

Divorce Distribution Procedures

(effective 1/1/2012)

In a divorce your account may be subject to division through a legal document called a Qualified Domestic Relations Order (QDRO). A Qualified Domestic Relations Order is one of the few ways in which a retirement plan accounts may be distributed to anyone other than the plan participant. A domestic relations order is an Order signed by a judge relating to the provision of child support, alimony payments, or marital property rights made pursuant to state domestic relations law.

The following procedures are used by the Oregon University System to manage the qualification process for Domestic Relations Orders associated with either the Oregon University System Optional Retirement Plan (ORP) or the Tax-Deferred Investment 403(b) Plan (TDI) (collectively, the 'Plans').

In cases where the Qualification process is handled directly by the Oregon University System, this guide outlines the essential qualities of a QDRO and details the steps that will be taken to make the Qualification determination. The terms of an Order must meet applicable Plan QDRO provisions.

This guide is composed of the following sections:

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| Section 1 | <u>START HERE</u> – A glossary of common terms that you will see in this document. |
| Section 2 | Summary: A plain-language summary of the Divorce Distribution process. |
| Section 3 | QDRO Contacts: This section includes information identifying the appropriate party(ies) to assist you with your QDRO (either at OUS or at a Plan Provider). |
| Section 4 | QDRO Procedures: This section details the OUS QDRO Procedures. |
| Section 5 | ORP Document: This section provides an excerpt of the ORP Document related to QDROs. |
| Section 6 | TDI Document: This section provides an excerpt of the TDI Plan Document related to QDROs. |

Section 1: Glossary of Common Terms

Some common terms related to the Divorce Distribution Procedures are listed below. These are general definitions intended to provide context, but are not intended to be sufficient to be used in the drafting of domestic relation order documents.

Additional terms and specific definitions are included with the respective ORP and TDI document excerpts in sections 6 and 7 of this document.

Alternate Payee – The party in a QDRO that is intended to receive a portion of a participant’s account.

Domestic Relations Order (DRO) – A court document that – in part – describes how a participant’s account will be divided between the Participant and the Alternate Payee. A DRO could be contained within a full divorce decree as long as it meets the requirements of a QDRO.

DRO – See Domestic Relations Order

QDRO – See Qualified Domestic Relations Order

Qualified Domestic Relations Order (QDRO) – A Domestic Relations Order that meets specific qualifications as outlined by the retirement plan document and the IRS. A Domestic Relations Order must be “Qualified” in order to be processed by the Provider.

Optional Retirement Plan (ORP) – A defined contribution plan that academic and administrative unclassified employees may choose in lieu of PERS membership.

Order – See Domestic Relations Order

Participant – An employee or former employee who may have an account in either the TDI or ORP.

Provider – A company who maintains the Participant’s retirement account. Commonly, the Provider can be identified by looking at the Participant’s account statement.

Retirement Plans Administrator – The Retirement Plans Administration Committee or designee of the Oregon University System (OUS) who acts on behalf of OUS to administer the OUS retirement plans.

Tax-Deferred Investment 403(b) Plan(TDI) – A supplementary retirement savings plan available to OUS employees.

Section 2: Divorce Distribution Summary

General steps to be taken by your or your designated representative.

- 1. Read these procedures:** Read these OUS Divorce Distribution Procedures. These procedures contain important information that will help the process to go as smoothly as possible.
- 2. Give to Representative:** Give a copy of this Divorce Distribution Procedure document to the legal representative handling your divorce decree.

Additionally, you (the participant or alternate payee) must provide OUS with written notice of your designated representative(s) in order for OUS to correspond with them regarding the DRO process.

- 3. Obtain the Account Information:** Determine the OUS Plans, account numbers and plan Providers that will be affected by the divorce distribution. Your account statements can help to determine this information, and you can call the company that holds your account for additional information (for example, Fidelity or TIAA-CREF).
- 4. Draft an Order:** To separate a retirement account, you must have a document which contains specific information.

Details regarding the information that must be included in a Domestic Relations Order can be obtained from the OUS QDRO Contact listed in Section 3.

The OUS QDRO will review one draft of the Order, if requested by the person who will submit the Order to the court.

- 5. Submit to the Court:** File the Domestic Relations Order with the court.
- 6. Send to the Plan:** Submit the court-approved domestic relations Order to the OUS QDRO Contact listed in section 3 for distribution of an Optional Retirement Plan(ORP) account or a Tax-Deferred Investment 403(b) Plan (TDI through Fidelity Investments. Send all other TDI/TSA distributions to the Provider(s) for those accounts.

