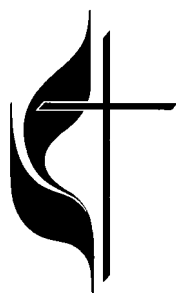


# **The Most Commonly Asked Questions (And Answers)**

Regarding Marital Litigation and the Division of Pension Benefits

From the Pension Plans Administered By  
The General Board of Pension and Health Benefits,  
Of The United Methodist Church  
Incorporated in Illinois  
Pursuant to a Qualified Domestic Relations Order

**Information provided by Legal Services (847) 866-4202**



**GENERAL BOARD OF PENSION AND HEALTH BENEFITS  
OF THE UNITED METHODIST CHURCH**

(December 2004)

The General Board of Pension and Health Benefits of The United Methodist Church, Incorporated in Illinois ("General Board") receives a number of inquiries from participants or spouses who are considering the dissolution of their marriages. The following is a compilation of the most commonly asked questions and answers.

## 1. When should the General Board be notified of pending marital litigation?

Participants and their attorneys should contact the General Board for information as soon as possible. Pension benefits are an important part of the financial estate of ministers and church employees. Our pension plans may be very different from most retirement programs with which attorneys are familiar. Accordingly, the rules concerning the division and distribution of pension assets are different from most retirement programs.

The pension plans are "church plans" as defined in Section 414(e) of the Internal Revenue Code ("Code"). These church plans have never made an election under Section 410(d) of the Code. Accordingly, the Plans are exempt from: (i) the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") under Section 4(b)(2) of ERISA (29 USC 1003(b)(2)); and (ii) certain provisions of the Code. Code Section 414(p), which governs qualified domestic relations orders ("QDRO"), is one of the provisions that church plans are exempt from. Nevertheless, the church plans administered by the General Board each provide that they will recognize domestic relations orders that qualify as QDROs under Code Section 414(p), as determined by the General Board as Plan Administrator.

## 2. Why should the General Board be contacted?

The General Board is the Plan Administrator of the pension plans of The United Methodist Church. We are a separate entity from the local conference offices, staff agencies, and other employers whose staff participate in the pension plans. With respect to division of pension assets the General Board can (1) provide information about accrued monthly benefits and current account balances; (2) provide information about the provisions of the pension plans and pension procedures; and (3) carry out the division of pension assets, if any, once the Court has made its determination. The General Board **will not** determine a present value for the Ministerial Pension Plan Pre-1982 Retirement Benefit accrued monthly benefit or perform calculations to determine an amount to be divided.

The General Board will supply our model QDRO, together with related materials upon request. In order for the General Board to provide information regarding a participant's pension benefits to third parties, we require the participant's written authorization or a subpoena for records.

**3. Is the spouse of the participant automatically entitled to a portion of the pension account or benefit of the participant?**

The pension plans administered by the General Board do not dictate that there must be a division of pension benefits. Often, the court will divide the pension assets based upon an agreement between the participant and the spouse, which considers the personal financial situation of both parties. If there is to be a division of the pension benefits, a court must enter a qualified domestic relations order ("QDRO").

**4. What is a QDRO and why do I need to have this type of order?**

A qualified domestic relations order or QDRO (often pronounced quadro) is a Judgment, Decree, or order that (1) relates to the provision of child support, alimony payments, or marital property rights to an alternate payee; (2) is made pursuant to a state domestic relations law (including a community property law); (3) meets the requirements of the pension plans and section 414(p) of the Code; and (4) is accepted and approved by the General Board. The alternate payee may be a spouse, former spouse, child or other dependent of the participant, who is assigned by a court order to receive a portion of the participant's pension benefit.

If there is to be a division of pension benefits, the pension plans and federal law require a QDRO to assign pension benefits to the alternate payee. A QDRO must meet certain criteria and be very specific in its language. The General Board, as Plan Administrator, determines whether a QDRO is qualified. Even though the QDRO is actually a court order signed by a judge, it is not considered qualified until the General Board approves the order. The General Board provides a model QDRO to assist attorneys in drafting an order appropriate for the "church plans" administered by the General Board. The model QDRO allows attorneys to designate the amounts or percentages that will be assigned to the alternate payee.

The General Board will do a preliminary review of a draft QDRO prior to entry in Court. The purpose of the preliminary review is to determine whether the order will qualify as QDRO and that the General Board will be able to administer the QDRO. The review of an order is not intended to have the General Board determine the amount to be assigned or settle disputes between parties.

We strongly encourage the submission of a draft QDRO for preliminary review. This will avoid unnecessary delays in qualifying the order and help to keep costs down.

