

# Domestic Relations Order (DRO) 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 straightforward as possible.**

**In order to divide the UCRP member's retirement benefits, you'll need a domestic relations order (DRO)—a legal document that UC has determined to be acceptable (“qualified”) under UCRP's rules. A DRO 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.**

**The summary in this booklet explains the Plan's provisions and the policies and rules that govern them. If a conflict exists between this summary and the Plan documents, the Plan documents govern. The Plan Administrator has the authority to interpret disputed provisions.**

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 DROs. The UCRP Plan Administrator has the authority to construe and interpret the terms and conditions of the Plan and any issue arising out of, relating to, or resulting from the administration and operation of the Plan, including matters related to domestic relations orders.

This fact sheet explains what is required in a DRO, 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 DRO. In California, the Judicial Council Form FL-460, “Qualified Domestic Relations Order for Support” can be used. Or, you can request a copy of the UC Model DRO. The latter is preferred and can help simplify the benefit dividing process. The UC Model DRO can also be found on UCnet.

For DROs 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 DRO. For help with this, please contact Fidelity Retirement Services at 866-682-7787.

# Obtaining a UCRP DRO: 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 DRO 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 an alternate payee's 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

UCRP interprets a request for a DRO packet from anyone other than the member or the member's legal representative as a notice of an adverse claim and a restriction is placed on the member's account.

The packet includes:

- This *Domestic Relations Orders Fact Sheet*
- A UCRP Summary Plan Description appropriate to the member's UCRP membership classification
- A *Family Changes Fact Sheet*
- A sample DRO, 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, legal separation, or domestic partnership termination, to include any attached settlement agreements, that was filed with the court. The copy need not be certified. 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, Special Claims 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 community property division, which is the date of marriage or domestic partnership registration and date of separation, divorce, legal separation, or termination of domestic partnership.
- 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.

## The DRO Process: What You Need to Know

- 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 DRO.
- It cannot include terms that purport to provide more of a benefit than is permissible under the terms of the UCRP.
- 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 DRO has been signed by the judge, obtain a **certified copy** of the DRO and provide Special Claims with the **certified copy**.

### RESTRICTION ON MEMBER'S ACCOUNTS

#### UCRP/CAP

When Special Claims first receives notice of the non-member spouse's intent to restrict the member's account, the member's UCRP/CAP retirement account is restricted. This notice can take the form of a joinder or a letter that places UCRP on notice that a community property interest may have been created in the retirement benefit.

**If the member is not yet retired**, the restriction generally means that while the case is pending, they may not take a refund of accumulations, CAP distribution, receive an unencumbered monthly benefit, or a lump sum payment. The member may retire if the parties are divorced or partnership terminated or if married and the spouse or domestic partner 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 DRO**.

**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 signed by both parties.

After the Plan has received a **certified copy** of the DRO and other required documents, and the member's account has been divided, the restrictions on the member's account will be removed and any reduction in the member's benefit will be terminated.

### RETIREMENT SAVINGS PROGRAM PLAN ACCOUNTS

For details about restrictions on Tax-Deferred 403(b), Defined Contribution and 457(b) Deferred Compensation plans, please contact Fidelity (see box "Need Help" on the inside of front cover).

### HOW A DRO AFFECTS A MEMBER'S SERVICE CREDIT AND RETIREMENT BENEFITS

If the member is not retired, their 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.

#### **Service Credit under One-Time UCRP Service Credit Allocation Program (the "program"):**

If the member was allocated service credit under the program and the parties were married at the time of the allocation (January 1, 2001), that service credit will be included as part of

## The DRO Process: What You Need to Know

the marital period specified in the DRO, even though the service may have been performed outside the marital period. **This policy will apply unless the DRO provides otherwise.**

### **Reestablished Service Credit for Prior Periods/Established Service Credit for Approved Leaves:**

If the prior period and/or leave of absence was earned and purchased during the marital period, that service credit will be included as part of the marital period specified in the DRO. All other service credit purchased will NOT be included as part of the marital period. **This policy will apply unless the DRO provides otherwise.**

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 DRO, 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 DRO 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 DRO 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 DRO is final.

If the member continues working for UC at 100 percent and retires at age 65, at that time the member 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 DRO, plus the additional 20 years worked between age 45 and 65.

If the member 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,** their retirement income will be permanently reduced to account for the payment to the alternate payee for the duration of the payee's life. This reduction will not affect the member's eligibility for health coverage.

### ACCOUNT DIVISION

After the DRO has been filed with the court and Special Claims receives a **certified copy** and all other required documents, 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.

- Once the Plan Administrator has received all required documents, the division is calculated. The calculation may take up to 45 business days.
- The member will be informed of the reduction to their service credit, accumulations, and/or CAP, if any.
- When the calculations are complete, Special Claims sends the alternate payee their payment options and the forms for claiming the benefits.
- 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.

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 DRO 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.

