

**STATE OF RHODE ISLAND
PROVIDENCE, SC.**

FAMILY COURT

PLAINTIFF :

*SAMPLE – OPTION #1
JOINT & SURVIVOR FULL
STATE & TEACHER*

VS. :

F.C. No.

DEFENDANT :

EMPLOYEES' RETIREMENT SYSTEM OF RHODE ISLAND
QUALIFIED DOMESTIC RELATIONS ORDER

This action having been filed pursuant to Title 15, Chapter 5 of the General Laws of the State of Rhode Island for the divorce of the parties and the Court desiring to effect a division of certain marital property between the parties:

NOW THEREFORE, in accordance with Section 15-5-16.1 of said chapter, it is

ORDERED, ADJUDGED AND DECREED, that such division of marital property be implemented in accordance with the following:

1. The *Plaintiff/Defendant* is an employee of the (*State of Rhode Island/School District*), and a participant in the Employee's Retirement System of Rhode Island (hereinafter referred to as the "Plan").

2. The last known mailing address of the Participant:

Name
Address
City, State ZIP
Date of Birth:
Social Security No.: xxx-xx-LAST FOUR DIGITS ONLY

3. The last known mailing address of the Alternate Payee:

Name
Address
City, State ZIP
Date of Birth:
Social Security No.: xxx-xx-LAST FOUR DIGITS ONLY

4. The name of the Plan Administrator:

Employees' Retirement System of Rhode Island
50 Service Avenue, 2nd Floor
Warwick, RI 02886
Phone: (401) 462-7600
Fax: (401) 462-7691

NOTICE

It shall be the responsibility of the Participant and the Alternate Payee to advise the Employees' Retirement System of Rhode Island of any change of the address stated herein.

MARITAL TERM

The Participant and the Alternate Payee were married on_____. The marriage was dissolved and a Judgment of Divorce was entered by this Honorable Court on_____.

The marital term is _____through_____. All pension benefits which are the subject of this Qualified Domestic Relations Order were accrued during the marital term and are deemed to be part of the marital assets.

The Court finds that a portion of the Participant's accrued benefits in the Employees' Retirement System of Rhode Island are attributable to the participation in the Plan during the Participant's marriage to the Alternate Payee, and therefore, such portion of the accrued benefits are part of the marital property of the Participant and Alternate Payee.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

PENSION BENEFIT

Please note that if the Participant is retired and collecting a pension benefit at the time the QDRO is filed with the Court, the benefit to the Alternate Payee will be effective the month following receipt of the QDRO by ERSRI. As such, this language should be added to this section when drafting the QDRO.

_____Percent (___%) of the Participant's accrued benefits in the Plan, based on the period of _____through_____, is to be paid to the Alternate Payee, at such time and in such manner permitted by and subject to the rules governing the Plan and any other applicable laws or regulations. The Participant shall elect Option #1, joint and survivor full benefit option upon retirement, naming the Alternate Payee as the surviving spouse pursuant to R.I.G.L. §36-10-18(a)(1). The marital portion shall be determined by multiplying the Participant's accrued benefit by a fraction (less than or

equal to 1.0), the numerator of which is the number of months of Participant's credited service in the Plan earned during the marital term, and the denominator of which is the total number of months of the Participant's credited service in the Plan as of *the date of divorce (or) the date of a retirement*. The Alternate Payee's benefit shall be calculated as if Participant had retired on *the date of divorce (or) date of retirement* and had elected the Option #1 benefit at that time.

(OR)

The sum of \$_____ per month shall be paid to the Alternate Payee from the Participant's accrued benefits in the Plan at such time and in such manner permitted by and subject to the rules governing the Plan and any other applicable laws and regulations. The Participant shall elect Option #1, joint and survivor full benefit option upon retirement, naming the Alternate Payee as the surviving spouse pursuant to R.I.G.L. §36-10-18(a)(1).

COST OF LIVING ADJUSTMENT

Please be advised that if the Participant is currently collecting a pension benefit this section must clarify if the AP is to receive a current cost of living adjustment or just future cost of living adjustments.

Alternate Payee *shall or shall not* be entitled to a proportionate share of the amount accrued during the marital term of any future cost of living adjustments at such time and in such manner as permitted by and subject to the rules governing the Plan and any other applicable rules or regulations.

