

**Food Employers Labor Relations Association  
and United Food & Commercial Workers  
Pension Fund**

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**Qualified Domestic Relations Order Procedures**

*Effective August 9, 2010*

Pursuant to Section 206(d) of the Employee Retirement Income Security Act of 1974, as amended and Section 414(p) of the Internal Revenue Code of 1986, as amended, the Board of Trustees of the Food Employers Labor Relations Association and United Food & Commercial Workers Pension Fund ("Fund") have adopted the following procedures for reviewing a Domestic Relations Order ("DRO") that may be entered with regard to benefits payable under the Food Employers Labor Relations Association and United Food & Commercial Workers Pension Fund ("Fund") and for determining whether any such DRO constitutes a Qualified Domestic Relations Order ("QDRO").

1. A DRO is an order entered by a court or court approval of a property settlement that relates to the provision of support, alimony payments, or marital property rights to an Alternate Payee and is made pursuant to a State domestic relations law.

An Alternate Payee means any spouse, former spouse, child, or other dependent of a Participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a Plan with respect to such Participant. To the extent provided in any QDRO, the former spouse of a Participant may be treated as a surviving spouse of the Participant for purposes of the provision requiring a joint and survivor annuity and/or a preretirement survivor annuity if the former spouse and Participant were married for at least one year as of the date of divorce.

2. Upon receipt of a DRO, the Fund will send the Participant and the Alternate Payee a notice stating that it has received the DRO and will provide a copy of these procedures.
3. The Fund will next determine the "qualified" status of the DRO. For the DRO to be considered a QDRO, the DRO must meet the following requirements:
  - a. The DRO must indicate the name and last known mailing address (if any) of the Participant. The Fund will consider the "address" requirement met if the identity of the Participant is sufficiently clear and the Fund has reason to know the Participant's current address.

- b. The DRO must indicate the name and mailing address of the Alternate Payee(s). The Fund will consider the “address” requirement met if the identity of the Alternate Payee is sufficiently clear and the Fund has reason to know the Alternate Payee's current address.
  - c. The DRO must indicate the amount of the benefit to be paid to the Alternate Payee. This requirement may be met by: (1) specifying a fixed amount; (2) specifying a percentage of the Participant's benefit; or (3) providing a formula by which the Fund can determine the amount due the Alternate Payee at any given time.
  - d. The DRO must state when the Alternate Payee's benefits will commence. Under the Plan, the Alternate Payee's benefits may commence on or after the Participant attains the earliest retirement date under the Plan or such later date as the Alternate Payee may elect.
  - e. The DRO must indicate the period of time for which the DRO will remain in effect. This requirement can be met by specifying: (1) a specific time period (e.g., “for 24 months” or “for the Alternate Payee’s lifetime”); (2) the total amount to be paid over time (e.g., “until \$\_\_\_ has been paid”); (3) a particular form of payment (e.g., “a single life annuity”); or (4) an indefinite duration (e.g., “until further order of court”).
  - f. The DRO must correctly identify the Fund as the fund to which the Order applies.
4. If the DRO requires any of the following, the DRO is not a QDRO:
- a. The DRO cannot require the Fund to provide any type of benefit or form of benefit that is not otherwise provided for under the Plan.  
  
A QDRO can allow the Alternate Payee to elect any form of payment permitted under the Plan based on his/her lifetime, but the Alternate Payee may not elect to receive a benefit in the form of a joint and survivor benefit with a subsequent spouse.  
  
A QDRO also may require payment of a benefit to an Alternate Payee while the Participant is still in employment covered by the Plan as long as it requires payments to the Alternate Payee no earlier than the date of the Participant's earliest retirement age under the Plan.
  - b. The DRO cannot require the Fund to provide a larger benefit than it would otherwise provide under the Plan. For purposes of this requirement, benefits that are actuarially equivalent are considered to be equal.

