

Divorce and IPERS Benefits

Qualified Domestic Relations Orders (QDROs)



I  ***PERS***

Working Today for Your Tomorrow

Divorce can affect IPERS benefits. If you are divorcing, this brochure contains important information for you.



Clay Smith, Iowa Department of Natural Resources

North of Sioux City is Mount Talbot, part of the Loess Hills landform in western Iowa. The land was formed after silt was deposited during the last Ice Age, blew out of the river valley, and subsequently eroded into the current steep landscape.

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QDROs AND IPERS' ROLE

A Qualified Domestic Relations Order (QDRO) is a special court order that individuals obtain in divorce that specifies how their pension assets and property will be divided. A QDRO is not an alimony award. Please note that a QDRO is not always necessary in situations of divorce. If you and your spouse or former spouse can agree to divide other marital property equitably, then IPERS benefits may not need to be divided and there may not be a need for a QDRO.

An IPERS QDRO must be a final judgment, decree, or order. If an order has not been signed by a duly appointed judicial official and filed in accordance with applicable laws and procedures, the order may be a domestic relations order, but it will not be an IPERS QDRO. An IPERS QDRO must satisfy the requirements of Iowa Code section 97B.39 and 495 IAC 16.2 (97B).

The person who is being awarded a share of your IPERS benefit is referred to as an “alternate payee.”

What Is IPERS' Role?

- IPERS provides IPERS benefits to you and the alternate payee according to the terms of the QDRO.
- IPERS does not represent either party and cannot give partisan legal advice to you or the alternate payee.

As you begin to prepare a QDRO, it is a good idea to get a copy of IPERS' model QDRO language. The model includes mandatory and optional provisions, a summary of the legal requirements, and some practical pointers on how to draft an IPERS QDRO. Use of the model materials will help expedite review and acceptance of a proposed or final order.

EFFECT OF QDROs ON IPERS BENEFITS

An IPERS retirement benefit is generally dependent on 4 factors: your (the member's) age at retirement, quarters of covered employment, final average salary, and classification as a regular

or Special Service member. IPERS retirement benefits are paid as a monthly, lifetime annuity. The Plan offers various benefit payment options (for more information about the available benefit payment options, see the Member Handbook or “Nearing Retirement” brochure).

Shared Payment

IPERS only accepts a shared payment method for dividing your benefit. Under the shared payment method, the actual benefit payments made to you (and if applicable, payments to beneficiaries) are split. The alternate payee does not receive any payments until you begin to receive payments. If you are already receiving benefits, the alternate payee may begin to receive the payee’s share of the benefit after the domestic relations order is accepted by IPERS as a QDRO.

IPERS does not have the ability to value your account and divide it into two separate accounts. Accordingly, a QDRO cannot give an alternate payee the right to receive a portion of your accrued retirement benefit at a time and in a form different from that elected by you. Since benefits are shared, when developing QDROs, consideration should be given to death benefits available under the various payment options available to you.



IPERS Does Not Write Orders

IPERS reviews draft QDROs to determine if they can be administered and prepares a checklist that indicates how IPERS will interpret the proposed orders.

You or your attorney should contact IPERS when drafting your QDRO. IPERS can review your proposed QDRO to help ensure it can be administered as intended. IPERS encourages you or your attorney to use the Plan’s model QDRO language available online at <www.ipers.org>.

Service Factor

The IPERS model QDRO uses the “service factor” method to determine the percentage of the pension benefit that should be considered marital property. Here’s how the factor is calculated:

$$\text{___\%} \times \frac{\text{Period of time that the member participated in the Plan during the marriage}}{\text{Total period of time used in calculating benefits}}$$

IPERS Does Not Provide Present Value Calculations

IPERS does not provide lump-sum present value calculations of your accrued retirement benefits. You and your spouse may stipulate the value of pension benefits that will be treated as marital property, or you may obtain a present value calculation from an independent expert. IPERS will accept reasonable requests for Plan information to use in preparing these calculations.

