

# *Divorce &* IPERS Benefits

Qualified Domestic Relations Orders



**IPERS**<sup>®</sup>

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## Qualified Domestic Relations Orders

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



This booklet briefly explains certain rights and benefits of IPERS membership. It is not a substitute for federal and state laws governing IPERS, which provide complete information and are subject to change. Although IPERS makes every attempt to ensure its materials are accurate and up to date, any conflict between the contents of the booklet and law must be resolved in favor of the law. The Member Handbook, available at [www.ipers.org](http://www.ipers.org), provides a more detailed description of IPERS benefits.

# QDROs and IPERS' Role

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A Qualified Domestic Relations Order (QDRO) is a special court order individuals obtain following a divorce that specifies how their pension assets will be divided. It is not an alimony award.

The person who is awarded a share of your IPERS benefit is referred to as an “alternate payee.” (See note below)

A QDRO is not necessary in every divorce. If you and your former spouse can agree to divide other marital property equitably, then you may not need to divide IPERS benefits or submit a QDRO.

An IPERS QDRO is a court order and must satisfy the requirements of Iowa Code section 97B.39 and 495 IAC 16.2 (97B) as well as Internal Revenue Code § 414(p) 11. If an order has not been signed by a judge and filed in accordance with applicable laws and procedures, the order will not be qualified by IPERS.

*Note: When the QDRO requires you to select option 4 or 6, the alternate payee is referred to as a contingent annuitant.*

## What is IPERS' Role?

- IPERS will provide benefit payments to you and your alternate payee according to the terms of the QDRO and applicable laws and regulations.
- IPERS does not represent either party and cannot give legal advice to you or the alternate payee.

As you begin to prepare a QDRO, it is a good idea to use IPERS' Pre and Postretirement Model QDROs and Instruction Packets, available on [www.ipers.org](http://www.ipers.org). The instruction packets include mandatory and optional provisions, a summary of the legal requirements and many practical tips on how to draft an IPERS QDRO. Use of the provided models and guidelines will help speed up IPERS' review of your proposed QDRO and, later, qualification of your final order.

# Effect of QDROs on IPERS Benefits

IPERS is a “defined benefit” retirement plan meaning IPERS uses a set formula to calculate benefits when a member retires. Dividing such a benefit involves more complexity than dividing accounts maintained under defined contribution plans, such as IRAs or 401(k)s.

An IPERS retirement benefit is generally dependent on four factors:

- Age at retirement
- Quarters of covered employment
- Highest average salary
- Classification as a Regular or Special Service member

IPERS retirement benefits are paid as a monthly, lifetime annuity. IPERS offers various benefit payment options. For more information, see the *Preparing to Retire* booklet or the *Member Handbook* available on [www.ipers.org](http://www.ipers.org).

## Shared Payment Methods

IPERS accepts only “shared payment” methods for dividing benefits, meaning the actual benefit payments made to you and your alternate payee are split. Your alternate payee cannot receive any payments until you begin to receive payments. If you are already retired, your alternate payee may begin to receive a share of the benefit after the QDRO is qualified by IPERS.

IPERS does not have the ability to divide your account into two separate accounts. Accordingly, a QDRO cannot give an alternate payee the right to receive a portion of your accrued retirement benefit at a time or in a form different from those elected by you at the time of your retirement.

The Pre and Postretirement Instruction Packets suggests three methods of dividing your benefits (all considered “shared payment” methods):

- The straight percentage method
- The service factor method\*
- The sum-certain method

Further explanation and models may be found in the Instruction Packets, available at [www.ipers.org](http://www.ipers.org). Contact IPERS’ QDRO Administrator at [legal@ipers.org](mailto:legal@ipers.org) with any additional questions.

\*If you choose the service factor method, here’s how the factor is calculated:

$$\_\% \times \frac{\text{Quarters of IPERS-covered employment during the marriage period or an agreed upon number}}{\text{Total quarters of IPERS-covered employment used in calculating benefits}}$$

See example on next page.

