

Teamsters Joint Council No. 83 of Virginia Pension Fund

Fund Procedures Regarding Qualified Domestic Relations Orders

Pension benefits generally may not be assigned or alienated. However, federal law provides an exception for domestic relations orders that relate to child support, alimony payments, or marital property rights of an alternate payee (a spouse, former spouse, child or other dependent of a pension plan participant). The exception applies only if the domestic relations order meets specific legal requirements that make it qualified. The following are procedures to be used for determining whether a court order received by the Plan constitutes a “Qualified Domestic Relations Order” (“QDRO”) within the meaning of ERISA Section 206(d)(3) and IRC Section 414(p). Once an order is determined to be a QDRO, the Plan is required to comply with its terms.

The following procedures contain the requirements under the Plan that must be met by anyone seeking to enforce a QDRO, as well as anyone otherwise affected who seeks to prevent its enforcement. These procedures also describe the methods and criteria for use by Plan personnel in evaluating an order. Additionally, they contain instructions for the treatment of all benefit amounts otherwise payable to a participant that are directed by the terms of the order to be paid to someone else, both before and after a decision on the order.

1. Introduction

The Teamsters Joint Council No. 83 of Virginia Pension Plan (“Plan”) is a multiemployer Taft-Hartley trust, administered by a board of trustees comprised of union and management representatives. As per a collective bargaining agreement, employer (and sometimes employee) contributions are paid into the Plan on the participant’s behalf. Based on these contributions, service accrues on a calendar year basis with the participant earning .00, .25, .50, .75 or 1.00 year of service per calendar year. The Plan is a defined benefit plan with benefits paid monthly over a participant’s lifetime. There is no individual account earning interest in the participant’s name.

2. Submission to Plan

A person who seeks to enforce a QDRO concerning the Plan should deliver a court certified copy of the order to the Pension Fund office. *(At the request of a participant or alternate payee or either of their representatives, the Plan will informally review a domestic relations order in draft form to see if it will*

satisfy qualification requirements. After the Plan has reviewed a draft domestic relations order, the court certified copy of the order should be submitted to the Plan as soon as possible.)

Anyone who wants his or her representative to receive the notices provided for under these procedures should provide the Pension Fund office with a written, signed designation of representative.

All items sent to the Pension Fund office should be accompanied by a cover letter describing the contents and explaining what action is being requested of the Plan. Address all correspondence to:

Teamsters Joint Council No. 83 of Virginia Pension Fund
8814 Fargo Road, Suite 200
Richmond, Virginia 23229 – 4673

3. Initial Receipt of Order

Upon receipt of an order, Plan personnel will send a certified notice to the Participant (i.e. the employee covered by the Plan) and the Alternate Payee(s) (i.e. anyone specified in the order as entitled to payment of benefits) at the addresses included in the order, or to their designated representatives. The notice will state that the Plan has received a document claiming to be a “qualified domestic relations order” and list the Participant and Alternate Payee(s). The notice will be mailed along with copies of the order, Sections 206(d)(3), 514(a) and (b)(7) of ERISA and these procedures.

4. Determination Period

The Pension Fund office will attempt to issue an initial determination on whether the order is qualified within sixty (60) days of receipt of the court certified copy of the order. All concerned parties will be notified if additional time is needed. In no event, however, will the determination period extend beyond eighteen (18) months from the date of the first payment required under the order.

5. Segregated Amounts

If the qualification of an order is not determined before the first payment would be made pursuant to the order, the Plan will withhold from the Participant the amount designated by the order as payable to an Alternate Payee until the

determination is made (“determination period”). Such withholding will begin on the date the first payment would have been made. All withheld amounts will be accounted for separately (“segregated amounts”) for the duration of the determination period.

The Plan will pay the segregated amounts pursuant to Section 9 of these procedures.

6. Criteria for Determination

Plan personnel will use the criteria below to determine whether a domestic relations order is qualified.

