



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 12

MEETING DATE: May 15, 2019

SUBJECT: Dissolution of Marriage Documents Policy

SUBMITTED FOR: ___ Consent X Deliberation and Action ___ Receive and File

RECOMMENDATION

Staff recommends that the Board adopt the proposed policy, which establishes timelines for a member to file the necessary final dissolution of marriage documents for purposes of completing a retirement application.

PURPOSE

This item complies with the 2018-19 Strategic Management Plan goal to maintain prudent and effective policies and practices that support plan sustainability. This item supports the Board's duty to determine community property benefits of the non-member spouse prior to the member's retirement.

DISCUSSION

As part of SCERS' customer-service efforts to improve the timely delivery of benefits, Staff identified "outlier" situations in which a member's retirement application took months longer to process than typical member files. Though infrequent, many of these cases stalled—and remained dormant—because the member needed to submit divorce-related documents.

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

Staff observed that the delays can sometimes stretch for periods well over a year, which require additional Staff time and effort to pursue the necessary dissolution documents, taking Staff away from other business needs. However, once the member provides the dissolution

documents, members have received all of their retirement benefits retroactive to the date set in the retirement application.

Since 2014, Staff flagged 80 retirement applications out of a total of 3,280 as needing additional marriage dissolution documents. The average processing time was 98 days for the applications that needed additional documents, with 3 applications that took more than 1 year to finalize, and 1 that was not finalized for more than 2 years.

If intentional, a long delay can also test the limits of fairness to non-member spouses who are entitled to a community property share of a pension. This policy acknowledges that the marital dissolution process can be long and difficult, which is why this policy initially gives the member six months to provide required marriage dissolution documents to SCERS after filing a retirement application, and then provides a mechanism of appeal for the member to obtain a 60-day extension, and appeal to the Board of Retirement for a further extension.

Under the policy, if the member is unable to provide marriage dissolution documents under the specified timeframes, SCERS will cancel the member's application. The member can then submit a retirement application and supporting documents requesting a future retirement date; the benefits will not be applied retroactively.

This policy should not be viewed as a penalty, but as an incentive for members to facilitate the timely completion of a retirement application. This policy is similar in concept to SCERS' Disability Retirement Procedures, in which disability retirement applications can be dismissed if an applicant fails or refuses to cooperate to complete an application and provide supporting documents within specified timeframes.

ATTACHMENTS

- Dissolution of Marriage Documents Policy
- Board Appeal of SCERS' Administrative Decisions Policy

Prepared by:

/S/

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Reviewed by:

/S/

Eric Stern
Chief Executive Officer



DISSOLUTION OF MARRIAGE DOCUMENTS POLICY

Revision Date: **May 15, 2019**

Policy Number: **028**

PURPOSE

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

POLICY

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

A member who files an incomplete service retirement application has six (6) months to perfect or complete the application by submitting the necessary marriage dissolution documents. If the retirement application is not made complete within six (6) months of the initial filing, then application will be canceled, and the member will have to file a new application. If the member files a subsequent application for retirement, the effective date of retirement must be a future date and cannot be retroactive to the proposed effective retirement date in the prior incomplete retirement application.

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

APPLICATION

1. Through notification in the retirement application materials, as well as inquiry from SCERS staff, SCERS is given notice of a prior dissolved marriage (divorce).

2. SCERS staff will request in writing (via written letter or email) the dissolution documents. The necessary marriage dissolution documents include, but are not limited to, any one or combination of the following:
 - Judgment of Dissolution (court order dissolving the marriage).
 - Joinder (court order including SCERS in the underlying dissolution case).
 - Domestic Relations Order (DRO) setting forth how SCERS is to administer the benefit between the member and ex-spouse.
 - Marital Settlement Agreement that sets forth the terms of the divorce – child support, spouse support, community property, debts, property, etc.
 - Declaration from the member and signed waiver from the non-member spouse if the non-member spouse waives his/her community property interest.

The written notice will inform the member that the retirement cannot be completed without receipt, review, and approval of the necessary documents.

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

BACKGROUND

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

RESPONSIBILITIES

Executive Owner: Chief Benefits Officer

POLICY HISTORY

Date	Description
05-15-2019	Staff recommended Board approve policy.



APPEAL OF SCERS' ADMINISTRATIVE DECISIONS POLICY

Revision Date: March 21, 2018

Policy Number: 018

Revision Number:

PURPOSE

The purpose of this policy is to provide SCERS members and/or their related parties as defined herein with due process procedures and timeline for disputed matters in SCERS' administrative decisions affecting such persons.

SCOPE

The scope of this policy includes SCERS' administrative decisions related to:

1. Determination of eligibility, effective date, and amount of pension and other benefits payable from SCERS, and application of any required limitations or other changes thereto. However, determination of eligibility to apply for and be granted disability retirement benefits is subject to Chapter 5 of SCERS Bylaws and SCERS Disability Retirement Procedures. If and when granted, disability retirement benefits payable from SCERS are subject to this policy.
2. Determination of eligibility for SCERS membership.
3. Determination of eligibility, required amount, and maximum time for payment of additional member contributions for the purchase of permissive service credit.
4. The adjustment, correction, collection, or return by SCERS of underpaid or overpaid member contributions due to SCERS and underpaid or overpaid benefits from SCERS, including application or waiver of interest thereon, pursuant to SCERS Bylaws and policies.
5. SCERS' correction of errors or omissions pursuant to SCERS Bylaws and policies.
6. Determination of eligibility for, and application of the rights and benefits of, reciprocity for SCERS members who are also members of one or more reciprocal public retirement systems in California.
7. Other similar types of administrative decisions not expressly enumerated above related to the rights and benefits of SCERS members, their beneficiaries and/or survivors, or their current or former spouses/registered domestic partners.

