



Instructions for Using IPERS' Model QDRO

IPERS' Model QDRO is useful in drafting a marital property order that complies with Iowa Code § 97B.39 and Iowa Administrative Code 495 IAC 16.2 (97B). IPERS is a governmental pension plan. IPERS is not governed by the provisions of the Employee Retirement Income Security Act of 1974 (ERISA) or most of the provisions of the Internal Revenue Code (IRC) that govern the division of qualified plan assets. Therefore, although these instructions and this Model use the terms *alternate payee* and *qualified domestic relations order*, drafters should not confuse those terms with ERISA or IRC concepts.

1. IPERS' Model QDRO uses a "fill in the blank" format. **Do not attempt to fill in the blanks on a copy of these instructions and send it to IPERS. Send only those pages necessary for your particular case.**

The Model QDRO is available in Word and PDF formats on the IPERS Web site at www.ipers.org/members/forms/index.html.

2. IPERS' Model QDRO provides suggested language for several methods of dividing a member's benefits, including: a specific dollar amount (sum certain); a straight percentage; or a service factor percentage method of dividing the gross benefits payable at the date the member begins receiving benefits (the date of distribution). IPERS suggests that parallel language be used throughout the order if benefits other than a member's monthly retirement allowance or lump-sum amount will be affected.
3. If the percentage method is desired but the parties believe that a straight percentage cannot be set at this time, the service factor percentage method found at Paragraph 3, Sample B, of the Model QDRO should be used. IPERS will determine the service factor percentage calculation when the member begins receiving benefits. IPERS believes that this method, as described in Paragraph 3B of the Model, accurately reflects the Iowa Supreme Court's decision *In re: Marriage of Benson*, 545 N.W.2d 252 (Iowa 1996), a case drafters should review for more details. The numerator of the service fraction may be determined by the dates of the marriage. If the drafters insert the dates of the marriage, IPERS will verify the member's IPERS coverage during the marriage period and calculate the numerator of the service fraction when a trigger event occurs. If the drafters prefer to set a number of quarters, that number should be specified. If the number of quarters is specified, IPERS suggests that the dates of the marriage be omitted to avoid possible conflicts. However, the denominator of the service fraction is the total quarters of coverage that IPERS uses in calculating the member's benefit.

In 2010, IPERS updated the administrative rules regarding the use of the service factor formula and the timing of a member's service purchases. IPERS suggests drafters review 495 IAC 16.2.

4. Please note that the Model QDRO divides benefits at the date the member begins receiving benefits. The division of benefits by a domestic relations order will not begin until IPERS has qualified the order. IPERS does *not* maintain separate accounts for the parties once a domestic relations order is qualified.
5. Mandatory provisions are contained in pages 5–8 of the Model QDRO.
6. Optional or permitted provisions are found on pages 9–10. Optional provisions (for example, death benefits) are specifically required to be addressed in separately numbered paragraphs.
7. **If an order is received by IPERS after the member has retired, the order will be rejected if it contains optional paragraphs C, D, E, or F.**