- c. If there is another DRO previously determined to be a QDRO, under which the Fund must pay another Alternate Payee, the two Orders cannot require the Fund to pay more than 100% of the Participant's benefit.
  - d. If the DRO is submitted to the Fund after the Participant's annuity starting date, the DRO cannot require payments to the Alternate Payee for the Alternate Payee's lifetime.
  - e. If the DRO is submitted to the Fund after the annuity starting date of the Participant's surviving spouse, the DRO cannot assign any portion of the surviving spouse benefit that is payable to the Participant's surviving spouse under the form of benefit currently in effect.
5. If the DRO satisfies these requirements, the DRO will be determined to be a QDRO and the Fund will notify the Participant and the Alternate Payee (or their designated representatives) of this determination and of the action taken. If the DRO is determined *not* to be a QDRO, the Fund will notify both the Participant and the Alternate Payee (or their designated representatives) of this determination.
  6. In the event that the Fund receives a court-entered DRO pertaining to a Participant that is in pay status at the time of receipt, the Fund will segregate and withhold from the Participant's benefit the amounts awarded to the Alternate Payee in the DRO for up to 18 months pending determination of the "qualified" status of the DRO. However, the Fund will only withhold and segregate amounts that can be reasonably ascertained from the DRO. The Participant and the Alternate Payee will be advised of this action on the initial notice under Section 2 of these procedures. If the DRO is determined to be a QDRO, the withheld amounts will be released to the Alternate Payee upon the determination that it is a QDRO and completion of any necessary application process.

If the DRO is determined *not* to be a QDRO and the Alternate Payee would be entitled to receive benefits immediately if the DRO were a QDRO, the Fund will continue to withhold the Alternate Payee's portion of the Participant's benefit for up to 60 days after the date of the notice to the parties that the DRO is not qualified. If, within this 60-day period, the parties submit a revised DRO and the Fund determines that it is qualified, the withheld amounts will be released to the Alternate Payee upon the determination that it is a QDRO. If the parties do not submit a revised DRO within the 60-day period or submit a DRO that is determined not to be qualified, the withheld amounts will be released to the Participant upon the earlier of (1) the date the subsequent DRO is determined not to be a QDRO or (2) the expiration of the 60-day period.

If the qualified status of a DRO has *not* been determined within 18 months of the Fund's receipt of the original DRO, then any amounts withheld pursuant to this Section will be released to the Participant.

7. If a modified DRO is received by the Fund after the periods described in Section 6 expire, the Fund will send the Participant and the Alternate Payee a notice of the receipt of such order and will proceed in accordance with these procedures (starting with Section 2 above).
8.
  - a. If the Alternate Payee dies before his/her benefits commence, the QDRO will have no effect and benefits will revert to the Participant, unless a contingent Alternate Payee is designated in a QDRO.
  - b. If the QDRO awards the Alternate Payee the right to elect any form of payment allowed under the Plan based on his or her life expectancy, the Participant's death after the DRO is determined to be a QDRO by the Fund will not affect the Alternate Payee's benefit. If the Alternate Payee is awarded a share of the Participant's monthly benefit for as long as the Participant receives it, the Participant's death after the DRO is entered and determined to be a QDRO will terminate the Alternate Payee's benefit unless the QDRO provides otherwise.
  - c. If the Alternate Payee dies after his/her benefits commence in the form based on his or her life expectancy, the Alternate Payee's benefit will not revert to the Participant. If the Alternate Payee dies after his/her benefits commence as a share of the Participant's monthly benefit for as long as the Participant receives it, the Alternate Payee's benefit will revert to the Participant unless the QDRO provides otherwise.
  - d. A DRO that is entered after the death of the Participant whose benefit is the subject of the DRO will not fail to be a QDRO solely because it is issued after the death of the Participant.
9. In order to commence receiving benefits after a DRO has been entered by a court and qualified by the Fund, the Alternate Payee must notify the Fund of the request to commence benefits and must complete any necessary application forms and supply any documents requested by the Fund.
10. Upon request, the Fund will review a proposed domestic relations order to determine whether the proposed order would meet the requirements of a QDRO if entered or approved by a court. Following review, the Fund will notify the Participant and the Alternate Payee (or their designated representatives) of its determination.
11. The Fund will not review the reasonableness of the allocation of the Participant's benefit under the QDRO. Further, the Fund does not make any determination as to the validity of the underlying domestic relations proceeding or its compliance with the applicable state domestic relations law.