SFERS

San Francisco Employees' Retirement System

Community Property

and your SFERS benefits

Marital Dissolution • Termination of Domestic Partnership • Legal Separation

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1. About This Guide

This guide offers readers an overview of how SFERS Plan benefits can be affected by the dissolution of marriage (divorce), the termination of a domestic partnership, or legal separation. This guide also describes how SFERS divides community property, what happens when a member or nonmember dies, general tax information, and applicable legal documents and forms.

Please note that the San Francisco Deferred Compensation Plan (SFDCP) is separate from the SFERS Plan. Contact the SFDCP directly at team.sfdcp@sfgov.org, or 415-487-7500 for information regarding the division of SFDCP benefits under California community property law.

2. Community Property Laws

In California, community property laws define the ownership of property acquired during a marriage or domestic partnership as **any asset acquired or income earned during a marriage or domestic partnership**. Under California law, retirement benefits earned during marriage or domestic partnership are community property. If you divorce, legally separate, or terminate a domestic partnership, a court can order that your SFERS retirement benefits be included in the division of property.

The division of retirement benefits involves complex issues involving California community property law and the City and County of San Francisco ("City") Charter and Administrative Code. It is important to note that under the SFERS Plan, spouses and registered domestic partners are treated equally.

This guide is not a substitute for the law and is not legal advice. In the case of a conflict between this guide and the law, the law takes precedence. We strongly encourage you to consult an attorney before applying the information in this guide.

3. The SFERS Pension Plan

The SFERS pension plan is a 401(a) tax-qualified defined benefit plan that provides retired members a benefit allowance of monthly payments for life and, upon the member's death, for the member's qualified spouse or domestic partner. The monthly retirement benefit is calculated based on the member's age at retirement, years of credited service, and final average compensation. Retirement eligibility is determined by the member's age and credited service as stipulated under the member's qualifying plan (see Appendix I for SFERS plan benefit summary).

a. Membership

SFERS members include eligible employees of the City and County of San Francisco, the San Francisco Unified School District, the San Francisco Community College District, and the San Francisco Superior Court. Membership in the SFERS pension plan is determined by an employee's membership group – Miscellaneous, Miscellaneous Safety, Sheriff, or Police and Fire Safety plans – and by the date on which the employee first becomes eligible for SFERS membership (see "eligible members" in the Summary Plan Provision for the member's qualifying plan).

1. Uniformed employees working for the City's Police and Fire Departments are covered by the SFERS Safety Plans.
2. Eligible civilian (non-Safety Plan) employees of the City and covered employers are covered by the SFERS Miscellaneous Plans.
3. The Sheriff, Undersheriff, and deputized personnel of the Sheriff's Department hired after January 7, 2012, are covered by the SFERS Sheriff Plan.
4. Probation Officers, District Attorney Investigators, and Juvenile Court Counselors hired after January 7, 2012, and Public Safety Communications Personnel (Civil Service classes 8238, 8239, and 8240) employed on or after January 4, 2025, are covered by the SFERS Miscellaneous Safety Plan.

b. Credited Service

SFERS members are credited one year of service for approximately every 1,740 hours (generally 10 months) they work and receive full-time covered earnings in a fiscal year. If a member works and receives covered earnings for less than 1,740 hours in a fiscal year, the service is prorated. That is, SFERS credits the member with a fraction of the year of service earned based on the actual number of hours the member worked and received covered earnings.

SFERS credits members with up to one year of service per fiscal year. Members begin accumulating credited service on their membership date – the date they first became eligible for membership in the Plan. Members are not credited with service for periods of leave without pay.

c. Contributions

SFERS members contribute a percentage of their salary by payroll deduction each bi-weekly pay period. The percentage of salary a member contributes to the Plan is based on their SFERS plan (Miscellaneous, Miscellaneous Safety, Safety, or Sheriff). Contributions accumulate in the member's account and earn interest, which is compounded annually.

The City contributes to the SFERS Trust Fund to maintain the Plan's financial soundness. These employer contributions are not credited to individual member accounts. Instead, employer contributions are invested in the Trust Fund to benefit all members. They are not refundable.

