

# QUALIFIED DOMESTIC RELATIONS ORDER PROCEDURES

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Plan administrators are required to establish reasonable procedures for determining the qualified status of domestic relations orders and for administering distributions under such orders pursuant to Section 414(p) of the Internal Revenue Code. The following procedures have been adopted by the Plan Administrator. For purposes of the following procedures, the term "Interested Parties" shall mean all parties named in a domestic relations order and any representatives designated in writing by such persons.

## Freeze Participant's Account Upon Actual Knowledge of Pending Divorce or Divorce Proceeding

The Plan Administrator or Plan Administrator's designee (collectively referred to as "Plan Administrator") shall put a freeze status on a Participant's account immediately following notification by the Plan Administrator, Participant, Participant's spouse, or counsel that a Participant is in the process of obtaining a divorce. In addition, a Participant's account will be frozen upon the:

- receipt of a divorce decree;
- receipt of notification to the Plan Administrator of a Participant's pending divorce or potential Order;
- receipt of a domestic relations orders ("Order"); or
- issuance of a QDRO package to the Participant, Participant's spouse or counsel.

The Participant will be able to change his/her investment elections while his/her account is in the frozen status. However, the Participant will not be able to take in-service withdrawals, loans or distributions from his/her account during the period in which the account is frozen.

Once an Order has been determined to be qualified and an account has been established for the Alternate Payee under the Order, the freeze on the Participant's account will automatically be removed. Prior to that time, the frozen status can only be removed upon the Participant's and his/her spouse's completion of the **AUTHORIZATION TO REMOVE FROZEN ACCOUNT STATUS FORM**.

## Send Notice of Receipt of Domestic Relations Order

Upon receipt of an Order, the Plan Administrator shall promptly send a written Notice of Receipt of Domestic Relations Order ("Notice") to all Interested Parties at the addresses specified in the Order, if applicable, which acknowledges receipt of the Order and sets forth the requirements that the Order must satisfy in order to constitute a qualified domestic relations order ("QDRO") as defined in Section 414(p) of the Internal Revenue Code. (The specific QDRO requirements are outlined below.) The Plan Administrator may also submit a copy of the Plan's Model Qualified Domestic Relations Order with the Notice. If the address of the Participant or Alternate Payee is not provided in the Order, the Plan Administrator may send the Notice to the address of the Participant or Alternate Payee last known to the Plan Administrator.

## QDRO Requirements

In order to constitute a QDRO, the Order must satisfy all of the following requirements:

1. The Order is issued by a court pursuant to its state domestic relations law (including a community property law).
2. The Order relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child or other dependent of the Participant.
3. The Order creates or recognizes the Alternate Payee's right to receive all or a part of the Participant's vested account under the Plan.
4. The Order specifies the following information:
  - (a) The full name of the Plan or Plans to which it applies;
  - (b) The amount or percentage of the Participant's vested account to be paid to the Alternate Payee, or the manner in which the amount or percentage is to be determined;



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- (c) The number of payments or the period to which the Order applies; and
  - (d) The Social Security number, name, and last known mailing address of the Participant and each Alternate Payee covered in the Order.
5. The Order does not require the Plan to provide any type or form of benefit, or any option that is not already provided under the Plan and does not require the Plan to provide increased benefits (determined on the basis of actuarial value). Furthermore, the Order cannot provide the Alternate Payee with the right to receive a joint and survivor annuity under which a subsequent spouse of the Alternate Payee could be named as a contingent annuitant.
  6. The Order does not require the payment of benefits to the Alternate Payee which are required to be paid to another alternate payee named under another qualified domestic relations order.

### Review of Orders and Draft Orders

The Plan Administrator shall review the Order and send out appropriate notice within 30 business days of receipt. In the event the Order has not been entered by the court, the Plan Administrator shall review the draft Order.

If the Order constitutes a QDRO, the Plan Administrator shall send a Notice of Qualification to all Interested Parties stating that the Order constitutes a QDRO. If a draft Order constitutes a QDRO, the Plan Administrator shall send a Notice of Qualification to all Interested Parties stating that the Order, when entered by a court, would constitute a QDRO.

If the Order is not qualified, the Plan Administrator shall send a Notice of Nonqualification to all Interested Parties.

### Pending Determination of Status

Benefit payments cannot be distributed to a Participant or Alternate Payee named in an Order while the Order is pending qualification.

Within a reasonable period after receipt of an Order, the Plan Administrator shall determine whether it is a QDRO. If, within eighteen (18) months from the date on which the first payment would be required to be made under the Order, a final determination is made that the Order (as modified, if applicable) is a QDRO and proper Notice is given to the Interested Parties, then the Plan Administrator shall follow the terms of the Order and authorize distribution of the amount awarded to the Alternate Payee in accordance with the terms of the Order.

