
SEIU Affiliates' Officers and Employees
(United States Participants)

Procedures and Policies for the Qualification and Interpretation
of Domestic Relations Orders

For External Use

2012 Edition

This booklet details the procedures and policies concerning the interpretation and qualification of Qualified Domestic Relations Orders (QDROs) used by the SEIU Affiliates' Officers and Employees (United States Participants).

This policy statement is intended to clarify the current legislative requirements relating to QDROs, the procedures that the Plan Administrator will follow in qualifying and administering QDROs, and how various QDRO provisions will be interpreted with respect to Plan provisions.

Where capitalized and not otherwise defined herein, terms in this Manual have the meaning set forth in the SEIU Affiliates' Officers and Employees (United States Participants) Plan document.

Table of Contents

SECTION 1—INFORMATION FOR LEGAL COUNSEL, PARTICIPANTS AND ALTERNATE PAYEES.....	1
INTRODUCTION	1
LEGAL AUTHORITY	1
ROLE OF THE SEIU PLAN ADMINISTRATOR	2
PLAN PROCEDURES UPON RECEIPT OF A DOMESTIC RELATIONS ORDER OR PROPOSED DOMESTIC RELATIONS ORDER.....	2
SECTION 2—PREPARING A QUALIFIED DOMESTIC RELATIONS ORDER FOR APPROVAL. 4	4
RESPONDING TO REQUESTS FOR PARTICIPANT INFORMATION	4
TESTIMONY	4
FORM OF ORDER	4
ALLOCATING A PORTION OF A PARTICIPANT’S BENEFIT	4
REQUIREMENTS FOR A QDRO	5
SECTION 3—INTERPRETING A QUALIFIED DOMESTIC RELATIONS ORDER	7
OVERVIEW	7
INTERPRETING A QDRO—TWO WAYS TO DIVIDE A PARTICIPANT’S PENSION BENEFIT	7
WHEN WILL AN ALTERNATE PAYEE BEGIN TO RECEIVE BENEFITS?	8
WHEN DO PAYMENTS TO THE ALTERNATE PAYEE STOP?.....	10
WHAT HAPPENS TO THE BENEFITS OF AN ALTERNATE PAYEE IF THE PARTICIPANT’S BENEFITS ARE SUSPENDED?	11
WHAT IF THE AMOUNT OF THE PARTICIPANT’S BENEFIT INCREASES AFTER HE OR SHE IS IN PAY STATUS? ...	11
WHAT HAPPENS IN THE EVENT OF THE ALTERNATE PAYEE’S DEATH?	12
WHAT HAPPENS IN THE EVENT OF THE PARTICIPANT’S DEATH?	12
ATTACHMENTS –	14
FORMS AND SAMPLE LETTERS.....	14
ATTACHMENT 1 – SAMPLE QDROS	1
SAMPLE QDRO NUMBER 1 - SAMPLE LANGUAGE DRAFTED FOR THE SEIU AFFILIATES OFFICERS AND EMPLOYEES (UNITED STATES PARTICIPANTS) (“PLAN”) FOR COMMUNITY PROPERTY STATES	1
SAMPLE QDRO NUMBER 2 - SAMPLE LANGUAGE DRAFTED FOR THE SEIU AFFILIATES OFFICERS AND EMPLOYEES (UNITED STATES PARTICIPANTS) (“PLAN”) FOR GENERAL USE	8

SECTION 1—INFORMATION FOR LEGAL COUNSEL, PARTICIPANTS AND ALTERNATE PAYEES

Introduction

In many divorce settlements, a court will order that a percentage of retirement benefits be awarded to an Alternate Payee. This order is called a “Domestic Relations Order” (“DRO”), which means any judgment, decree, or order (including property settlement agreements) relating to child support, alimony, or marital property rights under a state domestic relations law. The DRO may create, recognize or assign to an Alternate Payee the right to receive all or a portion of a Participant’s benefits under a qualified pension, profit sharing or stock bonus plan.

A plan may pay benefits directly to an Alternate Payee only in accordance with a DRO that has been determined by that plan to be qualified, a “Qualified Domestic Relations Order” (“QDRO”). While the court’s DRO as written is intended to be a QDRO, it is the responsibility of the plan or Plan administrator to determine whether the DRO is indeed qualified.

This manual outlines the general procedures the SEIU Affiliates Officers and Employees (United States Participants) (“Plan”) and Plan Administrator will follow in order to make this determination. Further, this manual sets forth sample language that may be included in a DRO submitted to the Plan for qualification.

In an effort to expedite the qualification process and under no obligation to do so, the Plan has decided to set forth procedures for the review of a proposed DRO in this manual as well. A proposed DRO is an unsigned document that, when signed by a judge having jurisdiction over the matter, is intended to constitute a DRO as defined above. **Under no circumstances will a proposed DRO place any obligation upon the Plan to segregate or pay any benefits.***

Compliance with a QDRO is not a prohibited assignment or alienation of benefits under ERISA or the Internal Revenue Code.

Legal Authority

Internal Revenue Code §414(p) and §206(d)(3) of ERISA provide the legal authority at the federal level for the assignment of pension benefits to an Alternate Payee under a Qualified

* However, if the Plan receives direction from a court to segregate or suspend benefit payments while an Order is being prepared, assistance and guidance should be obtained from Plan Counsel for a determination as to how to proceed.

Domestic Relations Order. Note that under the Code and ERISA, a spouse or former spouse may be recognized as an Alternate Payee under a Qualified Domestic Relations Order under the Plan only if that individual is recognized as a spouse or former spouse under federal law.

Role of the SEIU Plan Administrator

The Plan Administrator is responsible for administering the Plan. The Plan Administrator is not a mediator in marital property disputes and will not give legal advice regarding domestic relations law and the division of marital property. Although a court will determine how to divide a Participant's retirement benefit, the Plan Administrator will determine whether a DRO satisfies the requirements of a QDRO.

Plan Procedures Upon Receipt of a Domestic Relations Order or Proposed Domestic Relations Order

The Plan will comply with the following notice and procedural rules when a DRO (or proposed DRO) is received:

1. Notice of receipt of a DRO (or proposed DRO) and a copy of the Plan's procedures for determining the qualified status of the DRO (or proposed DRO) will be given to the Participant and each named Alternate Payee.
2. Within a reasonable period after receipt of a DRO (or proposed DRO), the Plan Administrator will determine whether such order is a QDRO (or would constitute a QDRO if it were signed by a judge having jurisdiction over the matter) and provide notice of such determination to the Participant and each named Alternate Payee.

