

**THE CHATTANOOGA FIRE & POLICE PENSION FUND**  
**QUALIFIED DOMESTIC RELATIONS ORDERS POLICY**

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**PURPOSE.**

Effective July 1, 2016, Section 26-2-105 of the Tennessee Code Annotated ("T.C.A."), requires qualified retirement plans of local governments and local government instrumentalities in Tennessee to pay the claims of an "alternate payee" under a "qualified domestic relations order", as those terms are defined in T.C.A. § 26-2-105(c).

This Policy implements the rules for determining if a domestic relations order constitutes a "qualified domestic relations order".

**DEFINITIONS.**

In addition to the definitions contained in Section 2-401 et. seq. of the Chattanooga City Code, the following definitions are applicable to this policy:

- (1) "alternate payee" means a former spouse of a member or retiree who is recognized by a qualified domestic relations order as having a right to receive all or a portion of the benefits payable by the Fund with respect to such member or retiree.
- (2) "qualified domestic relations order" ("QDRO") has the same meaning as provided in § 414(p) of the Internal Revenue Code of 1986, as amended (the "Code"), provided, that a QDRO may only relate to the provision of marital property rights for the benefit of the former spouse of the member or retiree.
- (3) "refund" means a withdrawal of the member's accumulated contributions pursuant to Section 2-413 of the Chattanooga City Code.

## **PAYMENT BY THE FUND.**

The Fund will make payment of a retirement allowance or refund only as directed by statute or by a QDRO. After the Board of Trustees ("Board") determines that an order is a QDRO, the Fund shall make payments to the alternate payee as directed by the QDRO at the time that a member begins receiving a monthly retirement allowance or receives a refund of contributions, unless the Fund receives a certified copy of an order from a court of competent jurisdiction that withdraws or supersedes the previous order.

## **SUBMISSION OF ORDERS.**

A person who wishes to have the Fund review a domestic relations order ("DRO") to determine whether it is a QDRO for the purpose of receiving payments shall submit a copy of a proposed, or signed, domestic relations order to the Board. Such order must contain all requirements prescribed by this Policy.

## **REQUIREMENTS FOR A VALID QDRO.**

- (1) The Fund will accept a court order as a valid QDRO if the order meets all of the following requirements:
  - (a) The order must relate to the provision of marital property rights for the benefit of the former spouse of the member or retiree.
  - (b) The order must be a copy of an original or amended order dated on or after July 1, 2016.
  - (c) The order must have been issued by a court of competent jurisdiction in a divorce proceeding that provides for the distribution of property, or any proceeding to amend or enforce such a property distribution.
  - (d) The order must identify the Chattanooga Fire & Police Pension Fund as the retirement system to which it is directed.
  - (e) The order must contain the name, current address, and social security number of the member.

- (f) The order must contain the name, current address, and social security number of the alternate payee.
- (g) The order must express any amount to be paid to the alternate payee from a member's retirement allowance as a dollar amount per month or as a percentage per month. In addition, if applicable, in accordance with the final divorce decree, the order may include a dollar amount or a percentage of the member's deferred retirement option payment ("DROP") to be paid to the alternate payee, provided the member has not already received a DROP.
- (h) The order must contain the beginning and ending dates of the marriage of the member and the alternate payee and assign a portion of the member's retirement allowance under the Fund to the alternate payee..
- (i) The order must contain an assignment of the retirement allowance based upon the value of a member's entitlement under the Fund at the time of retirement or, if higher, the value of the member's entitlement under the Fund at the date of the divorce.
- (j) In the alternative, the order must express any amount to be paid to the alternate payee from a member's refund as a dollar amount or as a percentage of the refund.
- (k) The order may contain a provision authorizing the Fund to increase the amount payable to the alternate payee each month based upon the alternate payee's share of any cost of living adjustment received by the member.
- (l) The order must contain a provision directing the Fund to make payment to the alternate payee in accordance with the QDRO until: (i) the end of the period stated in the QDRO or (2) either the member or the alternate payee dies, whichever occurs first. The order must contain a provision that provides that the QDRO becomes null and void upon the death of the member or the alternate payee.

- (m) The order must not require the Fund to provide any type or form of benefit, or any option, not otherwise provided in the governing legislation.
  - (n) The order must not require the Fund to pay increased benefits.
  - (o) The order must not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a QDRO.
- (2) An order that purports to require a member to terminate employment, to withdraw contributions, or to apply for retirement will not be accepted by the Fund as a valid QDRO.
  - (3) The order may specify an alternative method for the parties to verify their social security numbers to the retirement system, if the court finds that omission of the numbers in the order is necessary to reduce the risk of identity theft. The order is not a QDRO if the Fund finds that the method of verification is insufficient for the purposes of payment of benefits or reporting of income for tax purposes.

#### **REVIEW OF ORDERS.**

Upon receipt of a QDRO, the Fund shall notify the member and the alternate payee of its receipt of the QDRO and provide them with a copy of this Policy. The Board, or the Board's designee, shall review the order for compliance with requirements imposed by statute or this Policy. Upon completion of the review, the Board, or its designee, shall notify the member or retiree and each alternate payee in writing of the determination.

#### **DETERMINATION OF QUALIFIED ORDER.**

- (1) Any determination that an order is a QDRO is voidable or subject to modification if the Fund determines that the provisions of the order have been changed or that circumstances relevant to the determination have changed.
- (2) If the Board or the Board's designee determines that an order is not a QDRO, the notice shall identify the provisions of the order that do not meet the requirements of applicable statutes or this Policy.

