



Your Retirement. Your KCERA.

# Marriage Dissolution

## Dissolution before Retirement

If KCERA does not receive a Joinder, Judgment and court-approved DRO prior to the member's date of retirement, *no benefit will be paid to the new retiree*. KCERA will only authorize benefit payments after receiving an approved DRO specifying how the member's benefit shall be divided with the nonmember.

After receiving the required marriage dissolution documentation, KCERA will authorize the issuance of all previously unpaid (i.e., retroactive) benefit payments to the member and nonmember, pursuant to the terms of their DRO. Future payments will be issued monthly to each person until the member dies.

## Dissolution after Retirement

If a marriage dissolution occurs after retirement, the member's monthly retirement benefit will be reduced, pursuant to the terms of the DRO. However, if KCERA is first served with a Joinder or Notice of Adverse Interest, the retirement benefit will be reduced by 50% until a court-approved DRO is received. (In general, the nonmember spouse cannot be entitled to more than 50% of the member's benefit.)

After receiving the required marriage dissolution documentation, KCERA will determine whether the member was underpaid. If so, KCERA will issue all previously underpaid benefits to the member.

(If the nonmember spouse is awarded more than 50% of the member's retirement ben-

efit in order to achieve an equal division of marital property, the DRO must stipulate that the member, *not KCERA*, will reimburse the nonmember spouse for any underpaid benefits that have accumulated.)

## Ex-Spouse Benefit

KCERA does not currently split a retirement account between the member and the ex-spouse. Therefore, a lifetime benefit to the ex-spouse is not guaranteed and should not be assumed.

## Questions

This pamphlet provides general information to KCERA members and nonmember spouses concerning the community property division of a member's account. For specific questions concerning your account, please contact the KCERA office to speak with a service representative.

Note: Please direct questions pertaining to the Kern County 457 Deferred Compensation Plan to (661) 868-3467.

*If there is any difference between this pamphlet and the Retirement Law of 1937, the provisions of the law will apply.*

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**KCERA**  
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**Kern County Employees'  
Retirement Association**

This pamphlet is intended to assist KCERA members considering a marriage dissolution or divorce in California. Please note that retirement accounts are generally considered to be “community property” in this state.

## Legal Representation

While it is not mandatory that the two parties seek legal advice, KCERA recommends that both the member and nonmember spouse make themselves aware of laws concerning the division of retirement accounts. KCERA staff cannot provide legal advice on such matters.

## Joinder is Mandatory

California Family Code Section 2060(b) states that an order or judgment in a dissolution or other family law proceeding is not enforceable against the pension plan unless the plan has been joined as a party to the proceeding. For the protection of the member, the nonmember spouse and the plan, KCERA requires that the plan be joined as a party to the marriage dissolution action in order for KCERA to comply with a Domestic Relations Order (DRO). KCERA also requires the parties’ court-issued Judgment to be on file.

## Governmental DROs

KCERA is a “governmental plan,” as defined in the United States Code. KCERA is not subject to the Employee Retirement Income Security Act (ERISA) or any other provisions of law applicable to a Domestic Relations Order (DRO). However, under federal law a DRO involving a governmental plan is suf-

ficient if it simply “creates or recognizes the existence of an alternate payee’s right to ... receive all or a portion of the benefits payable with respect to a participant under the plan” (26 U.S.C. Section 414(p)(1)(A)(i)).

## Confidentiality

The County Employees’ Retirement Law of 1937 makes individual retirement records confidential. These records may be disclosed only to the member or to someone authorized by the member in writing, by court order or in the administration of the law. Accordingly, KCERA will not release information concerning a member’s retirement account unless the member provides a written release. However, KCERA will provide information requested through a validly issued subpoena or other authorized discovery procedures under the California Code of Civil Procedure.

## DRO Estimate

KCERA can provide, upon request by the member, an estimate of the community property share of the member’s account (“DRO estimate”). The member may request a DRO estimate by providing the following information to KCERA:

- Member’s name and Social Security number
- Nonmember spouse’s name, Social Security number and date of birth
- Dates of marriage and separation
- Member’s estimated date of retirement (If no date is provided, estimate will default to earliest possible retirement date.)

The member’s DRO estimate will be based on the following:

- Highest average monthly compensation
- Age at retirement
- Total years of service during the marriage
- Benefit formula or tier

The estimate will also show the amount of contributions and interest credited to the member’s account during the marriage.

Note: The information provided is an estimate only and may not reflect the member’s actual benefit at retirement. However, the information can be useful in determining the nonmember spouse’s community property share of the member’s retirement account. Please allow several weeks for preparation of the estimate.

The attorneys representing the member or the nonmember spouse may request additional information regarding the member’s account, including, but not limited to:

- Date of hire
- Date of entry into KCERA
- A copy of the plan summary document

KCERA will provide a copy of the plan summary document to any requesting party. But, any information of a confidential nature will only be released to the member or an authorized representative.

## Preparation of a DRO

A Domestic Relations Order is used to specify how the member’s account will be divided and paid. KCERA staff cannot assist the member or the nonmember spouse with preparation of any court documents.

KCERA will provide, upon request, sample language for a DRO, which addresses issues relating to the community property division of a member’s retirement account. The sample DRO is available in the KCERA office and online at [www.kcera.org](http://www.kcera.org).

Although neither party is required to use KCERA’s sample language, it is advisable that the member prepare a DRO according to the approved KCERA template.

## Effects of Joinder

Upon receipt of a Joinder or Notice of Adverse Interest, KCERA will place a legal hold on the member’s account. This ensures that no funds will be paid from it until KCERA has received a Judgment *and* court-approved DRO specifying the division of retirement benefits with the nonmember spouse. A Joinder also functions to join the KCERA plan in the marriage dissolution action so that KCERA can act upon the court order.

Note: KCERA does not receive copies of orders directly from the court. *It is the responsibility of the member, nonmember spouse and their attorneys to serve KCERA with all court-approved orders.*