

# **ELECTRICAL WORKERS LOCAL UNION 159 RETIREMENT PLAN**

## **Administrative Procedures for Processing Qualified Domestic Relations Orders**

### **Introduction**

By adopting these Qualified Domestic Relations Order ("QDRO") procedures, the Board of Trustees ("Trustees") of the Electrical Workers Local Union 159 Retirement Plan (the "Plan") revokes all previous rules and regulations relating to QDROs. This document constitutes the Plan's written QDRO procedures and is incorporated in the Plan by reference. By adopting these QDRO procedures, the Trustees also delegate to the Plan's Administrative Manager all of the duties and responsibilities for the implementation of the provisions of the Retirement Equity Act of 1984, and of the regulations promulgated by the Secretary of Labor and/or the Secretary of the Treasury dealing with QDROs. This delegation is made pursuant to and in accordance with Employee Retirement Income Security Act ("ERISA") section 405(c) and the provisions of the Plan documents. The Trustees, however, retain the final authority regarding these QDRO procedures, the review of domestic relations orders and the processing of QDROs.

The Plan is a defined contribution plan administered by the Trustees, which include Employer Trustees and Union Trustees. This Plan is qualified under Internal Revenue Code ("Code") section 401(a). All contributions made by the participating employers are 100% vested and nonforfeitable. The Plan does not allow hardship distributions or loans. Participants are not allowed to make pretax or after-tax contributions; but may roll over or transfer assets from another eligible retirement plan. Participants may choose to direct the investment of all or a portion of their accounts.

In order to satisfy statutory requirements and maintain tax qualified status, the Plan provides that a participant's benefits are not subject to assignment or alienation, whether voluntary or involuntary. However, with respect to divorces and certain other domestic relations orders, there is an exception for benefits paid to an "Alternate Payee" pursuant to a QDRO. The federal statutory requirements for a QDRO may be found both in ERISA [29 U.S.C. § 1056(d)] and in the Code [26 U.S.C. § 414(p)].

The Plan will comply with the terms of a domestic relations order only if the order meets the requirements for a QDRO, as established by law and explained in these procedures. Parties seeking a QDRO may not rely on the Plan, the Administrative Manager, or any Plan delegates for advice on which type or form of QDRO is most appropriate under any particular factual situation. The Administrative Manager will provide only factual information concerning the participant's benefits and the terms of the Plan. The parties should consult with their legal counsel regarding specific legal requirements for a QDRO.

These procedures assume that the parties will follow a separate interest approach whereby the participant's account is divided and all or a portion of the account is awarded to the Alternate Payee outright. The Alternate Payee's assigned share of the benefits is unaffected by the participant's death. Please contact the Administrative Manager for more information regarding a shared payment

approach (*i.e.*, an assignment to an Alternate Payee of a right to payment out of a stream of payments otherwise made to a participant).

### **QDRO Requirements**

A domestic relations order is an order, decree, or judgment, including a court approved property settlement agreement that relates to the provision of child support, alimony payments or marital property rights and is issued under state domestic relations law ("Executed Order"). To constitute a QDRO, the Executed Order must create or recognize an Alternate Payee's right to receive directly all or a portion of the benefits otherwise payable to a participant under the Plan (the "Participant"). Each Alternate Payee must be the Participant's spouse, former spouse, child or other dependent. A state authority, usually a court of law, must issue and certify the Executed Order. The Executed Order should explicitly state that it is issued under state domestic relations law.

In addition, the Executed Order must answer the following questions:

