



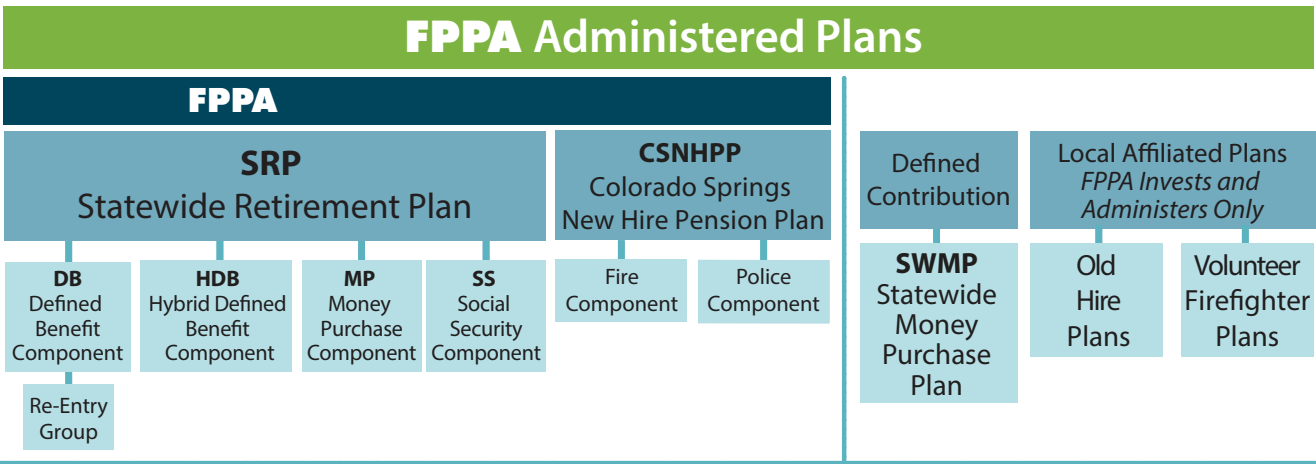
Frequently Asked Questions: Domestic Relations Orders (DROs) For Members of FPPA-Administered Pension Plans

A public employee's retirement benefit constitutes marital property that must be considered when property is divided in a marital dissolution (divorce) in Colorado. Colorado law permits using a Domestic Relations Order (DRO) to divide an FPPA Member's pension benefit, if both parties agree to a DRO and comply with all of the legal requirements specified in Colorado law and FPPA's Rules and Regulations.

To assist with the Domestic Relations Order process, this document addresses the most frequently asked DRO questions from FPPA Members and alternate payees.

Answers are based on the approved forms as of January 1, 2023. Some situations may be different for prior forms.

For forms and plan brochures visit **FPPAco.org**.



SWDD Statewide Death & Disability Plan
Plans above this bar are covered by the Statewide Death & Disability Plan.

457 Deferred Compensation Plan
Plans above this bar may participate in the 457 Deferred Compensation Plan.

FPPA Administered Plans

What plans are administered by FPPA?

FPPA administers defined benefit and defined contribution plans, a death and disability plan, and a 457 deferred compensation plan, as shown in the chart above. It is important to understand how a particular Member’s plan works and how that might impact the timing and nature of any payment directed by the DRO.

What is a Defined Benefit Plan?

A defined benefit plan is a traditional retirement plan that pays a monthly retirement benefit based on a Member’s age and total years of service.

What is the Deferred Retirement Option Plan (DROP)?

DROP is a plan within the Statewide Retirement Plan and the Colorado Springs New Hire Pension Plan (CSNHPP). DROP is available to Members who wish to work beyond the requirements for retirement eligibility. If a Member enters DROP, their retirement benefit is deposited in the DROP account along with their Member contributions. At that point, the Member stops accruing service credit with FPPA. The DROP account is a self-directed account through FPPA’s recordkeeper, Fidelity Investments. The Member may participate in DROP for up to 5 years. The Member’s DROP balance is available for withdrawal when they separate service from the department. (Some Old Hire plans also offer DROP. Percent of pension contributions may vary.) For more information about DROP please see FPPAco.org.

