

**Dissolution of Marriage
Overview and Frequently Asked Questions for the
County of Los Angeles'
Defined Contribution Plans**

This document is intended for general information use only for the County of Los Angeles' Defined Contribution Plans. Nothing contained in this document should be taken as tax or legal advice. If you are unsure of your legal rights, you should consult with an attorney.

Nothing in this document pertains to the County of Los Angeles' Defined *Benefit* Plan (LACERA). Questions regarding LACERA should be directed to 1-800-786-6464.

If your marriage or registered domestic partnership is dissolved, the Court may order a division of your County of Los Angeles Deferred Compensation and Thrift Plan (Horizons), Savings Plan (401(k)), Pension Savings Plan and/or Termination Pay Pick-Up Plan (collectively; Defined Contribution Plans or the "Plan(s)").

This document is intended to provide a high-level overview of the documentation the County requires in order to divide a participant's Defined Contribution Plan assets after a divorce. In general:

1. The Plan must be "joined" as a party to the dissolution proceeding through the use of a Summons and Request for Joinder (unless the order is purely for spousal or child support).
2. A legal document (called a Qualified Domestic Relations Order (QDRO) must be submitted to the County for review and approval;
3. Once approved, the QDRO must be signed by the judge and all parties (the participant, alternate payee (e.g., former spouse) if available), and the attorney(s) (if any);
4. The QDRO must be certified by the court;
5. A certified copy must be mailed (not faxed) to:

County of Los Angeles
Department of Human Resources
Employee Benefits, Deferred Income Division
3333 Wilshire Blvd., Suite #1000
Los Angeles, CA 90010-4101

6. The account will be divided according to the instructions in the QDRO in approximately two to three weeks following receipt of the certified QDRO. Confirmation letters are mailed to both parties once the account is divided.

A more detailed description of the QDRO process, including Q & A's is provided on the following pages.

Each divorce is different and as such couples should seek their own legal advice/assistance in order to ensure the division of their Defined Contribution Plan assets are handled according to the couples' mutually agreed upon terms.

PLEASE NOTE: If you dissolve a registered **domestic partnership**, some different rules may apply to the division and distribution of your benefits due to the federal Defense of Marriage Act. Please see the section titled Domestic Partnership.

Supplemental retirement benefits (such as the County's Defined Contribution Plans noted above) often form a substantial part of the couples' total marital estate and many times are the largest single marital asset. Defined Contribution Plans are typically divisible in cases of divorce to the extent that they are acquired during the period of marriage. In *most* cases, the portion that was earned prior to the marriage (including earnings/interest) would be considered the participant's (e.g., the employee's or former employee's) own separate property (not divisible) and the other part that was earned during the marriage (including earnings/interest) would be considered marital "community" property (which is divisible).

When the County of Los Angeles receives notice that a Defined Contribution Plan is subject to a division of community property, a legal hold (restriction) is placed on the participant's (i.e., the employee's or former employee's) Defined Contribution Plan(s) in order to preserve the monies in the Plan(s). While the restriction is in place, the participant is not allowed to take withdrawals or loans from his/her Plan(s). This is because (as stated above), the portion of the Plan(s) that was/were earned during the marriage is/are considered community property and thus, may be subject to division. The restriction will be removed after the Plan assets are divided or as otherwise instructed by a court order.

In order to divide the assets in a Plan, the Plan must be "joined" as a party to the dissolution proceeding through the use of a Summons and Request for Joinder (unless the order is purely for spousal or child support) and the Qualified Domestic Relations Order (QDRO) must be approved by the Plan Administrator (at the Department of Human Resources address noted above), filed with the Court, certified and submitted to the County of Los Angeles Department of Human Resources at the address noted above. A separate QDRO is required for each Plan. Once approved, the Plan(s) will be divided according to the division instructions listed in the QDRO(s). A separate account will be established for the alternate payee (e.g., the former spouse) and s/he can withdraw his/her money at any time. Different rules apply for domestic partners. See the section on Domestic Partnerships below. Any restrictions that were placed on the participant's account(s) would be removed after the assets are divided.