4. Service Retirement Eligibility

- Members in the SFERS Miscellaneous Tier III Plan are eligible for service retirement after attaining age 53 and 20 years of credited service, or age 60 and 10 years of credited service, or age 65, regardless of service (one-time opportunity if you retire on the first of the month following your 65th birthday).
- Members in the SFERS Miscellaneous Tier I and Tier II Plans are eligible for service retirement after having attained age 50 and 20 years of credited service, or age 60 and 10 years of credited service, or age 65, regardless of service (this is a one-time opportunity if you retire on the first of the month following your 65th birthday).
- Members in the SFERS Safety Tier I, Tier II, and Tier III Plans are eligible for service retirement after attaining the age of 50 and 5 years of credited service.
- Members in the SFERS Sheriff and Miscellaneous Safety Plans are eligible for service retirement after attaining age 50 and 5 years of credited service.

5. Obtaining Confidential Information

Member account information is confidential. After the end of each fiscal year, SFERS will provide each member with a Member Account Statement detailing the member's accumulated credited service and contributions, plus interest. Any person other than the member may request certain information about a member's account by providing either of the following:

- Written authorization to release information, signed and dated by the member within 30 days of the request, or within a longer period if specifically noted in the authorization. The written request must specify the exact information needed, for example, the account balance, or
- A subpoena that includes a Notice to Consumer and a $15 check payable to "SFERS" for witness fees. SFERS only accepts personal service of a subpoena delivered to:

  San Francisco Employees' Retirement System
  Subpoena Administration
  1145 Market Street, 5th Floor
  San Francisco, CA 94103

a. Release of Confidential Information

Upon receipt of a member's written authorization or subpoena, SFERS will provide information relevant to the member's retirement account that is responsive to the request. SFERS does not provide actuarial valuations of a member's future benefit or medical documents that would violate federal, state or local confidentiality laws.

6. The Community Property Claim Process

a. Claim Notification/Notice of Adverse Interest

The community property process starts when we receive written notification of a claim. A claim is a written notification against a member's account that a legal separation, divorce, or termination of domestic partnership exists. Only a nonmember spouse/domestic partner or their attorney can submit a community property claim on a member's SFERS retirement benefit, and this can be done at any time[1].

A claim can refer to a Notice of Adverse Interest (under California Family Code Section 755) or other written claim asserting community property rights, including a summons (joinder), Judgement, Marital Settlement Agreement (MSA), proposed Qualified Domestic Relations Order (QDRO), or File-Stamped QDRO awarding a nonmember spouse/domestic partner a portion of a member's benefits.

A Notice of Adverse Interest places an administrative hold on the account. After receiving a claim, SFERS holds the estimated community property share until the claim is resolved by a QDRO or other court order. The account hold remains in place until a QDRO is issued allocating the parties' Community Property Interests (CPI).

b. Joinder

A joinder is a legal document that joins multiple parties in a legal proceeding in which they share rights and/or liabilities. Filing a joinder is not legally required, and the parties can file a QDRO without having filed a joinder. A joinder puts SFERS on notice of a pending dissolution action and places a hold on the member's account.

Filing a Joinder does not provide SFERS with direction regarding the apportionment of community property. The parties must file a QDRO and obtain a Final Judgment to divide their community property interests.

c. Effect of Written Claim

If the member is receiving a monthly retirement benefit, SFERS will set aside the former spouse's/domestic partner's estimated community property share of the member's benefits from each monthly payment. If the member applies for a refund of contributions, SFERS will not make any payments without receiving a QDRO.

7. Qualified Domestic Relations Order (QDRO)

A QDRO is a legal order used in a dissolution of marriage or registered domestic partnership that orders a retirement plan to distribute retirement benefits based on the member and nonmember spouse's respective Community Property Interests. SFERS will implement the community property apportionment as defined in a QDRO, consistent with the City Charter, Administrative Code, and California case law. A QDRO, however, cannot authorize payment of a benefit that conflicts with the City Charter, Administrative Code, or California case law.

[1] "Nonmember" refers to a member's spouse, former spouse, registered domestic partner, or former registered domestic partner (even if they are also a SFERS member) who is being, or has been awarded, a community property interest in the member's defined benefit plan.

To protect privacy, the following information regarding the nonmember ***should not*** be included in the QDRO, but ***must be*** provided in a separate letter or addendum:

- Current mailing address
- Birthdate
- Social Security number
- Name, address, telephone number, and email address of nonmember

SFERS will not process any pending benefit application until it receives the QDRO. A QDRO that requires SFERS to divide the parties' community property interests must specifically refer to the "San Francisco City and County Employees' Retirement System" or "SFERS". SFERS must receive a File-Stamped (certified for out-of-state) copy of a QDRO that disposes of the community property interest in a member's benefits.

