

§ 1653.20

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balance, excluding any outstanding loan amount as of the end of the month preceding the date of payment. If the entitlement calculated pursuant to this subpart exceeds the participant's vested account balance (excluding any outstanding loan amount), then only the vested amount in the account (excluding the outstanding loan balance) will be paid.

(d) The entire amount of an entitlement created by a qualifying court order must be disbursed at one time. A series of payments will not be made even if the court order provides for such a method of payment. A payment pursuant to a court order extinguishes all further rights to any payment under that order even if the entire amount of the entitlement could not be paid. Any further award must be contained in a separate court order.

(e) Payment cannot be made jointly to more than one person. If payment is to be made to more than one person, the order must separately indicate the amount to be paid to each.

(f) In order to make a payment pursuant to a retirement benefits court order, the Board's recordkeeper must be provided with the full name, mailing address, and Social Security number of the payee, even if the payment is being mailed to another address.

(g) If the payee dies before a payment is made pursuant to a qualifying retirement benefits court order, payment will be made to the estate of the payee, unless otherwise specified by the court order. If the participant dies before payment is made pursuant to a qualifying retirement benefits order entered before the participant's death, the order will be honored as long as it is submitted to the Board before payment of the account, regardless of whether the order was received by the Board before the participant's death.

(h) If the parties to a divorce or annulment are remarried, or a legal separation is terminated, a new court order will be required to prevent payment pursuant to a previously submitted qualifying retirement benefits court order.

(i) Payment to a person (including the estate of the payee) pursuant to a qualifying retirement benefits court order made in accordance with this

subpart bars recovery by any other person pursuant to that order.

(j) Payments pursuant to qualifying court orders will be paid *pro rata* from the TSP investment funds, based on the balance in each fund on the date as of which the payment is made. The Board will not honor provisions of court orders that require payment to be made from specific investment funds.

[60 FR 13609, Mar. 13, 1995, as amended at 61 FR 18912, Apr. 29, 1996]

Subpart B—Legal Process for the Enforcement of a Participant's Legal Obligations To Provide Child Support or Make Alimony Payments

SOURCE: 60 FR 45624, Aug. 31, 1995, unless otherwise noted.

§ 1653.20 Purpose and scope.

This subpart contains regulations prescribing the Board's procedures for responding to legal process for the enforcement of a participant's legal obligations to make alimony or child support payments, as required by 5 U.S.C. 8437(e)(3).

§ 1653.21 Definitions.

As used in this subpart:

Alimony means the payment of funds for the support and maintenance of a spouse or former spouse. Alimony includes separate maintenance, alimony *pendente lite*, maintenance, and spousal support. Alimony also can include attorney's fees, interest, and court costs, but only if these items are expressly made recoverable by qualifying legal process as described in § 1653.23.

Child support means payment of funds for the support and maintenance of a child or children. Child support includes payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children. Child support also can include attorney's fees, interest, and court costs, but only if these items are expressly made recoverable by qualifying legal process as described in § 1653.23.

Legal obligation means an obligation to pay alimony or child support, or

both, that is currently enforceable under appropriate State or local law. A “legal obligation” may include currently payable, as well as past due, alimony or child support. However, “legal obligation” does not mean any future obligation to make alimony or child support payments.

§ 1653.22 Service of legal process.

The Thrift Savings Plan will only review legal process for the enforcement of a participant’s legal obligations to provide child support or make alimony payments upon receipt of that process. Receipt by an employing agency or any other office of the government shall not constitute receipt by the Thrift Savings Plan. Legal process should be submitted to the Thrift Savings Plan Recordkeeper at the following address: TSP Service Office, National Finance Center, P.O. Box 61500, New Orleans, LA 70161-1500. Receipt by the recordkeeper will be considered receipt by the Thrift Savings Plan.

§ 1653.23 Requirements for “qualifying” legal process.

(a) The TSP will only honor legal process if it meets each requirement of paragraph (b) of this section and one of the requirements of paragraph (c) of this section.

(b) Legal process must meet each of the following requirements in order to be qualifying:

(1) The legal process must be a writ, order, summons, or other similar process in the nature of a garnishment that is issued by:

(i) a court or competent jurisdiction within any State, the District of Columbia, territory, or possession of the United States, or an Indian court; or

(ii) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor such process; or

(iii) an authorized official pursuant to an order of such a court of competent jurisdiction or pursuant to State or local law; or

(iv) A State agency authorized to issue income withholding notices pursuant to State or local law or pursuant to the requirements of 42 U.S.C. 666(b).

(2) The legal process must “expressly relate” to the Thrift Savings Plan account of a current participant. This means that it must express a clear intent to deal with the TSP as distinct from other Federal Government retirement benefits or non-Federal retirement benefits.

(3) The legal process must demonstrate that its purpose is to enforce a current legal obligation of the participant to provide child support or make alimony payments.

(c) In addition to the requirements of paragraph (b) of this section, legal process also must meet one of the following requirements:

(1) The legal process must require the Board to pay a stated dollar amount from a participant’s TSP account; or

(2) The legal process must require the Board to freeze the participant’s account in anticipation of an order to pay over the account.

(d) The TSP will presume the competence or authority of any of the entities described in paragraph (b)(1) of this section if presented with a document from that entity that appears regular on its face.

(e) Notwithstanding paragraphs (a), (b), (c) and (d) of this section, the following legal process will be considered nonqualifying:

(1) Legal process relating to a TSP account that contains only non-vested money, unless the money will become vested within 90 days of the date of receipt of the order if the participant were to remain in Federal service;

(2) Legal process that requires an amount to be paid at the future date; or

(3) Legal process that requires a series of payments.

§ 1653.24 Processing legal process.

(a) Upon receipt of a document which purports to be qualifying legal process, the participant’s account will be frozen. After an account is frozen, no withdrawal or loans will be allowed until the account is unfrozen. All other account activity, including contributions, adjustments, and interfund transfers, will be permitted.