

University of California



Qualified Domestic Relations Orders (QDROs) Factsheet

Generally, University of California Retirement System (UCRS) accumulations and benefits cannot be attached by creditors; nor can benefits be assigned for payment to others. However, federal and state law recognizes an exception to this rule in the case of Domestic Relations Orders and the University complies with legal requirements.

The Plan Administrator for the UCRS retirement plans is the President of the University of California or the President's designee. The President has delegated administration of marital dissolution cases to the Associate Vice President, Human Resources and Benefits. The Associate Vice President has established a Special Claims unit to handle the administrative tasks associated with qualifying a Domestic Relations Order.

Note: References to "member" in this document refer to a participant in the University of California Retirement Plan (UCRP), which may include a Capital Accumulation Provision (CAP) benefit.

This factsheet applies to the University of California Retirement Plan (UCRP or Plan) and Capital Accumulation Provision (CAP) only. Please contact Fidelity Investments Tax-Exempt Services Company (FITSCo) at 1-866-682-7787 for information regarding the Tax-Deferred 403(b), Defined Contribution and 457(b) Deferred Compensation Plans.

Frequently Asked Questions

General Information

1. What information does UCRP provide when a member is involved in a marital dissolution or legal separation?

The Plan Administrator provides a QDRO Packet which includes:

- Events and Effects on member and Alternate payee UCRP Account Factsheet.
- Specific benefits information for the marital period, showing member and employer contributions and earnings for UCRP/CAP as well as service credit information, applicable offsets, and an estimate for the alternate payee's lump sum cashout.
- A Sample (or Model) QDRO, to assist members, alternate payees, and their respective attorneys or other authorized representatives in preparing the draft order.
- A Summary Plan Description for UCRP/CAP.
- A *Family Changes Benefits Checklist*.

2. What happens if the member tries to retire or to withdraw the UCRP money (refund of accumulations or lump sum cashout) while the case is pending?

The member's retirement account is flagged to indicate that the account may be subject to a community property division. This may delay or prevent transactions. If the member is retired, the member's retirement income may be reduced pending resolution of the community property issues.

3. How does the UCRP lump sum cashout differ from a refund from UCRP accumulations?

A QDRO refund is a distribution of the portion of the member's contributions to the Plan, plus earned interest, that has been awarded to the alternate payee according to the QDRO. The member may or may not have contributed to the Plan at the time of the division; therefore, a QDRO refund may not apply. The QDRO lump sum cashout is the alternate payee's portion of the actuarial present value of the member's

basic retirement income as of the cashout date; a projection of future cost-of-living increases is included. Generally, the lump sum cashout is worth substantially more than a refund of accumulations. However, individuals might choose a refund because they need or want monies before the member becomes eligible to retire.

4. If the member becomes disabled, can the UCRP disability income be divided?

No. The alternate payee is not entitled to receive any portion of the member's UCRP disability income. However, the alternate payee is entitled to receive a refund of accumulations (if any), or, if the member is eligible to retire, a lump sum cashout based on the alternate payee's separate account. The alternate payee is eligible for basic retirement income only on the date disability income ceases and the member begins receiving retirement benefits or dies. Normally, the member's service and/or benefit (for all purposes other than UCRP disability income) will be offset to reflect the award to the alternate payee. Separate provisions apply to Duty Disability.

5. What happens to the member's accumulations in the Tax-Deferred 403(b), Defined Contribution and 457(b) Deferred Compensation Plans?

The records for these plans are kept by Fidelity Investments Tax-Exempt Securities Company (FITSCO). A separate QDRO is required to divide these plans. Contact FITSCO directly for more information.

6. Are UCRP benefits subject to taxes?

Yes. All pension payments, including those divided according to a QDRO, are subject to applicable federal and state taxes, which are the responsibility of the individual receiving payment. (Note: for tax reporting purposes, UCRP must have the alternate payee's Social Security number before any payment can be made.) Refer to the appropriate Summary Plan Description and a tax advisor for further tax information.

UC QDRO Packet

7. Who can obtain a QDRO Packet?

A UCRP member's file is confidential. However, the member, the alternate payee, and their respective attorneys or other authorized representative may obtain relevant information on the member's benefits and how they are determined. Before UCRP will provide the information to someone other than the member, UCRP must be joined as a party to the action, or the Plan Administrator must receive a subpoena or be provided with the member's written consent. Any written request for information must include:

- the member's name and Social Security number;
- the member's current address, or the name and address of the attorney representing the member;
- dates of the marital period (date of marriage and separation); and
- the name and address of the party to whom the information may be released.

