

WSR 22-19-063  
PROPOSED RULES  
DEPARTMENT OF  
RETIREMENT SYSTEMS

[Filed September 16, 2022, 1:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 21-11-098.

Title of Rule and Other Identifying Information: Amending WAC 415-02-500 Property division in dissolution, 415-02-510 How can a property division dissolution order give my ex-spouse an interest<sup>1</sup> in my Plan 1 or 2 retirement account?, 415-02-520 How can my Plan 1 or 2 retirement account be split by a property division dissolution order?, 415-02-530 How can a property division dissolution order give my ex-spouse an interest<sup>1</sup> in part of my Plan 3 retirement account?, 415-02-540 How can my Plan 3 retirement account be split<sup>1</sup> by a property division dissolution order?; and repealing WAC 415-02-720 What does the department charge for processing split payments?

Hearing Location(s): On October 27, 2022, at 10:30 a.m., Zoom, <https://www.drs.wa.gov/sitemap/rules/#proposed-rule-hearings> for details. Zoom <https://us02web.zoom.us/j/88589294710>, Meeting ID 885 8929 4710, Dial-in number 253-215-8782.

Date of Intended Adoption: October 28, 2022.

Submit Written Comments to: Rubi Reaume, Department of Retirement Systems (DRS), P.O. Box 48380, Olympia, WA 98504, email [drs.rules@drs.wa.gov](mailto:drs.rules@drs.wa.gov), by October 17, 2022.

Assistance for Persons with Disabilities: Contact Rubi Reaume, phone 360-664-7311, TTY 711, email [drs.rules@drs.wa.gov](mailto:drs.rules@drs.wa.gov), by October 17, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: To update and clarify the rules related to property division dissolution orders involving the retirement plan. Updates include the elimination of certain fees.

Reasons Supporting Proposal: As most of the agency's payments are currently made electronically, the cost of collection of these additional fees outweighs the benefit of charging the fee.

Statutory Authority for Adoption: RCW 41.50.050.

Statute Being Implemented: RCW 41.50.500, 41.50.600, 41.50.670, 41.50.680, 41.50.710, 41.50.790.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: DRS, governmental.

Name of Agency Personnel Responsible for Implementation: Candice Myrum, DRS, P.O. Box 48380, Olympia, WA 98504-8380, 360-664-7124.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. RCW 34.05.328 (5)(a)(i) does not apply to this proposed rule and is not voluntarily made applicable by the agency.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

September 16, 2022

Rubi Reaume

OTS-3615.2

AMENDATORY SECTION (Amending WSR 10-14-072, filed 7/1/10, effective 8/1/10)

**WAC 415-02-500 Property division in dissolution orders<sup>1</sup>.** This section applies to all retirement plans that the department administers. This section also directs you to additional sections as needed for your particular situation.

(1) **What can a court do?** A court can enter a dissolution order dividing your retirement account in either of the following ways:

(a) Awarding an interest<sup>2</sup> in your account to your ex-spouse by using WAC 415-02-510 or 415-02-530; or

(b) Splitting<sup>3</sup> your account into two separate accounts (one for you and one for your ex-spouse) by using WAC 415-02-520 or 415-02-540, but only if you are vested at the time the dissolution order is entered. "Vested" is defined in subsection (~~((16))~~) (15) of this section.

(2) **Which section should I use?** Consult the following table for direction to the section to use in developing your property division dissolution order. Different sections are provided depending on whether your property division dissolution order is going to provide an interest to your ex-spouse or whether you are splitting your retirement account with your ex-spouse.

<b>If you are in this system and plan:</b>	<b>And the following is true:</b>	<b>Use this section:</b>
Any	You need general information and rules about drafting dissolution orders related to your retirement plan and system.	415-02-500
JRF, JRS, LEOFF Plan 1, and WSPRS Plan 1	You are drafting a dissolution order. (We recommend that you contact the department for assistance because some exceptions may apply.)	415-02-510
LEOFF Plan 2, PERS Plan 1 or 2, PSERS, SERS Plan 2, and TRS Plan 1 or 2, WSPRS Plan 2	You are drafting a dissolution order that will be entered <b>before you are vested</b> <del>((<del>or</del> You are vested and you are drafting a dissolution order that awards an interest in your account to your ex-spouse))</del> .	415-02-510

If you are in this system and plan:	And the following is true:	Use this section:
	You are vested and you are drafting a dissolution order that splits your benefit into two separate accounts (for you and your ex-spouse).	415-02-520
PERS Plan 3, SERS Plan 3, and TRS Plan 3	You are drafting a dissolution order that will be entered <b>before you are vested</b> <del>((; or You are vested and you are drafting a dissolution order that awards an interest in your account to your ex-spouse))</del> .	415-02-530
	You are vested and you are drafting a dissolution order that splits your benefit into two separate accounts (for you and your ex-spouse).	415-02-540
PERS Plan 2, SERS Plan 2, and TRS Plan 2	The department has already accepted your property division order, and you are considering a transfer to Plan 3.	415-02-550

**(3) What are the requirements for dissolution orders and amendments that provide for a property division of my retirement account?**

The order must:

- (a) Be entered by a court of competent jurisdiction and enforceable in Washington state;
- (b) Be filed with the department within ~~((ninety))~~ 90 days of the court's entry of the order;
- (c) Establish the right of your ex-spouse to a portion of your retirement;
- (d) Provide the name and date of birth of your ex-spouse;
- (e) Incorporate the applicable language in this section and one of the following: WAC 415-02-510, 415-02-520, 415-02-530, or 415-02-540; and
- (f) Indicate which WAC section was used in support of the order.

**(4) What else, besides a copy of the dissolution order, must my ex-spouse and I provide to the department?** You must provide addresses and Social Security numbers for both you and your ex-spouse before the department will honor a dissolution order or amendment. This information can be submitted in a cover letter, in another document, or by other means arranged with the department.

**(5) I belong to more than one retirement plan. Does the order have to be written any differently?** The order must include specific provisions for each plan.

(a) Example for providing an **interest** to an ex-spouse (RCW 41.50.670 and WAC 415-02-510): Paul belongs to both TRS Plan 2 and PERS Plan 3. His preretirement dissolution order gives an interest in his retirement accounts to his ex-spouse. The order should include the language provided in:

(i) WAC 415-02-510 to divide Paul's TRS Plan 2 monthly retirement allowance or accumulated contributions.

(ii) WAC 415-02-530 to divide Paul's PERS Plan 3 monthly retirement allowance and/or accumulated contributions.

(b) Example for **splitting** an account with an ex-spouse: Mary is vested in both TRS Plan 2 and PERS Plan 3. Her preretirement dissolution order provides for splitting her retirement accounts with her ex-spouse. The order should include the language provided in:

(i) WAC 415-02-520 for preretirement splits to divide Mary's TRS Plan 2 retirement account.

(ii) WAC 415-02-540 for preretirement splits to divide Mary's PERS Plan 3 monthly retirement allowance and/or defined contributions.

**(6) What happens if my ex-spouse misses the ((ninety-day)) 90-day deadline for filing a copy of the dissolution order with the department?**

(a) RCW 41.50.670 requires the "obligee" (ex-spouse) to file a copy of the dissolution order with the department within ((ninety)) 90 days of the order's entry with the court of record.

(b) The department will accept an order after the ((ninety-day)) 90-day deadline but will not make retroactive payments or split your defined contribution account retroactively.