What is a Defined Contribution Plan?

Under this type of plan, the Member is not promised a fixed benefit or pension at retirement. Rather, an individual account is established in the Member’s name, and final account balance depends on how much is contributed and the account’s investment returns. Members direct the investment of the account.

What is a Hybrid Plan?

A Hybrid plan is a type of retirement plan that contains both a defined benefit and a defined contribution account. In retirement, Members receive a defined monthly benefit based on age and years of service, and are able to withdraw the funds in their defined contribution account. The Member’s defined contribution account is not promised or fixed at retirement. Multiple hybrid plan arrangements exist under the Statewide Retirement Plan, most commonly a combination of the Hybrid Defined Benefit Component and the Money Purchase Component.

What is a Money Purchase Plan?

A Money Purchase plan is a defined contribution plan. The Statewide Retirement Plan has a Money Purchase Component that may be available to Members.

What is a 457 Deferred Compensation Plan?

A 457(b) plan is a deferred compensation plan that is maintained by an eligible employer—a state or local government or a non-church, non-governmental tax-exempt organization—that meets the statutory requirements of IRS Code Section 457. Any individual who performs services for an employer who has

adopted a 457 Deferred Compensation Plan may defer compensation and participate under the plan. Contributions are voluntary. Some employers make matching contributions to encourage employees to participate and save more of their money for retirement.

NOTE: Some departments may have 457(b) plans which are not administered by FPPA. FPPA's forms are only designed to affect 457(b) plans administered by FPPA.

What is the Statewide Death & Disability Plan?

This plan covers all full-time firefighter and police officer employees of fire or police departments in Colorado that participate for death or disability coverage. It provides 24-hour coverage, both on and off duty. Generally, the benefits are available for covered Members who are not eligible for Normal Retirement, unless the department has withdrawn from the Statewide Death & Disability Plan. A disability retirement benefit may be divided according to a DRO with an alternate payee after the Member would have been eligible for a Normal Retirement.

General Questions

How do I get information regarding the benefits payable under each of these plans?

Please carefully read the Plan brochure for a description of Plan benefits. It should answer most of your benefit questions. If you still need assistance, please contact the following:

- FPPA staff can provide benefit information for Members of the FPPA Statewide Plans and the Statewide Death & Disability Plan. Contact FPPA's Benefit Administrators
- For benefit information for Old Hire plans, local defined contribution plans, volunteer firefighter plans, or any other type of local governmental pension plan, you must contact the local pension authority directly. FPPA does not provide this benefit information
- For benefit information on non-affiliated 457 deferred compensation plans, you must contact the local plan authority directly

Is a DRO appropriate for everyone?

No. A DRO is not required in every divorce that involves a public employee. The parties should evaluate whether a DRO is appropriate based upon their own particular facts and circumstances of the marriage.

When making these decisions, keep in mind that the death of either the Member or the alternate payee

(former spouse) prior to retirement may result in the alternate payee receiving no benefit. Before deciding whether a DRO is appropriate, ensure that all parties understand the type of plan involved and the plan's specifics.

How can I make sure the DRO I submit is valid?

To be valid, a DRO must satisfy all laws, rules, and procedures applicable to the Plan. FPPA-approved forms provide for the types of payment permissible under the specified plan.

The DRO cannot require payment of any benefit, benefit amount, or distribution option not otherwise permitted by the Plan.

The DRO cannot require FPPA to pay any amount already required to be paid to another alternate payee or already subject to a child support assignment or a federal tax lien.

A court may later modify the DRO, if the parties have agreed in writing to the modification.

How much time do I have to file a DRO and Agreement with FPPA after my divorce?

To be effective, the certified copy of the Order and DRO agreement must be filed with FPPA within ninety (90) days after it is issued by the court. This is a statutory requirement. See Section 14-10-113 (6)(c) (I) C.R.S., as amended.

