RA 26-216

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Regulatory Analysis

Notice of Intended Action to be published: 495—Chapter 16
"Domestic Relations Orders and Other Assignments"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 97B.4 and 97B.15

State or federal law(s) implemented by the rulemaking: Executive Order 10 and Iowa Code sections 17A.3, 97B.4, and 97B.15

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

August 26, 2026 3 to 3:30 p.m.	IPERS Boardroom 7401 Register Drive Des Moines, Iowa Via videoconference call: Join online meeting Meeting ID: 275 109 054 101 443 Passcode: Uf6u9vH3

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis, which must be received by the Iowa Public Employees' Retirement System (IPERS) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Iowa Public Employees' Retirement System
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Des Moines, Iowa 50321
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Purpose and Summary

This proposed chapter was reviewed as part of the Red Tape Review process laid out in Executive Order 10. As a result of this review, IPERS removed restricted terms, combined or eliminated duplicative language, and made editorial updates to ensure the chapter reflects current policies and procedures. IPERS is a State retirement system that provides for the payment of annuities, enables employees to care for themselves in retirement, improves public employment within the State, reduces excessive personnel turnover, and offers suitable attraction to public service. IPERS is required to administer the retirement system.

Analysis of Impact

1. **Persons affected by the proposed rulemaking:**

- **Classes of persons that will bear the costs of the proposed rulemaking:**

This proposed rulemaking does not have a cost to the public.

- **Classes of persons that will benefit from the proposed rulemaking:**

This proposed rulemaking will benefit all IPERS members and beneficiaries and IPERS-covered public employers.

2. **Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:**

- **Quantitative description of impact:**

This proposed chapter will benefit over 2,000 IPERS-covered employers and over 400,000 IPERS members by removing restrictive terms and reducing duplicative terms found both in rule and in the Iowa Code.

- **Qualitative description of impact:**

This proposed rulemaking will benefit all IPERS members and beneficiaries and IPERS-covered public employers.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

IPERS has always incurred personnel and other administrative costs associated with implementing the agency's administrative rules while carrying out agency functions. Implementation of this proposed rulemaking adds no additional expense.

- **Anticipated effect on State revenues:**

This proposed rulemaking will not impact State revenues. IPERS is a trust fund, separate and distinct from the General Fund of the State.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

IPERS is required to adopt rules to regulate and provide for the nature and extent of the proofs and evidence, and their method of taking, in order to establish the right to benefits authorized under Iowa Code chapter 97B.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

IPERS has not identified any less costly methods or less intrusive methods.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

Not applicable.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

Not applicable.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rulemaking does not create a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 495—Chapter 16 and adopt the following **new** chapter in lieu thereof:

CHAPTER 16
DOMESTIC RELATIONS ORDERS AND OTHER ASSIGNMENTS

495—16.1(97B) Garnishments and income withholding orders.

16.1(1) For purposes of this rule, the term "member" includes IPERS members, beneficiaries, contingent annuitants and any other third-party payees to whom IPERS pays a monthly benefit or a lump sum distribution.

16.1(2) Only members receiving payment from IPERS, including monthly benefits and lump sum distributions, are subject to garnishment, attachment, or execution against funds that are payable, pursuant to Iowa Code section 97B.39. Such garnishment, attachment, or execution is not valid and enforceable for members who have not applied for and have not been approved to receive funds from IPERS.

16.1(3) Upon receipt of an income withholding order, IPERS will send a copy of the withholding order to the member. If a garnishment has been issued by a court, the party pursuing the garnishment sends a notice pursuant to Iowa law to the member against whom the garnishment is issued.

16.1(4) IPERS will continue to withhold a portion of the member's monthly benefit as specified in the initial withholding order until the issuing authority instructs IPERS to amend or cease payment. IPERS will continue to withhold a portion of the member's monthly benefit as specified in the garnishment until the garnishment expires or is released.

16.1(5) Funds withheld or garnished are taxable to the member. IPERS may assess a fee in accordance with Iowa Code section 252D.18A(2). IPERS deducts the fee from the gross amount, less federal and state income tax, before a distribution is divided.

16.1(6) A garnishment, attachment or execution will not be levied upon funds that are already the subject of a levy, including a levy placed upon funds by the United States Internal Revenue Service (IRS), unless the requirements of IRC Section 6334(a)(8) as amended to August 1, 2026, are met. Multiple garnishments, attachments and executions are allowed as long as the amount levied upon does not exceed the limitations prescribed in 15 U.S.C. Section 1673(b) as amended to August 1, 2026.