**(7) How will the department divide the "after-tax" and "tax-deferred" dollars in my retirement account between my ex-spouse and me?** Depending on your plan and how long you have been a member, your retirement account may include both "after-tax" and "tax-deferred" dollars. The department will divide the "after-tax" and "tax-deferred" dollars based on the amount(s) awarded to your ex-spouse, unless the dissolution order states otherwise.

Example: At the time of John's marriage dissolution, he had \$50,000 total contributions in his retirement account with \$20,000 in after-taxed dollars and \$30,000 in tax-deferred dollars. The dissolution order awards 50% of his accumulated contributions to his ex-spouse, Susan. Therefore, the department will give Susan \$10,000 of after-tax dollars and \$15,000 of tax-deferred dollars.

**(8) If I am in a retirement plan that offers survivor options, can the court order me to name my ex-spouse as my survivor beneficiary?** Yes. To do so, the dissolution order must include the language in RCW 41.50.790(1).

**(9) Is there a minimum benefit amount that the department will pay to my ex-spouse if the property division dissolution order splits my retirement account with my ex-spouse?** The answer is different depending on if the department accepts the property division dissolution order **BEFORE** or **AFTER** you retire.

(a) **BEFORE** retirement split: Yes. If the court order splits your account with your ex-spouse, and your ex-spouse's monthly payment will be less than the minimum monthly dollar amount for your retirement plan, the department may make a lump sum payment instead of monthly payments. The lump sum payment will be equal to the present value of the monthly payments. The department will **NOT** make the lump sum payment until your ex-spouse meets the age requirement for a normal retirement for your system and plan.

(b) **AFTER** retirement split: No. The department will pay the amount specified in the dissolution order as the ex-spouse's monthly payment amount even if it is less than the minimum monthly dollar amount for your system and plan.

**(10) Is there a maximum payment amount that the department will pay to my ex-spouse?** Yes. A court may not order the department to pay

more than ((seventy-five)) 75 percent of your monthly retirement allowance to your ex-spouse. See RCW 41.50.670(4).

~~((11)) ((How much is the fee the department charges for making payments directly to my ex-spouse? The fee for making payment to your former spouse is seventy-five dollars. The fee will be divided evenly between you and your former spouse. See RCW 41.50.680.~~

~~((12))~~ **What happens to my account if I return to retirement system membership?** Please contact the department for information if you are in this situation.

~~((13))~~ **(12) What language should the property division order use to divide my deferred compensation program (DCP) account?** Refer to WAC 415-501-495 or contact DCP for information about your DCP account and your marriage dissolution.

~~((14))~~ **(13) How do I contact the department for additional assistance?** ~~((Complete))~~ Contact information is available in WAC 415-06-100 (How do I contact the department?). Any release of information to someone besides the member requires a signed information release form or a subpoena duces tecum.

~~((15))~~ **(14) Where can I find examples of completed property division dissolution orders?** Following are examples of the required language from the statutes and WAC sections that must be used in a dissolution order. The information in ***bold italics*** will be dictated by your own circumstances.

(a) **Example 1.** Jane Doe, a nonvested member of PERS Plan 2, and her husband, John Doe, decide to divorce. **WAC 415-02-510** governs dissolution orders of nonvested members of PERS Plan 2. Jane and John complete the paragraphs in RCW 41.50.670(2) and WAC 415-02-510(2) as follows:

***Defined Benefits:***  
RCW 41.50.670(2),  
paragraph two, and  
WAC 415-02-510(2)

If *Jane Doe* (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to *John Doe* (the obligee), *N/A* dollars from such payments or ***a fraction where the numerator is equal to 24 (the number of months in which service credit was earned while the marital community was in existence), and the denominator is equal to the number of months of service credit earned by the obligor at the time of retirement X 50*** percent of such payments.

If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

**Accumulated Contributions:**  
RCW 41.50.670(2), paragraph three, and WAC 415-02-510(2)

If *Jane Doe* (the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW 41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to *John Doe* (the obligee) **\$5,700** dollars plus interest at the rate paid by the Department of Retirement Systems on member contributions. Such interest will accrue from the date of this order's entry with court of record.

(b) **Example 2:** Binh Nguyen (a TRS Plan 3 retiree) and his wife, Lan Nguyen, are obtaining a property division dissolution order that splits his retirement account. When he retired, Binh had selected Lan to receive survivor benefits. WAC 415-02-540 applies, and the couple completes the required paragraphs.

**Defined Benefits:**  
WAC 415-02-540(((12)))  
(13)

The Department of Retirement Systems (department) shall create a **defined benefit account** for *Lan Nguyen* (ex-spouse) in the ***Teachers' Retirement System Plan 3*** (name of retirement system and plan) and pay him or her **\$350** (amount) for his or her life. To pay for this benefit, *Binh Nguyen's* (member's) **monthly defined benefit** payment will be reduced for life. This provision shall become effective no more than 30 days after the department's acceptance of the order.

**Defined Contributions:**  
WAC 415-02-540(9)

The Department of Retirement Systems (department) shall split *Binh Nguyen's* (member's) **defined contribution account** in the ***Teachers' Retirement System Plan 3*** (name of retirement system and plan) and create a separate account for *Lan Nguyen* (ex-spouse). The amount of **\$25,000** (amount) shall be transferred from *Binh Nguyen's* (member's) **defined contribution account** to *Lan Nguyen's* (ex-spouse's) new account. This provision shall become effective no more than 30 days after the department's acceptance of the order.

~~((16))~~ (15) **Terms used:**

- (a) Department's acceptance - The department's determination that a dissolution order fully complies with the department's requirements and with chapter 41.50 RCW.
- (b) Dissolution order - RCW 41.50.500.
- (c) Obligee - RCW 41.50.500(5).

(d) Obligor - RCW 41.50.500(6).

(e) Plan 3 - WAC 415-111-100.

(f) Vested - The status of a member who has the amount of service credit required by the member's system and plan for a service retirement when the age requirement is met.

Footnotes for section:

- 1 "Dissolution order" means any judgment, decree, or order of spousal maintenance, property division, or court-approved property settlement incident to a decree of divorce, dissolution, invalidity, or legal separation issued by the superior court of the state of Washington or a judgment, decree, or other order of spousal support issued by a court of competent jurisdiction in another state or country, that has been registered or otherwise made enforceable in this state. RCW 41.50.500(3) (2002).
- 2 When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement allowance or a portion of your contributions to your ex-spouse.
- 3 When a court splits your retirement account, the department will establish a separate account for your ex-spouse. Once the account has been established, your account and your ex-spouse's account are not tied in any way.

[Statutory Authority: RCW 41.50.050(5) and 41.50.680. WSR 10-14-072, § 415-02-500, filed 7/1/10, effective 8/1/10. Statutory Authority: RCW 41.50.050(5), 41.50.670, 41.50.680, 41.50.790. WSR 06-18-009, § 415-02-500, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. WSR 03-12-014, § 415-02-500, filed 5/27/03, effective 7/1/03.]

