TEACHERS RETIREMENT ASSOCIATION

MARRIAGE DISSOLUTION: Dividing TRA benefits

CONTENTS

PUBLIC PENSION PLANS AND THE LAW

Federal QDRO exemption

TRA is a governmental pension plan and is therefore exempt from the qualified domestic relations order (QDRO) provision of the 1984 Retirement Equity Act. While the 1974 Employee Retirement Income Security Act (ERISA) governs private sector pension plans, it does not apply to public-sector plans like TRA (*see 29 U.S.C. §1003, et seq.*). Consequently, the federal requirements found in Section 1056 of the Retirement Equity Act are not applicable to TRA. TRA cannot implement any QDROs that conflict with Minnesota law or the specific statutory requirements of the retirement fund.

State law requirements

Under Minnesota law, a pension is divided only when there is insufficient "liquid or readily liquidated" marital property—such as cash, savings, or other easily sold assets—to equitably offset the value of the pension. If such liquid assets are available, Minnesota Statutes, section 518.58 requires the court to use those assets to balance the property division instead of the pension itself. Consequently, any decree ordering the division of future TRA payments should explicitly state that an equitable offset was not possible using other marital property.

State law permitting the direct division of public pension plan benefits was enacted on August 1, 1987; therefore, TRA is not authorized to administer the division of pension benefits for marriage dissolutions dated prior to August 1, 1987.

To be enforceable, a decree must comply with Minnesota Statutes, sections 518.58, 518.581, and 518.582, as well as the TRA retirement laws found in Chapters 354 and 356. A certified copy of the decree or order must be filed with TRA immediately upon execution. Under Minnesota Statutes, section 354.10, TRA benefits are protected by law from execution, levy, attachment, or garnishment, except as specifically provided for marriage dissolution or child support.

Furthermore, state law establishes five strict limits on the division of future public pension plan payments:

1. Payments are only available to the extent of the benefits provided under the plan's terms;
2. Payments cannot exceed the duration of the member's own benefit eligibility;
3. TRA is prohibited from issuing a lump-sum payment to a former spouse from the account of an active, deferred, or retired member;
4. If a former spouse dies during the payment period and the rights accrue to an estate or multiple survivors, TRA will only issue payment to a single trustee for subsequent apportionment; and
5. Payments to a former spouse may only begin once the member submits a valid application and the benefit becomes payable.

Finally, if liquid assets are insufficient, the court may order the revocation of an optional annuity designation, allowing the benefit to "bounce-back" to a single life annuity as permitted under Minnesota Statutes, section 356.48.

Legal advice limitations

TRA staff members provide administrative assistance but do not provide legal advice regarding marriage dissolution. It is the member's responsibility to seek private legal counsel. TRA's primary responsibility is to ensure the pension plan remains in compliance with Minnesota Statutes, chapters 354 and 356, and does not exceed the total benefit amount provided by law.

Only a court with proper jurisdiction may provide a final interpretation of a dissolution decree.

Visit ***minnesotatra.org*** *to find recommended sample language for the division of TRA benefits.*

> **If a discrepancy develops between this summary and state law, the law will govern.**

PROVISION OF MEMBER INFORMATION

Access to private data

Under Minnesota Statutes, section 356.49, subdivision 3, TRA is authorized to release private or confidential member data to the court, the parties to a marriage dissolution, their respective counsel, and court-appointed actuaries. This disclosure is contingent on TRA receiving a certified copy of the **Petition for Dissolution of Marriage** and an **Affidavit of Service** confirming the respondent has been served. The mandatory disclosure includes the member's accrued years of service credit, credited salary for the most recent five-year period, a summary of the benefit plan, and all data requisite for calculating the present value of the marital interest. Alternatively, a member may submit a signed release of information authorizing the disclosure, which waives the requirement to provide TRA with the petition and affidavit.

Valuation date of pension benefits

In accordance with Minnesota Statutes, section 356.49, subdivision 1(b), TRA provides benefits data accrued as of the first day of the month following the date of the request or as of the end of the preceding fiscal year. If a specific date of valuation of marital assets is required under section 518.58, the requesting party must specify that date in their written request.