16.1(7) IPERS may release information relating to entitlement to funds to the issuing authority prior to receiving a valid garnishment, attachment, execution, or income withholding order when presented with a written request stating the information requested and reasons for the request. This request must be signed by a magistrate, judge, or child support recovery unit director or the director's designee, including an attorney representing the department of health and human services. In addition, IPERS may release information to the department of health and human services through automated matches.

495—16.2(97B) Domestic relations orders. This rule applies only to marital property orders. All support orders are administered under rule 495—16.1(97B).

16.2(1) *Definitions.*

"Alternate payee" means a member's spouse or former spouse, regardless of gender, who is recognized by a domestic relations order as having a right to receive all or a portion of the benefits payable by IPERS with respect to such member.

"Benefits" means, for purposes of this rule and depending on the context, a refund, monthly allowance (including monthly allowance paid as an actuarial equivalent (AE)), or death benefit payable with respect to a member covered under IPERS. "Benefits" does not include dividends

payable under Iowa Code section 97B.49 or other cost-of-living increases unless specifically provided for in a QDRO.

"Domestic relations order" means any judgment, decree, or order that relates to the provision of marital property rights to a member's spouse or former spouse, regardless of gender, and is made pursuant to the domestic relations laws of a state.

"Member" means, for purposes of this rule, IPERS members, beneficiaries, and contingent annuitants.

"Qualified domestic relations order" or *"QDRO"* means a domestic relations order that divides the marital property of former spouses and assigns to a former spouse alternate payee the right to receive all or a portion of the benefits payable with respect to a member under IPERS and meets the requirements of this rule.

"Successor alternate payee" means a person or persons named in a domestic relations order prior to July 1, 2019, to receive the amounts payable to the former spouse alternate payee under the QDRO if the alternate payee dies before the member. Successor alternate payees must be named individuals, not a class of individuals, a trust or an estate.

"Trigger event" means a distribution or series of distributions of benefits made with respect to a member.

16.2(2) *Requirements.*

a. Mandatory provisions. A domestic relations order is a QDRO if such order:

(1) Clearly specifies the member's name and last-known mailing address; the member's member identification number or social security number; and the names, last-known mailing addresses, and social security numbers of alternate payees. This information is provided to IPERS on IPERS' Confidential Information form;

(2) Clearly specifies a fixed dollar amount or a percentage, but not both, of the member's benefits to be paid by IPERS to the alternate payee or the manner in which the fixed dollar amount or percentage is to be determined, provided that no such method requires IPERS to perform present value calculations of the member's accrued benefit;

(3) Clearly specifies the period to which such order applies;

(4) Clearly specifies that the order applies to IPERS;

(5) Clearly specifies that the order is for purposes of making a property division;

(6) Conforms IPERS with IRS reporting requirements for distributions to successor alternate payees. Prior to July 1, 2019, the taxable portion and basis are prorated to each respective recipient if the payee is the alternate payee. If the payee is a successor alternate payee, the taxable portion and basis are borne by the member, pursuant to IRC Public Law 99-514, 100 Stat. 2085, enacted October 22, 1986, as amended to August 1, 2026. Effective July 1, 2019, a domestic relations order must conform IPERS with IRS reporting requirements for distributions to alternate payees. The taxable portion and basis are prorated to each respective recipient; and

(7) Is clearly signed by the judge and filed with the clerk of court. IPERS considers an order duly signed if it carries an original signature, a stamp bearing the judge's signature, or an electronic clerk-of-court stamp and judge's signature page via the electronic data management system (EDMS) or if it conforms with local court rules.

b. Prohibited provisions. A domestic relations order is not a QDRO if such order:

(1) Requires IPERS to provide any type or form of benefit or any option not otherwise provided under Iowa Code chapter 97B;

(2) Requires IPERS to provide increased benefits determined on the basis of actuarial value;

(3) Requires the payment of benefits to an alternate payee that are required to be paid to another alternate payee under another order previously determined by IPERS to be a QDRO;

(4) Requires any IPERS action that is contrary to its governing statutes or plan provisions;

(5) Awards any future benefit increases that the legislature provides, except as provided in subparagraph 16.2(2)*"c"*(2);

(6) Requires the benefits payment to an alternate payee prior to a trigger event; or

(7) Appoints a successor alternate payee after June 30, 2019.

c. Permitted provisions. A QDRO may also:

(1) If a trigger event has not occurred as of the date IPERS receives the order, name an alternate payee as a designated beneficiary or contingent annuitant or require the payment of benefits under a particular benefit option, or both.