AMENDATORY SECTION (Amending WSR 22-13-052, filed 6/8/22, effective 7/9/22)

**WAC 415-02-510 How can a property division dissolution order give my ex-spouse an interest<sup>1</sup> in my Plan 1 or 2 retirement account?**

(1) ~~Who ((may use)) uses this section? ((-a-))~~ You **MUST** use this section if you are a member of LEOFF Plan 1, WSPRS Plan 1, JRF or JRS, or a **nonvested** member of LEOFF Plan 2, PERS Plan 1 or 2, PSERS, SERS Plan 2, TRS Plan 1 or 2, or WSPRS Plan 2.

~~((b) You **may** use this section if you are a **vested** member of LEOFF Plan 2, PERS Plan 1 or 2, PSERS, SERS Plan 2, TRS Plan 1 or 2, or WSPRS Plan 2. If you are splitting your retirement account with your ex-spouse, use WAC 415-02-520.)~~

(2) **Dividing a defined monthly retirement benefit (defined benefit)**. Your defined monthly retirement benefit may be divided between you and your ex-spouse.

(a) **What language must the property division dissolution order or amendment include?** The order must include the language in RCW 41.50.670(2), provided below. The order or amendment must state either a specific dollar amount or percentage of the benefit. It cannot state both. (See example in WAC 415-02-500(~~(-15-))~~ (14).)

If \_\_\_\_\_(the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to \_\_\_\_\_(the obligee) \_\_\_\_\_ dollars from such payments or \_\_\_\_\_ percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

If \_\_\_\_\_(the obligor) requests or has requested a withdrawal of accumulated contributions as defined in RCW

41.50.500, or becomes eligible for a lump sum death benefit, the department of retirement systems shall pay to \_\_\_\_\_ (the obligee) \_\_\_\_\_ dollars plus interest at the rate paid by the department of retirement systems on member contributions. Such interest to accrue from the date of this order's entry with the court of record.

~~((3))~~ **(b) How will my account be affected if the department accepts the property division dissolution order BEFORE I retire?**

~~((a))~~ **(i)** Your ex-spouse will not receive any payments from the department until you terminate your employment or retire.

~~((b))~~ **(ii)** If you terminate your employment and request a withdrawal of your accumulated contributions, the department will pay your ex-spouse his or her share when you receive your payment. If you terminate your employment and do not request a withdrawal of contributions, your ex-spouse will be unable to receive his or her share until you withdraw your accumulated contributions.

~~((e))~~ **(iii)** If you die before retirement, the department will pay your ex-spouse his or her share of your accumulated contributions in a lump-sum payment.

~~((4))~~ **(c) How will my account be affected if the department accepts the property division dissolution order AFTER I retire?**

~~((a))~~ **(i)** If included in the dissolution order, the department will begin paying your ex-spouse his or her portion of your monthly retirement allowance the first month after the department has accepted the order.

~~((b))~~ **(ii)** If your ex-spouse dies before you, the portion of your monthly retirement allowance that was being paid to your ex-spouse will be paid to you.

~~((e))~~ **(iii)** If you die before your ex-spouse, payments to your ex-spouse stop unless the department accepted the order at least 30 days before you retired and the order required the department to name your ex-spouse as a survivor beneficiary (if allowed by your retirement system and plan). See RCW 41.50.700(1) and 41.50.790.

~~((d))~~ **(iv)** If you are a member of LEOFF Plan 1 or WSPRS Plan 1 and if one of the provisions in RCW 41.50.700(3) applies:

~~((i))~~ **(A)** Your ex-spouse may be eligible to receive payments for the life of your surviving spouse; or

~~((ii))~~ **(B)** If you are a member of LEOFF Plan 1, your ex-spouse may be eligible to receive payments for his or her lifetime.

~~((5))~~ **(d) Is there a maximum payment amount that a property division dissolution order can award to my ex-spouse?** Yes. See RCW 41.50.670(4) and WAC 415-02-500(10) for information.

~~((6))~~ **(e) If the property division dissolution order directs the department to make payments to my ex-spouse, how will the payments be made?** The department will make the required payments as specified in the dissolution order directly to your ex-spouse.

~~((7))~~ **(f) What happens if I transfer to Plan 3 after the department has accepted my property division dissolution order or most recent amendment?** See WAC 415-02-550 for information.

~~((8))~~ **(g) Can I amend my existing order to remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor



beneficiary will change your retirement benefit. See WAC 415-02-520(9) for the language that must be used.

((+9)) (3) Terms used:

- (a) Department's acceptance - That the department's determination that a dissolution order fully complies with the department's requirements and with chapter 41.50 RCW.
- (b) Dissolution order - RCW 41.50.500.
- (c) Obligee - RCW 41.50.500(5).
- (d) Obligor - RCW 41.50.500(6).
- (e) Plan 3 - WAC 415-111-100.
- (f) Vested - The status of a member who has the amount of service credit required by the member's system and plan for a service retirement when the age requirement is met.

Footnote to section:

- <sup>1</sup> When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement allowance or a portion of your contributions to your ex-spouse.

[Statutory Authority: RCW 41.50.050. WSR 22-13-052, § 415-02-510, filed 6/8/22, effective 7/9/22. Statutory Authority: RCW 41.50.050(5), 41.50.670, 41.50.680, 41.50.790. WSR 06-18-009, § 415-02-510, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. WSR 03-12-014, § 415-02-510, filed 5/27/03, effective 7/1/03.]

AMENDATORY SECTION (Amending WSR 06-18-009, filed 8/24/06, effective 9/24/06)

**WAC 415-02-520 How can my Plan 1 or 2 retirement account be split<sup>1</sup> by a property division dissolution order? (1) Who ((~~may use~~)) uses this section?** Vested members of LEOFF Plan 2, PERS Plan 1 or 2, PSERS, TRS Plan 1 or 2, SERS Plan 2, or WSPRS Plan 2 who have or will have a property division dissolution order or amendment dated on or after July 1, 2003<sup>2</sup>. If ((~~your ex-spouse will be receiving an interest in your account~~)) you are not a vested member, use WAC 415-02-510.

(2) **What are the rules for splitting my account?** If you and your ex-spouse are eligible, the department will split **your** retirement account into two separate accounts—one for you, and one for your ex-spouse. The rules for splitting your account are different depending on whether your dissolution order or most recent amendment is dated **BEFORE** or **AFTER** retirement.

(3) **How will my account be affected if the department accepts the property division dissolution order BEFORE my retirement?**

(a) The department will split your retirement account into two completely separate accounts and create an account for your ex-spouse under his or her Social Security number for the amount awarded in the dissolution order.

(b) The department will pay each of you out of your separate accounts either a monthly allowance or a withdrawal of contributions.

(c) If you retire and receive a monthly retirement allowance, your monthly retirement allowance will have a permanent reduction to offset the amount awarded as a monthly payment to your ex-spouse.

(d) Your monthly retirement allowance will be payable over your lifetime, and your ex-spouse's monthly payment will be payable over your ex-spouse's lifetime.

(e) You will have the right to choose a benefit option with a survivor feature. See WAC 415-02-320.

(f) Your ex-spouse will not have the right to choose a benefit option with a survivor feature, but may name a beneficiary to receive any final death payment that may be due.

(g) If you terminate employment, any decision you make about your accumulated contributions will have no effect upon your ex-spouse's separate account.

(h) When you or your ex-spouse dies, there will be no impact to the other person's retirement account because the accounts are independent from one another.