The following items apply only upon receipt of a **DRO and not upon receipt of a proposed DRO**:

3. During any period in which the issue of whether a DRO is a QDRO is being determined, the Plan Administrator will separately account for the amounts that would have been payable to the Alternate Payee during such period if the order had been determined to be a QDRO until the earlier of:
 - a. such time as the determination as to the qualification of the DRO has been completed, or
 - b. 18-month "determination period" has expired.

The 18-month determination period is the 18-month period beginning with the date on which the first payment would be required to be made to the Alternate Payee under a DRO.

4. After a DRO is received, a separate file will be set up for the Alternate Payee and a notation will be placed on the Participant's file as to the existence of an Alternate Payee(s) under a DRO.
5. If a determination that an order is a QDRO is made within the 18-month determination period, then all of the retroactive payments due the Alternate Payee(s) and separately accounted for during such determination period will be paid to such individual(s) with interest, provided that payments were scheduled to start during that period.
6. If a determination is made that an order is not a QDRO, or if the issue cannot be resolved prior to the end of the 18-month period, the parties may submit a modified or new order for determination that it is a QDRO prior to the end of the 18-month period. The Plan will continue to separately account for the amounts that would have been payable to the Alternate Payee until the 18-month determination period has expired.
7. Once the 18-month period has elapsed, and a determination is made that an order is not a QDRO, or if the issue cannot be resolved, then any benefits otherwise payable during such 18-month period shall revert to the person or entity to whom those benefits would be payable in the absence of the order.
8. A determination made after the 18-month period that an order is a QDRO can be applied only prospectively. Thus, if payments have already begun under the Plan, such a QDRO cannot change them retroactively. Note, however, this does not prevent a subsequent order that is determined to be a QDRO from dividing up part or all of the Participant's benefit that was earned prior to the acceptance of the order.

SECTION 2—PREPARING A QUALIFIED DOMESTIC RELATIONS ORDER FOR APPROVAL

Responding to Requests for Participant Information

The Plan Administrator will provide information regarding a Participant's pension if it receives proper authorization as follows:

1. a Participant's written authorization to release information to someone other than the Participant (if there is an approved QDRO, an Alternate Payee will be considered a "Participant" for these purposes); or
2. a *subpoena duces tecum* (a subpoena to produce documents or information) directed to the Plan by a court of competent jurisdiction.

Upon proper request and authorization, the Plan Administrator will provide one benefit estimate as of the Participant's Normal Retirement Date or such other date as requested.

The Plan Administrator will not provide present value calculations.

Testimony

Neither the Plan Administrator nor its designee will serve as an expert witness with regard to the value of retirement benefits provided under the Plan.

Form of Order

Generally, the Order should contain similar language to that suggested in Section 4. Section 4 includes sample QDRO language drafted for use in community property states, and sample QDRO language drafted for general use in other states. Note that this sample QDRO language is provided for the convenience of counsel but is neither the sole language to be included in an Order that is acceptable to the Plan, nor a mandatory form. In addition, it is not intended to be a substitute for the independent judgment and acumen of counsel to the parties.

Section 4 will be supplied to the appropriate parties in accordance with the Plan's internal procedures or as requested by a potential Alternate Payee or his or her legal representative.

Allocating a Portion of a Participant's Benefit

For a DRO to be a QDRO, it must clearly specify which benefits are subject to the Order. Possibilities include, but are not limited to:

1. those benefits accrued during the marriage;

2. those benefits accrued from the beginning of the Participant's participation in the plan through the date of divorce;
3. all benefits accrued through the date of the Order; and
4. any subsidies, 13th checks or other increases (except that the automatic cost-of-living increase is automatically included as part of the Alternate Payee's assigned benefit even if this cost-of-living increase is not specified in the Order), etc. to which the Participant may at any time be entitled.

It is possible that a QDRO could order a Participant's entire benefit be paid to one or more Alternate Payees, if that is what the parties so bargain. An Order cannot be accepted as a QDRO if it calls for the payment of benefits that are already committed to another Alternate Payee under a prior QDRO.

Requirements for a QDRO

To be accepted as a QDRO, a DRO must meet the following requirements:

1. The DRO **must** be a judgment, decree, or order (including approval of a property settlement agreement) that:
 - a. relates to the provision of child support, spousal support, or marital property rights to a spouse or former spouse recognized as such under federal law, child, or other dependent of a Participant in the Plan;
 - b. is made pursuant to a state domestic relations law (including a community property law); and
 - c. creates or recognizes the existence of the eligible Alternate Payee's right, or assigns to the Alternate Payee the right, to receive all or part of the Participant's benefits under the Plan for a specified period of time.
2. The DRO **may not** require:
 - a. the payment of any type, form, option or amount of benefit other than those allowed under the Plan,
 - b. the Plan to provide increased benefits over and above those to which the Participant is entitled (determined on the basis of actuarial value), or
 - c. the payment of benefits to an Alternate Payee that are required to be paid to another Alternate Payee under another DRO that previously has been determined by the Plan Administrator to be a QDRO.

3. The DRO **must** specify:
 - a. the name and last known mailing address of the Plan Participant and the name and mailing address of each Alternate Payee;
 - b. the amount or percentage of the Participant's benefits to be paid to the Alternate Payee, or the formula by which that amount is to be determined, including, if applicable, how benefits will be affected in the event of the Participant's or Alternate Payee's death both before and after payments to either party have commenced;
 - c. the number of payments or period to which the Order applies; and
 - d. the name of each retirement plan to which the Order applies.

4. The DRO **must not** allow:
 - a. the Alternate Payee to receive his or her share of benefits in the form of a Husband and Wife Pension with a subsequent spouse.
 - b. the Alternate Payee to receive an early retirement subsidy, 13th checks or other increases to the Participant's benefit (except that the automatic cost-of-living increase is included as part of the Alternate Payee's benefit even if the DRO does not address this cost-of-living increase) if he or she elects to begin receiving payments before the Participant. However, the DRO may allow the Alternate Payee to receive part or all of such early retirement subsidy or other increases to the Participant's benefit once the Participant begins receiving his/her benefit.

5. The DRO **must not** allow or require a Participant to change his or her benefit elections if he or she is in pay status at the time the DRO is accepted as a QDRO.

