

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1600.600	Amendment
1600.605	Amendment
1600.610	Amendment
1600.615	Amendment
1600.620	Amendment
1600.625	Amendment
1600.630	Amendment
1600.635	Amendment
1600.640	Amendment
1600.645	Amendment
1600.650	Amendment
1600.655	Amendment
1600.660	Amendment
1600.665	Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) Effective Date of Amendments: July 1, 2009
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: February 2, 2009; 33 Ill. Reg. 2125
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

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- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Revisions to 1600.600 through 1600.665, the Qualified Illinois Domestic Relations Order (QILDRO) rules, are necessary in order to incorporate changes made to the Illinois Pension Code through Public Act 94-657.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Kelly A. Jenkins, General Counsel
State Universities Retirement System
1901 Fox Drive,
Champaign, IL 61820

217/378-7516 or 217/378-8838

The full text of the Adopted Amendments begins on the next page:

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TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEMPART 1600
UNIVERSITIES RETIREMENT

SUBPART A: GENERAL

Section

- 1600.100 Definitions
- 1600.110 Freedom of Information Act
- 1600.120 Open Meetings Act
- 1600.130 Procurement

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section

- 1600.202 Return to Employment
- 1600.203 Independent Contractors
- 1600.205 Compensation Subject to Withholding
- 1600.210 Crediting Interest on Participant Contributions and Other Reserves
- 1600.220 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
- 1600.230 Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
- 1600.240 Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
- 1600.250 Sick Leave Accrual Schedule
- 1600.260 Part-time/Concurrent Service Adjustment
- 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%

SUBPART C: CLAIMS PROCEDURE AND EVIDENTIARY REQUIREMENTS

Section

- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries
- 1600.310 Dependency of Beneficiaries
- 1600.320 Procedures to be Followed in Medical Evaluation of Disability Claims

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SUBPART D: BENEFIT CALCULATION AND PAYMENT

Section

1600.400	Determination of Final Rate of Earnings Period
1600.410	Twenty Percent Limitation on Final Rate of Earnings Increases
1600.420	Making Preliminary Estimated Payments
1600.430	Excess Benefit Arrangement
1600.431	Indirect Payments to Minors and Legally Disabled Persons
1600.432	Indirect Payments to Child Survivors Through the Surviving Spouse
1600.440	Voluntary Deductions from Annuity Payments
1600.450	Overpayment Recovery

SUBPART E: ADMINISTRATIVE REVIEW

Section

1600.500	Rules of Practice – Nature and Requirements of Formal Hearings
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SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

1600.600	Definitions
1600.605	Requirements for a Valid Qualified Illinois Domestic Relations Order
1600.610	Invalid Orders Curing Minor Deficiencies
1600.615	Filing a QILDRO with the System
1600.620	Modified QILDROs
1600.625	Benefits Affected by a QILDRO
1600.630	Effect of a Valid QILDRO
1600.635	QILDROs Against Persons Who Became Members Prior to July 1, 1999
1600.640	Alternate Payee's Address
1600.645	Electing Form of Payment
1600.650	Automatic Annual Increases
1600.655	Expiration of a QILDRO
1600.660	Reciprocal Systems QILDRO Policy Statement
1600.665	Providing Benefit Information for Divorce Purposes

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40 ILCS 5/15-177].

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SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 10757, effective July 1, 2009.

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section 1600.600 Definitions

- a) The definitions in Section 1-119(a) of the ~~Illinois~~ Pension Code ~~(the Act)~~ [40 ILCS 5/1-119(a)] shall apply to the rules contained in this Subpart.
- b) The phrase "alternate payee" in Section 1-119(a)(1) of the ~~Pension Code~~ ~~Act~~ means a current spouse, former spouse, child, or other dependent of a SURS member, as designated in a QILDRO.
- c) The phrase "death benefit" in Section 1-119(a)(2) of the ~~Pension Code~~ ~~Act~~ means a benefit paid pursuant to Section 15-141 or 15-142 of the ~~Pension Code, or any lump-sum payment under Section 15-145(e) of the Pension Code~~ ~~Act~~ [40 ILCS 5/15-141, 15-142].
- d) The phrase "member's refund" in Section 1-119(a)(5) of the ~~Pension Code~~ ~~Act~~ does not include an "error refund" as defined in subsection (e) of this Section.

