

# STRATEGIC CONVENING ON WOMEN AND RETIREMENT AT DIVORCE

A COMMON GROUND INITIATIVE  
OF THE PENSION RIGHTS CENTER

PRELIMINARY REPORT

Published October 29, 2019

**STRATEGIC CONVENING**  
**ON**  
**WOMEN AND RETIREMENT AT DIVORCE**

*A COMMON GROUND INITIATIVE OF THE PENSION RIGHTS CENTER*

**PRELIMINARY REPORT**

**Written by Emily Spreiser, Legal Program Director, Pension Rights Center**

**Edited by David Brandolph, Communications Consultant, Pension Rights Center**

## **Acknowledgments**

The Pension Rights Center wishes to thank all those who made the first phase of the Initiative on Women and Retirement at Divorce such a successful endeavor.

First and foremost, we want to thank AARP, the Administration for Community Living\* and the Retirement Research Foundation for their generous support. Their assistance enabled the project to begin and flourish. We also want to thank all of the other generous supporters whose donations will help sustain the Initiative as it enters its next key phase (see next page).

Members of the Initiative's Advisory Committee deserve special recognition for their suggestions and guidance, as well as their assistance in defining, forming and serving on the various roundtables. We are also grateful for their leadership and participation in the Strategic Convening (see page 4).

Finally, the Initiative could not have succeeded without everyone who took the time to prepare for and participate in the roundtable discussions and follow-up meetings leading up to the Strategic Convening. It was during those discussions where the Initiative gained invaluable insights into the challenges facing women in divorce, those seeking to represent and help them, and the retirement plans that want to see that the benefits they oversee are fairly and legally distributed. These participants were also generous in sharing their ideas for potential solutions to these problems. Their organizations can be found in the report's Appendix.

\* This initiative was supported, in part, by a grant (No. 90PCRC0001-02-00) from the Administration for Community Living, U.S. Department of Health and Human Services (DHHS). Grantees carrying out projects under government sponsorship are encouraged to express freely their findings and conclusions. Therefore, points of view or opinions do not necessarily represent official Administration for Community Living or DHHS policy.

*The Initiative on Women and Retirement at Divorce is supported by:*

AARP  
Administration for Community Living\*  
The Retirement Research Foundation

*Thank You to the Following Sponsors of the Strategic Convening:*

**Cosmic Contributors**

Cheiron, Inc.  
Schlichter Bogard & Denton LLP  
National Nurses United  
Norman P. Stein

**Spectacular Supporters**

Fidelity Investments  
Ian D. Lanoff  
Pensions & Investments  
Steptoe & Johnson LLP

**Dynamic Donors**

Altman Fund  
American Academy of Actuaries  
American Retirement Association  
Bailey & Glasser LLP  
BenefitsLink  
Bolton  
Covington & Burling LLP  
Keightley & Ashner LLP  
Marion H. Mudd  
Melanie and Larry Nussdorf  
Overlook Foundation  
Stris & Maher LLP  
Trucker Huss APC

**Fantastic Friends**

Clark Law Group PLLC  
Daniel I. Halperin  
Investor Protection Trust  
Judy Mazo  
Slevin & Hart P.C.

\*This initiative was supported, in part, by a grant (No. 90PCRC0001-02-00) from the Administration for Community Living, U.S. Department of Health and Human Services (DHHS). Grantees carrying out projects under government sponsorship are encouraged to express freely their findings and conclusions. Therefore, points of view or opinions do not necessarily represent official Administration for Community Living or DHHS policy.

## **Advisory Committee**

**The Honorable Phyllis C. Borzi**

Former Assistant Secretary of Labor for Employee Benefits Securities Administration

**Catherine Harvey**

AARP

**Vivian Huelgo**

American Bar Association Commission on Domestic & Sexual Violence

**Rebecca Henry**

American Bar Association Commission on Domestic & Sexual Violence

**Regina Jefferson**

Columbus School of Law, Catholic University of America

**Joyce Mader**

O'Donoghue & O'Donoghue LLP

**Amy Matsui**

National Women's Law Center

**Judy Mazo**

Former Senior Vice President and Director of Research at The Segal Company

**Anne Moss**

QDRO Attorney

**Aliya Robinson**

ERISA Industry Committee

**Allison Wielobob**

American Retirement Association

**Alisa Wolking**

American Retirement Association

*\*Opinions expressed by members of the Advisory Committee are their own. Organizations are listed for informational purposes only.*