It is important that the person drafting the Order also send a cover letter that includes SSN and DOB for both the Participant and Alternate Payee along with the draft Order. This information is critical to definitely identify a Participant and to establish an Alternate Payee account with the Provider.

- 7. Wait:** If the Order is determined to be sufficient, the Provider will establish an account for the Alternate Payee, and the new Alternate Payee account will be funded as detailed in the Order.
- 8. The End:** After the account has been established, the Alternate Payee can choose how to manage the account.

Section 3: QDRO Contacts

Optional Retirement Plan (ORP):

All ORP QDRO distributions must be approved by the Oregon University System Retirement Plans Administration Committee.

Details about the process followed by OUS are in section 4 of this document.

Participant Information: Information related to the Participant's account should be requested directly from the Plan Provider.

OUS QDRO Contact:

Chancellor's Office, OUS Retirement Plans SCH 320– DRO
P.O. Box 3175
Eugene, Oregon 97403-0175
PHONE (541) 737-4190

Tax-Deferred Investment 403(b) Plan (TDI):

For all providers other than Fidelity Plan #71678 (TDI:ous), requests related to QDROs should be sent directly to the Participant's Plan Provider. The Provider's contact information can be found on a recent account statement, online, or in the current OUS TDI Guide.

For Fidelity Plan#71678 (TDI:ous):

Details about the process followed by OUS are in section 4 of this document.

Participant Information: Information related to the participant's account should be requested directly from the Plan Provider (Fidelity).

OUS QDRO Contact:

Chancellor's Office, OUS Retirement Plans SCH 320– DRO
P.O. Box 3175
Eugene, Oregon 97403-0175
PHONE (541) 737-4190

Section 4: OUS QDRO Procedures

When qualification is handled by the Oregon University System, the process followed by OUS is outlined in this section. (See 'QDRO Contacts' (Section 3) to determine whether a DRO is qualified directly by the Oregon University System or by the Plan Provider).

The following procedures and provisions apply prior to the Plan's receipt of a Domestic Relations Order (Order).

Freeze Account

OUS will notify the plan provider to freeze the participant account, suspending any participant distributions or loans. The account will be frozen (and participant notified) as soon as there is a reasonable belief that an Order is in process such as when information is requested, regardless of whether a formal Order has been received.

The freeze may be removed after either 18 months with no Order activity or by written confirmation from the participant that no Order will be submitted in regards to the TDI and/or ORP accounts.

General Plan Resources

General information about the retirement plans sponsored by the Oregon University System is available at www.ous.edu/retirement.html.

Designated Representatives

The participant and the alternate payee must designate in writing a representative for receipt of copies of notices and plan information with respect to DROs.

The Plan will apply the following procedure whenever it receives an Order intended to be Qualified as a QDRO.

Notice to Parties

The Plan Administrator will notify the Participant and Alternate Payee(s) of receipt of the order.

Distribute Procedures

The Plan Administrator will provide to the Participant and to each alternate payee a copy of this Divorce Distribution Procedure.

Freeze Account

If not already frozen (see above), the Provider will be told of the receipt of the Order, and instructed to freeze the participant's account pending the Qualification process. The Plan Administrator will also not approve any distributions (loan, hardship, separation from service, etc) during this period (as outlined above).

Review Order

The Plan Administrator will review the Order within a reasonable time to determine its qualified status. The Plan Administrator will complete an Order Qualification Checklist with respect to each order the Plan receives. After review,

the Administrator will determine whether the order is a sufficient QDRO.

- a. If the Order **is** qualified as a QDRO:

Authorization by OUS Retirement Plans Administration Committee: The Plan Administrator will review the Order with the committee or designee for approval to direct the Provider(s) to distribute assets of the Optional Retirement Plan.

Notice to Participant and alternate payee: The Plan Administrator will notify the Participant and each Alternate Payee, and the legal representative who submitted the DRO to OUS that the order is a sufficient QDRO and the Plan will distribute amounts pursuant to the QDRO.

This notice will include notification that the Order has been forwarded to the Provider for processing

Direction to Provider: The Plan Administrator will notify the provider an Order has been qualified and approved to direct distribution of the Participant's account. The Plan Administrator will also instruct the Provider to provide the Alternate payee with the forms and/or materials necessary to establish a separate account and/or take a distribution of the QDRO account from the Plan Provider.