8. For members who are retired and then reemployed in new IPERS-covered employment, there may be additional benefits to which the member and alternate payee may be entitled. Optional paragraphs for these provisions are included at Paragraph G. This is an optional provision, and drafters are reminded to use parallel language throughout the order. The parties may also agree that the alternate payee may not receive a share of the reemployment benefit; in that case, the order should state this as shown in G.
9. A *Confidential Information* form is included on page 11. A copy of this form containing the social security number or member identification number for the member, and the dates of birth, addresses, and the social security numbers for the alternate payee and each successor alternate payee (if any), **must** be sent to IPERS before a QDRO can be accepted. This information may also be provided in a separate letter accompanying the QDRO.
10. If the QDRO requires the member to select a joint and survivor provision (Option 4 or Option 6) and name the alternate payee as contingent annuitant, a copy of the alternate payee's birth certificate must be provided before a QDRO can be approved.
11. Please note that IPERS is a defined benefit plan, **not a defined contribution plan such as a 401(k). Separate accounts are not maintained for members and alternate payees.** The parties and attorneys are encouraged not to submit orders that treat members' IPERS interests like accounts in a defined contribution plan. Such treatment may lead to a rejection of the order, which will cause a loss of future benefits for alternate payees (unless the court requires the member to reimburse the alternate payee for payments the alternate payee would have received if the order had been accepted as of the date the member began receiving benefits). IPERS benefits are determined by a formula. A report of member and employer contributions and interest does not necessarily represent the present "value" of a member's account.
12. IPERS will not prepare lump-sum present value calculations representing the "value" of a member's account. A qualified certified public accountant or actuary may prepare this type of calculation.
13. A properly completed IPERS *Authorization for Release of Information* form must be on file with IPERS before confidential information, such as benefits statements and estimates of the member's benefits, can be shared with anyone other than the member. This form is available on the IPERS Web site at <www.ipers.org/members/forms/index.html>.
14. A QDRO may allow the alternate payee to request information from the member's account; however, IPERS will not prepare or give information, including but not limited to benefit estimates, that has not already been provided to the member.
15. Page 4 of this Model QDRO package, *Administrative Rule Compliance for DROs*, must accompany each draft QDRO sent to IPERS. If the parties or their attorneys have signed a QDRO that is file-stamped by the court, the compliance form is not required.

Summary of Requirements for IPERS QDROs

An IPERS QDRO **must**:

1. Be signed by the judge and filed with the clerk of court, or conformed in accordance with local court rules.
2. Contain current mailing addresses for the member, alternate payee, and successor alternate payee(s), if named in the order.
3. Identify IPERS as the plan.
4. State that the order is a marital property settlement.

5. State the exact percentage or exact dollar amount of the member's lump sum or monthly payment, or method for determining said percentage or dollar amount, payable to the alternate payee at the time that distributions begin.
6. State the period of time that monthly payments are to continue to the alternate payee.
7. State that payments will begin at the time when distributions to the member (or, if applicable, the member's beneficiary) begin.

An IPERS QDRO **may, if the order so provides:**

1. Award a share of dividends to the alternate payee.
2. Name successor alternate payee(s). If minor children are involved, a trustee may be named as successor alternate payee(s).
3. If received and accepted by IPERS **before** the member begins receiving IPERS benefits or dies:
 - Require the member's lifetime benefits to be paid under a particular option.
 - Bar the member from taking a refund without the consent of the alternate payee.
 - Require the member's death benefits to be paid to the alternate payee.
 - Require a portion of the member's retired/reemployment benefit to be paid to the alternate payee.

An IPERS QDRO **cannot:**

1. Require IPERS to maintain separate accounts.
2. Require IPERS to pay any amounts to attorneys, financial institutions (except as part of a rollover), or others.
3. Require IPERS to provide a type or form of benefit or option not already provided.
4. Require IPERS to pay increased benefits (determined on the basis of actuarial value).
5. Take precedence over any QDRO previously accepted by IPERS involving the same member and a different spouse.
6. Require IPERS to divide a member's death benefit if the member is already receiving benefits.

If you believe that this Model QDRO and instructions do not meet your needs, please contact IPERS at 515-281-7623 or toll-free at 1-800-622-3849 extension 1-7623, to discuss whether any other provisions may be acceptable. The IPERS General Counsel's Office responsibility is to assist members and alternate payees and their legal representatives in the drafting of a QDRO that will meet the applicable legal requirements. IPERS' General Counsel's Office cannot give legal advice to any party. We will, however, work with you and your attorney to help develop language in a QDRO that can be accepted and administered as a QDRO by IPERS. The parties in a QDRO must conduct their own analysis based on their own individual needs and make their own determinations as to what division methods and QDRO provisions will be appropriate for their circumstances.

IPERS prefers to review draft QDROs before the orders are taken to court.