6. An Alternate Payee can only be a spouse, former spouse, child or other dependent of the Participant.

7. For recordkeeping purposes, the Participant's and Alternate Payee's Social Security Numbers should be provided in writing to the Plan but this information does not need to be included in the DRO or QDRO.

SECTION 3—INTERPRETING A QUALIFIED DOMESTIC RELATIONS ORDER

Overview

- **What is a Domestic Relations Order (“DRO”)?**

A DRO is any judgment, decree or order (including approval of a property settlement) that:

1. relates to the provision of child support, alimony payments or marital property rights to a spouse recognized under federal law, former spouse recognized under federal law, child or other dependent of a Participant in the Plan; and
2. is made pursuant to a state domestic relations law (including a community property law).

A State authority must actually issue an order or formally approve a proposed property settlement before it can be a DRO. A property settlement signed by a Participant and the Participant's former spouse or a draft order to which both parties consent is **not a DRO** until the State authority has adopted it as an order or formally approved it and made it part of the domestic relations proceeding.

- **What is a Qualified Domestic Relations Order (“QDRO”)?**

A QDRO is a DRO that the Plan Administrator has determined meets the specific requirements contained in ERISA, 29 USC §1056(d) (ERISA §206(d)) and Internal Revenue Code 26 USC §414(p) (IRC §414(p)). The law requires that the Plan Administrator “qualify” the DRO before it can become effective.

Interpreting a QDRO—Two Ways to Divide a Participant’s Pension Benefit

For a DRO to meet the requirements of a QDRO, it must specify how a Participant’s accrued benefits are to be apportioned between the Participant and the Alternate Payee. The two ways of dividing the benefits are the separate interest method and shared payment method.

1. *Separate Interest Method (Present Value Split)*

A QDRO that creates a “separate interest” divides the Participant’s benefit into two separate parts. The Participant’s benefit that is to be divided may be his or her entire accrued benefit valued as of a date specified in the QDRO or a portion of his or her benefit accrued during a period specified in the QDRO. For these purposes, the Alternate Payee is treated as a separate Participant in the Plan, subject to any limitations expressed in the QDRO. A Separate Interest QDRO usually allows an

Alternate Payee to receive his or her benefits in a different form and over a different period than the Participant. A Separate Interest QDRO must indicate the percentage of the Participant's benefit to which the Alternate Payee is entitled, or specify the formula by which that amount is to be determined.

If a QDRO is intended to use the separate interest method, special consideration must be made in determining the Alternate Payee's rights, if any, to subsidies and other increases to the Participant's benefit. These subsidies and increases may include, but are not limited to, ad hoc cost of living increases. (Note that the Plan's automatic cost-of-living increase is included as part of the Alternate Payee's benefit even if the QDRO does not address this cost-of-living increase). In general, a QDRO cannot allow an Alternate Payee to receive all or part of any such subsidy or increase not payable to the Participant at the same time. (Note that the Plan's automatic cost-of-living increase is payable as part of the Alternate Payee's benefit even if the Participant has not begun receiving payments and even if the QDRO does not address this cost-of-living increase).

2. Shared Payment Method (Benefit Split)

Alternatively, a QDRO also may use a "shared payment" approach under which each of the Participant's benefit payments are split between the Participant and the Alternate Payee(s). A Shared Payment QDRO may award the Alternate Payee a specific dollar amount or a percentage of the Participant's benefit payments. Generally, if a Participant already is receiving benefit payments when the Plan receives a DRO for review, the only type of division of benefits permissible is a Shared Payment QDRO.

Under a Shared Payment arrangement, a QDRO may limit the period over which the Alternate Payee's benefit may be paid, but may not allow the Alternate Payee to receive payments at a time when the Participant does not. Thus, when the Participant dies and benefit payments cease, payments to the Alternate Payee also will cease unless the Alternate Payee previously has been designated as beneficiary or surviving spouse and that right was not revised under the terms of the QDRO. In addition, the remainder of any payment guarantee on an Alternate Payee's share will revert to the Participant's share and shall be payable on behalf of the Participant under the terms of the benefit option that the Participant elected.

When will an Alternate Payee Begin to Receive Benefits?

Benefits are payable to an Alternate Payee only after the Participant first becomes eligible to receive benefits under the Plan. However, in the case of a Separate Interest QDRO, the Participant does not have to actually retire for the Alternate Payee to begin receiving benefits. Assuming the Participant has met all of the service and other Plan requirements, the Alternate Payee under a Separate Interest QDRO may choose to start receiving benefits when the Participant becomes eligible for Early Retirement

(generally, at age 55)* or any time thereafter, but in no event later than the April 1 following the calendar year in which the Participant reaches age 70-1/2 or retires, if later (the Participant's "Required Beginning Date" under the Plan). If the QDRO does not specify a date, and the Alternate Payee does not give the Plan Office written notice of a date, the Alternate Payee will start to receive benefits when the Participant's benefit payment commences.

Notwithstanding the preceding, an Alternate Payee under a Shared Payment QDRO may not begin receiving benefits until the Participant begins to receive benefits.

To determine when an Alternate Payee may begin receiving benefits, the Plan must determine the Participant's eligibility for a pension. Please refer to the Summary Plan Description for more details.

1. Before the Participant's Retirement:

If the Alternate Payee chooses to begin receiving benefit payments before the Participant retires (allowable only under a Separate Interest QDRO) and before the Participant reaches Normal Retirement Age, the benefits will be actuarially reduced as if the Participant retired on that day, using a nonsubsidized actuarial adjustment. This adjustment will be in addition to any actuarial adjustments required under the form of benefit chosen by the Alternate Payee. Unless the QDRO explicitly states otherwise, the Alternate Payee's benefit will not be recalculated at the Participant's subsequent retirement date to include a proportionate share of any early retirement subsidy, actuarial adjustments, accrual rate increases, ad hoc cost of living adjustments and any other subsidies or increases to which the Participant may be eligible. (Note that the Plan's automatic cost-of-living increase is included as part of the Alternate Payee's benefit even if the Participant has not yet retired and even if the QDRO does not address this automatic cost-of-living increase).

Under IRC §72(t)(2)(C), the 10% penalty tax on early distributions from qualified retirement plans does not apply to distributions made to an Alternate Payee under a QDRO.

