

Qualified Domestic Relations Order (QDRO) Fact Sheet

UNIVERSITY
OF
CALIFORNIA

Need help?

For questions about a member's **UCRP/CAP benefits**, please contact

Special Claims
Retirement Administration Service Center
University of California, Office of the President
P. O. Box 24570
Oakland, CA 94623-1570

Phone: 800-888-8267

Fax: 800-792-5178

For questions about the **403(b) Plan, 457(b) or Defined Contribution Plans**, please contact

Fidelity Retirement Services
866-682-7787
<https://qdro.fidelity.com/>

Fidelity QDRO Administration Group
P. O. Box 770002
Cincinnati, OH 45277-0090
Attn: University of California

Dividing property in the event of a divorce, legal separation or termination of a domestic partnership can be complex. Please be assured that UC staff will work with you to make the division of any UC Retirement Plan (UCRP) or benefits as simple as possible.

In order to divide the UCRP member's retirement benefits, you'll need a qualified domestic relations order (QDRO)—a legal document that UC has determined to be acceptable ("qualified") under UCRP's rules. A QDRO recognizes the existence of an alternate payee (a legally separated spouse, former spouse, former registered domestic partner, child and/or other dependent) who has the right to receive benefits that are or will be payable to a UCRP member.

Your main point of contact for UCRP will be the Special Claims Unit (see box, "Need Help?" on inside front cover) which handles the administration of QDROs. The Plan Administrator is the Vice President, Human Resources; the plan's legal advisor is the Office of the General Counsel.

This fact sheet explains what is required in a QDRO, how to submit it to UC for approval, and how UCRP benefits may be divided. It applies only to UCRP and Capital Accumulation Payment (CAP) benefits. Personnel-related benefits, including accrued sick leave and vacation, cannot be divided.

Please note that support orders must also be in the form of a QDRO. In California, the Judicial Council Form FL-460, "Qualified Domestic Relations Order for Support" should be used. For QDROs for support outside of California, contact Special Claims.

In order to divide UC Retirement Savings Program benefits (Tax-Deferred 403(b), Defined Contribution and 457(b) Deferred Compensation Plans), you'll need a separate QDRO. For help with this, please contact Fidelity Retirement Services at 866-682-7787.

Obtaining a UCRP QDRO: What You Need to Do

STEP 1

File a joinder with the court handling the divorce, separation or termination and send it to Special Claims by mail or fax. A joinder formally adds UCRP as a party to the divorce, separation or termination proceeding. (A joinder isn't required if your proceeding is filed in a court outside of California but you must notify Special Claims in writing of the proceeding if a restriction is to be placed on the member's UCRP benefit.) In the joinder, the UC Retirement System (UCRS) must be named as the claimant. UCRS includes the UC Retirement Plan (UCRP) as well as the Retirement Savings Program plans, which allows you to avoid the expense of a separate joinder filing for each plan. **Note that if a joinder is not filed, you must contact Fidelity directly to place a restriction on the member's Retirement Savings Program accounts.**

STEP 2

Notify Special Claims, in writing, that a divorce, legal separation or termination of domestic partnership is in process and request a QDRO packet. The request must include:

- The UCRP member's name, current address and Social Security number
- Date of marriage and ending date of the community property period for purposes of the division
- Alternate payee's date of birth

If you're the UCRP member, you may request the packet directly.

If you're an alternate payee (or his or her attorney or other authorized representative), you must meet one of the following conditions to obtain a packet:

- UCRP must be joined as a party to the action (see Step 1 above)
- The Plan Administrator must receive a subpoena
- The Plan Administrator must be provided with the UCRP member's written authorization

The packet includes:

- This *Qualified Domestic Relations Orders Fact Sheet*
- A UCRP Summary Plan Description appropriate to the member's UCRP membership classification
- A *Family Changes Fact Sheet*
- Statements for Retirement Savings Program plans for benefits accrued during the community property period prior to July 1, 2005. (For periods starting on or after July 1, 2005, please contact Fidelity Retirement Services.)
- A sample QDRO, to assist members, alternate payees and their attorneys or other authorized representatives in preparing the draft order. Please note that there is no sample

QDRO for domestic partnership terminations. Contact Special Claims about these orders.