1. Which plan will pay? The Executed Order must specifically and accurately name the plan to which it applies. If the Participant has accrued benefits under more than one plan, it is usually preferable to submit a separate Executed Order for each plan under which the parties will divide benefits, especially if different entities maintain and administer the plans.
2. Who will receive the benefits? The Executed Order must indicate the Participant's and Alternate Payee's names and last-known mailing addresses (including zip codes). For purposes of administration and benefit distribution, the Executed Order also should contain the Participant's and Alternate Payee's dates of birth and Social Security numbers. The parties may, however, provide their Social Security numbers and dates of birth in a separate writing for security and privacy purposes.
3. What is the purpose of the Executed Order? The Executed Order should specifically state whether it relates to alimony payments, child support payments or marital property and should identify the relationship of the Alternate Payee to the Participant, not only for proper determination as to whether the Executed Order is qualified, but also for tax purposes.
4. How much will be paid? The Executed Order must clearly specify the amount or percentage of benefits payable from the Plan to the Alternate Payee or the exact manner in which that portion of the benefit is to be determined. The Executed Order must give specific details (such as specific mathematical formulas) regarding the proposed division, including the date of marriage and the date of divorce if the formula is based on benefits accrued during marriage or a specific assignment date. The Executed Order also must specify whether the Administrative Manager should credit earnings (gains and losses) on the Alternate Payee's awarded benefits from the assignment date included in the Executed Order to the date the Alternate Payee's benefit is segregated into a separate account. Once the Administrative Manager segregates the Alternate Payee's award into a separate account, the Alternate Payee's account must share in gains or losses according to the terms of the Plan.

If the parties agree to award the Alternate Payee a flat dollar amount, then the Executed Order *must* provide the following: the Alternate Payee's award is the lesser of \$XXXX or 100% of the Participant's account as of the assignment date.

The Administrative Manager will allocate assets from the Participant's account, on a pro-rata basis, from all contribution sources attributable to the Participant's account as of the assignment date specified by the Executed Order. This allocation will include all investment funds in which the Participant's account is invested as of the date the Administrative Manager segregates the Alternate Payee's benefit. The Administrative Manager also will value the Participant's total account as of the Plan's valuation date coincident with or immediately preceding the Executed Order's assignment date.

The Executed Order cannot require the Plan to provide increased benefits, nor can it require any type of benefit or option not otherwise provided by the Plan. In addition, the Executed Order must not require payments to an Alternate Payee that were previously awarded to another Alternate Payee under an earlier QDRO.

5. When will the benefit be paid? The Executed Order must specify when the Alternate Payee may elect to receive the awarded benefit. Generally, the Alternate Payee must elect to receive benefits no later than the required beginning date specified by the Code. However, if the Alternate Payee fails to make an election and the Plan's rules for mandatory cashout of small accounts apply, the Administrative Manager will automatically initiate a lump sum distribution of the Alternate Payee's benefits. Under all circumstances, the Administrative Manager cannot release any benefits until it receives an Executed Order that is determined to be a QDRO and either (a) the parties waive the applicable review period, or (b) the review period expires.

6. How will the benefit be paid? The Executed Order must specify how (*i.e.*, in what form) the Administrative Manager will pay benefits to the Alternate Payee. Generally, the Alternate Payee may elect to receive a distribution in any form permitted under the Plan for Alternate Payees (except in the form of a joint and survivor annuity with a subsequent spouse). However, if the Plan's rules for mandatory cashout of small accounts apply, the Plan will initiate an automatic lump sum distribution of the Alternate Payee's benefits. The Executed Order cannot require any type or form of payment not otherwise provided under the Plan.

7. What happens if the Participant or Alternate Payee dies? The Executed Order must specify what happens when the Participant or Alternate Payee dies. Generally, under a separate interest approach, the Alternate Payee's death will not affect the Participant's remaining benefit. If the Alternate Payee fails to properly designate a beneficiary, the Administrative Manager will distribute the Alternate Payee's benefits according to the Plan's provisions for Participants who do not have a valid beneficiary designation in effect at death. Furthermore, once the Alternate Payee commences payment, the right to change a beneficiary designation depends on the form of benefit elected and the terms of the Plan.

The Participant's death will not affect the Alternate Payee's awarded benefit. Accordingly, it is generally not considered necessary to have the Executed Order treat the Alternate Payee as a surviving spouse of the Payee for purposes of Code Sections 401(a)(11) and 417.

8. What happens to the Participant's existing beneficiary designation? The Participant's designation of his or her (former) spouse as a beneficiary is automatically void upon legal termination of marriage (*e.g.*, divorce). The Participant may re-designate his or her (former) spouse as his or her beneficiary after the date the marriage is legally terminated.