Member's benefit summary

TRA is a defined benefit plan providing lifetime monthly annuities based on a formulaic calculation of the member's age at retirement, length of service, and the average of the highest five successive annual salaries (high-five average). Both members and employers contribute to the fund. Practitioners seeking technical computation methods should consult the TRA Member Handbook of Benefits and Services.

TRA's standard benefit summary includes a deferred estimate of monthly retirement benefits projected to age 55, provided the member is vested (with a minimum three years of service) on the valuation date. Practitioners must note that for members with at least 30 years of allowable service credit, the earliest eligible retirement date may be earlier than age 55 only if the member's initial date of TRA-covered service was prior to July 1, 1989 (Tier I members). For all other vested members (Tier II members), age 55 is the earliest possible retirement eligibility date. If the member is already age 55 or older, or has attained the service requirements for an earlier retirement under the Step formula (Tier I members only), the calculation is performed to the earliest eligible retirement date.

A request that requires an estimate for a specific retirement age other than these standard benchmarks must clearly identify the alternate age. Each summary further details the total allowable service credit, the specific salary history used for the high-five average and the cash value for refund purposes, including with interest accrued through the end of the valuation month.

Determination of present value

Pursuant to Minnesota Statutes, section 518.582, a court-appointed actuary must determine the present value of the marital portion of the pension using the actuarial assumptions specified by the plan for funding or optional annuity forms. TRA provides all necessary data—including annuity rate tables and interest assumptions—to court-appointed or privately retained actuaries for this purpose. The parties may bypass a formal actuarial valuation by stipulating the present value. In these instances, TRA will provide the data necessary to assist the parties in reaching a commercially reasonable valuation.

DIVISION OF PENSION BENEFITS

Dissolution before member retirement

When pension benefits are divided prior to a member's retirement, the decree should account for the impact of that division on survivor benefits in the event the member predeceases the former spouse. The decree should also consider death occurring both before and after the member's actual retirement date and address the refund option and the subsequent effect(s) of permitting a refund.

Annuity elections and survivor protections

In instances where a dissolution decree is silent regarding the member's right to elect an optional annuity, the member retains the right to select any of TRA's six retirement annuity plans. Under these circumstances, a member may elect an annuity structure that is not in the former spouse's best interest, particularly concerning the preservation of a survivor benefit. However, if the decree orders the member to elect a specific annuity plan upon retirement, the former spouse's interest may be legally protected should the member die first. It is important to carefully review the long-term consequences of mandating a specific annuity election, as such requirements may impact the monthly benefit amount available to both parties.

Accelerated retirement annuity considerations

Pursuant to Minnesota Statutes, section 354.35, eligible members may elect an accelerated retirement annuity. If the dissolution decree is silent on this right, the member may exercise this election at their discretion. An accelerated annuity provides higher payments early in retirement followed by reduced payments once the member reaches a certain age. An accelerated annuity may serve the member's immediate financial goals, but it will also have an impact on a former spouse receiving a percentage of the benefit over the long term. To prevent a postretirement reduction in the former spouse's share, the parties should determine if the decree should prohibit the member from electing the accelerated annuity option.

Formula method for division of pension property

Under general marriage dissolution law, when liquid or readily liquidated marital property is insufficient to equitably offset the value of pension benefits, a property division order may specify a percentage of vested pension benefits to be divided. If the member is still employed in a TRA-eligible position, the actual percentage amount cannot be determined at the time of the dissolution because the final length of service is not yet known. Therefore, a formula for dividing the benefit at the time the member becomes eligible must be incorporated into the dissolution decree.

Standard division formula

YEARS OF TRA SERVICE ACCUMULATED DURING THE MARRIAGE	÷	TOTAL YEARS OF TRA SERVICE AT RETIREMENT	X	50% OF ANY ANNUITY, REFUND, OR OTHER BENEFITS PAYABLE WITH RESPECT TO THE MEMBER

Standard division formula

To ensure an equitable division of the marital interest, the decree should establish a specific mathematical ratio. For example, assuming the court divides the benefit 50/50, the order might state that the former spouse (or the former spouse's estate) shall receive a portion of the member's benefit equal to the standard division formula.