- For a member who is not retired, the packet also includes:
 - Specific benefits information for the community property period, showing service credit information and member contributions and earnings for UCRP and CAP
 - An estimate of the alternate payee's benefits based on 50 percent of the community property period. Note that this 50 percent division may not be the final division, which will be determined by the parties and the court.
- For a retired member, the packet includes:
 - The member's total monthly retirement benefit and option elected.

The packet will be sent six to eight weeks after Special Claims receives the request.

STEP 3

Send Special Claims a complete copy of the judgment of dissolution, divorce decree or domestic partnership termination that was filed with the court. The copy need not be certified. Special rules apply to legal separations; for more information, please contact Special Claims. The member's UCRP benefits will not be divided until UC receives this document.

STEP 4

Draft a domestic relations order and send it to the Plan Administrator so it can be reviewed before it is filed with the court. Special Claims will review the draft and, if it is acceptable under UCRP rules, will inform the parties how the division of benefits will be administered. If the draft is not acceptable, the administrator will explain what is needed to make it acceptable.

Below are the conditions that must be met in the order:

- It must provide the UCRP member's name and mailing address.
- It must provide the alternate payee's name and mailing address. (The member's and alternate payee's Social Security numbers and dates of birth must be provided but need not be in the order itself.)
- It must state the period of the marriage or domestic partnership (date of marriage or domestic partnership registration and date of separation, divorce or termination of domestic partnership).
- The form of benefit—for example, monthly retirement income or lump sum cashout—requested for the alternate payee must be available under the Plan as of the date of the order.
- If the order was issued in the State of California, UCRS must have been joined as a party to the proceedings (see Step 1 above).

- The order must clearly create or recognize the rights of the alternate payee.
- It must state that it applies to the UC Retirement Plan/CAP.
- It must state the percentage or portion of the member's benefits to be paid to the alternate payee, or the method by which this percentage or portion is to be determined.
- It cannot require UCRP to provide benefits which are required to be paid to another alternate payee under another order previously determined to be a QDRO.
- It must be approved by Special Claims on behalf of the Plan Administrator and filed with the court.
- Special Claims must receive a certified copy.

Note that UCRP is generally not subject to the rules of the Employee Retirement Income Security Act of 1974 (ERISA) or the Retirement Equity Act of 1984 (REA). It is not appropriate to use these citations in drafting the domestic relations order. Also, the domestic relations order cannot include personnel-related benefits such as accrued sick leave or vacation leave.

STEP 5

Once Special Claims has notified both parties that the draft DRO has been approved, file it with the court.

The QDRO Process: What You Need to Know

RESTRICTION ON MEMBER'S ACCOUNTS

UCRP/CAP

When Special Claims first receives a joinder or written notice that a divorce, legal separation or termination of domestic partnership is under way, the member's UCRP/CAP retirement account is restricted.

If the member is not yet retired, the restriction generally means that while the case is pending, he or she may not take a refund of accumulations, CAP distribution or a lump sum cashout. The member may retire if the parties are divorced or if married and the spouse consents to the member's retirement on the election form. However, the Plan generally will withhold 50 percent of the member's monthly benefit pending receipt of all required documents, including the certified QDRO.

If the member is retired, UC will withhold 50 percent of the member's gross monthly benefit while the matter is pending, unless the parties instruct the Plan otherwise in a notarized statement.

After the certified QDRO is filed with the court, the restrictions will be lifted.

RETIREMENT SAVINGS PROGRAM PLAN ACCOUNTS

For details about restrictions on these accounts, please contact Fidelity.

HOW A QDRO AFFECTS A MEMBER'S SERVICE CREDIT AND RETIREMENT BENEFITS

If the member is not retired, his or her service credit, CAP and accumulations (including any offsets) will be reduced by the amount awarded to the alternate payee. In most cases, the service credit adjustment does not affect the member's vesting rights or eligibility for UCRP income benefits and retiree health coverage.