**5. When is the QDRO filed and who is responsible for preparing the QDRO?**

It is extremely important that the parties make every attempt to have the QDRO filed concurrently with the divorce or dissolution of marriage. Quite often parties assume because a separation agreement has been drawn up between the parties that

the agreement is sufficient to assign pension benefits. Just because a Decree of Divorce is issued does not mean that the matter of dividing pension benefits is finished. The matter is not concluded until the General Board receives a certified copy of a domestic relations order and qualifies the order as a QDRO.

In most situations a QDRO is filed as a separate document, but it may be included in the Decree of Divorce. Unless stipulated in the separation agreement or Decree, either party may prepare and file the QDRO. Any division of benefits set forth in a separation agreement or Decree is binding on the parties and not on the General Board. Both the participant and the alternate payee should cooperate fully toward the goal of qualifying an order and ensuring the completion of the division of pension benefits.

#### **6. What if there will be no division of the pension benefits?**

Sometimes the participant will retain the pension benefits and give other assets to a former spouse. If the participant is to retain full rights to his/her pension benefits, the court order should specifically state that there is to be no division of pension benefits, and the General Board should be given a copy of that order.

#### **7. What does the General Board do when it receives an order that purports to be a QDRO?**

When the General Board receives an order that purports to be a QDRO, the pension plan documents and federal regulations require the General Board to review the order and make a determination on the qualified status of the order. The determination is based on whether the order divides pension benefits in accordance with the pension plans administered by the General Board and federal law. The pension plans and federal regulations allow the General Board to take a reasonable period of time to review the QDRO. During this time the General Board does the following:

- Upon receipt of the domestic relations order ("DRO"), the General Board places an administrative hold on distributions from any pension account that has not been annuitized. This continues until the DRO is examined, and approved or disapproved by the General Board, and time allowed for a defective order to be corrected.
- For annuities the General Board will begin to withhold amounts for the alternate payee and keep them segregated until the DRO has been examined and approved or disapproved.
- If the DRO follows the model QDRO provided by the General Board, the General Board will examine it and render a decision usually within 10 business days.

- If the DRO does not follow the model QDRO provided by the General Board, examination may take up to 30 days to render a decision.
- When the General Board has completed its examination it will send a notice to the participant, the alternate payee, and their legal representatives indicating that the DRO has been approved as a QDRO and will be implemented or that the DRO has been disapproved and will identify the reasons for the disapproval.

If the General Board disapproves of a DRO because it fails to meet the requirements, it will continue to hold on distributions for up to 180 days. This allows the parties time to obtain an order correcting the defect. In accordance with plan procedures and federal regulations, the General Board may continue to segregate benefits while repeated attempts are made to correct an order for a maximum of 18 months, before discontinuing withholding benefits for the alternate payee.

#### **8. What does the General Board do if the DRO is approved as a QDRO?**

Once the DRO is approved, the General Board will process an internal transfer of the benefits assigned from the account of the participant into an account for the alternate payee. The internal transfer will usually be completed within 60 days. After the internal transfer is completed, the General Board will notify the participant and alternate payee in writing. If eligible, the alternate payee then may apply for a distribution.

If the alternate payee is assigned a portion of the monthly payments from an annuity, payments will begin as of the division date stated in the QDRO and as soon as administratively possible following the General Board's approval of the QDRO.

#### **9. When is the alternate payee eligible to receive a distribution if the participant is not receiving payments?**

The alternate payee under the pension plans is treated as a fully vested terminated participant. Rights to distributions shall be subject to the requirements applicable to terminated participants as provided by the pension plans as they may be amended from time to time, including the non-alienation provisions. The alternate payee shall be eligible for benefits in accordance with the plan age requirements, if any, based upon the alternate payee's age (**not the participant's age**).

Once the internal transfer of pension benefits has been completed, the alternate payee is eligible to receive distributions including a lump sum from the following pension plans:

- (1) Personal Investment Plan Accounts (employee contributions);

- (2) Cumulative Pension and Benefit Fund (employer contributions for employees of churches and some church -related organizations);
- (3) Staff Retirement Benefits Program (employer contributions for employees of general agencies of The United Methodist Church);
- (4) Horizon 401(k) Plan (employer and employee contributions for employees of some church-related organizations).