## TABLE OF CONTENTS

Introduction	6
Understanding the QDRO Process	9
Report Methodology	12
Public Education and Outreach	13
Increasing Access to Effectively Drafted QDROs	21
Streamlining the QDRO Submission Process	25
Additional Complicating Factors	32
Appendix: Participants in the Center’s Information Gathering Process	38

## Introduction

### *About the Pension Rights Center*

The Pension Rights Center (“the Center” or “PRC”) was founded in 1976 as a nonprofit, nonpartisan, charitable, and educational organization dedicated to protecting and promoting the retirement income security of American retirees and their families. The Center’s mission is to ensure that all older Americans, particularly the most vulnerable, have sufficient income to live on when they are no longer able to work. The Center advances its mission through both public policy and pension assistance activities. The goals of our public policy activities are to develop and secure the implementation of policies that increase retirement plan coverage and adequacy for workers, promote consumer protections for older Americans, and preserve pensions for retirees. The goal of the Center’s pension assistance activities is to ensure that older Americans receive the retirement benefits they have earned.

The Center has played a leading role in identifying pension inequities and crafting and securing pension reforms. We are often the first to identify pension problems, propose solutions, and then advocate for their implementation. The Center spurred the enactment of major pension reform provisions in the Retirement Equity Act of 1984, the Tax Reform Act of 1986, the Pension Protection Act of 2006, and three other federal laws that expanded protections for older Americans and widowed and divorced spouses. We also played a key role in the adoption of important regulations that have significantly increased protections for millions of older Americans.

### *Why Retirement and Divorce?*

Women over 65 are nearly twice as likely as men to face poverty in old age. This gender disparity is even greater for African American and Latina women. Divorce exacerbates this situation. Studies show that divorced women over 65 are three times more likely to live in poverty than their married counterparts.<sup>1</sup>

According to the Government Accountability Office, after a divorce, women had a 41% decline in income and assets, compared to a 23% decline in income and a 39% decline in assets among men.<sup>2</sup> Meanwhile, survivors of domestic violence face unique retirement security challenges

---

<sup>1</sup> Jennifer Erin Brown et al., Nat’l Inst. on Ret. Sec., *Shortchanged in Retirement: Continuing Challenges to Women’s Financial Future*, at 1 (2016), <http://laborcenter.berkeley.edu/pdf/2016/NIRS-Women-In-Retirement.pdf>.

<sup>2</sup> U.S. Gov’t Accountability Office, GAO-12-699, *Retirement Security: Women Still Face Challenges*, at Intro., 46 (2012), <https://www.gao.gov/assets/600/592726.pdf>.

because financial abuse, which is present in 99% of domestic violence cases, can have a lifelong impact on income, career trajectory, and overall financial security.<sup>3</sup>

One reason for this dismal picture is that many women aren't receiving a fair share of their former spouse's retirement benefits, which could make the difference between being financially insecure in retirement and affording a decent standard of living. Retirement benefits such as traditional pensions or 401(k)s are often the largest asset in a marriage other than the home, especially for low- and moderate-income couples. The right to a share of a former spouse's benefit is based on the understanding that labor in the home, including caring for children and elderly relatives, is valuable. A spouse who performs this work is supporting the other spouse's career and has contributed to the other spouse's ability to earn retirement benefits. State law also generally considers retirement assets earned during a marriage to be marital property.<sup>4</sup>

Yet many women never receive their fair share. In 2018, the Center received approximately 2,000 calls and e-mails from individuals around the country seeking help with an earned retirement benefit. One in five of these calls was about the division of retirement benefits at divorce. Furthermore, of the approximately 750,000 unique visits to the Center's website in 2018, 120,000 of those were to a single page covering the division of retirement benefits at divorce. It is clear that thousands of Americans are struggling to navigate this process. The vast majority of individuals who reach out to the Center for this type of help are older, divorced women.<sup>5</sup>

In some of these cases the retirement benefit simply wasn't addressed at the time of divorce. This occurred because retirement seemed far away and was not made a priority, the benefit-earning spouse failed to properly disclose the existence of some or all retirement assets, or the non-participant spouse or the spouse's legal counsel was simply unaware of the spouse's right to

---

<sup>3</sup> National Network to End Domestic Violence, Financial Abuse Fact Sheet, at 2 (as of June 13, 2019), <https://nnedv.org/content/about-financial-abuse/>.