Lastly, after the participant's account(s) under his/her Plan(s) are divided, the participant may want to consider updating his/her beneficiary information. Beneficiary changes can be made online or via paper form. To submit the change online, the participant must log in to their account at www.countyla.com, click on the *My Profile* tile, then *Beneficiary* then *Update Beneficiary* and enter the requested information. If the participant has more than one Plan, s/he must repeat these steps for the other Plan(s). Or, the participant can call Great West Financial (GW) at 1-800-947-0845 to obtain a Beneficiary Designation form (a separate form is required for each applicable Plan) and submit the completed form(s) to GW via fax or mail as noted on the form.

Below are answers to some of the most frequently asked questions that couples have about dividing their accounts in the County's Defined Contribution Plans. We've also included a list of terms and definitions that are used throughout this material to aid you in understanding this legal process.

General questions regarding QDROs should be directed to Great-West Financial at 1-800-947-0845.

FREQUENTLY ASKED QUESTIONS:

Q1. I'm going through a divorce and my former spouse has been awarded money from my Defined Contribution Plan. What do I need to do?

A1. In order to divide your Defined Contribution Plan assets, you must provide the County of Los Angeles with a pre-approved, certified copy (with the court clerk's filing date stamp, the judge's signature and a certified stamp) of an order that meets the requirements to be a Qualified Domestic Relations Order (QDRO). In addition, in order for a QDRO to be enforceable against a Plan in California, the Plan must be "joined" in the divorce or dissolution proceeding (unless the order is purely for spousal or child support). A Summons and Request for Joinder (S&J) must be filed with the court and served on the Plan at the following address:

County of Los Angeles
Department of Human Resources
Employee Benefits, Deferred Income Division
3333 Wilshire Blvd., Suite #1000
Los Angeles, CA 90010-4101

Q2. What is a QDRO?

A2. Simply stated, a QDRO is a written set of instructions that explains all of the factual information about the two parties, such as names, addresses, dates of birth, and social security numbers, as well as any and all information required by the County in order to determine how to divide and distribute the assets held by the Plan. It must include the amount or percentage of the Participant's benefits to be awarded to the alternate payee, or include a formula that may be used to determine that amount or percentage. It may also specify when and how benefits should be paid to the alternate payee, what happens if the plan participant (employee/former employee) dies, what happens if the alternate payee dies, and so on.

A QDRO may not require the Plan to: (1) provide any type or form of benefit or any option not otherwise available under the Plan, (2) provide increased benefits, or (3) pay benefits that have already been awarded to someone else under another QDRO.

A draft QDRO must be sent to the County (at the address noted below) for review and pre-approval before filing it with the court. Once approved, the QDRO must be filed **and certified** with the Court and submitted to:

County of Los Angeles
Department of Human Resources
Employee Benefits, Deferred Income Division
3333 Wilshire Blvd., Suite #1000
Los Angeles, CA 90010-4101

Q3. How do I get a QDRO and where do I send it once it's drafted?

A3. You can either hire an attorney to prepare your QDRO, or you can prepare it on your own, though it is strongly recommended that you have an attorney review a self-prepared QDRO. If you plan to prepare the QDRO on your own, the County of Los Angeles has a sample QDRO available online at www.countyla.com that may or may not meet your specific needs (see Q4 below). Either way, once the QDRO is drafted, it must be submitted to the County of Los Angeles for review and approval **before** it is filed with the Court. Once reviewed, a letter will be sent to you (or your attorney, as applicable) advising whether the draft is approved as-is or if it requires corrections. If corrections are required, the letter will specify what needs to be changed and whether another draft must be submitted to the County for review approval. All QDROs should be mailed (not faxed) to the address noted above.

Q4. Does the County of Los Angeles have a sample QDRO available?