A QDRO must provide a mode of division. For example, the Time Rule Formula – discussed below – establishes a specific percentage of the member's monthly allowance, or a dollar figure to be applied to the member's monthly benefit (see *In re Marriage of Brown (1976) 15 C.3d 838 and In re Marriage of Judd (1977) 68 Cal.App.3d 515.*). If a percentage or dollar figure is selected, Cost of Living Adjustments (COLAs) must also be addressed.

8. Time Rule Formula (For Active or Retired Members)

The time rule formula (a.k.a., Brown formula [*In re Marriage of Brown (1976) 15 C.3d 838*]) is commonly used to divide community property benefits. The formula provides that the nonmember receives a portion of the member's retirement benefits, as illustrated below. For this purpose, a QDRO must contain the parties' date of marriage/domestic partnership and date of separation.

a. Formula:

- Number of months of SFERS credited service (from the date of marriage/domestic partnership to the date of separation) subject to community property;
- Divided by total months of SFERS credited service accrued at the time payments to the nonmember begin;
- Multiplied by 50 percent (50%);
- Equals the percentage of the member's allowance to which the nonmember is entitled.

b. Example of Time Rule Formula:

Member's SFERS Service Subject to Community Property	
SFERS Membership Date:	July 1, 2001
Date of Marriage/Domestic Partnership:	July 1, 2011
Date of Separation:	July 1, 2021
SFERS Service Subject to Community Property in Months:	10 Years = 120 Months*
Nonmember's Portion of SFERS Benefit	
SFERS Service Subject to Community Property in Months:	120 months
Date Payments to Nonmember Begin:	July 1, 2026
Total Months of SFERS Service at Time of Retirement:	25 years = 300 months*
SFERS Service Subject to Community Property in Months Divided by Total SFERS Service at Time of Retirement:	120 ÷ 300 = 0.40
Above result multiplied by 50%:	0.40 X 50% = 20%
Spouse's Portion of Member's Monthly SFERS Allowance:	20%

*Assumes continuous SFERS membership

9. QDRO Implementation

SFERS will acknowledge receipt of a properly executed QDRO to all interested parties within 45 business days of receipt. After a court has entered a Final Judgment, SFERS will implement a QDRO as follows:

- If the member is an active employee and ***is qualified for service retirement***, the nonmember is responsible for contacting SFERS to initiate the division of retirement benefits.
- If the member is an active employee and ***is not qualified for service retirement***, the nonmember is responsible for contacting SFERS no more than two months before the date the member will achieve the required age and years of credited service to qualify for service retirement, as indicated in the QDRO.
- If the member is retired, SFERS will implement a properly executed File-Stamped QDRO within 60 business days of receipt.

a. Filing a Qualified Domestic Relations Order (QDRO)

The following information should be carefully considered before any QDRO is issued. ***Credited service and accumulated contributions and interest not specifically awarded in the QDRO shall be deemed the property of the member.***

- **Refund of Contributions and Interest** – If a member terminates employment with the City and elects to receive a refund of the member's accumulated contributions, the nonmember will receive a disbursement of the member's community property share in those refunded contributions after a Final Judgment and based on the QDRO formula.
- **Retirement with a Monthly Benefit** – If a member elects to retire and receives a monthly benefit, the nonmember will receive a disbursement of the member's community property share of the monthly benefit after a Final Judgment and based on the QDRO formula. Benefit payments will continue until the death of the member or nonmember, consistent with the distribution terms elected by the nonmember, i.e., disbursed over the member's or nonmember's lifetime.
- **Disability Retirement Limitations** - Distribution of a retirement allowance due to a disability retirement may occur before or after a member is eligible for a service retirement. All benefits remain the disabled member's separate property until the member meets the requirements for a service retirement.

Nothing in this Section shall be construed to obligate the Retirement System to pay greater benefits than those otherwise payable under the terms of the plan. Any allowance otherwise payable to any other survivor may be reduced by the benefits authorized under this Section to the degree necessary to ensure that the Retirement System does not pay benefits in excess of what is authorized under the plan.

