

FINANCE AND ADMINISTRATION CABINET
Kentucky Public Pensions Authority
(Amended at ARRS Committee)

105 KAR 1:190. Qualified domestic relations orders.

RELATES TO: KRS ~~16.505(36), (37), (38), 16.576, 16.645(5), 16.568, 16.576, 16.577, 16.578, 16.582, 16.583, 16.645(5), 16.505, 61.510(37), (38), (39), 61.542, 61.559, 61.580, 61.583, 61.590, 61.595, 61.597, 61.600, 61.605, 61.610, 61.615, 61.621, 61.625, 61.635, 61.637, 61.640, 61.661, 61.663, 61.690, 61.691, 78.510(34), (35), (36), 78.545(26), 78.640, 78.652, 78.5510, 78.5512, 78.5514, 78.5516, 78.5518, 78.5522, 78.5524, 78.5526, 78.5528, 78.5532, 78.5540, 78.640, 78.652, 205.712, 26 U.S.C. 414(p)~~

STATUTORY AUTHORITY: KRS ~~16.645, 61.505(1)(g)(61.645(9)(e)), 61.690, 78.545~~

NECESSITY, FUNCTION, AND CONFORMITY: KRS ~~61.505(1)(g)~~ authorizes the Kentucky Public Pensions Authority to promulgate administrative regulations on behalf of the Kentucky Retirement Systems and the County Employees Retirement System that are consistent with KRS ~~16.505 through 16.652, 61.510 through 61.705, and 78.510 through 78.852. KRS 16.645, 61.690(3)(b), and 78.545 require the Kentucky Retirement Systems and the County Employees Retirement System[61.690 requires the retirement systems]~~ to promulgate an administrative regulation establishing the requirements, procedures, and forms necessary to administer qualified domestic relations orders (QDROs). This administrative regulation establishes the requirements, procedures, and forms necessary to administer QDROs.

Section 1. Definitions.

- (1) "Basic retirement allowance" means the basic payment option as defined by KRS ~~61.542(5)(f) and 78.545. ["Alternate payee" is defined by KRS 16.505(38), 61.510(39), and 78.510(36).]~~
- (2) "Benefit" means the retirement allowance as defined by KRS ~~16.505(12), 61.510(16), and 78.510(16). ["Qualified domestic relations order" is defined by KRS 16.505(37), 61.510(38), and 78.510(35).]~~
- (3) "Date of divorce" means the date the decree of dissolution of marriage is entered by a court of competent jurisdiction. ~~["Participant" is defined by KRS 16.505(36), 61.510(37), and 78.510(34).]~~
- (4) "Effective retirement date" means the first date upon which a member's early, normal, or disability retirement benefits began or will begin.
- (5) "Marital service" means the amount of service earned and purchased during the marriage.
- (6) "Unreduced retirement benefit" means the full retirement allowance for which a participant is entitled in accordance with KRS ~~16.576, 16.577, 16.583, 61.559, 61.595, 61.597, 78.5510, 78.5512, 78.5514, and 78.5516.~~

Section 2. Information Requests.

- (1) If information is necessary for the Court to calculate the amount due to the alternate payee for the purposes of a QDRO, the participant shall complete, sign, and file a valid Form 6433, Authorization for Release of Information and Request for Information for Qualified Domestic Relations Order, to obtain the needed information.
- (2) In response to a filed valid Form 6433, if the participant has not yet retired, the agency shall provide as of the date of the divorce indicated on the QDRO, or if the date of divorce is not provided the last date contributions were reported, the participant's:
 - (a) Accumulated account balance during the marriage in each of the systems in which the participant has marital service;
 - (b) Total number of months of service credit earned and purchased in each of the systems in which the participant has service;
 - (c) The number of months of service credit earned and purchased during the marriage in each of the systems in which the participant has marital service;
 - (d) The hypothetical monthly retirement allowance pursuant to KRS ~~16.576, 16.577, 16.583, 61.559, 61.595, 61.597, 78.5510, 78.5512, 78.5514, and 78.5516~~ the participant would receive beginning on the date the participant is eligible for an unreduced retirement benefit, and broken down by each of the systems in which the participant has marital service. The hypothetical monthly retirement allowance shall be based on:
 1. The participant's final compensation and service credit; or
 2. The participant's accumulated account balance;
 - (e) The hypothetical partial lump sum payment option without survivor rights with a one (1) time lump-sum payment equal to twelve (12) monthly retirement allowances and the reduced ongoing monthly retirement allowance pursuant to KRS ~~61.635(12) and 78.545~~ that the participant would receive beginning on the date the participant is eligible for an unreduced retirement benefit, and broken down by each of the systems in which the participant has marital service. The hypothetical partial lump sum payment option and reduced ongoing monthly retirement allowance shall be based on:
 1. The participant's final compensation and service credit; or
 2. The participant's accumulate account balance; and
 - (f) The hypothetical actuarial equivalent refund payment or accumulated account balance refund payment the participant would receive, broken down by each of the systems in which the participant has marital service, when the participant is eligible for an unreduced retirement benefit based on:
 1. The final compensation and service credit; or
 2. The participant's accumulated account balance.
- (3) In response to a filed valid Form 6433, if the participant retired prior to the effective date of the divorce indicated on the QDRO, the agency shall provide the participant's:
 - (a) Current monthly retirement benefit in each of the systems from which the participant is receiving a monthly retirement benefit;
 - (b) Total number of months of service credit earned and purchased during the marriage in each of the systems from which the participant is receiving a monthly retirement benefit; and
 - (c) Total number of months of service credit in each of the systems from which the participant is receiving a monthly retirement benefit.
- (4)
 - (a) The alternate payee may request and obtain the information necessary for the court to calculate the amount due to the alternate payee for purposes of the QDRO by completing and filing a valid Form 6433, Authorization for Release of Information and Request for Information for Qualified Domestic Relations Orders, and an attached court issued subpoena or order compelling the release of the requested information.
 - (b) The agency shall respond to a valid Form 6433 filed in accordance with this subsection in the same manner as *established f indicated* in subsection ~~subsections~~ (2) or (3) of this section as applicable.
- (5)
 - (a) If information other than the information supplied by the agency in accordance with subsections (2) through (3) of this section is required:
 1. The participant shall file an additional signed request for information in writing;

2. The alternate payee shall file an additional signed request for information in writing, and an attached court issued subpoena or order compelling the release of the requested information; or

3. Legal counsel shall file an additional signed request for information in writing, and documentation that he or she represents the participant or alternate payee, as applicable. An alternate payee's legal counsel shall also file a court issued subpoena or order compelling the release of the requested information.

(b) Requests for information, other than the information supplied by the agency in accordance with subsections (2) through (4) of this section, shall be answered pursuant to KRS 61.661 and 78.545.

~~Section 3. QDROs Prior to July 14, 2000. The provisions of this section shall only apply to QDROs that were approved by the retirement systems for enforcement by the agency prior to July 14, 2000. After the participant notifies the agency of his or her requested effective retirement date, the agency shall administer a valid QDRO approved by the agency that was entered prior to the participant's effective retirement date as established in subsections (1) through (5) of this section. follows:~~

~~(1) The agency shall provide the participant and the alternate payee, information regarding the amount of the benefits payable pursuant to the QDRO.~~

~~(2) The amount of the benefits payable pursuant to a valid QDRO approved for enforcement by the retirement systems prior to July 14, 2000, shall be determined as established in paragraphs (a) through (f) of this subsection. follows:~~

~~(a) The percentage of benefit due to the alternate payee shall be computed based on the following calculation. table:~~

$$\begin{array}{l} \text{\% allocated to Alternate} \\ \text{Payee pursuant to QDRO} \end{array} \times \frac{\text{marital service per QDRO}}{\text{Participant's total service credit}} = \begin{array}{l} \text{Percentage of} \\ \text{benefit due to the} \\ \text{alternate payee} \end{array}$$

~~[The alternate payee shall receive the amount computed by multiplying the basic option amount due the participant by the percentage allocated to the alternate payee by the terms of the QDRO multiplied by a fraction, the numerator of which shall be the period of service specified in the QDRO and the denominator of which shall be the participant's total service credit. The participant shall be paid all amounts in excess of the amounts paid to the alternate payee.]~~

~~(b) If a lump sum payment equal to the balance of the participant's accumulated account balance is to be made, the percentage due to the alternate payee as calculated by paragraph (a) of this subsection determined by this calculation shall be multiplied by the balance of the participant's accumulated account balance and the result paid to the alternate payee. The participant shall be paid all amounts in excess of the amounts paid the alternate payee.~~

