



The Most Commonly Asked Questions And Answers

Regarding Marital Litigation and the Division of Retirement Benefits
Pursuant to a Qualified Domestic Relations Order

For the Retirement Plans Administered by
The General Board of Pension and Health Benefits
of The United Methodist Church,
Incorporated in Illinois

**Information provided by the Legal Services Department
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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 and/or spouses who are considering the dissolution of their marriages. The following is a compilation of the most commonly asked questions with answers to those questions.

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. Retirement benefits are an important part of the financial estate of clergy and other church employees. Our retirement plans may be very different from most retirement programs with which attorneys are familiar. Accordingly, the rules concerning the division and distribution of retirement assets are different from most retirement programs.

The General Board's retirement plans are "church plans" as defined in Section 414(e) of the Internal Revenue Code (Code) and are administered pursuant to Code Section 403(b)(9). 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 retirement 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 retirement plans. With respect to the division of retirement assets the General Board can (1) provide information about accrued monthly benefits and current account balances; (2) provide information about the provisions of the retirement plans and retirement procedures; and (3) carry out the division of retirement assets, if any, once the Court has made its determination.

The General Board will supply our model QDRO, together with related materials to anyone who makes a request for information. In order for the General Board to provide specific information regarding a participant's retirement benefits (such as account balances or accrued monthly 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 retirement account or benefit of the participant?

The retirement plans administered by the General Board do not dictate that there must be a division of retirement benefits. Often, the court will divide the retirement 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 retirement benefits, a court must enter a domestic relations order (DRO) with respect to those benefits. The General Board will then review the DRO to determine if it qualifies as a qualified domestic relations order (QDRO), meaning that it is not in conflict with the terms of our retirement plans.

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 retirement 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 receives under a court order an assignment of a portion of the participant’s retirement benefit.

If there is to be a division of retirement benefits, the retirement plans and federal law require a QDRO to assign retirement benefits to the alternate payee. A QDRO must meet certain criteria and be very specific in its language. In most situations a QDRO is filed as a separate document, but it may be included in the Decree of Divorce. 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 because only certain kinds of assignments are permitted under the retirement plans. Under the law, the retirement plans are not required to pay benefits in a way that conflicts with the terms of the plans. 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 its entry by the Court. The purpose of the preliminary review is to determine whether the order will qualify as a QDRO and that the General Board will be able to administer the QDRO. 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. *The preliminary review of an order is not intended to have the General Board determine the amount to be assigned, determine that the division set forth in the order is fair and equitable to the parties, or settle disputes between parties.* The preliminary review is intended only to confirm that the General Board will be able to assign benefits to the alternate payee in the manner sought by the proposed order. When there is a technical problem, it is easier and more cost effective to make revisions before the court has entered the order.

5. Who determines the amount of benefits to be assigned to an alternate payee?

It is up to the participant and the alternate payee, together with their legal representatives and the court, to determine the amount to be assigned from the participant’s total accrued benefit under a retirement plan. The General Board will not retroactively divide either a participant’s account balance or a benefit that is already in pay status. Transfers of retirement benefits to an alternate payee can only occur in the present or prospectively for accounts not yet in pay status and only prospectively for those benefits already in pay status. This means that the General Board will not determine the account balances as of a date in the past or compute earnings on the past account balances to bring them forward to present. In the case of monthly benefits currently being paid, the General Board cannot divide up past benefits that have already been paid.

If the parties wish to use a date in the past to determine the amount to be assigned to the alternate payee that is their option. However, it is then up the parties to determine the amount or percentage to be assigned to the alternate payee from the participant's current account balances (or prospective benefit accruals for assignment of the Core Defined Benefit plans). The parties, not the General Board, will have to take on the burden of determining that percentage or dollar amount and figuring out how to apply any percentage to the participant's current account balance.

6. What if there will be no division of the retirement benefits?

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

7. Who is responsible for preparing the QDRO?

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 but not on the General Board. The General Board will divide a participant's retirement benefits only in response to a QDRO. 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 retirement benefits. An attorney's failure to prepare a QDRO for his/her client could potentially be deemed an omission significant enough to warrant a malpractice claim. The failure of a QDRO to be adopted and approved may result in a potential alternate payee losing his or her rights to benefits that the parties planned to assign. Unless a QDRO is prepared, entered, and approved by the General Board, the participant retains his or her retirement benefits and might in some cases receive a distribution of those benefits before the alternate payee receives an assignment.