2. After the Participant's Retirement:

If the Participant has terminated his or her employment and is receiving benefit payments when a QDRO is accepted by the Plan, payments to the Alternate Payee will

* A Participant also may retire as early as age 50 if his age plus Years of Service or Vesting Service total 80 or more.

begin as directed in the QDRO. (See the question below dealing with whether an Alternate payee is entitled to a Participant's benefit increases after the Participant is in pay status.)

If the Participant has terminated employment, but has not yet begun receiving benefit payments at the time a QDRO is accepted, a Separate Interest QDRO may allow an Alternate Payee to delay commencement of his or her benefit payments until he or she wishes, up to the Participant's Required Beginning Date. Under no circumstances will any such delayed payments include actuarial adjustments, accrual rate increases, ad hoc cost of living adjustments and any other subsidies applied after the Participant commences benefit payments and before the Alternate Payee commences benefit payments (note that the automatic cost-of-living increase is included as part of the Alternate Payee's benefit even if the Participant has not yet retired and even if the QDRO does not address this cost-of-living increase).

When Do Payments to the Alternate Payee Stop?

1. Separate Interest QDRO:

Under a Separate Interest QDRO, the Alternate Payee may be given the right to elect any benefit option available under the Plan, except a Husband and Wife Pension with a subsequent spouse. Once the Alternate Payee has elected an authorized form in which benefits are to be paid, payments will continue to the Alternate Payee in accordance with the terms of the benefit option chosen by the Alternate Payee or specified in the QDRO. A Separate Interest QDRO also may define a specific period over which the Alternate Payee is to receive his or her benefits, in which case the Alternate Payee's payments will cease at the end of that period.

2. Shared Payment QDRO:

Under a Shared Payment QDRO, benefit payments to the Alternate Payee will cease (including any payment guarantee) when the Participant's benefit payments cease or as of a particular date stated in the QDRO. This applies whether the Participant's benefit payments cease due to: (i) death of the Participant; (ii) suspension of the Participant's benefit payments; or (iii) distribution of the Participant's entire pension benefit. (The remainder of any payment guarantee on an Alternate Payee's share will revert to the Participant's share and shall be payable on behalf of the Participant under the terms of the benefit option that the Participant elected.)

It is also possible, if the QDRO so provides, for an Alternate Payee to receive survivor benefits under the Plan upon the Participant's death after retirement. (See the discussion below regarding the death of the Participant.)

What Happens to the Benefits of an Alternate Payee if the Participant's Benefits are Suspended?

The return of a retired Participant to active employment may result in the suspension of pension benefits pursuant to the Plan document. For more on the suspension of benefit rules, please see the Summary Plan Description. The effect of this suspension of benefits on the Alternate Payee's benefits is described below.

1. Separate Interest QDRO

In a Separate Interest QDRO, regardless of whether or not a Participant's benefits are suspended, the Alternate Payee's benefit payments will continue in the amount specified in the QDRO in the form of payment the Alternate Payee elected.

2. Shared Payment QDRO

In a Shared Payment QDRO, the Alternate Payee's payments will cease and resume with the Participant's payments. When the Participant's re-retirement pension calculations are made, they will be based on the Participant's age and service without regard to the Alternate Payee. When the Participant's benefit payments resume, the Alternate Payee will receive his or her apportioned share of the Participant's re-retirement monthly benefit amount.

What if the amount of the Participant's benefit increases after he or she is in pay status?

A QDRO should stipulate whether or not the Alternate Payee will be entitled to a share of any ad hoc cost-of-living increases or any other increases or subsidies (note that the automatic cost-of-living increase is included as part of the Alternate Payee's benefit even if the QDRO does not address this automatic cost-of-living increase). If a QDRO is silent with respect to these matters, the Plan will return the Order to the parties and request this issue be addressed before qualification.

Language in a QDRO stating that the Alternate Payee shall be entitled to all benefit "subsidies" or "enhancements" should be read to give the Alternate Payee a share of such adjustments. Language in a QDRO awarding the Alternate Payee a share of any "cost of living increases or other enhancements" or language to that effect should also be read as entitling the Alternate Payee to share in any ad hoc cost of living adjustments, etc. (note that the automatic cost-of-living increase is included as part of the Alternate Payee's benefit even if the QDRO does not address this automatic cost-of-living increase). Under no circumstances, however, will the Alternate Payee be eligible for these benefits (except for the automatic cost-of-living increase) if the Participant does not actually receive the increase or adjustment during the period between the Participant's commencement of monthly benefits and the Alternate Payee's commencement, if later.

Notwithstanding the forgoing, in the case of a Shared Payment QDRO that expresses the Alternate Payee's benefit as a percentage of the monthly benefit payable to the Participant or in the case of a QDRO written in a community property state, the Plan will assume that the Alternate Payee *is* entitled to share in all benefit "subsidies," "enhancements", ad hoc cost of living increases, etc. unless the QDRO includes language disallowing the Alternate Payee to such benefits (note that the automatic cost-of-living increase is included as part of the Alternate Payee's benefit even if the QDRO does not address this automatic cost-of-living increase) .

What happens in the event of the Alternate Payee's death?

1. Separate Interest QDRO

In a Separate Interest QDRO, the death of the Alternate Payee does not impact the Participant's benefits (unless the Participant is the designated beneficiary of any remaining benefit). The QDRO should explain whether any remainder of the Alternate Payee's share of the Participant's benefit is payable to the Alternate Payee's beneficiary or estate. The QDRO should consider the circumstances of the Alternate Payee's death occurring both before and after he or she has commenced benefit payments. Any payments payable at that time will be made in accordance with the form of payment elected by the Alternate Payee.

2. Shared Payment QDRO

After the Alternate Payee's death, the portion of the Alternate Payee's share of the Participant's benefit payments usually will revert back to the Participant. However, that is not always the case.

What happens in the event of the Participant's death?

1. Separate Interest QDRO

In a Separate Interest QDRO, the death of the Participant does not impact the Alternate Payee's benefits unless the Alternate Payee is the designated beneficiary of any remaining benefit; or the Alternate Payee is designated as the Participant's Surviving Spouse for a portion or all of any post-retirement death benefit. In the case that the Participant died while in Active Status, the death of the Participant does not impact the Alternate Payee's benefits unless the Alternate Payee is considered the Participant's Surviving Spouse for a portion or all of any pre-retirement death benefit.

