

Divorce Distribution Procedures

Optional Retirement Plan & Tax-Deferred Investment 403(b) Plan

Divorce Distribution Procedures

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 account 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 Public Universities Retirement Plans (OPURP) to manage the qualification process for Domestic Relations Orders associated with either the Optional Retirement Plan (ORP) or the Tax-Deferred Investment 403(b) Plan (TDI), collectively referred to as the “Plans.”

In cases where the qualification process is handled directly by OPURP, this guide outlines the required components 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:

- Section 1** **START HERE** – 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 OPURP or at a Plan Provider).
- Section 4** QDRO Procedures: This section details the OPURP QDRO Procedures.
- Section 5** ORP Document: This section is an excerpt of the ORP Document related to QDROs.
- Section 6** TDI Document: This section is an excerpt of the TDI Plan Document related to QDROs.

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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 5 and 6 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.

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 that maintains the Participant’s retirement account. Commonly, the Provider can be identified by looking at the Participant’s account statement.

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

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Section 2: Divorce Distribution Summary

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

- 1. Read these Procedures:** Read these 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. OPURP will correspond with representatives of the Participant or the Alternate Payee to qualify and process a DRO unless directed in writing to correspond with another designated representative by the Participant.
- 3. Obtain the Account Information:** Determine the OPURP Plans, account numbers and plan Providers that will be affected by the divorce distribution. Request recent account statement(s) from each of the Providers for this information. The Participant should contact the company that holds her/his accounts for additional information (for example, Fidelity or TIAA).
- 4. Draft an Order:** To separate a retirement account, the Order or other divorce document must contain specific information. The information that must be included in a Domestic Relations Order can be obtained from the QDRO Contacts listed in Section 3. It is generally summarized in Section 5 of this procedure for the Optional Retirement 401(a) Plan (ORP) and in Section 6 for the Tax-Deferred Investment 403(b) Plan (TDI). OPURP will review the 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 OPURP QDRO Contact listed in Section 3 for distribution for:
 - a. All Optional Retirement 401(a) accounts
 - b. All 403(b) TDI accounts

It is required that the person drafting the Order also sends the OPURP QDRO contact a cover letter that includes SSN and DOB for both the Participant and Alternate Payee along with the draft Order. This information is required to identify a Participant and to establish an Alternate Payee account with the Provider.

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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. **Alternate Payee Account Availability:** After the separate account has been established by the Provider, the Alternate Payee manages the account.

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Section 3: QDRO Contacts

ORP and TDI Plans:

All QDRO distributions must be approved by the OPURP Director or Benefits Coordinator.

Details about the qualifications process are in section 4 of this document.

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

OPURP QDRO Contact:

Oregon Public Universities Retirement Plans – DRO
6226 University of Oregon
Eugene, Oregon 97403-6226
PHONE: 541-346-5784

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Section 4: QDRO Procedures

The process is handled by the Administrator and is outlined in this section.

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

Freeze Account

The administrator 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 is available at www.opurp.org

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

Notice to Parties

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

Distribution Procedures

The 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 administrator will also not approve any distributions (loan, hardship, separation from service, etc.) during this period (as outlined above).

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Review Order

The administrator will review the Order within a reasonable time to determine its qualified status. The administrator will complete an Order Qualification Checklist with respect to each Order the Plan receives. After review, qualified staff will determine whether the Order is a sufficient QDRO.

a. If the Order is qualified as a QDRO:

The administrator will review the Order for approval and direct the Provider(s) to distribute assets.

Notice to Participant and Alternate Payee:

The administrator will notify the Participant and each Alternate payee, and the legal representative who submitted the DRO 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 administrator will notify the provider that an Order has been qualified and approved to direct distribution of the Participant's account. The 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 administrator will advise the Parties (including Participant, Alternate Payee or their Designated Representatives) and the legal representative who submitted the Order to the administrator of the adverse decision and of the reasons for the adverse decision. The 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 the administrator is notified in writing that no revised Order will be forthcoming.

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Section 5: ORP QDRO Provision Excerpt

OREGON PUBLIC UNIVERSITIES OPTIONAL RETIREMENT PLAN

Amended and Restated
Effective January 1, 2018

QDRO Disclaimer

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.

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Relevant ORP Definitions

1.3 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.

1.14 Employer Contribution Account

“Employer Contribution Account” means an account established and maintained by the administrator or Trustee to receive a Participant’s share of Employer Contributions to the Plan other than matching Employer Contributions provided in Section 3.2(b)(iii)(B) (matching Employer Contributions provided in Section 3.2(b)(iii)(B) are credited to the Participant’s ORP Employer Match Account).