A4. Yes. A sample/model QDRO can be found at www.countyla.com. From the home page, click the applicable tab(s) depending on the type of plan(s) you have (e.g., Horizons, 401K Savings or Pension Savings Plan), then click on Legal Documents. You'll see the Sample Qualified Domestic Relations Order link. Click on the link to view or download the sample QDRO to your personal computer. If you have a Termination Pay Pick-Up Plan that will be divided, one of the other Plan's sample/model QDROs can be used as long as the type of plan is modified accordingly to reflect the proper Plan. A separate QDRO is required for each Defined Contribution Plan that is being divided. If you decide to use the sample QDRO, provide the requested information in the spaces provided. NOTE: The four most common methods to divide Defined Contribution Plan assets are listed in Section II (item 4). The plan asset division methods NOT used should be deleted from your draft so that only the division method chosen remains. If you do not have access to a computer, you can call Great-West Financial at 1-800-947-0845 and request to have a sample QDRO mailed to you.

IMPORTANT NOTE: This SAMPLE QDRO may or may not contain provisions that are applicable to your particular needs or situation. This sample is only for use with your attorney's advice and assistance. Your attorney will suggest the wording that is appropriate for your own QDRO. Nothing contained in this SAMPLE shall be construed as tax or legal advice.

Q5. What do I do after the *draft* QDRO is approved by the County of Los Angeles?

A5. Once the draft is approved, the QDRO is ready to be reviewed and signed by all parties (spouse, former spouse, attorneys, if applicable). After all parties have signed the QDRO, it must be filed with the Court, signed by the Judge and certified.

Q6. How do I file and certify a QDRO with the Court?

A6. If you have an attorney, your attorney should file the QDRO for you. Let them know the County of Los Angeles requires a **certified** copy. If you do not have an attorney, you'll need to contact the Court's Family Law division for filing and certification instructions.

Q7. After my QDRO is filed with the Court and certified, what happens next?

A7. In order for the Plan assets to be divided according to the instructions in the QDRO, a copy of the certified QDRO must be mailed to:

County of Los Angeles
Department of Human Resources
Employee Benefits, Deferred Income Division
3333 Wilshire Blvd., Suite #1000
Los Angeles, CA 90010-4101

Upon receipt, a letter will be sent to you (or your attorney, as applicable) advising that the QDRO was received and the assets will be divided.

Q8. How long does it take to process the QDRO and divide the money in to a separate account?

A8. It takes approximately two to three weeks after we receive the certified QDRO to divide the Plan assets. Once completed, confirmation letters are mailed to both parties.

Q9. Who do I call if I don't receive my confirmation letter or to check on the status?

A9. If you haven't received a confirmation letter that your QDRO was processed by the end of the third week after it was submitted to the address noted above, call GW at 1-800-947-0845.

Q10. Does the alternate payee (e.g., former spouse) have to wait until I retire from the County of Los Angeles to withdraw his/her portion of the money?

A10. No (except in the case of a registered domestic partnership, see the Domestic Partnership section below for more details). The alternate payee is allowed to immediately withdraw his/her money and will be responsible for any taxes unless he/she completes a "Direct Rollover" (see Q11). To request a distribution, s/he must obtain a Distribution/Direct Rollover Form from Great-West by calling (800) 947-0845. The completed form should be submitted to the County's third party administrator, GW via fax or mail as noted on the form. If more than one Defined Contribution Plan was divided, a separate form for each Plan must be submitted to GW. It takes approximately 3 to 5 business days after GW receives a properly completed distribution form, to process the withdrawal. Alternate Payees can call GW at 1-800-947-0845 to check on the status of their distribution request.

Q11. Who pays taxes on the QDRO money that is divided?

A11. When the Plan assets are divided, there are no taxes withheld. However, at the time monies are withdrawn (distributed) from the Defined Contribution Plan(s), the recipient of the money would be responsible for income tax withholding (except in the case of a registered domestic partnership that was dissolved – see the Domestic Partnership section below for more details). If a minor child receives money via a QDRO, you (the participant) are responsible for income tax withholding. If the distribution is a "Direct Rollover" to another eligible retirement plan (such as an IRA), income taxes are not automatically withheld until such time that the monies are withdrawn (payable to you).

Q12. What department handles Qualified Domestic Relations Orders (QDROs) for the County of Los Angeles' Defined Contribution Plans?