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- e) The phrase "error refund", as used in this Subpart, means a refund paid to a member as the result of an error in a payment to the System, a refund paid to a member when the required employee or employer contributions necessary to purchase or reinstate service credit have not been fully paid, or a refund of contributions made under Section 1600.240(e).
- f) The phrase "disability benefit" in Section 1-119(a)(3) of the Pension CodeAct includes:
- 1) A disability benefit under Section 15-150 of the Pension CodeAct ~~[40 ILCS 5/15-150]~~; or
 - 2) A disability retirement annuity under Section 15-153.2 of the Pension CodeAct ~~[40 ILCS 5/15-153.2]~~.
- g) The phrase "member's retirement benefit", as used in this Subpart, means the total amount of the retirement benefit as defined in Section 1-119(a)(8) of the Pension CodeAct ~~[40 ILCS 5/1-119(a)(8)]~~ that would be payable to the member in the absence of a QILDRO.
- h) The phrase "partial member's refund", as used in this Subpart, includes:
- 1) A refund of survivor benefit contributions;
 - 2) A refund of excess contributions or interest; or
 - 3) A refund of waived service credit.
- i) The phrase "permissive service", as used in this Subpart, means service credit purchased by payment of voluntary contributions by the member under Sections 15-113.1(c), 15-113.2, 15-113.3, 15-113.5, 15-113.6, 15-113.7, 15-113.8 and 15-113.9 of the Pension Code and service credited under Section 15-113.4 of the Pension Code. Permissive service restored upon the repayment of a refund under Section 15-154(b) of the Pension Code is restored as permissive service.
- j) The phrase "regular service", as used in this Subpart, means service credited under Sections 15-113.1(b) and 15-113.3 of the Pension Code without the payment of voluntary contributions. Regular service restored upon the repayment

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of a refund under Section 15-154(b) of the Pension Code is restored as regular service.

- k) The phrase "effective date of retirement", as used in Section 1-119 of the Pension Code and this Subpart, means the beginning of the "annuity payment period" as defined in Section 1600.100.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order

~~The State Universities Retirement System (SURS) will accept a court order as a valid Qualified Illinois Domestic Relations Order, or QILDRO or QILDRO Calculation Court Order if it, that~~ meets all of the following requirements:

- a) The following requirements apply to the QILDRO and the QILDRO Calculation Court Order:

1)a) The order must be accompanied by a \$50 non-refundable processing fee, by check or money order payable to the State Universities Retirement System.

- b) ~~If the order applies to a person who became a SURS member before July 1, 1999, it must be accompanied by the original Consent to Issuance of QILDRO form signed by the member, or a certified copy of the original. The consent cannot be signed by a judge, sheriff, or any person other than the member.~~

2)e) The order must be a certified copy of the original.

3)d) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce ~~thesuch~~ property distribution. A judgment, order or notice of income withholding for support under a support enforcement mechanism under Title IV-D of the Social Security Act (42 USC 666) or any other state law that purports to divide or garnish the member's retirement benefit under any proceeding for the declaration of invalidity of marriage, legal separation or dissolution of marriage will not be honored by SURS unless the judgment, order or

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notice is accompanied by a QILDRO (and if applicable, a QILDRO Calculation Court Order) issued by an Illinois court.

- ~~4)e)~~ The order must contain the name, residence address, and Social Security number of the member.
- ~~5)f)~~ The order must contain the name, residence address, and Social Security number of the alternate payee.
- ~~6)g)~~ The order must identify the State Universities Retirement System as the retirement system to which it is directed.
- ~~7)h)~~ The order must identify the court that issued it.
- ~~i)~~ The order must specify the dollar amount of the benefit and/or refund payable to the alternate payee. Percentages or formulas are not permissible. The order may specify a termination date or total amount that, when paid out, terminates the QILDRO.
- ~~8)j)~~ The order must apply only to benefits that are statutorily subject to QILDROs, as provided in Section 1-119(b)(1) of the Pension Code Act [40 ILCS 5/1-119(b)(1)].
- ~~9)k)~~ The ~~orders~~order and, if applicable, the Consent to Issuance of QILDRO, must be in the form adopted by SURS as of the date the order is received. Any alterations will invalidate the order.
- ~~10)l)~~ The effective date of the order must be after July 1, 1999.
- ~~b)m)~~ The following additional requirements apply only to the QILDRO: The order must designate whether the alternate payee will receive automatic annual increases.
 - 1) If the QILDRO applies to a person who became a SURS member before July 1, 1999, it must be accompanied by the original Consent to Issuance of QILDRO form signed by the member, or a certified copy of the original. The consent cannot be signed by a judge, sheriff or any person other than the member. A QILDRO issued on or after July 1, 2006 that modifies a QILDRO issued prior to July 1, 2006 must be accompanied by

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an original Consent to Issuance of QILDRO signed by the member on or after July 1, 2006.

