



# Chicago & Vicinity Laborers' District Council

## Pension Fund

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## CHICAGO & VICINITY LABORERS' DISTRICT COUNCIL PENSION PLAN

### PROCEDURES FOR DETERMINING WHETHER A COURT ORDER MEETS THE REQUIREMENTS FOR A QUALIFIED DOMESTIC RELATIONS ORDER

- I. Promptly upon receipt of a draft or entered court order, judgment or degree (hereinafter "order"), which by its terms appears to relate to marital property rights of a Plan participant's spouse or former spouse, or a participant's dependent child's right to support payments, the Plan Administrator shall:
  - a. Notify in writing the Plan participant and all other alternate payees or proposed alternate payees that the Fund has received such an order. A copy of these procedures shall be included with the written notification from the Administrator.
  - b. Alternate payees and proposed alternate payees shall be advised that they may designate, in writing, a representative to whom correspondence concerning the order should be sent, either exclusively or as recipient of a copy of correspondence sent directly to them.
  - c. If it appears to the Administrator that the terms of an order which has already been entered by a state court are supposed to take effect immediately, the Administrator shall promptly provide the alternate payee identified in the order, or his/her representative [per paragraph b, above], with the Plan's application for benefits and the Plan's Summary Plan Description.
- II. Within five (5) working days from receipt of the order by the Plan, the Administrator shall forward a copy of the order to the Plan's legal counsel for a timely determination concerning whether the order meets statutory requirements for a Qualified Domestic Relations Order (hereinafter "QDRO").

In the event that the Plan has been made a party to the underlying domestic relations lawsuit or is made a party in a separate action to enforce a state court order for the payment of benefits, the Plan's legal counsel shall represent the Plan to protect the benefit from being improperly alienated or otherwise assigned. The Plan's legal counsel shall also inform the attorneys for the parties in such litigation that the U.S. Department of Labor and the Plan officially take the position that the Plan is not properly made a party to domestic relations lawsuits involving QDROs in state court, in part because issues concerning the qualification of QDROs is a matter of federal law under federal court jurisdiction only.

- III. When the Administrator receives an entered order which appears to require that it take immediate effect and the participant is in pay status or about to enter pay status, he/she shall take action to fund the alternate payee's benefit out of the participant's benefit by reducing the amount of participant's benefit appropriately, provided that the alternate payee has submitted his/her application for benefits. In no event shall the amount of the alternate payee's benefit funded in this manner exceed the amount of the benefit paid to the participant.

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- IV. When the Plan's legal counsel and the Administrator have determined that the entered order is a QDRO, the alternate payee shall be paid his/her assigned benefits for the period from when such benefits were to have been paid under the QDRO, provided proper application therefore has been made by the alternate payee, and in accordance with the terms of the QDRO.
- V. If no determination has been made by the Plan's legal counsel and the Administrator that the entered order is a QDRO within 18 months after it was submitted to the Plan, the participant shall be made whole by the plan for any reduction in his/her benefit pursuant to paragraph III, above.
- VI. If the Plan's legal counsel and the Administrator have determined that the entered order is not a QDRO and a participant has been in pay status collecting a reduced benefit intended to fund the alternate payee's benefit pursuant to paragraph III, above, the participant shall be made whole by the Plan for such reduction.
- VII. If an entered order is determined to be a QDRO by the Plan's legal counsel and the Administrator more than 18 months from the date the order was submitted to the Plan, the alternate payee has made application therefore and is otherwise entitled to his/her assigned benefit under the terms of the order, payment of the assigned benefit by the Plan shall be prospective only.
- VIII. The participant and /or the proposed alternate payee, or their designated representative(s), may submit a draft order to the Plan before it is entered by the state domestic relations court in order to obtain a preliminary opinion of the Plan's legal counsel and Administrator as to whether the order appears to meet the requirements established for a QDRO. Any opinion rendered in such circumstances by the Plan would be advisory only and would not constitute the Plan's final determination as to that particular order. Only orders which have been entered by a domestic relations court of competent jurisdiction can be the subject of definitive rulings by the Plan as to whether they are or are not QDROs.
- IX. Entered orders which have not been deemed QDROs by the Plan's legal counsel and Administrator may be made the subject of an appeal to the Plan's Board of Trustees in accordance with the Plan's regular procedures for handling denial of claims.
- X. In the event that a divorced participant applies for his benefit and no QDRO has been submitted to the Fund, the participant may commence his benefit on the appropriate effective date (provided, of course, that the participant is entitled to a benefit) and the Fund will be under no obligation to segregate a portion of the benefits for the former spouse. However, if the Fund has received, prior to a participant's application for a benefit, (1) a proposed QDRO, (2) an entered domestic relations order that the Fund determined was not a QDRO, or (3) a divorce decree and/or property settlement that states that a QDRO will be entered or that purports to give the alternate payee a right to the participant's pension benefits, then the Fund, upon receiving a pension application from the participant, will send a letter to the alternate payee informing her that the Fund has not received a domestic relations order that meets the requirements of a QDRO, that she is therefore not entitled to a benefit from the Fund, that the participant has applied for a benefit, and that the only option for a QDRO available to the alternate payee after the participant's effective date is a shared interest QDRO that limits the alternate payee's right to a share of the benefits received by the participant.