If, within the eighteen (18) month period, it is determined that the Order is not a QDRO, or if no final determination is made within such period, the Plan Administrator shall notify all Interested Parties in writing of such fact and authorize distribution of the amount involved to the person or persons who would otherwise be entitled to receive such amount in the absence of the Order, or if such person or persons are not yet in pay status under the terms of the Plan, remove the frozen account status from the Participant's account.

If it is subsequently determined that the Order (as modified, if applicable) is a QDRO, then the QDRO shall be applied prospectively only.

### Notice of Qualification of the Order

If the Order is determined to be qualified, the Plan Administrator shall notify in writing all Interested Parties that a determination has been made that the Order constitutes a QDRO as defined in Section 414(p) of the Internal Revenue Code. This Notice of Qualification ("Qualification Notice") shall also outline the terms and conditions of the Order.

An Interested Party may dispute the determination by mailing, or delivering, a written objection to the Plan Administrator within 30 calendar days of receipt of such Qualification Notice. If no Interested Party disputes this determination within the 30 calendar day time frame, the Plan Administrator shall establish a separate account for the Alternate Payee and administer the Order in accordance with the terms of the Order as outlined in the Qualification Notice. If any Interested



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Party disputes this determination within the 30 calendar day time frame, the Plan Administrator shall review the dispute and take appropriate steps to resolve such dispute.

### Notice of Nonqualification of the Order

If the Order is determined to be not qualified, the Plan Administrator shall notify in writing all Interested Parties that a determination has been made that the Order is not a QDRO. This Notice of Nonqualification ("Nonqualification Notice") shall also state the reasons for the determination. The Plan Administrator may include a copy of the Plan's Model Qualified Domestic Relations Order with the Nonqualification Notice to be used as guidance to bring the Order into compliance with QDRO rules. The Plan Administrator shall await a revised order. The review process will then be repeated.



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**MODEL QUALIFIED DOMESTIC RELATIONS ORDER**  
**Electrical Workers Local No. 292 Defined**  
**Contribution and 401(k) Plan**

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*Note: The language below is sample language approved by the Plan Administrator for the qualification of domestic relations orders affecting the Electrical Workers Local No. 292 Defined Contribution and 401(k) Plan. Please note that variable language is bolded and provided in brackets. You may choose to have this Model Qualified Domestic Relations Order reviewed by legal counsel.*

This Order is entered pursuant to [cite appropriate domestic relations law] that relates to the provision of child support, alimony payments and/or marital property rights, as defined therein between spouses and former spouses. This Order assigns to the Alternate Payee the right to receive all or a portion of the Participant's vested account payable under the plan specified below, which is qualified under Section 401(a) of the Internal Revenue Code of 1986, as amended (the "Code"). Furthermore, this Order is intended to constitute a Qualified Domestic Relations Order ("QDRO") and is made in accordance with Sections 401(a)(13) and 414(p) of the Code.

**IT IS ORDERED AND ADJUDGED** as follows:

I. For purposes of this Order, the following terms are defined as follows:

A. "Plan" is the Electrical Workers Local No. 292 Defined Contribution and 401(k) Plan, as it may be amended from time to time, and any successor thereto, to which this Order applies.

B. "Participant" is:

Name:	[enter participant's name]
Date of Birth:	[enter participant's date of birth]
Social Security Number:	[enter participant's social security number]
Address:	[enter participant's address]

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C. "Alternate Payee" is:

Name:	[enter alternate payee's name]
Date of Birth:	[enter alternate payee's date of birth]
Social Security Number:	[enter alternate payee's social security number]
Address:	[enter alternate payee's address]

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The Alternate Payee is the [spouse][former spouse][child][other dependent - please specify] of the Participant.

D. "Plan Administrator" is Board of Trustees and may be contacted at:

Fund Office, Electrical Workers' Local #292, 6900 Wedgwood Road, Suite 425, Maple Grove, MN 55311

II. The following provisions govern the assignment, management and distribution of the benefit awarded to the Alternate Payee under this Order.

A. *Amount of Benefit Assigned to the Alternate Payee.* The Alternate Payee is awarded from the Participant's vested account under the Plan:



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Choose one option below.

[\$ \_\_\_\_\_, adjusted for any investment gains and losses in accordance with the provisions of the Plan for the period between [date] and the date of distribution.]

[\$ \_\_\_\_\_, adjusted for any investment gains and losses in accordance with the provisions of the Plan for the period between the date an account is established for the benefit of the Alternate Payee and the date of distribution.]

[ \_\_\_\_\_% of the Participant's vested account under the Plan determined as of [date], adjusted for any investment gains and losses in accordance with the provisions of the Plan for the period between [date] and the date of distribution.]

[ \_\_\_\_\_% of the Participant's vested account under the Plan determined as of [date], adjusted for any investment gains and losses in accordance with the provisions of the Plan for the period between the date an account is established for the benefit of the Alternate Payee and the date of distribution.]

