

# Community Property and TRSL Benefits

## What is community property?

Most payments or benefits that members receive from the Teachers' Retirement System of Louisiana (TRSL) are considered community property in Louisiana and should be accounted for in any community property settlement.

TRSL funds and payments that may be considered community property include:

- regular retirement benefits;
- refunds of contributions;
- Deferred Retirement Option Plan (DROP) or Initial Lump-Sum Benefit (ILSB) withdrawals; and
- death benefits.

The court system ultimately determines which of these funds or payments are community property.

If a TRSL member divorces or legally separates, the (ex)spouse may claim a portion of any of the above-mentioned payments and benefits that were earned during the time the member and (ex)spouse were married. This is true even if the benefits are not payable until years **after** the divorce.

If the question of benefits and payments is not settled in a community property proceeding, it remains pending.

## Consulting legal counsel

TRSL members who divorce or must otherwise agree on a community property settlement

should consult their own attorneys concerning the partition of their retirement and other community assets and liabilities.

Legal counsel preparing an order to divide TRSL retirement benefits or withdrawals should refer to Louisiana Revised Statutes, Title 11, Section 291.

### ATTENTION:

**Those parts of the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code concerning Qualified Domestic Relations Orders (QDRO) do not apply to TRSL.**

For questions concerning specific community property settlements and their effects on TRSL retirement benefits or withdrawals contact:

**TRSL Legal Division**  
**P.O. Box 94123**  
**Baton Rouge, LA 70804-9123**  
**Phone: 225-925-1829**

## Partial payment of TRSL benefit to (ex)spouse

As part of a community property partition, a court may order TRSL to pay a portion of a retirement benefit to the member's (ex)spouse.

If TRSL **does not** receive a certified copy of a court order directing the System to pay a portion of a retirement benefit, refund, DROP or ILSB withdrawal to an (ex)spouse, **TRSL will pay the entire amount to the member alone.**

This relieves TRSL of any responsibility to the (ex)spouse, and the member will be solely responsible for any claim the (ex)spouse may bring later.

All court orders that divide retirement benefits or withdrawals must specify:

- type(s) of benefits/withdrawals to be split;
- names and current addresses of both the member and the (ex)spouse; and
- the amount or percentage to be paid to the (ex)spouse, or include a specific mathematical formula to compute the portion payable to the (ex)spouse.

## Designating half of benefit for spouse

Any married TRSL member who retires or elects to participate in DROP or ILSB and who is not separated under prior Louisiana law must designate his or her spouse as the Option 2, 2A, or 3 beneficiary.

Retired members must also provide that the spouse is to receive at least one-half of DROP or ILSB withdrawals upon the retiree's death.

This requirement may be waived only if the spouse voluntarily signs a notarized affidavit at the time of retirement or election to participate in DROP or ILSB.



**All TRSL forms and publications are available online.**

Visit the TRSL website at [www.trsl.org](http://www.trsl.org).

**REMEMBER:**

**Prenuptial agreements do not affect payment of survivor benefits in the event of your death before retirement or entry into DROP. LSA-R.S. 11:762**

## Beneficiaries and community property

The issues of divorce, community property, and beneficiaries of funds or benefits are separate issues and must be dealt with separately by court order. Simply because a retiree divorces a spouse does not allow him or her to automatically change or delete the beneficiary listed for retirement benefits.

Here is a summary of how beneficiaries under the different retirement options may be changed or deleted:

- **Maximum Option.** The retiree receives the largest benefit possible but cannot name a beneficiary. No benefits are due anyone after the retiree's death.
- **Option 1.** More than one beneficiary can be named, and the retiree may change those beneficiaries at any time.
- **Options 2, 3, and 4.** One beneficiary can be named, but the retiree cannot change that beneficiary. The beneficiary's death has no effect on the benefit.
- **Options 2A, 3A, and 4A.** One beneficiary can be named, but the retiree cannot change that beneficiary. If the beneficiary dies before the retiree, the benefit reverts to the Maximum Option.

At the present time (except for Option 1) the following situations are the **only** instances in which a retiree can change or delete a beneficiary.

- A retiree who divorces can delete the spouse as a designated beneficiary and change to an actuarially adjusted Maximum Option only if the beneficiary voluntarily agrees to the change and if the change is confirmed by court order. The retiree cannot name a new beneficiary. *LSA-R.S. 11:783 (D)*
- A retiree who selects an option for a spouse, but later proves the marriage was invalid, can either revert to the Maximum Option, which will be adjusted for actuarial equivalency, **or** choose another beneficiary. *LSA-R.S. 11:783 (E)*
- A retiree can remove a designated non-spousal beneficiary if the beneficiary is certified by the State Medical Disability Board as permanently disabled. The retiree's benefit is adjusted to the Maximum Option and reduced to an actuarial equivalent. A new beneficiary cannot be named. *LSA-R.S. 11:783 (G)*
- A retiree can remove a nonspousal, mentally disabled beneficiary if the benefit the beneficiary would receive after the retiree's death would make the beneficiary ineligible for federal benefits of greater value. The retiree's benefit is adjusted to the Maximum Option and reduced to an actuarial equivalent. A new beneficiary cannot be named. *LSA-R.S. 11:783 (I)*

*Revised July 2009*

This public document was published at a cost of \$359.07. Three thousand copies of this document were published by the Teachers' Retirement System of Louisiana, Post Office Box 94123, Baton Rouge, Louisiana 70804-9123, to inform TRSL members of laws and policies that affect them. Printing of this material was purchased in accordance with the provisions of Title 43 of the Louisiana Revised Statutes.

~ Community Property and TRSL Benefits ~



July 2009

# Community Property and TRSL Benefits

**TRSL**  
Teachers' Retirement System of Louisiana