A12. County of Los Angeles
Department of Human Resources
Employee Benefits, Deferred Income Division
3333 Wilshire Blvd., Suite #1000
Los Angeles, CA 90010-4101

Q13. Where do I send a Summons and Request for Joinder (to restrict the participant's Plan(s)) and/or a subpoena for Defined Contribution Plan records/information?

A13. For Defined Contribution Plans, a Summons and Request for Joinder or subpoena for records should be mailed to:

County of Los Angeles
Department of Human Resources
Employee Benefits, Deferred Income Division
3333 Wilshire Blvd., Suite #1000
Los Angeles, CA 90010-4101

Subpoenas for employment records should be sent to the employee's departmental personnel office (NOT the address noted above).

Q14. Do I need a QDRO for LACERA (the County's Defined Benefit Plan)?

A14. You need to contact LACERA at 1-800-786-6464 to find out what documents are required (and their mailing address) to divide the Defined *Benefit* Plan assets. QDROs and subpoenas for LACERA's Defined *Benefit* Plans should NOT be sent to the address noted above. The address noted above only processes QDROs for Defined *Contribution* Plans.

Q15. Can't I just withdraw money from my Defined Contribution Plan and pay-off the alternate payee (e.g., former spouse) without a QDRO?

A15. Withdrawals from the Plan(s) are generally restricted while you are still working for the County of Los Angeles. By using a QDRO to divide Plan assets, the early withdrawal penalty tax, if applicable, is avoided and the alternate payee (not you) will receive a tax form 1099-R and be responsible for reporting and paying income tax including income tax withholding that is deducted from any distribution s/he receives from the Plan (except in the case of a registered domestic partner— see Domestic Partnership section below. If a minor child receives money via a QDRO, you (the participant) are responsible for income tax withholding.

If you no longer work for the County of Los Angeles and want to withdraw money from your Plan(s) (instead of using a QDRO), you can do so by completing a distribution form (see Q&A #10). **However, you may be subject to an early withdrawal penalty tax, you would be responsible for paying income tax withholding on the amount withdrawn, you would receive the 1099-R, and you would have to claim the amount withdrawn as ordinary income when you file your income tax return. By using a QDRO, withdrawals that the alternate payee takes from his/her account would be reported to the IRS under his/her social security number, not yours** (except in the case of a registered domestic partner— see Domestic Partnership section below). If a minor child receives money via a QDRO, you (the participant) are responsible for income tax withholding.

Q16. What documents do I need in order to calculate my spouse's community property share in my Defined Contribution Plan account(s)?

A16. You can contact Great-West at 1-800-947-0845 to obtain copies of your account statements from your date of marriage through your date of separation. It usually takes two to six weeks (sometimes longer) to retrieve historical records.

Q17. How do I update the Beneficiary designation on my Defined Contribution Plan(s)?

A17. Beneficiary changes can be made online or via paper form. To make the change online, log in to your account at www.countyla.com, click on the *My Profile* tile, then *Beneficiary* then *Update Beneficiary*

and enter the requested information. If you have more than one Plan, you need to repeat these steps for your other Plan(s). Or, you can call Great West Financial (GW) at 1-800-947-0845 to obtain a Beneficiary Designation form (a separate form is required for each applicable Plan) and submit the completed form(s) to GW via fax or mail as noted on the form.

ACCOUNT RESTRICTIONS:

Q18. Why is my Defined Contribution Plan restricted?

A18. When the County of Los Angeles receives a Summons and Request for Joinder, or otherwise receives written notice that a Defined Contribution Plan is subject to a division of community property, a legal hold (restriction) is placed on the participant's Plan(s) in order to preserve the money in the account. While the restriction is in place, the participant is not allowed to take withdrawals or loans from their Plan(s). This is because the portion of the account(s) that was/were earned during the marriage is/are considered community (marital) property and thus, may be subject to division. The restriction will be removed after the Plan assets are divided (or as otherwise instructed by a court order).

Q19. My spouse and I were divorced but s/he was not awarded any monies from my Defined Contribution Plan(s). How do I get the restriction removed?