In summary, the Executed Order should address all contingencies as comprehensively as possible. A prospective Alternate Payee (or legal counsel) may request a copy of the Plan's summary plan description from the Administrative Manager. In addition, either party may request (free of charge) a copy of the Plan's model QDRO from the Administrative Manager. The model QDRO is provided as a guideline to facilitate the process of securing a QDRO, but its use is not required. There may be specific fact situations that would require revisions to the model language in order to create a QDRO.

### **Draft Orders or Written Notice of an Anticipated Executed Order**

The Plan allows parties to submit a "Draft Order" for review prior to obtaining an Executed Order. A Draft Order is an order that the parties intend to constitute a QDRO, but has not been executed by the court. The Administrative Manager has the discretion to take action as necessary (*e.g.*, place a hold on the Participant's account) upon receipt of a Draft Order to protect the Alternate Payee's potential benefits pending receipt of an Executed Order. The Administrative Manager also may take such actions if it receives other written notice (*e.g.*, a divorce decree) that a Participant's account may be subject to an Executed Order. The Administrative Manager will revoke any such action if it does not receive an Executed Order within a reasonable period of time (generally no longer than 60 days) after it receives the Draft Order or written notice.

When the Administrative Manager receives a Draft Order, the Administrative Manager will provide comments to the designated legal counsel or party submitting the Draft Order, and a copy of such comments to the non-submitting party. The Administrative Manager will explain whether the Draft Order would or would not qualify as a QDRO if entered by the court. However, the Plan cannot make a final determination regarding whether a Draft Order constitutes a QDRO until it receives an Executed Order.

### **Administrative Procedures for Determination of Qualified Status**

The Administrative Manager will follow these administrative procedures when it receives a copy of the Executed Order filed with the court:

1. Place a "Hold" on Participant's Account. The Administrative Manager shall place a "hold" on the Participant's account, which shall suspend the Participant's withdrawal and distribution rights. The Participant shall be able to direct the investment of the Participant's account until the Administrative Manager determines if the Executed Order is a QDRO.
2. Acknowledge Receipt. The Administrative Manager will notify the Participant and Alternate Payee (with copies to any respective legal counsel) when it receives an Executed Order. The Administrative Manager also will send a copy of these procedures to the parties or to legal counsel on the parties' behalf. These steps may be combined with the Administrative Manager's determination as to the Executed Order's qualified status.
3. Determine Qualified Status. The determination period begins when the Administrative Manager receives an Executed Order and ends no later than 18 months from that date. Within a reasonable time, the Administrative Manager will determine whether the Executed Order is a QDRO. The Administrative Manager may request that legal counsel review the Executed Order.

(a) Executed Order Is a QDRO. If the Administrative Manager determines that the Executed Order satisfies all of the requirements for a QDRO, the Administrative Manager will:

(i) Notify the Participant, Alternate Payee and respective legal counsel that the Executed Order is a QDRO;

(ii) Notify the Participant, Alternate Payee and respective legal counsel with regard to the procedure to request a review of the determination;

(iii) Take such steps as are necessary to see that the QDRO is enforced, subject to the review period and procedure described below; and

(iv) Release any applicable payments to the proper party as soon as administratively feasible after the review period expires and the party is entitled to take (or elects to take) a distribution.

The Alternate Payee should contact the Administrative Manager as soon as possible to provide any information necessary to process the Alternate Payee's benefits.

(b) Executed Order Is Not a QDRO. If the Administrative Manager determines that the Executed Order is not a QDRO, the Administrative Manager will notify the Participant, the Alternate Payee and respective legal counsel, in writing. This notice will explain why the Executed Order is not qualified and will reference specific Plan provisions and/or applicable law. In addition, the Administrative Manager will provide the parties with the procedure to request a review of the determination.

