

Chapter Six

Qualified Domestic Relations Orders (QDROs)

Chapter Six Highlights

Occasionally the assets in a Participant's plan account will be assigned to an Alternate Payee (his/her former spouse or children) as the result of divorce or legal separation. When the court order contains certain requirements, it is referred to as a Qualified Domestic Relations Order (QDRO). This chapter is designed to help you identify a QDRO and understand how TRS processes these judgments for your plan in relation to a Participant's account.

Determining whether or not a court order is a QDRO is a significant part of your responsibility. To assist you with this task, we have provided a comprehensive checklist found at the end of the chapter. If all of the questions are answered "yes," the presumption is that the order is qualified.

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6.1 QUALIFIED DOMESTIC RELATIONS ORDERS (QDRO)

What is a QDRO?

A Qualified Domestic Relations Order (QDRO) is a court ordered judgment awarding all or a portion of a participant's plan benefits to an Alternate Payee. This person(s) may be a spouse, former spouse, child, or other dependent. The judgment may be in the form of a decree, order, or property settlement agreement which relates to the provision of child support, alimony, or property rights.

Identifying a QDRO

With the exception of governmental plans, the order must state certain facts with respect to a Participant in a plan:

- 1) Participant and Alternate Payee Information
 - o Name
 - o Last known mailing address
- 2) Plan name to which the order applies
- 3) Amount or percentage of the Participant's benefits to be paid by the plan to the Alternate Payee, including the manner in which the amount or percentage is to be determined
- 4) If applicable, number of payments and/or period to which the order applies

Requesting a Model QDRO

A "model" QDRO can be obtained through TRS to provide the Plan Administrator or your attorney with the acceptable format. Please contact PENCO concerning any "model" order requests.

Contact TRS when Participants request information about a QDRO. The Plan Specialist will provide a "model" QDRO.

6.1 QUALIFIED DOMESTIC RELATIONS ORDERS (QDRO) CONT.

Processing QDROs

We recommend that a draft of the proposed order be sent to TRS for review before it is filed with the courts.

1. **IRS Regulations Review** — TRS reviews all domestic relations orders or proposed orders to determine if they meet IRC qualification requirements. Ultimately, the determination if the order meets the requirements of a QDRO is the responsibility of the Plan Administrator.
2. **Restriction Placed on Participant's Account** — Upon your notification of receipt of an order to be evaluated as a QDRO, TRS will place a 'restriction' on the Participant's account until the QDRO processing is completed. When an account is restricted, the Participant is prohibited from taking a distribution, hardship withdrawal, or initiating a new loan.
3. **Review of QDRO** — TRS reviews the order to ensure it's accurate, consistent with plan provisions, and meets the criteria for a QDRO (refer to your service agreement regarding QDRO processing fees).
4. **Outcome Notification** — TRS will notify the requestor (you, the attorney, etc.) of the outcome of the review and whether any changes are needed in order for the order be accepted as a QDRO.
5. **Court Signed Copy to TRS** — Once the order has been filed with the courts, a signed copy needs to be provided to TRS for separation or payment of the portion of the account.

When an account is restricted, the Participant is prohibited from making a distribution, hardship withdrawal, or initiating a loan. Please refer to your Plan Document for QDRO provisions applicable under your plan.

6.1 QUALIFIED DOMESTIC RELATIONS ORDERS (QDRO) *CONT.*

Submitting QDROs

When submitting a QDRO to TRS, one of the following must be included:

- **Written confirmation of the Plan Administrator's determination that the order is a QDRO**, as well as processing instructions (see section 6.2).
- **Distribution Request Form for an immediate distribution** (If no distribution form is provided, an account will be established for the Alternate Payee.)
- **An Enrollment/Change Form**, if the distribution is to be delayed and an account is to be established under the plan for the Alternate Payee. (If no enrollment form is provided, the award to the Alternate Payee will be invested under the same investment options the Participant has elected.)

6.2 ADMINISTERING A QDRO

Pending QDROs

If the status of the domestic relations order is pending, meaning that you are still assessing whether or not the order is qualified, TRS will not segregate the Participant's account until a final determination is made.

QDRO Administration Fees

Refer to your service agreement regarding the hourly administrative charge for QDRO processing, which will be billed in the quarter services were rendered.

Upon receipt of the appropriate information, TRS will process the transaction, and a confirmation will be mailed to you, the Participant, and the Alternate Payee. A domestic relations order is not considered qualified until that determination is made by you and confirmed with your signature.

6.3 QDRO INFORMATION CHECKLIST

Questions	Yes	No
1. Is the document signed by a judge or other court-appointed official such as a referee? (Note: Notary Publics and court clerks do not have the authority to issue court orders.)		
2. Does the order clearly indicate that it was filed or entered by the court?		
3. Does the order clearly relate to the provision of child support, alimony payments, or marital property rights of a spouse, former spouse, or child of a Participant?		
4. Does the order clearly appear to be made pursuant to a state's domestic relations law?		
5. Does the order create or recognize the rights of one or more persons other than the Participant to receive all or a portion of the Participant's benefits directly from the plan?		
6. Does the order clearly specify the name of each Participant covered by the order?		
7. Does the order specify the Participant's last known mailing address? If not, does the Plan Administrator have independent knowledge of that information?		
8. Does the order clearly specify the name of each Alternate Payee covered by the order?		
9. Does the order specify the Alternate Payee's last known mailing address? If not, does the Plan Administrator have independent knowledge of that information?		
10. Does the order clearly state the name of the plan to which it applies?		

6.3 QDRO INFORMATION CHECKLIST CONT.

Questions, Page 2	Yes	No
<p>A. Does the order clearly specify the amount or percentage of benefits to be paid to the Alternate Payee? (Note: Careful consideration must be given to this question. If the Participant's benefits are not in payout status under an annuity option, the order should specify either 1) an exact dollar amount; 2) an exact percentage of the account as of a given date with no adjustment for earnings/losses accruing thereon; or 3) an exact dollar amount or percentage of the account as of a given date with adjustment for earnings/losses accruing from that date to the date of transfer or distribution to the Alternate Payee. If the Participant's benefits are in payout status under an annuity option, the order should specify the percentage or dollar amount of each payment that the Alternate Payee is to receive and, if applicable, the number of payments or period to which the order applies. See also questions 10(B) and 10(C) below.)</p>		
<p>B. Is the Participant fully vested under the plan?</p>		
<p>If not, is the order clear as to the amount or proportion of employee and/or vested employer contributions that the Alternate Payee is to receive?</p>		
<p>C. Does the Participant have an outstanding loan on the order's valuation date?</p>		
<p>If yes, is the order clear regarding if or how the outstanding loan on that date affects the Alternate Payee's share?</p>		
<p>11. Is it clear from the order that it does not require the plan to provide any type of benefit or any option not otherwise available under the plan or require a plan to pay a greater amount of benefits with respect to a Participant than it would be required to pay in the absence of the order, or conflict with a prior qualified order?</p>		
<p>If all of the questions are answered "yes," the presumption is that the order is qualified. If any of the above questions are answered "no," the presumption is that the order is not qualified and all interested parties should be notified.</p>		