- 2) The QILDRO must specify each benefit to which it applies, and it must specify only one method by which the benefit shall be paid to the alternate payee.
 - 3) If any benefit is to be paid using the Marital Portion Benefit Calculation, the QILDRO must comply with Section 1-119(n)IX of the Pension Code and the QILDRO must contain language in conformance with Section 1-119(n)IX(1) and (2) properly completed. The "other" option must only be checked for the purpose of using a combination of permissive service and regular service. If the "other" option is checked, a supplemental order stating the details of the combination must accompany the QILDRO. The supplemental order must not purport to establish a formula differing from the ones appearing under Section 1-119(n) of the Pension Code or purport to create new classes of service credit.
 - 4) If the member is a participant of the Traditional or Portable Benefit Package, the order must designate whether the alternate payee will receive automatic annual increases as provided under Section 1-119(n)IV of the Pension Code.
 - 5) If the member is a participant of the Self-Managed Plan who has an account balance, then the QILDRO may only provide for the division of the account balance as of a certain date. If the Self-Managed Plan member is receiving benefits under an annuity contract, then the QILDRO may only divide the member's retirement benefit or death benefit, if any, or both.
- c) The following additional requirements apply only to the QILDRO Calculation Court Order:
- 1) The QILDRO Calculation Court Order must allocate benefits consistent with the underlying QILDRO. Benefits that will never become payable on or after the date the QILDRO Calculation Court Order is filed need not be allocated under the QILDRO Calculation Court Order

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- 2) Benefits allocated using a calculation method on the QILDRO Calculation Court Order must contain a clear result of the equation. SURS is not obligated to review or verify the equations or assist in the calculations to determine the benefits.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.610 Invalid Orders~~Curing Minor Deficiencies~~

An order failing to satisfy all the applicable requirements under Section 1600.605 shall be invalid and shall not cause the member's benefits to be divided or reduced absent the submission of a new order satisfying those requirements. The new order shall not be treated as a modified order under Section 1600.620 and shall not be implemented retroactively.

- a) ~~An order containing one or more deficiencies listed in subsection (b) of this Section may be corrected and resubmitted within 60 days after the date SURS sends notice of the deficiency or deficiencies. Such 60 day period is referred to in this Section as the cure period.~~
- b) ~~Only the following deficiencies may be corrected during the cure period:~~
 - 1) ~~The order is not accompanied by a \$50 non-refundable processing fee, by check or money order made payable to the State Universities Retirement System, or else the check does not clear.~~
 - 2) ~~The order is not a certified copy of the original.~~
 - 3) ~~The order omits the residence address or Social Security number of the member or the alternate payee.~~
 - 4) ~~The order contains an inaccurate residence address or Social Security number of the member or the alternate payee.~~
 - 5) ~~The order contains a misspelled name of the member or the alternate payee.~~
 - 6) ~~The order applies to a person who became a SURS member before July 1, 1999, and is not accompanied by the original, or certified copy of a, valid Consent to Issuance of QILDRO signed by the member, or the consent~~

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~~form is not in the form adopted by SURS.~~

- ~~7) The order does not designate whether the alternate payee will receive automatic annual increases or similar periodic adjustments.~~
 - ~~8) Any other deficiency deemed by SURS, in its sole discretion, to be of a minor nature.~~
- e) ~~If SURS receives an order containing one or more deficiencies identified in subsection (b) of this Section, and the order applies to a member who is currently receiving a monthly benefit payment, SURS will hold the portion of the benefit payable to the alternate payee during the cure period until either:~~
- ~~1) SURS determines that all deficiencies have been corrected during the cure period; or~~
 - ~~2) The cure period expires and one or more deficiencies have not been corrected.~~
- d) ~~If SURS determines that all deficiencies have been corrected during the cure period, the QILDRO will be deemed received as of the date the original order was received.~~
- e) ~~If the cure period expires and SURS determines that one or more deficiencies have not been corrected, the order will be deemed invalid, and any amounts held during the cure period will be paid to the member.~~