When does the DRO become effective?

A certified copy of the Order and DRO Agreement must be received by FPPA at least 30 days prior to the first date that a payment is required.

Can FPPA help me fill out the DRO Agreement and determine the method of division?

FPPA cannot provide legal, tax, or other advice to the parties or their attorneys. Furthermore, the parties are responsible for assuring consistency between the DRO and any previous court order(s).

FPPA staff members do not hold the necessary qualifications to advise you on how to calculate the division of benefits or testify as expert witnesses regarding the actuarial valuations of benefits. Parties may need to hire an actuary or other professional to determine benefit allocations.

How and when do I submit my DRO and Agreement?

A DRO for an FPPA-administered Plan (Statewide Retirement Plan, CSNHPP, the Statewide Money Purchase Plan, FPPA's 457 Deferred Compensation Plan,

or Statewide Death & Disability Plan) must be completed on the FPPA-approved form. The parties' written agreement on the form should be submitted for FPPA's review to determine whether FPPA can comply, before court approval of the DRO is sought. Submit the proposed DRO to FPPA's Benefits Department.

A DRO for members of a locally administered plan (Old Hire Plans, Exempt & Withdrawn Money Purchase Plans, Volunteer Firefighter Pension Plans, and 457 Deferred Compensation Plans other than FPPA's plan) must be completed on a form from your local pension authority. Please contact the department directly for the appropriate form. The parties' written agreement on the form should be submitted to your local pension authority for approval. FPPA cannot decide for the local plan whether to honor a Domestic Relations Order. FPPA will take direction from the local plan as to how benefits are paid.

Under the law, both parties to the divorce enter a written agreement that must be approved by the court as a DRO. If the parties cannot reach a written agreement, the court cannot order a DRO.

What is the difference between a DRO and a QDRO?

The pension plans administered by FPPA are "governmental plans" and are specifically exempt from the provisions of the Employee Retirement Income Security Act (ERISA) governing qualified Domestic Relations Orders (QDROs). ERISA's QDRO provisions do not apply here. A DRO for FPPA-administered plans is governed by Colorado law. Section 14-10-113 (6), C.R.S., as amended.

Benefit Payment Questions

A DRO can direct payment only to an "alternate payee" who is the participant's former spouse.

If a DRO is used and is valid and enforceable, FPPA will pay the former spouse directly. FPPA will deduct the amount for the former spouse before paying the Member.

How is the defined benefit portion paid to the alternate payee?

When a Member becomes divorced while an active Member of a police or fire department (Pre-Retirement) and enters into a Domestic Relations Order to divide a Statewide Retirement Plan benefit, the alternate payee will receive a severed benefit. At the time the Member begins receiving a defined benefit, the alternate payee's portion of the defined benefit will be severed from the Member's benefit. This benefit will be adjusted based on actuarial factors, such as the alternate payee's life expectancy,

and will be paid over the lifetime of the alternate payee. The alternate payee's portion will terminate upon the death of the alternate payee and will not revert to the Member or Member's survivor. No payment is made to any beneficiary, heir, or estate of the alternate payee.

When a Member becomes divorced after retirement or after entering DROP (Post-Retirement) and enters into a Domestic Relations Order to divide a benefit in the Statewide Retirement Plan, the alternate payee will receive a portion of the Member's benefit for the remainder of the Member's lifetime. If payment to a retiree of an FPPA-administered plan ceases for any reason, payment to the alternate payee also stops. If the alternate payee dies, the alternate payee's portion will revert to the Member.

What is paid to the alternate payee?

Under a defined benefit plan:

The Member's selection of a monthly benefit or a refund (assuming the Plan permits a refund) controls what the alternate payee receives. Payment to the alternate payee will be made in the same manner selected by the Member, i.e. as a refund in a lump sum amount or as a monthly payment.