<sup>4</sup>The PRC does not take a position as to whether or under what circumstances specific individuals should be able to receive a share of a former spouse's retirement benefit. This is determined by state law during the divorce process. The Center's focus is solely on ensuring that those individuals who have been found to have a right to a share of a former spouse's retirement benefit under state law actually receive those benefits.

<sup>5</sup>Additionally, the South Central Pension Rights Center Counseling Project drafts QDROs and resolves pension issues for low-income residents of Arkansas, Louisiana, Missouri, New Mexico, Oklahoma and Texas. Of the 40 QDRO cases it handled in a recent 14-month period, 31 (78%) were initiated by women. The New England Pension Assistance Project, which serves low-income residents of Maine, Massachusetts, New Hampshire, Vermont, Rhode Island and Connecticut. Of the 32 QDRO cases it opened in 2018, (78%) involved women seeking benefits.



a share of the benefit-earning spouse's pension benefits. In far too many cases a divorce decree has awarded a share of a former spouse's retirement benefit, but these women are not receiving what was ordered by the court because they must go through additional, difficult-to-navigate steps to obtain those benefits.

This process requires divorce parties to obtain a court order called a *Qualified Domestic Relations Order* or *QDRO*, which must be submitted to the retirement plan for approval.<sup>6</sup> They can obtain a QDRO in one of two ways: (1) The divorce decree itself can be written to meet the requirements to be a QDRO, or (2) the parties must obtain an separate domestic relations order that will serve as a QDRO. The QDRO process is not well understood by the general public, or even by many divorce attorneys and family law judges, because it requires an understanding of the complex federal laws governing retirement plans. In cases involving abusive relationships, the benefit-earning spouse can prolong or otherwise leverage the complex process of dividing retirement benefits at divorce to continue exerting economic coercion and control over a former victim.

#### *The Center's Initiative on Women and Retirement at Divorce*

The Center has launched a new, multi-phase initiative that will help economically vulnerable older Americans – especially low-income women, people of color, members of the LGBT community, and survivors of abuse – to achieve financial security in retirement by helping them obtain a fair share of a former spouse's retirement benefit. The Initiative seeks to increase public awareness about QDROs and their importance, improve QDRO access, and streamline the complex and technical process of finalizing a QDRO with a retirement plan.

The first phase of the initiative focused on information gathering and raising awareness around the subject of QDROs. The PRC's information gathering activities during this phase centered around a series of roundtable discussions with representatives from stakeholder communities that impact or are impacted by the QDRO process, supplemented by several additional conversations with individual actors and groups who were unable to participate. Stakeholders include employers; retirement plans; administrative, legal and financial service providers to retirement plans; family law attorneys, judges and court staff; QDRO drafting experts; and groups that represent women, survivors of domestic violence and other impacted communities.

This report summarizes lessons learned through the Center's information gathering activities and seeks to highlight common obstacles that prevent impacted individuals from obtaining the

---

<sup>6</sup> This report does not discuss Individual Retirement Accounts (IRAs). It is important to address the division of Individual Retirement Accounts (IRAs) at divorce, which can also be a significant marital asset. However, IRAs are not regulated under the same legal framework as employee benefit plans, and a QDRO is *not* required to divide an IRA at divorce.

retirement benefits they have been awarded at divorce, identify common themes that occurred throughout the stakeholder conversations, and propose some possible solutions. It is designed to inform discussion at the Center's October 29, 2019 Strategic Convening on Women and Retirement at Divorce, which will bring stakeholders together to further define and prioritize solutions and to begin developing the framework for a common-ground plan of action for the second phase of the Center's Initiative.