(2) Specify that the alternate payee is entitled to a fixed dollar amount or percentage of dividend payments, or cost-of-living increase or any other postretirement benefit increase to the member (all known as dividend payments), as follows:

1. If the court order awards the alternate payee a fixed dollar amount of benefits, the court order must state the dollar amount of dividend payments to be added or method for determining the dollar amount, or IPERS will give a dividend payment share award no effect; and

2. If the court order awards the alternate payee a specified percentage of benefits, IPERS will add dividends to the alternate payee's retirement allowance share as necessary to keep the alternate payee's share of payments at the percentage specified in the court order.

(3) Bar a vested member from requesting a refund of the member's accumulated contributions without the alternate payee's written consent. If a member applies for a refund, IPERS will send a consent form to the alternate payee at the address of record at IPERS. IPERS must receive the completed consent form within 60 days of mailing. If the consent form is returned undeliverable or IPERS does not receive a response, the member's portion of the refund amount is payable to the member. If the consent form is returned marked "no consent," the refund is not payable to either the member or alternate payee.

(4) Allow benefits to be paid to an alternate payee based on a period of reemployment for a retired member.

16.2(3) *Administrative provisions.*

a. IPERS uses the shared payment method for payments under a domestic relations order. IPERS will not create a separate account for the alternate payee or any successor alternate payee(s). Payment to the alternate payee (or successor alternate payee(s)) is in a lump sum if IPERS pays the member's benefits in a lump sum distribution, or as monthly payments if IPERS pays the member's benefits under a retirement option. A member is not able to receive an AE under Iowa Code section 97B.48(1) unless the total benefit payable with respect to that member meets the applicable requirements. All divisions of benefits are based on the gross amount of monthly or lump sum benefits payable. Federal and state income taxes are deducted from the member's and former spouse alternate payee's respective shares and reported under their respective federal tax identification numbers. Unrecovered basis is allocated on a pro rata basis to the member and alternate payee. Federal and state income taxes are deducted from the member's gross payment when a successor alternate payee(s) receives a payment. Federal and state income taxes are reported under the member's federal tax identification number. Unrecovered basis is allocated to the member.

b. The alternate payee is not entitled to any share of the member's death benefits unless such entitlement is provided in a QDRO or in a beneficiary designation filed subsequent to the dissolution. IPERS may investigate and invalidate beneficiary designations without waiting for complaints as set forth in Iowa Code section 598.20B.

c. A member may submit a new enrollment/beneficiary designation form to IPERS after submitting proof, acceptable to IPERS, that a preretirement divorce is final. However, if IPERS later receives and qualifies a domestic relations order, IPERS will consider the QDRO provisions, except as revoked or modified in a subsequent QDRO, to operate as a beneficiary designation, and give such provisions first priority in the determination and payment of such member's death benefits. Death benefits remaining after IPERS makes QDRO payments, to the extent possible, are then made according to the terms of the member's most recent beneficiary designation. The member may select any option at retirement, including an option that does not provide for payment of postretirement death benefits, if a QDRO does not contain a form of benefit paragraph requiring the member to select a specific IPERS option at retirement. Once a divorce is final postretirement, a member may submit a

new enrollment/beneficiary designation form to IPERS if the member has retired under Option 1, 2 or 5 unless otherwise specified in a QDRO.

d. If an alternate payee has been awarded a share of the member's benefits and dies before the member, IPERS will restore the alternate payee's entire share to the member unless otherwise specified in the order and in the manner required under this rule. To restore the alternate payee's share to the member, IPERS requires the alternate payee's death certificate. If a death certificate cannot be obtained, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, records from the bureau of health statistics, IPERS' own internal records, reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

e. A named successor alternate payee may waive current or future rights to payments to which the successor alternate payee would have otherwise been entitled. The funds waived by a successor alternate payee revert to the member.

(1) The waiver of rights must:

1. Occur prior to the receipt of any payment from IPERS to the successor alternate payee;
2. Be a filed and signed court order; and
3. Be received by IPERS no later than nine months after the alternate payee's date of death or the date on which the successor alternate payee reaches age 21, whichever occurs later.

(2) The waiver of rights by a successor alternate payee is binding and serves to indemnify IPERS from all liability to beneficiaries, heirs, or other claimants for any waiver executed by a successor alternate payee.

f. An alternate payee will not receive a share of dividends or other cost-of-living increases unless so provided in a QDRO.

g. The CEO, or CEO's designee, has exclusive authority to determine whether a domestic relations order is a QDRO. A final determination by the CEO, or CEO's designee, may be appealed in the same manner as any other final agency determination under Iowa Code chapter 97B.

h. A person who attempts to make IPERS a party or requires IPERS to appear as a witness to a domestic relations action in order to determine an alternate payee's right to receive a portion of the benefits payable to a member is liable to IPERS for its costs and attorney's fees.

i. A domestic relations order is not effective until IPERS qualification.