The parties may specify payment to an alternate payee by selecting any one of the methods for dividing the pension provided on the approved forms. Annual cost of living increases, if awarded under the pension Plan after the payment starts, will be applied to both the Member's and the alternate payee's portion of the benefit.

All payments to the alternate payee, like payments to the Member, reduce the Member contribution account. Consequently, this reduces the amount that may be paid later as a refund or a single payment, if such a payment were to be made in the future.

When does the alternate payee begin to receive payments?

Under a defined benefit plan:

Payment to an alternative payee will be made when payments commence to the Member after separation from service. They cannot begin earlier. Benefits are based on salary, years of service, and age at retirement. The actual benefit amount cannot be determined prior to retirement. The plan makes monthly payments upon retirement of the Member, although a single lump sum payment may be made under certain circumstances.

Under a defined contribution plan or a 457 deferred compensation plan:

Payment to an alternate payee will be made in a lump sum within ninety (90) to one-hundred-twenty

(120) days after FPPA's receipt of a valid court order and application for payment. The alternate payee may roll-over the lump sum into a non-FPPA sponsored eligible plan.

What happens when the alternate payee dies?

The pension payments to the alternate payee under a defined benefit plan stop. No pension benefit payment is made to any beneficiary, heir, or estate of an alternate payee.

What happens when the member with a defined benefit dies?

Under a DRO filed Pre-retirement:

If the Member dies prior to eligibility for retirement and while actively employed as a firefighter or police officer, the provisions of Section 31-31-801, et seq., C.R.S., as amended, apply. Under this law, survivor benefits are paid to the current spouse and/or dependent children in amounts as specified by statute, in lieu of pension benefits. The alternate payee would not be eligible for any payment.

If the Member dies after retirement, the alternate payee continues to receive the severed benefit for the alternate payee's lifetime.

Under a DRO filed Post-Retirement:

The alternate payee's benefit terminates upon the Member's death. Note: if the alternate payee remained the designated beneficiary after the divorce, a benefit may be payable.

Is the alternate payee's distribution taxable?

FPPA will report payments to alternate payees as taxable income to the Internal Revenue Service. The amount paid to the alternate payee will be reported in their name, not the Member's name. If after-tax contributions were made to the Plan, cost-recovery of those contributions is prorated between the alternate payee and the Member. Each individual should seek their own advice on the tax consequences of the DRO agreement.

Please complete the following items before submitting your Domestic Relations Order For The Division Of Pension Benefits to FPPA:

- The Agreement for Division of Pension Benefits and the Order, in the approved forms, without modification, must be used to complete the DRO. Do not change or modify the form in any way. Complete all applicable blanks on the form
- The signatures of the Member and alternate payee must be acknowledged by a notary public (notarized). Court personnel will not generally provide this notarization
- Before you file documents with the court, please submit the completed DRO form and draft order to FPPA for review to determine whether FPPA can comply with the order as drafted
- Ensure that FPPA receives a certified copy of the DRO and Agreement within 90 days of the date of the Order and that the judge and all parties have signed it
- Receipt of the certified DRO is not the "request" for payment. Each party to the DRO must "apply" to FPPA before any payment can commence. The alternate payee is responsible for providing a current address and informing FPPA that payment to the alternate payee should commence

Submit document drafts and the completed Domestic Relations Order For The Division Of Pension Benefits to the following:

Fire & Police Pension Association of Colorado

Attn: DRO Processing
7979 East Tufts, Suite 900
Denver, CO 80237

Questions? Phone (303) 770-3772 in the Denver Metro area or Toll Free (800) 332-3772 nationwide.
Fax (303) 771-7622

Complete information on the DRO process is also available at FPPAco.org.

This plain language document is intended for informational purposes only. Official interpretations are based upon the statutes, and rules and regulations which govern this plan.

FPPA Fire & Police Pension Association of Colorado

7979 East Tufts, Suite 900 • Denver, CO 80237

(303) 770-3772 ■ toll free (800) 332-3772 ■ fax (303) 771-7622 ■ FPPAco.org