10. Documents Required to Initiate Payment of Nonmember's Community Property Interest

Payment shall begin after providing the Plan with a copy of the court-approved:

1. Judgment of Dissolution of Marriage or Domestic Partnership; or
2. Judgment of Legal Separation
   and
3. Qualified Domestic Relations Order (QDRO);
   and
4. SFERS Application for Division of Community Property Interest.

a. SFERS Model Qualified Domestic Relations Orders

The applicable SFERS QDRO – by membership group and status – can be requested by emailing sfersconnect@sfgov.org (subject: Marriage Dissolution).

11. Gilmore Debt

Under California community property law, once a marriage is dissolved, the nonmember ex-spouse/domestic partner is eligible to receive a share of the member's retirement benefit when the member first becomes eligible to retire, even if the member does not retire (*In re Marriage of Gillmore (1979) 29 Cal.3d 418*).

If ordered by a court, a member's ex-spouse/domestic partner can claim their share of the SFERS pension benefit as community property when a member first becomes eligible for a service retirement, even if the member does not retire. Consequently, if SFERS makes benefit payments to an ex-spouse/domestic partner before a member retires, the member will incur a debt to the plan called "Gilmore debt".

Gilmore Debt is the sum of benefit payments plus interest paid to an ex-spouse/ex-domestic partner prior to a member's retirement under a QDRO due to the dissolution of a marriage or domestic partnership. Please refer to *San Francisco Administrative Code Section 16.75-1* for complete provisions regarding Gilmore repayments. Gilmore payments to your ex-spouse/domestic partner are made from the pension trust on your behalf – not from your individual retirement account – and they accrue interest.

By repaying Gilmore debt, you will increase your final monthly benefit. When you retire, if you choose not to repay the debt before you retire, in full or in part, not only will your pension be permanently reduced by the monthly community property benefit paid to your ex-spouse/domestic partner, but your benefit will also be reduced by the actuarial value of the benefit payments made to your ex-spouse/domestic partner prior to your retirement, including interest. If you pay off your entire Gilmore debt, then only the monthly community property payable to your ex-spouse/domestic partner will be deducted from your monthly benefit when you retire.

SFERS offers you the option to repay the Gilmore debt before you retire, thereby avoiding this double reduction. You are eligible to repay a Gilmore debt if you are a:

- Current active SFERS member; or
- Former SFERS member who is eligible to receive a service retirement, but not yet receiving a benefit.

Gilmore debt will not accrue for members after reaching the earlier of:

1. 75% of average final compensation for miscellaneous members;
2. 90% of average final compensation for safety members; or
3. Age 65

a. Repayment of Gilmore Debt

Members may repay a Gilmore debt by making payments to SFERS using pre-tax dollars or after-tax dollars. Payroll deductions are not permitted to repay Gilmore debt, and the ***repayment must be completed before your retirement date***.

Using Pre-Tax Dollars:

- A direct rollover of pre-tax dollars into SFERS from your San Francisco Deferred Compensation Plan (SFDCP) or another tax-qualified retirement plan

Using After-Tax Dollars:

- A lump sum payment of the total amount using after-tax dollars
- A partial lump sum payment using after-tax dollars

An appointment is required to repay a Gilmore debt. Please email sfersconnect@sfgov.org to schedule an appointment.

If you terminate employment with the City, elect to retire, or die before completing your repayment, the portion of the Gilmore debt that was paid through the date of your termination, retirement, or death will be credited towards your Gilmore debt. The remaining balance owed will affect the distribution of survivor benefits.

12. Internal Revenue Code § 415(b) limits

Internal Revenue Code § 415(b) limits an individual's benefit amount from a tax-qualified defined benefit plan each year (*CCSF Administrative Code § 16.61-2*). Certain highly compensated SFERS members may be subject to IRC § 415(b) limits.

However, because SFERS benefits are set under the City Charter, the City has established a separately administered trust fund to pay the portion of any promised benefit that exceeds § 415(b) limits.

The benefit portion exceeding § 415(b) limits must be joined as a separate claimant in any California dissolution of marriage action involving the disposition of excess benefits. Joinders for excess benefits must specifically refer to "San Francisco City and County benefits exceeding § 415(b) limits".

13. Tax Information

Federal and California statutes require income tax withholding on distributions from pension plans and annuities. Income tax will be withheld from the taxable portion of the recipient's benefit unless the member or nonmember elects not to have taxes withheld.

