

RULE 15

DOMESTIC RELATION ORDERS (DROs)



Rule 15, Domestic Relations Orders (DROs), is excerpted from the January 1, 2022, *PERA Rules* published by the Colorado Public Employees' Retirement Association. Rule 15 requires that the standardized form be used by the parties to a domestic relations order, as well as by the court, and includes other rules for administration of domestic relations orders. For the purposes of Rule 15, the term "member" shall include DPS members and the term "retiree" shall include DPS retirees.

15.05 Definitions

A DRO for the PERA defined benefit plan, the PERA defined contribution plan, the PERA 401(k) Plan, or the PERA 457 Plan shall consist of: (1) The written agreement for a DRO pursuant to C.R.S. §14-10-113(6) (hereinafter "agreement") and (2) The domestic relations order (hereinafter "order").

15.10 Standardized Forms

As specified in 14-10-113(6)(d), C.R.S., the standardized agreement and order forms provided by PERA must be used by the parties and by the court, for the agreement and the order to be valid with respect to PERA. The standardized forms must be executed voluntarily by both parties and properly completed to be a valid DRO with respect to PERA, with no changes or alterations to the provisions of the standardized forms.

15.20 Type of Plan

PERA's required plan is a "defined benefit plan" as defined in 14-10-113(6)(b)(II), C.R.S., and all payments from the Plan shall be considered payments from a defined benefit plan. PERA's defined contribution plan, PERA's voluntary plan, the 401(k) Plan, and PERA's deferred compensation plan, the 457(b) Plan, are each a "defined contribution plan" as defined in 14-10-113(6)(b)(III), C.R.S.

15.25 DRO Submission Requirements

- A. The parties shall submit the agreement to PERA within 90 days after entry of the decree and the permanent orders regarding property distribution in a proceeding for dissolution of marriage, legal separation or declaration of invalidity of marriage. For the agreement to be valid with respect to PERA, the agreement and order shall be entered by the court upon or before entry of any decree of dissolution of marriage, decree of legal separation, or declaration of invalidity of marriage or within 90 days after entry of the decree and the permanent orders regarding property distribution in a proceeding for dissolution of marriage, legal separation or declaration of invalidity of marriage. Certified copies of the agreement and order shall be received by PERA within 90 days after entry of the order and agreement, but must be received by PERA at least 30 days before PERA shall make its first payment pursuant to the DRO.

Notwithstanding the foregoing, a person who was divorced prior to July 1, 2009 and who was a member of: (1) the state defined contribution match plan and whose assets were transferred to the 401(k) Plan pursuant to 24-51-1402(5)(a), C.R.S.; (2) the state defined contribution plan and whose assets were transferred to the PERA Defined Contribution Plan pursuant to Section 24-51-1501(2)(a); or (3) the state deferred compensation plan previously administered under Part 1 of Article 52 of Title 24, as said part existed prior to its repeal in 2009 and whose assets were transferred to the PERA 457(b) Plan pursuant to Section 24-51-1601, C.R.S., shall have until July 1, 2010 to submit certified copies of the agreement and the order to PERA with respect to the assets so transferred.

B. An existing DRO that is valid with respect to PERA may be modified only by written agreement of the parties to the DRO and approved by the court. The standardized forms provided by PERA must be used by the parties to modify a DRO. Certified copies of the agreement and order shall be submitted to and received by PERA at least 30 days before PERA shall make its first payment pursuant to the modified DRO.

15.30 Application by Alternate Payee

An alternate payee must make application for payment with the forms prescribed by PERA. No payment shall be made by PERA to the alternate payee until after all of the necessary forms have been completed and received by PERA and all other statutory, regulatory, and rule requirements for payment are satisfied.

15.40 Participant's Account

The member contribution account for the defined benefit plan, the defined contribution account for the defined contribution plan and the member's account for the 401(k) Plan or the 457(b) Plan shall be reduced by payments made to the alternate payee.

15.50 Review of DRO Issues

Any issue pertaining to PERA and what PERA can or cannot do pursuant to a DRO (including, but not limited to, the validity of any DRO with respect to PERA, whether PERA can make any payment pursuant to any DRO, and what the amount and timing of any payment by PERA can be) shall be resolved through PERA's administrative review process pursuant to Rule 2.20.

15.60 DPS Benefit Structure

If a member has a member contribution account under both the PERA benefit structure and the DPS benefit structure, the member shall submit a separate DRO agreement with respect to both member contribution accounts. The standardized forms provided by PERA must be used by the parties.