Some members object to the standard division formula because as post-dissolution salary increases, the former spouse's future benefits also increase. However, the increased benefits caused by salary increases that occur after the marriage dissolution may be viewed as offsetting the inflation that occurs between the time of the divorce and the member's retirement. From this perspective, the true value and purchasing power of the benefits for both parties are preserved equally by using the formula method rather than a fixed dollar amount.

Estate rights and successor interests

TRA issues the benefit payment directly to the former spouse. If the former spouse predeceases the member, the benefit is payable to the named beneficiary or estate of the former spouse. However, this practice may be modified in the dissolution decree to meet individual circumstances. For instance, parties may choose to waive the beneficiary or estate provision allowing the member to receive the full benefit if the former spouse predeceases the member in exchange for the former spouse receiving a larger percentage of the annuity while living.

Limitations on death and lump sums

It is important to note that under Minnesota law, a former spouse is entitled to only a portion of the member's payable benefit unless the former spouse also has been named a survivor for a lifetime annuity benefit before retirement or an optional annuity plan has been selected at retirement. If the member dies before becoming eligible for an annuity, a former spouse who has not been designated as a beneficiary or survivor for a lifetime monthly annuity is only entitled to a portion of the benefits payable at the time of death, which may be a lump-sum payment of the member's contributions and interest. Granting a percentage of any annuity or refund allows the former spouse to receive a proportionate share of the marital property versus a flat dollar amount.

OPTIONAL RETIREMENT ANNUITIES

Overview of annuity plans

TRA administers six retirement annuity plans, each providing a monthly benefit payable to the member for life. The amount payable varies based on each plan option's unique beneficiary or survivor benefit. The selection of an annuity plan is not made until the member applies for retirement. Retiring members should choose the plan that most effectively meets their individual circumstances, including the needs of their beneficiaries or survivors.

Once an annuity begins, a postretirement increase may be made to the monthly benefit each January, as specified by law.

Standard life and non-survivorship plans

» **No Refund plan:** Payments are payable monthly for as long as the member lives; upon the member's death, the payments cease. If the member dies within two months of the initial payment, the designated beneficiaries receive a lump sum of accumulated contributions and interest, less payments received.

» **Guaranteed Refund plan:** Payments are payable monthly for as long as the member lives. If the member dies before their accumulated contributions and interest have been paid in benefits, the same monthly payment continues to the designated beneficiaries until those savings are depleted (typically a 2-to-6-year period).

» **15 Years Guaranteed plan:** Payments are payable monthly for as long as the member lives, with a guarantee that payments will be made for at least 15 years. If the member dies before the 15-year mark, the designated beneficiaries receive the same monthly annuity for the remainder of the term.

Survivorship plans with bounce-back

Payments are payable monthly for as long as the member lives. The member selects an optional joint annuitant (OJA)—such as a former spouse—for a lifetime benefit equal to 100%, 75%, or 50% of the total monthly benefit.

» **Bounce-back provision:** If the OJA dies before the member, the monthly benefit increases to the higher No Refund plan amount.

» **Court orders:** If the dissolution decree orders the member to select an optional annuity plan in favor of the former spouse, the specific plan must be named in the decree.

Optional annuity selection consequences

1. **Death of former spouse:** If the member selects a survivorship plan with the former spouse as an OJA and the former spouse predeceases the member, while the survivorship coverage terminates, the named beneficiary or estate of the former spouse would receive the court-awarded marital portion of the benefit for as long as the member lives, unless the decree specifically states that the benefit reverts to the member.
2. **Remarriage:** If the member selects a survivorship plan with the former spouse as the sole OJA and the member subsequently remarries, the new spouse is not entitled to any survivor benefits. If the member remarries before retirement, the member may select a survivorship plan with the former spouse as the OJA for the marital portion, and the current spouse as the co-OJA for the remaining portion of the survivorship benefit.

3. **Actuarial cost:** Survivorship plans reduce the monthly payment to the member. If there is a large age difference between the member and a younger former spouse, the cost of providing the option is higher. TRA does not allow for customized cost-sharing of this reduction, so this additional cost should be reflected in the division of other marital property.

Non-spousal optional joint annuitant age restrictions

A member may designate any person as their optional joint annuitant (OJA). However, if the designated OJA is someone other than a spouse, federal tax law imposes strict limitations based on the age difference between the member and the designee. These IRS rules directly impact the availability of the 100% and the 75% survivorship plans.