The amount awarded and assigned to the Alternate Payee shall not include any portion of a note payable by the Participant pursuant to an outstanding loan under the Plan and any such note shall remain the sole responsibility of the Participant.

- B. *Separate Account Established for the Alternate Payee.* The Plan Administrator is hereby instructed to establish a separate account under the Plan in the name of the Alternate Payee in the amount of the benefit assigned to the Alternate Payee pursuant to II.A. above. The amount assigned to the Alternate Payee will be taken from the Participant's vested account on a pro-rata basis from the Participant's investment elections in effect on the date the Alternate Payee's account is established ("set investment elections"). The Alternate Payee's account will continue to be invested in the set investment elections, subject to subsequent change by the Alternate Payee.
- C. *Investment Options.* Following the establishment of the Alternate Payee's account, if distribution to the Alternate Payee is deferred and the Plan offers self-directed investment options, the Alternate Payee may change the investment of his/her assigned benefit and invest said benefit in any of the investment options offered under the Plan by calling *Benefits Complete*® at (800) 294-3575.
- D. *Form of Benefit Payment to Alternate Payee.* The Alternate Payee shall receive the benefit assigned on his/her behalf in accordance with one of the payment options available to the Participant in the Plan as selected by the Alternate Payee, provided, however, that the Alternate Payee may not elect to receive a joint and survivor annuity and name a subsequent spouse as a joint annuitant.
- E. *Commencement of Benefit Payment to Alternate Payee.* The Alternate Payee may elect to commence distribution of the benefit assigned on his/her behalf at any time after the Plan Administrator has determined that the Order constitutes a Qualified Domestic Relations Order ("QDRO") within the meaning of Section 414(p) of the Code by filing the proper distribution form with the Plan Administrator; provided, however, such date is not later than "the required beginning date" as set forth in Section 401(a)(9) of the Internal Revenue Code and regulations thereunder.

In no event will distribution be made to the Alternate Payee prior to the determination by the Plan Administrator that the Order constitutes a QDRO within the meaning of Section 414(p) of the Code and prior to receipt of the proper distribution form by the Plan Administrator.

- F. *Death of the Alternate Payee and/or the Participant.* The death of the Participant will not affect the payment of the benefit assigned to the Alternate Payee under this Order.



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If the Alternate Payee dies before his/her interest has been distributed, the Alternate Payee's benefit, or remainder (if applicable), will

*Choose one option below.*

**[be paid in a single sum cash payment to the Alternate Payee's estate.]**

**[be paid in a single sum cash payment to the beneficiary named by the Alternate Payee.]**

**[revert to and become the interest of the Participant.]**

III. The following provisions are made in accordance with Section 414(p)(3) of the Code:

- A. This Order does not require the Plan to provide any type or form of benefit, or any option, not otherwise provided by the Plan.
- B. This Order does not require the Plan to provide increased benefits (determined on the basis of actuarial value).
- C. This Order does not require the payment of benefits to the Alternate Payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

IV. It is intended that this Order be qualified as a Qualified Domestic Relations Order within the meaning of Section 414(p) of the Code and Section 206(d) of ERISA and under the Retirement Equity Act of 1984. In the event the Plan Administrator determines that the Order is not a Qualified Domestic Relations Order, then each party shall cooperate and do all things necessary to modify the Order in order that it may be deemed a Qualified Domestic Relations Order by the Plan Administrator.

It is further ordered that the Court retains jurisdiction to amend or modify this Order in order to establish or maintain its qualification as a Qualified Domestic Relations Order as defined above.

V. The distribution of the benefit to an Alternate Payee who is the spouse or former spouse of the Participant will be included in the Alternate Payee's gross income in the year in which the distribution is made, to the extent the distribution does not include any after-tax contributions made to the Plan, and to the extent that the Alternate Payee does not elect to roll over the distribution to another qualified retirement plan or to an IRA. If the distribution, however, is made to an Alternate Payee and is for child support, the distribution is included in the Participant's gross income and may not be rolled over to another qualified retirement plan or to an IRA.

The Alternate Payee is responsible for his/her own federal, state and local and other taxes attributable to the distribution of the benefit assigned to the Alternate Payee under this Order. The Plan Administrator will issue to the Alternate Payee a Form 1099-R stating the gross taxable amount of the distribution.

**APPROVED BY:**

\_\_\_\_\_  
Alternate Payee ("Petitioner")

\_\_\_\_\_  
Date

\_\_\_\_\_  
Participant ("Respondent")

\_\_\_\_\_  
Date



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Attorney for Petitioner (if applicable)

Attorney for Respondent (if applicable)

Signature \_\_\_\_\_ Date \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

**COURT APPROVAL:**

ENTERED BY \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Judge



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