

APPENDIX A – ACTIVE MEMBER

NOTE: THIS EXAMPLE APPLIES TO CURRENT TRS MEMBERS WHO HAVE NOT YET APPLIED FOR A RETIREMENT BENEFIT

IN THE MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

) Cause No. _____
)
) **FAMILY LAW ORDER**
)
)

This Court having entered a Final Decree of Dissolution of Marriage in the above-captioned proceeding on _____, _____, 20____, and having jurisdiction of the parties and subject matter hereof,

IT IS HEREBY ORDERED:

This Order is a disposition of marital property pursuant to Title 40, MCA, specifically relating to [Petitioner/Respondent’s] interest in a retirement benefit under the Teachers’ Retirement System, Title 19, chapter 20, MCA. Pursuant to Section 19-20-305, MCA, this Family Law Order assigns a portion of the [Petitioner/Respondent’s] Teachers’ Retirement System benefits from [Petitioner/Respondent] to [Petitioner/Respondent], in recognition of the existence of [his/her] marital rights.

1. THE PARTIES

A. Participant Information. _____ is a Participant in the Montana Teachers’ Retirement System (TRS). Participant’s full legal name, address, social security number, phone number, and birth date are:

Name:

Address:
SSN:
Phone Number:
Birth Date:

B. Alternate Payee Information. _____ is an Alternate Payee entitled to marital property from the Participant pursuant to Section 19-20-305, MCA, as specified in this document. Alternate Payee's full legal name, address, social security number, phone number, and birth date are:

Name:
Address:
SSN:
Phone Number:
Birth Date:

2. RIGHT TO MONETARY PAYMENTS

A. Service Retirement. If Participant receives a service retirement benefit, the Alternate Payee is entitled to receive: (choose alternative 1 or alternative 2)

[Alternative 1] A percentage of each monthly benefit payment which would otherwise be payable to Participant. The portion of the Participant's monthly benefit to be received by the Alternate Payee will be calculated as _____ % [insert the percent of the Participant's benefit the Alternate Payee is entitled to] times _____ years [insert the number of years of service the TRS benefit was earned during the marriage] divided by the total number of years used to calculate Participant's retirement benefit. The amount payable to the Alternate Payee by the Teachers' Retirement System will be an actuarially equivalent benefit payable for the life of the Alternate Payee as determined by the Teachers' Retirement Board.

[Alternative 2] \$____.00 per month for a period of _____ months, or until the death of the Benefit Recipient, whichever occurs first.

B. Disability Retirement. If Participant receives a disability benefit, Alternate Payee is entitled to a portion, of each disability payment which would otherwise be payable to the Participant as [an actuarially equivalent amount to be calculated as described in (2)(A)(Alternative 1)] [a fixed amount to be calculated as described in (2)(A)(Alternative 2)].

If the Participant's disability retirement benefit is canceled pursuant to §19-20-603 or 19-20-905, MCA, the Alternate Payee's payments will also terminate. At the time the Participant again receives retirement benefits, the amount payable to the Alternate Payee must be recalculated pursuant to this family law order.

C. Survivorship Payments. In the event of Participant's death before retirement, the Alternate Payee is entitled to receive a portion of the Participant's account balance. The amount payable to the Alternate Payee will be [a percentage to be calculated as described in (2)(A)(Alternative 1), except that the Alternate Payee may elect to have the benefit paid as an actuarially equivalent amount only if the Participant was vested at the time of death] [a fixed amount of \$_____payable as a lump-sum].

D. Withdrawal of Accumulated Contributions. If the Participant withdraws his/her accumulated contributions from TRS, the Alternate Payee is entitled to a portion of the withdrawal of the Participant's accumulated contributions. The amount payable to the Alternate Payee will be [a percentage to be calculated as described in (2)(A)(Alternative 1), except that the benefit will be paid only as a lump sum and not as an actuarially equivalent amount] [a fixed amount of \$_____payable as a lump-sum].

3. LIMITATIONS / DURATION OF PAYMENTS

A. An amount payable to the Alternate Payee as an actuarially equivalent amount will be paid for the natural life of the Alternate Payee.

B. An amount payable to the Alternate Payee as a fixed amount may be paid as a lump sum or over time. A fixed amount payable to the Alternate Payee over time will terminate upon the death of all Benefit Recipients; and a fixed amount payable to the alternate payee may never exceed the participant's accumulated account balance or the total monthly benefit payable to the Participant or the Benefit Recipient. Therefore, an amount payable to the Alternate Payee as a fixed amount over time will be effective only after review and approval by the Teachers' Retirement System to ensure the Participant's accumulated contributions are sufficient to ensure full payment to the Alternate Payee over the stated period of time.