Members and nonmembers are responsible for their respective tax liabilities arising from community property payments received from SFERS. If taxes are not withheld, or insufficient amounts are withheld, the recipient may be required to make estimated tax payments. Generally, withholding and estimated tax payments must cover at least 90 percent of the individual's total tax liability for the current year. Failure to meet the 90 percent limit could subject that person to penalties.

To exercise tax withholding options, an individual must have federal and state tax withholding forms on file with SFERS. The SFERS' Tax Withholding Election forms are available on the Forms page of the SFERS website at www.mysfers.org. The form can also be obtained by calling 415-487-7000. Without this form on file, SFERS will, by default, withhold income tax on benefit payments as if the recipient were single and claiming no dependents. Recipients must also complete and submit this form to request a change in their current income tax withholding status. We strongly encourage consulting a tax adviser regarding tax issues related to the distribution of SFERS benefits.

14. Health Benefit Information

Dissolution of marriage may affect health coverage. For questions concerning health benefits, contact the City's Health Service System (HSS) directly at (628) 652-4700 or visit the HSS website at www.sfhss.org.

Appendix I - SFERS Plan Benefits Structure

Membership Group	Highest Service Retirement Multiplier
Miscellaneous New Plan Tier I A8.587 — Miscellaneous employees who became members on or after November 2, 1976	2.3% @ age 62; maximum benefit 75% of final compensation
Miscellaneous New Plan Tier II Plan A8.600 — Miscellaneous employees employed on or after July 1, 2010	2.3% @ age 62; maximum benefit 75% of final compensation
Miscellaneous New Plan Tier III Plan A8.603 — Miscellaneous employees employed on or after January 7, 2012	2.3% @ age 65; maximum benefit 75% of final compensation
Police New Plan Tier I A8.597 — Police officers who became members on or after November 2, 1976, and were eligible for Proposition H benefits effective January 1, 2003	3.0% @ age 55; maximum benefit 90% of final compensation
Police New Plan Tier II A8.602 — Police officers who became members on or after July 1, 2010	3.0% @ age 55; maximum benefit 90% of final compensation
Police New Plan Tier III A8.605 — Police officers who became members on or after January 7, 2012	3.0% @ age 58; maximum benefit 90% of final compensation
Firefighter New Plan Tier I A8.598 — Firefighters who became members on or after November 2, 1976, and were eligible for 2002 Proposition H benefits effective January 1, 2003	3.0% @ age 55; maximum benefit 90% of final compensation
Firefighter New Plan Tier II A8.601 — Firefighters who became members on or after July 1, 2010	3.0% @ age 55; maximum benefit 90% of final compensation
Firefighter New Plan Tier III A8.604 — Firefighters who became members on or after January 7, 2012	3.0% @ age 55; maximum benefit 90% of final compensation
Sheriff Plan A8.608 — Sheriffs, Undersheriffs and all deputized personnel of the Sheriff's Department hired on or after January 7, 2012	3.0% @ age 58; maximum benefit 90% of final compensation
Miscellaneous Safety Plan A8.610 & A8.611 — Probation Officers, District Attorney Investigators and Juvenile Court Counselors hired on or after January 7, 2012, or employed as Public Safety Communications personnel (Civil Service classes 8238, 8239 and 8240) hired on or after January 4, 2025	2.7% @ age 58; maximum benefit 90% of final compensation

Appendix II - Glossary of Terms

Beneficiary: May be a person(s), trust, or estate named by the member to receive benefits upon the member's death.

Certified Copy of a Qualified Domestic Relations Order (QDRO): A copy of the file-stamped court order, also known as a QDRO, that includes an attestation of authenticity by the Court Clerk.

Community Property or Community Property Interest: Community Property is property owned jointly in marriage or registered domestic partnership. In California, all types of retirement benefits are considered community property. Your SFERS account may be subject to a Community Property division upon a legal separation, divorce, or termination of domestic partnership. The contributions you made, the service credit you accrued or purchased during your marriage or domestic partnership, and your retirement allowance are considered community property. Your percentage ownership in the retirement allowance is your Community Property Interest.

Continuation Allowance: Amounts payable monthly to eligible survivors of members.

Credited Interest: Interest credited to a member's accumulated contributions at a rate set by the SFERS Board.

Defined Benefit: The benefit provided through SFERS under San Francisco Charter Sections A8.500 et seq. and Administrative Code Sections 12.100-12.103.

Disability Allowance: The monthly amount payable to a member granted a disability retirement by the Retirement Board.