The parties or their attorneys in a dissolution action involving an IPERS member must decide between themselves which attorney will submit a proposed QDRO to IPERS for review. IPERS will not review a proposed order that has not been approved by both parties and their counsel. All proposed Orders must contain the completed *Administrative Rule Compliance* page and the required confidential information.

IPERS offers many instructional materials on the IPERS Web site. Drafters are encouraged to visit the Web site for materials that may be of particular importance to their specific client's needs. In addition to the Model and instructions, IPERS now offers a brochure, *Divorce and IPERS Benefits*, specifically tailored to dissolutions involving IPERS members. The brochure is available in print and online.



Administrative Rule Compliance for DROs



To expedite the review and qualification of Domestic Relations Orders (DROs) involving IPERS benefits, IPERS requires that this page be signed and included with *all* proposed DROs that are submitted to IPERS for review, according to IPERS' administrative rule. If the page is not properly completed or not included with the order, the order will be returned without review.

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16.2(3) Administrative provisions.

o. The parties or their attorneys in a dissolution action involving an IPERS member shall decide between themselves which attorney will submit a proposed domestic relations order to IPERS for review. IPERS shall not review a proposed order that has not been approved as to form by both parties or their counsel. A rejection under this paragraph shall not preclude IPERS from placing a hold on a member's account until the status of a proposed order as a QDRO or an ADRO is resolved.

The undersigned certifies compliance with this administrative rule in relation to the enclosed draft or final Domestic Relations Order being submitted to IPERS for review.

Date

Date

Attorney for the Petitioner

Attorney for the Respondent

Or

Or

Date

Date

Petitioner

Respondent

EXAMPLES OF PARAGRAPH 3

Sample A: Straight Percentage Method

3. IPERS is directed to pay benefits to the Alternate Payee as a marital property settlement under the following formula: _____ (percentage of benefits awarded, if order specifies straight percentage method) percent of the gross monthly or lump-sum benefit payable at the date the Member begins receiving benefits.

OR

Sample B: Service Factor Percentage Method

3. IPERS is directed to pay benefits to the Alternate Payee as a marital property settlement under the following formula: _____ (percentage of benefits awarded, if order specifies service factor percentage method) percent of the gross monthly or lump-sum benefit payable at the date the Member begins receiving benefits, multiplied by the "service factor." The numerator of the service factor is:

- _____ (see instruction 3 on page 1) quarters. **or**
- the number of quarters covered during the marriage period of _____ through _____.

The denominator is the Member's total quarters of service covered by IPERS and used in calculating the Member's benefit.

OR

Sample C: Dollar Amount Method (sum certain)

3. IPERS is directed to pay benefits to the Alternate Payee as a marital property settlement under the following formula: \$_____ (dollar amount if distributed as lump sum to Member, if order specifies dollar amount method) of the Member's gross lump-sum payment at the time the Member begins receiving benefits if benefits are paid as a lump-sum benefit, or \$_____ (monthly dollar amount of the benefit, if order specifies dollar amount method) of the Member's gross monthly payment at the time the Member begins receiving benefits if benefits are paid as a monthly allowance. The total amount payable by IPERS to the Alternate Payee under this Order, including amounts expressly directed in this Order to be paid from monthly payments, refunds, death benefits, and dividends, as applicable, shall be aggregated and shall not exceed the amount of the marital property award pertaining to the Member's IPERS account.

4. If the Member receives a monthly benefit, IPERS will pay benefits to the Alternate Payee for the following period (choose one):

- ____ Life of the Member. **OR**
- ____ Until the specific dollar amount (sum certain) specified in this order has been paid. **OR**
- ____ Other*: _____
**If "other" is chosen, please state time period or method for determining the time period of payments. "Life of the Alternate Payee" is not acceptable.*

5. The benefits payable to the Alternate Payee will begin when the Member begins to receive benefits from IPERS or when death benefits become payable, if such death benefits are provided for in one or more separately numbered paragraphs herein, whichever occurs first, and shall not begin before this Order is accepted by IPERS as a Qualified Domestic Relations Order.

