



Discussing Pensions with Pension Values, LLC

Trina A. Reddall, M.B.A.
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Topics for Today

Categories of Pensions

- Plans Sponsored by Federal, State and Local Government Agencies
- Plans Sponsored by Business & Private Non-Profit Organizations
- Union-Management-Negotiated Multi-Employer Retirement Plans



Topics for Today

Defined Benefit Plans

- Methods of Division
- Service Credit Purchases
- Survivor Benefits
- Cash Balance Plans
- Overview of a Pension Valuation



Topics for Today

Defined Contribution Plans

- Tracing vs. Time-rule
- Loans
- Withdrawals
- Post-separation account fluctuations



Categories of Pensions

Plans Sponsored by Federal, State and Local Government Agencies

- Federal - CSRS, FERS, US Military
- State - CalPERS and CalSTRS
- Local - CalPERS, SLOCPTRS, SBCERS, VCERA, LACERS, LACERA



Categories of Pensions

Plans Sponsored by Business & Private Non-Profit Organizations

- AT&T
- Kaiser
- PG&E
- Raytheon



Categories of Pensions

Union-Management-Negotiated Multi-Employer Retirement Plans

- IBEW / NEBF (electrical workers)
- Operating Engineers
- Pipe Trades
- Teamsters
- AFTRA, SAG, DGA, PGA, MPIPP (movie industry plans)



Terminology

Federal, State, and Local Government Agencies

- Member (person who has participated in the plan)
- Non-member (member's spouse or ex-spouse)

Businesses, Non-Governmental Organizations & Unions

- Participant (person who has participated in the plan)
- Alternate payee (participant's spouse or ex-spouse)



Methods of Division for Defined Benefit Plans

Separate-Interest QDRO / Separate/Segregated-Account DRO

A “carve out” order creates the fiction that the non-participant / non-member held the participant / member’s job for some portion of their career; this establishes the non-participant / non-member’s right to receive monthly / lump-sum benefits directly from the plan.

- Be wary of private sector and union plans which often do not pass on actuarial subsidies to non-participant spouses resulting in substantially reduced benefits.
- Please consider separate / segregated account divisions for State & Local Government agency plans because their non-member benefits can sometimes maximize community wealth.



Methods of Division for Defined Benefit Plans

In-Kind Division

Non-participant / non-member spouse waits until the participant / member elects to draw retirement benefits, receiving his/her community-half-interest share [usually via “tag-along” QDRO or DRO], directly from plan(s), upon distribution.

- Be wary of private sector and union plans which can undergo major plan revisions when they become underfunded resulting in lower community benefits than expected at retirement.
- For State & Local Government agency plans there are scenarios where it makes more sense for the non-member to wait to receive his / her share.



Service Credit Purchases

Many State & Local Government agency plans offer their members the opportunity to purchase Service Credit, which enhances their pension.

- Service Prior to Membership
- Leave of Absence
- Redeposit of Withdrawn Contributions
- Alternate Retirement Program (ARP) Service
- Peace Corp, AmeriCorps, VISTA
- Military Service
- Additional Retirement Service Credit (ARSC)



Apportioning Service Credit Purchases

For all types of purchases except ARSC, I believe we can rely on the following cases:

- *Marriage of Lucero* (1981)
- *Marriage of Sonne* (2010)
- *Marriage of Green* (2013)

Ronald Reddall and I proposed a method in our January 2011 *California Family Law Monthly* article: In re *Marriage of Sonne*: Considering CalPERS “Air Time” which suggested using an employment-based time-rule to apportion the ARSC.

CalPERS tends to apportion ARSC based on when it was paid for (i.e. during marriage = all community).



Survivor Benefits

Effective 1/1/1987, our state Legislature abrogated the “terminable interest rule.”

California Family Code Section 2610

“Except as provided in subdivision (b), the court shall make whatever orders are necessary or appropriate to ensure that each party receives the party's full community property share in any retirement plan, whether public or private, **including all survivor and death benefits...**” (emphasis added)

It's important to consider both survivor and death benefits in any case where one of the parties has a defined-benefit pension that you will divide.



