

## Divorce and Your Benefits



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

Upon a divorce or divorce filing, it is essential that all members notify SBCERA as soon as possible. If not, you could face long delays in the payment of your future or current retirement benefits, including contribution refunds upon termination of employment. 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, take the following steps:**

- 1. 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. 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 what you and your former spouse are entitled to.
- 2. 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 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.

- 3. 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. 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 on our Web site, [www.SBCERA.org](http://www.SBCERA.org).
- 4. Inform SBCERA of Any Other Orders:** Please be sure to provide SBCERA with any additional orders or documents pertaining to your divorce case that may affect your retirement benefits.
- 5. Change Your Beneficiary:** Upon completion of your divorce, please be sure to fill out and submit a Change of Beneficiary Designation form. If 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 article was drafted by the SBCERA staff in order to help members understand pension issues surrounding division of retirement benefits. Every effort has been made to ensure the accuracy of the information offered. However, you should not rely solely on the information contained herein. In the event of any discrepancy between the information contained in this article and state and federal law, the state and federal law will govern. SBCERA's staff is unable to address specific legal questions. If you have legal questions about your retirement, then you should consult competent legal counsel.