(i) Your ex-spouse may begin receiving monthly payments when your ex-spouse reaches retirement age for your retirement plan, or the first day of the month following the department's acceptance of the order, whichever is later. The minimum age for an ex-spouse to begin receiving a benefit from:

(A) TRS Plan 1 and PERS Plan 1 is age ~~((sixty))~~ 60;

(B) PERS Plan 2, PSERS, SERS Plan 2, and TRS Plan 2 it is age ~~((sixty-five))~~ 65;

(C) LEOFF Plan 2 is age ~~((fifty-three))~~ 53; and

(D) WSPRS Plan 2 is age ~~((fifty-five))~~ 55.

Your age or retirement eligibility has no effect on when your ex-spouse is eligible to begin receiving a monthly payment. Your ex-spouse must apply for his or her monthly payment according to the rules for your system and plan.

(j) Your ex-spouse may withdraw his or her share of the accumulated contributions at any time before receiving a monthly payment. Regardless of whether your ex-spouse withdraws or receives a monthly payment, your monthly retirement allowance will be permanently reduced to account for your ex-spouse's share of your retirement account.

(4) **Is there a limit to the amount of contributions I can award to my ex-spouse?** Yes. The amount of contributions awarded to your ex-spouse cannot be greater than the **percentage** of your monthly retirement allowance used to determine the amount of the monthly payment awarded to your ex-spouse.

Example:

Accumulated contributions earned during the marriage period:	\$50,000
Member's monthly retirement allowance:	\$1,000
Percentage of member's monthly retirement allowance awarded to ex-spouse:	50%
Monthly payment awarded to ex-spouse:	\$500 (50% of \$1,000)
<b>Contributions awarded to ex-spouse:</b>	<b>\$25,000 (50% of 50,000)</b>

(5) **What happens if my retirement account was split and then I retire early?**

(a) If you are eligible and decide to retire early, or must retire early because of a disability, your retirement plan may require that your monthly retirement allowance be reduced by an early retirement factor (ERF) or by some other method. See WAC 415-02-320.

(b) To determine the reduction to your monthly retirement allowance (when an ERF is used) because of your preretirement split (~~((see subsection (3)(c) of this section))~~), the adjustment to the amount awarded to your ex-spouse in the dissolution order will be reduced by the ERF used to reduce your monthly retirement allowance.

**Example:** You are a member of PERS Plan 2 and retire for disability two years before you are eligible for a service retirement. The

dissolution order awarded your ex-spouse a monthly payment of (~~five hundred dollars~~) \$500.

Your monthly retirement allowance before ERF is applied:	\$2,500	
ERF (factor for retiring two years early)	0.82	
Your base allowance:	\$2,050	(\$2500 x 0.82 ERF)
Adjustment for divorce split:	- \$410	(ex-spouse's \$500 x 0.82 (ERF))
<b>The monthly retirement allowance you will receive:</b>	<b>\$1640</b>	<b>(\$2050 - \$410)</b>

Your ex-spouse will receive the full monthly amount (\$500) that was awarded to him or her in the dissolution order, regardless of your benefit amount.

**(6) What language must be used for a property division dissolution order or amendment that is accepted by the department BEFORE my retirement?**

(a) The order must include the language provided below. Do **not** use the language in RCW 41.50.670(2). The exact dollar amount of your ex-spouse's monthly payment must be specified. Do not use formulas or percentages.

The Department of Retirement Systems (department) shall create an account for \_\_\_\_\_ (ex-spouse) in the \_\_\_\_\_ (name of retirement system and plan) and transfer \$\_\_\_\_\_ from \_\_\_\_\_'s (member's) accumulated contributions account into \_\_\_\_\_'s (ex-spouse's) account. If \_\_\_\_\_ (ex-spouse) does not withdraw the contributions and becomes eligible, the department will pay him or her \$\_\_\_\_\_ (amount) as a monthly payment for his or her life. If \_\_\_\_\_ (member) retires and receives a monthly retirement benefit payment, the payment will be permanently reduced to account for \_\_\_\_\_'s (ex-spouse's) monthly payment. This provision shall become effective (~~no more than 30 days~~) as soon as administratively possible after the department's acceptance of the order.

(b) If you are a member of PERS Plan 1 or TRS Plan 1, the amount of service credit awarded to your ex-spouse must be specified in the order if he or she is awarded a portion of gainsharing payments and cost-of-living adjustments. Because gainsharing payments and cost-of-living adjustments are based on service credit, the following paragraph must be included:

If \_\_\_\_\_ (ex-spouse) receives a monthly retirement payment, the department shall use \_\_\_\_\_ (number) months of service credit to calculate future gainsharing payments, if any, and cost-of-living adjustments when he or she becomes eligible.

**(7) How will my account be affected if the department accepts the property division dissolution order AFTER my retirement?**

(a) The department will split your retirement account **only if** you selected your ex-spouse to receive survivor benefits at the time you retired. If you did not select your ex-spouse to receive survivor benefits at the time you retired, you cannot use this section. You **must** use WAC 415-02-510.

(b) If you selected your ex-spouse to receive survivor benefits at the time you retired, the rules in subsection (3) (a) through (~~(f)~~) (d) of this section will apply.

(c) At the time the department splits your account, your ex-spouse will be removed as the survivor beneficiary on your account.

(d) Regardless of his or her age, your ex-spouse will begin receiving a monthly payment the first month after the department has accepted the dissolution order.

**(8) If the property division dissolution order is dated AFTER my retirement, how will my monthly retirement allowance be calculated after the split?**

(a) The dissolution order must state the exact dollar amount your ex-spouse is to receive as his or her separate monthly payment. The following describes how the new amount of your monthly retirement allowance will be calculated, assuming your ex-spouse was awarded a monthly payment of (~~one thousand dollars~~) \$1,000 in the dissolution order.

Step 1 The department will determine the single life benefit of your current monthly retirement allowance by dividing your current monthly allowance by the survivor option factor (see WAC 415-02-380) in effect at the time of the split.

**Example:**

Current monthly retirement allowance = \$1679.38

Option factor = 0.9400000

Single life benefit amount =  $\$1679.38 / 0.9400000 = \$1786.57$

Step 2 The single life benefit (\$1786.57) is divided by your annuity factor (see WAC 415-02-360) to determine the current present value of the single life benefit amount. The annuity factor the department uses is the factor for your age as of the date of the split.

**Example:**

Your age at time of the split = 61 years old

Annuity factor for age 61 = 0.0084149

Present value of single life benefit =  $\$1786.57 / 0.0084149 = \$212,310.31$

Step 3 The department then determines the present value of your ex-spouse's share by dividing your ex-spouse's monthly payment (as awarded in the dissolution order) by your ex-spouse's annuity factor. The annuity factor is the factor for your ex-spouse's age as of date of the split.

**Example:**

Ex-spouse's monthly benefit amount = \$1000

Ex-spouse's age at time of the split = 67

Annuity factor for age 67 = 0.0095028

Present value of your ex-spouse's monthly benefit =  $\$1000 / 0.0095028 = \$105,232.14$

Step 4 Next, the department subtracts your ex-spouse's present value from the single life benefit present value. The result is the present value of the benefit you will receive.

**Example:**

Present value of single life benefit = \$212,310.31

Less present value of ex-spouse's benefit = -105,232.14

Your present value = \$107,078.17

Step 5 The department determines the amount of your new monthly retirement allowance by multiplying your present value by your annuity factor.

