

A close-up portrait of an older man with a grey beard and mustache, looking directly at the camera with a slight smile. He is wearing a white collared shirt and a patterned jacket. The background is dark and out of focus.

California State Teachers'
Retirement System

CALSTRS
HOW WILL YOU SPEND YOUR FUTURE?

Community Property Information

FOR CALIFORNIA EDUCATORS INVOLVED
IN DIVORCE OR LEGAL SEPARATION

2005

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 - Check tax withholding status
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Call 24 hours a day at 916-229-3541.

Mail

Please include your Social Security number, address and telephone number when writing CalSTRS:

CalSTRS

Attn: Legal Services, MS-03

P.O. Box 15275

Sacramento, CA 95851-0275

OR

CalSTRS

Attn: Legal Services, MS-03

7667 Folsom Blvd.

Sacramento, CA 95826

Fax

916-229-3253

Contents

The summarized information in this brochure pertains to the Teachers' Retirement Law and is meant as a guide. If any conflict arises between this information and the law, the law takes precedence.

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1. Introduction

In California, CalSTRS retirement benefits are considered to be community property and may be affected by divorce or legal separation.

CalSTRS provides three retirement benefit programs: Defined Benefit, Defined Benefit Supplement and Cash Balance Benefit. A member could have one, two or all of these retirement benefits.

The *Community Property Information* brochure is intended as a ready source of information about CalSTRS and not as a legal document or a substitute for the law. If differences appear between the law and this brochure, the law must prevail.

About this Brochure

This brochure provides an overview of the benefit programs available to members and nonmember spouses. A “nonmember spouse” is a member’s spouse or former spouse, or a member’s registered domestic partner or former registered domestic partner, who is being or has been awarded a community property interest in the member’s Defined Benefit, Defined Benefit Supplement or Cash Balance account(s)¹. This term is also used even if both spouses or partners are CalSTRS members.

This brochure also includes information about how the benefit programs are affected by divorce or legal separation, the methods used to divide community property, what happens in case the member or nonmember spouse dies, as well as general tax information.

In addition, this brochure provides guidance to attorneys assisting the members and nonmember spouses through the divorce process. Furthermore, sample court orders, joinder forms and CalSTRS forms are included.

The following sample court orders are available:

- **Sample A: Sample Segregation Order**
- **Sample B: Sample Time Rule Order (With Option 8 Election Beneficiary, One-Time Death Benefit and Survivor Provisions)**
- **Sample C: Sample Time Rule Order (No Option Election)**
- **Sample D: Sample Time Rule Order (Existing Option Election)**

Note: These samples are provided as a courtesy and are only intended to be used as a guideline. CalSTRS cannot provide legal advice regarding a member’s account. A member should consult with his or her attorney for advice pertaining to their individual situation.

The following joinder forms are available to comply with Family Code Section 2060:

- **Pleading On Joinder-Employee Benefit Plan** (FL-370)
- **Request for Joinder of Employee Benefit Plan and Order** (FL 372)
- **Summons for Joinder** (FL-375)

The following CalSTRS forms can be completed and mailed to CalSTRS:

- **Request for Statement of Account and/or Estimate of Benefits Due to Dissolution of Marriage**
- **Request for Estimate Under Option 8**
- **Waiver of Community Property of California State Teachers’ Retirement System Account(s) and/or Benefits**

These samples and forms can be found in the *Samples and Forms* section starting on page 18 in this brochure.

References to code sections refer to the Education Code, unless noted otherwise.

¹ Section 22651

2. How CalSTRS Retirement Accounts are Affected by Divorce

This section provides information about the benefit programs offered by CalSTRS and how the member's accounts may be affected by divorce. CalSTRS provides three retirement benefit programs: Defined Benefit, Defined Benefit Supplement and Cash Balance Benefit. A member could participate in one, two or all of these programs.

Because of California community property law, a member who is going through a divorce may have his or her retirement account(s) divided. If a member divorces before receiving a retirement or disability benefit, his or her Defined Benefit or Defined Benefit Supplement accounts may be divided according to the time rule formula or by the segregation method. The Cash Balance Benefit account may be divided according to the segregation method. In addition, the court order may specify a flat dollar amount or a percentage. If a member divorces while receiving a retirement or disability benefit, their Defined Benefit or Defined Benefit Supplement accounts may be divided according to the time rule formula or the court order may specify a flat dollar amount or a percentage. The Cash Balance Benefit account may be divided according to a court order specifying a flat dollar amount or a percentage.

For more detailed information about each of these methods please refer to the *Methods of Division of Community Property* section on page 6 of this brochure.

Note: *A court order must state how to split a Defined Benefit, Defined Benefit Supplement or Cash Balance Benefit account. If this is not specifically stated by the court, the account becomes the sole and separate property of the member². A separate court order is not necessary for each account; all three accounts can be addressed in the same court order.*

Defined Benefit Program

The Defined Benefit Program is a retirement program for full-time educators. Membership in the Defined Benefit Program guarantees a specific monthly retirement benefit based on a formula set by law and not based on the amount in the member's Defined Benefit account. Members receive a monthly benefit for life and, if they choose, a monthly benefit for their survivor or survivors for life.

Contributions

Members of the Defined Benefit Program contribute 8 percent of his or her salary and the employer contributes 8.25 percent of the employee's salary to CalSTRS. Upon retirement, members receive a lifetime benefit based on their years of service credit, salary and age. Those leaving CalSTRS-covered employment before retirement can choose to leave the contributions and interest in their Defined Benefit account or they can choose to take a distribution. The employer's contributions are not refundable.

Contributions for extra service, such as teaching summer school, coaching and other curricular assignments and extra days also count toward retirement. For those earning less than one year of service credit in a single school year, the contributions for the extra service will be deposited to the member's Defined Benefit account up to a maximum of one year of service credit in a school year. For those earning more than one year of service credit in a single school year, contributions made by the member and the employer for that extra service will be deposited into the member's Defined Benefit Supplement account.

² Sections 22652 and 27402

Service Credit

Service credit is the accumulated period of time in years and partial years during which a member receives creditable compensation for service as a member of the Defined Benefit Program. A member's service credit is one of the factors used to determine eligibility for benefits payable under the Defined Benefit Program. Service credit is not earned under the Defined Benefit Supplement or Cash Balance Programs. For more information about any of these programs please refer to the *CalSTRS Member Handbook*.

Defined Benefit Supplement Account

Each active Defined Benefit Program member has a Defined Benefit Supplement account. The Defined Benefit Supplement Account may provide additional funds to Defined Benefit members when they retire or leave CalSTRS-covered employment. Funds are directed to the account from two sources.

One source is one-fourth of each member's payroll contribution, or 2 percent of their gross salary. This amount is automatically allocated to the member's Defined Benefit Supplement Account from January 1, 2001 through December 31, 2010. For example, if the member's monthly compensation for CalSTRS-covered service is \$3,000, they contribute \$240 per month to CalSTRS; \$60 will be allocated to the Defined Benefit Supplement account and \$180 will be allo-

cated to the Defined Benefit account. The Defined Benefit retirement benefit is not reduced because of this redirection.

The second source allocated to the Defined Benefit Supplement Account is from contributions made by the member and the employer for service in excess of one year of service credit. In addition, some members receive special limited-term payments or compensation intended to enhance their Defined Benefit benefits. The member and employer contributions on these payments are also directed to the Defined Benefit Supplement Account. These provisions began July 1, 2002 and will not stop at the end of 2010, as does the redirection of the member contributions described above.

Cash Balance Benefit Program

The Cash Balance Benefit Program is a retirement program for part-time educators. With the Cash Balance Program, members typically contribute 4 percent of their salary and employers also contribute 4 percent to CalSTRS. Upon retirement, Cash Balance members can choose to receive all contributions and interest as a lump-sum payment, roll their account balances over to another qualified plan, or, with a balance of at least \$3,500, receive an annuity payment.

Those leaving Cash Balance-covered employment before retirement can choose to leave the contributions and interest in their account or after one year, take a distribution.

3. Joinder of CalSTRS in Divorce Cases

This section explains the term *joinder* and how it relates to a member's account in a divorce situation. It also provides information on how to obtain and file the joinder forms.

Joinder Defined

Joinder is a legal term that means specific court documents are filed with the court that makes CalSTRS a party to the divorce action.

Why Joinder is Necessary

A nonmember spouse has the right to file a community property claim against a member's CalSTRS retirement benefit at any time. However, CalSTRS cannot enforce a court order to divide a member's benefits unless we are made a party to the divorce action using the joinder process.

How to Obtain and File the Joinder Documents

Joinder forms can be obtained from the Superior Court Clerk's Office in your county. In addition, we have provided copies of these forms in the *Samples and Forms* section starting on page 18 of this brochure. Although we provide copies, we highly recommend you use the forms provided by your county. Each county updates and reformats its own forms and may reject any form that does not conform to its standards.

The forms provided in this brochure are titled:

- *Request for Joinder of Employee Benefit Plan and Order (FL 372)*
- *Pleading for Joinder—Employee Benefit Plan (FL-370)*
- *Summons for Joinder (FL-375)*

A member can file the joinder forms themselves or they may want to hire an attorney or a paralegal service for guidance and advice pertaining to their individual situation as we cannot provide legal advice.

Effects of Joinder on a Member's Account

As a result of the joinder, a legal hold may be placed on the member's account, which may affect the member's benefits in any of the following accounts: Defined Benefit, Defined Benefit Supplement and/or Cash Balance.

If the member is already in retirement status their benefits will not be interrupted; however, the amount of their benefits may be affected upon receipt of a certified court order.

How to Remove the Legal Hold Placed Due to a Joinder

The legal hold may be removed by mailing CalSTRS a request to remove the legal hold along with either:

- A certified copy of the marital settlement agreement which specifically states that a community property interest does not exist, or
- Order of Dismissal (which will also void the joinder with the court), or
- A waiver pertaining to the disposition of the community property interest in the Defined Benefit, Defined Benefit Supplement or Cash Balance accounts.

Mail your written request to:

CalSTRS
Attn: Legal Services, MS-03
P.O. Box 15275
Sacramento, CA 95851-0275

4. CalSTRS Court Order Requirements

The following requirements must be adhered to in order to prepare a court order that is acceptable to CalSTRS. When preparing a court order we recommend that a member consult with his or her attorney for advice pertaining to their individual situation.

Member and Nonmember Spouse Information

A “nonmember spouse” is a member’s spouse or former spouse, or a member’s registered domestic partner or former registered domestic partner, who is being or has been awarded a community property interest in the member’s Defined Benefit, Defined Benefit Supplement or Cash Balance account(s)⁴. This term is also used even if both spouses or partners are CalSTRS members.

All court orders must provide the following information regarding the member and nonmember spouse:

- date of marriage
- date of separation
- current mailing addresses
- birth dates
- Social Security numbers

Method of Division

A court order must state how to split a Defined Benefit, Defined Benefit Supplement or Cash Balance Benefit account.

If this is not specifically stated by the court, the account becomes the sole and separate property of the member⁵. A separate court order is not necessary for each account; all three accounts can be addressed in the same court order.

For more information about these methods see the *Methods of Division of Community Property* section on page 6 of this brochure.

Certified Copy

CalSTRS only accepts filed, certified copies of court documents that include the raised seal of the court.

CalSTRS will not process any pending benefit application when made aware that a community property interest may exist, until it receives the necessary certified copies of all court orders.

Referring to CalSTRS

All court orders that require CalSTRS to recognize a community property interest or to act in any way must specifically refer to the “California State Teachers’ Retirement System,” “STRS”, or “CalSTRS.”

Additional Important Information Regarding Court Orders

- The parties and their representing attorney are responsible for determining what benefits a member is entitled to and how each method available for dividing those benefits will affect the benefits.
- The parties and their representing attorneys are responsible for determining whether certain language provided in the sample orders should be omitted, or if additional language should be added to the court orders to satisfy the intent of the parties. Regardless of the changes, the language cannot be contrary to the CalSTRS Law.
- CalSTRS does not provide any type of legal advice to members or nonmembers concerning the division of a member’s account or the writing of court orders.

⁴ Section 22651

⁵ Sections 22652 and 27402

5. Methods of Division of Community Property

The Teachers' Retirement Law provides two methods of division for the community property interest of a member's account:

- **Time rule formula**—this formula can be used for those members who are going through a divorce before they begin to receive a retirement benefit or while receiving a retirement or disability benefit.
- **Segregation method**—this method can only be used for those members who are going through a divorce before they begin to receive a retirement benefit and they are not receiving any other CalSTRS benefit.

In addition to these two methods of division, the court order may state a flat dollar amount or a percentage of the monthly benefit payable to the nonmember spouse only when the member elects to receive a benefit.

Any service credit and/or accumulated contributions and interest that are not awarded specifically in the court order, using either the time rule formula or the segregation method, shall be deemed the property of the member.

The following sections should be carefully reviewed prior to any court order being issued.

Time Rule Formula

The time rule formula is commonly used in divorce cases to calculate the portion of the member's retirement benefits that the nonmember spouse is to receive⁶. This formula can be used for members who are going through a divorce before they begin to receive a retirement benefit or while receiving a retirement or disability benefit.

The formula must be specified in the judgment. The judgment should also contain the dates of marriage and separation of the parties.

The following is an example of the Time Rule Formula:

Example of Time Rule Formula

Service credit earned during community period
÷ by the total years of service credit at retirement
x 1/2 x benefit
= nonmember spouse's community property.

An example of acceptable sample language, which may be incorporated into a court order, is available in the *Sample Time Rule Orders* located in the *Samples and Forms* section starting on page 18 of this brochure.

These samples are provided as a courtesy and are only intended to be used as a guideline. CalSTRS cannot provide legal advice. A member should consult with his or her attorney for advice pertaining to their individual situation. Individual court order language should be prepared to meet the member's specific needs.

Court Order Language Should be Specific

When using the time rule formula to divide a benefit it is very important that the language in the court order be specific regarding the following key elements:

- Member Dies Before Nonmember Spouse
- Nonmember Spouse Dies Before Member
- Court Ordered Election Of An Option
- Type Of Benefit
- Lump-Sum Death Benefit
- Payment By Separate Warrant

⁶ Section 22655

Each of these are described below and in the *Sample Time Rule Orders* located in the *Samples and Forms* section starting on page 18 of this brochure.

Member Dies Before Nonmember Spouse

The court order should be specific regarding what happens if the member dies before the nonmember spouse. If the member dies before the nonmember spouse when using the time rule formula, the nonmember spouse's benefits terminate, unless the member elected an option providing the nonmember spouse a continuing benefit after the member's death. A court order is required that specifically orders the member to elect an option benefit naming the nonmember spouse as an option beneficiary. For a description of Defined Benefit options, visit www.calstrs.com, refer to the *CalSTRS Member Handbook* or call 800-228-5453.

Nonmember Spouse Dies Before Member

The court order should be specific regarding what happens if the nonmember spouse dies before the member. If the nonmember spouse dies before the member, but after benefits are being paid, the nonmember spouse's community property monthly share would stop and revert to the member, unless the court order specifically provides that the nonmember spouse's ongoing community property court-ordered share would be payable to a specific individual until the member's death. When this is the case, the nonmember spouse must provide the name of his or her death benefit recipient in writing to CalSTRS as soon as possible.

Court-Ordered Election of an Option

The court order should be specific regarding the election of an option to determine whether the nonmember spouse's community property share terminates or continues after the member's death. An option is an account feature that allows the member to redistribute the retirement benefit over both the member's life and the life of one or more option beneficiaries in the event of the member's death.

A court order may require a retired member to amend his or her retirement election. For more information on options please refer to the *CalSTRS Member Handbook*.

The cost of selecting an option benefit may be shared between both the retired member and nonmember spouse, or the court may require that only one party bear the cost of the selected option. For example, if the unmodified benefit is calculated to be \$500 per month, and the election of Option 2 for the nonmember spouse reduces the benefit to \$475 per month, the cost, \$25, may be applied against the retired member's portion of the benefit, the nonmember spouse portion or both.

Type of Benefit

The court order should also be specific regarding the type of benefit. CalSTRS will only apply the community interest to the benefits specifically stated in the court order. If the benefits are specified as "any" or "all" benefits payable in the court order, the order will be interpreted by CalSTRS to mean **all** benefits: retirement, refund, disability and lump-sum death benefits payable.

If the order only states that the member's "retirement benefits" are to be divided, then the order would not be applied to any other benefits payable (refund, disability or lump-sum death benefits).

CalSTRS will comply with the provisions of any judgment to the extent allowed for and provided by the Teachers' Retirement Law. The court cannot order CalSTRS to pay a benefit that is not provided for or that is contrary to the statutory provisions of the Teachers' Retirement Law.

Lump-sum Death Benefit

The court order should be specific regarding any lump-sum death benefits payable. The nonmember spouse is entitled to his or her community property share of any lump-sum amount payable upon the member's death. This amount is calculated based on the method stated in the court order, including but not limited to any return of the

member's contributions and interest and the One-Time Lump-Sum Death Benefit.

Payment By Separate Warrant

The court order must specifically state CalSTRS is to pay the nonmember spouse "by separate warrant" if the court directs the community property interest in a member benefit be divided and the parties involved expect CalSTRS to pay the nonmember spouse his or her community property share of each retirement benefit payment by separate warrant. Without such language in the court order, the member will be responsible for ensuring the nonmember spouse receives proper payment.

Segregation Method

The segregation method is used in divorces to divide the member contributions, interest and service credit (if applicable) in the member's Defined Benefit, Defined Benefit Supplement and Cash Balance Benefit accounts into two individual accounts based on a court order. The member and the nonmember spouse would then each have his or her own separate and distinct account.

Note: The segregation method of division is not available if the member is receiving a benefit such as a retirement or disability allowance.

Once the accounts have been segregated, the nonmember spouse no longer relies upon the member when the benefit becomes payable. A nonmember spouse has complete control of his or her community interest and may receive a refund of the accumulated contributions while the member continues to work.

At the time of the separation, if the member has at least five years credited service acquired during the community period, the nonmember spouse, when eligible, may retire and receive a monthly retirement benefit using the awarded service, regardless of the future actions of the member.

The nonmember spouse's monthly retirement benefit is calculated using the member's salary at the date of separation, (not at the date of retirement), the nonmember spouse's age at the date of retirement and the service credit awarded to the nonmember spouse. This means the nonmember spouse will not benefit from any increases in the Defined Benefit, Defined Benefit Supplement or Cash Balance member's future salary or any other benefit enhancements that may increase the member's monthly benefit at retirement.

The Teachers' Retirement Law allows a member whose account has been divided using the segregation method to redeposit the contributions and interest awarded to his or her nonmember spouse if the nonmember spouse elects a refund of those funds⁷.

Segregation of community property interest offers the parties an alternative method of dividing the retirement benefits; however, it is not mandatory. The establishment of a separate account for the nonmember spouse may not be suitable in all divorce cases.

Segregation of Member's Account With 25 or More Years of Service Credit

When using the segregation method, members with 25 or more years of service credit will have their benefits calculated based on the following benefit enhancements. These benefit enhancements apply even when the member's total years of service credit have been reduced by a court-ordered segregation of their account due to a divorce or legal separation:

- Defined Benefit or Defined Benefit Supplement members retiring on or after January 1, 2001, who have 25 or more years of service credit, will have their final compensation calculated based on their highest one-year compensation.

Note: Enhancements do not apply to Cash Balance Benefit members because service credit is not earned in Cash Balance Benefit accounts.

⁷ Section 23200

- Members who retire on or after January 1, 1999, with 30 or more years of service credit are eligible for a career bonus factor of 0.2 percent (two tenths of 1 percent) added to the member's age factor up to a combined age and career factor of 2.4 percent.
- Members with 30 or more years of service credit by January 1, 2011, and who retire on or after January 1, 2001, also receive a longevity bonus. This bonus permanently adds \$200, \$300 or \$400 to the member's monthly unmodified benefit, depending on the number of years of service credit.

CalSTRS will consider the member's total years of service credit when determining eligibility for enhanced benefit factors. However, CalSTRS will continue to use only the years of service credit in the member's account after the segregation as the basis for calculation of the member's retirement benefit.

Court Order Language Should Be Specific

When using the segregation method to divide a benefit it is very important that the language in the court order be specific regarding the following accounts:

- Defined Benefit
- Defined Benefit Supplement
- Cash Balance Benefit

Each of these are described below and in the *Sample Segregation Order* located in the *Samples and Forms* section starting on page 18 of this brochure.

Defined Benefit and Defined Benefit Supplement Account Court Order Must Specify Percentage

The court order must clearly state a percentage of the community property to be awarded to the nonmember spouse, not a specific dollar amount. (Community property can consist of accumulated contributions, interest and service credit.)

An example of acceptable sample language, which may be incorporated into a court order, is available in the *Sample Segregation Order* located in the *Samples and Forms* section starting on page 18 of this brochure.

These samples are provided as a courtesy and are only intended to be used as a guideline. CalSTRS cannot provide legal advice. A member should consult with his or her attorney for advice pertaining to their individual situation. Individual court order language should be prepared to meet the member's specific needs.

Cash Balance Benefit Account Court Order Can Specify Dollar Amount

The court order should be specific regarding the Cash Balance Benefit. It can state either a percentage or a dollar amount of community property be awarded to the nonmember spouse. (Community property consists of accumulated contributions and interest.)

Nonmember Spouse Rights and Benefits

Under the segregation method, the nonmember spouse is entitled only to the rights and benefits explicitly set forth in the Teachers' Retirement Law⁸. These rights include:

- Either a monthly retirement benefit, or a refund of accumulated contributions
- Designation of a one-time death benefit recipient for payment of accumulated contributions remaining in the account at time of death of the nonmember spouse.
- Nonmember spouse may be eligible for a prorated share of the member's longevity bonus based on the member's eligibility at the time of separation. For more information on these bonuses see the *Segregation of Member's Account With 25 or More Years of Service Credit* section on page 8 of this brochure.

⁸ Section 22650

Once the segregation process has been completed, the nonmember spouse may retire when eligible by sending a written request to:

CalSTRS
Attn: Legal Services, MS-03
P.O. Box 15275
Sacramento, CA 95851-0275

Methods of Division Comparison

This section provides a general overview of each method of division which can be used to do a side-by-side comparison. However, we cannot recommend a method of division nor can we provide legal advice.

Segregation Method		Time Rule Formula
Availability:	Only available if the member has not yet retired or begun to receive a benefit of any kind.	Available if the member is active or retired.
Award Calculation:	The amount awarded to the nonmember spouse is typically 50 percent of the member's service credit years, contributions and interest earned from date of marriage to date of separation. The nonmember spouse can then apply for a lump-sum distribution at any time, or at age 55 or older receive a lifetime monthly benefit. The nonmember spouse's monthly benefit is calculated using the member's salary on the date of separation, the nonmember's spouse's age at the date of retirement and the service credit awarded to the nonmember spouse.	CalSTRS calculates the service credit earned by the member from the date of marriage to the date of separation and determines what ratio of the member's monthly benefit is community property and what percentage of the member's benefit is payable to the nonmember spouse each month. The nonmember spouse's benefit is calculated using the member's salary at the time of retirement.
Restrictions:	A member's Defined Benefit Supplement account or Cash Balance Benefit account can only be divided using the segregation formula. This is because only contributions and interest are earned but not service credit.	None
Availability of nonmember spouse's share of member's account:	Immediately available—nonmember spouse receives a separate account or a monthly benefit payable when the nonmember spouse is age 55.	Not available until member retires—nonmember spouse does not receive a separate account.
Impact of service credit and contributions	Service credit is removed from the member's account.	Service credit is not removed from the member's account.

6. Registered Domestic Partners

This section provides information regarding the definition of Registered Domestic Partners and the community property rights associated with dissolution of the registered domestic partnership. In addition, we have provided some general taxation information.

For additional information about Registered Domestic Partners, please visit our Web site at www.calstrs.com and select *FAQ*.

Registered Domestic Partner Defined

A Registered Domestic Partner is a person who has completed and filed a Declaration of Domestic Partnership with the Secretary of State in accordance with Family Code section 298.

Registered Domestic Partnership Defined

A Registered Domestic Partnership is created when partners of the same sex, or partners are opposite sexes where one partner is at least 62 years old, complete and file a *Declaration of Domestic Partnership* with the Secretary of State in accordance with Family Code section 298.e.

Terminating a Domestic Partnership

CalSTRS benefits are considered community property under California law. Upon the dissolution or termination of a registered domestic partnership, CalSTRS benefits may be divided. If this happens, the division of the member's CalSTRS Defined Benefit, Defined Benefit Supplement or Cash Balance Program is subject to the same procedures for filing and implementing a court order that apply in a divorce⁹.

If a member is terminating a domestic partnership and wants to get information on the possible impact to a member's benefits, please mail a written request to CalSTRS Legal Services. CalSTRS will need a copy of the property settlement agreement.

Mail your written request to:

CalSTRS

Attn: Legal Services, MS-03

P.O. Box 15275

Sacramento, CA 95851-0275

Tax Information

The federal government does not recognize domestic partners as "spouses" for federal tax purposes. If a member's domestic partner does not constitute a dependent under the federal income tax code, amounts awarded to the domestic partner may not actually be paid until the member experiences a distributable event, as defined for federal income tax purposes (i.e., retire or die).

In addition, any distribution made to the domestic partner pursuant to a court order will be taxable to the member for federal income tax purposes. Also, a 10 percent excise tax may apply to the member if the domestic partner does not meet the federal income tax definition of a *dependent* and the distribution is otherwise considered an *early distribution* under the federal income tax code. We recommend that the member consult with a tax advisor for further questions on tax issues.

⁹ Family Code Section 299(d)

7. Ways to Waive Interest in a Member's Account

This section provides information on the two ways to waive interest in a member's account:

- Waiver of Community Property form
- Court Order

Waiver of Community Property by Nonmember Spouse or Domestic Partner

One way to waive interest in a member's benefit account is for the nonmember spouse or domestic partner to complete a *Waiver of Community Property of California State Teachers' Retirement System Account(s) and/or Benefits* form. This form must be notarized.

Upon receipt of the original properly executed form, CalSTRS will send a letter of acknowledgement to both parties, recognizing the account as the member's sole and separate property and the legal hold, if applicable, will be removed from the member's account.

A copy of the *Waiver of Community Property of California State Teachers' Retirement System Account(s) and/or Benefits* form is located in the *Samples and Forms* section starting on page 18 of this brochure.

Court Order

The second way to waive interest in a member's benefit account is to provide CalSTRS with a court order that specifically states the nonmember spouse waives all rights and interest in the member's CalSTRS benefits.

Upon receipt of the certified copy of the court order, CalSTRS will send a letter of acknowledgement to both parties, recognizing the account as the member's sole and separate property and the legal hold, if applicable, will be removed from the member's account.

8. Benefits Payable After Member's Death

This section provides information about the benefits that can be paid to designated recipient(s) in the event of the member's death and how those benefits may be affected by divorce, annulment or legal separation. The benefits payable after a member's death can be in the form of a one-time benefit payment or a lifetime monthly benefit as an option beneficiary.

One-Time Death Benefit Recipient

The *One-Time Death Benefit Recipient* form is used to designate recipient(s) to receive the one-time payment in the event of the member's death. Any accumulated contributions in the member's account not assigned to a non member spouse by court order, plus any allowance accrued and unpaid on the date of death, will be paid to the designated recipient(s) subject to the following requirements:

- No option beneficiary was selected to receive a continuing benefit after the member's death, or
- The member has no spouse, registered domestic partner, dependant parent or children eligible to receive a Family or Survivor Benefit Allowance after the member's death under coverage A or B, if he or she is an active member

A member may file a new *One-Time Death Benefit Recipient* form at any time as long as the member's recipient designation is not made to take away community property share of a nonmember spouse¹⁰. To order the form, visit www.calstrs.com or call us at 800-228-5453.

Effects of Divorce on a Member's One-Time Death Benefit Recipient Designation

Divorce, annulment or legal separation may affect a member's one-time death benefit recipient designation depending on when the form was filed and when the divorce and/or member's death occurred. The following scenarios are described in the sections below:

- *One-Time Death Benefit Recipient Designation* forms executed prior to January 1, 1987
- *One-Time-Death Benefit Recipient Designation* forms executed after January 1, 1987
- Divorce judgment and the member's death occur after January 1, 2002

Forms Executed Prior to January 1, 1987

One-Time Death Benefit Recipient Designation forms executed prior to January 1, 1987, are null and void.

A new *One-Time Death Benefit Recipient* form must be executed. To order the form, visit www.calstrs.com or call us at 800-228-5453. If a new form is not executed and filed with CalSTRS, it is the responsibility of CalSTRS to pay the member's estate.

Forms Executed after January 1, 1987

One-Time-Death Benefit Recipient Designation forms executed after January 1, 1987, by a member whether married, divorced, annulled, or legally separated are still valid after the divorce unless the member files a new *One-Time Death Benefit Recipient* form. The new form cannot be contrary to a court order.

¹⁰ Section 23300, Family Code Section 2610

Divorce and the Member's Death Occur After January 1, 2002

If the divorce judgment and the member's death occur after January 1, 2002 and the *One-Time Death Benefit Recipient* form names the nonmember spouse, the nonmember spouse is excluded as a recipient unless there is a court order that states otherwise. The other recipients named on the form continue to be eligible recipients¹¹.

If a member chooses to have his or her nonmember spouse as a one-time death benefit recipient, the member must submit a new *One-Time Death Benefit Recipient* form after the date of the divorce judgment. The order must be clear and contain convincing evidence that the member intended to designate the nonmember spouse as a beneficiary to the one-time death benefit. The form will be reviewed and approved by CalSTRS Legal Services.

For more information about one-time death benefit recipient designation, visit www.calstrs.com or call us at 800-228-5453.

Court-Ordered Option Beneficiary Election

In order to give a nonmember spouse an ongoing benefit after a member's death in addition to the one-time benefit, the member may be required to elect the nonmember spouse as an option beneficiary for his or her community property interest in the account. When this happens there are three typical scenarios:

- Sole Option
- Community Property Share Only
- No Option Beneficiary Elected

Sole Option

In this case, the court order states the nonmember spouse be named as the only option beneficiary over the entire account.

Community Property Share Only

In this case, the court order states the nonmember spouse be named as the option beneficiary for the community property portion only. This scenario allows the member to retain the non-community property portion unmodified or to designate a second option beneficiary.

No Option Beneficiary Elected

In this case, the court order states benefits are payable to both the member and the nonmember spouse, however the monthly benefits to the nonmember spouse terminate upon the death of the member.

Court Order Language Should be Specific

In the case of a divorce, the court order must clearly specify the intent of division of these benefits and determine whether a community property interest exists for the death benefit and/or an option benefit.

Samples of acceptable language, which may be incorporated into a court order, are available in the *Sample Time Rule Order (No Option Election)* and the *Sample Time Rule Order (Existing Option Election)* located in the *Samples and Forms* section starting on page 18 of this brochure.

These samples are provided as a courtesy and are only intended to be used as a guideline. CalSTRS cannot provide legal advice. A member should consult with his or her attorney for advice pertaining to their individual situation. Individual court order language should be prepared to meet the member's specific needs.

¹¹ Section 5600, Probate Code

Cancelling the Option Beneficiary After Retirement

A member who retires after electing an option to provide a continuing income to an option beneficiary may cancel the option election after divorce if the following two conditions are satisfied¹²:

1. The retired member has selected his or her spouse as the option beneficiary and the retired member is not required to maintain the nonmember spouse as the option beneficiary.
2. The final divorce decree, the judgment of nullity or an order of separate maintenance has been entered on or after January 1, 1978.

The retired member must notify CalSTRS of his or her desire to cancel the option by filing a *Cancellation or Change of Option After Retirement* application form. The application may not be made earlier than the effective date of the judgment or court order and must be accompanied by a certified copy of the judgment, court order or any property settlement agreement. To obtain a *Cancellation or Change of Option After Retirement* form visit www.calstrs.com or call us at 800-228-5453.

Naming More Than One Option Beneficiary (Option 8)

An Option 8 beneficiary election provides members the option to elect more than one beneficiary. In a divorce situation the Option 8 election allows members, who may be required by a court order, to guarantee a nonmember spouse an ongoing benefit after death. The member may elect the former spouse as an option beneficiary for their community property interest only and retain the remaining portion as unmodified.

This allows the member full control of the remaining portion of their account that is not considered community property. For example, if 25 percent of a member's account was considered community property, in this situation they would retain full control of the remaining 75 percent.

This also provides a higher benefit for the member during their lifetime. For more information about Option 8, please refer to the *CalSTRS Member Handbook*.

To make changes to a beneficiary designation, please complete and return the *Request for Estimate Under Option 8* form located on page 41 of the *Samples and Forms* section.

¹² Section 24305(a)0

9. Tax Liability

Both the member and nonmember spouse are responsible for any tax liability incurred as a result of their community property payments received from CalSTRS, unless the court order states otherwise. Because of this rule, CalSTRS must be provided with the nonmember spouse's Social Security number before any community property payment can be made. CalSTRS provides an *Income Tax Withholding Preference Certificate* to all parties to indicate their tax withholding preference. To obtain a copy of this form, visit www.calstrs.com or call us at 800-228-5453.

Tax Information

Federal and California statutes require income tax withholding on distributions from pension plans, annuities and deferred compensation plans. Income tax will be withheld from the taxable portion of the member's benefit unless action is taken not to have taxes withheld. If the member does not have taxes withheld, or if not enough are withheld, the member may need to make estimated tax payments. Generally, the member's withholding, estimated tax payments or the total of both must cover at least 90 percent of his or her total tax liability for the current year. Failure to meet the 90 percent limit could subject the member to penalties.

A portion of the member's benefit may not be taxable if post-tax contributions to CalSTRS were made during the member's career. CalSTRS uses the Simplified Method established by the Internal Revenue Service to determine the taxable portion of the member's benefit. (Any acceptable method may be used when reporting to the IRS.) The Simplified Method is explained in detail in the IRS publication 575, *Pension and Annuity Income* or the Franchise Tax Board's publication 1005, *Pension and Annuity Guidelines*. To obtain a copy of these forms, visit www.irs.gov, or www.ftb.ca.gov, or call us at 800-228-5453.

Taxation of Periodic Payments

Unless CalSTRS is told otherwise, we will withhold income tax on all periodic payments (payments that are received in installments at regular intervals) as if the member were married and claiming three dependents.

To indicate the income tax withholding preference for periodic payments, please complete and return the *Income Tax Withholding Preference Certificate*. To obtain a copy of this certificate, visit www.calstrs.com or call us at 800-228-5453.

Taxation of Non-periodic Payments

CalSTRS withholds income tax from non-periodic payments (such as a one-time death payment or the benefit accrued and unpaid on the date of death of a CalSTRS benefit recipient) at a flat rate of 20 percent for federal and 6 percent for state withholding.

The member's beneficiary can elect not to have taxes withheld from a non-periodic payment unless he or she resides outside of the United States or its possessions, in which case tax withholding is required.

To indicate the income tax withholding preference for non-periodic payments, please complete and return the *Income Tax Withholding Preference Certificate*. To obtain a copy of this certificate, visit www.calstrs.com or call us at 800-228-5453.

Income Tax Withholding Preference Certificate

To request a change in income tax withholding status, please complete the *Income Tax Withholding Preference Certificate*. The certificate must be received by CalSTRS no later than the first day of the month preceding the month in which the change is to take effect.

To obtain a copy of this certificate, visit www.calstrs.com or call us at 800-228-5453.

10. Requests for Account Information

A member may request information on a CalSTRS account by sending a written request to CalSTRS¹³. A nonmember spouse whose community property interests have been defined by a court and who has joined CalSTRS in the divorce action may also request specific information related to the member or member's account.

Any person other than the member requesting information on an account must provide at least one of the following:

- A written authorization to release information signed and dated by the member within the last 30 days or specifically valid for a longer period specifying the information needed.
- A *Subpoena duces tecum*. Upon receipt of a subpoena, the requested information will be provided. See the inside back cover of this brochure for document copying costs.

Note: CalSTRS will accept service of the subpoena by mail.

When contacting CalSTRS, please submit the request in writing and provide the following:

- Member's full name, including middle initial
- Member's current address
- Social Security number of the member and the nonmember spouse

If option benefit information is requested, please also provide the named beneficiary's birth date. For more information on election

of an option at retirement or pre-retirement election of an option, please refer to the CalSTRS *Member Handbook*.

Mail your written request to:

CalSTRS

Attn: Legal Services, MS-03

P.O. Box 15275

Sacramento, CA 95851-0275

CalSTRS Will Provide A Statement Of Account

Upon receipt of a written request or subpoena, CalSTRS will provide a current Statement of Account as of the time of marriage and as of the specified separation date.

The Statement of Account shows the balance of member contributions, the refund value, the CalSTRS membership effective date and the accumulated Defined Benefit service credit, if applicable.

Note: Service credit is not earned under the Defined Benefit Supplement or Cash Balance Programs.

To request a Statement of Account, please complete and return the *Request for Statement of Account and/or Estimate of Benefits Due to Dissolution of Marriage* form located in the *Samples and Forms* section starting on page 18 of this brochure.

Note: If the dates are not specified; only a current Statement of Account will be provided.

¹³ CalSTRS is governed by the Teachers' Retirement Law, Section 22306 and, as a public agency of the State of California, the Information Practices Act, Civic Code Section 1798, et seq./.

11. Samples and Forms

This section provides samples and forms to assist in preparing court orders and getting necessary information. The following samples and forms are included in this section:

- Sample Court Orders—see page 19
- Joinder Forms—see page 32
- CalSTRS Forms—see page 39

Sample Court Orders

These sample court orders are provided to assist in the preparation of a court order that is acceptable to CalSTRS and are not to be used as fill-in forms. The law must still be applied to each situation. CalSTRS cannot provide legal advice; therefore, a member should consult his or her attorney for advice pertaining to their individual situation

Other language may be used; however, any order must be consistent with the terms of the Teachers' Retirement Law. In the event that CalSTRS determines that an order is not consistent with the Teachers' Retirement Law, CalSTRS will require that the parties modify the order in all necessary aspects.

The following sample court orders are provided in this section:

- **Sample A: Sample Segregation Order**
This sample order can only be used for CalSTRS members who have not yet retired or have not yet begun to receive a benefit of any kind at any time.
- **Sample B: Sample Time Rule Order (With Option 8 Election Beneficiary, One-Time Death Benefit and Survivor Provisions)**
This sample order can be used for members who have not yet retired or have retired unmodified and are ordered by the court to specifically elect an Option 2 benefit, under Option 8 for the nonmember.

Important Information Regarding Court Orders

- The parties and their representing attorney are responsible for determining what benefits a member is entitled to and how each method available for dividing those benefits will affect the benefits.
- The parties and their representing attorneys are responsible for determining whether certain language provided in the sample orders should be omitted, or if additional language should be added to the court orders to satisfy the intent of the parties. Regardless of the changes, the language cannot be contrary to the Teachers' Retirement Law.
- CalSTRS does not provide any type of legal advice to members or nonmember concerning the division of a member's account or the writing of court orders.

- **Sample C: Sample Time Rule Order (No Option Election)**

This order can be used for members who have not yet retired or have retired unmodified or are not required by the court to elect the nonmember as an option beneficiary. Please see the *Benefits Payable After Member's Death* section on page 13 of this brochure for more detailed information regarding option beneficiaries.

- **Sample D: Sample Time Rule Order (Existing Option Election)**

This order can be used for members who have retired and begun receiving a benefit and the member has an existing option beneficiary elected.

For additional information about the Time Rule and Segregation methods please see the *Methods of Division of Community Property* section on page 6 of this brochure.

1 **SAMPLE A: SAMPLE SEGREGATION ORDER**

2 **SEGREGATION ORDER**
3 **(Can only be used if member is not or has not been in benefit status)**

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PETITIONER: (nonmember)) CASE NO:
and)
RESPONDENT: (member)) STIPULATION AND ORDER REGARDING
) CALIFORNIA STATE TEACHERS'
) RETIREMENT SYSTEM (CalSTRS)
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It is hereby stipulated by and between the parties hereto and their counsel as follows:

1. Pursuant to the Judgment of Dissolution of Marriage filed herein on or about (date) in which the Court reserved personal jurisdiction over both parties to this action and reserved jurisdiction as to the subject matter of this action relating to the amount and distribution of the community property interests in the pension benefits respondent is entitled to receive from the California State Teachers' Retirement System and pursuant to the Request for Joinder of the California State Teachers' Retirement System filed on or about (date) the parties hereto are awarded interest in CalSTRS member's Defined Benefit Account, Defined Benefit Supplement Account and Cash Balance Account through the California State Teachers' Retirement System.
2. The purpose of the Stipulation and Order is to define said interests. This Stipulation and Order shall supersede said Judgment of Dissolution of Marriage and shall be controlling regarding the definition and payment of the parties interests in said accounts held by CalSTRS member.

- 1 3. The CalSTRS member's name, current address, date of birth and social security number is as
2 follows:
- 3 4. The nonmember's name, current address, date of birth and social security number is as follows:
- 4 5. The name and current address of Claimant CalSTRS is:
- 5 California State Teachers' Retirement System
- 6 P.O. Box 15275
- 7 Sacramento, CA 95851
- 8 6. The addresses set forth in paragraphs 3, 4, and 5, above shall continue to suffice for purpose of
9 notification unless the party to whom notice is to be given provides the other parties with written
10 notice of change of address.
- 11 7. CalSTRS shall divide the community portion of the Respondent's CalSTRS Defined Benefit
12 Account, Defined Benefit Supplement Account and Cash Balance Account into two separate
13 accounts. Petitioner shall receive one-half of the community portion of these accounts. The non-
14 community portion of these accounts is awarded to Respondent as his sole and separate
15 property.
- 16 8. The court finds that:
- 17 a. The parties were married on (date)
- 18 b. The Respondent became a member of CalSTRS on (date)
- 19 c. The parties separated on (date)
- 19 9. The community portion of the pension is that portion of accumulated retirement contributions and
20 service credits that are attributable to the period of service from (date) through (date).
- 21 10. Petitioner shall have the right, through the separate account, to designate a beneficiary or
22 beneficiaries to receive the accumulated retirement contributions remaining in the separate
23 account of Petitioner on the date of death of Petitioner and any accrued allowance attributable to
24 the separate account which is unpaid on the date of death.
- 25 11. Petitioner shall have the right to a refund of accumulated retirement contributions on the separate
26 account.

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12. Petitioner shall have the right to elect to receive retirement payments at the earliest date allowed under the terms of the CalSTRS plan provided that all CalSTRS requirements are met for commencement of payments.

13. Petitioner shall have the right to redeposit accumulated retirement contributions previously refunded to member and in which the court has determined to be community property. Nonmember must notify CalSTRS within 180 days after the entry of judgment or court order.

14. Nothing contained in this order shall be construed to require CalSTRS to provide to Petitioner any type of form of benefit or any option not otherwise available to a nonmember with a separate account under CalSTRS plan. Nothing contained in this Order shall be construed as a limitation of Petitioner's rights available to him/her through the separate nonmember account and provided under CalSTRS.

15. Jurisdiction is reserved to the court to enforce this order.

Submitted for signature and signed:

1 **SAMPLE B: SAMPLE TIME RULE ORDER**

2 TIME-RULE ORDER
3 (WITH OPTION 8 ELECTION BENEFICIARY, ONE-TIME DEATH BENEFIT AND SURVIVOR PROVISIONS)

4
5 PETITIONER:) CASE NO:
6)
7 and)
8)
9 RESPONDENT:) STIPULATION AND ORDER REGARDING
10) CALIFORNIA STATE TEACHERS' RETIREMENT
11) SYSTEM (CalSTRS)
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27 **It is hereby stipulated by and between the parties hereto and their counsel as follows:**

- 28 1. Pursuant to the Judgment of Dissolution of Marriage filed herein on or about (date) in which the
29 Court reserved personal jurisdiction over both parties to this action and reserved jurisdiction as to
30 the subject matter of this action relating to the amount and distribution of the community property
31 interests in the pension benefits Respondent is entitled to receive from the California State
32 Teachers' Retirement System and pursuant to the Request for Joinder of the California State
33 Teachers' Retirement System filed on or about (date) the parties hereto are awarded interests in
34 (date) Defined Benefit Account, Defined Benefit Supplement Account and Cash Balance Account
35 through the California State Teachers' Retirement System.
36 2. The purpose of the Stipulation and Order is to define said interests. This Stipulation and Order
37 shall supersede said Judgment of Dissolution of Marriage and shall be controlling regarding the
38 definition and payment of the parties interests in said accounts held by CalSTRS member.
39 3. The CalSTRS member's name, current address, date of birth and social security number is as
40 follows:
41 4. The nonmember name, current address, date of birth and social security number is as follows:
42 5. The nonmember shall be paid directly by separate warrant by the California State Teachers'
43 Retirement System.

1 6. The formula to calculate the monthly benefit payable to the nonmember is:

2 Numerator is service credit earned during the marriage; the denominator of which is
3 the member's total service credit in the California State Teachers' Retirement System
4 at retirement, multiplied by fifty percent, multiplied by the member's monthly pension
5 benefit; or

- 6 • **Numerator is service credit earned during the marriage; the denominator of which is the member's total service credit in the California State Teachers' Retirement System at retirement, multiplied by fifty percent, multiplied by the member's retirement or disability benefit; or**
- 7 • **Deduct flat percentage of _____% from member's allowance; or**
- 8 • **Deduct flat dollar amount of \$_____ from member's allowance.**

9 (Only one of the above methods can be chosen)

10 7. Date of Marriage is _____

11 8. Date of Separation is _____

12 **Option Election Provision:**

13
14 9. At the earliest date possible, CalSTRS member is ordered to elect the nonmember as an "Option
15 2" beneficiary under "Option 8". Such election will actuarially reduce the nonmember's community
16 interest only and Nonmember shall continue to receive his/her share of the benefit in the same
17 monthly amount prior to CalSTRS member's death. CalSTRS member shall be entitled to
18 designate an option beneficiary of his/her choice for any monthly survivor continuance amounts
19 remaining after payment to nonmember. Nonmember shall pay full cost of said option election.

20 10. Nonmember shall be entitled to his/her community property share of any lump-sum amount
21 payable upon CalSTRS member's death, which shall be calculated based on the formula set forth
22 in paragraph number 6, including but not limited to any return of member's contributions and
23 interest and any One-Time Lump-Sum Death Benefit.

24 11. Should nonmember predecease the CalSTRS member, Nonmember's community property
25 interest shall be paid to a beneficiary or beneficiaries as designated by nonmember for as long as
26 the CalSTRS member is alive and receiving benefits. Nonmember must provide to CalSTRS, in
writing: the full name, Social Security number, address and date of birth of each beneficiary. If

1 nonmember fails to designate a beneficiary as stated above, the nonmember court ordered
2 payments shall revert to CalSTRS member.

3 12. Enforcement of this Stipulation and Order shall commence upon receipt of the California
4 State Teachers' Retirement System of a filed and certified copy. Upon receipt of a filed and
5 certified copy, benefits are payable to nonmember so long as the CalSTRS member is
6 receiving a benefit.

7 13. Any and all payments made to nonmember pursuant to this Stipulation and Order shall be made
8 directly to by separate warrant to nonmember at all times.

9 14. Immediately upon the entry of this Stipulation and Order, the Stipulated Order shall be served
10 upon the California State Teachers' Retirement System.

11 15. CalSTRS member and Nonmember shall each assume and bear responsibility for any and all
12 income taxes attributable to the respective benefits received by each. Neither party shall have
13 any responsibility for the payment of income taxes attributable to the benefits received by the
14 other. Each party shall hold the other harmless from any such responsibility.

15 16. The nonmember shall have the responsibility for informing the California State Teachers'
16 Retirement System of any changes in nonmember address.

17 17. Nothing contained in this order shall be construed to require the CalSTRS to provide any type or
18 form of benefit or any option not otherwise available under the CalSTRS plan.

19 18. The court shall retain jurisdiction to amend or modify this Stipulation and Order or to make such
20 other further orders as are necessary or appropriate to enforce or clarify the provisions of this
21 Stipulation and Order, to meet the requirements of the plan and of the State and Federal law, and
22 to provide the parties hereto with any additional benefits which may become available to either
23 party under the plan.

24 Submitted for signature and signed:
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SAMPLE C: SAMPLE TIME RULE ORDER

**TIME-RULE ORDER – NO OPTION ELECTION
(Nonmember benefit terminates upon death of member)**

PETITIONER:)	CASE NO:
	and)	
RESPONDENT:)	STIPULATION AND ORDER REGARDING
)	CALIFORNIA STATE TEACHERS' RETIREMENT
)	SYSTEM (CalSTRS)
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It is hereby stipulated by and between the parties hereto and their counsel as follows:

1. Pursuant to the Judgment of Dissolution of Marriage filed herein on or about (date) in which the Court reserved personal jurisdiction over both parties to this action and reserved jurisdiction as to the subject matter of this action relating to the amount and distribution of the community property interests in the pension benefits Respondent is entitled to receive from the California State Teachers' Retirement System and pursuant to the Request for Joinder of the California State Teachers' Retirement System filed on or about (date) the parties hereto are awarded interests in CalSTRS member's Defined Benefit Account, Defined Benefit Supplement Account and Cash Balance Account through the California State Teachers' Retirement System.
2. The purpose of the Stipulation and Order is to define said interests. This Stipulation and Order shall supersede said Judgment of Dissolution of Marriage and shall be controlling regarding the definition and payment of the parties interests in said accounts held by CalSTRS member.
3. The CalSTRS member's name, current address, date of birth and social security number is as follows:
4. The nonmember's name, current address, date of birth and social security number is as follows:

1 5. The nonmember shall be paid directly by separate warrant by the California State Teacher's
2 Retirement System.

3 6. The formula to calculate the monthly benefit payable to the nonmember is:

- 4 • **Numerator is service credit earned during the marriage; the denominator of which is the member's total service credit in the California State Teachers' Retirement System at retirement, multiplied by fifty percent, multiplied by the member's retirement or disability benefit; or**
- 5
- 6
- 7 • **Deduct flat percentage of _____ % from member's allowance; or**
- 8 • **Deduct flat dollar amount of \$ _____ from member's allowance.**

9 (Only one of the above methods can be chosen)

10 7. Date of Marriage is (date)

11 8. Date of Separation is (date)

12 9. Member is not required and/or is not eligible to elect the nonmember as an option beneficiary. All
13 benefits payable to nonmember cease upon the death of the CalSTRS member.

14 10. Nonmember shall be entitled to his/her community property share of any lump-sum amount payable
15 upon CalSTRS member's death, which shall be calculated based on the formula set forth in
16 paragraph number 6, including but not limited to any return of member's contributions and interest
17 and any One-Time Lump-Sum Death Benefit.

18 11. Should nonmember spouse predecease the CalSTRS member, Nonmember's community property
19 interest shall be paid to a beneficiary or beneficiaries as designated by nonmember for as long as
20 the CalSTRS member is alive and receiving benefits. Nonmember must provide to CalSTRS, in
21 writing: the full name, Social Security number, address and date of birth of each beneficiary. If
22 nonmember fails to designate a beneficiary as stated above, the nonmember's court ordered
23 payments shall revert to CalSTRS member.

24 12. Enforcement of this Stipulation and Order shall commence upon receipt of the California

25 State Teachers' Retirement System of a filed and certified copy. Upon receipt of a filed and
26 certified copy, benefits are payable to nonmember so long as the CalSTRS member is
receiving a benefit.

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13. Any and all payments made to nonmember pursuant to this Stipulation and Order shall be made directly to by separate warrant to nonmember at all times.
14. Immediately upon the entry of this Stipulation and Order, the Stipulated Order shall be served upon the California State Teachers' Retirement System.
15. CalSTRS member and nonmember shall each assume and bear responsibility for any and all income taxes attributable to the respective benefits received by each. Neither party shall have any responsibility for the payment of income taxes attributable to the benefits received by the other. Each party shall hold the other harmless from any such responsibility.
16. The nonmember shall have the responsibility for informing the California State Teachers' Retirement System of any changes in nonmember's address.
17. Nothing contained in this order shall be construed to require the CalSTRS to provide any type or form of benefit or any option not otherwise available under the CalSTRS plan.
18. The court shall retain jurisdiction to amend or modify this Stipulation and Order or to make such other further orders as are necessary or appropriate to enforce or clarify the provisions of this Stipulation and Order, to meet the requirements of the plan and of the State and Federal law, and to provide the parties hereto with any additional benefits which may become available to either party under the plan.

Submitted for signature and signed:

1 **SAMPLE D: SAMPLE TIME RULE ORDER**

2 **TIME-RULE ORDER**

3 **MEMBER IS RETIRED AND RECEIVING A MODIFIED ALLOWANCE DUE TO EXISTING OPTION ELECTION ON FILE**
4 **(MEMBER MUST MAINTAIN, MAY CANCEL OR CHANGE OPTION ELECTION)**

5 PETITIONER:) CASE NO:
6 and)
7 RESPONDENT:) STIPULATION AND ORDER REGARDING
8) CALIFORNIA STATE TEACHERS' RETIREMENT
9) SYSTEM (CalSTRS)
10)
11)
12)

13 **It is hereby stipulated by and between the parties hereto and their counsel as follows:**

- 14
- 15 1. Pursuant to the Judgment of Dissolution of Marriage filed herein on or about (date) in which the
16 Court reserved personal jurisdiction over both parties to this action and reserved jurisdiction as
17 to the subject matter of this action relating to the amount and distribution of the community
18 property interests in the pension benefits Respondent is entitled to receive from the California
19 State Teachers' Retirement System and pursuant to the Request for Joinder of the California
20 State Teachers' Retirement System filed on or about (date) the parties hereto are awarded
21 interests in CalSTRS' members Defined Benefit Account, Defined Benefit Supplement Account
22 and Cash Balance Account through the California State Teachers' Retirement System.
 - 23 2. The purpose of the Stipulation and Order is to define said interests. This Stipulation and Order
24 shall supersede said Judgment of Dissolution of Marriage and shall be controlling regarding the
25 definition and payment of the parties interests in said accounts held by CalSTRS member.
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3. The CalSTRS member's name, current address, date of birth and social security number is as follows:

4. The nonmember name, current address, date of birth and social security number is as follows:

5. The nonmember shall be paid directly by separate warrant by the California State Teacher's Retirement System.

6. The formula to calculate the monthly benefit payable to the nonmember is:

Numerator is service credit earned during the marriage; the denominator of which is the member's total service credit in the California State Teachers' Retirement System at retirement, multiplied by fifty percent, multiplied by the member's monthly pension benefit; or

- **Numerator is service credit earned during the marriage; the denominator of which is the member's total service credit in the California State Teachers' Retirement System at retirement, multiplied by fifty percent, multiplied by the member's retirement or disability benefit; or**
- **Deduct flat percentage of _____% from member's allowance; or**
- **Deduct flat dollar amount of \$_____ from member's allowance.**

(Only one of the above methods can be chosen)

7. Date of Marriage is (date)

8. Date of Separation is (date)

Option Election Provision:

9. The CalSTRS member shall maintain the existing option allowance election for the nonmember spouse as a beneficiary under "Option (option # on file)" The actuarially-calculated cost of such election shall be paid by either:

- a. Nonmember;**
- b. Member; or**
- c. Both parties shall share the cost of the option election**

(Must select either: a, b or c above)

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any responsibility for the payment of income taxes attributable to the benefits received by the other. Each party shall hold the other harmless from any such responsibility.

17. The nonmember shall have the responsibility for informing the California State Teachers' Retirement System of any changes in nonmember's address.

18. Nothing contained in this order shall be construed to require the CalSTRS to provide any type or form of benefit or any option not otherwise available under the CalSTRS plan.

19. The court shall retain jurisdiction to amend or modify this Stipulation and Order or to make such other further orders as are necessary or appropriate to enforce or clarify the provisions of this Stipulation and Order, to meet the requirements of the plan and of the State and Federal law, and to provide the parties hereto with any additional benefits which may become available to either party under the plan.

Submitted for signature and signed:

Joinder Forms

These forms may be used as fill-in forms.

To use the forms provided in this section, tear along the perforated edge, or these forms can be obtained from the Superior Court Clerk's Office in your county.

The following joinder forms are provided to comply with Family Code Section 2060:

- ***Pleading on Joinder-Employee Benefit Plan*** (FL-370)
- ***Request for Joinder of Employee Benefit Plan and Order*** (FL 372)
- ***Summons for Joinder*** (FL-375)

All three forms must be filed together.

A member or nonmember spouse can file the joinder forms themselves or they may want to hire an attorney or a paralegal service for guidance and advice pertaining to their individual situation as we cannot provide legal advice or assist in completing these forms.

Note: Although we provide the forms, we highly recommend you use the forms provided by the Superior Court Clerk's Office in your county. Each county updates and reformats their own forms and may reject any form that does not conform to their standards.

PETITIONER: RESPONDENT:	CASE NUMBER:
----------------------------	--------------

4. Petition for dissolution and response states
 - a. Date of marriage:
 - b. Date of separation:

5. Response states
 - a. Date of marriage:
 - b. Date of separation:

6. Judgment
 - a. has not been entered
 - b. was entered on *(date)*:
 - (1) and disposes of each spouse's interest in the employee benefit plan.
 - (2) and does not dispose of each spouse's interest in the employee benefit plan.

7. The following relief is sought:
 - a. An order determining the nature and extent of both employee and nonemployee spouse's interest in employee's benefits under the plan.
 - b. An order restraining claimant from making benefit payments to employee spouse pending the determination and disposition of nonemployee spouse's interest, if any, in employee's benefits under the plan.
 - c. An order directing claimant to notify nonemployee spouse when benefits under the plan first become payable to employee.
 - d. An order directing claimant to make payment to nonemployee spouse of said spouse's interest in employee's benefits under the plan when they become payable to employee.
 - e. Other *(specify)*:

f. Such other orders as may be appropriate.

Dated:

 (SIGNATURE OF ATTORNEY FOR)
 PETITIONER RESPONDENT

 (TYPE OR PRINT NAME)

SUMMONS FOR JOINDER (FL-375)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
MARRIAGE OF PETITIONER: RESPONDENT: CLAIMANT:	
SUMMONS (JOINDER)	CASE NUMBER: _____

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

AVISO! Usted ha sido demandado. El tribunal puede decidir contra Ud. sin audiencia a menos que Ud. responda dentro de 30 días. Lea la información que sigue.

If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your response or pleading, if any, may be filed on time.

Si Usted desea solicitar el consejo de un abogado en este asunto, debería hacerlo inmediatamente, de esta manera, su respuesta o alegación, si hay alguna, puede ser registrada a tiempo.

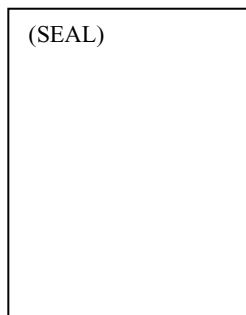
1. TO THE PETITIONER RESPONDENT CLAIMANT
 A pleading had been filed under an order joining (*name of claimant*):

as a party in this proceeding. If you fail to file an appropriate pleading within **30** days of the date this summons is served on you, your default may be entered and the court may enter a judgment containing the relief requested in the pleading, court costs, and such other relief as may be granted by the court, which could result in the garnishment of wages, taking of money or property, or other relief.

2. TO THE CLAIMANT EMPLOYEE BENEFIT PLAN
 A pleading on joinder has been filed under the clerk's order joining (*name of employee benefit plan*):

as a party claimant in this proceeding. If the employee benefit plan fails to file an appropriate pleading within **30** days of the date this summons is served on it, a default may be entered and the court may enter a judgment containing the relief requested.

Dated: _____ Clerk, By _____, Deputy



3. NOTICE TO THE PERSON SERVED: You are served
- a. As an individual.
 - b. As (or on behalf of) the person sued under the fictitious name of:
 - c. On behalf of:
 - Under: CCP 416.10 (Corporation) CCP 416.70 (Incompetent)
 - CCP 416.20 (Defunct Corporation) CCP 416.90 (Individual)
 - CCP 416.40 (Association or Partnership) FC 2062 (Employee Benefit Plan)
 - CCP 416.60 (Minor)
 - d. By personal delivery on (*date*):

continued



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PROOF OF SERVICE-SUMMONS (JOINDER)

(Use separate proof of service for each person served)

- 1. I served the
 - a. Summons and (1) *Request for Joinder of Employee Benefit Plan and Order, Pleading on Joinder-Employee Benefit Plan, blank Notice of Appearance and Response of Employee Benefit Plan*
 - (2) *Notice of Motion and Declaration for Joinder* (3) Order re Joinder
 - (4) *Pleading on Joinder* (specify title):
 - (5) Other:
 - b. On *(name of party or claimant)*:
 - c. By serving (1) Party or claimant. (2) Other *(name and title or relationship to person served)*:
 - d. By delivery at home business (1) Date of:
 - (2) Time of: (3) Address:
 - e. By mailing (1) Date of: (2) Place of:
- 2. Manner of service: *(check proper box)*
 - a. **Personal service.** By personally delivering copies. (CCP 415.10)
 - b. **Substituted service on corporation, unincorporated association (including partnership), or public entity.** By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 41 5.20(a))
 - c. **Substituted service on natural person, minor, incompetent, or candidate.** By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b)) **(Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.)**
 - d. **Mail and acknowledgement service.** By mailing (by first-class mail or airmail) copies to the person served, together with two copies of the form of notice and acknowledgement and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30) **(Attach completed acknowledgement of receipt.)**
 - e. **Certified or registered mail service.** By mailing to address outside California (by registered or certified airmail with return receipt requested) copies to the person served. (CCP 415.40) **(Attach signed return receipt or other evidence of actual delivery to the person served.)**
 - f. Other *(specify code section)*:
 Additional page is attached.
- 3. The notice to the person served (item 3 on the copy of the summons served) was completed as follows (CCP 412.30, 415.10, and 474):
 - a. As an individual.
 - b. As the person sued under the fictitious name of:
 - c. On behalf of:
 Under: CCP 416.10 (Corporation) CCP 416.60 (Minor)
 CCP 416.20 (Defunct Corporation) CCP 416.70 (Incompetent)
 CCP 416.40 (Association or Partnership) CCP 416.90 (Individual)
 FC 2062 (Employee Benefit Plan)
 - d. By personal delivery on *(date)*:
- 4. At the time of service I was at least 18 years of age and not a party to this action.
- 5. Fee for service: \$.....
- 6. Person serving
 - a. Not a registered California process server.
 - b. Registered California process server.
 - c. Exempt from registration under Bus. & Prof. Code 22350(b).
 - d. California sheriff, marshal, or constable.
 - e. Name, address, telephone number, and if applicable, county of registration and number:

I declare under penalty of perjury that the foregoing is true and correct and that this declaration is executed on *(date)*: _____ at *(place)*: _____, California.

(Signature)

(For California sheriff, marshal, or constable use only)
I certify that the foregoing is true and correct and that this certificate is executed on *(date)*: _____ at *(place)*: _____, California.

(Signature)

CalSTRS Forms

These forms are intended to be used as fill-in forms.

To use the forms provided in this section, tear along the perforated edge and mail them to:

CalSTRS
Attn: Legal Services, MS-03
P.O. Box 15275
Sacramento, CA 95851-0275

You can also obtain a copy of these forms on our Web site at: www.calstrs.com under *Forms & Publications* or by calling us at 800-228-5453.

The following forms are provided in this section:

- ***Request for Statement of Account and/or Estimate of Benefits Due to Dissolution of Marriage***
This form can be used to request a Statement of Account which provides the service credit, contributions and interest accumulated during the marriage and/or an estimate of the monthly benefit payable to the member and the nonmember spouse.
- ***Request for Estimate Under Option 8***
This form is located on the back side of the *Request for Statement of Account and/or Estimate of Benefits Due to Dissolution of Marriage* form and can be used to request an estimate of the benefits payable if Option 8 is elected.
- ***Waiver Of Community Property of California State Teachers' Retirement System Account(s) and/or Benefits***
This form can be completed by the nonmember spouse or domestic partner to waive interest in a member's pension benefit account.

REQUEST FOR STATEMENT OF ACCOUNT AND/OR ESTIMATE OF BENEFITS DUE TO DISSOLUTION OF MARRIAGE

Please complete the following information and return to CalSTRS Legal Services at the address listed above. A statement of account reflecting service credit, contributions, and interest accumulated during the marriage, and/or an estimate of the monthly benefit payable to the member and former spouse will be completed in approximately six weeks. Please attach a complete copy of the court documents referring to the CalSTRS pension account, if available.

A request for information on a member's account will be provided if CalSTRS has been joined pursuant to Family Code section 2060. Or, if one of the following is provided:

- 1) Written authorization to release information signed and dated by the member;
- 2) Subpoena duces tecum.

Check One or More Boxes: Statement of Account Estimate of the Monthly Benefit Amount
*(provide an estimated retirement date below)

Member's Name _____ SSN _____

Member's Birth Date ____ / ____ / ____ Former Spouse's Birth Date ____ / ____ / ____

Date of Marriage ____ / ____ / ____ Date of Separation ____ / ____ / ____

*Estimated Date of Retirement ___ / ___ / ___ Pre-retirement Election on file? Yes No

The estimate provided will reflect an ongoing survivor benefit to the former spouse for the same community property share only under an Option 8 election. This allows the member to retain their remaining portion unmodified. The member may elect additional option beneficiaries for his/her remaining share. **This does not pertain to members who retired without an option and are already receiving monthly benefits or who retired with one option beneficiary.**

Additional Option Beneficiaries for Member's Share (Optional)

For an estimate with additional option beneficiaries other than the former spouse, specify the percentage allocated to each option elected. The member may retain a portion unmodified. The total percentage allocated to former spouse, additional options beneficiaries, and any portion that may be retained unmodified must not exceed 100%. For information on Options 2 thru 7, you may refer to CalSTRS' Member Handbook at www.CalSTRS.

_____ % of member's benefit to be retained unmodified (if any)

Option # _____ % of member's unmodified benefit

Name _____ Birth Date ____ / ____ / ____

continued





California State Teachers'
Retirement System
Legal Services-MS03
P.O. Box 15275
Sacramento, CA 95851
(800) 228-5453; TYY (916) 229-3541

Option # _____ % of member's unmodified benefit
Name _____ Birth Date ____/____/____

Requestor's Name _____ Phone Number: _____

Requestor's Address _____

Signature of Requestor _____ Date _____

LGL 722 (Rev 1/2004)

**WAIVER OF COMMUNITY PROPERTY
OF A STATE TEACHERS' RETIREMENT ACCOUNT(S) AND/OR BENEFITS**

I _____, being the nonmember spouse/registered
(nonmember spouse/registered domestic partner)

domestic partner of _____,
(CalSTRS member's name)

Social Security Number _____
(Member's SSN)

whose address is _____,
(Member's address)

and who is a member of the California State Teachers' Retirement System, for valuable consideration hereby waive, to and in favor of said member, all my right, title and interest under the community property laws, or otherwise, in the member's retirement fund account and benefits.

I further declare that I disclaim any benefit or allowance which may be payable to me on account of the member's membership and release the California State Teachers' Retirement System from all liability to me.

Signed: _____ Dated: _____

Address: _____

State of _____ County of _____

On _____, before me, _____, the undersigned Notary Public, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal, _____



LGL0133

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12. FAQs

This section provides answers to some of the questions most frequently asked by individuals involved in divorce. If after reading these FAQs, you are still not able to find what you are looking for, please write to us at:

CalSTRS
Attn: Legal Services, MS-03
P.O. Box 15275
Sacramento, CA 95851-0275

Due to the number of questions in this section we have grouped them into the following primary categories:

- **Benefits**
- **Contacting CalSTRS**
- **Court Orders**
- **Legal Holds (Flags)**
- **Serving Documents**

Benefits

Can I remove my former spouse (or soon-to-be former spouse) as my beneficiary?

You may not be able to change your beneficiary if you have a legal hold placed on your account or until legal documents are provided for review by CalSTRS Legal Services to determine whether or not community property interest exists. Once Legal Services has reviewed the legal documents, we will provide you a written response regarding the status of your account.

If there is a legal hold placed on your account, you will need a court order authorizing CalSTRS to change your beneficiary.

For additional information about beneficiaries, please see the *Benefits Payable After Member's Death* section on page 13 of this brochure.

How do I obtain the dollar amount that accumulated during my marriage?

To obtain the dollar amount that has accumulated during a specific period of time,

please complete the *Request for Statement of Account and/or Estimate of Benefits Due to Dissolution of Marriage* form on page 41 of this brochure. Mail the completed form to:

CalSTRS
Attn: Legal Services, MS-03
P.O. Box 15275
Sacramento, CA 95851-0275

The form allows you to specify the date of your marriage and separation. Within approximately six weeks you will obtain a written Statement of Account, which provides the dollar amount that has accumulated during the time you specified on the form.

How much of my benefits is my former spouse entitled to receive?

To obtain an estimate of the benefits your former spouse is entitled to, please complete the *Request for Statement of Account and/or Estimate of Benefits Due to Dissolution of Marriage* form on page 41 of this brochure. Mail the completed form to:

CalSTRS
Attn: Legal Services, MS-03
P.O. Box 15275
Sacramento, CA 95851-0275

Within approximately six weeks you will obtain a written Estimate of Benefits, which provides the approximate dollar amount that your former spouse is entitled to.

If I am a member and my former spouse is also a member, and I receive a portion of my former spouse's account, can I combine the two accounts?

No, if you receive a portion of your former spouse's account in a divorce, that account cannot be combined with any existing account you may have with CalSTRS¹⁴.

¹⁴ Section 22658

I am divorced and I want to pay my former spouse her share of my retirement. Is there a penalty if I pay her now or should I wait until I am retired?

CalSTRS Legal Services will need to review your court order to determine when benefits are payable to your former spouse, however we do not impose a penalty for paying your former spouse her share of your retirement prior to you retiring.

You may wish to consult a tax professional regarding any applicable tax penalties. In addition, you may find useful tax-related information on our Web site at www.calstrs.com under *Forms & Publications* or in *Section 9. Tax Information and Legal Issues* in your *CalSTRS Member Handbook*.

What is Joinder?

Joinder is a legal term that means specific court documents are filed with the court that makes CalSTRS a party to the dissolution action.

For additional information regarding Joinder, please see the *Joinder of CalSTRS in Divorce Cases* section on page 4 of this brochure.

What is the Segregation Method?

The segregation method is used in dissolution cases to divide a member's account based on a court order. This includes the service credit, member contributions, and interest and service credit (if applicable) in the member's Defined Benefit and Defined Benefit Supplement or Cash Balance accounts. The member and the nonmember spouse would then each have their own individual separate and distinct account.

Note: *The segregation method can only be used for member accounts that have not yet retired or have not yet begun to receive a benefit of any kind at any time.*

For additional information about the segregation method please see the *Methods of Division of Community Property* section on page 6 of this brochure.

What is the Time Rule Formula?

The time rule formula is used in dissolution cases to calculate the portion of the member's retirement benefits that the former spouse is to receive. This method uses the 'time rule formula' also known as the 'Brown Division.'

This formula can be used for those members who are going through a divorce before they are eligible to receive a retirement benefit or while receiving a retirement or disability benefit.

For additional information about the time rule formula, please see the *Methods of Division of Community Property* section on page 6 of this brochure.

Which method is most advantageous for me? (Time Rule or Segregation)

We cannot recommend a method; however you can get an estimate of your benefits broken down by both the time rule and the segregation methods by completing the *Request for Statement of Account and/or Estimate of Benefits Due to Dissolution of Marriage* form on page 41 of this brochure. Mail the completed form to:

**CalSTRS
Attn: Legal Services, MS-03
P.O. Box 15275
Sacramento, CA 95851-0275**

For additional information regarding these methods and how they are calculated, please see the *Methods of Division of Community Property* section on page 6 of this brochure.

When can I begin receiving my share of benefits from the member's account?

Once CalSTRS Legal Services has received and reviewed an acceptable court order we will notify you in writing as to when you can begin receiving benefits.

Is my spouse automatically removed as a beneficiary if we are divorced?

If you are involved in a divorce, your former spouse is only removed may be treated as a beneficiary for the One-Time Death Benefit and not from a continual retirement benefit upon your death.

For additional information regarding beneficiaries, please see the *Benefits Payable After Member's Death* section on page 13 of this brochure.

What is an option beneficiary?

An option beneficiary is the person named by a member to receive a lifetime monthly benefit after the member's death.

What is a death benefit?

This is referred to as a 'one-time death benefit' and is a one-time payment to a recipient(s) when a member dies.

The member must fill out the *One-Time Death Benefit Recipient* form, which is available on our Web site at www.calstrs.com under *Forms and Publications* or by calling us at (800) 228-5453.

Note: *Enhancements such as the one-time death benefit do not apply to Cash Balance Benefit members because service credit is not earned in Cash Balance Benefit accounts.*

What is an Option 8 beneficiary election?

An Option 8 beneficiary election provides members the option to elect more than one beneficiary. In a divorce situation the Option 8 election allows members, who may be required by a court order, to guarantee a nonmember spouse an ongoing benefit after death. The member may elect the former spouse as an option beneficiary for their community property interest only and retain the remaining portion as unmodified.

For additional information regarding Option 8 election, please see the *Benefits Payable After Member's Death* section on page 13 of this brochure.

Can a court award my former registered domestic partner a portion of my CalSTRS retirement benefits upon termination of the partnership?

Yes, upon the dissolution of a registered domestic partnership, your CalSTRS benefits can be divided in accordance with the law governing the division of a pension under the California Family Code. The division of your CalSTRS Defined Benefit account is subject to the same procedures for filing and implementing a court order that applies in a divorce¹⁵.

Contacting CalSTRS

Should I call CalSTRS with my legal questions or mail them in?

We recommend that you mail your legal questions to:

CalSTRS

Attn: Legal Services, MS-03

P.O. Box 15275

Sacramento, CA 95851-0275

¹⁵ Family Code Section 299 (d)

By mailing your legal questions we have a written record of your inquiry that we match to your file. This process also ensures a written response for your records as we respond in writing to each inquiry we receive.

Where do I mail legal information?

Please mail legal information to:
CalSTRS
Attn: Legal Services, MS-03
P.O. Box 15275
Sacramento, CA 95851-0275

Should I include my Social Security number with the documents? Why?

At this time we require that you include your Social Security number with your documents to identify your account so that we can better assist you in a timely manner.

What if I want to call CalSTRS about my account?

For information about your account, please call us at (800) 228-5453.

Court Orders

Can I send in a photocopy of my court order?

No, CalSTRS only accepts filed, certified copies of court documents that include the raised seal of the court.

What is a certified copy?

A certified copy is a document that has been filed with the court, signed by a judge and embossed with the seal of the court.

Why do I have to send in a certified copy?

A certified copy is required to ensure it is an authentic document and that it has not been altered.

Where do I get a certified copy of my court order?

You can get a certified copy of your court order from the County Clerk's Office in the county where your divorce was filed.

What happens if the member/former spouse dies before the court order is complete?

There are two possible scenarios:

1. If a legal hold exists on the member's account—we require a certified copy of the court order addressing the division of the community property interest if it exists.¹⁷
2. If no legal hold exists on the member's account—there should be no delay on the benefits to the member or the member's designated beneficiaries.

Do I need to mail my entire court order or just the pages that apply to my CalSTRS account?

Yes, you need to mail your entire court order. We must review the entire order to ensure we make an informed determination of the community property interest that may exist.

Why must I send the entire court order? It's personal information that CalSTRS doesn't need to know. I think CalSTRS only needs to know what is to be done with my retirement benefits.

We must review the entire court order to ensure we make an informed determination of the community property interest that may exist.

***Note:** CalSTRS is committed to responsible information handling practices. Your personal information will be used only to conduct CalSTRS-related business.*

¹⁷ Section 22666

Can CalSTRS Legal Services review my court order before it's filed with the court to ensure acceptance once it's filed?

Yes, Legal Services can review your court order before it's filed with the court to ensure it is acceptable to process.

Do you provide samples of court orders? Or sample language for court orders?

Yes, we provide samples of court orders. Please see the *Samples and Forms* section starting on page 18 in this brochure.

Note: These forms are provided as a courtesy and are only intended to be used as a guideline. CalSTRS cannot provide legal advice. Be sure to consult with your attorney for advice pertaining to your individual situation.

Why must I send the entire court order? It's personal information that CalSTRS doesn't need to know. I think CalSTRS only needs to know what is to be done with my retirement benefits.

We must review the entire court order to ensure we make an informed determination of the community property interest that may exist.

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Note: These forms are provided as a courtesy and are only intended to be used as a guideline. CalSTRS cannot provide legal advice. Be sure to consult with your attorney for advice pertaining to your individual situation.

Legal Holds (Flags)

Why is there a legal hold (flag) on my account?

If a legal hold (flag) exists on your account it may be due to a community property claim, which must be resolved prior to receiving CalSTRS benefits, or it may be due to a tax levy.

To determine the reason for the legal hold (flag) on your account, please contact us at (800) 228-5453.

What does the legal hold (flag) mean?

The legal hold (flag) may mean that there is a community property claim or a tax levy on your account.

To determine the reason for the legal hold (flag) on your account, please contact us at (800) 228-5453.

How do I get the legal hold (flag) removed?

The process for removing a legal hold (flag) depends on the type of legal hold (flag).

To determine the type of legal hold (flag) on your account, please contact us at (800) 228-5453.

Why does the legal hold (flag) stay on my account after all legal documents have been submitted and approved?

The legal hold (flag) may remain on your account to allow CalSTRS Legal Services to monitor the account in order to pay out benefits according to the court order.

How do I get the legal hold (flag) removed?

The process for removing a legal hold (flag) depends on the type of legal hold (flag).

To determine the type of legal hold (flag) on your account, please contact us at (800) 228-5453.

Why does the legal hold (flag) stay on my account after all legal documents have been submitted and approved?

The legal hold (flag) may remain on your account to allow CalSTRS Legal Services to monitor the account in order to pay out benefits according to the court order.

Serving Documents

How can legal documents be served on CalSTRS? (For example, for Joinders, Subpoenas, Child Support/Spousal Support orders, etc.)

Joinders, Child Support/Spousal Support and Court Orders can be served by mailing them to:

**CalSTRS
Attn: Legal Services, MS-03
P.O. Box 15275
Sacramento, CA 95851-0275**

Subpoenas can be served by delivering them in person to:

**CalSTRS
Attn: Legal Services, MS-03
7667 Folsom Boulevard
Sacramento, CA 95826**

13. Glossary of Terms

A

ANNUITY—CASH BALANCE BENEFIT ACCOUNT

An amount of money payable in monthly installments for a period determined by the option elected by the member or beneficiary.

B

BENEFICIARY

Any person or entity receiving or entitled to receive a benefit and payment because of the disability or death of a member.

BENEFIT

A monthly amount payable to a retired member, disabled member or beneficiary.

C

CASH BALANCE BENEFIT PROGRAM

The Cash Balance Benefit Program is a retirement program for part-time educators. In the Cash Balance Benefit Program, members typically contribute 4 percent of their salary and employers also contribute 4 percent to CalSTRS. The Cash Balance Benefit Program is an alternative to Social Security, private plans or the CalSTRS Defined Benefit Program.

CERTIFIED COPY

A certified copy is a document that has been filed with the court, signed by a judge and embossed with the seal of the court.

COVERAGE A

The disability benefit and family benefit programs that existed on or before October 15, 1992. Coverage A is mandatory for all members of the Defined Benefit Program who were receiving a disability benefit or a service retirement benefit with a benefit effective date on or before October 15, 1992. Members who were not receiving a benefit on or before

October 15, 1992, were permitted to retain this coverage or elect coverage B.

COVERAGE B

The disability retirement and survivor benefits programs that became effective on October 16, 1992. Coverage B is mandatory for all new members. Active members who were hired on or before October 15, 1992, may have elected this coverage.

CREDITED SERVICE

Service for which required contributions have been paid.

D

DEATH BENEFIT

See *One-Time Death Benefit*.

DEFINED BENEFIT PROGRAM

The Defined Benefit Program is a retirement program for full-time educators. This program, provides retirement benefits based on a formula using age, service credit and final compensation, as well as ancillary benefits.

DEFINED BENEFIT SUPPLEMENT ACCOUNT

Each active Defined Benefit Program member has a Defined Benefit Supplement account. This is a supplemental benefit program with benefits based on contributions and interest credited to individual member's accounts. Funds will come January 1, 2001, through 2010, from 25 percent of each member's monthly CalSTRS contribution and starting July 1, 2002, from compensation earned from service in one school year in excess of one year of service credit.

DISABILITY ALLOWANCE— (COVERAGE A)

A feature of the Defined Benefit Program selected by and offered to individuals who became members on or before October 15, 1992, that provides income replacement for disabled members. The benefit is paid as long as the individual is disabled or until the age of 60 when the member becomes eligible for service retirement.

DISABILITY RETIREMENT (COVERAGE B)

A feature of the Defined Benefit Program for individuals who became members after October 15, 1992, or elected this coverage during the special election held between October 1992 and April 1993. Those receiving payments under Coverage B are considered “retired” and will be paid as long as they are disabled, without respect to age.

DISABLED MEMBER

A member to whom a disability benefit is payable.

E

EFFECTIVE DATE

The date upon which the benefit becomes payable.

F

FORMER SPOUSE

See NONMEMBER SPOUSE

J

JOINDER

The process of including CalSTRS as a party to a divorce proceeding that authorizes CalSTRS to enforce a court order dividing CalSTRS benefits.

M

MEMBER

Any person, unless excluded under other provisions, who has performed creditable service subject to the Defined Benefit, Defined Benefit Supplement or Cash Balance program, earned creditable compensation for that service and has not received a refund for that service.

Active Member: A member who earns creditable compensation during the school year.

Inactive Member: A member who, by the pay period ending June 30, has not earned creditable compensation during the school year.

Disabled Member: A member to whom a disability benefit is payable.

Retired Member: A member who has terminated employment and has retired for service or has retired for disability and to whom a retirement benefit is payable.

Vested Member: A member who has accrued five years of credited service to be eligible for service retirement, disability retirement or disability benefit.

N

NONMEMBER SPOUSE

A “nonmember spouse” is a member’s spouse or former spouse, or a member’s registered domestic partner or former registered domestic partner, who is being or has been awarded a community property interest in the member’s Defined Benefit, Defined Benefit Supplement or Cash Balance account(s)¹⁸. This term is also used even if both spouses or partners are CalSTRS members.

¹⁸ Section 22651

O

ONE-TIME DEATH BENEFIT

A one-time payment to a recipient(s) after a member dies.

OPTION BENEFICIARY

A person named by a member to receive a lifetime monthly benefit after the member's death.

OPTION 8 BENEFICIARY ELECTION

An Option 8 beneficiary election provides members the option to elect more than one beneficiary. In a divorce situation the Option 8 election allows members, who may be required by a court order, to guarantee a nonmember spouse an ongoing benefit after the member's death.

R

RECIPIENT

A person or persons named by a member to receive the one-time death benefit.

REFUND

A distribution of all Defined Benefit member post-tax contributions, tax-deferred contributions and interest credited on those contributions after a member has terminated employment with the California public school system.

REGISTERED DOMESTIC PARTNER

A Registered Domestic Partner is a person who has completed and filed a Declaration of Domestic Partnership with the Secretary of State in accordance with Family Code section 298.

REGISTERED DOMESTIC PARTNERSHIP

A Registered Domestic Partnership is created when partners of the same sex, or partners are opposite sexes where one partner is at least 62 years old, complete and file a

Declaration of Domestic Partnership with the Secretary of State in accordance with Family Code section 298.e.

RETIREMENT

A change in status from an active member or an inactive member to a retired member.

RETIREMENT BENEFIT

A monthly benefit paid to a member each month after retirement.

S

SEGREGATION METHOD

The segregation method is used in divorces to divide the service credit, member contributions and interest in the member's Defined Benefit, Defined Benefit Supplement and Cash Balance Benefit accounts into two individual accounts based on a court order. The member and the nonmember spouse would then each have his or her own distinct account.

SERVICE CREDIT

Service credit is the accumulated period of time in years and partial years during which a member receives creditable compensation for service as a member of the Defined Benefit Program. A member's service credit is one of the factors used to determine eligibility for benefits payable under the Defined Benefit Program. For more information about these programs please refer to the *CalSTRS Member Handbook*.

SURVIVING SPOUSE OR REGISTERED DOMESTIC PARTNER

A person who was married to a member or the registered domestic partner of a member for at least 12 months prior to the member's death. May be married or a partner fewer than 12 months if a child was born during the marriage or partnership if the surviving spouse or partner is pregnant with the member's child.

A law, effective January 1, 2004, also defines a spouse or partner as a person who was continuously married or registered to a member for fewer than 12 months prior to the accidental death of the member or for the period beginning prior to the occurrence of the injury or diagnosis of the illness that resulted in the member's death.

SURVIVOR BENEFIT

Benefit paid to the recipient(s) of a deceased member whose death occurred prior to July 1, 1972.

T

TIME RULE FORMULA

A process that determines what percentage of the member's benefit shall be paid to the nonmember spouse. The formula is service credit earned during the marital period divided by total service credit at time of retirement, multiplied by 50 percent, and then multiplied by the member's retirement benefit.

Applicable Sections of the Education Code

The Teachers' Retirement Law is composed of sections of the California Education Code.

<i>Section 22650.</i>	Introduction to Community Property
<i>Section 22651.</i>	Nonmember Spouse Definition
<i>Section 22652.</i>	Court Requirements Regarding Division of Community Property of Member
<i>Section 22653.</i>	Nonmember Spouse; Limitation of Rights
<i>Section 22655.</i>	Court Requirements Regarding Division of Community Property of Retired Member
<i>Section 22656.</i>	System Bound by Court Action if Joined as Party to Action
<i>Section 22657.</i>	Nonmember Spouse; Applicable Statutory Provisions
<i>Section 22658.</i>	Nonmember Spouse Separate Account
<i>Section 22659.</i>	Information Required of Nonmember Spouse Awarded Community Property of Member
<i>Section 22660.</i>	Right of Nonmember Spouse to Designate Beneficiary
<i>Section 22661.</i>	Right of Nonmember Spouse to Refund
<i>Section 22662.</i>	Right of Nonmember Spouse to Redeposit
<i>Section 22663.</i>	Nonmember Spouse Account; Additional Service Credit
<i>Section 22664.</i>	Nonmember Spouse Right to Retirement Allowance and Retirement Benefit
<i>Section 22665.</i>	Service Credit Awarded to Nonmember Spouse
<i>Section 22666.</i>	Terminable Interest Doctrine Abolishment
<i>Section 27402.</i>	Authorization for Separate Account for Nonmember Spouse

CALSTRS

HOW WILL YOU SPEND YOUR FUTURE?

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