8. When should the QDRO be filed?

It is extremely important that the parties make every attempt to have the QDRO filed **concurrently** with or before the divorce or dissolution of marriage. Quite often parties assume that the separation agreement drawn up between the parties is sufficient to assign retirement benefits. A filed Decree of Divorce does not mean that the matter of dividing retirement benefits is finished. The matter is not concluded until the General Board receives a certified copy of a DRO and qualifies the order as a QDRO. In addition, if a QDRO is not received and approved by the General Board at the time of the divorce, there is the possibility that a participant may die or that benefits may be paid out to a participant and/or the participant's Beneficiary, causing the alternate payee to lose his or her right to benefits.

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

When the General Board receives a court order that purports to be a QDRO, the retirement plan documents and federal laws 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 retirement benefits in accordance with federal law and with the terms of the retirement plans administered by the General Board. These provisions 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 retirement account mentioned in the DRO. In the case of monthly benefits that are currently being paid, we need at least 30 days advance notice in a DRO or a draft DRO to place a hold on some or all of a participant's monthly benefits. This administrative hold continues until the DRO is examined, and approved or disapproved by the General Board. Reasonable additional time is allowed for a defective order to be corrected and/or entered by a court in accordance with the General Board's "Procedures for Qualified Domestic Relations Orders" (Procedures).
- Any amount subject to an administrative hold will be segregated for the alternate payee beginning after the Date of Division stipulated in the DRO. The General Board will keep those amounts segregated until the DRO has been examined and approved or disapproved. See the General Board's Procedures for more detail on the disposition of segregated amounts.
- If the DRO follows the model QDRO provided by the General Board, a decision is usually rendered within 15 business days.
- If the DRO does not follow the model QDRO provided by the General Board, it may take up to 60 days to render a decision.
- When the General Board has completed its examination a letter will be sent 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 for stated reasons.
- If the General Board approves the QDRO and the alternate payee has the right to designate a beneficiary on his or her benefits, the General Board will forward an Alternate Payee Designation of Beneficiary form at this time.
- If the General Board approves a QDRO for a participant already in pay status, the General Board will forward to the alternate payee an IRS Form W-9 Request for Taxpayer Identification Number and Certification, an IRS Form W-4P Tax Withholding Certificate, and a Depository Agreement form for establishing direct deposit for monthly payments.
- If the General Board disapproves of a DRO because it fails to meet the requirements, it will continue its administrative 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 law, 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 the withholding of benefits for the alternate payee.

10. What happens after the General Board approves a DRO as a QDRO?

If the alternate payee does not already have his or her own identity in our data base (as either a participant in his or her own right or as an Associate Individual (Beneficiary receiving benefits)), the General Board will create a Participant Record for the alternate payee in our data base. The alternate payee will then have his or her own identity and participant number.

For benefits not already in pay status

The General Board will process an internal transfer of the benefits assigned from the participant's into a separate account(s) for the alternate payee. The internal transfer will usually be completed within 60 days of the date the QDRO was approved or following the Date of Division in the QDRO. Transfers are processed in the order of date of receipt of the DRO and date of approval of the QDRO. We must treat each alternate payee equally. Special requests for expediting transfers cannot be honored.

After the internal transfer is completed, the General Board will notify the participant and alternate payee in writing. The alternate payee will receive an additional letter in reference to his or her newly created personal identification number (PIN) for access to the Online Account Services Information System (OASIS) through the General Board's website. The alternate payee will begin to receive printed quarterly statements of account by mail following the end of the quarter in which the account(s) is established and will continue to receive statements until all of his or her account is distributed. (The amount of the monthly benefits from Supplement One (Pre-1982 Plan) of the Clergy Retirement Security Program (CRSP) and the CRSP Core Defined Benefit do not appear on the quarterly statements at this time. Information regarding these benefits can be obtained by requesting a pension projection through OASIS or calling the Customer Call Center at 1-800-851-2201 between the hours of 8:00 a.m. and 6:00 p.m., Central time, Monday through Friday.)