- b. If the Order is determined to be insufficient:

Notice to Participant and alternate payee: The Plan Administrator will advise the Parties (including Participant, alternate payee or their Designated Representatives) and the legal representative who submitted the Order to OUS of the adverse decision and of the reasons for the adverse decision. The Plan Administrator will notify the Participant and each alternate payee of the decision..

Account Freeze: If an order is determined to not qualify as a QDRO the participant's account will remain in a distribution-restricted state for up to 18 months unless OUS is notified in writing that no revised Order will be forthcoming.

Section 5: ORP QDRO Provision Excerpt

OREGON UNIVERSITY SYSTEM
OPTIONAL RETIREMENT PLAN
2008 Restatement
Adopted by the Oregon State Board of Higher Education
Effective January 1, 2008

QDRO Provision Excerpt

This material is intended to assist in the administration of the plan, and it includes a summary of common ORP Plan provisions. To obtain additional information about the Plan, talk to your campus' Benefits Officer for specific assistance.

In case of conflict between this guide and the official plan documents of the ORP and Oregon state law regulating OPSRP/PERS, the official plan documents, Oregon state law, and federal regulations will govern.

Relevant Definitions:**1.2 Beneficiary**

“Beneficiary” means the individual or entity designated by the Participant in writing to receive benefits in the event of the Participant’s death, pursuant to Section 5.7.

1.12 Employer Contribution Account

“Employer Contribution Account” means an account established and maintained by the Plan Administrator or Trustee to receive a Participant’s share of Employer contributions to the Plan.

1.16 Fund Sponsor

“Fund Sponsor” means one or more companies or other entities which provide authorized Funding Vehicles for investment of Participants’ Accounts.

1.17 Funding Vehicles

“Funding Vehicles” mean deferred annuities or participation units in an investment option provided by a Fund Sponsor for the purpose of funding benefits under the Plan. As of the Effective Date, authorized Funding Vehicles include all Funding Vehicles which the Fund Sponsor makes available for investment by qualified retirement plans. The ORP Administration Committee reserves the right to add or delete authorized Funding Vehicles from time to time subject to the approval of the Trustee.

1.19 Normal Retirement Date

“Normal Retirement Date” means the first day of the month coinciding with or immediately preceding the Participant’s (a) fifty-fifth (55th) birthday, or (b) completion of thirty (30) Years of Service, whichever occurs first.

1.20 Participant

“Participant” means any Eligible Employee who qualifies for participation pursuant to Section 2. Effective August 1, 2003, a Participant’s status may be:

- (a) “Active” while currently employed in a qualifying position;
- (b) “Inactive” if not actively at work in a qualifying position as described in Section 1.9, disabled, or terminated, and the Participant has not received a full disbursement of vested benefits; or
- (c) “Retired” if terminated from employment after reaching the Normal Retirement Date and has requested a disbursement of vested benefits, or participates in one of the Employer’s retirement incentive programs such as, but not limited to, the Early Retirement Incentive or Tenure Relinquishment programs. OPERS retirement does not confer retiree status on a Plan Participant.

A Participant shall cease to be a Participant when his or her benefit payments are completed.

1.21 Participant Contribution Account

“Participant Contribution Account” means an account established and maintained by the Plan Administrator or Trustee to receive Participant Contributions to the Plan.

1.22 Participant Contributions

“Participant Contributions” means contributions picked up by the Employer as described in Code Section 414(h)(2), on a nonelective salary reduction basis or as an additional Employer-funded contribution, on behalf of each Active Participant in an amount equal to the percentage of the Employee’s Compensation that the Employee would have contributed as an employee contribution to the OPERS in the absence of an election to participate in this Plan.

1.23 Plan

“Plan” means the Oregon University System Optional Retirement Plan, either in its present form or as amended from time to time. Prior to February 15, 2002, the Plan was known as the Oregon State System of Higher Education Optional Retirement Plan.

1.25 ORP Administration Committee

“ORP Administration Committee” means the committee as from time to time constituted and appointed by the Board to administer the Plan. The name of the committee designated under the Plan as stated before this amendment and restatement as the “Retirement Committee” is changed to the “ORP Administration Committee”.

Plan Provisions related to Domestic Relation Orders**7.1 Requirements for Qualification**

Notwithstanding any Plan provisions to the contrary, vested benefits under the Plan may be paid to someone other than the Participant or Beneficiary, pursuant to a Qualified Domestic Relations Order. A Qualified Domestic Relations Order is a judgment, decree, or order (“Order”) (including approval of a property settlement agreement) that:

- (a) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a Participant;
- (b) is made pursuant to a state domestic relations law (including a community property law); and
- (c) creates or recognizes the existence of an alternate payee’s right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable to a Participant under the Plan.