C. In every circumstance, the amount payable to the Alternate Payee will terminate upon the death of the Alternate Payee. The Alternate Payee's right to receive benefits may not be transferred, assigned, or devised in any manner.

D. If the Participant retired with a disability retirement benefit which is canceled pursuant to §19-20-603 or 19-20-905, MCA, the Alternate Payee's payments will also terminate. At the time the Participant again receives retirement benefits, the amount payable to the Alternate Payee must be recalculated pursuant to this family law order.

4. FUTURE AMENDMENTS

In the event this Order is not found to constitute an acceptable Family Law Order by TRS:

- a. TRS shall delay processing this Order until further Order of this Court; and
- b. The Court shall make any reasonable amendments to this Order to insure the intent of this Order and the intent of the parties' Marital and Property Settlement Agreement, to the fullest extent possible, is carried out, and there is compliance with the requirements of TRS.

5. EFFECTIVE DATE

This Order is subject to review and approval by the Teachers' Retirement Board. It is effective the first day of the month following receipt and approval by the TRS [or insert a future date]. Alternate Payee's rights and interests established by this Order may be modified only by a subsequent Family Law Order amending this Order. The Court reserves jurisdiction for that purpose.

6. AUTHORIZATION TO DISCLOSE INFORMATION

The Teachers' Retirement System may receive from and disclose to either or both the Participant and Alternate Payee any information necessary and appropriate to give effect to this Order, including, but not limited to, providing information to the Alternate Payee regarding estimated benefits.

7. REQUIREMENT TO UPDATE CONTACT INFORMATION

The Alternate Payee will have the primary responsibility to maintain current contact information with the Teacher's Retirement System. At the time of application for retirement benefits, the Participant will provide the Alternate Payee's current contact information, if known.

8. CONSTRUCTION IN CONFORMITY WITH APPLICABLE LAW

This Order is intended to provide benefits to the Alternate Payee in conformity with all applicable laws pertaining to the provision of benefits by the Teachers' Retirement System. It is not intended to provide additional rights or benefits to any party beyond those rights provided in law. This Order will be construed by the Teachers' Retirement System in such a manner as gives effect to all applicable statutes and rules, whether expressly referenced herein or not.

SO ORDERED this _____ day of _____, 20 _____.

DISTRICT COURT JUDGE

APPENDIX B
RETIRED PARTICIPANT WHO HAS ELECTED THE NORMAL FORM, A
TERM CERTAIN AND LIFE OPTION, OR THE ALTERNATE PAYEE IS NOT
THE DESIGNATED BENEFICIARY UNDER OPTION A, B, C, D OR E

NOTE: THIS EXAMPLE APPLIES TO CURRENT TRS PARTICIPANTS WHO ARE RECEIVING MONTHLY RETIREMENT BENEFITS

IN THE MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

) Cause No. _____
)
) **FAMILY LAW ORDER**
)
)
)

This Court having entered a Final Decree and Dissolution of Marriage in the above-captioned proceeding on _____, _____, 20____, and having jurisdiction of the parties and subject matter hereof,

IT IS HEREBY ORDERED:

This Order is a disposition of marital property pursuant to Title 40, MCA, specifically relating to [Petitioner/Respondent's] interest in a benefit under the Teachers' Retirement System, Title 19, chapter 20, MCA. Pursuant to Section 19-20-305, MCA, this Family Law Order assigns a portion of the [Petitioner/Respondent's] Teachers' Retirement System benefits from [Petitioner/Respondent] to [Petitioner/Respondent], in recognition of the existence of [his/her] marital rights.

1. THE PARTIES

A. Participant Information. _____ is a Participant in the Montana Teachers' Retirement System (TRS). The Participant is a TRS retiree who elected

payment option [insert option elected at time of retirement, i.e., Normal Form, 5-year, 10-year, 15-year, or 20-year certain and life] and designated a beneficiary(ies) under the TRS. Participant's full legal name, address, social security number, phone number, and birth date are:

Name:
Address:
SSN:
Phone Number:
Birth Date:

B. Alternate Payee Information. _____ is an Alternate Payee entitled to marital property (or spousal maintenance) from the Participant pursuant to Section 19-20-305, MCA, as specified in this document. Alternate Payee's full legal name, address, social security number, phone number, and birth date are:

Name:
Address:
SSN:
Phone Number:
Birth Date:

2. **RIGHT TO MONETARY PAYMENTS.** Participant retired effective MM/DD/YYYY, and elected option [Normal Form, 5-year, 10-year, 15-year, or 20-year certain and Life] [Option A, B, C, D, or E (select one), where the alternate payee is not the designated beneficiary]. The Alternate Payee is entitled to receive: [choose alternative 1 or alternative 2]

[Alternative 1] A percentage of each monthly benefit payment which would otherwise be payable to Participant. The portion of the Participant's monthly benefit to be received by the Alternate Payee will be calculated as _____ % [insert the percent of the Participant's benefit the Alternate Payee is entitled to] times _____ years [insert the number of

years of service the TRS benefit was earned during the marriage] divided by the total number of years used to calculate Participant's retirement benefit. The amount payable to the Alternate Payee by the Teachers' Retirement System will be an actuarially equivalent benefit payable for the life of the Alternate Payee as determined by the Teachers' Retirement Board.

[Alternative 2] \$____.00 per month for a period of ____ months, or until the death of the Participant, whichever occurs first.

3. LIMITATIONS / DURATION OF PAYMENTS/ TERMINATION/RECALCULATION

A. An amount payable to the Alternate Payee as an actuarially equivalent amount will be paid for the natural life of the Alternate Payee.

B. An amount payable to an Alternate Payee as a fixed amount will be paid over time. A fixed amount payable to an Alternate Payee over time will terminate upon the death of the Participant, if not sooner; and a fixed amount payable to the Alternate Payee may never exceed the participant's accumulated account balance remaining or the monthly benefit payable to the Participant. Therefore, an amount payable to the Alternate Payee as a fixed amount over time will be effective only after review and approval by the Teachers' Retirement System to ensure the Participant's remaining accumulated contributions are sufficient to ensure full payment to the Alternate Payee over the stated period of time.

C. In every circumstance, the amount payable to the Alternate Payee will terminate upon the death of the Alternate Payee. The Alternate Payee's right to receive benefits may not be transferred, assigned, or devised in any manner.

D. If the Participant retired with a disability retirement benefit which is canceled pursuant to §19-20-603 or 19-20-905, MCA, the Alternate Payee's payments will also

terminate. At the time the Participant again receives retirement benefits, the amount payable to the Alternate Payee must be recalculated pursuant to this family law order.

4. FUTURE AMENDMENTS

In the event this Order is not found to constitute an acceptable Family Law Order by TRS:

- a. TRS shall delay processing this Order until further Order of this Court; and
- b. The Court shall make any reasonable amendments to this Order to insure

the intent of this Order and the intent of the parties' Marital and Property Settlement Agreement, to the fullest extent possible, is carried out, and there is compliance with the requirements of TRS.

5. EFFECTIVE DATE

This Order is subject to review and approval by the Teacher's Retirement Board. It is effective the first day of the month following receipt and approval by the TRS [or insert a future date]. Alternate Payee's rights and interests established by this Order may be modified only by a subsequent Family Law Order amending this Order. The Court reserves jurisdiction for that purpose.

6. AUTHORIZATION TO DISCLOSE INFORMATION

The Teachers' Retirement System may receive from and disclose to either or both the Participant and Alternate Payee any information necessary and appropriate to give effect to this Order, including, but not limited to, providing information to the Alternate Payee regarding estimated benefits.

7. REQUIREMENT TO UPDATE CONTACT INFORMATION

The Alternate Payee will have the primary responsibility to maintain current contact information with the Teacher's Retirement System. At the time of application for retirement benefits, the Participant will provide the Alternate Payee's current contact information, if known.

8. CONSTRUCTION IN CONFORMITY WITH APPLICABLE LAW

This Order is intended to provide benefits to the Alternate Payee in conformity with all applicable laws pertaining to the provision of benefits by the Teachers' Retirement System. It is not intended to provide additional rights or benefits to any party beyond those rights provided in law. This Order will be construed by the Teachers' Retirement System in such a manner as gives effect to all applicable statutes and rules, whether expressly referenced herein or not.

SO ORDERED this _____ day of _____, 20 _____.

DISTRICT COURT JUDGE

APPENDIX C
RETIRED PARTICIPANT WHO HAS ELECTED RETIREMENT OPTION A, B
C, D, OR E, AND THE ALTERNATE PAYEE IS THE BENEFICIARY

NOTE: THIS EXAMPLE APPLIES TO CURRENT TRS PARTICIPANTS WHO ARE RECEIVING MONTHLY RETIREMENT BENEFITS

IN THE MONTANA _____ JUDICIAL DISTRICT COURT
_____ COUNTY

) Cause No. _____
)
) **FAMILY LAW ORDER**
)
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This Court having entered a Final Decree and Dissolution of Marriage in the above-captioned proceeding on _____, _____, 20____, and having jurisdiction of the parties and subject matter hereof,

IT IS HEREBY ORDERED:

This Order is a disposition of marital property pursuant to Title 40, MCA, specifically relating to [Petitioner/Respondent's] interest in a benefit under the Teachers' Retirement System, Title 19, chapter 20, MCA. Pursuant to Section 19-20-305, MCA, this Family Law Order assigns a portion of the [Petitioner/Respondent's] Teachers' Retirement System benefits from [Petitioner/Respondent] to [Petitioner/Respondent], in recognition of the existence of [his/her] marital rights.

