



DISSOLUTION OF MARRIAGE DOCUMENTS POLICY

PURPOSE

The purpose of this policy is to obtain the necessary dissolution of marriage documents for purposes of filing a completed retirement application.

POLICY

An application for service retirement must be complete before a member may retire and receive retirement benefits. A complete application for service retirement benefits includes any marriage dissolution documents in any pending marital dissolution or legal separation action before the courts. If a joinder or other court order has been served on SCERS, or if the member states that a marital dissolution or legal separation with the non-member spouse is pending, then the member may submit a pending or incomplete application for service retirement, but the application will not be deemed complete until necessary marriage dissolution documents are received by SCERS.

A member who files an incomplete service retirement application has six (6) months to perfect or complete the application by submitting the necessary marriage dissolution documents. If the retirement application is not made complete within six (6) months of the initial filing, then the application will be canceled, and the member will have to file a new application. If the member files a subsequent application for retirement, the effective date of retirement must be no sooner than the date the subsequent application was filed with SCERS and cannot be retroactive to the requested effective retirement date in the prior incomplete retirement application.

The member may request in writing to the SCERS Chief Executive for a 60-day extension before the expiration of the 6-month grace period described above. No further extensions of the grace period will be granted after expiration of the 60-day extension. However the member may appeal to the Board of Retirement for a further extension pursuant to Sections E, F, and G of the Appeal of SCERS' Administrative Decisions Policy.

APPLICATION

1. Through notification in the retirement application materials, as well as inquiry from SCERS staff, SCERS is given notice of a prior dissolved marriage (divorce).
2. SCERS staff will request in writing (via written letter or email) the dissolution documents. The written request will inform the member that the retirement process cannot be completed without receipt, review, and approval of the necessary documents. The necessary dissolution documents include, but are not limited to, any one or a combination of the following:

- Judgment of Dissolution (court order dissolving the marriage);
- Joinder (court order including SCERS in the underlying dissolution case);
- Domestic Relations Order (DRO) setting forth how SCERS is to administer the benefit between the member and ex-spouse; or
- Marital Settlement Agreement that sets forth the terms of the divorce – child support, spouse support, community property, debts, property, etc.

In any dissolution proceeding in which the non-member spouse intends to claim a community property interest in assets or benefits from a SCERS account, the parties should obtain a joinder and DRO from the court. In the absence of a joinder and DRO, the non-member spouse runs the risk that SCERS may administer such assets and benefits as the member's sole and separate property.

3. Even in the absence of a joinder and DRO, however, if the potential community property interest in the assets or benefits is substantial, and if the available dissolution documents do not clearly deem such assets or benefits the separate property of the member, SCERS may, in its discretion, take steps to inquire into the rights of the non-member spouse before disbursing assets or benefits. Specifically, SCERS may (without limitation) require the member to:
 - Sign a declaration stating that the member and non-member spouse have previously agreed the account assets or benefits are to be the member's sole and separate property;
 - Sign a statement indemnifying SCERS from any loss or liability should the non-member spouse later assert an interest to account assets or benefits;
 - Obtain the non-member spouse's signature on a written waiver of interest in the account assets or benefits;
 - Sign a declaration stating that the member has no means of contacting the non-member spouse; or
 - Sign any other declaration explaining why it is legal, fair, and equitable that SCERS should administer the account assets or benefits as member's sole and separate property.

All of the above shall be considered dissolution documents necessary to the processing of the retirement application.

4. If no documents have been received within five (5) months, SCERS will send written notice to the applicant stating that the application will be canceled unless the necessary divorce documents are received within 6-months of the initial application, and the applicant will also be advised that a written request can be made to the Chief Executive for an additional 60-days.
5. A 60-day written request for extension will be automatically granted.
6. If no documents have been received after the 60-day extension, SCERS will notify the applicant in writing that the retirement application is canceled and that the member may appeal this decision within 30 days to the Board of Retirement pursuant to Sections E, F, and G of the Board Appeal of SCERS' Administrative Decisions Policy.

BACKGROUND

Article 8.4 of the County Employees Retirement Law of 1937 (CERL) governs the division of community property interests of a member's retirement benefits in SCERS after a marital dissolution or legal separation. If SCERS is properly served with a joinder in a marital dissolution or legal separation of a member, then SCERS must ascertain the community property interests of the non-member spouse as directed by a subsequent court order. SCERS is unable to complete the calculation of retirement benefits if the member's marital dissolution or legal separation is pending, and so the member cannot be retired until SCERS receives the necessary marriage dissolution documents.

RESPONSIBILITIES

Executive Owner: General Counsel

POLICY HISTORY

Date	Description
09-21-2022	Board approved amendments to policy
12-18-2019	Board approved amendments to policy
05-15-2019	Board adopted policy