*A Summary Plan Description will be provided upon request.*

Alternate payees assigned pension benefits in the Ministerial Pension Plan ("MPP") (mandatory church contributions for ordained ministers and deacons) are **not** eligible to begin receiving pension benefits until after they have attained age 62. If the alternate payee is assigned benefits from the participant's MPP pre-1982 Retirement Benefit, the form of benefit he/she will be entitled to receive is a single life, no refund monthly annuity. If the alternate payee is assigned benefits from the MPP post-1981 Account, he/she will be entitled to choose between the available monthly life annuity options. After attainment of age 62, the alternate payee may also elect to receive a distribution of an amount not to exceed 25% of the value of his/her MPP post-1981 Account, prior to the remainder being established as a life annuity.

There are two exceptions to the distribution options under the MPP post-1981 Account.

- (1) If an alternate payee has been determined to be disabled by the Social Security Administration or is currently receiving disability benefits from the Comprehensive Protection Plan, the alternate payee may elect to receive a one-time distribution of an amount not to exceed 25% of the value of his/her MPP post-1981 prior to attainment of age 62. If this option is exercised, upon the attainment of age 62, the only available distribution will be a life annuity. Proof of disability status is required.
- (2) If the alternate payee is assigned an amount from the MPP post-1981 Account that is less than one-fourth of the denominational average compensation ("DAC"), and is not assigned any MPP Pre-1982 benefits, the alternate payee may elect to receive a lump-sum distribution. The DAC changes annually and the right to distribution is determined on the DAC in effect at the time the distribution is requested and is based on the value of the entire MPP post-1981 Account of the alternate payee. The denominational average compensation for 2004 was \$49,325. (To obtain the amount for a current year from the General Board.) In 2004 an assignment from the MPP post-1981 Account of up to \$12,331 to an alternate payee could be distributed following implementation of a QDRO. Assignment of an amount exceeding \$12,331 would result in the

entire amount being held in the MPP post-1981 Account until the alternate payee attains age 62.

**10. How may the alternate payee take a distribution?**

For benefits, which have not been annuitized, an alternate payee who is eligible for distributions may request a distribution after being notified in writing that the internal transfer of pension benefits has been completed. This is usually done within 60 days after the QDRO is approved.

If the alternate payee's account balance is \$5,000.00 or less, and has never exceeded \$5,000.00, the General Board will distribute the monies automatically pursuant to our administrative procedures for such distributions. If the alternate payee's account balance is greater than \$5,000.00 the alternate payee will be required to complete an Application for Benefits form. The Application for Benefits form will describe all the alternative forms of benefits for an eligible alternate payee. These include various types of annuities and for all plans *except* the Ministerial Pension Plan, a lump sum distribution.

Once the alternate payee receives written confirmation that the internal transfer of pension benefits has been completed, the alternate payee may then request an Application for Benefits from the General Board at (800) 851-2201. The alternate payee can also request a Rollover Agreement form to have a portion or all of his/her account rolled over to a the trustee of another plan or Individual Retirement Account ("IRA").

**11. Must an alternate payee who is eligible to receive distributions take a distribution immediately?**

The fact that an alternate payee is eligible to receive a distribution does not mean that he/she must take a distribution. Some alternate payees may consider saving some or all of the money for retirement income. The amounts may grow through investment and tax-deferred compounding in the pension plans.

If the alternate payee chooses to leave his/her account balances invested at the General Board, information regarding our investment funds may be obtained from the General Board's website at [www.gbophb.org](http://www.gbophb.org) or by calling our Customer Service Department at 1-800-851-2201. The alternate payee can direct the investment of account balances in the Horizon 401(k) Plan and the Personal Investment Plan. Investment elections are directed by the General Board for account balances held in the Ministerial Pension Plan pre-1982 Retirement Benefit. Investment of account balances held in the Ministerial Pension Plan (post-1981) Account, the Cumulative Pension and Benefit Fund, and the Staff Retirement Benefits Program are directed by the General Board until the alternate payee attains age 61, at which time a portion of

the balance will be transferred to a self-directed account incrementally each year until age 65 when his/her entire account balance becomes self-directed.

**12. How will the alternate payee receive a portion of an annuity being paid to a participant?**

For those accounts that have been annuitized prior to the division date, the alternate payee will receive the percentage (or flat dollar amount) he/she has been awarded from the monthly benefit of the participant usually beginning the first of the month following the month in which the General Board receives the QDRO. The alternate payee may also receive, depending upon the terms of the QDRO, benefits for the period of time the General Board was considering approval of the QDRO. These amounts may be held for the benefit of the alternate payee until the QDRO is approved and then paid. The monthly benefit will be paid directly to the alternate payee for as long as the participant is eligible to receive the benefit. Once a participant is no longer receiving the benefit, the payments to the alternate payee under the QDRO will cease.