8. Is the community property division shown in the QDRO packet?

No. The Plan Administrator does not determine the division. This must be determined by agreement between the member and the alternate payee and it must be approved by the court.

9. When will the QDRO packet be sent?

The packet will generally be sent 6 to 8 weeks after the Special Claims unit receives the request. The packet is not available immediately because the member's records must be compiled and calculations performed.

Qualified Domestic Relations Orders

10. What is a Domestic Relations Order (DRO)?

A Domestic Relations Order (DRO) is any judgment, decree, or other order made in accordance with state domestic relations law which relates to the provisions of child support, spousal maintenance, or marital property rights of any former spouse, legally separated spouse, child, or other dependent of a Member. Certain provisions for a former domestic partner may also apply.

11. What is a QDRO?

A “QDRO” is a Domestic Relations Order which has been filed with the court and determined by the Plan Administrator to be acceptable or “qualified” under the rules of UCRP. A QDRO recognizes the existence of an alternate payee (i.e., legally separated spouse, former spouse, domestic partner, child and/or other dependent) who has the right to receive benefits that are or will be payable to a member.

12. Is UCRP subject to ERISA rules?

No. UCRP is a governmental plan and as such 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.

13. Can the Domestic Relations Order include personnel-related benefits such as accrued sick leave and vacation leave?

No. Accrued sick leave and vacation leave are not assets held by UCRP. If any division of these benefits is possible, the arrangement must be made outside the retirement plan.

14. Should the Plan Administrator see a draft before the order is filed with the court?

Yes. A draft of the Domestic Relations Order should be sent to Special Claims for review before it is filed with the court. Special Claims will review the draft and if the draft is acceptable under UCRP rules, will inform the parties how the division will be administered. If the draft is unacceptable, Special Claims will explain what is needed to make the order acceptable.

15. Does UCRP need to be joined as a party to the proceedings?

Yes. A joinder is the court action which adds UCRP as a party to the dissolution or legal separation. Before the order can be qualified or any benefits paid, UCRP must be joined as a party to the action if the case will be heard in a California court. When completing the joinder, UCRP should be named as the “claimant.” The Plan Administrator will accept service by mail.

16. What is required by the Plan Administrator to qualify an order?

The order will be considered qualified if it is in compliance with UCRP provisions and with state domestic relations laws. In general, the following conditions must be met:

- The form of benefit requested for the alternate payee is available under the Plan as of the date of the order.
- UCRP has been joined as a party to the proceedings if the order was issued in the State of California.
- The order clearly creates or recognizes the rights of the alternate payee.
- The order provides the member’s name and current address.
- The order provides the alternate payee’s name and mailing address.
- The member’s and alternate payee’s Social Security number and date of birth need not be in the order. However, the Plan requires this information be provided in a separate letter to the Plan.
- The order states the period of the marriage (date of marriage and date of separation or divorce).
- The order states exactly the name of each Plan to which the order applies.
- The order states 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.
- The amount payable to the alternate payee affects only benefits payable to the member and does not reduce the benefits payable to the current spouse, another alternate payee, or any dependent of the member.
- It has been approved by the Plan Administrator, the order has been filed with the court and the Plan Administrator has been provided with a certified copy.

17. What happens after the DRO has been filed with the court and the Plan Administrator has received a certified copy of the order?

If the order has been approved by the Plan Administrator, it will be considered qualified and both parties will be notified by the Special Claims unit. Final calculations will be performed as specified in the order, to determine the benefits attributable to the alternate payee and the effect on the member's account. The alternate payee will be provided with information regarding the benefits payable and with claim forms. The member will be informed of the adjustment to his or her accumulations and the amount of service credit awarded to the alternate payee.

Alternate Payee

18. How are the alternate payee's interests protected? Does UCRP establish a separate account for the alternate payee?

When the Special Claims unit first receives written notice of an adverse claim from the alternate payee/petitioner, the member's retirement account is flagged to note the pending resolution. When the Plan Administrator has qualified the order and receives a certified copy of the court order defining each party's interest in the member's retirement benefits, the member's account will be divided according to the specifications of the order. The alternate payee's share will be placed in his or her own non-member account.