Optional Paragraphs, if any, should be included here,
between Paragraphs 5 and 6. See pages 9-10 for Model Optional Paragraphs.
These Optional Paragraphs include death benefits.

6. The taxable portion and basis will be prorated to each respective recipient.

7. IPERS is hereby authorized to release information from the Member's account, including but not limited to benefits statements, benefit estimates, the Member's election of benefit option, and the Member's designation of beneficiary or contingent annuitant, to the Alternate Payee without the consent of the Member.

8. The parties acknowledge that this Order shall not require IPERS:

- to provide increased benefits over what would otherwise be payable based on the Member's record, as determined on the basis of actuarial value;
- to provide any type or form of benefits, or any option, not otherwise provided under IPERS; or
- to provide benefits to an Alternate Payee which are required to be paid to another Alternate Payee under another Order previously determined to be a Qualified Domestic Relations Order.

9. The Court directs that a copy of this Order, and either a cover letter containing the Member's and the Alternate Payee's social security numbers and dates of birth, or a completed copy of the *Confidential Information* form, be sent by _____'s counsel to IPERS. Within a reasonable time after receipt of a copy of

this Order, IPERS shall determine whether the Order is accepted and shall notify attorneys for the Member and the Alternate Payee of such determination.

10. The Member, the Alternate Payee, and the Court intend this Order to be a Qualified Domestic Relations Order as defined in Internal Revenue Code § 414(p)(11), Iowa Code § 97B.39, and the administrative rules.

11. The Court retains jurisdiction to amend this Order, but only for the purpose of establishing or maintaining its qualification as a Qualified Domestic Relations Order as defined in Internal Revenue Code § 414(p)(11), Iowa Code § 97B.39, and the administrative rules.

Dated _____

Judge, _____ Judicial District

Approved as to form:

Attorney for Petitioner

Attorney for Respondent

Copies to:

IPERS
QDRO Administrator
P.O. Box 9117
Des Moines IA 50306-9117

_____ (Name and address of Attorney for Petitioner)

_____ (Name and address of Attorney for Respondent)

(Note: Additional information for QDROs follows.)

Optional Paragraphs (to be inserted between Paragraphs 5 and 6 as applicable)

A. Dividends/Cost-of-Living Increases

1. *Percentage or Service Factor Method*

If IPERS pays a dividend, a cost-of-living increase, or any other postretirement benefit increase to the Member, the Alternate Payee shall receive a share of said increase. The Alternate Payee's share of such increase will be in the same proportion as determined in Paragraph 3.

OR

2. *Dollar Method*

If IPERS pays a dividend, a cost-of-living increase, or any other postretirement benefit increase to the Member, the Alternate Payee shall receive a share of said increase. The Alternate Payee's share of such increase shall be determined on a pro rata basis.

B. Successor Alternate Payee*

If the Alternate Payee dies before the Member, the amounts that would have been payable to the Alternate Payee under this Order, except amounts payable to the Alternate Payee as a contingent annuitant, shall be paid to _____ (name of Successor Alternate Payee), whose last known mailing address is _____ (address of Successor Alternate Payee). (A Successor Alternate Payee must be an individual [or individuals], not an estate or trust.)

**Please include the social security number of the successor(s) with other confidential information provided with this order.*

*The following are Optional Paragraphs that may be included in a QDRO.
However, an order containing one or more of these paragraphs will be rejected
if received by IPERS after a Member begins receiving benefits.*

C. Form of Benefit

The Member shall select IPERS Option ____ (IPERS option required under order) in his or her application for retirement benefits.

Special Notes:

- *See the Member Handbook or For Members Nearing Retirement booklet for information on options.*
- *If the Member is required to select Option 4 or 6, a copy of the Alternate Payee's birth certificate must accompany the final Order.*

D. No Refund

The Member shall be barred from requesting a refund without the consent of the Alternate Payee.