2. Shared Payment QDRO

If the Alternate's Payee's portion of the Participant's monthly benefits have not already ceased pursuant to the QDRO, such portion (including any guaranteed payments) will cease upon the death of the Participant. (Any remaining guaranteed payments shall revert

to the Participant's portion and shall be payable on behalf of the Participant to the Participant's designated beneficiary.) In addition, if the QDRO so provides, the death of the Participant may result in survivor benefits being payable to the Alternate Payee if the Alternate Payee is the designated beneficiary of any remaining benefit or, in the case that the Participant died while in Active Status, if the Alternate Payee is considered the Participant's Surviving Spouse for a portion or all of any pre-retirement death benefit.

**ATTACHMENTS –
FORMS AND SAMPLE LETTERS**

Attachment 1 – Sample QDROs

Sample QDRO Number 1 - Sample Language Drafted for the SEIU Affiliates Officers and Employees (United States Participants) (“Plan”) for Community Property States

*(NOTE: The following language is sample language pertaining **only to the provisions of a DRO affecting qualification in accordance with ERISA §206(d)(3) and IRC §414(p)**. The sample language is tailored to marriages in the state of **California**, however the plan makes no representation as to compliance with the law of California. Responsibility for compliance with California (or any other state’s) law rests on the practitioners representing the Participant and the Alternate Payee. In addition to provisions that may be necessary to suit the specific circumstances of each individual situation, adjustments may be necessary to make it appropriate for community property states outside of California. For non-community property states, and for situations where the Alternate Payee is not the Participant’s spouse, refer to Sample QDRO Number 2. This model language is provided for the convenience of counsel but is neither the sole language to be included in an Order that is acceptable to the Plan, nor a mandatory form. In addition, it is not intended to be a substitute for the independent judgment and acumen of counsel to the parties.)*

I. IDENTIFICATION OF RETIREMENT PLAN

1. Plan. This order applies to benefits under the SEIU Affiliates Officers and Employees (United States Participants) (“Plan”).

One of the two following paragraphs should be included:

The Participant is not currently eligible for benefits under the Plan.

OR

The Participant currently is eligible for benefits under the Plan. The Participant [is receiving monthly benefits in the amount of \$_____ under the _____ form of payment / has not yet begun to receive benefits] under the Plan.

II. IDENTIFICATION OF PARTICIPANT AND ALTERNATE PAYEE

2. Names. The names and last known mailing addresses of the parties are as follows:

a. Plan Participant (Employee):

Name: _____

Address: _____

Date of Birth: _____

b. Alternate Payee (Spouse):

Name: _____

Address: _____

Date of Birth: _____

The information above should be provided separately for each Alternate Payee entitled to benefits pursuant to this Order.

III. GENERAL PROVISIONS

3. QDRO. This Order is intended to satisfy the requirements of federal law regarding a Qualified Domestic Relations Order (“QDRO”), including ERISA §206(d) and Internal Revenue Code §414(p). This Order is entered pursuant to the California Family Code, Division 6, Part 1, Chapter 6.

Note that an Alternate Payee can only be an individual deemed a spouse or former spouse under federal law, child, or other dependent of the Participant.

For community property states besides California, the last sentence of the paragraph above must be changed. For all states, including California, this sample QDRO should be reviewed and adjusted as necessary pursuant to the state authority.

4. Period of Marriage. It is agreed that the Period of Marriage was from the date of marriage to the date of separation specified below:

Date of Marriage: _____

Date of Separation: _____

5. Conditions Precedent. No benefits are payable under this Order unless the following two conditions are met:

- a. The Plan Participant has a vested benefit under the Plan, and
- b. The Plan has been served with a valid, signed copy of this Order and has determined that it is a QDRO as that term is defined under federal law.

6. Maximum Benefits. If the Participant's total Plan benefit would exceed the maximum benefit limitations of Internal Revenue Code §415, the benefit not payable as a result of the application of that Section shall be allocated between the Participant and the Alternate Payee. The Alternate Payee's share of the amount not payable shall be a fraction of the amount not payable, the numerator of which is one-half (1/2) of the Total Community Benefit as determined under paragraph 10, and the denominator of which is the Participant's total benefit, including the Total Community Benefit.

7. Participant's Residual Benefits. Any benefits under the Plan not assigned to the Alternate Payee under this Order (or to another alternate payee pursuant to some other order) shall be the sole and separate property of the Participant.

8. Statutory Limits. Notwithstanding any provision hereof to the contrary, in no event shall this Order be interpreted as requiring the Plan to:

- a. Require the payment of benefits to the Alternate Payee already assigned to another alternate payee under a prior QDRO,
- b. Require the Plan to provide benefits with a greater actuarial value than the Plan would pay absent the Order,
- c. Require the Plan to pay any benefits with respect to a non-vested Participant, or

- d. Require the Plan to pay any benefits in any form or option not otherwise provided under the Plan. However, as provided above, this Order may require that payments to the Alternate Payee begin on or after the Participant's earliest retirement age, even if the Participant does not retire at that time. If the Alternate Payee's benefits are to commence before the Participant's Effective Date, then:
 - i. the computation will only take into account the present value of benefits actually accrued as of the Alternate Payee's Effective Date,
 - ii. the computation will not take into account the present value of any subsidy for early retirement to which the Participant would be entitled if [his/her] Effective Date were the same as the Alternate Payee's,
 - iii. the Alternate Payee's Benefits may not be paid in the form of a Husband and Wife pension with a subsequent spouse, and
 - iv. for purposes of this Order, the Participant's "earliest retirement age" means the earlier of:
 - 1. the date on which the participant is entitled to a distribution under the plan, or
 - 2. the earliest date on which the participant could begin receiving benefits under the plan if the participant separated from service.

9. Definitions.

- a. Effective Date. Any reference hereafter to the Participant's or Alternate Payee's "Effective Date" means the date as of which their benefits are to begin.
- b. Other Terms. Other capitalized terms not specifically defined in this Order (e.g. Husband and Wife Pension) shall have the meanings as defined in the Plan document or its rules and regulations.

IV. AMOUNT AND FORM OF BENEFITS TO BE PAID TO ALTERNATE PAYEE

The following method of determining the benefit attributable to the marital period represents only one of many possible ways the parties may wish to determine this benefit. The parties should feel no obligation to adopt this language if it is not representative of the agreement they seek to reach. In addition, please note some of the dates (points in time at which benefits are determined) provided in this sample language below may need to be adjusted if they are inconsistent with the applicable state domestic relations law.