The service credit awarded to the alternate payee is included when calculating the benefit limit on the member's basic retirement income. For most members, the 100 percent benefit limit is attained after 40 years of service. For a member with a QDRO, the 40 years includes any service credit awarded to the alternate payee. A member may not buy back the service credit awarded to the alternate payee. Nor can the member earn back this service credit by working longer than 40 years.

For example, say that a QDRO is filed as part of a divorce proceeding involving a 45-year-old UCRP member married for 23 years and with 20 years of service credit. If the QDRO directs that the service credit be divided equally, then the alternate payee and the member would each have 10 years of service credit when the QDRO is final.

The QDRO Process: What You Need to Know

If the member continues working for UC and retires at age 65, at that time he or she would have earned a total of 40 years of service credit. The member's retirement benefit would be based on 30 years of service credit—ten of the initial 20 years as per the QDRO, plus the additional 20 years worked between age 45 and 65.

If he or she wanted to continue working past age 65, it wouldn't be possible to accumulate any more service credit: The 40-year limit (30 years to the member, plus 10 to the alternate payee) has already been reached.

If the member is retired, his or her retirement income will be reduced to account for the payment to the alternate payee. This reduction will not affect the member's eligibility for health coverage.

ACCOUNT DIVISION: WHAT THE ALTERNATE PAYEE NEEDS TO DO

After the QDRO has been filed with the court and Special Claims receives a certified copy, UC will determine the benefits payable to the alternate payee and the effect on the member's account(s). Here's how the process works.

- UC will provide the alternate payee with his or her benefit options and any relevant forms to be filled out.
- Once the Plan Administrator has received any completed forms from the alternate payee, his or her benefits are calculated. This process may take up to 90 days.
- When the calculations are completed, the Special Claims unit sends the alternate payee the forms for claiming the benefits.
- The member will be informed of the reduction to his or her service credit and accumulations, if any.
- After Special Claims receives and accepts the claim forms and any other required documents, distributions begin or are made to the alternate payee within 30 to 60 days.
- Note that the alternate payee may designate a beneficiary (by using the UC designation of beneficiary form available on UCnet) to receive amounts, if any, due after his or her death. If no beneficiary has been designated, any benefits due will be paid in accordance with the Plan's order of succession. (For more information, please see the appropriate UCRP Summary Plan Description, available on UCnet.)

All benefits paid by UCRP are subject to the Plan maximum benefit, Internal Revenue Code (IRC) limits and minimum distribution requirements. If the alternate payee's QDRO distribution is affected by these rules, Special Claims will provide the alternate payee with detailed information. The service credit awarded to the alternate payee is included in the calculation of the member's maximum UCRP benefit under the Plan.

RECEIVING RETIREMENT BENEFITS: OPTIONS FOR THE ALTERNATE PAYEE

If you need more information, please refer to the applicable Sample QDRO.

- **If the member has service credit during the community property period under the 1976 Tier only**, the alternate payee may be entitled to one of the following benefits:
 - A refund of accumulations (if any) at any time. Upon election of a refund of accumulations, the alternate payee forfeits all rights to any further UCRP benefits
 - If the member is eligible to retire (age 50 with five years of service credit), monthly payments or a DRO cashout.* If the actuarially determined value of the cashout is less than \$20,000, a cashout is mandatory. If the value is more than \$20,000 and the alternate payee hasn't elected monthly payments or a cashout within 12 months of the date of the Plan's notification to the alternate payee that he or she is eligible to make his or her election, UC will establish a separate alternate payee account and the alternate payee must wait to make his or her election until the member retires or dies while eligible to retire. At that time the alternate payee may elect monthly payments or a DRO cashout.
 - If the member is not eligible to retire, the alternate payee may maintain a separate account until the member is eligible to retire. When the member becomes eligible to retire, the alternate payee may elect to receive benefits described above or may continue to maintain the separate account until the member retires or dies while eligible to retire. If the alternate payee hasn't elected monthly payments or a cashout within 12 months of the date of the Plan's notification to the alternate payee that he or she is eligible to make this election, the alternate payee must wait to make his or her election until the member retires or dies while eligible to retire. At that time the alternate payee may elect monthly payments or a DRO cashout. The cashout is mandatory if the value is less than \$20,000.