### RETIREMENT BENEFITS: OPTIONS FOR THE ALTERNATE PAYEE

#### **IF THE MEMBER HAS NOT RETIRED**

The Alternate Payee may be entitled to only one form of benefit payment, in accordance with the following:

1. **Refund of Accumulations**—At any time, the Alternate Payee may elect to receive a one-time payment of the Alternate Payee's Accumulations (if any). If the Member leaves employment with the University and is not vested (i.e., has fewer than five years of Service Credit under the plan), this will be the only option available. Upon election of a refund of Accumulations, the Alternate Payee forfeits all rights to any further UCRP benefits.
2. **Domestic Relations Order Lump Sum Payment or Monthly Payment Option Payable At Member's Earliest Retirement Age**—When the Member is eligible to retire, the Alternate Payee may elect to receive a lump sum payment or to begin receiving a monthly payment option.

This election must be made within 90 days after the date of the plan's notification to the Alternate Payee of their eligibility to make this election. If the election is not made within this 90-day period, and the Alternate Payee does not elect a refund of Accumulations, a separate account will be established for the Alternate Payee, and they must wait to make their benefit election until the Member actually retires or dies.

**The lump sum payment** amount is the actuarial present value of the retirement benefits payable to the Alternate Payee based on the Service Credit in their separate account. The lump sum payment amount is determined as of the date of the plan's notification to the Alternate Payee. Upon election of a lump sum payment, the Alternate Payee waives all rights to any further UCRP benefits.

**The monthly payment option** is a lifetime monthly benefit, actuarially determined for the life of the Alternate Payee based on the Service Credit in the Alternate Payee's separate account.

3. **Separate Account if Member Not Eligible to Retire**—If the Member is not eligible to retire and the Alternate Payee does not elect a refund of Accumulations, a separate account will be established for the Alternate Payee. When the Member becomes eligible to retire, the Alternate Payee may elect to receive a lump sum payment or to commence receiving the monthly payment option. This election must be made within the 90-day period described in Section 2 above. If the election is not made within this 90-day period, and the Alternate Payee does not elect a refund of Accumulations, the separate account will be maintained for the Alternate Payee, and they must wait to make their benefit election until the Member actually retires or dies.
4. **Lump Sum Payment or Monthly Payment Option at Member's Retirement or Death**—If the Alternate Payee has not made an election as described above, when the Member retires, or dies while eligible to retire, the Alternate Payee must elect to receive a refund of Accumulations, a lump sum payment or a monthly payment option.

**LIMITATION.** If the Alternate Payee has not elected a refund of Accumulations, and if the value of the Alternate Payee's lump sum payment is less than \$50,000, the Plan will make a lump sum payment to the Alternate Payee as soon as administratively practicable. The Alternate Payee shall not have the option to elect a monthly payment option.

#### IF THE MEMBER HAS ALREADY RETIRED

- The alternate payee will receive their share of the member's monthly retirement income as stated in the DRO, 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 to the age of 65 or death, whichever is earlier. The benefit does not revert back to the member if the alternate payee predeceases the member.

- If the alternate payee was named as the contingent annuitant when the member retired, they will also receive a separate monthly income as a contingent annuitant after the member dies.

#### TIMING OF DISTRIBUTIONS

Distribution 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 5 years of service credit.

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 dissolution occurs prior to or concurrent with the member's retirement and 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 lump sum payment option is elected, the alternate payee's benefit associated with the 2013 Tier or 2016 Tier is paid at the time of the election.

#### SURVIVOR BENEFITS

Survivor benefits are not payable to an alternate payee or alternate payee's beneficiary(ies). If the alternate payee dies before the member, the alternate payee's benefit does not revert to the member.

#### MEMBER DESIGNATION OF BENEFICIARY

If you are divorced at the time of your death and your former spouse is named as beneficiary on the form you completed while you were married, the designation may be void. (Some exceptions apply. See California Probate Code 5040.) You should review your beneficiary designations for UCRP and Retirement Savings Programs whenever there is a change in your family situation.

# The DRO Process: What You Need to Know

## **ALTERNATE PAYEE DESIGNATION OF BENEFICIARY**

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.) No preretirement survivor income or postretirement survivor continuance will be payable from the alternate payee's account.

Note that the alternate payee may designate a beneficiary (by using the Designation of Beneficiary (UBEN 117) form available on UCnet) to receive amounts, if any, due after their death.

## **BENEFITS AFTER REMARRIAGE**

If an active member remarries and their new spouse or Domestic Partner is eligible for survivor benefits, these benefits will be based on the member's benefits after the division and a portion of the member's benefits was allocated to their 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 their earliest Plan retirement age, however, all the choices outlined in "Retirement Benefits: Options for the Alternate Payee," page 6, are available to the alternate payee.

Separate provisions apply to Duty Disability. If the member receiving duty disability is eligible to retire, the alternate payee may immediately elect to begin receiving the monthly payment option or lump sum payment. The member's monthly benefit will be reduced at that time to reflect the alternate payee's share.

## **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.

## **DROS FOR SUPPORT**

The Plan will only accept a Support DRO 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 DRO must be in the form of California judicial form FL-460 (Qualified Domestic Relations Order for Support).

## **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](http://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](http://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](http://www.coveredca.com).

## **TAXES**

Pension payments divided by a DRO 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 DRO.

### TIMING OF DISTRIBUTIONS

Under the 1976 Tier, the alternate payee generally may not receive a distribution of their 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 their 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 DRO 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, 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.

