

§ 19.7

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of the obligation of the Department for the period in which the request is in effect. See § 19.14.

§ 19.7 Spousal agreements.

§ 19.7–1 Purpose.

A spousal agreement may be used by both parties to establish an agreed-upon level of benefits to a spouse or a former spouse and to relieve the participant of responsibility for providing a higher level of benefits.

§ 19.7–2 Agreement with spouse.

(a) A spousal agreement between a participant and a spouse may waive or fix the level of a regular survivor annuity under § 19.11–3. If an agreement is filed, it will assure the spouse that the agreed-upon level of survivor annuity will be paid, irrespective of a future divorce provided the survivor meets the definition of “former spouse” in § 19.2(k). If an agreement is not filed, the participant’s annuity will be reduced under § 19.10–2 to provide the maximum regular survivor annuity for the spouse, but in the event of a future divorce if the spouse meets the definition of “former spouse,” that person will be entitled only to a pro rata share of the survivor annuity. An agreement under this paragraph may be filed with PER/ER/RET at any time prior to retirement (commencement of the principal’s annuity).

(b) A spousal agreement between an annuitant and a spouse filed with PER/ER/RET before commencement of a supplemental annuity for recall service may waive a supplemental survivor annuity that would otherwise be provided for a spouse under § 19.10–6.

(c) A spousal agreement between a participant or former participant and a spouse may be filed with PER/ER/RET at any time in accordance with § 19.10–5 and provide for an additional survivor annuity for the spouse.

(d) A spousal agreement filed under paragraph (a), (b), or (c) remains valid and binding in the event of divorce if the spouse qualifies as a former spouse.

§ 19.7–3 Agreement with former spouse.

(a) A spousal agreement between a participant or former participant and a

former spouse may waive, reduce or increase the following benefits for a former spouse:

- (1) A pension under § 19.9;
- (2) A regular survivor annuity under § 19.11–2;
- (3) A supplemental survivor annuity under § 19.10–6;
- (4) A lump sum payment for regular or recall service under § 19.13.

A spousal agreement shall also be used by a participant or former participant who has a former spouse on February 15, 1981, to elect a regular survivor annuity for such former spouse in accordance with § 19.11–2(e). An agreement to establish or increase any benefit for a former spouse entered into while the principal is married to someone else, must be signed and agreed to by both the spouse and the former spouse. An agreement affecting pension benefits may be filed at any time and will govern payments made after its acceptance by PER/ER/RET. An agreement affecting a regular survivor annuity must be filed before the end of the 12-month period after the divorce involving that former spouse or at the time of retirement, whichever occurs first, except as authorized in § 19.11–2(b) for persons retired on February 15, 1981, or in § 19.11–2(e) with respect to persons who were former spouses on February 15, 1981. This filing requirement stated in the Act makes it impossible to adjust, other than by court order, a regular survivor annuity for a former spouse when the divorce occurs after a retirement which occurs on or after February 15, 1981. The survivor annuity for the former spouse in such case is fixed by any spousal agreement entered into prior to the divorce, by § 19.11–2 or by court order. An agreement affecting supplemental survivor benefits or lump-sum payments must be filed before the supplemental annuity of the principal begins or lump-sum payment is made.

(b) A spousal agreement between a participant or former participant and a former spouse may be filed with PER/ER/RET at any time in accordance with § 19.10–5 to provide an additional survivor annuity for the former spouse.