What cases might I read?

Waite v. Waite (1972)

Marriage of Carnall (1989)

Marriage of Nice (1991)

Marriage of Cooper (2008)

Marriage of Sonne (2010)



Survivor Benefits for an In-Pay-Status Pension

When a pension is in-pay-status, you need to focus on what survivor benefits were elected at retirement to understand the options for both parties.

Questions to ask:

- What election was made at retirement?
- Is that election irrevocable?
- Is any portion of the survivor benefit **not** payable to the non-member/alternate payee post-dissolution?



Survivor Benefits for a Deferred Pension

When a pension is deferred and you decide to divide the pension, there may be division methods which protect the non-member spouse in the event that the member dies before retirement:

- CalPERS Community Property Option 4
- CalSTRS Compound Option
- Does a separate account or separate interest order make sense based on the individual circumstances of the parties?



Death Benefits

When a pension is deferred, you also need to focus on what death benefits are available to understand how to protect the non-member/alternate payee.

- If dividing the pension, does the DRO/QDRO have language written into it that will divide any death benefits which are payable in the event that the member dies prior to retiring?
- Does the plan offer ongoing monthly death benefits or just lump-sums?
- Is it likely that the member/participant will have a future spouse?



CalPERS

Deferred Pension

- Model Order A (Separate Account)
- Model Order B (Community Property Option 4)

Pay-Status Pension

- Unmodified / Option 1 (absent a survivor continuance, monthly benefit ceases upon member's death)



CalPERS

Pay-Status Pension (continued)

- All other Optional Forms of Settlement [2, 2W, 3, 3W, 4 (2W+1), 4 (3W+1)] pay a monthly benefit to a named beneficiary when the member dies.
- Allowances under Options 2 & 3 can “pop-up” to the Unmodified benefit after a qualifying event (beneficiary’s death, marital dissolution).
- Options 2W, 3W, 4 (2W+1) and 4 (3W+1) can not “pop-up” after a qualifying event.



***CalPERS* Survivor Continuance**

Survivor Continuance is a contractual benefit provided by some employers that provides a monthly payment to an eligible survivor following a member's death after retirement regardless of the retirement option the member selected.

This is a “free” survivor benefit that is foregone upon dissolution of marriage, while a legal separation will preserve this benefit.

Many safety members have this benefit, so when they retire they often select the *Unmodified* or *Option 1*. However, after a marital dissolution, there is no ongoing benefit payable to an ex-spouse.



***CalPERS* “Eligible Survivor”**

An eligible survivor may be:

- Your spouse or domestic partner, if you were married for at least one year before your retirement and remained married until your death.
- If you do not have an eligible spouse or registered domestic partner, your unmarried natural or adopted children under age 18 will receive this monthly benefit until marriage or age 18. An unmarried child who was disabled prior to age 18 and whose disability has continued without interruption will receive this benefit until the disability ends or until marriage.
- If none of the above, economically dependent parents may qualify.
- It's important to note that while you can choose any person as the beneficiary of your retirement benefits after your death, only certain family members qualify as an eligible survivor.
- If you do not have an eligible survivor, the survivor continuance benefit is not payable.



CalSTRS

Deferred Pension

- *Segregation method*
- *Time-rule formula*

Pay-Status Pension

- Member-Only (monthly benefit stops upon member's death)
- 100% / 75% / 50% Beneficiary Options
- Compound Option
- *CalSTRS* is more flexible than *CalPERS* in regards to changing your Option after a marital dissolution



***CalSTRS* Compound Option**

- Can be elected before or after retirement.
- Can be useful after a marital dissolution because it is flexible.
- The member can provide benefits beyond his/her death for both a current spouse and a previous spouse.
- The monthly cost of the option can be shared or deducted from either the member or nonmember spouse's benefit.