DEFINITIONS

As used in this policy, the terms below have the following meaning:

Administrative Decision – A determination made by SCERS in response to a written request, typically submitted by a member or Related Party in a form prescribed by SCERS, for the commencement or change of benefits from SCERS or the determination or modification of rights to benefits from SCERS.

Board Review – The Board’s consideration of an Administrative Decision of SCERS’ Chief Executive Officer (CEO) that is disputed in writing by a member or Related Party.

CEO Review – The CEO’s consideration of an Administrative Decision of SCERS’ Chief Benefits Officer (CBO) that is disputed in writing by a member or Related Party.

Final Administrative Action - A determination by the Board on a disputed Administrative Decision submitted for Board Review. A Final Administrative Action is subject to Judicial Review.

Judicial Review – An inquiry into the validity of a Final Administrative Action of the Board heard by the court without a jury pursuant to Code of Civil Procedure Section 1094.5, provided the petition for writ of mandate is filed within the time limits specified in Code of Civil Procedure Section 1094.6 and as provided by Sacramento County Code Section 1.06.020.

Related Party – A member’s beneficiary, survivor, or authorized agent, or a member’s current or former spouse/registered domestic partner who has a community property interest in a SCERS’ member’s account and benefits.

POLICY

A. Requests for Benefits

Requests for the determination of eligibility for, amount, commencement, change, or adjustment of benefits from SCERS, or determination or modification of a person’s rights to benefits from SCERS, are typically made in writing in a form prescribed by SCERS. Such requests are processed by staff according to SCERS’ normal operating procedures.

B. Administrative Decision by Chief Benefits Officer (CBO)

In the event a request cannot be processed or approved as submitted, SCERS’ CBO will make an Administrative Decision and provide a written notice of SCERS’ determination in response to the request.

C. Request for CEO Review

If the CBO’s determination is disputed, the member or Related Party may, within 60 calendar days of the written notice from the CBO, submit a written request for CEO Review of the Administrative Decision, and may include additional documentation or explanation, including affidavits, with the request.

A member or Related Party may within the 60-day period request in writing an extension of time to file a request for CEO Review upon a showing of good cause.

If a written request for either an extension of time or a request for CEO Review of a disputed CBO's determination is not submitted timely to SCERS, the disputed matter shall be deemed by SCERS to be resolved and closed, and the CBO's Administrative Decision shall stand.

The CEO may, in his or her sole discretion, also submit a recommendation to the Board that the CBO's Administrative Decision be affirmed by the Board. The Board's decision on the recommendation is a Final Administrative Action.

D. CEO Review

Within 60 calendar days of SCERS' receipt of the written request, the CEO will review the disputed issue, the CBO's determination, any additional information submitted with the written request for CEO Review, and any other information pertinent to the disputed matter(s) as determined by the CEO. The CEO will make an Administrative Decision and provide written notice thereof in response to the request for CEO Review.

E. Request for Board Review

If the CEO's determination is disputed, the member or Related Party may, within 60 calendar days of written notice of the CEO's Administrative Decision, submit a written request for Board Review.

A member or Related Party may within the 60-day period request in writing an extension of time to file a request for Board Review upon a showing of good cause.

If a written request for either an extension of time or a request for Board Review of a disputed CEO's determination is not submitted timely to SCERS, the disputed matter shall be deemed by SCERS to be resolved and closed, and the CEO's Administrative Decision shall stand.

The CEO may, in his or her sole discretion, also submit a recommendation to the Board that the CEO's Administrative Decision be affirmed by the Board. The Board's decision on the recommendation is a Final Administrative Action.

F. Board Review

Within 60 calendar days of SCERS' receipt of the written request for Board Review, the CEO will include an item for Board Review of an Administrative Decision in the agenda for a regular or special meeting of the Board, and provide the member or Related Party at least 30-day's advance written notice of the time and place of the meeting that includes the item for Board Review and during which the member or Related Party may address the Board.

The agenda materials submitted to the Board will include the original request and any subsequent written documentation and requests submitted by the member or Related Party, and a staff recommendation for the Board's determination on disputed matter(s) with relevant supporting documentation.

The Board's decision on the recommendation is a Final Administrative Action on any and all issues raised by the member or Related Party regarding the disputed Administrative Decision. There shall be no reconsideration of a Final Administrative Action.

G. Judicial Review

SCERS will send written notice of the Board's Final Administrative Action on a disputed Administrative Decision within 10 calendar days of the date the Board's decision was made. The notice shall include the following statement regarding Judicial Review (writ of mandate):

“Pursuant to the Board of Retirement's Bylaws and policy, action to seek judicial review of this decision is governed by the provisions of Section 1094.6 of the Code of Civil Procedure of the State of California. You are advised that any such petition must be filed not later than the ninetieth (90th) calendar day following the date this written notice of the Board's decision was sent by SCERS.”

Accompanying this statement will be a copy of the text of California Code of Civil Procedure section 1094.6 and Chapter 1.06 of the Sacramento County Code related to the Judicial Review of administrative decisions, as required by Section 1.06.040 of the Sacramento County Code.

BACKGROUND

Members are allowed to seek judicial review of a final administrative decision by the Board of Retirement under California Code of Civil Procedure Section 1094.6 on disputed matters. This policy affirms the current process and establishes the timeframe for completing SCERS' administrative review and determination of disputed Administrative Decisions, which may ultimately conclude with a Final Administrative Action of the Board that may be subject to judicial review if a member or Related Party files a timely petition for writ of mandate.

RESPONSIBILITIES

Executive Owner: Chief Executive Officer

POLICY HISTORY

Date	Description
03-21-2018	<i>Board to adopt new policy</i>