



## **IMPORTANT MEMBER NOTICE: Divorce & Your Benefits**

### ***What to Do If You Are Going Through or Have Already Gone Through a Divorce?***

Upon a divorce or divorce filing, it is essential that all active and retired members notify SBCERA as soon as possible. If not, you could face long delays in the payment of your current and/or future retirement benefits. Pursuant to the laws of California, if you are a member of SBCERA while you are married, your retirement benefits may be considered community property and your spouse may be entitled to an interest in the community property portion of your retirement benefit. To avoid any potential delays and nonpayment, SBCERA recommends you take the following steps:

- 1. Notify SBCERA:** When a legal separation or divorce dissolution has been filed and the former spouse is asserting a claim for a community property interest in your retirement benefit, the member and/or the other parties involved may notify SBCERA in writing of the proceedings. However, if you are already retired and earning a monthly benefit, your former spouse has the option to file a Notice of Adverse Interest to protect his or her interest in the undecided community property portion of your SBCERA benefit. This Notice of Adverse Interest may cause SBCERA to begin withholding the community property portion that your former spouse may be entitled to receive.
- 2. Submit a Copy of your Judgment of Dissolution of Marriage or Property Settlement Agreement:** As soon as you receive a completed Judgment of Dissolution of Marriage/Property Settlement Agreement from your divorce proceedings, please submit a copy to SBCERA. The judgment will undergo a detailed internal review by SBCERA legal counsel to assess whether you are entitled to your retirement, including the community property portion, as your separate property or whether your spouse is entitled to an interest in the community property portion of your retirement benefit as determined by the court. All pages of this document, including any attachments, will be required and it must contain a court's file stamp and the judge's signature. If your spouse was not granted any rights to your benefit, no further steps may be necessary. However, SBCERA will notify you in writing regarding what, if any, additional steps are necessary.

**PLEASE NOTE:** It is extremely important that the language in your judgment is clear. It is best if the judgment specifically mentions SBCERA and clearly states that you are either entitled to 100 percent of your retirement benefit or that your former spouse is entitled to an interest in the community property portion of your SBCERA retirement benefit. A good way to tell if the information is clear is to read the judgment to yourself and/or a friend. If each of you can easily understand the language, it is probably clear enough for SBCERA and will be considered acceptable for our records.

- 3. File a Joinder—it is Mandatory:** If the court awards an interest in the community property portion of your retirement benefit to your former spouse, you will be required to "join" SBCERA as a third party to your divorce proceedings. This can be done by filing a Joinder with the court in the same county as your divorce filing. SBCERA must be joined to your case to recognize any court orders before dividing and distributing any of your retirement benefits to you and/or your former spouse. If SBCERA has not been

joined to your case at the time you retire or terminate your employment, any distribution of your retirement benefits and/or contributions may be delayed until a Joinder has been filed and SBCERA has been served with the Joinder.

4. **Obtain a Domestic Relations Order (DRO):** After filing a Joinder, you may also be required to file a [DRO](#). This is a court order that provides SBCERA with detailed instructions regarding how the retirement benefits are to be divided. It will include instructions for various payment-related issues pertaining to your SBCERA benefits such as active death, death after retirement, remarriage and the selection of options for post-retirement payment. In order for SBCERA to honor the orders of a DRO, it must be compliant with the 1937 Act and other applicable laws pertaining to pensions. SBCERA offers various [sample DROs](#) to assist in the development of an acceptable order.
5. **Inform SBCERA of Any Other Orders:** Each divorce case is different. Please be sure to provide SBCERA with any additional orders or documents pertaining to your divorce case that may affect your retirement benefits.
6. **Change Your Beneficiary:** Upon completion of your divorce, please be sure to fill out and submit a [Change of Beneficiary Designation form](#). Since you will no longer be nominating a spouse, you will also need to complete a [Justification for Non-Signature of Spouse form](#). Both forms should be returned to SBCERA as soon as possible.

This notice is not intended nor does it serve as legal advice as SBCERA and its staff cannot provide you with legal advice concerning your divorce or community property rights issues. For any additional questions, please contact SBCERA at (909) 885-7980 or toll-free at (877) 722-3721. Additionally, it is advised that you seek competent legal advice if you have any further questions or concerns regarding the division, if any, of your SBCERA retirement benefit. If you require a Family Law Specialist to assist you during this time, please contact the [San Bernardino County Bar Association](#) or [The State Bar of California](#).