DEATH BENEFIT

In the event that the Participant dies before or after receiving his/her pension, the Alternate Payee shall then be treated as a beneficiary of the ordinary death benefit. The Alternate Payee, as beneficiary of the ordinary death benefit, shall receive an amount equal to _____ Percent (___%) of the death benefit accrued during the marital term. The Participant shall execute a "Beneficiary Nomination Form" to designate the Alternate Payee as a death benefit beneficiary and submit the form to ERSRI along with this Order. The Participant shall list the Alternate Payee as a death benefit beneficiary for an amount not less than his/her proportional share. This benefit is payable in accordance with R.I.G.L. §36-10-21 or §36-10-23, as applicable, and is not an annuity benefit.

OPTIONAL ANNUITY PROTECTION

To the extent necessary to protect the Alternate Payee's interest in the Plan should the Participant die prior to his/her actual retirement from State or Municipal service, the Participant shall execute a "Beneficiary Nomination Form" naming the Alternate Payee as sole OAP primary beneficiary pursuant to R.I.G.L. §36-10-19.1(a) which grants to the Alternate Payee one-hundred percent (100%) of the Participant's retirement allowance that has accrued up to the date of the Participant's death. If the Participant is vested, this election gives the Alternate Payee the option of receiving 100% of the Participant's contribution's made through the date of death or receiving an annuity based upon the amount of retirement allowance or actuarial equivalent that has accrued at the date of death of the Participant. The form must be submitted to the Employees' Retirement System of Rhode Island, 50 Service Avenue, 2nd Floor, Warwick, RI 02886 along with this Order.

(OR)

REFUND UPON DEATH BEFORE RETIREMENT

To the extent necessary to protect the Alternate Payee's interest in the Plan should the Participant die prior to his/her actual retirement from State or Municipal service, the Alternate Payee shall receive ___ percent (___%) of the Participant's pre-retirement pension interest which was earned during the marital term. The remaining contributions shall be distributed to a designated beneficiary or beneficiaries. The Alternate Payee's pension interest and the Beneficiary's remaining amounts pursuant to this section shall be distributed through a return of contributions. The Participant shall execute a "Beneficiary Nomination Form" naming the Alternate Payee as the beneficiary of the Refund to insure that the Alternate Payee shall receive his/her proportional share of the contributions paid by the Participant during the marital term. The Participant shall include on this "Beneficiary Nomination Form" the names of the beneficiary or beneficiaries of the remaining amounts, proportionally designated. This form must be submitted to the Employees' Retirement System of Rhode Island, 50 Service Avenue, 2nd Floor, Warwick, RI 02886 along with this Order.

ACTIONS BY PARTICIPANT

The Participant shall not take any actions, affirmative or otherwise, that can circumvent the terms and provisions of this Qualified Domestic Relations Order, or that could diminish or extinguish the rights and entitlements of the Alternate Payee as set forth herein. Should the Participant take any action or inaction to the detriment of the Alternate Payee, the Participant shall be required to make sufficient payments directly to the Alternate Payee to the

extent necessary to neutralize the effects of Participant's actions or inactions and to the extent of Alternate Payee's full entitlements hereunder.

The Participant shall complete all documents necessary to facilitate said designations in an expedited manner.

CONTINUED JURISDICTION

The Court shall retain jurisdiction with respect to this Order to the extent required to maintain its qualified status and the original intent of the parties as stipulated herein. The Court shall also retain jurisdiction to enter such further Orders as are necessary to enforce the assignment of benefits to the Alternate Payee as set forth herein, including the recharacterization thereof as a division of benefits under another plan, as applicable, or to make an award of alimony, if necessary, in the event that Participant fails to comply with the provisions contained above requiring said payments to Alternate Payee.

GENERAL

In the event the Participant receives any return and/or refund of his/her accumulated contributions and interest, if applicable, prior to his/her retirement or death, the Alternate Payee shall receive an amount equal to his/her proportional share of the monies contributed during the marital term. The Participant hereby represents and warrants that his/her interest in the Plan referred to herein is not subject to another order previously determined to be a Domestic Relations Order or to any type of assignment whatsoever.

The Participant, the Alternate Payee and the Court intend this Order to be a Qualified Domestic Relations Order under the said Retirement Equity Act of 1984, Public Law No. 98397 and Section 414(p) of the Internal Revenue Code, as amended, and pursuant to the Rhode Island State Domestic Relations Laws.

APPROVED:

Plan Administrator – ERSRI

ENTERED as a Decree of this Court on the _____ day of _____, 20__

PER ORDER:

ENTER:

Judge or Magistrate

Clerk

PRESENTED BY:

Attorney

CERTIFICATION: