

**AUSTIN FIRE FIGHTERS RELIEF AND RETIREMENT FUND**  
**INSTRUCTIONS FOR QDRO FORMS**

**Purpose of a QDRO**

If the former spouse of a member of the Austin Fire Fighters Relief and Retirement Fund (the “**Fund**”) is awarded all or any portion of the member’s benefits from the Fund in a divorce proceeding, the member or the former spouse (referred to as an “alternate payee”) must submit a qualified domestic relations order (“**QDRO**”) to the Fund in order for the alternate payee to be eligible to receive benefits from the Fund.

The purpose of a QDRO is to (1) instruct the Fund what portion of a member’s benefit has been awarded, and will be payable, to the alternate payee and (2) permit the Fund to pay such portion of the member’s benefit directly to the alternate payee as opposed to the member. Submission of a copy of a divorce decree instead of a QDRO is not sufficient.

In accordance with Chapter 804 of the Texas Government Code (“**Chapter 804**”), the Board of Trustees of the Fund (the “**Board**”) has adopted two model QDRO forms that comply with the applicable state law requirements: (1) a Standard QDRO Form and (2) a QDRO Form with DROP Alternatives. Each of these forms is described in more detail below.

**Model QDRO Forms**

**Standard QDRO Form**

Under the Fund’s model Standard QDRO Form, the portion of a member’s benefit that is awarded to the alternate payee will be determined pursuant to one of the two formulas set forth in Paragraph 5 of the Standard QDRO Form. The parties may choose which of the two formulas will be used to divide benefits. However, under this form, these are the only two formulas that will be accepted by the Fund with respect to the division of benefits.

The selected formula will be applied to any form of benefit that is distributed by the Fund as a result of Participant’s participation in the Fund, including any return of accumulated contributions, a monthly annuity benefit, and/or the balance of the member’s deferred retirement option plan or “DROP” account, if any.

Both formula options first apply the percentage of the member’s benefit under the Fund that was awarded to the alternate payee by the court. Then, to recognize the community property interest in the member’s benefit attributable only to the period of marriage, one of two fractions will be applied to the benefit. The two fraction options are as follows:

- **Option 1:** This formula is based on the ratio of the member’s accumulated contributions deposited with the Fund during marriage as compared to the member’s total accumulated contributions deposited with the Fund at the time of retirement.
- **Option 2:** This formula is based on the ratio of the amount of credited service earned by the member during marriage as compared to the total credited service earned by the member under the Fund at the time of retirement.

### QDRO Form with DROP Alternatives

In recognition that parties often desire to divide a member's DROP account in a different manner than the monthly annuity benefit is divided, the Board has adopted a second model QDRO form which would allow the parties additional flexibility in dividing the member's DROP account.

Under the model QDRO Form with DROP Alternatives (the "DROP QDRO Form"), the portion of a member's benefit - *other than the member's DROP account* - that is awarded to the alternate payee (including a return of accumulated contributions or a monthly annuity benefit) will be determined pursuant to one of the two formulas set forth in Paragraph 5 of the DROP QDRO Form (Option 1 or Option 2) as selected by the parties and as described in more detail above.

Paragraph 6 of the DROP QDRO Form permits the parties to divide the member's DROP account in one of three ways:

- **Option A—Percentage Option**—Option A allows the parties to award the alternate payee a specific percentage of the member's DROP account that is different than the percentage derived from the standard formulas described above.
- **Option B—Flat Dollar Option**—Option B allows the parties to award the alternate payee a specific dollar amount from the member's DROP account. Note that if the total amount of a member's DROP account is less than the flat dollar amount set forth by the parties in the QDRO under Option B, the alternate payee will only be entitled to receive the balance in the DROP account.
- **Option C—DROP Exclusion Option**—Option C allows the parties to specify that the alternate payee is not entitled to any amounts from a member's DROP account.

These are the only three options that will be accepted by the Fund with respect to the division of the DROP account under the DROP QDRO Form. Note also that, pursuant to state law, a QDRO cannot require a member to participate in DROP; thus, these provisions are only applicable to the extent the member elects to participate in DROP.

### **Review by the Fund and Failure to Use Form**

Under state law, the Fund retains ultimate authority as to the qualification of a submitted QDRO and can reject a QDRO even if entered by a court. As such, the Fund encourages parties to submit a proposed copy of a QDRO for review prior to the entry of the QDRO by the court. This prior review will permit the Fund to review the proposed QDRO and confirm that it will be acceptable to the Fund. Once the QDRO is entered by the court, the parties must submit a certified copy of the QDRO to the Fund for final review and qualification, even if the QDRO was pre-approved by the Fund.

***Except as otherwise noted in the applicable QDRO form, the Fund will not accept any modifications to its forms. Any QDRO submitted to the Fund with modifications or in a form other than one of the Fund's two model QDRO forms will be automatically rejected.***

### **Commencement of Benefits**

Because of the nature of the Fund as a defined benefit public retirement system, the payment of benefits to the alternate payee cannot begin until the member has retired from the Austin Fire Department and commenced receiving his/her benefits from the Fund, even if the QDRO is approved by the Fund before the member's retirement.

If benefits have already commenced as of the date the QDRO is entered by the court, then payments to the alternate payee will begin on the first retiree payroll date following the determination by the Fund that the order satisfies the requirements of a QDRO.

Similarly, if the member requests a return of accumulated contributions upon termination from the Austin Fire Department, the alternate payee will receive his/her awarded share of such accumulated contributions not sooner than the time such amounts are distributed to the member.

However, if an alternate payee is awarded a portion of a member's DROP account, such portion of the DROP account will be segregated for the benefit of the alternate payee, and the alternate payee may withdraw from such segregated account in accordance with the Fund's rules applicable to alternate payees.

### **Questions**

If you have any questions about the Fund's model QDRO forms or how a QDRO will impact your retirement benefits, please contact Fund staff at [staff@afrs.org](mailto:staff@afrs.org) or (512) 454-9567.

*Note: the Fund's QDRO forms apply only to benefits that are payable from the Fund and do not apply to other benefits that may have been accrued or earned by the member in connection with his or her employment as a firefighter with the City of Austin, such as the City of Austin's 457(b) deferred compensation plan.*