CSRS

Deferred Pension

- No segregated accounts
- Survivor Annuity for a Former Spouse can be drafted into order (up to 55% of full annuity)

Pay-Status Pension

- Survivor Annuity can be terminated after a marital dissolution

Survivor Annuity Cost

- 2.5% percent of the first \$3,600 used as a base for the survivor annuity, plus 10% of any amount over \$3,600



FERS

Deferred Pension

- No segregated accounts
- Survivor Annuity for a Former Spouse can be drafted into order (25% or 50% of full annuity)

Pay-Status Pension

- Survivor Annuity can be terminated after a marital dissolution

Survivor Annuity Cost

- 5% reduction for 25% survivor annuity and 10% reduction for 50% survivor annuity



USMRS

Deferred Pension

- No segregated accounts
- Often the service member is not vested
- Watch out for disability applications

Pay-Status Pension

- Survivor Annuity is 55% of the Annuity Base Amount
- Survivor Benefit Plan (SBP) coverage is eliminated automatically, upon marital dissolution, absent the retiree taking certain specific actions within 1 year of the final decree date.



Businesses, Non-Governmental Organizations & Union Plans

Deferred Pension

- Separate Interest QDRO's are often available, but be wary of how plan calculates alternate payee's benefit.

Pay-Status Pension

- Most of these plans are under *ERISA*, so the survivor benefit election is irrevocable, but the benefit is usually payable post-dissolution.
- Be wary of *Waite v. Waite* reversions in the event that the alternate payee predeceases the participant.



Cash Balance Plans

- A cash balance plan is a defined-benefit plan that defines the benefit in terms that are more characteristic of a defined-contribution plan.
- A cash balance plan defines the promised benefit in terms of a stated account balance.
- It is the modern private sector pension plan.
- Use caution when looking at these plans.



Overview of a Pension Valuation

- Valuation date
- Mortality Table
- Interest Rate
- Time-rule apportionment fraction
- Vested vs. non-vested
- Matured vs. non-matured
- Accrued vs. projected

Private Sector Plan - PG&E

- The pension is vested, but not matured.
- The report focuses on the earliest maturity date.
- The report is based on an accrued benefit.
- The entire accrued benefit is valued.
- The pension is apportioned with a time-rule.
- This plan does not have a built in cola.

PENSION VALUES, LLC
TRINA A. REDDALL, MBA
OFFICE@PENSIONVALUESLLC.COM
POST OFFICE BOX 1121
SANTA CRUZ, CA 95061-1121
TELEPHONE (800) 228-8279
FACSIMILE (888) 228-8279

March 13, 2020

Zealous Advocate, Esq.
701 Ocean Street
Santa Cruz, CA 95060

Re: Marriage of Smith

Dear Ms. Advocate:

I find a **\$490,000 to \$492,000** present community-interest in Mr. William Smith's Pacific Gas & Electric Company Retirement Plan. **No other sources of deferred compensation have been included (e.g.: community defined-contribution PG&E RSP accumulations).**

Birth (William Smith / Active Participant-Spouse)	August	27, 1965
Birth (Melinda Smith / Active Participant's Spouse)	August	4, 1966
Continuous Full-Time Employment Commenced	February	16, 1990
Marriage Date	June	4, 1994
Marital Separation Date	January	20, 2013
Buy-Out Value at Participant's Current Age 54-7/12.....	March	31, 2020
18%-Reduced Monthly Benefit Payable at Age 55-0/12..	September	1, 2020

Est. Vested 18%-Reduced Earliest Pension: \$4,653.50 per month (82% of est. \$5,675/mo. at age 65 benefit) payable at earliest age 55

Vested Monthly Benefit's Actuarial Value at Age 55-0/12:\$813,664 (*94 Group Annuity Mortality Table, Male, Basic, 4.50%/yr. interest)

Vested Age 55 Monthly Benefit's Actuarial Value Now: \$797,450 (*94 GAMB, 4.50%) Each dollar due at age 55 is now worth 98.0073¢.

Tammen (1976) Nonliquidity/Nonpledgeability Reduced: \$794,127 (Actuarial present value is reduced one percent for each deferment yr.)

