

CITY OF FORT PIERCE - OFFICE OF THE CITY ATTORNEY

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**M E M O R A N D U M**

**TO:** Thomas K. Perona, Retirement Board Chair

**FROM:** James T. Walker, Assistant City Attorney

**RE:** Amendment to Rule 16 (Qualified Domestic Relations Orders)  
Retirement Board Rules of Procedure

**DATE:** April 15, 2015

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This memorandum serves to follow up on discussion which took place before the Board at its March meeting regarding Board Rule 16 (Qualified Domestic Relations Orders). It will be recalled that outside counsel, Jim Linn, had been invited to review Rule 16 in its present form and did express some criticism of it. His remarks on that were copied to the Board at the March meeting.

It is suggested that Rule 16 now be modified to provide as follows:

**Rule 16. Qualified Domestic Relations Orders (QDROs).**

**Section (a). Prepayment of Cost.** In the event there is received by the BOARD a QDRO issued by a court of competent jurisdiction designating the BOARD as a payor for purposes of Section 414(p) of the United States Internal Revenue Code, the BOARD shall determine whether actuarial calculation is necessary to determine the amount actually payable as provided by the QDRO. If such calculation is necessary, the payee shall be notified of the actuaries' reasonable fee and the QDRO shall be further considered upon receipt of the fee.

**Section (b). Alimony and Child Support.**

In the event the QDRO states that the obligations secured thereby is for payment of alimony or child support, ~~the QDRO shall immediately be honored in the manner provided for by law upon receipt of prepayment if such prepayment is required as above and~~ there has been prepayment of the actuarial fee above, the retirant shall be given notice of the QDRO and informed that payment

thereon shall commence within 10 days thereafter in the event the retirant makes no written objection to payment as delivered to the office of the Board's secretary. In the event the retirant objects to payment, a hearing shall be set on the QDRO with notice give to both the obligor and obligee.

**Section (c). Other Obligation.**

~~In the event the QDRO states that the obligation secured thereby is for an obligation other than alimony or child support, such as for equitable distribution of marital assets, then, upon receiving prepayment as necessary, the BOARD shall give notice pursuant to Rule 7(b) to the employee or plan participant of its intent to honor the QDRO unless there be any valid reason it should not do so. Failure of the employee or plan participant to respond or appear will be construed as a waiver of any objection to the QDRO and agreement that payment thereof is appropriate. Following a public hearing, the BOARD will then either accept or reject the QDRO. A copy of the BOARD's written order will be sent by regular mail to the employee or plan participant, and the payee. Only normal retirement benefits are subject to this section. Disability retirement benefits are not subject to QDROs except as provided by Section 14(b) above the party submitting said QDRO for payment shall be given notice that payment is denied based upon Code Section 13-56. The party shall be given notice of a right to request a hearing pursuant to Rule 9 on the denial.~~

*s/ James T. Walker*

James T. Walker, Esq.  
Assistant City Attorney

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cc: Robert V. Schwerer, City Attorney  
Gloria Johnson, Board Secretary  
Johnna Morris, Chief Accountant