If the Administrative Manager determines that an Executed Order is not a QDRO, the Participant and Alternate Payee shall have 60 days, or such longer period as granted by the Administrative Manager and communicated in writing to the parties, to provide a revised Executed Order which constitutes a QDRO. If the Administrative Manager does not receive a revised Executed Order within such period, or any written notice that the parties are pursuing a revised Executed Order, the Administrative Manager's determination of the Executed Order as not qualified will stand. The Administrative Manager will release any hold on the Participant's account(s). The Administrative Manager also shall release any applicable payments to the proper party.

If the parties revise and resubmit the Executed Order to the Administrative Manager after the applicable period, the Administrative Manager will treat the revised Executed Order as a new Executed Order subject to these administrative procedures.

(c) Determination After 18 Months. If, at the end of the 18-month period, the issue as to whether the Executed Order is a QDRO is not resolved, the Administrative Manager will release any hold on the Participant's account(s), and all amounts will be paid to the proper party as if there had been no Executed Order, in accordance with the provisions of the Plan and applicable law. If the Administrative Manager determines that an Executed Order is a QDRO more than 18 months after the determination period has begun, the Executed Order will apply prospectively.

(d) Trustee Ratification. The Board of Trustees will ratify all actions taken under these procedures at its scheduled meetings or will delegate QDRO review authority to a committee or the Administrative Manager.

### **Plan Administrative Procedures Upon Qualification of Executed Order**

Once the Administrative Manager determines that an Executed Order is a QDRO, the Administrative Manager will:

1. Segregate the Alternate Payee's Benefit. The Administrative Manager will direct the formal separation of the Alternate Payee's benefit into a separate Plan account according to the terms of the QDRO and the Plan. The Alternate Payee's account will be maintained in the same manner as other Plan accounts. The Alternate Payee may direct the investment of that account under the same terms that apply to Plan Participants. As a beneficiary of the Plan, however, the Alternate Payee will not generally be accorded the same rights and privileges as a Participant. The Alternate Payee's account remains subject to the minimum distribution requirements under federal law.
2. Distribute the Alternate Payee's Benefit. If the Alternate Payee's benefit is subject to the Plan's rules for mandatory cashout of small accounts, the Administrative Manager will automatically initiate a lump sum distribution to the Alternate Payee after the QDRO review period expires. Otherwise, the Alternate Payee may elect to receive a distribution as soon as administratively feasible after the QDRO review period expires. The parties can agree in a notarized writing to waive the review period. The Alternate Payee must request a distribution no later than the required beginning date specified by the Code.

### **QDRO Fees**

A separate, one-time QDRO processing fee equal to the full amount required to cover the administration of the Executed Order as a QDRO will be applied to the parties' accounts. Unless the Executed Order provides otherwise, 50% of the fee will be deducted from the Participant's account and 50% of the fee will be deducted from the Alternate Payee's account. However, if the Alternate Payee is awarded 100% of the Participant's account, the entire fee will be deducted from the Alternate Payee's account.

### **Request for Review of Determination**

If any interested party disputes the Administrative Manager's determination that an Executed Order is or is not a QDRO, such person should file a written request for review with the Administrative Manager within 60 days of the date of the determination letter. The request for review should:

1. State the ground(s) for the request for review;
2. Refer to the pertinent provision(s) of the Plan, ERISA or the Code on which the request for review is based;
3. State the argument(s) and authority (if any) supporting each ground for the request for review; and

4. Declare any other pertinent documents or comments which the person desires to submit in support of the request for review.

The requesting party must provide a copy of his or her request for review to the other party. The Administrative Manager also will notify any additional interested parties of the review within a reasonable time after it receives the request for review. The Administrative Manager then will render a decision at its first quarterly meeting after receipt of the request for review, unless the request for review was received within 30 days of the meeting, in which case the Plan Administration will render a decision at the second quarterly meeting. In special circumstances, the decision may be made at the third quarterly meeting following receipt of the request for review. Within five days of the decision, the Administrative Manager will communicate the decision in writing to all interested parties and will include the specific reasons for the decision and references to the appropriate provisions of the Plan, Employee Retirement Income Security Act, or the Internal Revenue Code.

