



STATE OF NEW MEXICO  
*Educational Retirement Board*

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## **Release of Claims Form - Definitions and FAQs**

### **DEFINITIONS**

“Benefits” mean:

Any annuity that the NMERB member will or may receive upon retirement or if the member does not retire, any refund or rollover of contributions and interest earned thereon that is paid out on the account. “Benefits” also mean a lump sum payment if the member retires, chooses Option A but dies before all contributions and interest have been paid out in monthly benefits.

“Claims” mean:

Legally enforceable rights to the Member’s Benefits.

“New Mexico Educational Retirement Board (“NMERB”) Member” means:

The individual under whose name the account is held.

“Sole and Separate Property” means:

Property that is owned solely by one of spouses and the other spouse (or any other party) has no claim to it. This release has the effect finalizing that the NMERB member will receive all the benefits in his or her account and that the ex-spouse will have no longer have any claim that can be legally enforced.

“Release” means:

To relieve of the NMERB Member’s and NMERB’s legal obligation to non-NMERB member ex-spouse.

### **FREQUENTLY ASKED QUESTIONS**

***Q: Identify theft is running rampant. Why must I give the last four digits of my Social Security Number?***

**A:** The New Mexico Educational Retirement Board (“NMERB”) takes all precautions to ensure that personal identifying information of members and individuals with interests in the accounts are secure. The last four digits of the Social Security Number assists NMERB in confirming that the correct individual who may or does have an interest in a particular NMERB retirement account is executing the Release of Claims.

***Q: I don’t want any trouble with the IRS. Will I have to pay taxes on any disbursements made on the account I am releasing?***

**A:** No. No monies will be paid to the individual signing the Release of Claims. The NMERB member who owns the account will assume all responsibility for any taxes owing on the payments made to him or her.

***Q: After I execute the Release of Claims, can I make a claim on my ex-spouse's retirement benefits at some later date?***

**A:** No. By executing the Release of Claims, you are renouncing all claims to a right you may have to your ex-spouse's retirement benefits or NMERB account even if they were acquired during the marriage.

***Q: What if my ex-spouse dies before retiring? Will I be able to assert a claim on the refund if I sign the Release of Claims?***

**A:** No. Unless your ex-spouse names you as the refund beneficiary, the Release of Claims will bar you from recovering the contributions and interest that were ever acquired in your ex-spouse's NMERB retirement account.

***Q: Why is this Release even necessary? I have never worked for any public school or university in New Mexico. My ex-spouse made all the contributions from his or her paycheck to the NMERB. Why would I have any interest in his or her ERB retirement account?***

**A:** New Mexico is a community property state, meaning that all property that was acquired during the marriage, including the benefits earned by the NMERB contributions withheld from your former spouse's paychecks, are community property and are subject to being divided by a court in a divorce. In other words, by operation of New Mexico law, you may have an interest in your ex-spouse's NMERB retirement account, even though you never directly made any payments into it.

***Q. Upon retirement, my former spouse chose either the Option B or C payment options and named me as the annuitant beneficiary. If my ex-spouse and I agree to remove me as the Option B or C beneficiary, will this Release of Claims be sufficient?***

**A:** No. Upon divorce, the NMERB member may remove an ex-spouse as their Option B or C beneficiary by changing to Option A, the straight life benefit. However, this change can only be accomplished with a court order that is endorsed by the divorce court. A sample form is on the NMERB website specifically directing the NMERB to change the retiree's Option to A.