Domestic Partner: A registered domestic partnership is created when partners file a Declaration of Domestic Partnership with the Secretary of State. Under California law, registered domestic partners have the same rights, protections, and benefits, and are subject to the same responsibilities, obligations, and duties, as spouses. If the Domestic Partnership is not registered with the state of California, a Domestic Partnership registered solely with the SF County Clerk's office or other "local" Domestic Partnership does not create community property rights under California Law.

Effective Date: The date upon which the retirement benefit becomes payable.

File-Stamped Copy of Court Order or QDRO: A copy of the court order approved by the Court, signed by the Judge, and file-stamped by the Court Clerk.

Joinder: The joining of SFERS as a party to a dissolution action.

Judgment, Final Judgment, or Final Judgment of Dissolution of Marriage: The final court order that legally ends a marriage.

Lump-Sum Death Benefit: The amount payable to a beneficiary named by a member upon the death of the member.

Member: Any person (unless excluded under other provisions) who performs creditable service as defined by the City Charter, earns creditable compensation for that service, and has not received a refund for that service.

Member Account: The total accumulated contributions plus interest held in trust for a member until refunded or until the retirement benefit becomes payable as a monthly allowance.

Notice of Adverse Interest: A letter notifying SFERS of a potential community interest in a member's account. Upon receipt of the letter, SFERS will place a hold on the member's account.

Qualified Domestic Relations Order (QDRO): A QDRO is a legal order used in a dissolution of marriage or registered domestic partnership, or a legal separation, that divides a retirement plan to give the nonmember spouse their share of retirement benefits. The parties must also obtain a Final Judgment from the court for the QDRO to become effective.

Refund: A lump-sum disbursement of the member's accumulated retirement contributions and interest.

Retirement: When a member's working status changes from active or inactive (vested or deferred) to retired.

Retirement Allowance: The monthly amount payable to a retired member or beneficiary.

Time Rule Formula: A method of calculating the percentage of a member's allowance, or Community Property Interest (CPI), paid to a non-member under California Community Property law.

Appendix III – Community Property FAQS

Q: I am a member who is getting divorced. What should I do?

A: *SFERS cannot provide legal advice or recommend professional legal services. Please consult an attorney or seek assistance from the court or legal aid regarding the divorce process and your community property interests.*

If your former spouse intends to claim a Community Property Interest in your retirement, you must file a proposed Qualified Domestic Relations Order (QDRO) with the Court and then present the resulting Conformed Copy of the QDRO to SFERS. *We strongly encourage you to submit the draft QDRO to the SFERS Legal Document Processing Unit for review before signing and filing the QDRO with the court. Failure to obtain SFERS approval of your QDRO may delay implementation if the QDRO does not conform to SFERS' Plan provisions*.

For our records, please submit to SFERS your Final Judgment of Dissolution of Marriage, along with any marital settlement agreement or property settlement.

Q: Does SFERS have a model Qualified Domestic Relations Order (QDRO)?

A: Yes. SFERS has model court orders you can use for dividing SFERS benefits. SFERS has created model QDROs for active, inactive, and retired members. In many cases, the parties can use these model orders without modification. To request the appropriate model QDRO based on your specific plan and membership status, contact the SFERS' Legal Document Processing Unit by email at sfersconnect@sfgov.org, telephone at (415) 487-7000, or U.S. mail addressed to:

SFERS
Legal Document Processing
1145 Market St. 5th Floor
San Francisco, CA 94103

Q: What is the process for submitting a draft Qualified Domestic Relations Order (QDRO) to SFERS?

A:
1. Have your attorney complete the draft QDRO.
2. Submit the draft QDRO to the SFERS Legal Document Processing Unit for review before signing and filing the QDRO with the court.
3. Once SFERS has approved the draft QDRO, you, your former spouse, and your attorney(s) will sign it (your signatures will need to be notarized if you or your former spouse are unrepresented).
4. File the approved draft QDRO with the Superior Court.
5. Once you have filed a QDRO, submit a file-stamped copy to SFERS.

Q: What can I do if my former spouse does not sign the draft QDRO?

A: Consult with your attorney or court legal support staff to explore your options. SFERS cannot provide legal advice regarding marital dissolution proceedings.

Q: **How is Community Property Interest (CPI) determined?**

A: The CPI in your retirement is typically determined by the Time Rule Formula. However, the parties may designate a different method for calculating their respective shares, subject to approval by SFERS and the court. You should consult with legal counsel regarding the best way to calculate CPI.