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.615 Filing a QILDRO with the System

- a) A QILDRO or QILDRO Calculation Order should be sent to the SURS Legal Department~~Member Services Division~~, accompanied by the consent form, if applicable, and the \$50 non-refundable processing fee.
- b) A QILDRO or QILDRO Calculation Order will be deemed received by SURS on the date it is file-stamped as received at the SURS office.
- c) Within 4530 calendar days after receiving a QILDRO or QILDRO Calculation

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Order, SURS will review ~~the order~~ and notify the member and each alternate payee by first-class mail that it has received the QILDRO or QILDRO Calculation Order, and whether it is a valid order. If SURS determines that the order is not a valid QILDRO or QILDRO Calculation Order, the notice will specify the ~~reason~~ reasons.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.620 Modified QILDROs

- a) A QILDRO or QILDRO Calculation Order that has been modified by the issuing court must be submitted in the same manner as the original ~~order~~QILDRO. A separate \$50 non-refundable processing fee is required for each modified ~~order~~QILDRO.
- b) A modified QILDRO will hold the same priority of payment that the original QILDRO held, as long as it does not increase the dollar amount or percentage~~(other than cost-of-living adjustment)~~ of any benefit payable to the alternate payee or affect a different benefit that was not previously affected (other than automatic annual increases). A modified QILDRO Calculation Court Order will not affect the priority of payment of the underlying QILDRO.
- c) If a modified QILDRO does increase the amount or affect benefits not previously affected~~different benefits~~ (other than automatic annual increases~~cost-of-living adjustment~~), it will lose the priority held by the original QILDRO and priority of payment will be based on the date SURS received the modified QILDRO.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.625 Benefits Affected by a QILDRO

- a) A QILDRO may apply only to the following benefits administered by SURS:
 - 1) A monthly retirement benefit;
 - 2) A single-sum retirement benefit;
 - 3) A termination refund; ~~and~~

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- 4) A partial member's refund; and-
- 5) A death benefit.
- b) If a QILDRO specifies a dollar amount payable to an alternate payee from any partial member's refund that becomes payable, the aggregate amount paid to the alternate payee from all partial member's refunds shall not exceed the dollar amount specified in the QILDRO.
- c) A QILDRO shall not apply to any of the following:
- 1) A death benefit;
- 1)2) A monthly survivor benefit;
- 2)3) A disability benefit;
- 3)4) A disability retirement annuity; and
- 4)5) An error refund.
- d) Any option under a paragraph pertaining to a benefit that is left blank shall be interpreted to not apply to the order. If all options under a particular benefit are blank, then the alternate payee shall not receive any portion of the benefit.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.630 Effect of a Valid QILDRO

- a) Timing of Effect. In no event shall a QILDRO apply to any benefit paid by SURS before or within 30 days after the order is received. [40 ILCS 5/15-119(c)(3)] SURS shall not delay the payment of any benefit to a member due to the receipt of a QILDRO. In addition to the foregoing, the following shall apply:
- 1) Retirement Benefits. A provision under a QILDRO dividing a retirement benefit under Section 1-119(n)III of the Pension Code shall take effect as ordered under either Section 1-119(n)III(B) or (C) of the Pension Code.
- 2) Member's Refunds and Death Benefits. A provision under a QILDRO

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dividing a member's refund or death benefit shall take effect when the member's refund is paid or as soon as administratively possible after the member's death.

- 3) Self-Managed Plan Accounts. A QILDRO pertaining to a member of the Self-Managed Plan having an account balance shall only divide the vested account balance between the member and the alternate payee as of a certain date (or the closest valuation date if the plan provider cannot provide a valuation on the date specified). The division shall be made in relation to a dollar amount, a percentage of the gross balance, or a percentage of a balance derived from the marital period. The System shall process the division as soon as administratively possible after receipt of the QILDRO or, if required, the QILDRO Calculation Court Order. If the QILDRO divides the member's account balance in accordance with this subsection (a)(3), the System shall ignore purported divisions of other benefit types.

- b) Timing of Payments. Benefits subject to a QILDRO shall be paid in the following manner:

- 1) Dollar Divisions. If a retirement benefit, member's refund or death benefit is divided by a dollar amount, then the payments shall be made when the QILDRO takes effect under subsection (a).
- 2) Percentage Divisions. If a retirement benefit, member's refund or death benefit is divided as a percentage of the gross benefit or as a percentage of the marital portion of the benefit, payment shall be made as soon as administratively possible upon the receipt of a valid QILDRO Calculation Court Order.