The requirements for a QDRO are as follows:

- (a) The order must constitute a judgment, decree, or order (including approval of a property settlement agreement) of a court of a state, local, or federal court which has jurisdiction to issue such judgment, decree, or order;
- (b) The order must relate to the provision of child support, alimony or other spousal payments, or marital property rights to a spouse, former spouse, child, or other dependent of the Participant;
- (c) The order must be made pursuant to a domestic relations law of a state or the District of Columbia;
- (d) The order must contain the name and last known mailing address of the Participant and of each Alternate Payee;
- (e) The order must specify the amount or the percentage of the Participant’s benefit to be paid to any Alternate Payee, or the manner in which such amount or percentage is to be computed;
- (f) The order must specify the period* during which payments to an Alternate Payee are to be made, or the number of payments which are encompassed within the scope of the order;
- (g) The order must specify the name of the Plan;
- (h) The order must not require the Plan to provide any type, form or option of benefit not otherwise provided under the Plan;

- (i) The order must not increase the Plan's actuarial liability; and,
- (j) The order must not contravene the provisions of an earlier QDRO.

**In no event will the Plan pay benefits for a period retroactive or prior to the date the order was received in the Fund office.*

Notwithstanding the above, an order may be qualified even though it requires payment of benefits to a named Alternate Payee before a Participant has terminated employment if

- (1) the order does not require the payment of benefits any earlier than the earliest date the Participant is eligible to retire under the Plan; and,
- (2) the form of benefit specified in the order is not a joint and survivor benefit.

Where a QDRO requires payment of benefits to an Alternate Payee *prior* to the retirement of the Participant, the value of the benefits will be determined as though the Participant had retired on the day the payments are to begin, taking into account only the present value of the benefits actually accrued, with no increase for early retirement subsidy. The accrued benefit is always calculated as of the Plan's Normal Retirement Age (generally age 65) and reduced actuarially for the earlier commencement of benefits.

7. Notice of Determination

Upon reaching a decision on whether an order is qualified, the Plan will notify the Participant and Alternate Payee(s), or their designated representative, by certified mail of the determination.

(a) ORDER IS NOT QUALIFIED

In the event, the Plan determines the order is not qualified, the determination notice will contain the following:

- (1) the name and address of the Participant and Alternate Payee(s),
- (2) an explanation why the order fails to qualify as a QDRO,
- (3) a statement of the Plan's appeal procedure, and

- (4) a statement that any segregated amounts will be paid to the Participant.

(b) ORDER IS QUALIFIED

In the event the Plan determines that the order is qualified, the determination notice will contain the following:

- (1) the name and address of the Participant and Alternate Payee(s),
- (2) the amount of each payment to the Alternate Payee(s), or the formula for calculating such amount,
- (3) the period of which such payments are to be made to the Alternate Payee(s), including the commencement date or event and the termination date or event,
- (4) a statement of the Plan's appeal procedure, and
- (5) a statement that any segregated amounts will be paid to the Alternate Payee(s).

8. Appeal Procedure

Affected parties will have the same rights of appeal as provided under Article 9, Section 9.10 of the Plan. A copy of this section is attached as part of these procedures.

9. Payment of Benefits and Disposition of Segregated Amounts

Once the Plan makes its initial determination, the Plan will commence payment of benefits to the Alternate Payee, if applicable, and pay all segregated amounts to the appropriate party after the expiration of the ninety (90) day appeals period described in Section 9.10(a) of the Plan. If an affected party appeals the Plan's determination, the Plan will not pay any amounts, including the segregated amounts until the earlier of:

- (a) the expiration of the determination period, and
- (b) the resolution of all appeals (including court review).

If the issue as to whether the order is qualified is not resolved by the expiration of the determination period, the Plan will pay the segregated

amounts to the person who would have been entitled to such amounts if no such order had ever been filed.

Any determination concerning the status of the order after the close of the determination period will be applied prospectively only.

Notwithstanding the above, after the Plan makes its initial determination concerning the order's status as a QDRO, the Plan will commence payment of benefits to the Alternate Payee, if applicable, and pay the segregated amounts to the appropriate party if all affected parties agree in writing to waive their rights to appeal the determination.