(1) If a member is receiving a retirement allowance at the time IPERS qualifies a domestic relations order, the order is effective only with respect to payments made after the appropriate appeal period has elapsed or been waived by the signature of both parties or their respective counsel. Payment to the alternate payee is withheld from the member's next monthly payment after the date IPERS mails the alternate payee's application.

(2) If the member is not receiving a retirement allowance at the time a domestic relations order is qualified by IPERS and subsequently applies for a refund or monthly allowance, or dies, IPERS will not make distributions until IPERS determines the respective rights of the parties under the domestic relations order. If IPERS has placed a hold on the member's account following written or verbal notification from the member, member's spouse, or either party's respective legal representative, and no further contacts are received from either party or their representatives within the following one-year period, or IPERS has not received and qualified a domestic relations order within that time period, IPERS will release the hold.

j. IPERS and its staff are not liable for making or withholding payments in accordance with the provisions of this rule.

k. IPERS has no duty or responsibility to search for alternate payees. Alternate payees must notify IPERS of any change in their mailing addresses. Once IPERS receives a completed member's application for distribution, IPERS will mail the alternate payee an application. For monthly benefit applications, the alternate payee is eligible for monthly payments as of the member's first month of entitlement.

l. If a QDRO requires the member to select an option with joint and survivor provisions (Option 4 or 6) and name the alternate payee as contingent annuitant, the order must state the percentage in Option 4 or 6 to be payable to the alternate payee as contingent annuitant (the currently available percentages under Option 4 or 6 are 25, 50, 75 and 100 percent). IPERS must receive acceptable birth proof for the alternate payee as the named contingent annuitant, pursuant to 495—subrule 11.1(2), prior to IPERS' approval of the QDRO.

m. For both lump sum and monthly payments, IPERS must receive the alternate payee's tax withholding and rollover elections, if eligible, before the first or current month's benefit is certified for payment or IPERS will use the applicable default tax withholding elections.

n. If a QDRO divides a member's account using a service factor formula and the member's IPERS benefits are based on a number of quarters less than the member's total covered quarters, notwithstanding any terms of the order to the contrary, IPERS will limit the number of quarters used in the numerator and the denominator of the service fraction to the number of quarters actually used in the calculation of IPERS benefits, not to exceed 120 quarters for special service members and 140 quarters for regular and hybrid members. IPERS will not accept or administer a service factor formula fraction in excess of 1.

o. Calculating service factor.

(1) When calculating the service factor pursuant to a domestic relations order:

1. Service credit purchased during the period when the member is married to the alternate payee is added to the numerator and the denominator of the service fraction.

2. Service credit purchased during a period when the member is not married to the alternate payee is only added to the denominator of the service fraction.

(2) The number of quarters in the denominator will never be more than the number of quarters used to calculate the member's benefit.

(3) Service purchase after retirement does not increase or decrease the alternate payee's payment amount that was deducted and was payable at the time of retirement.

p. The parties or their attorneys shall submit one copy of the QDRO.

(1) In addition to the QDRO, the parties', or their attorneys', initial submission must include:

1. A completed, signed, and dated Confidential Information (CI) form;

2. A freshly signed and dated Administrative Rule Compliance for QDROs (ARC) form for every draft order submitted for review. Both the member and alternate payee, or their respective counsel, must sign and date the ARC form.

3. Wet signatures on both forms, except for attorneys or pro se filers, who may sign with their electronic (eFile or EDMS) signatures.

(2) A rejection under this paragraph does not preclude IPERS from placing a hold on a member's account until the status of a proposed order as a QDRO is resolved or the hold is released pursuant to the terms of paragraph 16.2(3)*"i."*

q. If a member has filed for and is receiving monthly pension benefits, or wishes to file an application for retirement or a refund and has a qualified domestic relations order pending on the member's account, the parties (the member and the alternate payee or their counsel of record) may waive the 30-day appeal period following review and qualification of the member's domestic relations order, using a form approved by the system.

r. If a member with an IPERS-approved QDRO is receiving a distribution according to a qualified benefits arrangement (QBA), the alternate payee shares in the distribution to the member unless the order specifically states otherwise.

These rules are intended to implement Iowa Code sections 97B.4, 97B.15, 97B.25, 97B.38 and 97B.39.