If the alternate payee has been named the irrevocable "contingent annuitant" of a joint life annuity which was in pay status prior to the division date and the entry of a final Decree of Divorce, the benefit will be paid to the contingent annuitant upon the death of the participant. A divorce does not take away the alternate payee's right to receive benefits as the contingent annuitant.

Under cover of the letter notifying the parties that the QDRO has been approved, the alternate payee will receive an IRS Form W-9 Request for Taxpayer Identification Number and Certification. The form will need to be completed and returned to the General Board in order to establish payments. (If the General Board already has the form on file, we will not require an additional form.) The alternate payee will also be sent an IRS Form W4-P Tax Withholding Certificate (to stipulate the amount of tax to be withheld from each payment) and a Depository Agreement Form (if the alternate payee wishes to have his/her payments sent directly to a financial institution).

**13. Does the alternate payee have to pay federal income taxes on the awarded portion of the participant's pension benefits?**

The alternate payee will be required to pay federal income taxes on the taxable distributions that he/she receives. As required by the Internal Revenue Code, a 20% income tax withholding will be made on all partial and lump-sum distributions and 5-year annuities if the payment is directly made to the alternate payee. This withholding requirement will be waived for those distributions that are directly rolled over to another Code section 403(b) program or an IRA.

The amount awarded attributable to after-tax (personal) contributions will not be subject to federal income tax. All earnings will be subject to federal income tax. Distributions made pursuant to a QDRO are not subject to the 10% federal income tax penalty for premature distributions. No income tax is accessed until the monies are distributed.

**14. Who will be the beneficiary of the pension benefits of the participant (or alternate payee) after the dissolution of marriage?**

**The beneficiary of the participant.** Under the provisions of the pension plans administered by the General Board, the spouse is the automatic beneficiary of a married participant. As long as a participant is legally married, the notarized signature of the spouse on the Designation of Beneficiary form supplied by the General Board is required before the participant may designate someone other than the spouse as a primary beneficiary.

When a participant is divorced before receiving an annuity, the former spouse is no longer the automatic beneficiary. Until the participant designates a new beneficiary, a distribution in the event of the death of the participant will be made as if the former spouse predeceased the participant. The beneficiary(ies) of the participant will be entitled to 100% of the balance in each of the accounts of the participant upon his/her death. Under the terms of the pension plan, beneficiary designations are effective only when the General Board receives its official form with an original signature by the participant.

In order for the General Board to enter a divorce date and update beneficiary information in our database, we require a copy of the "filed" stamped document properly executed by the judge. Petitions to file marital proceedings are not sufficient. If a participant is legally separated, the General Board will require the participant to submit a copy of the Judgment in order to update beneficiary designations. A participant is not considered legally separated because he/she may have entered into a separation agreement and is living apart from his/her spouse. A legal separation is a judgment rendered by a court

If a pension benefit has been annuitized and is being paid in the form of a joint and survivor annuity, the contingent annuitant (the person who receives the payment upon the death of the participant) cannot be changed under any circumstances. Submitting a Designation of Beneficiary form does not change a contingent annuitant.

**The beneficiary of the alternate payee.** Upon the approval by the General Board of a QDRO, the alternate payee will be sent a Designation of Beneficiary form for completion. Until the General Board receives a beneficiary designation on its official form with an original signature, the beneficiary will be deemed to be the estate of the alternate payee for any benefits due the alternate payee. The beneficiary(ies) of the alternate payee will be entitled to 100% of the balance in each of the accounts of the alternate payee upon his/her death.

**15. Whom should I contact at the General Board of Pension and Health Benefits concerning the transfer of pension benefits?**

The responsibility for administering the procedures of the *General Board* with respect to the transfer of pension benefits has been assigned to the *Legal Services Department* at the *General Board*. Only personnel from *Legal Services* may assist the participant, the alternate payee, and their attorneys during this process.

Questions regarding these procedures or the domestic relations orders should be directed to *Legal Services, General Board of Pension and Health Benefits of The United Methodist Church, 1201 Davis Street, Evanston, Illinois 60201*. The direct telephone number of **Legal Services** is **(847) 866-4202**.

This publication is provided with the understanding that it is a source of information and does not constitute legal, tax or other professional advice, which may often turn on specific facts. If legal advice or other professional assistance is required, the services of a professional advisor should be sought.

This is a general description. For further information and important requirements consult the *Statement of Account, Summary Plan Description, the Procedures for Qualified Domestic Relations Order and the model QDRO*. If any information furnished by the *General Board* conflicts with a specific pension plan, the terms of the pension plan govern.