* A DRO cashout is available only to alternate payees who were awarded service credit under the 1976 Tier. It represents the alternate payee's portion of the present value projection of the member's 1976 Tier UCRP basic retirement income as of the cashout date. It is payable when the member becomes eligible to retire and includes a projection of future cost-of-living increases. The DRO cashout may be worth substantially more than a refund of accumulations. However, an alternative payee may prefer a refund of accumulations because he or she needs or wants the funds before the member becomes eligible to retire.

- **If the member has service credit during the community property period under the 2013 Tier only**, the alternate payee may be entitled to one of the following benefits:
 - A refund of accumulations (if any) at any time
 - Monthly benefits, if the member is eligible to retire (age 55 with five years of service credit),
 - If the member is not eligible to retire, maintain a separate account until the member becomes eligible to retire. At that time, the alternate payee may elect to receive monthly benefits or continue to maintain the separate account until the member retires or dies while eligible to retire. The alternate payee then has the option to elect to receive monthly benefits.
- **If the member has accrued service credit during the community property period under both the 1976 and 2013 Tiers**, the alternate payee may be entitled to one of the following benefits:
 - A refund of accumulations (if any) at any time
 - If the member is eligible to retire, monthly benefits, or for the portion of service under the 1976 Tier only, a DRO cashout*
 - If the member is not eligible to retire, maintain a separate account until the member becomes eligible. When the member becomes eligible to retire, retires or dies while eligible to retire, the alternate payee may elect to receive monthly benefits under both Tiers, or, for the portion of service under the 1976 Tier only, a DRO cashout.*
- **If the member has already retired**
 - The alternate payee will receive his or her share of the member's monthly retirement income as stated in the QDRO, plus the Temporary Social Security Supplement, if any, and any cost-of-living allowances. This will continue as long as the member continues to receive his or her monthly retirement benefits, but will cease when the member dies.
 - If the alternate payee was named as the contingent annuitant when the member retired, he or she will receive the monthly contingent annuitant benefits after the member dies for the alternate payee's lifetime.

SURVIVOR BENEFITS

In most cases, an alternate payee cannot be an eligible survivor under the terms of the Plan. This means that after the death of the member, no survivor benefits are payable to the alternate payee. If the alternate payee dies before the member, the alternate payee's benefit does not revert to the member.

BENEFITS AFTER REMARRIAGE

If an active member remarries and his or her new spouse is eligible for survivor benefits, these benefits will be based on the member's benefits after the division and assignment of a portion of the member's benefits to his or her former spouse. The alternate payee's benefits are not affected.

DISABILITY INCOME

UCRP disability income is separate from retirement income and may not be divided; the alternate payee is not entitled to any portion of a member's disability income. After a disabled UCRP member has retired, however, all the choices outlined in "Options for the Alternate Payee," page 6, are available to the alternate payee.

Separate provisions apply to Duty Disability. To learn more, please contact Special Claims.

EFFECT OF RETIREE RETURNING TO WORK AT UC ON ALTERNATE PAYEE'S BENEFIT

If the retired member returns to work at UC and suspends his or her retirement benefits, the alternate payee's benefit will stop until the member resumes retirement benefits.

* A DRO cashout is available only to alternate payees who were awarded service credit under the 1976 Tier. It represents the alternate payee's portion of the present value projection of the member's 1976 Tier UCRP basic retirement income as of the cashout date. It is payable when the member becomes eligible to retire and includes a projection of future cost-of-living increases. The DRO cashout may be worth substantially more than a refund of accumulations. However, an alternative payee may prefer a refund of accumulations because he or she needs or wants the funds before the member becomes eligible to retire.