EXAMPLE

## *Service Factor Method Calculation Before Retirement*

John and Mary are getting divorced. While married, John was an IPERS-covered employee during the entire period of marriage. The marriage period was from January 1, 2009 to December 31, 2019. The QDRO requires the use of 50 percent multiplied by the service factor. John continues in IPERS-covered employment for ten years before he applies for retirement. How does IPERS calculate the service factor share for Mary?

$$\begin{array}{r} \times \quad 50\% \\ \quad 40 \text{ quarters} \\ \hline / \quad 80 \text{ quarters} \\ \hline 25\% \end{array} \quad \begin{array}{l} \textit{Percent required by the QDRO} \\ \textit{Number of IPERS-covered} \\ \textit{quarters of the marriage} \\ \textit{Number of quarters as an IPERS members} \\ \textit{Actual percent Mary receives from} \\ \textit{John's monthly retirement benefit*} \end{array}$$

*\*The exact dollar amount is not known until the IPERS' option choice is made at the time of retirement.*

# Effect of QDROs on IPERS Benefits

## IPERS Does Not Provide Present Value Calculations

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

## Beneficiary Designations

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

**You may designate a new beneficiary after a QDRO that divides death benefits has been filed and qualified by IPERS.** This is done by completing a new *Beneficiary Designation* form, available on [www.ipers.org](http://www.ipers.org).

Depending on the terms of the QDRO, you may be unable to change beneficiaries such as when the QDRO mandates the selection of option 4 or 6 at retirement.

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## *IPERS Does Not Write QDROs*

You or your attorney should contact IPERS when drafting your QDRO. IPERS can review your proposed QDRO to help ensure it can be administered as intended. Pre and Postretirement QDRO Instruction Packets and templates are provided on [www.ipers.org](http://www.ipers.org).

IPERS encourages you or your attorney to use IPERS' Model QDRO and submit the draft to IPERS' QDRO Administrator. Be sure to include the required *Confidential Information* and the *Administrative Rule Compliance for QDROs* forms.

# Avoid Common QDRO Mistakes

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

- IPERS is a governmental plan not subject to the Employee Retirement Income Security Act (ERISA). A QDRO tailored to meet ERISA requirements submitted to IPERS will be rejected without review.
- You and your attorney must thoroughly review all available IPERS background material.
- You and your attorney should request current benefits statements and pension estimates from IPERS to show your available benefits.
- Always use standard, unambiguous terms and formulas for dividing benefits.
- Carefully review all the optional paragraphs for possible inclusion in the QDRO. If your QDRO does not address an optional paragraph (for example, dividends or death benefits), the alternate payee has no right to that payment.
- Consider whether the QDRO should divide death benefits. If death benefits are not addressed in the order, the alternate payee has no right to any share of death benefits.
- Consider placing limits on the specific benefit payment options that can be chosen when the member retires. Some of the options could prevent full implementation of the QDRO. For example, the alternate payee may be precluded from receiving death benefits if the QDRO permits the member to choose a refund or a retirement option with no death benefit.
- A QDRO cannot require IPERS to make benefit payments in a manner not permitted under IPERS' rules.
- Make sure only one method of assigning a postretirement death benefit is used in the QDRO.
- Ask your attorney to contact IPERS' QDRO Administrator to review your proposed draft QDRO for preapproval. This will help the parties avoid prohibited terms and conditions.

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*IPERS suggests addressing mandatory and optional QDRO provisions in the divorce decree.*

# Commonly Asked Questions

## *How can my IPERS benefit be divided in a QDRO?*

There are three basic methods of dividing your IPERS account in a QDRO:

- Straight percentage method
- Service factor method
- Sum-certain amount method

See the QDRO Instruction Packets (available at [www.ipers.org](http://www.ipers.org)) for more information.

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

The alternate payee receives payment of his or her portion of IPERS benefits at the same time as the member (or beneficiaries).

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

If your spouse will provide his or her consent, you can change your beneficiary. Otherwise, you may update your beneficiary information once you are legally divorced. For more information, review Iowa Code section 598.20B.

## *Does IPERS maintain a separate account for the alternate payee after the QDRO is filed and accepted?*

No. Under a shared payment method, your account cannot be subdivided.

## *Can IPERS' General Counsel Office draft a QDRO for the parties?*

No, IPERS' general counsel office only reviews QDROs and will let you know how they will be interpreted. You must work with your attorney to draft your QDRO. Be sure to have your attorney review the Model QDROs and Instruction Packets. Be sure to also submit the required *Confidential Information and Administrative Rule Compliance for QDROs* forms.

## *Is a QDRO always necessary in cases of divorce?*

No. If you and your spouse mutually agree that the value of your IPERS benefit can be offset by other marital property, your IPERS retirement benefit may remain entirely with you, and a QDRO will not be needed. It is best to have this provision in the divorce decree.

# QDRO Instruction Packets

IPERS' QDRO requirements are different from those of ERISA-mandated plans. It is important for your attorney to know, understand and follow IPERS' QDRO rules.

You or your attorney should visit [www.ipers.org](http://www.ipers.org) and review the QDRO Pre and Postretirement Instruction Packets. The comprehensive packets contain all the information to create a qualified domestic relations order.