1.19 Fund Sponsor

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

1.20 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 administrator reserves the right to add or delete authorized Funding Vehicles from time to time subject to the approval of the Trustee.

1.21 Normal Retirement Age

“Normal Retirement Age” means the first day of the month coinciding with or immediately preceding the Participant’s fifty-fifth (55th) birthday.

1.22 ORP Employer Match Account

“ORP Employer Match Account” means an account established and maintained by the administrator or Trustee to receive a Participant’s share of matching Employer Contributions provided in Section 3.2(b)(iii)(B).

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1.23 Participant

“Participant” means any Eligible Employee or former Eligible Employee whose election under Section 2.1 to participate in the Plan has become effective and who has not ceased to be a Participant. A Participant’s status may be:

(a) Active.

A Participant’s status is “Active” if the Participant is currently employed by the Employer or a Participating Employer in a Qualifying Position. An Active Participant excludes an Employee described in Section 1.11(b)(ii), (iii), (iv) or (vi).

(b) Inactive.

A Participant’s status is “Inactive” if the Participant is (i) not currently employed by the Employer or a Participating Employer in a Qualifying Position, (ii) Disabled, or (iii) terminated, and the Participant has not received a full disbursement of vested benefits. An Inactive Participant includes an Employee described in Section 1.11(b)(ii), (iii), (iv) or (vi) who previously made a valid election under Section 2.1 while employed as an Eligible Employee.

(c) Retired if:

- (i) The Participant (1) terminated employment with the Employer and all Participating Employers, (2) reached the Normal Retirement Age, and (3) requested a disbursement of vested benefits; or
- (ii) The records of the Employer and all Participating Employers record that the Participant terminated employment and the Participant participates in a retirement incentive program of the Employer or a Participating Employer such as, but not limited to, the early retirement incentive or tenure relinquishment/reduction 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.

1.24 Participant Contribution Account

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

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1.25 Participant Contributions

“Participant Contributions” means contributions picked up by the Employer or a Participating Employer as described in Code Section 414(h)(2), on a non-elective salary reduction basis or as an additional Employer-funded contribution, or a Participating Employer-funded contribution, on behalf of each Tier One, Tier Two, and Tier Three 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 (without regard to the OPERS requirement that an employee perform 600 or more hours of service in a calendar year). Participant Contributions are made under Section 3.1. As provided in Sections 1.24 and 3.1, Participant Contributions will be made without regard to the Participant’s hours of service in each calendar year.

Participant Contributions will not be made for Tier Four Active Participants.

1.26 Participating Employer

“Participating Employer” means any public university in the State of Oregon that formally adopts the Plan as provided in Section 11. The Participating Employers are:

- Oregon State University;
- Portland State University;
- Eastern Oregon University;
- Western Oregon University;
- Southern Oregon University; and
- Oregon Institute of Technology.

1.27 Plan

“Plan” means the Oregon Public Universities Optional Retirement Plan, either in its present form or as amended from time to time.

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Optional Retirement Plan Provisions related to Domestic Relations Orders

SECTION 7

DOMESTIC RELATIONS 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 Administrator, 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 Administrator, Trustee, 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.

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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 Administrator 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 Administrator. 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 Age 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 (codified at ORS 106.340) requires be treated the same as the Participant's spouse.

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Section 6: TDI QDRO Provision Excerpt

OREGON PUBLIC UNIVERSITIES TAX-DEFERRED INVESTMENT 403(b) PLAN

Amended and Restated
Effective January 1, 2018

QDRO Disclaimer

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.

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Relevant TDI 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 Administrator may direct the Vendor to 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.

1.4 "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.

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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).

1.7 "Board"

The Board of Trustees of the University of Oregon.

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.

1.14 "Employer"

The University of Oregon.

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.

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Tax-Deferred Investment 403(b) Plan Provisions related to Domestic Relation Orders

Section 8

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.

Section 11

11.1 Non-Assignability.

Except as provided in Section 11.2 and Section 11.3, the interests of each Participant, Beneficiary, or Alternate Payee under the Plan are not subject to the claims of the Participant's, Beneficiary's, or Alternate Payee's creditors; and neither the Participant nor any Beneficiary or Alternate Payee shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

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;

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- (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.

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- (d) This Section 11.2 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 11.2 applies to a Participant and the Participant's spouse or former spouse, except that this Section 11.2 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 age 59½ 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, whom the Oregon Family Fairness Act (codified at ORS 106.340) requires be treated the same as the Participant's spouse.