~~(c) If a monthly payment is to be made benefit is paid, the percentage due to the alternate payee, as calculated by paragraph (a) of this subsection, options made available to the alternate payee shall be multiplied by the participant's basic retirement allowance and the result shall be paid monthly to the alternate payee derived from the participant's basic option. The participant shall be paid all amounts in excess of the amounts paid to the alternate payee.~~

~~(d) Service credit added for disability retirement benefits under KRS 16.582, 61.600, 61.605, 78.5522, or 78.5524 6-582 shall not be included in determining the amount payable to the alternate payee. Service credit purchased during the period of marriage shall be included in the calculation under this paragraph.~~

~~(e) The payment options offered to the alternate payee:~~

~~1. Shall be based on the alternate payee's life expectancy; and~~

~~2. Shall include only the alternate payee shall be offered the payment options established described in KRS 61.635 and 78.545, which do not provide lifetime benefits to a beneficiary; and~~

~~3. If the participant is eligible, shall include the ten (10) year certain option as established in provided by KRS 16.576(4).~~

~~(f) If the alternate payee predeceases the participant after the participant's retirement, a lump sum, determined actuarially, of the payments remaining to the alternate payee, if any, shall be paid to the alternate payee's estate.~~

~~(g) The alternate payee of a QDRO approved for enforcement by the agency retirement systems prior to July 14, 2000, shall receive increases given recipients under KRS 61.691 and 78.5518.~~

~~(3)~~

~~(a) If the participant dies prior to his or her effective retirement date and prior to the death of the alternate payee, the participant's account shall be divided in accordance with the QDRO between the alternate payee and the participant's beneficiary.~~

~~1. If the death benefit is a refund of the participant's accumulated account balance contributions and interest, the alternate payee shall only be offered a lump sum payment representing a portion of the participant's accumulated account balance calculated in accordance with subsection (2)(b) of this section.~~

~~2. If the death benefit is calculated under KRS 16.578, 61.640, or 78.5532, the alternate payee shall be allowed to choose a lifetime annuity, a sixty (60) month certain payment, a 120 month payment, or an actuarial equivalent refund lump sum payment.~~

~~(b)~~

~~1. If a participant with a pre-retirement QDRO dies after his or her effective retirement date and prior to the death of the alternate payee, there shall be no change to the alternate payee's benefits.~~

~~2. If a participant with a post-retirement QDRO dies prior to the death of the alternate payee, the QDRO on file shall be void and no further payment shall be made to the alternate payee.~~

~~(4)~~

~~(a) If the alternate payee predeceases the participant after the participant's effective retirement date, a lump sum, determined actuarially, of the payments remaining to the alternate payee, if any, shall be paid to the alternate payee's estate.~~

~~(b) If the alternate payee predeceases the participant prior to the participant's effective retirement date or withdrawal of account, the QDRO on file shall be void and payment shall not be made to the alternate payee or his or her estate.~~

~~(5)~~

~~(7) When benefits become payable to the alternate payee, the agency retirement system shall establish a separate account for the alternate payee, which shall consist of the alternate payee's pro rata share determined pursuant to subsection (2) of this section of the participant's contributions, service, and benefit. Once the alternate payee's account has been established, the alternate payee shall not be entitled to further benefits acquired by the participant.~~

~~Section 4. QDROs On or After July 15, 2010.~~

~~(1) This section and Sections 5 through Section 20 of this administrative regulation, except for Section 2, shall only apply to QDROs approved for enforcement by the agency retirement systems on or after July 15, 2010.~~

~~(2) A QDRO may apply to any of the retirement systems administered by the Kentucky Retirement Systems as established by KRS Chapters 16, 61, and 78 in which the participant has marital service is a member during the period of the marriage that is the subject of the QDRO and from which the participant will receive retirement benefits, except for the excess benefit plans retirement systems established by KRS 16.568, 61.663, and 78.652.~~

~~(3) A valid QDRO shall be complete and contain all the following information:~~

- {(a)} [The participant's name;]
- {(b)} [The participant's mailing address;]
- {(c)} [The participant's Kentucky Retirement Systems member identification number or the participant's Social Security number;]
- {(d)} [The alternate payee's name;]
- {(e)} [The alternate payee's mailing address;]
- {(f)} [The system or systems to which the QDRO applies;]
- {(g)} [The amount or percentage to be paid to the alternate payee;]
- {(h)} [When payments under the QDRO are to end;]
- {(i)} [How the cost-of-living increase provided in KRS 61.691 is to be administered, if administration is not otherwise provided for by KRS 61.690; and]
- {(j)} [All information] required on the form that applies to the subject matter of the order:
 - (a) [1-] Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property, for a QDRO concerning the division of marital property that is completed pre-retirement;
 - (b) [2-] Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property, for a QDRO concerning the division of marital property that is completed post-retirement;
 - (c) [3-] Form 6436, Qualified Domestic Relations Order for Child Support, for a QDRO concerning the order of child support;
 - (d) [4-] Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency, for a QDRO concerning child support when completed by an Administrative Agency with the statutory authority to complete it; or
 - (e) [5-] Form 6438, Qualified Domestic Relations Order for Alimony/Maintenance, for a QDRO concerning alimony or maintenance.

{Section 4-}

- {(1)} [The participant shall sign and submit a Form 6433, Authorization for Release of Information and Request for Information for Qualified Domestic Relations Order to obtain the information necessary for the Court to calculate the amount due to the alternate payee for purposes of the QDRO. The participant shall provide the retirement systems with the following information:
 - {(a)} [The participant's and the alternate payee's Social Security numbers;]
 - {(b)} [The participant's and the alternate payee's dates of birth;]
 - {(c)} [Date of marriage;]
 - {(d)} [Date of divorce;]
 - {(e)} [The participant's and the alternate payee's mailing addresses; and]
 - {(f)} [The addresses of the participant's and the alternate payee's legal counsel, if any;]
- {(2)} [If the participant has not yet retired, the retirement systems shall provide as of the date of the divorce, the participant's:
 - {(a)} [Accumulated contributions and interest contributed and earned during the marriage in each system in which the participant has marital service;]
 - {(b)} [Total number of months of service credit earned and purchased as of the effective date of the divorce or upon the request in each system in which the participant has service;]
 - {(c)} [The number of months of service credit earned and purchased during the marriage in each system in which the participant has marital service;]
 - {(d)} [The hypothetical monthly retirement benefit pursuant to KRS 61.595 the participant would receive when the participant is eligible for an unreduced retirement benefit based on the final compensation and service credit as of the effective date of the divorce or upon the request in each system in which the participant has marital service; and]
 - {(e)} [The hypothetical actuarial refund payment option or lump-sum refund payment the participant would receive when the participant is eligible for an unreduced benefit based on the final compensation and service credit as of the effective date of the divorce or upon the request in each system in which the participant has marital service;]
- {(3)} [The retirement systems shall use the participant's final compensation as of the date of the divorce or upon the request and the service credit accrued by the participant during the marriage or upon the request when calculating the participant's projected basic monthly retirement allowance and the projected actuarial refund or lump-sum refund payment.]
- {(4)} [If the participant retired prior to the effective date of the divorce, the retirement systems shall provide the participant's:
 - {(a)} [Current monthly retirement benefit in each system from which the participant is receiving a monthly retirement benefit;]
 - {(b)} [Total number of months of service credit earned and purchased during the marriage in each system from which the participant is receiving a monthly retirement benefit; and]
 - {(c)} [Total number of months of service credit in each system from which the participant is receiving a monthly retirement benefit.]
- {(5)} [The alternate payee may request and obtain the information necessary for the court to calculate the amount due to the alternate payee for purposes of the QDRO by submitting a Form 6433, Authorization for Release of Information and Request for Information for Qualified Domestic Relations Orders, and an attached court issued subpoena or order compelling the release of the requested information.]
- {(6)} [If information other than the information supplied by the retirement systems in accordance with subsections (2) through (4) of this section is required:
 - {(a)} [The participant shall submit to the systems an additional signed request for information in writing; or]
 - {(b)} [The alternate payee shall submit to the systems an additional request and an attached court issued subpoena or order compelling the release of the requested information;]
 - {(c)} [Requests for information other than the information supplied by the retirement systems in accordance with subsections (2) through (4) of this section shall be answered pursuant to KRS 61.661.]

Section 5. Pre-retirement QDROs for the Division of Marital Property.

