



CUYAHOGA COUNTY COURT OF COMMON PLEAS DIVISION OF DOMESTIC RELATIONS

Dividing Retirement Benefits

This handout is for informational purposes only and is not intended as legal advice. The division of retirement benefits is complicated. We recommend that you consult an attorney and/or your retirement plan administrator.

If you or your spouse have retirement benefits (*not* Social Security, but pension, 401(k), IRA, etc.) part or all of which was earned while you were married, and your Judgment Entry of Divorce or Judgment Entry of Dissolution divides the retirement benefits, you must take additional steps to complete the division of benefits.

Note: How the retirement benefits are to be divided (50-50, 60-40, a specific dollar amount, etc.) is found in the Judgment Entry of Divorce or Judgment Entry of Dissolution. The following orders cannot change the split but are needed to make the division effective.

Here is what you must do to make the division happen:

Private pensions or retirement plans

Pensions, retirement savings plans, 401(k)s, IRAs, etc., earned while working for a non-government employer or through a union are covered by a federal (U.S.) law called the Employee Retirement Income Security Act (ERISA). Under ERISA, a retirement plan administrator *cannot* divide a pension or retirement account without a Qualified Domestic Relations Order (QDRO) from the court that granted the divorce or dissolution.

Railroad Retirement Board pensions are governed by ERISA, and require a QDRO; however, there are also some special rules for these pensions. For example, only part of Railroad Retirement Board pension can be divided in a divorce or dissolution; part cannot be divided. If you or your spouse have a railroad pension, you should consult an attorney or the Railroad Retirement Board

Even though the QDRO is a court order, under ERISA, the pension or retirement plan administrator may reject the QDRO if it does not comply with the plan's terms or ERISA. Many plans will review a proposed QDRO before it is submitted to the court.

Note: A separate QDRO is required for each pension or retirement account being divided.

Ohio public pension plans

For pensions or retirement benefits in the Ohio Public Employees Retirement System (OPERS), Ohio Police & Fire Pension (OPFP), State Teachers' Retirement System (STRS), or School Employees' Retirement System (SERS), ERISA does not apply – Ohio law requires a Division of Property Order (DOPO). [A DOPO is instead of a QDRO – you don't need both for a public pension.]

Ohio law requires a specific form to be used for a DOPO – the same form is used by all four state pension plans. Once the judge has signed the DOPO and it has been recorded on the court's docket, *you must request the Clerk of Courts to send a certified copy to the appropriate retirement plan.*

Federal employee retirement plans

If you or your spouse have retirement benefits under the federal Civil Service Retirement System (CSRS) or Federal Employment Retirement System (FERS), ERISA does not apply, so you need to prepare a Court Order Acceptable for Processing (COAP) instead of a DOPO.

Like the state plans, the federal retirement plans have very specific requirements for a COAP. You, your spouse, or your attorney should contact the appropriate plan for assistance.

Military retired pay

If you or your spouse are entitled to military retirement pay, division of that pension is subject to the federal Uniformed Services Former Spouses' Protection Act (USFSPA). A Military Retired Pay Division Order (instead of a QDRO) is required. The order must be served on the Defense Finance and Accounting Service (Army, Navy, Air Force and Marine Corps) or Coast Guard Pay and Personnel Center (Coast Guard, National Oceanic and Atmospheric Administration or Public Health Service).

The court does not prepare QDROs, DOPOs, COAPs, or Military Retired Pay Division Orders.

You, your spouse, or your attorney must submit the appropriate completed document to the court for processing. Many retirement plan administrators have specific forms to use for that pension or retirement plan, which you can obtain from the plan administrator. The state and federal plans also have very specific requirements. There are commercial services that prepare the appropriate document for a fee. *Once the judge has signed the document and it has been docketed by the Clerk of Courts, it is **your** responsibility to ensure that a certified copy of the document is sent to the retirement plan administrator.*