10. Alternate Payee's Monthly Benefit. The Alternate Payee is hereby awarded a portion

of the Participant's retirement benefit, determined as provided in this paragraph 10. The Alternate Payee's Monthly Benefit shall be one-half (1/2) the Total Community Benefit.

The Total Community Benefit shall be determined using the Plan in effect as of the earlier of the date of commencement for the Alternate Payee or the date of commencement for the Participant,, multiply the Participant's total accrued monthly pension benefit (based on Final Average Salary) as of the earlier of the Alternate Payee's or Participant's Effective Date by a fraction, the numerator of which is the number of months the Participant participated in the Plan during the marriage to the date of separation and the denominator of which is the total number of months that the Participant was a participant in the Plan to the Alternate Payee's Effective Date. The balance of the accrued benefit in the Plan is to be the sole and separate property of the Participant unless otherwise provided in this Order.

One of the three following options should be used; Option A applies to a Separate Interest QDRO and Option B applies to a Shared Payment QDRO (the latter available only where the benefit is not yet in pay status). Option C should be used in the situation where the benefit is already in pay status to the Participant.

Option A: Separate Interest QDRO

11. Form of Payment. The Alternate Payee shall receive the Alternate Payee's Benefit under [the _____ form of payment / any payment form provided to a Participant under the Plan, except in the form of a Husband and Wife Pension with a subsequent spouse]. The Alternate Payee shall commence [his / her] benefit [on / at any time on or after] [insert date or event, such as Participant's earliest retirement age or Normal Retirement Age]. Under no circumstances shall the Alternate Payee's Effective Date be earlier than the first date on which the Participant is eligible to receive a benefit under the Plan, or later than the Participant's Required Beginning Date under the Plan. If the Alternate Payee receives [his / her] benefit in a form that provides for survivor benefits, as permitted under this Order, the Alternate Payee may designate a beneficiary to receive those benefits.

Option B: Shared Payment QDRO – Pension Not in Payment Status

11. Form Of Payment. The Total Community Benefit will be payable [in the form of a Husband and Wife Pension / any form chosen by the parties], with each party entitled to one-half (1/2) of the payments made [while the Participant is alive / until some date or event]. [Under no circumstances will payments to the Alternate Payee continue beyond the death of the Participant except to the extent the Alternate Payee is the Participant's Surviving Spouse for purposes of the Husband and Wife Pension or any other post-retirement death benefit.]

Option C: Pension Currently in Payment Status – Shared Payment QDRO

11. Form of Payment. The Alternate Payee shall be paid 50% of the Total Community Benefit. The Alternate Payee shall receive [his/her] monthly payments from [date] until [date or event, such as death of either party], but, in any event, not beyond the date of death of the Participant.

V. ALTERNATE PAYEE'S ENTITLEMENT TO INCREASES AND ADJUSTMENTS

12. Retiree Increases. The Alternate Payee [is/is not] entitled to [(his/her) pro rata share/the total value] of [all ad hoc cost-of-living increases* and actuarial adjustments/benefit improvements (name specific increases and/or adjustments)] the Participant receives for [his/her] benefits under the Plan after [his/her] Effective Date.

In the case of a Separate Interest QDRO, the following paragraphs should also be included. Please note these paragraphs deal with the Alternate Payee's rights to a portion of the early retirement subsidy payable upon the Participant's retirement and the Alternate Payee's rights to a portion of any subsequent benefit improvements, increases or other adjustments:

In the event that the Alternate Payee's Effective Date is prior to the Participant's Effective Date, the Alternate Payee's Benefit shall be calculated without any early retirement subsidies that may be available to the Participant had [he/she] elected the same Effective Date. If the Participant does subsequently retire with an early retirement subsidy, the Alternate Payee's monthly benefits [will/will not] be subsequently recalculated to include [his/her] pro-rata portion of such subsidy. Otherwise, the amount of the Alternate Payee's monthly benefit will not subsequently change[, except to the extent Retiree benefit improvements or other such adjustments (such as cost of living adjustments) are implemented after the Participant's Effective Date or death].

In the event that the Alternate Payee's Effective Date is after the Participant's Effective Date, the Alternate Payee's Benefit shall be calculated without any active accrual rate increases, Retiree benefit improvements or other such adjustments (such as cost of living adjustments) enacted after the Participant's Effective Date. After the Alternate Payee's Effective Date, [his/her] subsequent entitlement to increases and adjustments is addressed above.

VI. EFFECT OF EITHER PARTY'S DEATH ON ALTERNATE PAYEE'S ENTITLEMENT TO BENEFITS

* Note that the Plan's automatic (or non-discretionary) cost-of-living increase is included as part of the Alternate Payee's entitlement even if not addressed in the QDRO and even if the Participant has not yet retired.

The following language applies to the Separate Interest Approach. Typically, if the suggested language in (13) below is adopted so that the Alternate Payee's entitlement to benefits is not changed by the Participant's death, the parties may not wish to entitle the Alternate Payee to survivor benefits under item (17) below.

13. Participant's Death. The Participant's death, whether before or after commencement of the Alternate Payee's benefit, shall not affect the Alternate Payee's rights to [his/her] benefit. Notwithstanding the foregoing, if the Alternate Payee is entitled to commence [his/her] benefit as of the Participant's earliest retirement age, this shall be determined based on (a) the Participant's service as of date of death, and (b) the Participant's age as if [he/she] still were living.
14. Alternate Payee's Death. Should the Alternate Payee die before [he/she] has commenced receiving benefits, survivor benefits [(shall not be payable/shall be payable) to (his/her) designated beneficiary with respect to the Alternate Payee's benefits / shall not be payable and the unpaid portion of the Alternate Payee's share shall revert to the Participant].

The following language applies to the Shared Payment Approach.

15. Participant's Death. If they have not already ceased for some other reason, the Alternate Payee's payments shall cease upon the death of the Participant.
16. Alternate Payee's Death. In the event that the Alternate Payee predeceases the Participant, the Alternate Payee's monthly payments shall revert to the Participant.

VII. TREATMENT OF ALTERNATE PAYEE AS PARTICIPANT'S SURVIVOR

17. Survivor Benefits. The former spouse Alternate Payee [shall/shall not] be considered as the Participant's survivor, or surviving spouse, for [all survivor benefits/name survivor benefits] payable with respect to [all of/the Alternate Payee's portion of/ ____% of] the survivor benefits payable for the Participant under the Plan. These survivor benefits will be [in lieu of/in addition to] the benefit (if any) the Alternate Payee would be receiving under Article IV and V of this Order.

