Plan or Plan administrator to apply the provisions of this Order to disability benefits that the participating member may be entitled to receive.
- B. If the alternate payee dies prior to receipt of benefits under this order, the entire amount that may be due to the alternate payee reverts to the participating member.
- C. If the participating member dies prior to retirement, the alternate payee will receive _____% share of the member's contributions as of [DATE OF DIVORCE] or \$_____ of the member's accrued annuity benefits as of [DATE OF DIVORCE].
- D. The benefit enhancements provided by the Arkansas legislature for service during the marital relationship which are adopted after the end of the marital relationship apply to the alternate payee's portion of benefits under this Order.
- E. If the participant or alternate payee receive any distribution that should not have been paid per this Order, the party is designated a constructive trustee for the amount received and shall immediately notify ATRS and comply with written instructions as to the distribution of the amount received.
- F. Alternate payee is ORDERED to provide the Plan prompt written notification of any changes in alternate payee's mailing address. ATRS shall not be liable for failing to make payments to alternate payee if ATRS does not have a current mailing address for alternate payee at time of payment.
- G. If payments from the Plan to the alternate payee are determined to be less than \$20.00 a month, the court orders the Plan to disburse the money to the participating member who shall pay same to the alternate payee.
- H. Alternate payee shall furnish a certified copy of this Order to ATRS.
- I. The Court retains jurisdiction to amend this Order so that it will constitute a qualified domestic relations order under the Plan even though all other matters incident to this action or proceeding have been fully and finally adjudicated. If the System determines at any time that changes in the law, the administration of the Plan, or any other circumstances make it

impossible to calculate the portion of the distributions awarded to alternate payee by this Order and so notifies the parties, either or both parties shall immediately petition the Court for reformation of the Order.

IT IS SO ORDERED THIS _____ DAY OF _____, 19____,

CHANCELLOR