The QDRO Process: What You Need to Know

MEDICAL, DENTAL AND VISION COVERAGE

UC-sponsored coverage stops at the end of the month when the divorce, legal separation, or domestic partnership termination is final. If you're an alternate payee seeking to continue group health coverage, you may be able to do so for up to 36 months under COBRA (the Consolidated Omnibus Budget Reconciliation Act of 1985). Please see the COBRA information available on UCnet at ucal.us/COBRA. The benefits representative at the member's location can provide more information; you'll find a list of campus contacts at ucnet.universityofcalifornia.edu/contacts/campus-contacts.html.

As an alternative, or at the end of the COBRA continuation period, you may contact the appropriate insurance carrier to convert medical coverage (not dental or vision) to an individual plan. For either continuation or conversion, it is important to inquire before group coverage ends.

You may also want to explore the possibility of continuing coverage through the Affordable Care Act's health care marketplace. In California, check the website of Covered California at www.coveredca.com.

TAXES

Pension payments divided by a QDRO are subject to federal and state taxes, which are the responsibility of the person receiving payment. (The rules for alternate payees who are domestic partners are different; please see "Special Rules Governing Domestic Partnerships," at right.) However, the ten percent penalty tax on early distributions does not apply to distributions made to an alternate payee. For more information, please see the appropriate UCRP Summary Plan Description. It's also a good idea to consult a tax advisor about your individual situation.

Special Rules for Domestic Partnerships

Under federal law and pension regulations, special rules apply to distributions paid to an alternate payee who is a registered domestic partner under a QDRO.

TIMING OF DISTRIBUTIONS

Under the 1976 Tier, the alternate payee generally may not receive a distribution of his or her share of the member's UC retirement benefits until the earliest of the following dates:

- The date the active member reaches the Plan's normal retirement age (60 for non-Safety members; 50 for Safety members)
- The date the member leaves University employment at or after age 50
- The date the member reaches age 50 after leaving University employment
- The date the member dies at or after age 50 or
- If the member dies before age 50, the date the member would have reached age 50

Under the 2013 Tier, the alternate payee generally may not receive a distribution of his or her share of the member's UC retirement benefits until the earliest of the following dates:

- The date the active member reaches the Plan's normal retirement age (65 for non-Safety members; 50 for Safety members)
- The date the member leaves University employment at or after age 55
- The date the member reaches age 55 after leaving University employment
- The date the member dies at or after age 55 or
- If the member dies before age 55, the date the member would have reached age 55

TAX LIABILITY

Pension distributions paid to the alternate payee under a registered domestic partner QDRO are taxable to the member for federal tax purposes. For California state taxes, distributions are taxable to the alternate payee.

By authority of the Regents, University of California Human Resources, located in Oakland, administers all benefit plans in accordance with applicable plan documents and regulations, custodial agreements, University of California Group Insurance Regulations, group insurance contracts, and state and federal laws. No person is authorized to provide benefits information not contained in these source documents, and information not contained in these source documents cannot be relied upon as having been authorized by the Regents. Source documents are available for inspection upon request (800-888-8267). What is written here does not constitute a guarantee of plan coverage or benefits — particular rules and eligibility requirements must be met before benefits can be received. The University of California intends to continue the benefits described here indefinitely; however, the benefits of all employees, retirees and plan beneficiaries are subject to change or termination at the time of contract renewal or at any other time by the University or other governing authorities. The University also reserves the right to determine new premiums, employer contributions and monthly costs at any time. Health and welfare benefits are not accrued or vested benefit entitlements. UC's contribution toward the monthly cost of the coverage is determined by UC and may change or stop altogether, and may be affected by the state of California's annual budget appropriation. If you belong to an exclusively represented bargaining unit, some of your benefits may differ from the ones described here. For more information, employees should contact their Human Resources Office and retirees should call the UC Retirement Administration Service Center (800-888-8267).

In conformance with applicable law and University policy, the University is an affirmative action/equal opportunity employer. Please send inquiries regarding the University's affirmative action and equal opportunity policies for staff to Systemwide AA/EEO Policy Coordinator, University of California, Office of the President, 1111 Franklin Street, 5th Floor, CA 94607, and for faculty to the Office of Academic Personnel, University of California, Office of the President, 1111 Franklin Street, Oakland, CA 94607.



