

# RETIREMENT 101: DIVORCE AND RETIREMENT BENEFITS



## **A divorce may impact your retirement.**

Part of your retirement benefits may be divided by the Family Court pursuant to the laws of California. SBCERA staff cannot give you legal advice concerning your divorce or community property issues. To find a family law specialist, you may wish to contact the San Bernardino County Bar Association [www.sbcba.org](http://www.sbcba.org) or The State Bar of California [www.calbar.ca.gov](http://www.calbar.ca.gov).

### *How does divorce impact my retirement benefits?*

Often, California courts will divide your retirement between you and your spouse using a formula called the "time rule." For instance, the court may take the number of years you were married and the time you work and apply this formula to it to determine how much of your retirement allowance will be awarded to your former spouse. There are exceptions to the time rule, so you should consult with a qualified family law attorney to review your options.

### *What do I need to provide SBCERA with after a divorce?*

First, a complete copy of the Final Judgment of Dissolution must be given to SBCERA. This can be done as soon as you have it and SBCERA will keep it on file. The judgment will call out if a portion of your retirement benefit is being awarded in part to your former spouse, or if you are entitled to 100% with the other spouse waiving his/her rights to your benefit. NOTE: The language in a judgment is very important. It must clearly state the award. If you do not understand it, chances are it is not clear enough.

Also, in cases where your Final Judgment of Dissolution specifies that the court made an award of a portion of your retirement benefit to your former spouse, then you or your ex-spouse must join SBCERA to the dissolution proceedings by filing a Joinder with the court in the same county as your divorce filing. It will ensure the proper distribution of your retirement benefit. However, if your divorce was filed in another state and your former spouse

was awarded any interest, then you should contact a qualified family law expert to assist you in the filing of a Joinder in a California court. Without a Joinder, there could be a delay in the distribution of benefits to you and your ex-spouse once you terminate employment or retire.

Once a Joinder has been filed, the next step is to obtain a Domestic Relations Order (DRO). A DRO is the court order that will provide SBCERA with exact instructions on how and when to pay your former spouse a portion of your retirement benefits. It also covers different payment aspects such as active death, retirement, death after retirement, remarriage and the selection of options for post-retirement payment. A sample DRO can be found on our website, [www.sbcera.org](http://www.sbcera.org).

### *How are spousal payments made once I separate service or retire?*

Your former spouse may not "cash-out" part of your member contributions at any time. If you separate service and request a refund, a percent of these cashed-out contributions may be payable to your former spouse as long as the documents mentioned above have been filed with SBCERA. Or, if you choose to retire and draw a monthly benefit, your former spouse will then receive a direct payment from SBCERA and not before that time. You will both receive separate 1099-Rs Forms for the distribution(s) and no confidential information will be shared.