The Plan will recognize a Qualified Domestic Relations Order only if it meets the following additional requirements:

- (i) The Order must identify the Plan benefits that are being awarded to the alternate payee with sufficient clarity that the ORP Administration Committee, in its sole judgment, is able to interpret and administer the order.
- (ii) The Order must not require the payment of any benefits that are not provided for under the Plan or the applicable Funding Vehicle.
- (iii) The Order must not require the ORP Administration Committee or any Fund Sponsor to take any action that would be inconsistent with the terms of the Plan or any applicable Funding Vehicle.
- (iv) The Order must not conflict with any prior Qualified Domestic Relations Order relating to the Participant’s Account.

7.2 Commencement of Payment

All vested benefits awarded to an alternate payee shall be distributed to the alternate payee in accordance with the Order as soon as administratively feasible after the Order has been determined to be a Qualified Domestic Relations Order, unless otherwise required by the terms of the Order. Payments may be made to an alternate payee in accordance with the terms of a Qualified Domestic Relations Order even if the Participant is not eligible for a distribution.

7.3 Determination of Status of Order

The ORP Administration Committee shall determine whether an order meets the requirements of this Section within a reasonable period after receiving an order. An order shall be considered received by the Plan when it is received and recorded by the Oregon University System, P.O. Box 3175, Eugene, Oregon 97403-0175. The Participant and any alternate payee shall be notified that an order has been received and of the procedures for determining the qualified status of domestic relations orders.

7.4 Rights of Alternate Payees

No alternate payee shall have any right in or to any asset of the Plan, or any part thereof, except as, and only to the extent, expressly provided for in this Section relating to domestic relations orders. However, while the qualified status of an order is being determined, an alternate payee shall receive information concerning the Plan which is provided to Participants. Subsequent to determination as a Qualified Domestic Relations Order, and subject to the terms of the Qualified Domestic Relations Order, and any agreement between the Participant and the Fund Sponsor, an alternate payee may select authorized Funding Vehicles and name a Beneficiary with respect to his or her benefit in the same manner as a Participant.

7.5 Same-Sex Domestic Partners

This Section 7 applies to a Participant and the Participant's same-sex domestic partner or former same-sex domestic partner in the same manner as this Section 7 applies to a Participant and the Participant's spouse or former spouse, except that this Section 7 does not allow the Plan to distribute a benefit to a Participant's same-sex domestic partner or former same-sex domestic partner (or other person with respect to whom the distribution does not satisfy the requirements of Code Section 414(p)(11)) if the Participant has not attained the Normal Retirement Date or separated from employment with the employer (within the meaning of Code Section 414(b), (c), (m), and (o)) at the time of the distribution. For this purpose, a Participant's same-sex domestic partner is the individual, if any, who the Oregon Family Fairness Act (which is sections 1 to 9 of 2007 Oregon Laws chapter 99) requires be treated the same as the Participant's spouse.

Section 6: TDI QDRO Provision Excerpt

OREGON UNIVERSITY SYSTEM
TAX-DEFERRED INVESTMENT 403(b) PLAN
2009 Plan
Effective January 1, 2009
Adopted by the Oregon State Board of Higher Education
on November 7, 2008

QDRO Provision Excerpt

This material is intended to assist in the administration of the plan. If it conflicts with any formal plan documentation (including, but not limited to, the Plan Document), the formal plan documentation prevails.

Relevant Definitions:**1.1 "Account"**

The account or accumulation maintained for the benefit of any Participant, Beneficiary, or Alternate Payee under an Annuity Contract or a Custodial Account. The Vendor shall establish the following Source accounts within a Participant's, Beneficiary's, or Alternate Payee's Account, subject to the Individual Agreements:

- (a) Pre-Tax Elective Deferral Source account, for pre-tax elective deferrals.
- (b) Roth Elective Deferral Source account, for Roth elective deferrals.
- (c) Rollover Source account, for eligible rollover distributions paid to the Plan that are not from another plan's Roth elective deferral account.
- (d) Roth Rollover Source account, for eligible rollover distributions paid to the Plan from another plan's Roth elective deferral account.
- (e) Employee Post-Tax Source account, for amounts transferred under Section 6.2 from an employee after-tax contribution account.

The Vendor may also establish additional Source accounts within an Account.