1. THE PARTIES

A. Participant Information. _____ is a Participant in the Montana Teachers' Retirement System (TRS). The Participant is a TRS retiree who elected payment option [insert option elected at time of retirement, i.e., A, B, C, D, or E] and

designated a beneficiary under the TRS. Participant's full legal name, address, social security number, phone number, and birth date are:

Name:
Address:
SSN:
Phone number:
Birth Date:

B. Alternate Payee Information. _____ is an Alternate Payee entitled to marital property from the Participant pursuant to Section 19-20-305, MCA, as specified in this document. Alternate Payee's full legal name, address, social security number, phone number, and birth date are:

Name:
Address:
SSN:
Phone number:
Birth Date:

2. RIGHT TO MONETARY PAYMENTS

Participant retired effective MM/DD/YYYY, and elected option [A, B, C, D, or E], designating Alternate Payee as the beneficiary to receive benefits upon Participant's death. The Alternate Payee is entitled to receive a portion of each monthly benefit payment which would otherwise be payable to Participant. The portion of the Participant's monthly benefit to be received by the Alternate Payee will be calculated as _____ % [insert the percent of the Participant's benefit the Alternate Payee is entitled to] times _____ years [insert the number of years of service the TRS benefit was earned during the marriage] divided by the total number of years used to calculate Participant's retirement benefit. The Participant's original designations both as to benefit election (Option A, B, C, D or E) and designated beneficiary made at the time of retirement may not be modified.

3. DURATION OF PAYMENTS/TERMINATION/RECALCULATION

A. Except as set forth in (3)(B), the benefits payable to the Alternate Payee during the life of the Participant will be paid for the natural life of the Participant. If the Alternate Payee outlives the Participant, upon the death of the Participant, the Alternate Payee will receive the survivor benefit amount based on the benefit optional allowance elected by the Participant for the natural life of the Alternate Payee.

B. If the Participant retired with a disability retirement benefit which is canceled pursuant to §19-20-603 or 19-20-905, MCA, the Alternate Payee's payments will also terminate. At the time the Participant again receives retirement benefits, the amount payable to the Alternate Payee must be recalculated pursuant to this family law order.

4. FUTURE AMENDMENTS

In the event this Order is not found to constitute an acceptable Family Law Order by TRS:

- a. TRS shall delay processing this Order until further Order of this Court; and
- b. The Court shall make any reasonable amendments to this Order to insure the intent of this Order and the intent of the parties' Marital and Property Settlement Agreement, to the fullest extent possible, is carried out, and there is compliance with the requirements of TRS.

5. EFFECTIVE DATE

This Order is subject to review and approval by the Teacher's Retirement Board. It is effective the first day of the month following receipt and approval by the TRS [or insert a future date]. Alternate Payee's rights and interests established by this Order may be

modified only by a subsequent Family Law Order amending this Order. The Court reserves jurisdiction for that purpose.

6. AUTHORIZATION TO DISCLOSE INFORMATION

The Teachers' Retirement System may receive from and disclose to either or both the Participant and Alternate Payee any information necessary and appropriate to give effect to this Order, including, but not limited to, providing information to the Alternate Payee regarding estimated benefits..

7. REQUIREMENT TO UPDATE CONTACT INFORMATION

The Alternate Payee will have the primary responsibility to maintain current contact information with the Teacher's Retirement System. At the time of application for retirement benefits, the Participant will provide the Alternate Payee's current contact information, if known.

8. CONSTRUCTION IN CONFORMITY WITH APPLICABLE LAW

This Order is intended to provide benefits to the Alternate Payee in conformity with all applicable laws pertaining to the provision of benefits by the Teachers' Retirement System. It is not intended to provide additional rights or benefits to any party beyond those rights provided in law. This Order will be construed by the Teachers' Retirement System in such a manner as gives effect to all applicable statutes and rules, whether expressly referenced herein or not.

SO ORDERED this _____ day of _____, 20 _____.

DISTRICT COURT JUDGE