In the Initiative's second phase, the Center will organize stakeholder working groups to further develop solutions and commence implementing the action plan first outlined during the Strategic Convening. We will work with partner organizations to disseminate public education materials and other public-facing resources developed by the working groups, train legal services and other services providers on the process of dividing retirement benefits at divorce, and support family law courts and retirement plans in streamlining difficult-to-navigate administrative processes.

## Understanding the QDRO Process

### *What is a QDRO?*

Retirement benefits – which are often the largest asset in a marriage other than a home – can be divided between spouses at divorce. The divorce decree must clearly award a share of the benefit to the benefit-earner's former spouse, **but a divorce decree alone is often not enough**. The parties must obtain a *Qualified Domestic Relations Order*, or *QDRO*.<sup>7</sup> Whereas a divorce decree applies to the parties in a divorce, a QDRO applies to the retirement plan providing the benefits that are eligible to be divided. QDROs go into much greater detail than a divorce decree about how and when to divide the benefit. Federal law authorizes retirement plans to require this additional information and plans cannot legally divide a benefit without it.

### *QDROs: Background and Context*

While divorce is regulated under state law, retirement benefits are governed by the federal *Employee Retirement Income Security Act of 1974*, or ERISA. ERISA applies to retirement plans sponsored by private employers, non-profit organizations and labor unions. Many government plans that provide retirement benefits to public employees have also adopted rules similar to those under ERISA, though some refer to QDROs by a different name (for instance,

---

<sup>7</sup> A divorce decree can serve as a QDRO on its own, however it is common practice for parties to obtain a separate order. For a divorce decree to be a QDRO it must meet all the same requirements that would apply to a separate order and must be submitted to a retirement plan for qualification consistent with the steps outlined below. A retirement plan can determine that a divorce decree is insufficient to be a QDRO if it does not meet all the qualification requirements.

orders dividing retirement benefits for federal employees are called *Court Orders Acceptable for Processing*, or *COAPs*).

When ERISA was first enacted, it did not include any provisions relating to dividing retirement benefits at divorce. Instead, it contained two provisions that prevented divorce courts from awarding a share of one party's retirement benefits to the other party. One of these provisions, called the anti-alienation provision, prohibited retirement plans from paying an individual's earned benefits to anyone other than that individual. This provision was included by Congress to prevent an individual's creditors from seizing or creating liens against an individual's pension to satisfy other unrelated financial obligations.

The second ERISA provision that prevented retirement benefits from being divided at divorce is the preemption provision, which says that states may not regulate ERISA-covered retirement benefits. Congress was concerned that subjecting retirement plans to 50 different, and potentially conflicting, state legal frameworks would make them impossible to administer and, thus, employers would simply stop offering them.

In 1984, Congress enacted the *Retirement Equity Act*, or REA, to resolve several inequities in the retirement system that harmed women. It created an exception to the anti-alienation and preemption provisions of ERISA by granting the ability to divide otherwise federally regulated retirement benefits at divorce to each state. However, Congress was still concerned about the burden to retirement plans if states were to impose conflicting or difficult-to-administer legal requirements. As a result, Congress created the QDRO.

*The QDRO process involves the following steps:*

1. The divorce decree must address the retirement benefit.<sup>8</sup> If the benefit was not addressed at divorce, a QDRO cannot be obtained without going through the onerous process of reopening the divorce. In some states, divorces cannot be reopened, permanently barring a party from obtaining a QDRO at a later time.
2. The parties must obtain a *domestic relations order* or DRO that is consistent with the divorce decree (unless the divorce decree already meets the requirements to serve as a DRO for QDRO purposes). Both parties must agree to it and/or the court must approve it. Drafting this kind of court order requires an understanding of both state domestic relations law and federal retirement law. Many divorce attorneys do not draft these orders because they lack the requisite expertise. Instead, drafting is frequently performed by a QDRO specialist. QDRO specialists typically charge flat fees that must

---

<sup>8</sup>While a divorce decree can serve as a QDRO, merely addressing the retirement benefit is not sufficient. A QDRO must contain significant detailed information about how a retirement plan should divide the benefit and divorce decrees often do not provide this level of detail.

be paid on top of what is being paid to the divorce attorney. Some retirement plans provide model QDRO forms. These are designed to make it easier to comply with the QDRO rules, but not all plans offer a model QDRO and, even then, parties usually need help completing these forms.

3. The parties must submit the DRO to the retirement plan for *qualification*. Until a DRO is submitted, the plan has no way of knowing that a former spouse has a claim against the participant's pension benefits. Once a DRO is submitted, the plan will review the DRO to ensure that it is consistent with the plan's own benefit rules. For instance, the DRO must not require the plan to pay out larger benefits than the benefit-earner actually earned, nor can the DRO require the plan to pay out benefits using a method it doesn't use or earlier than it would normally allow the benefit-earner to begin receiving benefits.
4. If the plan approves the DRO, it is deemed to be *qualified* and becomes a QDRO. The plan will keep the QDRO on file and begin paying benefits at the time specified by the QDRO. However, the plan may reject the DRO without qualifying it, in which case it does not become a QDRO. If this happens, the parties must correct any problems with the DRO and resubmit it for qualification. If the parties do not resubmit the DRO, there is no QDRO on file, and plans WILL NOT pay out benefits to a former spouse. If the plan does not approve the order submitted, any problems must be corrected promptly and the corrected order resubmitted. It is important to obtain a QDRO as soon as possible so that nothing happens to the benefit before the QDRO process is finalized.
5. Some plans charge submission fees. These submission fees are taken from the benefit, so there is not an up-front charge preventing low-income individuals from submitting a DRO. However, if the benefit is small, these submission fees could decrease retirement income that the divorcing couple must share. If a DRO is rejected and re-submitted, new fees may be assessed. Plans that offer model QDROs typically waive the fee for individuals who use them.

### *Why Do Individuals Struggle to Navigate the QDRO Process?*

In the process of fielding help requests from the impacted individuals who contact the Pension Rights Center, and through our discussions with various stakeholder communities, the Center has identified many obstacles preventing women and others from obtaining a QDRO and from ever receiving the benefits they have been granted in their divorce decrees, assuming the retirement benefit was addressed during the divorce at all. Obstacles generally fall into four main categories:

1. **People don't know about QDROs.** Most Americans have never heard the term QDRO and don't know to request one. Most legal services providers and family law attorneys,

judges, and court staff know little about the QDRO process and are not in a position to advise divorce parties.

2. **Impacted individuals cannot obtain a DRO.** Very few organizations exist that provide *pro bono* QDRO drafting services on a systematic basis. Legal services attorneys typically do not draft these orders. Most divorce attorneys refer clients to a QDRO drafting specialist rather than drafting QDROs themselves, however there are few QDRO drafting specialists compared to overall demand. Self-represented individuals do not have a divorce attorney to make a referral to a QDRO drafting specialist.
3. **Impacted individuals struggle to navigate the submission process.** Impacted individuals fail to timely submit a DRO, which increases the risk of intervening circumstances jeopardizing the benefit. DROs that are submitted to retirement plans are often poorly drafted, causing the retirement plan to reject them.
4. **Something goes wrong that the system is not designed to fix.** It is possible for a DRO to become qualified by a retirement plan but to still contain drafting errors or oversights that can result in a result other than what was intended at the time of divorce. Complex family law fact patterns can also pose issues that standard QDRO procedures are not designed to address and that can result in increased administrative costs, delays, errors, and even litigation.

## Report Methodology

The first phase of the Center’s Initiative focused on information gathering. We sought to understand why women are not obtaining QDROs, why the orders that women obtain are so frequently ineffective, and what additional obstacles women face during or after the QDRO submission process. We also sought to understand challenges and costs faced by retirement plans and family law practitioners involved in the QDRO process.

The Center reached out to leading research groups in the employee benefits field. This included the Center for Retirement Research at Boston College, the Employee Benefits Research Institute, the International Foundation of Employee Benefit Plans, and the National Institute for Retirement Research. We learned from our conversations with these organizations that no meaningful, quantitative datasets have been developed specifically addressing QDROs.

It remains unclear how many individuals in the United States never receive the benefits awarded to them at divorce because they do not obtain a QDRO. It is also not clear to what degree existing QDRO drafting services are meeting demand nationwide and across different areas and demographics, how many prospective QDROs are rejected by retirement plans each year, or

what similarities there are among women who struggle to obtain a QDRO. While some large retirement plans do collect select amounts of quantitative data about the prospective QDROs that they receive, its usefulness is limited because retirement plans vary dramatically by region and industry.<sup>9</sup>

In the absence of an existing dataset, the Center has held conversations with a diverse number of experts and compiled a wealth of anecdotal case studies and information. The Center has developed a picture of what the QDRO process looks like from a variety of perspectives, ascertained the most common problems that complicate the QDRO process, and identified numerous potential improvements that could make the QDRO process less onerous.

A central element of the Center's information-gathering process was a series of eight roundtable discussions in 2018 and 2019, each with one of the following stakeholders:

- Employers (hosted by the U.S. Chamber of Commerce);
- The American Retirement Association;
- The Pension Benefit Guaranty Corporation;
- Law firms representing multiemployer pension plans;
- QDRO drafting experts;
- Groups representing women, survivors of domestic violence, the LGBT community, people of color, and older Americans;
- Financial services industry professionals; and
- Family law attorneys, judges, mediators and court staff.

## Public Education and Outreach

**Amanda R. is in her early thirties and has two toddlers.<sup>10</sup> She divorced her husband after he became emotionally abusive and engaged in an extramarital affair. Amanda was friends with an attorney who had QDRO experience and who asked Amanda whether she was planning to obtain a QDRO. Amanda had never heard of a QDRO. Her friend explained**

---

<sup>9</sup> A large multiemployer pension plan reported to the Center that, during the 89-month period beginning in April 2008 and ending in August 2015, the plan reviewed 1,270 QDROs. Among the submitted QDROs, 417 were requests to review proposed QDROs for pre-approval. Of the remaining QDROs, 853 were formally submitted for qualification. The plan initially rejected 100 (11.7%) of those submissions, but lacked data on how many of the rejected QDROs were later approved.

<sup>10</sup> To protect individuals' privacy and client confidentiality, names and other potentially identifying details have been changed throughout all of the case examples provided in this report.

**what a QDRO was and offered to speak to Amanda’s divorce attorney about obtaining a QDRO, but Amanda did not accept her friend’s offer. Amanda felt that since she and her husband had only been married a few years, a small retirement benefit wasn’t worth prolonging the divorce and resulting in additional contact with her former husband.**

The Center’s information gathering activities have revealed a dramatic need for increased public education and outreach about the QDRO process. With the small exception of professionals whose work is related to divorce or retirement, the majority of Americans simply do not know what a QDRO is. The Initiative can make a significant difference merely by providing targeted information and outreach in partnership with organizations that serve those individuals most likely to benefit from a share of a former spouse’s retirement benefit.

However, public education about the need for a QDRO to divide retirement benefits at divorce is not the sole solution. A threshold issue, particularly for women, is that retirement benefits should be included as marital property for division during a divorce proceeding, but many women do not recognize the value of a share of a former spouse’s retirement benefit.

Legal services providers working with abuse survivors and other impacted individuals have indicated that their clients typically do not ask about retirement benefits when seeking services related to divorce. They have also noted that women going through divorce typically want to be done with the ordeal quickly and are reluctant to pursue retirement benefits. Retirement benefits are usually considered a low priority compared to other issues such as child custody, immediate sources of income (such as alimony), housing, and escape from an abusive relationship. Often, women going through divorce do not fully appreciate the value of retirement benefits because they do not have an impact on their current income. However, as divorce later in life becomes increasingly common in the U.S., a share of a former spouse’s retirement benefit could result in an immediate source of income to a larger number of women.

In many cases, divorce litigants are not aware that retirement benefits are available to be divided. It is not uncommon for the benefit-earner to intentionally conceal retirement assets; however, in many cases neither member of the divorcing couple may know that one of them has earned a benefit. This is especially true among low-income individuals, workers who frequently changed employers, and non-native English speakers.

In fact, it is a common misconception that low-income individuals do not earn retirement benefits when, in reality, a retirement benefit is among the assets that low-income individuals are relatively likely to have because of union representation. For low-income individuals, even a small retirement benefit can make a significant difference in monthly post-retirement income. Yet, service providers who assist low-income individuals indicate that many of their clients are unaware that they may be entitled to retirement benefits. In cases involving low-income individuals, who are frequently self-represented at divorce, the parties may decide to keep their

own retirement benefits without checking the value of each spouse's benefit resulting in an unfair division of marital property.

**Jennifer G. did not know that her husband's pension plan benefits could be divided at divorce. The divorce decree never addressed the pension benefit, and so she never received a share. Jennifer currently survives on approximately \$12,000 per year in Social Security benefits. Her reduced income keeps her from affording the diabetes medication that she needs.**

Efforts to increase awareness about QDROs must simultaneously educate the public about the importance of locating and addressing retirement benefits at divorce as well as the mechanics of the QDRO process.

Attorneys and organizations providing divorce-related services to individuals should incorporate procedures into their intake process that screen for retirement benefits. The screening process should not stop at asking a client whether a former spouse has earned a benefit. Instead, screening should incorporate targeted questions to identify whether there is any possibility that the former spouse has earned a benefit.

A number of public organizations and communities could be enlisted to help spread information about QDROs to individuals likely to benefit from a share of a former spouse's benefit. These include social workers, senior centers, homeless shelters, financial institutions, organizations providing financial literacy education, retail outlets such as grocery stores, social media companies, service providers to victims of domestic violence, and government entities such as the Social Security Administration. Media campaigns at memorable times of year, such as Valentine's Day, have also been suggested.

However, a challenge is that individuals are unlikely to fully appreciate and assimilate QDRO information or view it as needed until they actually find themselves going through a divorce. A participant in one roundtable discussion noted that periodic education to a general audience before it becomes needed is insufficient because it doesn't remain "top-of-mind." This suggests that educational efforts must be more carefully targeted.

Some helpful public education materials already exist, such as those produced by the Pension Benefit Guaranty Corporation (PBGC) and the U.S. Department of Labor's Employee Benefits Security Administration (EBSA). Other materials that could potentially be created and disseminated include checklists of information that divorcing parties should gather about a spouse's retirement benefits before finalizing a divorce, and materials that specifically explain the difference between the two large categories of retirement plans: Defined Contribution (account-based plans such as 401(k)s) and Defined Benefit (known colloquially as "pension" plans). The most common error cited by retirement plan administrators is that individuals will



submit an order designed for the wrong type of plan. If individuals submit a flawed order of this type, the QDRO process may be delayed.

Finally, another possible solution that has come up consistently throughout the Center's discussions with various stakeholder communities is the creation and use of model or template QDROs. This concept is discussed in greater detail in a later section. However, in designing a public education program, consideration should be given as to the feasibility of including model orders in public education materials provided directly to individuals going through divorce, and what disclaimers or additional instruction would be necessary.

### *Partnering with the Retirement Plan Community*

Retirement plans can be a valuable partner in helping to educate and inform individuals who may be impacted by the QDRO process. When these individuals and the family law bar are better informed about the QDRO process, it makes the QDRO process simpler, faster, and less costly for all parties involved, including retirement plan administrators.

During its information gathering process, the Center met with several individuals and organizations involved in administering various types of retirement plans. These included administrators that sponsor both single employer and *multiemployer* plans. Multiemployer plans are created through collective bargaining by at least one union and more than one employer in that union's industry. Some are national in scope and are very large and others are more localized. Multiemployer plans are administered by a board of trustees consisting of equal numbers of union and employer trustees. We also met with the PBGC, which administers approximately 5,000 defined benefit plans. Through these conversations, we have been able to identify several helpful public education practices currently used by some retirement plans that could form the basis for recommendations for industry-wide best practices recommendations.

A significant challenge with this approach is that most contact with retirement plans is limited to the benefit-earner, and not with that person's current or former spouse. Educational efforts by retirement plans may require direct outreach specifically to spouses of individuals participating in retirement plans, who are considered beneficiaries under the plan and who enjoy independent rights to receive plan information and disclosures. These rights terminate at divorce unless, and until, a QDRO is approved by the retirement plan that restores the former spouse's right to receive both benefits and plan information. As a result, there is a gap in communication at the time that former spouses may need it most.