[For the Shared Payment approach, note the following: If the Alternate Payee is named as the surviving spouse for a post-retirement death benefit, the benefit awarded to the Alternate Payee under Article IV and V would cease at the Participant's death, and the Alternate Payee would commence receiving the awarded survivor benefit instead.]

**Sample QDRO Number 2 - Sample Language Drafted for the SEIU
Affiliates Officers and Employees (United States Participants) (“Plan”) for
General Use**

*(NOTE: The following language is sample language pertaining **only to the provisions of an order affecting qualification in accordance with ERISA §206(d)(3) and IRC §414(p)**. Additional provisions may be necessary to suit the specific circumstances of each situation. For community property states, refer to Sample 1. This model QDRO language has not been prepared to comply with the laws of any particular state; this model QDRO language is provided for the convenience of the parties and must be modified by the practitioner to comply with applicable state law. No representations are made that this model QDRO language complies with the law of any state; this model QDRO language may not meet the needs of the participant and the alternate payee; it can be modified to meet the needs of the parties or applicable state law. In addition, it is not intended to be a substitute for the independent judgment and acumen of counsel to the parties.)*

I. IDENTIFICATION OF RETIREMENT PLAN

1. Plan. This Order applies to benefits under the SEIU Affiliates Officers and Employees (United States Participants) (“Plan”).

One of the two following paragraphs should be included:

The Participant is not currently eligible for benefits under the Plan.

OR

The Participant currently is eligible for benefits under the Plan. The Participant [is receiving monthly benefits in the amount of \$_____ under the _____ form of payment/has not yet begun to receive benefits] under the Plan.

II. IDENTIFICATION OF PARTICIPANT AND ALTERNATE PAYEE

2. Names. The names and last known mailing addresses of the parties are as follows:

a. Plan Participant (Employee):

Name: _____

Address: _____

Date of Birth: _____

b. Alternate Payee (Spouse):

Name: _____

Address: _____

Date of Birth: _____

The information above should be provided separately for each Alternate Payee entitled to benefits pursuant to this Order.

III. GENERAL PROVISIONS

3. QDRO. This order is intended to satisfy the requirements of federal law regarding a Qualified Domestic Relations Order (“QDRO”), including ERISA §206(d) and Internal Revenue Code §414(p).

Note that an Alternate Payee can only be an individual deemed a spouse or former spouse under federal law, child, or other dependent of the Participant.

It may be appropriate to include a second sentence above, citing the appropriate state authority.

4. Conditions Precedent. No benefits are payable under this Order unless the following two conditions are met:
 - a. The Plan Participant has a vested benefit under the Plan, and
 - b. The Plan has been served with a valid, signed copy of this Order and has determined that it is a QDRO as that term is defined under federal law.
5. Participant's Residual Benefits. Any benefits under the Plan not assigned to the Alternate Payee under this Order (or to another alternate payee pursuant to some other Order) shall be the sole and separate property of the Participant.
6. Statutory Limits. Notwithstanding any provision herein to the contrary, in no event shall this Order be interpreted as requiring the Plan to:
 - a. Require the payment of benefits to the Alternate Payee already assigned to another alternate payee under a prior QDRO,
 - b. Require the Plan to provide benefits with a greater actuarial value than the Plan would pay absent the Order,
 - c. Require the Plan to pay any benefits with respect to a non-vested Participant, or
 - d. Require the Plan to pay any benefits in any form or option not otherwise provided under the Plan. However, as provided above, this Order may require that payments to the Alternate Payee begin on or after the Participant's earliest retirement age, even if the Participant does not retire at that time. If the Alternate Payee's benefits are to commence before the Participant's Effective Date, then:
 - i. the computation will only take into account the present value of benefits actually accrued as of the Alternate Payee's Effective Date,
 - ii. the computation will not take into account the present value of any subsidy for early retirement to which the Participant would be entitled if [his/her] Effective Date were the same as the Alternate Payee's,
 - iii. the Alternate Payee's Benefits may not be paid in the form of a Husband and Wife pension with a subsequent spouse, and
 - iv. for purposes of this Order, the Participant's "earliest retirement age" means the earlier of:
 1. the date on which the participant is entitled to a distribution under the plan, or

2. the earliest date on which the participant could begin receiving benefits under the plan if the participant separated from service.
7. Maximum Benefits. If the Participant's total Plan benefit would exceed the maximum benefit limitations of Internal Revenue Code §415, the benefit not payable as a result of the application of that Section shall be allocated between the Participant and the Alternate Payee. The Alternate Payee's share of the amount not payable shall be a fraction of the amount not payable, the numerator of which is the percentage of the Total Marital Benefit awarded to the Alternate Payee as determined under paragraph 9, and the denominator of which is the Participant's total benefit, including the Total Marital Benefit.
8. Definitions.
 - a. Effective Date. Any reference hereafter to the Participant's or Alternate Payee's "Effective Date" means the date as of which their benefits are to begin.
 - b. Other Terms. Other capitalized terms not specifically defined in this Order (e.g. Husband and Wife Pension) shall have the meanings as defined in the Plan document or its rules and regulations.

IV. AMOUNT AND FORM OF BENEFITS TO BE PAID TO ALTERNATE PAYEE

The following method of determining the benefit attributable to the marital period and adjusting that benefit for any changes in the Plan's benefit formula through the Alternate Payee's Effective Date represents only one of many possible ways the parties may wish to determine this benefit. The parties should feel no obligation to adopt any of this language if it is not representative of the agreement they seek to reach. In addition, please note some of the dates (points in time at which benefits are determined) provided in this sample language below may need to be adjusted if they are inconsistent with the applicable state domestic relations law.