Q: I am getting divorced, but my spouse and I have agreed to keep our own retirement benefits. What should I do?

A: Submit your Marital Settlement Agreement or Property Settlement Agreement to SFERS along with your Final Judgment of Dissolution of Marriage assigning your SFERS retirement as your sole and separate property, or a filed QDRO that awards you 100% of your SFERS pension. SFERS can provide you with the appropriate model QDRO for this situation.

Q: If my former spouse should predecease me, does the amount my former spouse was receiving revert to me?

A: No. The reduction in your retirement allowance is permanent. The money does not revert to the member after the former spouse's death.

Q: Can my former spouse designate a beneficiary for his or her Community Property Interest?

A: No.

Q: Can I use one QDRO for both the SFERS pension and the San Francisco Deferred Compensation Plan (SFDCP)?

A: No, separate QDROs are required to implement.

Q: If I have an account with the San Francisco Deferred Compensation Plan (SFDCP), may I submit one Joinder for both SFERS and SFDCP?

A: No. Each Plan must be joined separately. Please be sure to include your SSN, DSW Number, and birthdate.

Q: I have benefits under both a Safety and Miscellaneous SFERS plan. Do I need separate QDROs to address the community property division?

A: No, you may use one QDRO to address both SFERS plans.

Q: What is the earliest my former spouse can begin receiving benefits?

A: If you are ***still working for the City***, your former spouse/domestic partner can begin collecting the Community Property Interest (CPI) once you become eligible for a Service Retirement. Payment will commence once SFERS receives a filed QDRO, the Final Judgment of Dissolution of Marriage, and the completed Application for Division of Community Property Interest (Application) and necessary forms signed by your former spouse/domestic partner.

If you ***no longer work for the City*** and have elected to vest your benefits, your former spouse/domestic partner can begin collecting the CPI upon your 50th birthday (or 53rd birthday if Plan A8.603). Payment will commence once SFERS receives a filed QDRO, the Final Judgment of Dissolution of Marriage, and the completed Application and necessary forms signed by your former spouse/domestic partner.

If you are ***retired from the City***, your former spouse/domestic partner can begin collecting their CPI once SFERS receives a filed QDRO, the Final Judgment of Dissolution of Marriage, and the completed Application and necessary forms signed by your former spouse/domestic partner. Certain restrictions may apply to members who have retired due to disability. Please refer to SFERS' model QDRO for details.

Q: I am a former spouse. If I wait to collect my Community Property Interest past the earliest eligibility date, does the benefit amount increase?

A: SFERS cannot determine the benefit amount in advance.

Q: How will I be affected if my former spouse begins receiving their Community Property Interest before I retire?

A: SFERS will advance payments to your former spouse until you retire. All payments advanced to your former spouse by the Plan on your behalf create a debt to the Plan and a reduction to your benefit. You may repay this debt at any time before your retirement. If you do not, your retirement allowance will be reduced by the actuarial equivalent. Please refer to the "Gilmore Debt" section in this guide on page 6 for details.

Q: How does a divorce affect my retirement allowance if I elect SFERS retirement Option #2 or #3?

A: If you elect retirement Option #2 or Option #3 and name your eligible spouse/domestic partner as the Option beneficiary, as of your divorce, they will no longer be an eligible spouse/domestic partner. Therefore, the Plan is no longer mandated to fund 50% of your Option #2 or #3 continuation benefit. Your pension will be reduced as of the date of the divorce, and you will be responsible for the overpayment. Although your marriage or domestic partnership is terminated, **your ex-spouse/domestic partner will remain your "non-spouse" Option 2 or 3 beneficiary and will be eligible to receive a continuation benefit at the time of your death.**

Q: What is a "lifetime cost"?

A: A former spouse has the option of receiving Community Property Interest payments over the member's lifetime or their own lifetime. If a former spouse is younger than the member and elects to receive payments over their own lifetime, the amount they receive will be actuarially reduced based on their own lifetime.

Q: Can I retire if I am in the process of a divorce?

A: Yes. However, if SFERS receives a Notice of Adverse Interest or other written claim asserting community property rights, including a Joinder, a proposed Qualified Domestic Relations Order (QDRO), or a court order, your monthly pension amount will be reduced by the amount of your former spouse's Community Property Interest.

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