Allowable plans based on the IRS adjusted age difference

» **100% Survivorship Plan:** Only available if the IRS adjusted age difference is less than 10 years.

» **75% Survivorship Plan:** Only available if the IRS adjusted age difference is less than 20 years.

» **50% Survivorship Plan:** No restrictions. A member can select this plan regardless of the OJA's age.

If a member's age difference qualifies them for the 100% survivorship plan, they may also select the 75% or 50% plan.

The IRS adjusted age difference formula

The IRS does not look at the actual calendar age gap. Instead, the IRS adjusted age difference is calculated using the following three-step method:

1. Subtract the OJA's age from the member's retirement age to find the actual age gap.
2. Subtract the member's retirement age from the number 70.
3. Subtract the result of Step 2 from the result of Step 1 to determine the IRS adjusted age difference.

Example

A member retires at age 60 and wishes to designate a 37-year-old non-spouse as their OJA.

Step 1 (Actual Age Gap):

60 (Retirement Age) – 37 (OJA Age) = 23

Step 2:

70 – 60 (Retirement Age) = 10

Step 3 (IRS Adjusted Age Difference):

23 (Actual Age Gap) – 10 (Retirement Age Difference) = **13 years** (IRS Adjusted Age Difference)

Payments to an estate

If a dissolution decree provides that payments to a former spouse must continue even if the former spouse dies before the member, payments may be made for a period not to exceed the member's lifetime. If the former spouse did not name a beneficiary and the decree does not name a sole successor, TRA must issue payments to the personal representative of the former spouse's estate for subsequent apportionment.

EFFECT ON BENEFITS TO FORMER SPOUSE: PLAN SCENARIOS

No Refund plan

SCENARIO 1 - Member dies first: All payments cease, including payments to the former spouse.

SCENARIO 2 - Former spouse dies first: The former spouse's portion is payable to their named beneficiary or estate for as long as the member lives, unless the decree specifically states that the benefit reverts back to the member. All payments cease upon the member's death.

Guaranteed Refund plan

SCENARIO 1 - Member dies first: If the member's accumulated contributions and interest are depleted, all payments cease. If the accumulated contributions and interest are not depleted, payments continue to the former spouse (and other beneficiaries) until exhausted.

SCENARIO 2 - Former spouse dies first: The former spouse's portion is payable to their named beneficiary or estate until the member's accumulated contributions and interest are depleted or for as long as the member lives, whichever is later, unless the decree specifically states that the benefit reverts back to the member.

15 Years Guaranteed plan

SCENARIO 1 - Member dies first: If death occurs before the 15-year mark, payments continue to the former spouse (and other beneficiaries) until the end of that period. If death occurs after 15 years, all payments cease.

SCENARIO 2 - Former spouse dies first: The former spouse's portion is payable to their named beneficiary or estate until the end of the 15-year period or for as long as the member lives, whichever is later, unless the decree specifically states that the benefit reverts back to the member.

100% Survivorship plan

SCENARIO 1 - Member dies first: If the former spouse is the only OJA, the former spouse receives the total survivor benefit (100% of the total benefit) for life. If there is a co-OJA, the former spouse receives their same marital portion for life, and the remaining benefit goes to the co-OJA for their life.

SCENARIO 2 - Former spouse dies first: The former spouse's portion is payable to their named beneficiary or estate for as long as the member lives, unless the decree specifically states that the benefit reverts back to the member. All payments cease upon the member's death.

75% and 50% Survivorship plans

SCENARIO 1 - Member dies first: If the former spouse is the only OJA, the former spouse receives the total survivor benefit (75% or 50% of the total benefit) for life. If there is a co-OJA, the former spouse receives their same marital portion, capped at 75% or 50% of the total benefit, for life, and the remaining benefit goes to the co-OJA for their life.

SCENARIO 2 - Former spouse dies first: The former spouse's portion is payable to their named beneficiary or estate for as long as the member lives, unless the decree specifically states that the benefit reverts back to the member. All payments cease upon the member's death.