**Example:**

Your present value = \$107,078.17

Annuity factor = 0.0084149

Your new monthly retirement allowance = \$107,078.17 x 0.0084149 = \$901.05

(b) The department determines the percentage of the total present value each of you will receive by dividing each of your present value amounts by the single life benefit present value amount.

**Example:**

Your percentage of the single life benefit present value:  
\$107,078.17/\$212,310.31 = .5043

Your ex-spouse's percentage of the single life benefit present value: \$105,232.14/\$212,310.31 = .4957

**(9) What language must be used in a property division dissolution order or amendment that is accepted by the department *AFTER* my retirement?**

(a) The order must include the language provided below. Do **not** use the language in RCW 41.50.670(2). The exact dollar amount of your ex-spouse's monthly benefit must be specified. Do not use formulas or percentages.

The Department of Retirement Systems (department) shall create an account for \_\_\_\_\_ (ex-spouse) in the \_\_\_\_\_ (name of retirement system and plan) and pay him or her \$ \_\_\_\_\_ (amount) as a monthly benefit payment for his or her life. To pay for this benefit, \_\_\_\_\_'s (retiree's) monthly retirement benefit payment will be reduced for his or her life. If (retiree) has any unused contributions remaining in his or her account, \$\_\_\_\_\_ (amount) shall be transferred to \_\_\_\_\_'s (ex-spouse's) account. This provision shall become effective (~~(no more than 30 days)~~) as soon as administratively possible after the department's acceptance of the order.

(b) If the member is in PERS Plan 1 or TRS Plan 1, the amount of service credit awarded to the ex-spouse must be specified in the order if he or she is entitled to a portion of gainsharing payments and cost-of-living adjustments. Because gainsharing payments and cost-of-living adjustments are based on service credit, the following paragraph must be included:

If \_\_\_\_\_ (ex-spouse) receives a monthly retirement payment, the department shall use \_\_\_\_\_ (number) months of service credit to calculate future gainsharing payments, if any, and cost-of-living adjustments when he or she becomes eligible.

**(10) Is there a maximum payment amount that the department will pay to my ex-spouse?** Yes. See RCW 41.50.670(4) or WAC 415-02-500(10) for information.

**(11) May I amend an existing order that awarded an interest in my account to my ex-spouse under WAC 415-02-520, and remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court or-

der splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as your survivor beneficiary will change the amount of your monthly retirement allowance. See WAC 415-02-520(9) for the language that must be used.

**Example:**

Julio and May were married when Julio retired. Julio chose benefit Option 2 (joint and ~~((one hundred))~~ 100 percent survivorship) when he retired, and named May as his survivor beneficiary. Two years after Julio's retirement, the couple divorced. The court awarded "~~((one hundred))~~ 100 percent of retirement benefits" to Julio. Julio later learned that this award did not change the survivor option. Julio may return to court and obtain an order stating that May is to receive "\$0" as the dollar amount for her separate monthly benefit. The order must use the language in WAC 415-02-520(9) and be signed by the court no sooner than July 1, 2003.

~~(12) ((How much is the fee the department charges for making payments directly to my ex-spouse? See RCW 41.50.680 and WAC 415-02-500(11) for information.~~

~~(13))~~ **What happens if I transfer to Plan 3 after the property division dissolution order has been filed with the department?** See WAC 415-02-550 for information.

~~((14))~~ **(13) Terms used:**

(a) Department's acceptance - The department's determination that a dissolution order fully complies with the department's requirements and RCW 41.50.500.

(b) Dissolution order - RCW 41.50.500.

(c) Plan 3 - WAC 415-111-100.

(d) Vested - The status of a member who has the amount of service credit required by the member's system and plan for a service retirement when the age requirement is met.

Footnotes to section:

- <sup>1</sup> When a court splits your retirement account, the department will establish a separate account for your ex-spouse. Once the account is established, your account and your ex-spouse's account are not tied in any way.
- <sup>2</sup> If your ex-spouse was not listed as your survivor beneficiary at retirement, then no postretirement property division dissolution order (or postretirement amendment) may split your retirement account using WAC 415-02-520.

[Statutory Authority: RCW 41.50.050(5), 41.50.670, 41.50.680, 41.50.790. WSR 06-18-009, § 415-02-520, filed 8/24/06, effective 9/24/06. Statutory Authority: RCW 41.50.050(5), 41.50.500, 41.50.670 et seq., 41.50.790. WSR 04-09-043, § 415-02-520, filed 4/14/04, effective 5/15/04; WSR 03-24-049, § 415-02-520, filed 11/26/03, effective 1/1/04. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. WSR 03-12-014, § 415-02-520, filed 5/27/03, effective 7/1/03.]

AMENDATORY SECTION (Amending WSR 03-12-014, filed 5/27/03, effective 7/1/03)

**WAC 415-02-530 How can a property division dissolution order give my ex-spouse an interest<sup>1</sup> in part of my Plan 3 retirement account?** (1) ~~((Who may use this section?~~

~~(a))~~ You **MUST** use this section if you are a member of TRS Plan 3, PERS Plan 3 or SERS Plan 3 and do not have enough service credit to receive a service retirement from the defined benefit portion of your retirement plan when you meet the age requirement.

~~((b) You **MAY** use this section if you are a member of TRS Plan 3, PERS Plan 3 or SERS Plan 3, and have earned enough service to receive a service retirement from the defined benefit portion of your retirement plan when you meet the age requirement. If you are splitting your retirement account with your ex-spouse, use WAC 415-02-540.)~~

(2) Dividing a defined monthly retirement benefit (defined benefit). Your defined monthly retirement benefit may be divided between you and your ex-spouse.

**(a) What language must the property division dissolution order or amendment include to pay a portion of my defined monthly retirement benefit to my ex-spouse?** The order must use the language in RCW 41.50.670(2), provided below. The order or amendment must state either a specific dollar amount or percentage of the benefit. It cannot state both.

If \_\_\_\_\_ (the obligor) receives periodic retirement payments as defined in RCW 41.50.500, the department of retirement systems shall pay to \_\_\_\_\_ (the obligee) \_\_\_\_\_ dollars from such payments or \_\_\_\_\_ percent of such payments. If the obligor's debt is expressed as a percentage of his or her periodic retirement payment and the obligee does not have a survivorship interest in the obligor's benefit, the amount received by the obligee shall be the percentage of the periodic retirement payment that the obligor would have received had he or she selected a standard allowance.

~~((3))~~ **(b) How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order BEFORE I retire?**

~~((a))~~ **(i)** Your ex-spouse will not receive any payments from your defined benefit portion until you retire.

~~((b))~~ **(ii)** If you or your ex-spouse dies before you retire, the portion of your defined benefit account awarded to your ex-spouse in the dissolution order ends.

~~((4))~~ **(c) How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order AFTER I retire?**

~~((a))~~ **(i)** If included in the dissolution order, the department will begin paying your ex-spouse his or her portion of your defined benefit payment the first month after the department has accepted the order.

~~((b))~~ **(ii)** If your ex-spouse dies before you, the portion of your defined benefit payment being paid to him or her will be paid to you.

~~((e))~~ **(iii)** If you die before your ex-spouse, payments to your ex-spouse stop unless the department accepted the order at least ~~((thirty))~~ **30** days before you retired and it required the department to name your ex-spouse as a survivor beneficiary. See RCW 41.50.700(1) and 41.50.790.

~~((5))~~ **(d) Is there a maximum payment amount of the defined benefit portion of my retirement account that the property division dissolution order can award to my ex-spouse?** Yes. See RCW 41.50.670(4) and WAC 415-02-500(10) for information.

~~((6) Can I amend my existing order to remove my ex-spouse as my survivor beneficiary?~~ Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor beneficiary will change your retirement benefit. See WAC 415-02-540 (9) and (13) for the language that must be used.

~~(7)) (e) If the property division dissolution order directs the department to make payments to my ex-spouse, how will the payments be made?~~ The department will make the required payments as specified in the dissolution order directly to your ex-spouse.

~~((8) How much is the fee the department charges for making payment directly to my ex-spouse?~~ See RCW 41.50.680 and WAC 415-02-500(11).

~~(9)) (3) Can I amend my existing order to remove my ex-spouse as my survivor beneficiary?~~ Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor beneficiary will change your retirement benefit. See WAC 415-02-540 (9) and (14) for the language that must be used.

(4) Dividing a defined contribution account. Your accumulated defined contribution account may be divided between you and your ex-spouse.

(a) What language must be used in a property division dissolution order to award a portion of my defined contribution account to my ex-spouse? The order must include the language provided in the following paragraph. The exact dollar amount to transfer to your ex-spouse's defined contribution account must be specified. Do not use formulas or percentages. (See example in WAC 415-02-500 (14)(b)).

The Department of Retirement Systems (department) shall split \_\_\_\_\_ (member's) defined contribution account in the \_\_\_\_\_ (name of retirement system and plan) and create a separate account for \_\_\_\_\_ (ex-spouse). The amount of \$ \_\_\_\_\_ (amount) shall be transferred from \_\_\_\_\_ 's (member's) defined contribution account to \_\_\_\_\_ 's (ex-spouse's) new account. This provision shall become effective as soon as administratively possible after the department's acceptance of the order.

(b) Can my entire defined contribution account balance be awarded to my ex-spouse? Yes, using the language provided in the following paragraph:

The Department of Retirement Systems (department) shall transfer \_\_\_\_\_ (member's) entire defined contribution account in the \_\_\_\_\_ (name of retirement system) to a separate account for \_\_\_\_\_ (ex-spouse). This provision shall become effective as soon as administratively possible after the department's acceptance of the order.

(c) If the department accepts the property division dissolution order BEFORE I retire, how will the department divide my defined contribution account with my ex-spouse?

~~((a)) (i) The amount the dissolution order awards to your ex-spouse will be deducted from your account and set up in a separate ac-~~



count for your ex-spouse ((under his or her Social Security number)). Upon acceptance of the order, the department will affect the transfer of the specified amount as soon as administratively possible. The amount in your ex-spouse's separate account will be subject to market gains and losses after the transfer.

((b)) (ii) **You and your ex-spouse** will manage your individual portions of the account independently from one another.

((e)) (iii) **You** must continue to contribute to your account during your employment.

((d)) (iv) **Your ex-spouse** may not contribute to his or her account.

~~((10) **What options does my ex-spouse have in managing his or her separate defined contribution account?** Your ex-spouse may:~~

~~(a) Transfer money between the state-managed (WSIB) or the self-directed (SELF) investment programs; and~~

~~(b) Transfer money among the investment options in the SELF-directed program.~~

~~((11) **How will the department make distributions to both my ex-spouse and me on each of our defined contribution accounts?**~~

~~(a) When you separate from employment or retire, the funds in your defined contribution account will be disbursed to you according to your distribution choice.~~

~~(b) Your ex-spouse must begin distribution from his or her account at the same time that you request distribution from your account.~~

~~(c) Both you and your ex-spouse have the same distribution options as outlined in WAC 415-111-310.)~~

(d) **If the department accepts the property division dissolution order AFTER I retire, how will the department divide my defined contribution account with my ex-spouse?** If your defined contribution account has not been exhausted at the time the department accepts the dissolution order, the department will divide the remaining funds as specified in the dissolution order according to subsections (3) and (4) of this section.

(e) **What options does my ex-spouse have in managing his or her separate defined contribution account?** Your ex-spouse may:

(i) Transfer money between the state-managed (WSIB) or the self-directed (SELF) investment programs; and

(ii) Transfer money among the investment options in the SELF-directed program.

(iii) If **you** die **before** a distribution has been made from your defined contribution account, your beneficiary(ies) must apply for a lump sum distribution of the funds in your account.

((e)) (iv) If **you** die **before** a distribution has been made from your defined contribution account, your ex-spouse must begin receiving distribution of his or her funds at that time according to the distribution options in WAC 415-111-310.

((f)) (v) If **your ex-spouse** dies **before** a distribution has been made from his or her defined contribution account, your ex-spouse's beneficiary(ies) must apply for a lump sum distribution of the funds in his or her account.

((g)) (vi) If **you** die **after** you begin receiving funds from your defined contribution account but before your funds have been exhausted, the remaining balance of the funds will be disbursed to your designated beneficiary(ies).

((h)) (vii) If **your ex-spouse** dies **after** receiving funds from his or her account but before the funds have been exhausted, the re-

maintaining balance of the funds will be disbursed to your ex-spouse's designated beneficiary.

~~((12) What language must the dissolution order or most recent amendment include to pay a portion of my defined contribution account to my ex-spouse? The language provided in the following paragraph must be used. The order or amendment must state a specific dollar amount.~~

~~The Department of Retirement Systems (department) shall divide \_\_\_\_\_'s (member's) **defined contribution account** in the \_\_\_\_\_ retirement system and plan) and create a separate account for \_\_\_\_\_ (ex-spouse). The amount of \$\_\_\_\_\_ shall be transferred from \_\_\_\_\_'s (member's) **defined contribution account** to \_\_\_\_\_'s (ex-spouse) new account. This provision shall become effective no more than 30 days after the department's acceptance of the order.~~

~~(13) If the department accepts the property division dissolution order AFTER I retire, how will the department divide my defined contribution account with my ex-spouse? If your defined contribution account has not been exhausted at the time the department accepts the dissolution order, the department will divide the remaining funds as specified in the dissolution order according to subsections (9) through (12) of this section.~~

~~(14)) (5) Terms used:~~

- ~~(a) Department's acceptance - Order that fully complies with the department of retirement systems' requirements and chapter 41.50 RCW.~~
- ~~(b) Dissolution order - RCW 41.50.500.~~
- ~~(c) Ex-spouse - WAC 415-02-030.~~
- ~~(d) Obligee - RCW 41.50.500(5).~~
- ~~(e) Obligor - RCW 41.50.500(6).~~
- ~~(f) Plan 3 retirement systems - WAC 415-111-100.~~
- ~~(g) Split accounts - WAC 415-02-030.~~
- ~~(h) Survivor benefits - WAC 415-02-030.~~

Footnote to section:

- <sup>1</sup> When a court awards an interest in your retirement account, the department is required to pay a portion of your monthly retirement benefit payments or a portion of your contributions to your ex-spouse.

[Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. WSR 03-12-014, § 415-02-530, filed 5/27/03, effective 7/1/03.]

AMENDATORY SECTION (Amending WSR 03-24-049, filed 11/26/03, effective 1/1/04)

**WAC 415-02-540 How can my Plan 3 retirement account be split<sup>1</sup> by a property division dissolution order? (1) Who may use this section?**

You may use this section if:

- (a) You are a member of TRS Plan 3, SERS Plan 3 or PERS Plan 3;
- (b) You have enough service credit to receive a defined benefit payment when you meet the age requirement for your system; and
- (c) You have or will have a property division dissolution order or amendment dated on or after July 1, 2003<sup>2</sup>. If your ex-spouse will be receiving an interest in your account, use WAC 415-02-530.

(2) **What are the rules for splitting my account?** If you and your ex-spouse are eligible, the department will split both portions of **your** retirement account (defined benefit and defined contributions) into two separate accounts - one for you, and one for your ex-spouse. The rules for splitting your account are different depending on whether your dissolution order or most recent amendment is dated **before** or **after** retirement.

(3) **How will the defined benefit portion of my retirement account be affected if the department accepts the property division dissolution order BEFORE I retire?**

(a) The department will split **your** defined benefit account into two completely separate accounts and create an account for your ex-spouse for the amount awarded in the defined benefit portion of the dissolution order under your ex-spouse's Social Security number.

(b) The department will pay each of you a defined benefit, when eligible, out of your separate accounts.

(c) The amount awarded to your ex-spouse as his or her defined benefit payment will be a permanent reduction to your defined benefit payment amount.

(d) Your defined benefit payment will be payable over your lifetime, and your ex-spouse's defined benefit payment will be payable over his or her lifetime.

(e) You will have the right to pick a survivor option for your defined benefit payment for your own account.

(f) Your ex-spouse will not have the right to pick a survivor option for his or her defined benefit payment but may name a beneficiary to receive any final death payment that may be due.

(g) You may begin receiving your defined benefit payment when eligible according to the rules for your system.

(h) Your ex-spouse may begin receiving monthly payments when he or she reaches age (~~sixty-five~~) 65, or the first day of the month following the department's acceptance of the order, whichever is later. Your ex-spouse must apply for retirement according to the rules for your system and plan. Your age or retirement eligibility has no effect on when your ex-spouse is eligible to begin receiving his or her monthly benefit.

(i) When you or your ex-spouse dies, there will be no impact to the other person's retirement account, because the accounts are independent from one another.

(4) **What happens to my defined benefit if my account was split and then I retire early?**

(a) If you are eligible and decide to retire early, or must retire early because of a disability, your monthly retirement benefit payment will be reduced by an early retirement factor (ERF). See WAC 415-02-320.

(b) To determine the reduction to your benefit because of your preretirement split (see subsection (3)(c) of this section), the adjustment to the amount awarded to your ex-spouse in the dissolution order will be reduced by the ERF used to reduce your benefit.

**Example:** You are a member of TRS Plan 3 and retire for disability five years before you are eligible for a service retirement. The dissolution order awarded your ex-spouse a monthly benefit of (~~two hundred fifty dollars~~) \$250.

Your defined benefit before ERF is applied:	\$1,000
ERF (factor for retiring two years early)	0.61

Your base benefit:	\$610	(\$1,000 x 0.61 ERF)
Adjustment for divorce split:	-\$152.50	(ex-spouse's \$250 x 0.61 (ERF))
<b>The defined benefit you will receive:</b>	<b>\$457.50</b>	<b>(\$610 - \$152.50)</b>

Your ex-spouse will receive the full monthly amount (\$250) that was awarded to him or her in the dissolution order, regardless of your benefit amount.

(5) **What language must be used in a property division dissolution order that the department accepts *BEFORE* I retire to pay a portion of my monthly defined benefit payment to my ex-spouse?** The order must use the language provided below. Do not use the language in RCW 41.50.670(2). The exact dollar amount of your ex-spouse's defined monthly benefit payment must be specified. Do not use formulas or percentages.

The Department of Retirement Systems (department) shall create a **defined benefit monthly account** for \_\_\_\_\_ (ex-spouse) in the \_\_\_\_\_ (name of retirement system and plan). When \_\_\_\_\_ (ex-spouse) becomes eligible for monthly payments, [s]he (upon application) will begin to receive \$\_\_\_\_\_ per month for the remainder of his/her lifetime. When \_\_\_\_\_ (member) becomes eligible for monthly payments, [s]he (upon application) will begin to receive the calculated monthly benefit less the amount herein specified for \_\_\_\_\_ (ex-spouse). This provision shall become effective (~~(no more than 30 days)~~) as soon as administratively possible after the department's acceptance of the order.

(6) **If ordered in the dissolution order, how will the department split my preretirement defined contribution account?**

(a) The amount the dissolution order awards to your ex-spouse will be deducted from your defined contribution account and set up in a separate account for your ex-spouse under his or her Social Security number. Upon acceptance of the order, the department will affect the transfer of the specified amount as soon as administratively possible. The amount in your ex-spouse's separate account will be subject to market gains and losses after the transfer.

(b) You and your ex-spouse will manage your separate accounts independently from one another.

(c) You must continue to contribute to your account during your employment.

(d) Your ex-spouse may not contribute to his or her account.

(7) **What options does my ex-spouse have in managing his or her separate defined contribution account?** Your ex-spouse may:

(a) Transfer money between investment programs (state-managed (WSIB) or self-directed (SELF)); and

(b) Transfer money among the investment options in the SELF-directed program.

(8) **How will the department make distributions to my ex-spouse and me out of our defined contribution accounts?**

(a) **You** must be separated from employment before funds in your account can be distributed according to your distribution choice.

(b) **Your ex-spouse** may begin receiving distribution of the funds in his or her account at any time according to his or her distribution choice.

(c) Both you and your ex-spouse will have the same distribution options as outlined in WAC 415-111-310.

(d) If **you** die before a distribution has been made from your defined contribution account, your beneficiary(ies) must apply for a lump sum death benefit from your account.

(e) If **your ex-spouse** dies before a distribution has been made from his or her account, your ex-spouse's beneficiary(ies) must apply for a lump sum death payment from his or her account.

(f) If **you** die after you begin receiving funds but before the funds in your account have been exhausted, the balance will be paid to your designated beneficiary(ies).

(g) If **your ex-spouse** dies after receiving funds but before the funds in his or her account have been exhausted, the balance will be paid to your ex-spouse's designated beneficiary(ies).

(9) **What language must be used in a property division dissolution order to award a portion of my defined contribution account to my ex-spouse?** The order must include the language provided in the following paragraph. The exact dollar amount to transfer to your ex-spouse's defined contribution account must be specified. Do not use formulas or percentages. (See example in WAC 415-02-500 (~~((15))~~) (14)(b)).

The Department of Retirement Systems (department) shall split \_\_\_\_\_ (member's) **defined contribution account** in the \_\_\_\_\_ (name of retirement system and plan) and create a separate account for \_\_\_\_\_ (ex-spouse). The amount of \$\_\_\_\_\_ (amount) shall be transferred from \_\_\_\_\_'s (member's) **defined contribution account** to \_\_\_\_\_'s (ex-spouse's) new account. This provision shall become effective (~~((no more than 30 days))~~) as soon as administratively possible after the department's acceptance of the order.

(10) Can my entire defined contribution account balance be awarded to my ex-spouse? Yes, using the language provided in the following paragraph:

The Department of Retirement Systems (department) shall transfer \_\_\_\_\_ (member's) entire defined contribution account in the (name of retirement system) to a separate account for \_\_\_\_\_ (ex-spouse). This provision shall become effective as soon as administratively possible after the department's acceptance of the order.

(11) **Can I amend an existing order that has awarded an interest in my account to my ex-spouse under WAC 415-02-530 and remove my ex-spouse as my survivor beneficiary?** Yes. To remove your ex-spouse as your survivor beneficiary, you must submit a "conformed copy" of the court order splitting your account. A conformed copy is a copy of the order that has been signed by the judge or commissioner on or after July 1, 2003, and filed with the court. Removing your ex-spouse as survivor beneficiary will change your retirement benefit. See WAC 415-02-540 (9) and (~~((13))~~) (14) for the language that must be used.

**Example:**

Julio and May were married when Julio retired. Julio chose survivor Option 2 (joint and (~~((one hundred))~~) 100 percent survivorship) when he retired. This meant that if Julio died, May would receive monthly survivor benefits. Two years after Julio's retirement, the couple divorced. The court awarded "~~((one hundred))~~ 100 percent of retirement benefits" to Julio. Julio later learned that this award did not change the survivor option. Julio can return to court and obtain an order stating that May is to receive "\$0" as the dollar amount for her sepa-

rate monthly benefit. The order must use the language in WAC 415-02-540 and be signed by the court no sooner than July 1, 2003.

~~((11))~~ **(12) If the dissolution order or amendment is dated AFTER my retirement, how will my defined monthly retirement benefit payment be split?**

(a) The department will split your defined monthly retirement benefit payment **only if** you selected your ex-spouse to receive a survivor benefit at the time you retired. If you did not select your ex-spouse to receive a survivor benefit at the time you retired, you cannot use this section. You **must** use WAC 415-02-530.

(b) If you selected your ex-spouse to receive survivor benefits at the time you retired, the rules in subsection (3)(a) through (f) of this section will apply.

(c) At the time the department splits your account, your ex-spouse will be removed as the survivor beneficiary on your account.

(d) Regardless of his or her age, your ex-spouse will begin receiving a monthly benefit payment the first month after the department accepts the property division dissolution order.

~~((12))~~ **(13) If the dissolution order or amendment is dated AFTER my retirement, how will my monthly retirement benefit be calculated after the split?**

(a) The dissolution order must state the exact dollar amount your ex-spouse is to receive as his or her separate monthly benefit. The following describes how the new amount of your benefit will be calculated assuming your ex-spouse was awarded a monthly benefit of ~~((six hundred dollars))~~ \$600 in the dissolution order.

Step 1 The department will determine the single life benefit of your current monthly benefit payment by dividing your currently monthly benefit payment by the survivor option factor (see WAC 415-02-380) in effect at the time of the split.

**Example:**

Currently monthly benefit = \$1200

Option factor = 0.865

Single life benefit amount =  $\$1200 / 0.865 = \$1387.28$

Step 2 The single life benefit (\$1387.28) is divided by your annuity factor (see WAC 415-02-340) to determine the current present value of the single life benefit amount. The annuity factor the department uses is the factor for your age as of the date of the split.

**Example:**

Your age at time of the split = 61 years old

Annuity factor for age 61 = 0.0065448

Present value of single life benefit =  $\$1387.28 / 0.0065448 = \$211,966.75$

Step 3 The department then determines the present value of your ex-spouse's share by dividing your ex-spouse's monthly benefit amount (as awarded in the dissolution order) by your ex-spouse's annuity factor. The annuity factor is the factor for your ex-spouse's age as of date of the split.

**Example:**

Ex-spouse's monthly benefit amount = \$600

Ex-spouse's age at time of the split = 67  
 Annuity factor for age 67 = 0.0076715  
 Present value of your ex-spouse's monthly benefit =  $\$600/0.0076715$   
 = \$78,211.56

Step 4 Next, the department subtracts your ex-spouse's present value from the single life benefit present value. The result is the present value of the benefit you will receive.

**Example:**

Present value of single life benefit = \$211,966.75  
 Less present value of ex-spouse's benefit = -78,211.56  
 Your present value = \$133,755.19

Step 5 The department determines your new monthly benefit amount by multiplying your present value by your annuity factor.

**Example:**

Your present value = \$133,755.19  
 Annuity factor = 0.0065448  
 Your new monthly benefit amount =  $\$133,755.19 \times 0.0065448 =$   
 \$875.40

(b) The department determines the percentage of the total present value each of you will receive by dividing each of your present value amounts by the single life benefit present value amount.

**Example:**

Your percentage of the single life benefit present value:  
 $\$133,755.19/\$211,966.75 = .6310$   
 Your ex-spouse's percentage of the single life benefit present value:  
 $\$78,211.56/\$211,966.75 = .3690$

~~((13))~~ **(14) What language must the postretirement property division dissolution order or most recent amendment include to split my monthly defined benefit payment with my ex-spouse?** Do not use the language in RCW 41.50.670(2). The order must include the language provided in the following paragraph. The exact dollar amount of your ex-spouse's monthly benefit payment must be specified. Do not use formulas or percentages. (See example in WAC 415-02-500 ~~((15))~~ **(14)**(b).)

The Department of Retirement Systems (department) shall create a **defined benefit account** for \_\_\_\_\_ (ex-spouse) in the \_\_\_\_\_ (name of retirement system and plan) and pay him or her \$\_\_\_\_\_ (amount) for his or her life. To pay for this benefit, \_\_\_\_\_ (member's) **monthly defined benefit** payment will be reduced for life. This provision shall become effective ~~((no more than 30 days))~~ as soon as administratively possible after the department's acceptance of the order.

~~((14))~~ **(15) How will the department split my postretirement defined contribution account?** If your defined contribution account has not been fully disbursed at the time of the dissolution order, the department will split the remaining portion of your defined contribution according to the provisions of subsections (6) through (9) of this section.

~~((15))~~ (16) Is there a maximum payment that a property division dissolution order can award to my ex-spouse? Yes. See RCW 41.50.670(4) and WAC 415-02-500(10) for information.

~~((16) How much is the fee the department charges for making payments directly to my ex-spouse? See RCW 41.50.680 and WAC 415-02-500(11) for information.)~~

(17) **Terms used:**

(a) Department's acceptance - A dissolution order that fully complies with the department of retirement systems' requirements and chapter 41.50 RCW.

(b) Dissolution order - RCW 41.50.500.

(c) Ex-spouse - WAC 415-02-030.

(d) Split accounts - WAC 415-02-030.

(e) Survivor benefits - WAC 415-02-030.

(f) Plan 3 retirement systems - WAC 415-111-100.

(g) TRS - Teachers' retirement system.

Footnotes to section:

- 1 When a court splits your retirement account, the department will establish a separate account for your ex-spouse. Once the account is established, your account and your ex-spouse's account are not tied in any way.
- 2 If an ex-spouse was not listed as the member's survivor beneficiary at retirement, then no postretirement property division order (or postretirement amendment) may split the member's retirement account using WAC 415-02-540.

[Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670 et seq., [41.50.]790. WSR 03-24-049, § 415-02-540, filed 11/26/03, effective 1/1/04. Statutory Authority: RCW 41.50.050(5), 41.50.500, [41.50.]670-[41.50.]710, [41.50.]790 and 2002 c 158. WSR 03-12-014, § 415-02-540, filed 5/27/03, effective 7/1/03.]

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 415-02-720	What does the department charge for processing split payments?
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