



Montana Teachers' Retirement System FACT SHEET: Beneficiary Designations for Active Members

When an active¹ TRS member passes away before retiring, TRS must distribute any amount payable to his or her designated beneficiary or beneficiaries.

A member may designate two types of beneficiaries:

- A **primary beneficiary** has a first right to receive payment in the event of the member's death.
- A **contingent beneficiary** has a right to receive payment *only* if no primary beneficiary is still living at the time of the member's death.

This document answers common questions that active TRS members may have about designating beneficiaries. It also outlines restrictions that may apply when a member designates an estate, trust, minor child or spouse as a beneficiary.

Frequently Asked Questions

1. I am a TRS member who has not yet retired. How can I review or change my current beneficiaries?

You can review your beneficiary designations in **My TRS**, the online account system. See the Active Members page on our website (trs.mt.gov/trs-info/members) for login instructions. It is important to review your beneficiary records periodically and keep your beneficiaries' contact information up to date.

You can change your beneficiaries using the Online Beneficiary Designation process in My TRS² or by completing Form 123 *Beneficiary Designation for Active Members* and mailing it to TRS. Once submitted and approved by TRS, your new beneficiary designation revokes all prior beneficiary designations.

Until you have retired with TRS you may update your beneficiaries at any time, although certain restrictions may apply. See the **Limitations** section of this Fact Sheet for additional information.

2. Who can I designate as my beneficiary?

You can designate an **individual** (a living person), your **estate**, or your **trust** as your beneficiary. Please review this entire Fact Sheet for more details and limitations.

3. How many beneficiaries may I designate?

You must designate at least one primary beneficiary. If you are married, you may wish to name your spouse as your primary beneficiary, although you are not required to do so. You may designate more than one *individual* as a primary beneficiary. However, it is important to understand that all primary beneficiaries share equally in any amount payable by TRS. You may not assign percentages to them.

You also may designate one or more *individuals* as contingent beneficiaries. For example, you may choose to designate your spouse as your primary beneficiary and each of your children as a contingent beneficiary. You may not designate more than one "level" of contingent beneficiary or assign percentages to them.

If you designate your estate or trust as your *primary* beneficiary, you may not designate another beneficiary. If you designate your estate or trust as a *contingent* beneficiary, you may not designate another *contingent* beneficiary. The **Limitations** section of this Fact Sheet outlines additional requirements for estates and trusts.

¹ An *active* TRS member is one who has never previously retired with TRS and has not withdrawn his or her account balance.

² *My TRS* is the secure online account system for Montana TRS members. Access *My TRS* from our website: trs.mt.gov

4. If I die before retiring, how does TRS pay my designated beneficiaries?

TRS must distribute any amount payable to:

- (a) Your surviving *primary* beneficiaries, in equal shares; or
- (b) Your surviving *contingent* beneficiaries, in equal shares, *only* if no primary beneficiary survives you.

The following conditions apply:

- i. If you are not vested,³ payment under (a) or (b) is made as a lump-sum distribution of your member account balance (i.e., your member contributions plus interest).
- ii. If you are vested, an individual beneficiary eligible to receive payment may be entitled to elect a lifetime monthly benefit in lieu of a lump-sum payment.
- iii. If TRS makes a payment to any surviving primary beneficiary under (a) above, the beneficiary interest of all contingent beneficiaries is terminated.
- iv. If *all* beneficiaries receiving benefits pass away before your account balance has been paid out in full, TRS pays the remainder as a lump sum to the estate of the last surviving beneficiary.
- v. If you designated your estate as your beneficiary, the estate must be probated and must have a separate tax identification number assigned to be an eligible beneficiary.
- vi. If you designated your trust as your beneficiary, the trust must meet all criteria listed in the Limitations section of this Fact Sheet to be an eligible beneficiary and must have a separate tax identification number assigned when payment is made by TRS. (See “Designating your estate or trust as a beneficiary,” below.)
- vii. Monthly benefit payments cannot be made to your estate or trust, or to any beneficiary of either. Your estate or trust will receive only a lump-sum distribution of your member account balance.

Please note:

- Amounts payable by TRS to an individual beneficiary are considered non-probate assets of the member. TRS must make payment according to your valid beneficiary designations without regard to any statements in your will, and without regard to any creditors' claims against your estate.
- TRS strongly recommends you seek the advice of an attorney or financial advisor when designating your estate or trust as a beneficiary.

5. What happens if I pass away without having a beneficiary designation on file with TRS?

If you do not have an effective beneficiary designation on file at the time of your death, TRS will distribute your account balance as a lump-sum payment to one of the following alternate beneficiaries:

- (a) Your probated estate; or
- (b) One or more individuals, in the following order of priority. (Payment will be made at a lower level of priority only if there is no surviving alternate beneficiary at a higher level of priority.)