1.2 "Account Balance"

The aggregate amount credited to the Participant's Account under all Accounts, including the Participant's Elective Deferrals, the earnings or loss of each Annuity Contract or Custodial Account (net of expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. The Account Balance includes any Source accounts established for rollover contributions and plan-to-plan transfers made for a Participant or Beneficiary, any Source accounts established for a Beneficiary after a Participant's death, and any Source accounts established for an Alternate Payee.

1.3 "Administrator"

The Board on behalf of the Oregon University System. See Section 11.22 for the persons through which the Board as Administrator may act.

1.4 "Alternate Payee"

A spouse, former spouse, child, or other dependent of a Participant who is recognized by a domestic relations order, as defined in Section 11.2(b), as having a right to receive all, or a portion of, the benefits payable under the Plan with respect to the Participant.

1.6 "Beneficiary"

An individual or any type of entity that is entitled to receive benefits under the Plan after the death of a Participant, subject to Section 8 (relating to Beneficiary).

1.11 "Custodial Account"

A group or individual custodial account, as defined in section 403(b)(7) of the Code, established for each Participant by the Employer, or by each Participant individually only as authorized under Section 7.4(b), to hold assets of the Plan.

1.18 "Individual Agreement"

The agreements between a Vendor and the Employer or a Participant that constitutes or governs a Custodial Account or an Annuity Contract.

1.20 "Participant"

An individual for whom Elective Deferrals are currently being made, or for whom Elective Deferrals have previously been made, under the Plan and who has not received a distribution of his or her entire benefit under the Plan.

Plan Provisions related to Domestic Relation Orders

8.5 Alternate Payee's Beneficiary.

To the extent permitted by the Individual Agreements controlling the Account Balance and to the extent consistent with the domestic relations order, an Alternate Payee under a domestic relations order, as defined in Section 11.2(b), may designate a beneficiary or beneficiaries of the Alternate Payee's interest in the Participant's Account Balance, and that beneficiary or those beneficiaries will be the Alternate Payee's Beneficiary or Beneficiaries for purposes of the Plan. The designation may be made only as provided in this Section 8 for a designation by a Participant and is subject to all the terms of this Section 8 as if the Alternate Payee were a Participant, except that Section 8.3 applies to determine an Alternate Payee's Beneficiary for only any part of the Alternate Payee's Account Balance for which the Alternate Payee has designated a Beneficiary under this Section 8.5.

11.2 Domestic Relation Orders.

- (a) Notwithstanding Section 11.1, if permitted by section 414(p) of the Code, the amount of the Participant's Account Balance shall be paid to an Alternate Payee in the manner and to the person or persons so directed in a domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan.
- (b) For purposes of the Plan, "Domestic relations order" means a judgment, decree, or order (including approval of a property settlement agreement) ("Order") that:
 - (1) Relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant;
 - (2) Is made pursuant to the domestic relations law of any State;
 - (3) Creates or recognizes the existence of an Alternate Payee's right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Participant under the Plan;
 - (4) Clearly specifies:
 - i) The name and the last known mailing address (if any) of the Participant and the name and mailing address of each Alternate Payee covered by the order;

- ii) The amount or percentage of the Participant's benefits to be paid by the Plan to each such Alternate Payee, or the manner in which such amount or percentage is to be determined;
 - iii) The number of payments or period to which such Order applies; and
 - iv) That the Order applies to the Plan;
 - (5) Does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided under the Plan (other than payment without regard to whether the Participant is eligible for a distribution of benefits under the Plan) and does not require the Plan to pay benefits to the Alternate Payee in the form of a joint and survivor annuity with respect to the Alternate Payee and his or her subsequent spouse;
 - (6) Does not require the Plan to provide increased benefits;
 - (7) Does not require the payment of benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another Order previously determined to be a domestic relations order; and
 - (8) Does not require any action that would be inconsistent with the terms of the Plan, section 401(a)(9), 402A, or 403(b) of the Code, any other federal or Oregon law, or any Funding Vehicle.
- (c) The Administrator shall establish reasonable procedures for determining the status of any such Order and for effectuating distribution pursuant to the domestic relations order.
- (d) Pursuant to section 9(6) of the Oregon Family Fairness Act (which Act is sections 1 to 9 of 2007 Oregon Laws chapter 99), the Administrator concludes that the extension of the benefits of this Section 11.2 to an individual because the individual is or was in a domestic partnership (as defined in section 3 of that Act) would conflict with a condition for tax qualification of the Plan, or a condition for other favorable tax treatment of the Plan, under the Code or regulations adopted under the Code.