A19. If your former spouse was not awarded any money from your Plan(s), you need to mail a copy of your Final Judgment of Dissolution of Marriage (all pages) to:

County of Los Angeles
Department of Human Resources
Employee Benefits, Deferred Income Division
3333 Wilshire Blvd., Suite #1000
Los Angeles, CA 90010-4101

The copy will not be returned to you. Include a letter requesting review and consideration to remove the marital interest restriction. The document will be reviewed and if it clearly states your Plan(s) were awarded to you as your sole and separate property, the restriction will be removed within 1-2 business days. If the document does not clearly state that your Plan(s) were awarded to you exclusively, you should contact your attorney and/or the Court to clarify/amend the document.

Q20. My spouse and I ended up not getting divorced after all. How do I get the restriction removed from my Plan(s)?

A20. It depends:

- If legal documents were filed (such as a Summons and Request for Joinder), then a *Dismissal* of the Summons and Joinder would need to be mailed to:

County of Los Angeles
Department of Human Resources
Employee Benefits, Deferred Income Division
3333 Wilshire Blvd., Suite #1000
Los Angeles, CA 90010-4101

- If a "Notice of Marital Interest" was filed, then a legal document vacating the Notice would need to be mailed to the address noted above.

Upon receipt of the above noted document(s), the restriction will be removed in 1-2 business days.

If you are not sure which documents were filed, you should contact your attorney.

Q21. I do not have a QDRO yet but I need to take a Loan or Hardship Withdrawal from my plan. Can I do that?

A21. Generally, no. Until the money in your Plan is divided, no monies can be withdrawn. Special exceptions can be made if a Court Order or other official letter is signed by all parties agreeing to such loan or withdrawal. If such an exception is submitted and approved, the Plan restriction would be temporarily removed while the loan/withdrawal is being processed. Upon completion, the restriction would be placed back on your Plan(s). Any such Court Order or other official letter should be mailed to the following address for review and approval:

County of Los Angeles
Department of Human Resources
Deferred Income Unit
3333 Wilshire Blvd., Suite #1000
Los Angeles, CA 90010-4101

FREQUENTLY ASKED QUESTIONS FROM ALTERNATE PAYEES:

Q22. May I leave my portion of the assets in an account with the County's Defined Contribution Plan?

A22. Yes. You are not required to move your money to another qualified plan or IRA. As is the case with most retirement plans, you will need to take required minimum distributions from the plan beginning when the employee turns age 70 ½ or, if later, leaves County employment. (see question 26 below).

Q23. Can I access my Defined Contribution Plan online?

A23. Yes, if you choose to keep your portion of the assets in the Plan. After the monies are divided from the participant's Plan(s), a separate account is set-up in your name. Once the new account is set-up, you will receive a letter in the mail from Great-West (the Plan's record-keeper) that provides online access instructions (including a temporary PIN/password).

Q24. What are my investment choices in the County's Defined Contribution Plan?

A24. You can invest your money in any of the permissible investments offered through the County's Defined Contribution Plan, including the Charles Schwab Brokerage Window. To obtain a list of the investment options available, visit www.countyla.com. Click on the applicable Plan tab, Investment Information, and then select Fund Overview. Or, you can call Great-West at 1-800-947-0845 for assistance.

Q25. Do I have to wait until my former spouse retires from the County of Los Angeles before I can start withdrawing the money I was awarded?

A25. No, unless you are a former registered domestic partner. Please see Q&A #10 above and, if you are a former domestic partner, see the Domestic Partnership section below.

Q26. Do I have to withdraw my money immediately?

A26. No. However, required minimum distributions must begin no later than April 1st of the year following the year the employee turns age 70 ½ or, if later, the year he or she leaves County employment, and annually thereafter.

Q27. What distribution options are available for alternate payees?

A27. In general:

- Partial withdrawals, or
- Lump sum withdrawals, or
- Automatic/periodic distributions can be sent to you (or direct deposited to your checking/savings account) on a monthly, quarterly, semi-annual or annual basis over a specified period of time or for a specific amount, (not extending for more than 20 years), or
- The funds can be rolled over to an IRA or other eligible retirement plan (except in the case of a former registered domestic partner– see Domestic Partnership section).