Present Community Interest: 61.84% (18.63 community years ÷ 30.126 company employment years to 3/31/20) **\$490,000 to \$492,000**

Ms. Community Half-Interest Now: 30.92% **\$245,000 to \$246,000**

Respectfully submitted,
Trina A. Reddall
Trina A. Reddall
TAR:mm

Government Plan - CalPERS

- The pension is vested and matured.
- The report does not focus on the earliest maturity date.
- The report is based on an accrued benefit.
- Only the community's accrued benefit is valued.
- This plan does have a built in cola.

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March 13, 2020

Zealous Advocate, Esq.
701 Ocean Street
Santa Cruz, CA 95060

Re: **Marriage of Smith**

Dear Ms. Advocate:

I find a **\$152,000 to \$154,000** present community-interest in Ms. Melinda Smith's vested and matured monthly **CalPERS** benefits. All reported Service is School 2%@55 [add'l Green (2013) Service, Carnall (1989)/Nice (1991) survivor benefits, 403(b) not included].

Birth (William Smith / PERS Nonmember)	August	27, 1965
Birth (Melinda Smith / PERS Member-Spouse)	August	4, 1966
Marriage Date	June	4, 1994
CalPERS Membership Date	October	9, 2002
Marital Separation Date	January	20, 2013
10.799 Reported Service Credit Years through FYE ...	June	30, 2013
Nmbr./Ms. Service Retire. Allow. Matured at Age 50	August	4, 2016
Nmbr./Mr. Service Retire. Allow. Maturable since	August	4, 2016
Valuation at Current Ages of 53.66 and 54.59	March	31, 2020

Mbr./Ms. Est. Accrued Community Unmodified Benefit: \$687/mo.
(est. 10.3 community yrs. x 2% x est. \$40,000/12) payable at 55.00

Mbr./Ms. Est. Accrued Community Benefit's Value Now: \$153,169
[*94GAFB; 4.50%/yr. int.; 2%/yr. cola; 1.34% Tammen (1976) red.]

Nmbr./Mr. 10.3-Yr./MAX. Separate Acct. Benefit: \$687/mo.
(est. 10.3 community yrs. x 2% x est. \$40,000/12) payable at 55.00

Nmbr./Mr. 10.3-Yr./MAX. S.A. Benefit's Value Now: \$144,717
[*94GAMB; 4.50%/yr. int.; 2%/yr. cola; 0.41% Tammen (1976) red.]

Phillipson (1970) Community Interest Now: \$152,000 to \$154,000

Nmbr./Mr. Community Half-Interest Now: \$76,000 to \$77,000
*or: est. \$350/mo.+colas 8/4/21 to him/designee on her life (Cornejo '96)
or: est. \$343/mo.+colas 8/27/20 to him over his own life (Separate account)*

Respectfully submitted,

Trina A. Reddall
Trina A. Reddall / TAR:mm



Defined Contribution Plans

Tracing vs. Time-rule

- It is my preference that defined-contribution plans are apportioned using *Behrens* (1982) tracing.
- If there is a premarital accumulation in the account, most experts will request a complete set of statements covering the date of marriage through the present.
- If there is not a premarital accumulation in the account, most experts will request a complete set of statements covering the date of marital separation through the present.
- Parties may agree to a time-rule when documents are not available for tracing, but time-rules do not account for loans, withdrawals or inconsistent voluntary employee contribution rates.



Defined Contribution Plans

Loans

- Take note of how an expert accounts for them in any tracing report.
- The loan is from the plan participant's account, so any amount due at the time of separation will likely be paid back via payroll deductions from the participant's paycheck to their own plan.

Withdrawals

- The accounting is different for these because the amount will not be returned to the account.
- Take note of whether the community had sufficient accumulations to cover the withdrawal.



Defined Contribution Plans

Post-separation account fluctuations

- In a bull market, the plan-participant wants the community-interest to be determined as of the date of marital separation without accounting for post-separation growth on the community's share.
- In a bear market, the plan-participant's spouse wants the community-interest to be determined as of the date of marital separation without accounting for post-separation losses on the community's share.



Questions?