9. Alternate Payee's Monthly Benefit.

The Alternate Payee is hereby awarded a portion of the Participant's retirement benefit, determined as provided in this paragraph 7. The Alternate Payee's Monthly Benefit shall be [\$_____/_____%] of the Total Marital Benefit. *[If the Alternate Payee is assigned a fixed dollar amount each month or a fixed percentage of the Participant's benefit under a Shared Payment QDRO, the remainder of this paragraph 9 should be adjusted as necessary.]* The Total Marital Benefit shall be determined using the Plan in effect as of the date of the earlier of the date of commencement of the Alternate Payee or the date of commencement for the Participant. Multiply the Participant's total

accrued monthly pension benefit (based on Final Average Salary) as of the earlier of the Alternate Payee's or Participant's Effective Date by a fraction, the numerator of which is the number of months the Participant participated in the Plan during the marriage to the date of separation and the denominator of which is the total number of months that the Participant was a participant in the Plan to the Alternate Payee's Effective Date. The balance of the accrued benefit in the Plan is to be the sole and separate property of the Participant unless otherwise provided by this Order.

One of the following options should be used; Option A applies to a Separate Interest QDRO and Option B applies to a Shared Payment QDRO. If the benefit is already in payment status, the Shared Payment Optional language should be used. If the benefit is not already in payment status, either option may be chosen.

Option A: Separate Interest QDRO

10. Form of Payment. The Alternate Payee shall receive [his/her] benefit under [the _____ form of payment/any payment form provided under the Plan, except in a Qualified Joint and Survivor Annuity with a subsequent spouse]. The Alternate Payee shall commence [his/her] benefit [on/at any time on or after] [date or event, such as Participant's earliest retirement age or Normal Retirement Age]. Under no circumstances shall the Alternate Payee's Annuity Starting Date be earlier than the first date on which the Participant is eligible to receive a benefit under the Plan, or later than the Participant's Required Beginning Date under the Plan. The Alternate Payee's monthly benefits will be determined without taking into account the Plan's early retirement subsidy, if any, if the Alternate Payee commences benefits prior to the Participant. If the Alternate Payee receives [his/her] benefit in a form that provides for survivor benefits, as permitted under this Order, the Alternate Payee may designate a beneficiary to receive those benefits.

Option B: Shared Payment QDRO

10. Form of Payment. The Alternate Payee shall be paid a monthly portion of the Participant's benefit, determined as follows: The Alternate Payee's Monthly Benefit shall be [\$_____/_____%] of the Total Marital Benefit. The Alternate Payee shall receive [his/her] monthly payments from [date] until [date or event, such as death of either party], but, in any event, not beyond the date of death of the Participant.

If the Pension is currently in pay status the Plan will only accept a Shared Payment QDRO. If the QDRO will require the Participant to elect a certain form of payment, that should also be indicated in this paragraph.

V. ALTERNATE PAYEE'S ENTITLEMENT TO INCREASES AND ADJUSTMENTS

11. Retiree Increases. The Alternate Payee [is/is not] entitled to [(his/her) pro rata share/the total value] of [all ad hoc cost-of-living increases and actuarial adjustments/benefit

improvements (name specific increases and/or adjustments)] the Participant receives for [his/her] benefits under the Plan before or after [his/her] Effective Date.*

In the case of a Separate Interest QDRO, the following paragraphs should also be included. Please note these paragraphs deal with the Alternate Payee's rights to a portion of the early retirement subsidy payable upon the Participant's retirement and the Alternate Payee's rights to a portion of any subsequent benefit improvements, increases or adjustments:

In the event that the Alternate Payee's Effective Date is prior to the Participant's Effective Date, the Alternate Payee's Benefit shall be calculated without any early retirement subsidies that may be available to the Participant had [he/she] elected the same Effective Date. If the Participant does subsequently retire with an early retirement subsidy, the Alternate Payee's monthly benefits [will/will not] be subsequently recalculated to include [his/her] pro-rata portion of such subsidy. Otherwise, the amount of the Alternate Payee's monthly benefit will not subsequently change[, except to the extent Retiree benefit improvements or other such adjustments (cost of living adjustments) are implemented after the Participant's Effective Date or death].

In the event that the Alternate Payee's Effective Date is after the Participant's Effective Date, the Alternate Payee's Benefit shall be calculated without any Retiree benefit improvements or other such adjustments enacted after the Participant's Effective Date. After the Alternate Payee's Effective Date, [his/her] subsequent entitlement to increases and adjustments is addressed above.

VI. EFFECT OF EITHER PARTY'S DEATH ON ALTERNATE PAYEE'S ENTITLEMENT TO BENEFITS

The following language applies to the Separate Interest Approach. Typically, if the suggested language in (12) below is adopted so that the Alternate Payee's entitlement to benefits is not changed by the Participant's death, the parties may not wish to entitle the Alternate Payee to survivor benefits under item (16) below.

12. Participant's Death. The Participant's death, whether before or after commencement of the Alternate Payee's benefit, shall not affect the Alternate Payee's rights to [his/her] benefit. Notwithstanding the foregoing, if the Alternate Payee is entitled to commence [his/her] benefit as of the Participant's earliest retirement age, this shall be determined based on (a) the Participant's service as of date of death, and (b) the Participant's age as if [he/she] still were living.

* Note that the automatic cost-of-living increase is included as part of the Alternate Payee's benefit even if the QDRO does not address this automatic cost-of-living increase and even if the Participant has not yet retired.

13. Alternate Payee's Death. Should the Alternate Payee die before [he/she] has commenced receiving benefits, survivor benefits [(shall not be payable/shall be payable) to (his/her) designated beneficiary with respect to the Alternate Payee's benefits/shall not be payable and the unpaid portion of the Alternate Payee's share shall revert to the Participant].

The following language applies to the Shared Payment Approach.

14. Participant's Death. If they have not already ceased for some other reason, the Alternate Payee's payments shall cease upon the death of the Participant.
15. Alternate Payee's Death. In the event that the Alternate Payee predeceases the Participant, the Alternate Payee's monthly payments shall revert to the Participant.

VII. TREATMENT OF ALTERNATE PAYEE AS PARTICIPANT'S SURVIVOR

16. Survivor Benefits. The former spouse Alternate Payee [shall/shall not] be considered as the Participant's survivor, or surviving spouse, for [all survivor benefits/name survivor benefits] payable with respect to [all of/the Alternate Payee's portion of/ ____% of] the survivor benefits payable for the Participant under the Plan. These survivor benefits will be [in lieu of/in addition to] the benefit (if any) the Alternate Payee would be receiving under Article IV and V of this Order.

[For the Shared Payment approach, note the following: If the Alternate Payee is named as the surviving spouse for a post-retirement death benefit, the benefit awarded to the Alternate Payee under Article IV and V would cease at the Participant's death, and the Alternate Payee would commence receiving the awarded survivor benefit instead.]