No Participant or Alternate Payee may commence legal action to challenge the determination of the status of an Executed Order, the interpretation of an Executed Order or the amount of benefits payable under the terms of the Executed Order, until he or she has exhausted the review procedure provided in this section.

#### **For More Information**

Parties should direct any inquiries and submit an Executed Order or Draft Order for review to the following address:

Electrical Workers Local Union 159 Retirement Plan  
c/o Wisconsin Electrical Employees Benefit Funds  
Attn: Plan Administrative Manager  
2730 Dairy Drive, Suite 101  
Madison, WI 53718  
608-276-9111

These procedures are adopted and effective as of February 15, 2022.

**ELECTRICAL WORKERS LOCAL UNION 159  
RETIREMENT PLAN**

**Supplement to  
Administrative Procedures for Processing  
Qualified Domestic Relations Orders**

**Shared Payment Approach**

This Supplement to the Plan's Administrative Procedures for Processing Qualified Domestic Relations Orders ("QDRO Procedures") and its additional provisions apply to an Executed Order that follows the shared payment approach. Otherwise, the provisions of the Plan's QDRO Procedures apply. The parties must use the shared payment approach to award benefits to the Alternate Payee if the Participant is in pay status, receiving a monthly annuity payment or installment payments.

**QDRO Requirements**

1. When will the benefit be paid? A "shared payment" QDRO is one under which the Participant elects the timing and form of benefit. The Alternate Payee does not have a separate election right. The Executed Order must specify when payments to the Alternate Payee begin and end. Benefits cannot begin before the later of: (a) the commencement of distributions to the Participant, or (b) the first practicable payment date following the date the Administrative Manager receives an Executed Order that it determines to be a QDRO.

2. How will the benefit be paid? Under the shared payment approach, the Participant elects the form of benefit. The Alternate Payee shares a portion of the distribution or of each payment (such as when the Participant receives an annuity or installment payment).

3. Can the Executed Order name the Alternate Payee as the Participant's surviving spouse? If the Executed Order is entered before the Participant goes into pay status, the Executed Order may designate the Alternate Payee as the Participant's surviving spouse for an annuity form of benefit.

If the Participant is already in pay status at the time the Executed Order is entered, the Alternate Payee cannot be named as the Participant's surviving spouse for an annuity form of benefit, unless the Alternate Payee was named the surviving spouse at the time of the Participant's annuity starting date. However, the Executed Order may take away the Alternate Payee's existing surviving spouse rights but the Participant cannot designate a new survivor annuitant to replace the Alternate Payee.

4. What happens if the Participant or Alternate Payee Dies? The Participant's benefits will end when the Participant dies, subject to applicable death benefits. The Alternate Payee will not receive any further payments after the Participant's death unless the Executed Order specifically designates the Alternate Payee as a surviving spouse for all or a portion of the qualified preretirement annuity or the qualified joint and survivor annuity or unless the Participant re-designated the Alternate Payee as his or her beneficiary after the date the marriage was legally terminated.



When the Alternate Payee dies, his or her benefit payments will end. The Alternate Payee cannot name a beneficiary to receive his or her share of an annuity or installment payment. The Alternate Payee's benefits will be restored to the Participant as soon as administratively feasible after the Alternate Payee's death, even if the Participant is receiving benefits. If the Alternate Payee dies prior to the Participant's annuity starting date the Participant can name a new survivor annuitant.

### **Draft Orders**

If a Participant is in pay status when the Administrative Manager receives a Draft Order, benefits to the Alternate Payee may be awarded only on a prospective basis following the date the Administrative Manager receives an Executed Order.

### **Administrative Procedures for Determination of Qualified Status**

During the determination period of an Executed Order, the Administrative Manager shall suspend and separately account for any benefits which would have been payable to the Alternate Payee. These payments shall be released to the Alternate Payee once the Executed Order is determined to be a QDRO and either the 60-day review period expires or is waived by the parties. If an Executed Order is determined not to be a QDRO and the parties do not submit a revised Executed Order during the period specified by the Administrative Manager and the QDRO Procedures, the Administrative Manager shall release any withheld payments to the Participant.