A) Withholding of Anticipated Payments. If the member participates in the Traditional or Portable Benefit Packages prior to the receipt of a QILDRO Calculation Court Order, SURS shall withhold an amount from a member's retirement benefit for which a QILDRO is effective under subsection (a). The member and any other alternate payees shall be paid the remaining portion of the benefit in their order of priority.

- i) If the division is by a percentage of the gross benefit, then

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- the amount withheld shall be calculated by applying the applicable percentage to the benefit.
- ii) If the division is by a percentage of the marital period, then the amount withheld shall be calculated by applying the applicable percentage and by assuming that all service, contributions, interest or earnings attributable to periods between the marriage date and the date of dissolution are attributed to the marital period. Any academic year containing a portion of the marital period shall, in its entirety, be considered part of the marital period for this purpose.
- iii) If SURS cannot reasonably determine from the QILDRO alone the amount to be withheld, neither the member nor the alternate payee shall be paid until the QILDRO is modified to allow for a reasonable determination of the anticipated payment or until a QILDRO Calculation Court Order is received.
- iv) If SURS discovers that it has over-withheld due to the receipt of a QILDRO Calculation Court Order, the excess shall be distributed to the member and any other alternate payees in their order of priority. SURS shall not pay any interest to the member or any other alternate payees for any amounts over-withheld.
- v) If SURS discovers that it has under-withheld due to the receipt of a QILDRO Calculation Court Order, SURS shall make a deduction from the remaining portion of the next monthly retirement benefit payable and pay the deducted amounts to the alternate payee as soon as administratively possible. The deduction rate shall be no more than 50% of the remaining monthly retirement benefit payment net of tax or insurance withholdings. The deduction shall recur for each monthly retirement benefit payment thereafter until the alternate payee is paid the under-withheld amount in full. SURS shall not pay any interest to the alternate payee for any amounts under-withheld.

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~~occur:~~

- ~~1) If the member has not yet begun receiving benefits, the QILDRO will be placed in the member's file and will be implemented when the first affected benefit payment begins; or~~
- ~~2) If the member is already receiving benefits subject to the QILDRO, payment to the alternate payee will begin with the first payment occurring at least 30 days after the QILDRO was received by SURS.~~

- ~~b) If a member has applied for a refund that has not yet been vouchered when SURS receives a QILDRO that purports to apply to the refund, SURS will hold the refund until the court clarifies whether the QILDRO applies to the pending refund payment. It is the member's or alternate payee's responsibility to obtain clarification from the court and to notify SURS of the court's clarification.~~
- ~~c) If a refund payment has already been vouchered when SURS receives a QILDRO that applies to the refund, the QILDRO shall not be effective against that refund.~~
- ~~d) "Vouchered" as used in this Section means the check has been processed and printed.~~
- ~~e) If a benefit is subject to multiple QILDROs, the QILDROs will be satisfied, to the extent that the benefit is not exhausted, in the order in which the QILDROs were received by the System.~~

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999

- a) In accordance with Section 1-119(m)(1) of the Pension Code Act [40 ILCS 5/1-119(m)(1)], a QILDRO that applies to a person who became a SURS member prior to July 1, 1999, must be accompanied by the original Consent to Issuance of QILDRO signed by the member. A consent form signed by a judge, sheriff or any other person in lieu of other than the member is invalid. A QILDRO issued on or after July 1, 2006 that modifies a QILDRO issued prior to July 1, 2006 must be accompanied by an original Consent to Issuance of QILDRO signed by the member on or after July 1, 2006.

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- b) If the original is unavailable, a certified copy of the consent form filed with the court that issued the QILDRO is acceptable in lieu of the original.
- c) The Consent to Issuance of QILDRO must be in the form adopted by SURS (including judicial district and county, case number and caption, member's name and SSN, alternate payee's name and SSN, member's signature and date) as of the date the QILDRO is received; otherwise it will be deemed invalid. The required consent form is available from SURS upon request.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.640 Alternate Payee's Address

