

**U.A. LOCAL 447 PENSION PLAN
U.A. LOCAL 447 DEFINED CONTRIBUTION PLAN
QUALIFIED DOMESTIC RELATIONS ORDERS**

The Retirement Equity Act of 1984 established a specific set of rules under which pension benefits can be paid to an "alternate payee" (a former spouse or dependent child) under a state court domestic relations order.

The rules are simple. For the plan to pay benefits to an alternate payee the court order must be a "Qualified Domestic Relations Order" as defined in the federal statute. A QDRO must identify the plan to which it applies. It must state the name and last known mailing address of the alternate payee(s). It must specify either the amount of benefit to be paid or the manner in which that amount is to be determined. It must state the number of payments or the time period covered. The order must not require the plan to pay more benefits than the total to which the employee is entitled. It must not require payments to begin before the employee would be entitled to receive a pension. It must not require any form of payment (e.g. lump sum, periodic payments) not otherwise available under the plan. It must not allow the alternate payee to elect a joint and survivor annuity. It must not be inconsistent with any prior QDRO affecting the employee's benefits.

A QDRO may, but is not required to, provide that payments to the alternate payee will begin as soon as the employee becomes eligible to receive a benefit payment, even if the employee chooses to defer retirement. A QDRO also may provide that some or all of any survivor benefit payable to a spouse or other beneficiary will be paid to the alternate payee. If the QDRO does not contain these optional provisions, the alternate payee will not be entitled to receive anything until the employee actually retires and may receive no benefits at all if the employee dies before retirement.

The plan has the authority to determine whether a particular domestic relations order is in fact a QDRO. Parties to a dissolution should communicate with the plan before the order is finalized to avoid issuance of a nonqualified order with which the plan cannot comply.

Upon receipt of a court order, the plan administrator will analyze its provisions to determine whether it is qualified and will inform the parties of its decision. If you wish to submit a draft order the administrator will review it and advise you whether it meets the requirements of a QDRO.

Parties Must Furnish Final Order to the Plans

It is the responsibility of the parties to the dissolution proceeding to serve the final order upon the plans after it has been signed by the judge and entered by the clerk of the court.

Scope of Plan Review

The plans will not evaluate the fairness of the property division or inform the parties if an asset has been omitted. They will not attempt to determine whether a court order is valid under applicable state law.

The plans review final court orders solely to determine whether any interest in the benefits has been created for an alternate payee. If so, the plans will notify both the participant and the alternate payee whether the order is accepted as a QDRO under federal law and if it is not accepted, the reasons why.

If the order does not create any interest in plan benefits for an alternate payee (e.g. if it fails to name the plans, or fails to address retirement benefits at all), the plans will assume that the parties did not intend to divide these benefits. The order will be placed in the employee's file, and subsequent benefits will be paid to the employee in accordance with the terms of the plan without notice to or consent by the former spouse.

Acceptance of Order as QDRO

If the order is accepted as a QDRO, the alternate payee will be entitled to receive his or her share of the benefit in accordance with normal Plan rules. The Plans cannot pay benefits to an alternate payee until the participant has attained retirement age or otherwise become eligible for a distribution of benefits under Plan rules.

Rejection of Order

If either Plan rejects the order, the rejection notice will identify the defect(s) in the order. The participant or alternate payee may correct the defects and submit a revised order, or may appeal from the rejection decision using the Plan's appeal procedure. Any appeal must be submitted within sixty (60) days after the rejection notice. If the Plan does not receive a timely appeal or a revised court order, the Plan may pay benefits to the participant in accordance with the normal Plan rules, without notice to or consent by the former spouse.

Dissolution of Marriage Revokes Prior Designation of Spouse as Beneficiary

Under the Plan, dissolution of marriage automatically revokes any prior designation of the former spouse as the participant's beneficiary. If the participant wishes the former spouse to receive survivor benefits, he or she must complete a new beneficiary designation form after the date of the judgment dissolving the marriage.

Sample QDRO language

The following sample QDRO language divides the community property portion of the benefits equally between both spouses. This sample language is provided as a courtesy. Please note that a 50-50 division is not legally required and does not necessarily accomplish the best result for either spouse.

It also should be noted that the formula in paragraph 6 modifies the standard "Brown" formula developed by the California courts. That formula does not take into account the possibility of different benefit accrual rates in different years; because of fluctuating employment in the construction industry, employees participating in these plans will very rarely earn the same amount of benefits each year. If the employee works a greater or lesser number of hours per year, either before or after the marriage, the Brown formula will not accurately determine the community property portion of the benefit. This sample order uses the Brown structure, but substitutes actual benefit units earned by the employee for units of elapsed time. If the parties prefer to use the standard Brown formula, they may do so.

Paragraph 6 also provides for calculation of the alternate payee's share at the time benefit payments begin. This approach does not allocate any share of subsequent, contingent benefit increases to the alternate payee. If the parties wish to treat such contingencies as community property and provide for their division in the order, they may do so.