For benefits already in pay status

If the alternate payee is assigned a portion of a retirement annuity already in pay status, payment to the alternate payee will begin effective as of the Date of Division stated in the QDRO and as soon as administratively possible following the General Board's approval of the QDRO.

For benefits assigned from the Core Defined Benefit

If the alternate payee is assigned benefits from the Core Defined Benefit portion of the Clergy Retirement Security Program, the information about the assignment will be maintained internally at the General Board and noted on both the participant's and alternate payee's records. Since the actual

payment of the benefit may not occur for several years, or even decades, it is important that the participant and alternate payee keep the General Board informed of any address or name changes. Requests for pension projections can be made through our Customer Call Center at 1-800-851-2201 between the hours of 8:00 a.m. and 6:00 p.m., Central time, Monday through Friday.

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

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

Once the internal transfer of retirement benefits from the participant to the alternate payee has been completed, the alternate payee is eligible to receive immediate distributions from the following retirement plans and/or accounts:

- (1) United Methodist Personal Investment Plan (UMPIP) account;
- (2) Clergy Retirement Security Program (CRSP) Core Defined Contribution account;
- (3) Retirement Plan for General Agencies (RPGA) account;
- (4) Horizon 401(k) Plan.

An Alternate Payee is eligible to begin a monthly retirement benefit upon or after his or her attainment of age 62 from the following retirement plans and/or accounts:

- (1) CRSP Core Defined Benefit and/or Supplement One (Pre-82 Plan);
- (2) The Ministerial Pension Plan (MPP) account.

Note that monthly retirement benefits from the CRSP Core Defined Benefit that begin before age 65 are subject to an actuarial reduction in the amount to reflect earlier payment and the likelihood that the plan will pay for a longer period.

12. How does an alternate payee obtain a distribution?

For benefits, that are not already being paid to the participant before the QDRO, an alternate payee who is eligible for a current distribution may request a distribution after being notified in writing that the internal transfer of retirement benefits has been completed. Once the alternate payee receives written confirmation that the internal transfer of retirement benefits has been completed, if eligible,

the alternate payee may then request an Application for Benefits from our Customer Call Center at 1-800-851-2201 between the hours of 8:00 a.m. and 6:00 p.m., Central time, Monday through Friday.

The forms of distribution from the CRSP Core Defined Contribution account, the RPGA account, UMPIP Account, and/or Horizon Account include a lump sum, partial distributions; cash installments; or an annuity acquired through an insurance company recommended by the General Board or through an insurance company chosen by the alternate payee. This last form of insurance company annuity is actually a lump sum distribution that is rolled over to the insurer, which then issues the annuity. The alternate payee must complete the appropriate Application for Benefits form (supplied by the General Board) in order to receive a distribution. The forms cannot be prepared by the General Board before the completion of the internal transfer of funds. The Application for Benefits form will describe all available forms of distribution allowed for an eligible alternate payee. If the alternate payee's account balance is \$5,000.00 or less, the General Board will distribute the monies automatically pursuant to our administrative procedures for such distributions.

An alternate payee who is assigned benefits from CRSP Supplement One (Pre-82 Plan) and/or the MPP account is eligible to begin receiving a monthly retirement benefit upon or after his or her attainment of age 62. The Pre-82 Plan benefit is paid in the form of a single life, no refund annuity. For CRSP Core Defined Benefit and/or the MPP account, the alternate payee will be able to choose a form of annuity payment from the available annuity options.

There is an additional distribution option after attainment of age 62 from the MPP account. The alternate payee may elect to receive a one-time lump sum distribution of an amount not to exceed 35% of the value of his or her account balance. The remainder will be paid as a life annuity from the available annuity options.