- a) An alternate payee is responsible to report to SURS, in writing, each change in his or her name and residence address.
- b) When a member's retirement benefit or refund subject to a QILDRO becomes payable, SURS will send notice to the alternate payee's last known address that the [retirement](#) benefit, ~~or~~ refund [or death benefit](#) is payable. Beyond that, SURS shall have no duty to take any other action to locate an alternate payee.
- c) If the notice is returned undelivered, SURS will hold the amount payable to the alternate payee, as provided in Section 1-119(e)(2) of the [Pension Code Act](#) ~~[40 ILCS 5/1-119(e)(2)]~~ for 180 days from the date SURS sent the notice or 180 days from the date the benefit becomes payable, whichever is later. The amount held will not bear interest.
- d) If SURS is notified of the alternate payee's current address within 180 days, SURS will release the amount held to the alternate payee. If SURS does not learn of the alternate payee's current address within 180 days, SURS will release the amount held to the member.
- e) If SURS later learns of the alternate payee's current address, SURS will implement the QILDRO, but the alternate payee will have no right to any amounts already paid to the member.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.645 Electing Form of Payment

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- a) A member whose benefit is subject to a QILDRO may not elect a form of payment that would diminish the amount payable to the alternate payee, unless the alternate payee has consented to such election in [a notarized written statement submitted to SURS writing](#), as provided in Section 1-119(j)(1) of the [Pension CodeAct](#) [40 ILCS 5/1-119(j)(1)].
- b) A member's election either to receive or forego a proportional annuity under the Retirement Systems Reciprocal Act [40 ILCS 5/[Art. 20](#)] is not a prohibited election under Section 1-119(j)(1) of the [Pension CodeAct](#).
- c) A member's election to take a refund is not a prohibited election under Section 1-119(j)(1) of the [Pension CodeAct](#).
- d) A member's election of a form of payment of annuity that reduces the member's total benefit, while still allowing full payment to the alternate payee under a QILDRO at the date of the election, is not a prohibited election under Section 1-119(j)(1) of the [Pension CodeAct](#).
- e) If there is some question as to whether an election would diminish the amount payable to an alternate payee, SURS may hold the election until clarification is obtained from a court of competent jurisdiction. It shall be the duty of the member or alternate payee to obtain clarification.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.650 Automatic Annual Increases

- a) The alternate payee will or will not receive a proportionate share of any automatic annual increase in the member's retirement benefit under Section 15-136 of the [Pension CodeAct \[40 ILCS 5/15-136\]](#), according to the designation in the QILDRO.
- b) Except as provided in subsection (c) of this Section, the initial increase in the amount due the alternate payee under the QILDRO is payable with the next succeeding increase ~~in~~ [due the member's retirement benefit](#) ~~member~~ after the date the QILDRO first took effect.
- c) If the QILDRO first takes effect in the same month the member's [retirement](#)

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benefit is increased, the alternate payee's initial increase is not payable until the next increase in the member's [retirement](#) benefit.

- d) SURS will calculate the amount of any increase payable to the alternate payee under the QILDRO.
- e) The amount of any increase payable to the alternate payee (~~other than any increase resulting from the member's initial automatic annual increase~~) is the percentage of increase ~~applied to~~ [the member's retirement benefit](#) under Section 15-136 of the ~~Pension Code Act~~ [\[40 ILCS 5/15-136\]](#), multiplied by the alternate payee's monthly benefit as of the date of the increase.
- f) ~~The amount of any increase payable to the alternate payee resulting from the member's initial automatic increase is the percentage of increase due the member under Section 15-136 of the Act [40 ILCS 5/15-136], multiplied by the alternate payee's monthly benefit as of the date of the increase, multiplied by a fraction, the numerator of which is the number of months elapsed between the effective date of the QILDRO and the date the initial increase becomes payable, and the denominator of which is the number of months elapsed between the date of retirement and the date the initial increase becomes payable.~~

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.655 Expiration of a QILDRO

- a) A QILDRO expires upon the death of the alternate payee. The right to receive the affected benefit will then revert to the member.
- b) A QILDRO expires upon the death of the member, [except to the extent that the order pertains to a death benefit](#).
- c) A QILDRO expires when the member takes a refund that terminates his or her participation in SURS. This is true even if the member's refund is paid to an alternate payee. A QILDRO that expires because the member took a refund is not renewed by his or her subsequent return to SURS membership.
- d) If a retired member returns to work, the QILDRO payments may be suspended. If so, the payments will resume when the member retires again.