19. Are the alternate payee's benefits subject to any special limits or restrictions?

All benefits paid by UCRP are subject to plan maximum benefit, Internal Revenue Code (IRC) limits and minimum distribution requirements. Special Claims will provide the alternate payee with detailed information if the QDRO distribution is affected by such Plan and IRC rules.

20. When can an alternate payee receive his or her share of the UCRP benefit? And how is the benefit paid?

The benefit can be paid after Special Claims has received a certified copy of the QDRO, joinder (California only), a copy of the court order that terminated the marriage (i.e., "Judgment of Dissolution"), and properly completed claim forms (provided by Special Claims).

Generally, if the QDRO is approved before the UCRP member retires, the alternate payee's options are as follows:

- At any time, the alternate payee may elect a refund of his or her share of the member's contributions to the Plan (if any), plus earnings to the extent consistent with the QDRO; or
- If the member is already eligible to retire or when the member first becomes eligible to retire, (generally, age 50 with five years of UCRP service credit), the alternate payee has the opportunity to elect an actuarially derived lump sum cashout (If the cashout is less than \$20,000, the alternate payee must receive the cashout.); or
- If the alternate payee does not elect the cashout at the first opportunity, he or she must wait until the member's retirement or date of death to receive monthly retirement income or the lump sum cashout.

If the member has already retired when the QDRO is issued, the alternate payee will receive the share of the member's monthly retirement income stated in the QDRO for the lifetime of the member. After the member dies, the alternate payee will receive retirement income only if the member named the alternate payee as the contingent annuitant.

21. Can the alternate payee designate a beneficiary?

Yes. The Plan recognizes that an alternate payee's interest may not end if the alternate payee dies while benefits are still payable. The alternate payee may sign a beneficiary form or benefits will go to his or her estate or next of kin. Please read UC's scenario publications for more information regarding what benefits may be payable after the alternate payee's death.

22. Is the alternate payee or legally separated spouse eligible for continued medical, dental, and vision coverage?

No. University-sponsored coverage stops at the end of the month when the marital dissolution or legal separation is final. However, an alternate payee may continue group health coverage for up to 36 months under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). Campus and laboratory Benefits Representatives can provide more information. As an alternative, or at the end of the COBRA continuation period, the alternate payee 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.

After the Division of Community Property

23. How will the member's retirement benefits be affected by a QDRO?

The member's account will be reduced by the amount awarded to the alternate payee.

If the member is active, the member's service credit and UCRP accumulations will be reduced by the amount awarded to the alternate payee. The service credit adjustment does not affect the member's vesting rights and eligibility for UCRP benefits and medical and dental coverage.

If the member is retired, the member's retirement income will be reduced to account for the payment to the alternate payee. Reduction in retirement income will not affect eligibility for health benefits.

24. Can the member reestablish the service credit awarded to the alternate payee as a result of a community property division?

No. Since the alternate payee has been awarded a portion of the member's service credit and will be paid retirement benefits accordingly, that service credit awarded to the alternate payee is permanently lost to the member.

25. If the member dies, are survivor benefits payable to the alternate payee?

No. The Plan normally provides certain benefits to a current surviving spouse that cannot be paid to an alternate payee.

26. If the member dies and has no eligible survivors, do the remaining benefits revert to the alternate payee?

No. The alternate payee receives benefits based only on his or her own account. Similarly, if the alternate payee dies first, the benefit does not revert to the member.

27. What happens if the member remarries?

Since the benefit has been divided and the alternate payee has had a separate account established, the alternate payee's benefits are not affected. Survivor benefits for the member's new spouse will be based on the member's account after the division.

For More Information

All correspondence regarding a member's UCRP/CAP benefits in cases of marital dissolution or legal separation should be addressed to:

Special Claims
Human Resources and Benefits
University of California, Office of the President
P. O. Box 24570
Oakland, CA 94623-1570

For more information about UC benefits you may contact the UC Customer Service Center:
1-800-888-8267

All correspondence regarding the Tax-Deferred 403(b) Plan, Defined Contribution Plan and 457(b) Deferred Compensation Plan should be addressed to:

Fidelity Employer Services Company LLC
QDRO Administration Group
P. O. Box 770002
Cincinnati, OH 45277-0090
Attn: University of California

Toll-free Telephone: 1-866-682-7787

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