E. Designation of Beneficiary – Preretirement Death Benefits

The Alternate Payee shall be deemed to be a designated beneficiary with respect to preretirement death benefits under IPERS. The Alternate Payee shall receive ____ (percentage of preretirement death benefit awarded, if order specifies a percentage method) percent **OR** \$_____ (dollar amount of preretirement death benefit awarded, if order specifies dollar amount method) of the Member's death benefit. This designation shall be irrevocable unless modified or revoked in a subsequent Qualified Domestic Relations Order.

F. Designation of Beneficiary/Contingent Annuitant – Postretirement Death Benefits

1. *Option 1, 2, or 5* The Member shall name the Alternate Payee as a designated beneficiary with respect to postretirement death benefits. The Alternate Payee shall receive ____ (percentage of postretirement death benefit awarded, if order specifies a percentage method) percent **OR** \$_____ (dollar amount of postretirement death benefit awarded, if order specifies dollar amount method) of the Member's death benefit. This

designation shall be irrevocable unless modified or revoked in a subsequent Qualified Domestic Relations Order.

OR 2. Option 4 The Member shall name the Alternate Payee as the Member's contingent annuitant under IPERS Option 4. Death benefits will be paid to the Alternate Payee in accordance to the percentage selected in the option choice regardless of any percentages previously awarded herein. The Member shall not be entitled to name anyone other than the Alternate Payee as the contingent annuitant. This designation shall be irrevocable unless modified or revoked in a subsequent Qualified Domestic Relations Order. Notwithstanding subsequent Orders, this designation shall be irrevocable once the Member begins receiving IPERS benefits.

OR 3. Option 6 The Member shall name the Alternate Payee as the Member's contingent annuitant under IPERS Option 6. Death benefits will be paid to the Alternate Payee in accordance to the percentage selected in the option choice regardless of any percentages previously awarded herein. The Member shall not be entitled to name anyone other than the Alternate Payee as the contingent annuitant. Notwithstanding the foregoing, if the Member retires and the Alternate Payee dies before the Member, and the Order provides for a Successor Alternate Payee, the Successor Alternate Payee shall receive ____ (percentage of postretirement death benefit awarded, if order specifies a percentage method) percent **OR** \$____ (dollar amount of postretirement death benefit awarded, if order specifies dollar amount method) of the lump-sum death benefit payable (the death benefit that would be payable if the Member had selected Option 2 at retirement).

Special Note: Option 3. Drafters should be aware that Option 3 does not provide postretirement death benefits. If a retired member dies after receiving the first monthly benefit, there are no further benefits to be paid to anyone.

G. Retired Reemployed Members

The following alternatives may be added to Paragraph 3A, 3B, or 3C:

For 3A: This percentage _____ (shall or shall not) be applied to benefits accrued by the Member during postretirement periods of employment. (If the Alternate Payee is to receive a share of the Member's benefits accrued during reemployment, add the following sentence.) The Alternate Payee's share shall be applied to all payments related to such benefits, including dividends and death benefits, and shall continue for the same period and begin at the same time as provided in Paragraphs 4 and 5, respectively.

OR For 3B: The service factor percentage method _____ (shall or shall not) be applied to benefits accrued by the Member during postretirement periods of reemployment. (If the Alternate Payee is to receive a share of the Member's benefits accrued during reemployment, add the following sentence.) The Alternate Payee's share shall be applied to all payments related to such benefits, including dividends and death benefits, and shall continue for the same period and begin at the same time as provided in Paragraphs 4 and 5, respectively.

OR For 3C: The total dollar amount payable by IPERS to the Alternate Payee _____ (shall or shall not) include amounts payable from benefits accrued by the Member during postretirement periods of employment. (If the Alternate Payee is to receive a share of the Member's benefits accrued during reemployment, add the following sentence.) The Alternate Payee's share shall be applied to all payments related to such benefits, including dividends and death benefits, and shall continue for the same period and begin at the same time as provided in Paragraphs 4 and 5, respectively.