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- e) A QILDRO expires by its terms or upon receipt of a certified copy of a court order terminating the QILDRO.
- f) A QILDRO expires after the specified number of payments have been made to the alternate payee under Section 1-119(n)III(D)(2) of the Pension Code, unless the alternate payee is to receive all or a portion of the death benefit.
- g) The QILDRO expires upon payment of a death benefit or portion of the benefit to the alternate payee under Section 1-119(n)VII of the Pension Code.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.660 Reciprocal Systems QILDRO Policy Statement

It is the policy of SURS to administer QILDROs in a manner consistent with the Policy Statement of the Association of Retirement Systems on Qualified Illinois Domestic Relations Orders (the Reciprocal Systems QILDRO Policy Statement). To the extent that there is any conflict between this SubpartPart and the Reciprocal Systems QILDRO Policy Statement, this SubpartPart shall control.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)

Section 1600.665 Providing Benefit Information for Divorce Purposes

- a) Information by Subpoena or Member Request. SURS shall provide the information listed under Section 1-119(h)(1) of the Pension Code within 45 days after receipt of a subpoena from any party to a proceeding for declaration of invalidity of marriage, legal separation or dissolution of marriage in which a QILDRO may be issued, or after receiving a request from the member. If so requested in the subpoena, SURS shall also provide in response general retirement plan information available to a member and any relevant procedures, rules or modifications to the model QILDRO. Within 45 days after receiving a subpoena or request from a member, SURS will provide a statement for divorce purposes regarding the value of a member's retirement benefit through the last completed academic year for which data are on file with SURS.
- b) QILDRO Division by Percentages. If a QILDRO provides for the alternate payee to receive a percentage of the gross or marital portion of a benefit, SURS shall provide the applicable information to the member and the alternate payee, or to

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~~one designated representative of each, as indicated below: Information provided by SURS for divorce purposes does not include the value of a member's retirement benefit accrued during an academic year for which data are not yet on file with SURS.~~

- 1) Self-Managed Plan Account Divisions under Section 1-119(h)(1.5)(A) of the Pension Code. If a member is a participant in the Self-Managed Plan and the QILDRO provides that the only benefit the alternate payee is to receive is a percentage of the member's vested account balance on a specific date that has already passed, within 45 days after SURS receives the QILDRO SURS shall provide the account balance to which the QILDRO percentage is to be applied.
 - 2) Preliminary Information under Section 1-119(h)(1.5)(B) of the Pension Code. SURS shall provide the information listed under Section 1-119(h)(1.5)(B) of the Pension Code within 45 days after receipt of the QILDRO.
 - 3) Finalized Information under Section 1-119(h)(1.5)(C) of the Pension Code. SURS shall provide the information under Section 1-119(h)(1.5)(C) of the Pension Code within 45 days after receipt of the QILDRO if received after the effective date of retirement. If the QILDRO is received before the effective date of retirement, SURS shall provide the information within 45 days after all information necessary for the finalization of the member's benefits has been received.
 - 4) Death Benefit Information under Section 1-119(h)(1.5)(D) of the Pension Code. If the QILDRO divides a death benefit, SURS shall provide the information required under Section 1-119(h)(1.5)(C) of the Pension Code within 45 days after receipt of notice of the member's death or when administratively practicable, whichever is later.
- c) Information provided by SURS for divorce purposes does not include the value of a member's retirement benefit accrued during an academic year for which data are not yet on file with SURS, reflect an actuarial opinion as to the present values of a member's retirement benefit, refund, or other interests.
- d) Information provided by SURS for divorce purposes does not reflect an actuarial opinion as to the present value of a member's retirement benefit, refund or other

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interests.

- e) Information provided by SURS for divorce purposes reflects the member's total service career for which service credit in SURS has accrued, and is not isolated as to the marital period only.
- e) ~~SURS does not calculate the amount of a member's retirement benefit or refund that would be payable to a former spouse pursuant to a divorce decree or dissolution judgment.~~
- f) While SURS makes every effort to provide accurate information for divorce purposes, benefit estimates are by their nature approximate and subject to revision due to errors, omissions, erroneous assumptions, or future changes in the rules and laws governing SURS.
- g) SURS does not disclose information for divorce purposes to spouses, former spouses, relatives, or other third parties, including the member's attorney, except in response to the member's written authorization to release ~~the such~~ information, ~~or~~ in response to a subpoena, or in accordance with subsections (a) and (b) of this Section.

(Source: Amended at 33 Ill. Reg. 10757, effective July 1, 2009)