□ **REQUEST A BENEFIT ESTIMATE.**

This estimate will be helpful when drafting a QDRO. The estimate shows available benefit payment options and estimated benefit amounts.

□ **UPDATE YOUR BENEFICIARY**

after the QDRO is finalized and approved by IPERS. See page 3 for more information.

□ **ASK IPERS TO REVIEW YOUR PROPOSED QDRO**

before taking it to court to make sure it can be administered. The proposed QDRO can be faxed to 515-281-0045, Attention: QDRO Administrator. This is a courtesy provided by IPERS.

□ **CONTACT THE QDRO ADMINISTRATOR WITH QUESTIONS**

at [legal@ipers.org](mailto:legal@ipers.org) or 515-281-7623 or 800-622-3849.



# IPERS Payment Options

## *What's the Difference?*

Payment Options	Description
<b>1</b> <b>Annuity with Fixed Lump Sum Survivor Benefit</b>	Monthly benefit for life. You specify an amount, in \$1,000 increments, to be paid in a lump sum to your beneficiary when you die.
<b>2</b> <b>Annuity with Variable Decreasing Lump Sum</b>	Monthly benefit for life. After your death, your beneficiary receives the difference between the retirement benefits you received and your total contributions plus interest.
<b>3</b> <b>Single Life Annuity</b>	Monthly benefit for life.
<b>4</b> <b>100%, 75%, 50% or 25% Joint Life Annuity</b>	Monthly benefit for life. After your death, your contingent annuitant receives 100%, 75%, 50% or 25% of your monthly benefit for life.
<b>5</b> <b>120-Month Term Certain Annuity</b>	Monthly benefit for life. If you die before receiving 120 payments, your beneficiary begins receiving a monthly benefit (otherwise, no further benefits payable).
<b>6</b> <b>100%, 75%, 50% or 25% Joint and Survivor Annuity with Pop-Up Annuity</b>	Monthly benefit for life. After your death, your contingent annuitant receives 100%, 75%, 50%, or 25% of your monthly benefit for life.

*Note: When the QDRO requires you to select option 4 or 6, the alternate payee is referred to as a contingent annuitant.*

Important to Note	Death Benefit Payable to Your Beneficiary	
	Lump-Sum Benefit	Monthly Benefit
<ul style="list-style-type: none"> <li>• After retirement, you cannot change the death benefit amount.</li> <li>• The death benefit amount cannot exceed your total contributions plus interest.</li> </ul>	Yes	No
<ul style="list-style-type: none"> <li>• A death benefit is not guaranteed.</li> <li>• Once you have received monthly benefits adding up to the amount of your contributions plus interest, no death benefit will be payable to your beneficiary(ies).</li> </ul>	Maybe	No
<ul style="list-style-type: none"> <li>• After your death, no further benefits are payable.</li> </ul>	No	No
<ul style="list-style-type: none"> <li>• Restrictions on percentages apply if your contingent annuitant is not your spouse and is more than 10 years younger than you.</li> <li>• You cannot change your contingent annuitant after IPERS has made your first monthly payment.</li> </ul>	No	Yes, if your contingent annuitant outlives you.
<ul style="list-style-type: none"> <li>• If you designate only one person as your beneficiary, your beneficiary receives the same monthly benefit for 120 months minus the number of payments you received.</li> <li>• If you designate more than one person, a trust, or an estate as your beneficiary, payment is made in a lump sum equivalent to the value of the remaining monthly payments as of your date of death.</li> <li>• Must be under age 90 to elect this option.</li> </ul>	If you've named several beneficiaries, a trust, or an estate, payments will be made in a commuted lump sum based on today's value of the remaining monthly payments.	A monthly benefit can be paid only if you named one beneficiary and received less than 120 payments.
<ul style="list-style-type: none"> <li>• Restrictions on percentages apply if your contingent annuitant is not your spouse and is more than 10 years younger than you.</li> <li>• If your contingent annuitant dies before you, your benefit pops up to what it would have been under Option 2. You may designate a new beneficiary at this time.</li> <li>• You cannot change your contingent annuitant after IPERS has made the first monthly payment.</li> </ul>	If your contingent annuitant dies before you and any balance remains of your total contributions plus interest.	Yes, if your contingent annuitant outlives you.

# Questions? *Contact us.*

[www.ipers.org](http://www.ipers.org)

**legal@ipers.org**

**515-281-7623**

**800-622-3849** (ask for Legal)

7:30 a.m.–5 p.m. Central Time

Monday–Friday

**Fax: 515-281-0045**

(QDRO Administrator)

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