UPDATING BENEFICIARY INFORMATION

If you are still legally married, you cannot change beneficiaries without the written consent of your current spouse.

After a QDRO that divides death benefits has been filed and qualified by IPERS, you may be able to change beneficiaries by completing a new *Enrollment/Beneficiary Designation* form. You would first designate the alternate payee as a beneficiary and indicate that benefits are being paid according to the terms of the QDRO. Then, you would designate other beneficiaries for the remaining benefits. You may be unable to change beneficiaries depending on the terms of the QDRO.



AVOIDING COMMON QDRO MISTAKES

You and your attorney can avoid the most common mistakes by keeping these things in mind:

- Consider whether the QDRO should divide death benefits. If death benefits are not addressed in the order, the alternate payee has no right to them.
- Remember that IPERS is a governmental plan not subject to the Employee Retirement Income Security Act (ERISA). If you submit a QDRO tailored to meet ERISA requirements, it will fail.
- Remember to have your attorney contact IPERS' legal department and have them review your proposed QDRO. The legal department can help you avoid prohibited terms and conditions.
- Remember that a QDRO cannot require IPERS to pay a form of benefits not permitted under the Plan.
- Consider placing limits on the specific retirement options that you can elect, if some of the option choices would preclude the full implementation of the settlement agreement. For example, the alternate payee may be precluded from receiving death benefits if the QDRO permits you to choose a refund or a retirement option with no death benefit.
- Remember to use standard, unambiguous terms and formulas for dividing benefits.
- Remember to file a new *Enrollment/Beneficiary Designation* form with IPERS following the dissolution of marriage.
- Remember to review all the optional IPERS benefit features for possible inclusion in the QDRO. If your QDRO does not address an optional feature (e.g., dividends), the alternate payee has no right to it.
- You and your attorney should review all available IPERS background material.
- You and your attorney should obtain current benefits statements and estimates, which show the benefits available to you.

COMMONLY ASKED QUESTIONS

How can my IPERS benefit be divided in a QDRO?

There are 3 basic methods of dividing a member's IPERS account in a QDRO. See page 5 of the sample model QDRO (available on the IPERS Web site) for more information.

Does IPERS maintain a separate account for the alternate payee after the QDRO is filed?

No, your account remains whole.

When will an alternate payee receive his or her share of an IPERS benefit?

The alternate payee receives payment of the portion of IPERS benefits at the same time as you (or your beneficiaries).

Can I change my beneficiary before I'm legally divorced?

You will need your spouse's consent if you want to change your beneficiary before you are legally divorced. If your spouse will provide his or her consent, you can change your beneficiary. Otherwise, you will need to wait until you are legally divorced to update your beneficiary information.

Can IPERS' legal department draft my QDRO?

No, IPERS' legal department can only review QDROs and let you know how they will be interpreted. You need to work with your attorney to draft your QDRO. Be sure to have your attorney review the sample model language.

Is a QDRO always necessary in cases of divorce?

No. If you and your spouse mutually agree that the value of your IPERS benefit can be offset by other marital property, your IPERS retirement benefit may remain entirely with you, and a QDRO will not be needed.



ABOUT THE IPERS PLAN

The IPERS Plan is a defined benefit plan. The benefit you receive is defined; it's calculated using a formula. As your years of service and salary increase, your IPERS benefit grows too. You can receive a lifetime, monthly benefit at retirement. Dividing such a benefit can be tricky, and involves more complexity than dividing accounts maintained under defined contribution plans, such as IRAs or 401(k) plans.

IPERS is a governmental pension plan exempt from ERISA, the federal law that governs the division of pension benefits for private sector plans. IPERS' QDRO requirements are different from those of ERISA-mandated plans, so even attorneys familiar with QDROs for private sector plans must know and follow the IPERS QDRO rules.



IPERS Is a Government Plan Not Subject to ERISA

IPERS does not accept ERISA-tailored QDROs. To facilitate the approval of a QDRO, you or your attorney should contact IPERS before drafting a QDRO.

The IPERS Plan vs. Defined Contribution Plans: What's the Difference?