First alternate beneficiary – Your legal spouse

Second alternate beneficiary – Your natural or adopted children, in equal shares

Third alternate beneficiary – Your parents, in equal shares

Fourth alternate beneficiary – Your grandchildren, in equal shares

³ You are “vested” as a TRS member when you have accrued at least 5.00 years of creditable service.

Fifth alternate beneficiary – Your siblings, in equal shares

Sixth alternate beneficiary – Your nieces/nephews, in equal shares

Limitations

Designating a minor child as a beneficiary

You may designate *any* minor child as your beneficiary. However, TRS is prohibited by law from making payment of any amount *directly* to a minor child. (Under Montana law, “minor child” for this purpose means any child under the age of 21.) TRS will make payment only to an individual legally authorized to receive the funds on behalf of the minor child by virtue of:

- court appointment as the child’s conservator or guardian, or
- designation by the TRS member as a custodian for the minor child in conformity with the Montana Uniform Transfers to Minors Act.⁴

This means that if you designate a minor child as your beneficiary, you should also designate a custodian. If you should pass away before the child reaches the age of 21 and you did not designate a custodian, and there is no court-appointed conservator or guardian, TRS will be unable to make payment, even to the custodial parent. TRS will be required to withhold payment until a conservator or guardian is appointed or until the child turns 21.

Designating your estate or trust as a beneficiary

Your estate or trust must meet important requirements to be designated as your beneficiary. There are also limitations on the type of payment that TRS may make to the estate or trust, as summarized below.

Your estate: Although everyone has an “estate” (property to be distributed to others upon the person’s death), TRS will make payment to an estate only through a court-appointed personal representative in a formal or informal probate. TRS requires documentation of the personal representative’s court appointment. If you designated your estate as your beneficiary and your estate is not probated, TRS must pay your alternate beneficiary as described in 5 (b) above. If you are unsure whether your estate will be probated, you should consider designating one or more individual beneficiaries instead.

Your trust must meet the following criteria to be designated as your beneficiary:

- You (the TRS member) must have created the trust as its trustor and the trust must exist as a legal entity at the time of designation.
- The trust must be irrevocable when designated, or must become irrevocable upon your death.
- The trust documentation must include both the trust’s tax identification number (if one has been assigned) and the name of the individual (other than yourself) who is legally designated as trustee.

You must submit your trust documentation to TRS by regular mail along with TRS Form 123 *Beneficiary Designation for Active Members*. (You cannot designate your trust using the Online Beneficiary Designation process.) The trust documentation must include all information noted above.

Payment. Your estate or trust will receive only a lump-sum distribution of your member account balance. Monthly benefit payments cannot be made to your estate or trust, or to any beneficiary of either.

⁴ “MUTMA,” Title 72, Ch. 26, MCA

Removing your spouse as a beneficiary

You are not required to designate your spouse as your beneficiary; however, if you do, you must meet additional requirements to change your spouse/beneficiary designation. If you submit a new beneficiary designation that either removes your spouse as your beneficiary or names another beneficiary to receive a share of any benefits that might have become payable to your spouse, TRS will require you to certify your marital status.

If a divorce is pending, Montana law prohibits you from revoking or reducing your spouse's beneficiary interest (i.e., his or her right to receive payment as your beneficiary) *unless*:

- A court order authorizes you to do so, pending the final divorce decree, or
- Your spouse waives his or her beneficiary interest in writing.

If your divorce is pending, TRS requires that you submit either a court order signed by the judge in your divorce action or TRS Form 147A *Spouse's Voluntary Waiver of Beneficiary Interest* signed by the ex-spouse in front of a notary public. TRS must receive and verify the appropriate documentation before your new beneficiary designation can take effect.

If your divorce is final and you wish to remove your ex-spouse as a designated beneficiary, you are responsible for updating your beneficiary designations as described on Page 1 of this Fact Sheet. If you pass away before you retire, TRS must distribute any amount payable according to your last effective beneficiary designation, regardless of your marital status at the time of your death or the fact of an intervening divorce. In addition, the presence of a Family Law Order on your TRS account does not change your beneficiary designations; see the TRS Fact Sheet "Family Law Orders" for more information.

Questions?

If you have questions about any information presented in this Fact Sheet, please contact us.

Montana Teachers' Retirement System ♦ 406-444-3134 ♦ 866-600-4045 ♦ trs.mt.gov

Please Note: *This Fact Sheet is intended to provide a concise, easy-to-understand summary of TRS law and policy. The actual application of TRS law will depend upon the specific circumstances and facts presented. In determining the rights and obligations of any person, TRS law will supersede any contradictory information provided in this Fact Sheet.*