- (1) Only a QDRO for the purpose of the division of marital property shall be filed prior to a participant's effective retirement date.
 - (2) A QDRO issued for purpose of the division of the participant's retirement account, pursuant to a divorce entered prior to the participant's effective retirement date, shall be filed prior to retirement on a valid Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property. A Form 6434 entered or initially filed after the participant's retirement date shall be in compliance with Section 6 of this administrative regulation.
 - (3) The effective date of the Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property, shall be the participant's effective retirement date as ~~established~~ ~~provided~~ in KRS 61.590 and 78.545, or if the Form 6434 is approved following the participant's effective retirement date, the month following the month the Form 6434 was approved for enforcement by the agency.
 - (a) If the participant receives a lump-sum payment representing monthly retirement benefits paid retroactively to the participant's effective retirement date, the alternate payee shall receive a portion of the lump sum payment as ~~included~~ ~~provided~~ on the Form 6434.
 - (b) If the participant is not receiving a retirement benefit, then the alternate payee shall not receive a retirement benefit.
- (4)

(a) A Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property, filed on or after July 1, 2024 shall ~~include *and specify*~~ the amount to be paid to the alternate payee. The court shall use one (1) of the following methods to calculate the amount to be paid to the alternate payee:

1. A dollar amount;
2. A percentage of the participant's marital service; or
3. An alternative percentage of the participant's retirement payment option or accumulated account balance refund.

(b) If the court ~~determines *and specifies*~~ a dollar amount to be paid to the alternate payee, then the court shall complete all fields to indicate:

1. A monthly dollar amount if the participant elects a monthly retirement allowance;
2. A one (1) time lump-sum dollar amount if the participant elects the actuarial equivalent refund payment option pursuant to KRS 61.635(11) and 78.545;
3. A lump-sum dollar amount from participant's refund of his or her accumulated account balance if the participant elects to terminate his membership pursuant to KRS 61.625 and 78.545; and
4. A one (1) time lump-sum payment and a monthly dollar amount if the participant elects a partial lump-sum payment option pursuant to KRS 61.635(12) and 78.545.

(c)

1. If the court ~~determines *and specifies*~~ that a percentage of the participant's marital service be paid to the alternate payee, the percentage shall be determined based on the following ~~calculation. *table*~~:

$$\left[\frac{\text{Months of marital service in which participant was a contributing member of the system affected by the QDRO}}{\text{Participant's total service credit used to calculate the retirement payment option}} \right] \times 100 \div 2 = \text{Percentage benefit due alternate p}$$

2. The agency shall determine the marital service based on the marital period as ~~determined *and provided*~~ by the court in the QDRO;

3. The participant's total service credit shall be determined by the agency prior to the participant's filing of a request for a refund of the accumulated account balance, and shall be the total number of months of service credit used to calculate the participant's retirement payment options or the total number of months of service credit the participant had at the time of the request for refund of the accumulated account balance; and

4. To determine the amount due to the alternate payee, the ~~above~~ percentage ~~calculated in subparagraph 1. of this paragraph~~ shall be applied to the following as appropriate:

- a. The participant's basic monthly retirement allowance pursuant to KRS 16.576, 16.577, 16.583, 61.559, 61.595, 61.597, 78.5510, 78.5512, 78.5514, and 78.5516;
- b. The participant's actuarial equivalent refund;
- c. The participant's refund of his or her accumulated account balance; or
- d. The one (1) time lump-sum payment, and to either the reduced monthly retirement allowance payment with no survivor rights option elected by the participant pursuant to KRS 61.635(12)(a) and 78.545, or if the participant elected a payment option with survivor rights pursuant to KRS 61.635(12)(b) and 78.545, the correlating reduced monthly retirement allowance payment without survivor rights.

(d)

1. If the court ~~determines *and specifies*~~ that an alternative percentage of the participant's retirement payment option or accumulated account balance refund be paid to the alternate payee, the payment to the alternate payee shall not exceed the participant's:

- a. Retirement allowance amount elected at retirement;
- b. Actuarial equivalent refund pursuant to KRS 61.635(11) and 78.545; or
- c. Refund of his or her accumulated account balance pursuant KRS 61.625 and 78.545.

2. To determine the amount due to the alternate payee, the percentage indicated on the QDRO shall be applied to the following as appropriate:

- a. The participant's basic monthly retirement allowance pursuant to KRS 16.576, 16.577, 16.583, 61.559, 61.595, 61.597, 78.5510, 78.5512, 78.5514, and 78.5516;
- b. The participant's actuarial equivalent refund;
- c. The participant's refund of his or her accumulated account balance; or
- d. The one (1) time lump-sum payment, and to either the reduced monthly retirement allowance payment with no survivor rights option elected by the participant pursuant to KRS 61.635(12)(a) and 78.545, or if the participant elected a payment option with survivor rights pursuant to KRS 61.635(12)(b) and 78.545, the correlating reduced monthly retirement allowance payment without survivor rights.

(5)

(a) If a Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property, is filed prior to July 1, 2024 and the participant elects to receive a partial lump sum payment option pursuant to KRS 61.635(12) and 78.545, the alternate payee:

1. Shall receive a dollar amount or percentage applied to the participant's basic monthly retirement allowance; and
2. Shall not receive a portion of the partial lump-sum payable to the participant.

(b) A Form 6434 filed prior to July 1, 2024 shall ~~include *and specify*~~ the amount to be paid to the alternate payee. The court shall use one (1) of the following methods to calculate the amount to be paid to the alternate payee:

1. A dollar amount;
2. A percentage of the participant's marital service; or
3. An alternative percentage of the participant's retirement payment option or accumulated account balance refund.

(c) If the court ~~determines *and specifies*~~ a dollar amount to be paid to the alternate payee, then the court shall complete all fields to indicate:

1. A monthly dollar amount if the participant elects a monthly retirement allowance, including the reduced monthly retirement allowance payable under a partial lump-sum option pursuant to KRS 61.635(12) and 78.545;
2. A one (1) time lump-sum dollar amount if the participant elects the actuarial equivalent refund payment option pursuant to KRS 61.635(11) and 78.545; and
3. A lump-sum dollar amount from ~~the~~ participant's refund of his or her accumulated account balance if the participant elects to terminate his ~~or her~~ membership pursuant to KRS 61.625 and 78.545.

(d)

1. If the court ~~determines~~ ~~specifies~~ that a percentage of the participant's marital service be paid to the alternate payee, the percentage shall be determined based on the following ~~calculation~~, ~~table~~:

$$\left[\frac{\text{Months of marital service in which participant was a contributing member of the system affected by the QDRO}}{\text{Participant's total service credit used to calculate the retirement payment option}} \right] \times 100 \div 2 = \text{Percentage benefit due alternate p}$$

2. The agency shall determine the marital service based on the marital period as ~~determined~~ ~~provided~~ by the court in the QDRO;
 3. The participant's total service credit shall be determined by the agency prior to the participant's filing of a request for a refund of the accumulated account balance, and shall be the total number of months of service credit used to calculate the participant's retirement payment options or the total number of months of service credit the participant had at the time of the request for refund of the accumulated account balance; and
 4. To determine the amount due to the alternate payee, the above percentage shall be applied to the following as appropriate:
 a. The participant's basic monthly retirement allowance pursuant to KRS 16.576, 16.577, 16.583, 61.559, 61.595, 61.597, 78.5510, 78.5512, 78.5514, and 78.5516;
 b. The participant's actuarial equivalent refund; or
 c. The participant's refund of his or her accumulated account balance.

- (e).
 1. If the court ~~determines~~ ~~specifies~~ that an alternative percentage of the participant's retirement payment option or accumulated account balance refund be paid to the alternate payee, the payment to the alternate payee shall not exceed the participant's:
 a. Retirement allowance amount elected at retirement;
 b. Actuarial equivalent refund pursuant to KRS 61.635(11) and 78.545; or
 c. Refund of his or her accumulated account balance pursuant KRS 61.625 and 78.545.
 2. To determine the amount due to the alternate payee, the percentage indicated on the QDRO shall be applied to the following as appropriate:
 a. The participant's basic monthly retirement allowance pursuant to KRS 16.576, 16.577, 16.583, 61.559, 61.595, 61.597, 78.5510, 78.5512, 78.5514, and 78.5516;
 b. The participant's actuarial equivalent refund; or
 c. The participant's refund of his or her accumulated account balance.

Section 6. Post Retirement QDRO for the Division of Marital Property.

- (1) A QDRO issued for purposes of division of the participant's retirement account pursuant to a divorce decree entered after the participant's effective retirement date, or initially filed following the participant's effective retirement date, shall be filed on a valid Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property.
 (2) The Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property, shall ~~include~~ ~~specify~~ the amount to be paid to the alternate payee. The court shall use one (1) of the following methods to calculate the amount to be paid to the alternate payee:
 (a) A monthly dollar amount;
 (b)
 1. A percentage of the participant's selected monthly retirement benefit attributable to the marital service, which shall be determined based on the following ~~calculation~~, ~~table~~:

$$\left[\frac{\text{Months of marital service in which participant was a contributing member of the system affected by the QDRO}}{\text{Participant's total service credit used to calculate the retirement payment option}} \right] \times 100 \div 2 = \text{Percentage benefit due t alternate pa}$$

2. The agency shall determine the marital service based on the marital period as ~~determined~~ ~~provided~~ by the court in the QDRO;
 or
 (c) An alternative percentage of the participant's selected monthly retirement benefit in the system or systems affected by the QDRO.

Section 7. Child Support QDROs.

- (1) A QDRO issued for purposes of payment of child support shall be filed on:
 (a) A valid Form 6436, Qualified Domestic Relations Order for Child Support entered by a court of competent jurisdiction; or
 (b) A valid Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency, completed by an administrative agency with statutory authority to issue an order for child support in accordance with the laws governing child support.
 (2) The QDRO shall ~~include~~ ~~specify~~ the monthly dollar amount of child support to be paid.
 (3) The agency shall remit the payment for child support to the centralized registry established pursuant to KRS 205.712 and defined ~~by~~ ~~in~~ 921 KAR 1:001, Section 1(5).
 (a) The payment for child support shall be made payable to "Kentucky Child Support Enforcement . . ." ~~is~~
 (b) The participant's name and Social Security number shall be noted on the payment.
 (4) The agency shall only accept a Form 6436, Qualified Domestic Relations Order for Child Support, or a Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency, if the participant is retired and is receiving a monthly retirement benefit.

Section 8. Alimony or Maintenance QDROs.

- (1) A QDRO issued for purposes of payment of alimony or maintenance pursuant to KRS 403.200 shall be filed on a valid Form 6438, Qualified Domestic Relations Order for Alimony/Maintenance completed by a court of competent jurisdiction in accordance with the laws governing alimony or maintenance.
 (2) The QDRO shall ~~include~~ ~~specify~~ the monthly dollar amount or percentage of the participant's monthly retirement allowance to be paid to the alternate payee for alimony or maintenance.

(3) The agency shall only accept a Form 6438, Qualified Domestic Relations Order for Alimony/Maintenance if the participant is retired and is receiving a monthly retirement allowance.

Section 9. Filing a QDRO.

(1) A QDRO shall be on the form incorporated by reference in this administrative regulation that applies to the subject matter of the order.

(a) ~~{(2)}~~ A QDRO shall be signed by the judge of a court with jurisdiction over the case, and entered and certified by the Clerk of the Court, except as ~~established/provided~~ in paragraph (b) of this subsection.

(b) The Form 6437, Qualified Domestic Relations Order for Payment of Child Support by an Administrative Agency, shall be signed ~~for~~ by the head of the administrative agency, or his or her~~their~~ designee, with statutory authority to issue a QDRO.

(2) A valid copy of the QDRO that meets the requirements of subsection (1) of this section shall be filed.

(3) (a) ~~No one shall file [A QDRO shall be entered and certified by the Clerk of the Court or by the head of the administrative agency, or their designee, with statutory authority to issue a QDRO.]~~

~~{(4)} [The participant, alternate payee, or their legal counsel shall submit a copy of the entered and certified QDRO to the retirement systems.]~~

~~{(5)}~~

~~{(a)} [The participant, alternate payee, or their legal counsel shall not submit a QDRO that is before an appellate court and is not final.~~

~~(b) The agency~~retirement systems~~ shall not have responsibility or liability for payments made pursuant to a QDRO ~~filed/submitted~~ in violation of this subsection that was altered or dissolved by an order of an appellate court of competent jurisdiction.~~

(4) ~~{(6)}~~ A fee of fifty (50) dollars shall be submitted by ~~[The participant, alternate payee, or their legal counsel shall submit a]~~ certified check or money order in the amount of fifty (50) dollars made payable to the Kentucky State Treasurer as a nonrefundable processing fee with a ~~filed/the~~ QDRO, except as ~~established/provided~~ in paragraph (b) or (c) of this subsection. The agency~~retirement systems~~ shall not review the QDRO to approve for enforcement unless the fee is submitted with the QDRO.

(a) ~~[A QDRO shall provide who shall pay the fee, including if the fee is to be divided between the participant and the alternate payee. Only one (1) certified check or money order shall be submitted in payment of the fee.~~

(b) There shall not be a fee required for ~~submission of a~~ Form 6436, Qualified Domestic Relations Order for Child Support, or a Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency.

(c) If the dissolution of marriage action was filed in forma pauperis, then the agency~~retirement systems~~ shall waive the filing fee. A copy of the order allowing the dissolution of marriage action to be filed in forma pauperis shall be ~~filed/submitted to the retirement systems~~ with the valid entered and certified QDRO.

(5)

(a) ~~{(7)}~~ If the agency~~retirement systems~~ determines that the QDRO does not comply with KRS 16.645, 61.690, 78.545, 26 U.S.C. 414(p), or this administrative regulation, the participant, alternate payee, or their legal counsel shall have until the end of day ninety (90) calendar days from the date the agency's~~retirement systems~~ notification of the deficiency was ~~provided/mailed~~, as ~~detailed/provided~~ in Section 11(4)~~Section 6(4)~~ of this administrative regulation, to ~~file/submit~~ a corrected QDRO without an additional fee.

(b) If a corrected valid QDRO is not ~~filed/submitted~~ by the end of day~~within~~ ninety (90) calendar days ~~from/for~~ the date of notification, then ~~the participant, alternate payee, or their legal counsel shall be required to submit~~ an additional nonrefundable fifty (50) dollar fee with any new or corrected~~a~~ QDRO ~~filed/submitted~~ after the ninety (90) calendar days shall be required.

(c) If the participant requests and receives a refund of his or her accumulated account balance during the ninety (90) calendar day period ~~established /described~~ in this subsection, and a corrected QDRO is filed after the participant has received a refund of his or her accumulated account balance, then the QDRO shall not be valid and enforceable by the agency.

Section 10. Deposit of Fees. All fees collected pursuant to this administrative regulation shall be deposited in the Retirement Allowance Account established in KRS 61.580 and 78.640.

Section 11. ~~Section 6.~~ Determining if a QDRO is Approved for Enforcement.

(1) The agency~~retirement systems~~ shall determine if the QDRO is complete and qualifies as a valid QDRO pursuant to KRS 16.645, 61.690, 78.545, 26 U.S.C. 414(p), and this administrative regulation.

(a) A QDRO shall not be effective until the agency~~retirement systems~~ has determined that it complies with KRS 16.645, 61.690, 78.545, 26 U.S.C. 414(p), and this administrative regulation, and ~~approves/has approved~~ the QDRO for enforcement.

(b) ~~[The retirement systems shall provide notification of its determination within ninety (90) days of the submission of the QDRO during the time period from July 15, 2010 until July 14, 2011.]~~

~~{(c)}~~ The agency~~retirement systems~~ shall provide notification of its determination by the end of day~~within~~ forty-five (45) calendar days ~~from the date/of the submission of~~ the QDRO is ~~filed on or after~~ July 15, 2011.

(2) The agency~~retirement systems~~ shall provide notification to~~notify~~ the participant; the participant's legal counsel, if known; the alternate payee; and alternate payee's legal counsel, if known, that the QDRO has been approved for enforcement.

(a) If the participant has not yet retired, the agency~~retirement systems~~ shall place an otherwise valid and approved~~the~~ QDRO on file until the participant files a notification of retirement or an application for a refund of his or her accumulated account balance.

(b) If the participant has retired, the agency~~retirement systems~~ shall begin to enforce the QDRO the month after it is approved for enforcement by the agency~~retirement systems~~.

(3)

(a) Except as provided in paragraph (c) of this subsection, the ~~[The]~~ alternate payee shall complete and file a valid~~submit a completed~~ Form 6130, Authorization for Deposit of Retirement Payment, or if he or she does not have an account with a financial institution, a valid Form 6135, Payment of Retirement Payment by Check, prior to receiving payment under a QDRO.

(b) If the alternate payee has not ~~filed a valid/submitted a completed~~ Form 6130, ~~[Authorization for Deposit of Retirement Payment, for a valid Form 6135, Payment of Retirement Payment by Check,]~~ by the last day of the month before the first payment under the QDRO is due to be paid to the alternate payee, the agency~~retirement systems~~ shall segregate~~+~~

~~{(a)}~~ ~~[Segregate]~~ and hold the alternate payee's payments~~+~~

~~{(b)}~~ ~~[Hold the segregated amount]~~ for a period of no more than eighteen (18) calendar months, with the period beginning on the first day of the month following the date the first payment was required by the QDRO approved for enforcement by the agency~~retirement systems~~. The agency shall:

1. ~~{(c)}~~ Pay the segregated amount to the alternate payee, if a valid Form 6130, ~~[Authorization for Deposit of Retirement Payment,]~~ or a valid Form 6135, Payment of Retirement Payment by Check, is ~~filed/submitted~~ within the eighteen (18) calendar month hold period;

2. ~~{(d)}~~ Pay the segregated amount to the participant, if a valid Form 6130, ~~[Authorization for Deposit of Retirement Payment,]~~ or a valid Form 6135, Payment of Retirement Payment by Check, is not ~~filed/submitted~~ within the eighteen (18) calendar month hold period; or

3. ~~{(e)}~~ Apply the QDRO prospectively only, if after the eighteen (18) calendar month hold period expires a valid Form 6130, ~~{ Authorization for Deposit of Retirement Payment,}~~ or a valid Form 6135, { Payment of Retirement Payment by Check,} is ~~filed~~submitted.
- (c) An alternate payee listed on a valid Form 6436, Qualified Domestic Relations Order for Child Support, or a valid Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency shall not file a Form 6130 or a Form 6135.
- (4)
- (a) If the ~~agency~~{retirement systems} determines that the QDRO does not comply with KRS 16.645, 61.690, 78.545, 26 U.S.C. 414(p), or this administrative regulation, the ~~agency~~{retirement systems} shall provide written notification to~~{notify}~~ the participant, the participant's legal counsel, if known, the alternate payee, and alternate payee's legal counsel, if known, ~~including detailing~~{that}:
1. ~~{(a)}~~ That the ~~agency~~{retirement systems} has determined the QDRO does not comply with KRS 16.645, 61.690, 78.545, 26 U.S.C. 414(p), or this administrative regulation;
 2. ~~{(b)}~~ The reason for the determination that the QDRO does not comply with KRS 16.645, 61.690, 78.545, 26 U.S.C. 414(p), or this administrative regulation; and
 3. ~~{(c)}~~ The changes necessary to make the QDRO in compliance with KRS 16.645, 61.690, 78.545, 26 U.S.C. 414(p), and this administrative regulation.
- (b) If the sole deficiency is that the QDRO is not entered or certified, the agency shall segregate and hold any payments due the alternate payee pursuant to the QDRO for up to eighteen (18) calendar months, with the period beginning the first day of the month after the date the QDRO is not entered or certified, in accordance with this subsection.
1. If within the eighteen (18) calendar month hold period, the entered and certified QDRO is filed, the agency shall pay the segregated amount to the alternate payee; or
 2. When the eighteen (18) calendar month hold period ends, if the entered and certified QDRO is not on file, the agency shall pay the segregated amount to the participant.
 3. If an entered and certified QDRO is filed after the eighteen (18) calendar month hold period expires, the QDRO shall only be applied prospectively.

Section 12. Multiple QDROs.

- (1) If there are multiple QDROs on file for a participant's account, the QDROs shall be administered in the following order:
- (a) QDROs for the Division of Marital Property;
 - (b) QDROs for Child Support; and
 - (c) QDROs for Alimony/Maintenance.
- (2) If multiple QDROs for the Division of Marital Property are on file, they shall be administered in the order of approval by the agency.
- (3) If multiple QDROs for Child Support are on file, they shall be administered in the order of approval by the agency.
- (4) If multiple QDROs for Alimony/Maintenance are on file, they shall be administered in the order of approval by the agency.
- (5) The agency shall not administer a QDRO if enforcement of the QDRO would result in the total amount of payments due to the alternate payees to exceed the participant's monthly retirement benefit under the multiple QDROs approved for enforcement by the agency. The agency shall notify the participant and alternate payees if a QDRO cannot be administered due to the exhaustion of the participant's monthly retirement benefit.

Section 13. Multiple Retirement Accounts. For participants who retired and subsequently reemployed with an employer in a regular full-time position prior to September 1, 2008, new QDROs affecting the participant's retirement account shall be administered as established in subsections (1) and (2) of this section. ~~{follows:}~~

- (1) A valid Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property, that is filed and approved for enforcement by the agency shall be applied to any retirement account of the participant from which the participant has not retired.
- (2) Any of the following valid QDROs that are filed and approved for enforcement by the agency shall be applied to any retirement account of the participant from which the participant has retired:
- (a) Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property;
 - (b) Form 6436 Qualified Domestic Relations Order for Child Support;
 - (c) Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency; or
 - (d) Form 6438, Qualified Domestic Relations Order for Alimony/Maintenance.

Section 14. ~~{Section 7.}~~ Amending or terminating QDRO's.

- (1) If a QDRO approved for enforcement ~~by the agency~~{and on file at the retirement systems} is amended or terminated, the participant, alternate payee, or their legal counsel shall ~~file~~{submit}:
- (a) ~~The~~ {the} amended entered and certified valid QDRO as established~~{provided}~~ in Section 9 of this administrative regulation; or
 - (b) ~~The~~ {an} entered and certified order from a court of competent jurisdiction terminating the QDRO~~{to the retirement systems as provided in Section 5 of this administrative regulation}~~.
- (2) Except as established ~~{provided}~~ in paragraph (a) or (b) of this subsection, a fee ~~{The participant, alternate payee, or their legal counsel shall submit a certified check or money order in the amount}~~ of twenty-five (25) dollars shall be submitted by certified check or money order made payable to the Kentucky State Treasurer as a nonrefundable processing fee for the amended QDRO or order terminating the QDRO. The ~~agency~~{retirement systems} shall not review the amended QDRO or order terminating the QDRO unless the fee is submitted with the amended QDRO or order terminating the QDRO.
- (a) If the dissolution of marriage action was filed in forma pauperis, then the ~~agency~~{retirement systems} shall waive the filing fee. A copy of the order allowing the dissolution of marriage action to be filed in forma pauperis shall be ~~filed~~{submitted to the retirement systems} with the entered and certified valid QDRO.
 - (b) There shall not be a fee required for ~~{submission of}~~ a Form 6436, Qualified Domestic Relations Order for Child Support, or a Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency.
- (3) The ~~agency~~{retirement systems} shall review the amended QDRO using the same procedures ~~established~~{found} in Section 11~~{Section 6}~~ of this administrative regulation.
- (4) If the ~~agency~~{retirement systems} determines that the amended QDRO does not comply with KRS 16.645, 61.690, 78.545, 26 U.S.C. 414(p), and this administrative regulation, or that the order terminating the QDRO is insufficient, the participant, alternate payee, or their legal counsel shall have until the end of day ninety (90) calendar days from the date of the ~~agency's~~{retirement systems} notification of the deficiency, as established~~{prescribed}~~ in Section 11(4) of this administrative regulation, was ~~provided~~{mailed as provided in Section 6(4) of this administrative regulation} to ~~file~~{submit} a corrected amended valid QDRO or a corrected order terminating the QDRO. If a corrected amended valid QDRO or a corrected order terminating the QDRO is not filed by the end of day~~{submitted within}~~ ninety (90) calendar days from ~~{off}~~ the date of notification, then ~~the participant, alternate payee, or their legal counsel shall be required to submit~~ an additional nonrefundable twenty-five (25) dollar fee shall be submitted with an amended valid QDRO or order terminating the QDRO that is ~~filed~~{submitted} after the ninety (90) calendar day period~~{days}~~.
- (5) An amended valid QDRO or an order terminating a QDRO approved by the ~~agency~~{retirement systems} shall only be administered prospectively.

~~[Section 8.] [All fees collected pursuant to this administrative regulation shall be deposited in the Retirement Allowance Account established in KRS 61.580.]~~

~~[Section 9.]~~

~~[(1)] [A QDRO issued for purposes of division of the participant's retirement account pursuant to a divorce entered prior to the participant's effective retirement date shall be submitted on the Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property, unless the QDRO is initially submitted following the participant's retirement date.]~~

~~[(2)] [The effective date of the Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property, shall be the participant's effective retirement date as provided in KRS 61.590 or, if the Form 6434 is approved following the participant's effective retirement date, the month following the month the Form 6434 was approved for enforcement by the retirement systems. If the participant receives a lump sum payment representing monthly retirement benefits paid retroactively to the participant's effective retirement date, the alternate payee shall receive a portion of the lump sum payment as provided in the Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property. If the participant is not receiving a retirement benefit, then the alternate payee shall not receive a retirement benefit.]~~

~~[Section 10.] [The Form 6434, Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property, shall specify the amount to be paid to the alternate payee. The court shall use one (1) of the following methods to calculate the amount to be paid to the alternate payee:]~~

~~[(1)] [A monthly dollar amount if the participant elects a monthly retirement benefit or a one (1) time lump sum dollar amount if the participant selects the actuarial refund payment option pursuant to KRS 61.635(11) at the participant's retirement, or a lump sum dollar amount from participant's refund of contributions and interest if the participant elects to terminate his membership pursuant to KRS 61.625;]~~

~~[(2)] [A percentage equal to one-half of the participant's basic monthly retirement benefit attributable to any service credit earned or purchased during the marriage pursuant to KRS 61.595 or 16.576, actuarial refund pursuant to KRS 61.635(11), or lump sum payment pursuant to KRS 61.625, which shall be determined as follows:]~~

~~[(a)] [The numerator of the fraction shall be the number of months during which the participant was both a contributing member of the retirement systems affected by the QDRO and married to the alternate payee, including service purchased during the marriage. The retirement systems shall utilize the marital period as provided by the court in the QDRO;]~~

~~[(b)] [The denominator of the fraction, which shall be determined by the retirement system as of the participant's effective retirement date or the participant's termination date prior to the participant's filing of a request for a refund of contributions and interest, shall be the total number of months of service credit used to calculate the participant's retirement payment options or the total number of months of service credit the participant had at the time of the request for refund of contributions and interest; and]~~

~~[(c)] [The resulting fraction shall be converted to a percentage, which shall be divided by two (2) to determine the percentage of the benefit due to the alternate payee; or]~~

~~[(3)] [An alternative percentage of the participant's basic monthly retirement benefit pursuant to KRS 61.595 or 16.576, actuarial refund pursuant to KRS 61.635(11), or lump sum payment pursuant KRS 61.625, in the system or systems affected by the QDRO.]~~

~~Section 15. [Section 11.] Disability Retirement Benefits for Members Participating Prior to August 1, 2004.~~

~~(1) The provisions of this section shall only apply to participants who were participating prior to August 1, 2004.~~

~~(2) If a participant ~~with~~ who was participating prior to August 1, 2004, and who has a QDRO on file ~~at the retirement systems~~ is awarded disability retirement benefits pursuant to KRS 16.582, 61.600, ~~or~~ 61.621, 78.545, 78.5522, or 78.5524, the alternate payee's portion of the participant's disability retirement benefit shall be calculated as ***established in paragraph (a) or (b) of this subsection.***~~

~~[(a)] If the QDRO ordered that the alternate payee be paid a specific dollar amount from the participant's retirement benefit as ***established provided*** in Section 5(5)(a), Section 7, or Section 8 ~~[Section 10(1)]~~ of this administrative regulation, the ~~agency retirement system~~ shall pay the specific dollar amount regardless of any enhancement of the participant's retirement benefit; ~~or~~~~

~~[(b)] If the QDRO ordered that the alternate payee be paid a percentage of the participant's retirement benefit as ***established provided*** in Section 5(5)(b) and (c) or Section 8 ~~[Section 10(2) and (3)]~~ of this administrative regulation, the ~~agency retirement systems~~ shall not use the service credit added to the participant's account pursuant to KRS 16.582(5)(a), ~~or~~ 61.605(1), 78.5522(6), ~~or~~ 78.5524(5) ~~for when~~ calculating the amount the alternate payee is due under the QDRO on file at the ~~agency retirement systems~~.~~

~~[(3)] [(2)]~~

~~[(a)] If the participant's disability retirement benefits are discontinued pursuant to KRS 61.610, ~~and~~ 61.615, 78.5526, and 78.5528, then:~~

~~[(a)] If ~~and~~ the participant ~~does not begin receiving~~ ~~[is not eligible to receive]~~ early retirement benefits, the alternate payee's payment shall be discontinued; ~~or~~~~

~~[(b)] If ~~the participant's disability retirement benefits are discontinued pursuant to KRS 61.610 and 61.615 and~~ the participant's benefit is changed to the participant's early retirement benefit, the alternate payee shall receive payment from the early retirement benefit pursuant to the QDRO; ~~or~~~~

~~[(c)] If the participant's disability retirement benefits are reinstated pursuant to KRS 61.615 ~~and~~ 78.5528, the alternate payee's payment shall be reinstated; ~~or~~~~

~~[(d)] If the participant later begins receiving early retirement benefits ~~while his disability retirement benefits are discontinued~~, the alternate payee shall receive payment from the early retirement benefit pursuant to the QDRO; ~~or~~~~

~~[(e)] If the participant later begins receiving retirement benefits at normal retirement age, the alternate payee shall receive payment pursuant to subsection (2)(a) ~~and~~ ~~or~~ (b) of this section.~~

~~Section 16. [Section 12.] Disability Retirement Benefits for Members Participating on or after August 1, 2004.~~

~~(1) The provisions of this section shall only apply to participants whose participation began on or after August 1, 2004.~~

~~(2) If a participant ~~whose participation began on or after August 1, 2004, and~~ who has a QDRO on file ~~at the retirement systems~~ is awarded disability retirement benefits pursuant to KRS 16.582, 61.600, ~~or~~ 61.621, 78.545, 78.5522, or 78.5524 the alternate payee's portion of the participant's disability retirement benefit shall be calculated as ***established in paragraph (a) or (b) of this subsection.***~~

~~[(a)] If the QDRO ordered that the alternate payee be paid a specific dollar amount from the participant's retirement benefit as ***established provided*** in Section 5(5)(a), Section 7, or Section 8 ~~[Section 10(1)]~~ of this administrative regulation, the ~~agency retirement system~~ shall pay the specific dollar amount regardless of any enhancement of the participant's retirement benefit; ~~or~~~~

~~[(b)] If the QDRO ordered that the alternate payee be paid a percentage of the participant's retirement benefit as provided in Section 5(5)(b) and (c) or Section 8 ~~[Section 10(2) and (3)]~~ of this administrative regulation, the ~~agency retirement systems~~ shall use the participant's benefit pursuant to KRS 16.582(5)(b) ~~and~~ (c), ~~or~~ 61.605(2), 78.5522(6)(b) ~~and~~ (c), ~~or~~ 78.5524(5)(b) ~~and~~ (c) ~~for when~~ calculating the amount the alternate payee is due under the QDRO on file ~~at the retirement systems~~.~~

(3) ~~[(2)]~~

~~[(a)]~~ If the participant's disability retirement benefits are discontinued pursuant to KRS 61.610, ~~and~~ 61.615, ~~78.5526, and 78.5528, then:~~

~~(a)~~ If ~~and~~ the participant ~~does not begin receiving~~~~[is not eligible to receive]~~ early retirement benefits, the alternate payee's payment shall be discontinued;~~;~~

~~(b)~~ If ~~the participant's disability retirement benefits are discontinued pursuant to KRS 61.610 and 61.615 and~~ the participant's benefit is changed to the participant's early retirement benefit, the alternate payee shall receive payment from the early retirement benefit pursuant to the QDRO;~~;~~

~~(c)~~ If the participant's disability retirement benefits are reinstated pursuant to KRS 61.615 ~~and 78.5528~~, the alternate payee's payment shall be reinstated;~~;~~

~~(d)~~ If the participant later begins receiving early retirement benefits ~~while his disability retirement benefits are discontinued~~, the alternate payee shall receive payment from the early retirement benefit pursuant to the QDRO; ~~or~~

~~(e)~~ If the participant later begins receiving retirement benefits at normal retirement age, the alternate payee shall receive payment pursuant to subsection (2)(a) and ~~f~~ (b) of this section.

~~[Section 13.] [A QDRO issued for purposes of division of the participant's retirement account pursuant to a divorce decree entered after the participant's effective retirement date, or initially submitted to the retirement system following the participant's effective retirement date, shall be submitted on the Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property.]~~

~~[Section 14.]~~

~~[(1)] [The Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property, shall specify the amount to be paid to the alternate payee.]~~

~~[(2)] [The court shall use one (1) of the following methods to calculate the amount to be paid to the alternate payee:]~~

~~[(a)] [As a monthly dollar amount;]~~

~~[(b)] [As a percentage of the participant's selected monthly retirement benefit, which shall be determined as follows:]~~

~~[1.] [The numerator of the fraction shall be the number of months during which the participant was both a contributing member of the retirement systems affected by the QDRO and married to the alternate payee, including service purchased during the marriage. The retirement systems shall utilize the marital period as provided by the court in the QDRO.]~~

~~[2.] [The denominator of the fraction, shall be the total number of months of service credit used to calculate the participant's retirement payment option; and]~~

~~[3.] [The resulting fraction shall be converted to a percentage, which shall be divided by two (2) to determine the percentage of the benefit due to the alternate payee; or]~~

~~[(c)] [An alternative percentage of the participant's selected monthly retirement benefit in the system or systems affected by the QDRO.]~~

~~[Section 15.]~~

~~[(1)] [If the retirement systems determines that the Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property, does not comply with KRS 61.690, 26 U.S.C. 414(p), or this administrative regulation, the retirement systems shall:]~~

~~[(a)] [Segregate and hold the amount that would have been payable to the alternate payee if the Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property, had been in compliance with KRS 61.690, 26 U.S.C. 414(p), and this administrative regulation;]~~

~~[(b)] [Hold the segregated amount for a period of no more than the eighteen (18) month hold period. The eighteen (18) month hold period begins on the date the first payment would be required by the Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property, that the retirement systems determined was not in compliance with KRS 61.690, 26 U.S.C. 414(p), and this administrative regulation;]~~

~~[(c)] [If a Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property, is submitted and determined to be in compliance with KRS 61.690, 26 U.S.C. 414(p), and this administrative regulation within the eighteen (18) month hold period, pay the segregated amount to the alternate payee;]~~

~~[(d)] [If no subsequent Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property, is submitted and determined to be in compliance with KRS 61.690, 26 U.S.C. 414(p), and this administrative regulation within the eighteen (18) month hold period, pay the segregated amount to the participant; or]~~

~~[(e)] [If after the eighteen (18) month hold period a subsequent Form 6435, Post-Retirement Qualified Domestic Relations Order, is submitted and determined to be in compliance with KRS 61.690, 26 U.S.C. 414(p), and this administrative regulation, the Form 6435, Post-Retirement Qualified Domestic Relations Order shall only be applied prospectively.]~~

~~[(2)] [The effective date of the first payment to the alternate payee shall be the month following the month the Form 6435, Post-Retirement Qualified Domestic Relations Order for Division of Marital Property, is approved for enforcement by the retirement systems.]~~

~~[Section 16.]~~

~~[(1)] [A QDRO issued for purposes of payment of child support shall be submitted on the Form 6436, Qualified Domestic Relations Order for Child Support, or the Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency.]~~

~~[(2)] [The monthly dollar amount of child support to be paid by the participant shall be determined by a court of competent jurisdiction or an administrative agency with statutory authority to issue an order for child support in accordance with the laws governing child support.]~~

~~[(3)] [The retirement systems shall remit the payment for child support to the centralized registry established pursuant to KRS 205.712 and defined in 921 KAR 1:001, Section 1(5).]~~

~~[(a)] [The payment for child support shall be made payable to "Kentucky Child Support Enforcement".]~~

~~[(b)] [The participant's name and Social Security number shall be noted on the payment.]~~

~~[(4)] [An alternate payee listed on the Form 6436, Qualified Domestic Relations Order for Child Support, or the Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency shall not be required to submit a Form 6130, Authorization for Deposit of Retirement Payment or a Form 6135, Payment of Retirement Payment by Check.]~~

~~[(5)] [The retirement systems shall not accept a Form 6436, Qualified Domestic Relations Order for Child Support, or a Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency, if the participant has not retired and is not receiving a monthly retirement benefit.]~~

~~[Section 17.]~~

~~[(1)] [A QDRO issued for purposes of payment of alimony or maintenance pursuant to KRS 403.200 shall be submitted on the Form 6438, Qualified Domestic Relations Order for Alimony/Maintenance.]~~

~~[(2)] [The amount of alimony or maintenance to be paid by the participant shall be determined by a court of competent jurisdiction in accordance with the laws governing alimony or maintenance.]~~

~~[(3)] [The retirement systems shall not accept a Form 6438, Qualified Domestic Relations Order for Alimony/Maintenance if the participant has not retired and is not receiving a monthly retirement benefit.]~~

~~Section 17. [Section 18.] Events That End or Amend a QDRO for Division of Marital Property, Alimony, or Maintenance.~~

~~(1) The participant, the alternate payee, or legal counsel for either party shall be responsible for notifying the agency[retirement systems in writing] of an event that causes payments to the alternate payee under a QDRO for Division of Marital Property or a QDRO for Alimony/Maintenance to end in accordance with KRS 16.645, 61.690(7), and 78.545.~~

~~(2) In the event of the participant or alternate payee's death, the QDRO on file shall be void and payment shall not be made to the alternate payee or his or her estate.~~

~~(3) [(2)] The agency[retirement systems] shall segregate and hold any payments due the alternate payee[pending submission of proof of the event that causes payments to the alternate payee to end is provided by the participant] beginning the month after the agency's[retirement systems] receipt of the[participant's written] notification until one (1) of the following occurs:[-]~~

~~(a) [(2)] The participant, alternate payee, or either party's legal counsel files[-] shall submit a copy of the alternate payee's marriage certificate, the alternate payee's death certificate, or other reliable documentation as proof of the event that causes payments to the alternate payee[the participant's alimony or maintenance] to end; or[-]~~

~~(b) The agency independently verifies the event that causes payments to the alternate payee to end.~~

~~(4) As applicable, the [The] participant, alternate payee, or either party's legal counsel shall file[submit] a copy of the alternate payee's marriage certificate or[-] the alternate payee's or participant's death certificate[-, or other reliable documentation as determined by the agency] as proof of the event that causes payment to the alternate payee[the participant's payments pursuant to the division of marital property] to end.~~

~~(5) If a [The participant shall not be required to submit written notification if the] QDRO *includes/specifies* the number of months of payments, payment to the alternate payee shall cease after the designated number of months expire, and a notice of the exhaustion of payments shall not be required.~~

~~(6) If proof is not filed or obtained by the end of day[submitted within] ninety (90) calendar days from[off] the[written] notification to the agency[retirement systems], the payments being held shall be released to the alternate payee.~~

~~(7) The agency[retirement systems] shall not be liable for any payments made to the alternate payee if the participant failed to provide proper notification and documentation of the event that causes payments to the alternate payee to end.~~

~~Section 18. [Section 19.] Event That Ends or Amends a QDRO for Child Support.~~

~~(1) The participant shall be responsible for notifying the agency[retirement systems in writing] of an event that causes payments to the alternate payee under a QDRO for Child Support to be amended or to end.~~

~~(2)~~

~~(a) [If an alternate payee is being paid child support pursuant to a Form 6436, Qualified Domestic Relations Order for Child Support, or the Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency, the participant shall submit an entered and certified order from a court of competent jurisdiction or an administrative agency with statutory authority to order child support providing that payments under the Form 6436, Qualified Domestic Relations Order for Child Support, or the Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency, shall end or be amended.]~~

~~[(b)]~~

~~[-] The agency[retirement systems] shall segregate and hold the payments due to the alternate payee under a valid QDRO for child support[Form 6436, Qualified Domestic Relations Order for Child Support, or the Form 6437, Qualified Domestic Relations Order for Child Support by an Administrative Agency.] if one (1) of the following is filed:~~

~~1. An [the participant submits an] order changing the custody of the child to someone other than the alternate payee;[-]~~

~~2. A [a] copy of the child's marriage certificate;[-]~~

~~3. A [a] letter from the child's high school indicating the child's graduation date, if the child is age of eighteen (18) or older;[-]~~

~~4. The [the] child's birth certificate indicating the child is age eighteen (18) or older;[-]~~

~~5. An [an] order of emancipation of the minor child;[-] or~~

~~6. The [the] child's death certificate.~~

~~(b) [2-] If the QDRO for child support is for the support of more than one (1) child, the agency[retirement systems] shall not segregate or hold payments due to the alternate payee.~~