DISSOLUTION AFTER A MEMBER RETIRES

- When a marriage is dissolved after a member retires, the total years of TRA-covered service and the period of marriage are fixed. This allows a court to determine a precise percentage of the existing benefit for the former spouse.
- **Fixed benefit percentage:** Assigning a percentage of the benefit rather than a flat monthly dollar amount more easily allows for the former spouse to receive a proportional share of any benefits payable and future postretirement increases.
- **Irrevocability of annuity plans:** The retirement plan chosen at the time of retirement cannot be changed upon divorce.
  - **Non-Survivorship plans:** If a No Refund, Guaranteed Refund, or 15 Years Guaranteed plan was selected, the plan type is fixed, though beneficiary designations may be updated.
  - **Survivorship plans:** For 100%, 75%, or 50% Survivorship plans, the named spouse remains the survivor unless the decree specifically orders the "revocation" of that status and the "reversion" of the benefit to a single-life amount (i.e. No Refund plan).
- **Revocation exception:** Under Minnesota Statutes, section 356.48, a court may order the revocation of an OJA if the divorce occurs after retirement. However, a revocation can only occur after retirement if the former spouse is the only named OJA.
  - **Effect:** The benefit "bounces back" to the higher No Refund plan amount. The member cannot designate a new joint annuitant for death benefits.
  - **Requirement:** The member must provide a certified copy of the decree specifying that the designation of an optional annuity must be revoked. Both the member and former spouse must complete a TRA form requesting revocation and for the annuity "bounce back" to a single life annuity.
- **Payments to estates:** Since pension payments serve as marital property, the former spouse's share typically continues to their estate or a named beneficiary if the former spouse dies before the member, unless the decree specifically states that the benefit reverts to the member.
- **Flexibility in division:** Using a percentage-based division is highly customizable. Parties may, for example, agree to waive the named beneficiary or estate payment provision in exchange for the former spouse receiving a higher monthly percentage of the current payments.

ACCELERATED ANNUITY

An accelerated annuity allows a member to receive a higher monthly payment until a specified age (62, 65, or the member's Social Security full retirement age), at which point the benefit amount prospectively decreases. This essentially front-loads the pension benefit.

Structure of the benefit: The payment consists of a permanent lifetime portion and a temporary accelerated portion. Because the benefit is front-loaded, the lifetime portion is lower than it would be under a standard annuity.

- **Death prior to designated age:** If the member dies before their respective age threshold, the temporary accelerated portion continues to beneficiaries or an estate until the threshold age is reached, regardless of the annuity plan selected at retirement.

» **Impact on the former spouse:** Both the initial higher payments and the subsequent reduction apply to the former spouse's marital portion. If the member elects this option, the former spouse will also see their monthly payment drop at the member's age threshold.

» **Decree requirements:** To prevent future disputes, the dissolution decree should state whether the member is permitted to or prohibited from electing an accelerated annuity. If the decree is silent, the member is permitted to make this election.

MEMBER DIES BEFORE RETIREMENT

Marital status summaries

This section outlines how TRA benefits are distributed if a member dies before retiring. In these cases, the distribution of benefits is governed by a combination of Minnesota Statutes, sections 354.46 and 354.47, and the specific provisions of a dissolution decree. It is important to note that if a member has remarried, the current surviving spouse possesses certain statutory rights that may impact how and when a former spouse receives their court-ordered marital share.

SCENARIO 1 - Unmarried member:
This scenario applies if the member is divorced and has not remarried at the time of their death. Because there is no "current" surviving spouse, the distribution of benefits is determined by the decree and the member's formal beneficiary designations.

» **Fewer than three years of service (not vested):** Only a lump-sum refund of member contributions plus interest is payable. If the decree awards a proportionate share of whatever death benefit is payable at the time of the member's death, this is divided between the former spouse and the member's named beneficiaries or estate according to the decree.

» **Three or more years of service (vested):** The default benefit is a lump-sum refund of member contributions plus interest. However, a lifetime annuity benefit is available for a former spouse or child(ren) only if they are specifically designated on the Pre-Retirement Death Benefits for Single Members form.

» **Sole recipient option:** A member may designate a former spouse to receive the entire lifetime annuity benefit. In this case, the former spouse is treated as the sole survivor.