There are two exceptions to the above-described distribution options under MPP account as well:

- (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 35% of the value of his or her account balance 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 that is less than one-fourth of the denominational average compensation (DAC) for clergy, and is not assigned any Pre-82 Plan benefits, the alternate payee may elect to receive a lump-sum distribution. The DAC changes annually and the amount of distribution is determined based on: (i) the DAC in effect on the Date of Division in the QDRO, and (ii) the value of the entire MPP account balance of the alternate payee. The DAC for 2009 is \$58,226. (The DAC changes annually. To obtain the DAC amount for a later year you must contact the General Board.) In 2009 an assignment from the MPP account of \$14,556.00 or less to an alternate payee would mean the account could be distributed following implementation of a QDRO. Assignment of an amount exceeding

\$14,556.00 would result in the entire amount remaining at the General Board until the alternate payee attains age 62.

Summary Plan Descriptions or plan documents for any of our retirement plans will be provided upon request.

13. 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 or she must take a distribution. An alternate payee may consider saving some or all of the money to be received as retirement income. Monies may remain on account at the General Board until April 1 of the year following the year in which the participant reaches age 70½, or if later, April 1 of the year the participant retires or terminates.

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 or by calling **our Customer Call Center at 1-800-851-2201 between the hours of 8:00 a.m. and 6:00 p.m., Central time, Monday through Friday**. The alternate payee can direct the investment of account balances in his or /her CRSP Core Defined Contribution account, RPGA account, UMPIP account, and/or Horizon 401(k) Plan account. Investment elections are directed by the General Board for account balances held in the CRSP Pre-82 Plan. Our LifeStage Investment Management Service invests funds held in the MPP account.

In cases where benefits are only payable in the form of a monthly benefit (such as the CRSP Core Defined Benefit, the Pre-82 Plan, and the MPP account (at least 65% of the benefit)) the alternate payee generally may not receive a distribution until he or she attains age 62. He or she may wait for a later time in most cases, but not later than his or her required beginning date.

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

For that are already in pay status before the QDRO division date, the alternate payee will receive the awarded percentage (or flat dollar amount) from the monthly benefit of the participant, usually beginning on 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 monthly benefit, the payments to the alternate payee under the QDRO will cease.

If the alternate payee was named the irrevocable "contingent annuitant" of a joint life annuity that was in pay status before the division date and the date of 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 former spouse's right to receive benefits as the contingent annuitant. No QDRO is needed to confirm this benefit for the former spouse. If some portion of the participant's lifetime benefit is to be assigned to the alternate payee, then a QDRO will be required.

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).

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

The alternate payee will be required to pay federal income taxes on the taxable portion of the distributions that he or 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 eligible retirement plan or an IRA. Distributions that are not eligible for rollover are subject to a default 10% federal tax withholding unless the recipient elects a different withholding amount. Distribution may also be subject to state income tax withhold, depending on the state, in which they reside.

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 assessed until the alternate payee's monies are distributed.

16. Who will be the beneficiary of the retirement benefits of the participant and alternate payee after the dissolution of marriage?

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

When a participant is divorced before receiving an annuity, the former spouse is revoked as the default 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 retirement plan, beneficiary designations are effective only when the General Board receives its official form.

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 divorce 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 or she may have entered into a separation agreement and is living apart from his or her spouse. A legal separation is a judgment rendered by a court calling for the marriage to continue indefinitely while the parties live apart.

Once a participant’s benefit is already in pay status and is being paid in the form of a monthly 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 will not change a contingent annuitant. At most, a QDRO can assign some or all of the contingent annuitant’s benefit to an alternate payee.

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 to the alternate payee. The beneficiary(ies) of the alternate payee will be entitled to 100% of the balance in each of the undistributed accounts of the alternate payee upon his or her death, except in regards to benefits assigned from the CRSP Core Defined Benefit.

17. Whom should I contact at the General Board of Pension and Health Benefits concerning the transfer of retirement benefits?

The responsibility for administering marital litigation matters and the transfer of retirement benefits has been assigned to the General Board’s Legal Services Department. Only personnel from Legal Services should 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, 1901 Chestnut Avenue, Glenview, Illinois 60025. The direct telephone number of **Legal Services is (847) 866-4202**. Our facsimile number is **(847) 866-5194**.

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 Orders and the model QDRO. If any information furnished by the General Board conflicts with a specific retirement plan, the terms of the retirement plan govern.