- (3) Any determination by the Board or the Board's designee that an order is not a QDRO is a final decision by the Fund. A party adversely affected by a determination may file a motion for reconsideration with the Board no later than thirty (30) days after the date such determination is rendered if the party wishes to contest the determination. The Board will review the motion for reconsideration. No further appeal to the Board is authorized.

#### **EFFECT OF A VALID QDRO.**

- (1) Retirement Allowance.

- (a) After the Fund has determined that a QDRO applying to a retirement allowance is valid, one of the following will occur:

1. If the member has not yet started receiving a retirement allowance, the QDRO will be placed in the member's file and will be implemented when the first affected payment commences; or
2. If the member is already receiving a retirement allowance subject to the QDRO, payment to the alternate payee will begin on the monthly payment date in the month following approval by the Fund.

- (2) Refund of Member Contributions.

- (a) After the retirement system has determined that a QDRO applicable to a member's refund is valid, one of the following will occur:

1. If the QDRO provides for the allocation of a refund and the member has not applied for a refund, the QDRO will be placed in the member's file and will be implemented when payment of the affected refund is made.
2. If a refund application is pending when the retirement system receives a QDRO that purports to apply to the refund but the refund payment has not yet been made, the retirement system will hold the portion of the refund that would be payable to the alternate payee until it receives clarification from the court as to whether the QDRO is effective against the pending refund. It is the member's or alternate payee's responsibility

to obtain clarification from the court and notify the retirement system of the court's clarification; or

3. If a refund payment has already been made when the retirement system receives a QDRO that purports to apply to the refund, the QDRO shall not be effective against that refund.

**BENEFITS AFFECTED BY A QDRO.**

- (1) A QDRO may apply only to the following benefits administered by the Fund:
  - (a) A monthly retirement allowance;
  - (b) A DROP payment; or
  - (c) A member's refund of employee contributions.
- (2) A QDRO shall not apply to any of the following:
  - (a) A survivor benefit;
  - (b) Any disability benefit;
  - (c) An error refund; or
  - (d) Any other benefit.

**BENEFITS RESULTING FROM RESUMING MEMBERSHIP.**

If a member terminates participation in the Fund by withdrawal or his or her contributions, the Fund shall pay all or a portion of the amount withdrawn to any alternate payee as directed by a QDRO. If the former member later resumes participation in the Fund, then the Fund shall pay to an alternate payee no portion of retirement allowance payable to the member or retiree which results from the resumption of participation, even if the retirement allowance is a result in part from reinstatement of service credit initially credited during marriage. A member who reinstates service credit by depositing amounts previously withdrawn or refunded shall deposit the entire amount withdrawn or refunded, regardless of whether a portion or all of the amount was paid to the alternate payee. The reinstatement fee shall be based on the total amount withdrawn, regardless of whether a portion or all of the amount was paid to an alternate payee.

### **SUBMISSION OF AMENDED ORDER.**

If a court amends an order that the Fund has determined to be a QDRO, the member or retiree or alternate payee shall submit a certified copy of the amended order to the Board. The Board, or its designee, shall review any amended order for compliance with the requirements imposed by statute or this Policy for an original order. An amended order will be applied to member benefits beginning on the date the amended order is determined by the Fund to be valid.

### **TERMINATION OF QDRO.**

The Fund will consider a QDRO as having been terminated in any of the following situations:

- (1) Upon receipt of a certified copy of a court order terminating the QDRO; or
- (2) Upon payment of all amounts provided for in the QDRO;

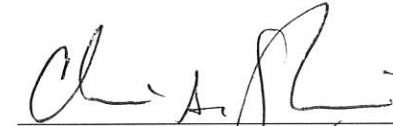

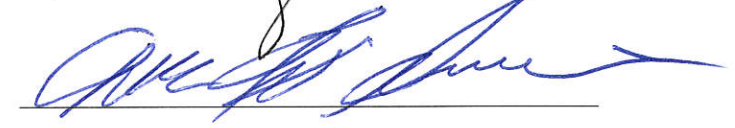

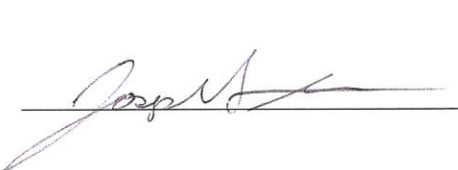
### **ALTERNATE PAYEE'S INFORMATION.**

An alternate payee is responsible to report to the Fund in writing each change in his or her name, residence address, and direct deposit information. When a member's retirement allowance or refund subject to a QDRO becomes payable, the Fund will send notice to the last address of the alternate payee reported to the Fund that the retirement allowance or refund is payable. Other than sending such notice, the Fund shall have no duty to take any other action to locate an alternate payee.

### **COST OF LIVING ADJUSTMENTS.**

The alternate payee will receive a proportionate share of any cost of living adjustment received by the member. The Fund will calculate the amount of any adjustment payable to the alternate payee under the QDRO. The amount of any adjustment payable to the alternate payee is the percentage of adjustment due the member multiplied by the alternate payee's monthly retirement allowance as of the date of the adjustment.

This Policy is hereby restated on this 15<sup>th</sup> day of November, 2018.

  
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