» **Marital portion of child(ren)'s benefit:** If the decree awards a proportionate share of whatever death benefit is payable at the time of the member's death, and the member designates their child(ren) to receive a dependent child or lifetime annuity benefit, the former spouse would receive their marital portion of those payments. The child(ren) would then receive the remaining portion of the benefit.

» **Marital portion of lump-sum benefit:** If the decree awards a proportionate share of whatever death benefit is payable at the time of the member's death, and a lifetime annuity benefit option is not chosen, TRA will divide the lump-sum benefit:

- **Former spouse's share:** The proportionate share of the lump-sum benefit is paid directly to the former spouse.
- **Member's share:** The remainder is paid to the member's named beneficiaries or estate.

SCENARIO 2 - Married member:
This scenario applies when a member is divorced and remarried at the time of their death. Because the member is married at the time of death, the current surviving spouse has specific statutory rights that determine how the benefits are distributed.

» **Fewer than three years of service (not vested):** Only a lump-sum refund of contributions plus interest is payable. If the decree awards a proportionate share of whatever death benefit is payable at the time of the member's death, this is divided between the former spouse and the member's current spouse according to the decree.

» **Three or more years of service (vested):** The current surviving spouse has the legal right to elect one of the three benefit options under Minnesota Statutes, section 354.46, unless a dissolution decree requires that the member must designate a former spouse to receive the entire lifetime annuity benefit in the event of the member's death before retirement. The following options assume that the decree awards a proportionate share of whatever benefit is payable at the time of the member's death to the former spouse:

- **OPTION 1 - Lifetime annuity benefit:** The former spouse would receive their marital portion of the monthly payments for the life of the current spouse.
  - **Current spouse dies first:** All payments cease. Because the benefit is based solely on the current spouse's life, the former spouse's payments stop immediately upon the current spouse's death.
  - **Former spouse dies first:** The former spouse's marital portion is paid to their named beneficiary or estate for as long as the current spouse remains living.
- **OPTION 2 - Fixed-period monthly payments:** If the current spouse chooses a fixed period for the monthly payments (of 5, 10, 15, or 20 years), the former spouse would receive their marital portion of the monthly payments for that exact timeframe.
  - **Current spouse dies first:** The former spouse continues receiving their share until the fixed term ends. The current spouse's estate receives the remaining value as a lump sum.
  - **Former spouse dies first:** The former spouse's estate receives the commuted value of their remaining marital portion as a lump sum.
- **OPTION 3 - Lump-sum benefit:** The current spouse may elect a lump-sum benefit instead of monthly payments.
  - The total lump-sum distribution is split between the former spouse and the current spouse according to the decree. If the former spouse is already deceased, their share is paid to their named beneficiary or estate.

REFUND OR DEFERRED ANNUITY

Upon termination of TRA-covered service, a member may apply for a refund of their contributions and interest no sooner than 30 days after the member's last day of work. Vested members have the option to leave their funds in the retirement system to receive a deferred monthly annuity at age 55 or older.

» **Forfeiture of employer contributions:** When a member takes a refund, the employer's contributions and the accrued interest on those contributions are forfeited to the retirement fund. Only the member's own contributions plus 3% interest (compounded annually) are paid out.

» **Impact on the former spouse:** If a dissolution decree awards a percentage of the benefit to a former spouse, and the member elects a refund, the former spouse is only entitled to a portion of the refund amount.

» **Loss of annuity value:** By taking a refund, the member effectively cancels the former spouse's right to a monthly annuity. Because the total value of an annuity is typically much higher than a one-time refund, this election can significantly devalue the former spouse's court-ordered share.

» **Prohibiting a refund:** To protect the potentially higher value of the annuity, a former spouse may seek language in the decree that prohibits the member from taking a refund and requires the funds to remain in TRA for a future deferred annuity.

SAMPLE LANGUAGE

TRA provides additional guidance and specific recommended language for the division of TRA benefits to ensure court orders are clear and administratively feasible. Visit **minnesotatra.org** and go to the Divorce webpages under Life Events in the Member and Retiree menus.

TRA | TEACHERS RETIREMENT ASSOCIATION

60 Empire Drive, Suite 400, St. Paul, MN 55103
800-657-3669 | 651-296-2409 | Fax 651-297-5999
minnesotatra.org

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