

TITLE 2 PUBLIC FINANCE
CHAPTER 85 DEFERRED COMPENSATION
PART 200 DOMESTIC RELATIONS ORDERS FOR DIVISION OF DEFERRED COMPENSATION
ACCOUNTS AT DIVORCE/ WITHHOLDING OF CHILD SUPPORT OBLIGATIONS

2.85.200.1 ISSUING AGENCY: Public Employees Retirement Association, P.O. Box 2123, Santa Fe, New Mexico 87503-2123
[10-15-97; 2.85.200.1 NMAC - Rn, 2 NMAC 85.200.1, 8-15-01]

2.85.200.2 SCOPE: This rule affects participants, ex-spouses of participants, former participants, ex-spouses of former participants, and the deferred compensation third party administrator under the Deferred Compensation Act.
[10-15-97; 2.85.200.2 NMAC - Rn, 2 NMAC 85.200.2, 8-15-01; A, 1-31-02]

2.85.200.3 STATUTORY AUTHORITY: This rule is authorized by NMSA 1978, Sections 10-7A-11 and 10-7A-12.
[10-15-97; 2.85.200.3 NMAC - Rn, 2 NMAC 85.200.3, 8-15-01]

2.85.200.4 DURATION: Permanent.
[10-15-97; 2.85.200.4 NMAC - Rn, 2 NMAC 85.200.4, 8-15-01]

2.85.200.5 EFFECTIVE DATE: July 1, 1991 unless a different date is cited at the end of a section.
[10-15-97; 2.85.200.5 NMAC - Rn, 2 NMAC 85.200.5, 8-15-01]

2.85.200.6 OBJECTIVE: The objective of this rule is to establish standards and procedures for dividing the community interest in deferred compensation plans.
[10-15-97; 2.85.200.6 NMAC - Rn, 2 NMAC 85.200.6, 8-15-01]

2.85.200.7 DEFINITIONS: [Reserved]
[2.85.200.7 NMAC - Rn, 2 NMAC 85.200.7, 8-15-01]

2.85.200.8 GENERAL PROVISIONS

A. Funds from a deferred compensation account may be paid to an alternate payee upon submission of a domestic relations order that conforms to the requirements of this rule and the deferred compensation plan. Funds may also be paid as a result of an approved unforeseen emergency as defined in 26 C.F.R. Section 1.457-2(h)(4). Divorce is not an unforeseeable emergency.

B. A conformed copy of a plan-approved domestic relations court order which determines the community interest in or child support obligation from a participating employee's state of New Mexico deferred compensation plan ["plan"] and assigns a separate interest to the participating employee's spouse, former spouse, child or other dependent shall be provided to the deferred compensation third party administrator ["administrator"] within a reasonable time after entry of the order.

C. The following information must be contained in the domestic relations order:

- (1) the name, social security number and last known mailing address of the participating employee and the alternate payee;
- (2) the amount or percentage of the participating employee's benefit to be paid to the alternate payee, or the manner in which such amount is to be determined;
- (3) the relationship of the alternate payee to the participating employee;
- (4) the number of payments or the period to which the domestic relations order applies;
- (5) the specific name of each plan covered by the domestic relations order;
- (6) all required signatures must be signed by the court.

D. Upon receipt of an appropriate court order, the administrator will provide notice by certified mail, return receipt requested, to a spouse, former spouse or child or other dependent who has a court determined interest in a participating public employee's plan when an application from the participating employee requesting disbursement is received by the administrator.

E. The administrator's files must contain current names and addresses for persons having an interest in plan accounts. Any person who has an interest in a plan account must provide the administrator with a written, notarized

statement of any change of name or address made after entry of the court order. If a notice is returned as undeliverable because of incorrect name or address, the administrator will not be responsible for further attempts at notification.
[10-15-97; 2.85.200.8 NMAC - Rn & A, 2 NMAC 85.200.8, 8-15-01; A, 12-28-01]

HISTORY of 2.85.200 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives under:

DC Rule 200, Division of Deferred Compensation Accounts at Divorce, filed on 12-29-89;

DC Rule 200, Division of Deferred Compensation Accounts at Divorce, filed on 7-1-91.