

ODRO CHECKLIST

NOTE: This checklist is intended as a reference for the attorneys representing plan sponsors, participants, and alternate payees. All answers must be checked “Yes” in order for the Plan Administrator to make a determination that a domestic relations order submitted to the Plan Administrator is a “qualified domestic relations order” under the Plan.

1. Does the domestic relations order clearly appear to be a judgment, decree, or order?
Yes No
2. Has the order a) been signed by the judge or magistrate, b) been entered by the court clerk, and c) been certified by the court clerk as such?
Yes No
3. Does the order relate to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of a participant?
Yes No
4. Does the order create or recognize the right of one or more alternate payees to receive all or part of the participant's benefits in the plan identified by the order?
Yes No
5. Is it clear that the assignment of the award is to the alternate payee(s), and no one else?
Yes No
6. Is the Order made pursuant to a state domestic relations law (including a community property law)?
Yes No
7. Does the order clearly specify that it applies to the plan? (This item is best addressed where the parties correctly reference the plan administrator and formal plan name, including the plan's contract number.)
Yes No
8. Does the order clearly identify the participant as such by name and is the identifying information listed below included in the order or available from other sources?
 - last known mailing address
 - Social Security No.
 - date of birth
 - (Also, to expedite processing of the DRO, the identity of participant's legal counsel (if any), or designated representative for receipt of notices, is useful.)

Yes

No

9. Does the order clearly identify the alternate payee as such by name and is the identifying information listed below included in the order or available from other sources?

- last known mailing address
- Social Security No.
- date of birth
- (Also, to expedite processing of the DRO, the identity of the alternate payee's legal counsel (if any), or designated representative for receipt of notices, is useful.)

Yes

No

10. Does the order clearly specify the amount or percentage of the vested or total accrued portion of a participant's benefits to be paid to each alternate payee or the manner in which such amount or percentage is to be determined?

Yes

No

11. Does the order contain sufficient existing factual identifying information for the payment to be processed by the plan administrator given the payment procedures below?

Yes

No

If yes, select a Method: Method ___.

Payment Procedures

For the domestic relations order to segregate an amount which may be reduced to a sum certain, one of the following methods for calculating the amount awarded to the alternate payee (including earnings, if applicable) must be included in the DRO. If a percentage is designated under Method 1, Diversified will calculate the dollar amount payable to the alternate payee (i.e., no earnings will be determined, except on a prospective basis following the division of the participant's benefit). Diversified will calculate earnings if Method 2 or 3 is selected. If Method 2 is selected, the interest rate must be stated in the DRO as agreed to by the participant, alternate payee and the Plan Administrator. If Method 4 is selected, Diversified will not calculate the amount or earnings.

Method 1. Lump Sum Certain. The dollar amount payable to the alternate payee. Alternatively, the amount payable to the alternate payee may be expressed as a percentage of the participant's vested or total accrued account, as of a specified date. Such amount will be segregated into a separate account for the alternate payee subject to the alternate payee's future direction and control.

Method 2. Single or Compound Interest Rate. The dollar amount or percentage of the participant's vested or total accrued account, plus, if applicable, a rate of simple interest (or one rate per calendar year) or compound interest and the time period the interest is to be calculated over. [Note: the interest rate can be either a positive or negative rate.] Such amount will be segregated into a separate account for the alternate payee subject to the alternate payee's future direction and control.

Method 3. Re-Valued Account Balance. The DRO must specify the date ("Start Date") and the percentage of the participant's vested or total accrued account to be set-aside for the alternate payee. The percentage of the participant's vested or total accrued account awarded to the alternate payee is then applied to each of the investment funds the participant had been invested in as of the Start Date, to determine the number of shares/units or dollar amount (if shares/units are not applicable) to be awarded to the alternate payee. The shares/units are then multiplied by the share price/unit value as of the distribution or transfer date. For investment fund, which use a stated rate of interest for crediting earnings, interest will be calculated based on the new money rate for each time period (i.e., plan year or contract/agreement year). The resulting amount will then be withdrawn from the participant's account and set aside for the alternate payee subject to the alternate payee's direction and control.

Method 4. Lump Sum Plus Earnings. A lump sum amount plus actual earnings or other method used to calculate earnings as agreed to by the participant, alternate payee and Plan Administrator. Such amount will be segregated into a separate account for the alternate payee subject to the alternate payee's future direction and control.

12. Is it clear that the award does not include a provision that attempts to shift tax liability for the award from the alternate payee to the participant?

Yes

No

13. Is it clear the amount or percentage to be segregated from the participant's account for the alternate payee is equal to or less than the amount in the participant's account?

Yes

No

14. Does the DRO only apply to the participant's vested or total accrued benefit?

Yes

No

15. Is the DRO consistent with the plan's award commencement procedures, i.e., does the DRO require the plan to track when the award will become available, or does it allow the alternate payee immediate access to the award? (Note: Also, the DRO may not change how the remainder of the account is available to the Participant.)

Yes No

16. The order may provide the manner and time(s) at which the alternate payee's award will be paid:

a. It is clear that the manner of payment, i.e., a lump sum, is permitted? (Note: the alternate payee may always elect to have a segregated account, but payment of a lump sum must be permitted under the plan.)

Yes No

b. It is clear that the alternate payee's award distribution commencement doesn't require treatment different from other participants? (Note: the order shouldn't require the plan to track special trigger dates like the ex-spouse's retirement date.)

Yes No

c. If the DRO applies to the participant's total accrued benefit, does it restrict payment of the remaining unvested portion of the account (after the initial payment of the vested portion at the time the account is segregated) when it becomes vested to the **earliest** of: (i) the participant's termination of employment, (ii) the earliest retirement age as defined under section 414(p) of the Internal Revenue Code of 1986, as amended, or (iii) **provided the plan allows, when the participant becomes 100% vested.**

Yes No

17. It is clear that the order does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be qualified domestic relations order?

Yes No

18. Does the DRO allow the plan administrator a "reasonable amount" of time to determine whether a DRO is qualified? [For example, a DRO, which requires a qualification determination in 30 days, is contrary to the provisions of Section 414(p) of the Internal Revenue Code of 1986, as amended (*IRC § 414(p)*).]

Yes No

19. Does the DRO clearly state that after the division of the participant's benefit, neither the participant nor the alternate payee(s) have any interest in the other's benefit including death benefits unless specified otherwise in a beneficiary designation?

Yes

No

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