The IPERS Plan

The IPERS Plan is a defined benefit plan. Defined benefit plans are sometimes called traditional pension plans.

Guaranteed Benefit	Yes; you receive a guaranteed, lifetime benefit. You can't outlive your benefit.
Benefit Amount	You receive a predictable benefit, calculated using a set formula.
Vesting (Entitlement to Benefits)	You are always 100 percent vested in your contributions. After 4 years of service or when you reach age 55 while in active employment, you become vested in a portion of the employer contributions made on your behalf. Vesting also entitles you to additional benefits.
Disability Benefits	IPERS provides disability benefits. To qualify for disability benefits, you must be vested, apply for benefits (you must indicate on your application for IPERS retirement benefits that you are retiring due to a disability), be receiving federal social security or railroad retirement disability benefits, and have ended all IPERS-covered employment.
Death Benefits	IPERS provides pre- and postretirement death benefits. The methods of payment, such as a lump sum or monthly benefit, differ depending on whether you die before or after retirement, the payment option you choose at retirement, and the number and type of beneficiary(ies) you designate.

Defined Contribution Plans

401(k) and 403(b) plans are types of defined contribution plans. The amount contributed to the plan is defined, but your benefit at retirement is not. The sponsor of the plan may or may not contribute to your account balance.

No; the amount of your benefit can fluctuate – up and down – depending on how much you’ve contributed, the performance of the investments you select, and whether you take out a loan or withdraw some of your money. When your account balance reaches \$0, you will no longer have any benefits under the plan.

Your benefit is based on your contributions, any employer contributions, and any investment earnings or losses on those contributions (minus any withdrawals or loans received).

You are always 100 percent vested in your contributions. Vesting in your employer’s contributions varies by the plan sponsor (for example, you may become 20 percent vested in employer contributions for each year of service until you are fully vested).

Typically, defined contribution plans do not provide disability benefits.

In the event of death, your account balance is transferred to your beneficiary(ies). Your beneficiary may then decide how the value of the account is paid out to him or her.

QDRO CHECKLIST

If you need to file a QDRO, we suggest you follow these steps:

- ❑ **You or your attorney should contact IPERS before drafting your QDRO and obtain the model QDRO language.**
The model QDRO is available online at <www.ipers.org>.
- ❑ **Request a benefit estimate.** This estimate will be helpful when drafting a QDRO. The estimate shows your available payment options and estimated benefit amounts.
- ❑ **You and your attorney should have IPERS review a proposed QDRO before taking it to court.** IPERS' legal department will review the proposed QDRO to make sure it can be administered. You or your attorney can fax the proposed order to 515-281-0045.
- ❑ **After your QDRO is finalized and approved by IPERS, update your beneficiary information.** See page 4 for more information about updating your beneficiary information.



- ❑ **Get connected – visit us online at <www.ipers.org>.** The site provides benefits summaries, retirement planning tools, downloadable forms, and various retirement benefit calculators. Take a few minutes to review the information available and check back from time to time. We're always updating the available content and tools.
- ❑ **Call us with any questions.** We'll connect you with a representative knowledgeable about IPERS and QDROs. If you are involved in a dissolution of marriage situation and you have questions, call us at 515-281-0020 or toll-free at 1-800-622-3849 and ask for the QDRO Administrator. Your questions can be handled over the phone or you can schedule an appointment to meet with an IPERS representative.



Important

This booklet briefly explains certain rights and benefits of IPERS membership. It is not a substitute for federal and state laws governing IPERS, which provide complete information and are subject to change. Although IPERS makes every attempt to ensure its materials are accurate and up to date, any conflict between the contents of the booklet and law must be resolved in favor of the law. The Member Handbook provides a more detailed description of IPERS benefits. It is available electronically on the IPERS Web site or in print by contacting IPERS.

CONTACT US

We're here to help you! If you have questions about IPERS, please don't hesitate to contact us.



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Web site

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Additional brochures on specific topics are available on our Web site or upon request. Please contact IPERS to request an alternative format of this publication.