The Distribution/Direct Rollover form provides more details about the different distribution/rollover options available to you and important information about income tax withholding. Please see Q&A #10 for instructions on how to obtain a distribution form.

Q28. Do I have to pay taxes on the money I withdraw?

A28. Yes. Monies in the Plan are tax-deferred which means no taxes have been withheld from them yet. However, if you choose to do a Direct Rollover to an eligible retirement plan (such as an IRA) taxes can be delayed until you start taking distributions from the IRA. In the case of a former registered domestic partner or minor child, the taxes are borne by the employee.

Q29. Will I receive statements on my account?

A29. Yes, if you decide to keep your portion of the assets in the Plan. Great-West will mail statements to your address on file each quarter.

Q30. Who do I notify that my address has changed?

A30. Contact Great-West at 1-800-947-0845.

Q31. Who do I call if I have questions about my Defined Contribution Plan?

A31. Great-West at 1-800-947-0845. You can also access your account and obtain most forms online at www.countyla.com.

Q32. Can I designate beneficiaries on my account?

A32. Yes. Beneficiary changes can be made online or via paper form. To make the change online, log in to your account at www.countyla.com, click on the *My Profile* tile, then *Beneficiary* then *Update Beneficiary* and enter the requested information. If you have more than one Plan, you need to repeat these steps for your other Plan(s). Or, you can call GW at 1-800-947-0845 to obtain a Beneficiary Designation form (a separate form is required for each applicable Plan) and submit the completed form(s) to GW via fax or mail as noted on the form.

Q33. Where can I learn more about the County's Defined Contribution Plan?

A33. The Defined Contribution Plan document can be found at www.countyla.com, or you can call Great-West at 1-800-947-0845.

REGISTERED DOMESTIC PARTNERSHIP:

If a domestic partnership that was registered under state law is dissolved, a domestic relations order may recognize the former domestic partner's interest in the Defined Contribution Plan(s). However, the former domestic partner generally will not be able to receive his or her share of benefits awarded under a QDRO until the participant (i.e., the County of Los Angeles employee or former employee) takes a distribution from his/her Plan(s) and will not be eligible to roll those amounts over to an IRA or other retirement plan. The participant will be subject to tax on the amounts paid over to the domestic partner. For this reason, participants and their former domestic partner may want to consider alternative methods of equitably dividing the assets. Any distributions from the Plan that are received by the former domestic partner will be taxable to the participant.

TERMS/DEFINITIONS:

1) Alternate Payee: This term refers to a spouse, former spouse, child or other dependent of the Plan Participant, who has been awarded Plan benefits by the Court. While registered domestic partners may also be awarded Plan benefits by the Court, they are not considered "Alternate Payees" under federal tax laws that govern the Plans.

2) Defined Contribution Plan: This term refers to the County of Los Angeles Deferred Compensation and Thrift Plan (Horizons), the County of Los Angeles Savings Plan, the County of Los Angeles Pension Savings Plan and/or the County of Los Angeles Termination Pay Pick-Up Plan, collectively the "Plan(s)".

3) Great-West Financial (GW): GW is the record-keeper/third party administrator for the County of Los Angeles' Defined Contribution Plans. The County must receive all QDRO related documents (at the address noted throughout this document). When applicable, the County will instruct GW to either:

- Restrict or remove a restriction from the Defined Contribution Plan(s), or
- Divide the Defined Contribution Plan assets pursuant to the QDRO instructions

4) Marital Property/Marital Interest Portion/Community Property: These terms refer to property that was acquired during the marriage. In most states (*including California*), the definition of property includes Defined Contribution Plan assets.

5) Participant/Plan Participant: This term refers to the County of Los Angeles employee (or former employee) that has money in the County's Defined Contribution Plan(s).

6) Pre-Marital Asset: In *most* cases, this refers to the portion of the Defined Contribution Plan balance that was earned prior to the marriage (including earnings/interest).

7) Summons and Request for Joinder (S&J): This term refers to the form used to join the applicable Plan(s) as a party to the dissolution proceeding. In general, when a S&J is received, the participant's Defined Contribution Plans are restricted and the originating party has authorization to obtain copies of the participant's Plan records (e.g., statement copies).

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