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 other 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. However, 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*
- Information regarding Retirement Savings Program plan balances for benefits accrued during the community property period, if the member's UCRP entry date was prior to date of marriage or domestic partnership or if the date of divorce was 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.
- 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
- For a retired member, the packet also includes:
  - The member's total monthly retirement benefit and option elected
  - An estimate of the alternate payee's monthly benefit based on a 50 percent division

The packet will be sent within 60 days after Special Claims receives the request. Note that the division in the packet is only an estimate. The final division will be determined by the parties and the court.

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 UCRP 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, the monthly payment option or lump sum payment—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. After the QDRO has been signed by the judge, obtain a certified copy of the QDRO and provide UCRP with the original certified copy.

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

After the Plan has received a certified copy of the QDRO and other required documents, and the member's account has been divided, the restrictions on the member's account will be removed.

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 (or 33.3333 years of service credit for a Safety member). For a member with a QDRO, the 40 years includes any service credit awarded to the alternate payee. A member may not purchase the service credit awarded to the alternate payee. Nor can the member earn back this service credit by working longer than 40 years (or 33.3333 years for a Safety member).

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

The QDRO Process: What You Need to Know

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.

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, which may take up to 90 days, works.

- Once the Plan Administrator has received all required forms, the division is calculated.
- When the calculations are completed, the Special Claims unit sends the alternate payee his or her payment options and 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 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.

The alternate payee is entitled to 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.

Additional options vary depending on whether the member has retired or is eligible to retire, based on UCRP membership tier:

- 1976 Tier, Modified 2013 Tier, Tier Two or Safety members are eligible to retire at age 50 with five years of service credit
- 2013 or 2016 Tier members are eligible to retire at age 55 with 10 years of service credit

IF THE MEMBER HAS NOT RETIRED, AND IS ELIGIBLE TO RETIRE

The alternate payee may be entitled to a monthly payment option or a lump sum payment.

If the present value of the monthly payment option is less than $50,000, a lump sum payment is mandatory, unless the alternate payee affirmatively elects to maintain a separate account until the member retires or dies while eligible to retire.

If the value is more than $50,000 and the alternate payee hasn't elected a monthly payment option or a lump sum payment within 90 days of the date of the Plan's notification to the alternate payee that he or she is eligible to make this election, a separate alternate payee account will be maintained for the alternate payee. 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 a monthly payment option or a lump sum payment.

IF THE MEMBER HAS NOT RETIRED, AND IS NOT ELIGIBLE TO RETIRE

A separate account will be established for the alternate payee 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 a monthly payment option or a lump sum payment within 90 days 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 to make his or her election until the member retires or dies while eligible to retire. At that time the alternate payee may elect a monthly payment option or a lump sum payment.
- The lump sum payment is mandatory if the value is less than $50,000, unless the alternate payee affirmatively elects to maintain a separate account until the member retires or dies while eligible to retire.

If the member has accrued service credit during the community property period under the 2013 Tier or the 2016 Tier and another tier, the alternate payee may be entitled to the same options as above. However, if the monthly payment option is elected, the alternate payee's benefits associated with the 2013 Tier or 2016 Tier cannot commence before the member's 55th birthday.

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. The alternate payee's share of the member's retirement income will be converted to an annuity payable over the alternate payee's lifetime. The alternate payee's share of the member's Temporary Social Security Supplement, if any, will be converted to an annuity payable over the alternate payee's lifetime or age 65, if earlier.
- If the alternate payee was named as the contingent annuitant when the member retired, he or she will receive a separate monthly income as a contingent annuitant after the member dies.

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. If the disabled member has reached his or her earliest Plan retirement age, however, all the choices outlined in "Receiving Retirement Benefits: 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, the alternate payee's benefits are not affected.

QDROS FOR SUPPORT

The Plan will only accept a Support QDRO if the member is receiving or has elected to receive monthly retirement income, or has elected a lump sum cashout that has not yet been paid.

The Support QDRO must be in the form of California judicial form FL-460 (Qualified Domestic Relations Order for Support).

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 or 2016 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 and Programs, University of California, Office of the President, 1111 Franklin Street, Oakland, CA 94607.

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