~~(c) If the participant does not file documentation to amend or terminate[submit an entered and certified order amending or terminating] the QDRO for child support in accordance with Section 14 of this administrative regulation by the end-of-day[from a court of competent jurisdiction or an administrative agency with statutory authority to order child support within] ninety (90) calendar days from[off] the participant's submission as *established/provided* in paragraph (a)[(b)] of this subsection, the payments being held shall be released to the alternate payee.~~

~~(3) The agency[retirement systems] shall not be liable for any payments made to the alternate payee if the participant failed to provide proper notification, documentation of the event, the amended QDRO, or the court order that causes payments to the alternate payee to end or be amended.~~

~~[Section 20.]~~

~~[(1)] [If there are multiple QDROs on file for a participant's account, the QDROs shall be administered in the following order:]~~

~~[(a)] [QDROs for the Division of Marital Property;]~~

~~[(b)] [QDROs for Child Support;]~~

~~[(c)] [QDROs for Alimony/Maintenance.]~~

~~[(2)] [If multiple QDROs for the Division of Marital Property are on file, they shall be administered in the order of approval by the retirement systems.]~~

~~[(3)] [If multiple QDROs for Child Support are on file, they shall be administered in the order of approval by the retirement systems.]~~

~~[(4)] [If multiple QDROs for Alimony/Maintenance are on file, they shall be administered in the order of approval by the retirement systems.]~~

~~[(5)] [If a QDRO for Child Support is submitted subsequent to the participant's retirement and subsequent to the administration of the QDROs on file at the time of the participant's retirement it shall be given priority over any QDROs for Alimony/Maintenance being administered.]~~

~~[(6)]~~

~~[(a)] [The retirement systems shall not administer a QDRO if enforcement of the QDRO would result in the total amount of payments due to the alternate payees to exceed the participant's monthly retirement benefit under the multiple QDROs approved for enforcement by the retirement systems. The retirement systems shall notify the participant and alternate payees if a QDRO cannot be administered due to the exhaustion of the participant's monthly retirement benefit.]~~

~~[(b)] [The retirement systems shall recalculate the amounts due under the QDROs being administered by the retirement systems on a participant's account after the effective date of any cost of living increase provided pursuant to KRS 61.691.]~~

~~[Section 21.] [The alternate payee shall be responsible for notifying the retirement systems in writing of any change in mailing address. The retirement systems shall contact the alternate payee at the last known mailing address on file to notify the alternate payee when a benefit subject to the QDRO becomes payable. The retirement systems shall not have a duty or obligation to search for or locate an alternate payee.]~~

~~[Section 22.] [A QDRO shall not provide that the alternate payee be eligible to enroll in the health insurance plan administered by the retirement systems.]~~

Section 19. ~~[Section 23.] Correction or Change ~~[Correction/change]~~ to Retirement Benefits.~~

(1) If the participant's retirement benefit is corrected pursuant to KRS 61.685 and 78.545, the alternate payee's payment shall also be corrected.

(a) ~~[(2)]~~ If the alternate payee was overpaid because of the error that is being corrected pursuant to KRS 61.685 and 78.545, the ~~agency[retirement systems]~~ shall withhold the amount of the overpayment from the alternate payee's payment.

(b) ~~[(3)]~~ If the alternate payee was underpaid because of the error that is being corrected pursuant to KRS 61.685 and 78.545, the ~~agency[retirement systems]~~ shall pay the alternate payee a lump sum payment of the additional funds due from the participant's payment.

(2) ~~After the effective date of any cost-of-living increase established ~~[provided]~~ pursuant to KRS 61.691 and 78.5518, the agency shall recalculate the amounts due under a QDRO being administered by the agency.~~

(3) Payment to the alternate payee shall not change as a result of a change in the participant's retirement benefits as ~~established ~~[provided]~~ in KRS 61.542(5)(b) and 78.545.~~

Section 20. Alternate Payee's Contact Information. ~~The alternate payee shall be responsible for notifying the agency in writing of any change in mailing address. The agency shall contact the alternate payee at the last known mailing address on file to notify the alternate payee ~~if/when~~ a benefit ~~under ~~[subject to]~~~~ the QDRO becomes payable. The agency shall not have a duty or obligation to search for or locate an alternate payee.~~

Section 21. Hospital and Medical Insurance. ~~Eligibility for a hospital or medical insurance plan administered by the agency shall not be established or required by a QDRO ~~[A QDRO shall not provide that the alternate payee be eligible to enroll in the hospital and medical insurance plan administered by the agency].~~~~

Section 22. ~~[Section 24.] Agency Subpoena or As a Party to a Domestic Relations Action.~~

(1) Any person or party who attempts to make the ~~agency[retirement systems]~~ a party to a domestic relations action regarding a QDRO, or who requests a subpoena be issued for the personal appearance of a representative of the ~~agency[retirement systems]~~ to appear at a deposition or in a court or administrative proceeding regarding a QDRO, shall reimburse the ~~agency[retirement systems]~~ for the travel expenses and services of the ~~agency's[retirement systems]~~ representative, or representatives, and the ~~agency's[retirement systems]~~ legal counsel, as an administrative fee including:

(a) The Internal Revenue Service standard mileage rate;

(b) Parking and tolls;

(c) Meals if the ~~agency's[retirement systems]~~ personnel are required to travel and be away from the retirement office from 6:30 a.m. to 9 a.m., 11 a.m. to 2 p.m., or 5 p.m. to 9 p.m.;

(d) The wages earned by the ~~agency's[retirement systems]~~ employees during the time period they are away from the retirement office calculated by multiplying the hourly rate of each employee by the number of hours each employee was away from the office;

(e) The ~~agency's[retirement systems]~~ costs and legal fees; and

(f) Lodging expenses, if necessary.

(2) The ~~agency[retirement systems]~~ shall send an estimated amount owed for expenses to the person or party requesting the subpoena.

(a) The person or party shall remit payment via a certified check or money order for the estimated expenses made payable to the Kentucky State Treasurer before the date of appearance ordered in the subpoena.

(b) The ~~agency[retirement systems]~~ shall send an invoice for any additional expenses owed by the party or issue a refund for any amount over the cost of the expenses.

Section 23. ~~[Section 25.] Agency Liability.~~ Neither the ~~agency[retirement systems]~~ nor its trustees nor its employees shall have any liability for making or withholding payments in accordance with the provisions of this administrative regulation.

Section 24. ~~[Section 26.] Incorporation by Reference.~~

(1) The following material is incorporated by reference:

(a) ~~[Form 6015, "Estimate of a Monthly Retirement Allowance", April 2021;]~~

~~[(b)]~~ Form 6434, "Pre-Retirement Qualified Domestic Relations Order for Division of Marital Property", ~~July/March] 2024[April 2021];~~

~~[(b)]~~ Form 6435, "Post-Retirement Qualified Domestic Relations Order for Division of Marital Property", ~~July/March] 2024[April 2021];~~

~~[(c)]~~ Form 6436, "Qualified Domestic Relations Order for Child Support", ~~July/March] 2024[April 2021];~~

~~[(d)]~~ Form 6437, "Qualified Domestic Relations Order for Child Support by an Administrative Agency", ~~July/March] 2024[April 2021];~~

~~[(e)]~~ Form 6438, "Qualified Domestic Relations Order for Alimony/Maintenance", ~~July/March] 2024[April 2021];~~

~~[(f)]~~ Form 6130, "Authorization for Deposit of Retirement Payment", ~~June 2023[April 2021];~~

~~[(g)]~~ Form 6135, "Payment of Retirement Payment by Check", ~~June 2023[April 2021];~~ and

~~[(h)]~~ Form 6433, "Authorization for Release of Information and Request for Information for Qualified Domestic Relations Orders", ~~March 2024[April 2021].~~

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(18 Ky.R. 929; eff. 11-8-1991; Am. 21 Ky.R. 1521; 1881; eff. 2-8-1995; 37 Ky.R. 945; 11-5-2010; 38 Ky.R. 494; eff. 9-28-2011; TAm eff. 6-11-2019; Cert eff. 6-11-2019; TAm eff. 4-25-2023; 50 Ky.R. 2265; 51 Ky.R. 251; eff. 11-5-2024.)

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CONTACT PERSON: Jessica Beaubien, Policy Specialist, Kentucky Public Pensions Authority, 1260 Louisville Road, Frankfort, Kentucky 40601, phone (502) 696-8800 ext. 8570, fax (502) 696-8615, email Legal.Non-Advocacy@kyret.ky.gov.