



Community Property & TRSL benefits



What is community property?

Most payments or benefits that members receive from the Teachers' Retirement System of Louisiana (TRSL) are considered community property in Louisiana (to be shared with your spouse) and should be accounted for in any community property settlement.

TRSL funds and payments that may be considered community property include the following:

- Regular retirement benefits
- Refunds of contributions
- Deferred Retirement Option Plan (DROP)
- Initial Lump-Sum Benefit (ILSB)
- Death and survivor benefits

The court system ultimately determines which of these funds or payments are community property.

If a TRSL member divorces or the community property regime is terminated (under a judgment of separation of property), the (ex) spouse may claim a portion of any of the previously mentioned payments and benefits that were earned during the time the member and (ex)spouse were married. This is true even if the benefits are not payable until years after the divorce.

If the question of benefits and payments is not settled in a community property proceeding, it remains pending.



ATTENTION: Those parts of the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code concerning Qualified Domestic Relations Orders (QDRO) do not apply to TRSL.



Designating your spouse as beneficiary

Any married TRSL member who retires or elects to participate in DROP or ILSB and who has a community property regime under Louisiana law must designate his or her spouse as the Option 2, 2A, or 3 beneficiary.

Retired members must also provide that the spouse is to receive at least one-half of DROP or ILSB withdrawals upon the retiree's death.

This requirement may be waived **ONLY** if the spouse voluntarily signs a notarized affidavit at the time of retirement or election to participate in DROP or ILSB.

Making partial payments to an (ex)spouse

As part of a community property partition, a court may order TRSL to pay a portion of a retirement benefit to the member's (ex)spouse. If TRSL does not receive a certified copy of a court order directing the System to pay a portion of a retirement benefit, refund, DROP or ILSB withdrawal to an (ex)spouse, TRSL will pay the entire amount to the member alone.

This provision relieves TRSL of any responsibility to the (ex)spouse, and the member will be solely responsible for any claim the (ex)spouse may bring later.

All court orders that divide retirement benefits or withdrawals must specify:

- type(s) of benefits/withdrawals to be split;
- names and current addresses of both the member and the (ex)spouse; and
- the amount or percentage to be paid to the (ex)spouse, or include a specific mathematical formula to compute the portion payable to the (ex)spouse.



Prenuptial agreements do not affect payment of survivor benefits in the event of your death before retirement or entry into DROP. LSA-R.S. 11:762

Beneficiaries and community property

The issues of divorce/community property and beneficiaries of funds or benefits are separate issues and must be dealt with separately by court order. Simply divorcing a spouse does not allow a retiree to automatically change or delete the beneficiary listed for retirement benefits.

The ability to change or delete a beneficiary depends on the restrictions of the retirement option chosen:

Maximum Option	Retiree receives the largest benefit possible and names no beneficiary. No benefits are due anyone upon retiree's death.
Option 1	More than one beneficiary can be named, and retiree may change beneficiaries at any time.
Options 2, 3, & 4	One beneficiary can be named, but the retiree cannot change that beneficiary. The beneficiary's death has no effect on the benefit.
Options 2A, 3A, & 4A	One beneficiary can be named, but retiree cannot change that beneficiary. If the beneficiary dies before the retiree, the benefit reverts to the Maximum Option.

At the present time (except for Option 1) the following situations are the only instances in which a retiree can change or delete a beneficiary:

- A retiree who divorces can delete the (ex)spouse as a designated beneficiary and change to an actuarially adjusted Maximum Option only if the beneficiary voluntarily agrees to the change and if the change is confirmed by court order. The retiree cannot name a new beneficiary. *LSA-R.S. 11:783 (D)*

- A retiree who designates a spouse as beneficiary and selects Option 2A, 3A, or 4A, and later proves the marriage was invalid, can revert to the Maximum Option, which will be adjusted for actuarial equivalency. The retiree may also designate a new beneficiary subject to the appropriate actuarial reduction of benefits. *LSA-R.S. 11:783 (E)*

- A retiree can remove a designated nonspousal beneficiary if the beneficiary is certified by the State Medical Disability Board as having a permanent disability. The retiree's benefit is adjusted to the Maximum Option and reduced to an actuarial equivalent. A new beneficiary cannot be named. *LSA-R.S. 11:783 (G)*

- A retiree can remove a nonspousal beneficiary if the beneficiary is certified by the State Medical Disability Board as having an intellectual disability and the benefit the beneficiary would receive after the retiree's death would make the beneficiary ineligible for federal benefits of greater value. The retiree's benefit is adjusted to the Maximum Option and reduced to an actuarial equivalent. A new beneficiary cannot be named. *LSA-R.S. 11:783 (I)*

Consulting legal counsel

TRSL members who divorce or must otherwise agree on a community property settlement should consult their own attorneys concerning the partition of their retirement and other community assets and liabilities.

Legal counsel preparing an order to divide TRSL retirement benefits or withdrawals should refer to Louisiana Revised Statutes, Title 11, Section 291.

For questions concerning specific community property settlements and their effects on TRSL retirement benefits or withdrawals, contact:

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Last revised August 2023

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