At the same time it is also worth noting that working women, who may or may not have earned a retirement benefit, are currently still likely to have earned a smaller salary and thus a smaller retirement benefit than a male spouse. Women who receive general QDRO education about their

own retirement plans may benefit from that information when seeking a share of a retirement benefit that a former spouse has earned under a different retirement plan.

Many retirement plans hire outside companies or law firms specifically to provide QDRO administration services. These service providers may be a more appropriate conduit for public education efforts in some cases. The exact relationship between retirement plans and third party administrators varies dramatically depending on the plan's size and resources, and on the unique pricing and service models offered by different outside service providers.

Plans also vary by the frequency and methods of direct contact they have with benefit-earners. Larger and more resourced plans frequently operate informational websites or call centers and are able to disseminate more detailed information. Some plans already offer information on QDROs through annual educational meetings for potential benefit recipients, videos, and responses to FAQs or other materials. The PBGC, for example, has educational materials about QDROs and available educational resources that it automatically sends out to parties whenever it is informed of a pending divorce. Nevertheless, smaller plans or plans with fewer resources may not have the same capacity to provide information. The Initiative can work with large plans and industry groups representing small plans to develop resources for smaller plans to use when working to educate retirees and their current and former spouses.

While the laws governing QDRO administration are the same for both multiemployer plans and single employer plans, there are nuances between these types of plans that are especially relevant to public education. For instance, multiemployer plans are frequently connected to unions that operate local offices. These offices are visited by union members for a variety of purposes and could be points of contact for disseminating information and educational materials in addition to employers.

Moreover, because national multiemployer plans make up some of the country's largest plans, their reach is extensive. Some large multiemployer plans already have a practice of holding nationwide seminars in addition to local meetings and classes. This practice could be expanded to provide greater and more frequent QDRO information, and to specifically target other information for spouses, such as survivor benefits. Industries that employ a large number of unionized women could offer a particularly effective vector for increasing QDRO education for women.

Retirement plan administrators had several suggestions regarding the content and methods for distributing public education materials that could be developed by the Initiative. Specifically, impacted individuals as well as family law practitioners need education about basic distinctions between defined contribution and defined benefit plans. They also noted that family law attorneys and family law judges should be taught to prioritize timely submissions of QDROs to ensure that assets in the retirement plan are not depleted while a QDRO is pending or that benefit

rights awarded to the spouse do not become unavailable because the working spouse retires before the QDRO is finalized.

Methods for circulating these educational materials include: (1) developing universal QDRO educational materials that employers and plans can disseminate to impacted individuals; (2) creating and disseminating model or template QDROs; (3) organizing combined educational events with local bar associations; (4) developing a one-stop website for employers and plans to share best practices; and (5) coordinating a speaker's bureau, which could be piloted in one city and then expanded to other locations. In addition, it was noted that federal administrative agencies should be involved in reviewing materials and best practices to ensure that all materials and recommendations are legally compliant.

#### *Working with family law attorneys and judges*

**Belinda K. divorced her husband, who had been abusing her daughter. She did not have the money to hire a divorce attorney so she represented herself in her divorce. The divorce decree awarded her a share of her former husband's monthly pension benefit, but a QDRO was not obtained at the time of divorce. Belinda's former husband later returned to court with a Domestic Relations Order (DRO)<sup>11</sup> that failed to provide Belinda with a survivor benefit should he predecease her. The family law judge approved the DRO, even though Belinda was never notified to return to court or that a DRO was produced.**

Family law attorneys, judges, court staff, and mediators, as well as legal services providers, have direct contact with individuals going through divorce and are in a unique position to guide them through the QDRO process. Reliance on judges and courthouse resources, such as self-help centers, is even greater among self-represented individuals who do not have the assistance of an attorney, and make up a significant percentage of individuals going through divorce. However, many family law attorneys and judges are not informed about the QDRO process and do not understand: (1) how retirement plans work; (2) how to properly draft QDROs; (3) when to submit QDROs; or (4) the consequences that can result from a poorly drafted divorce decree, DRO or QDRO relating to a retirement benefit.

Various participants in the Center's information gathering activities, including family law professionals, have identified the need for more educational resources for family law practitioners. Retirement plan administrators have particularly cited the poor quality of DROs submitted by family law attorneys who are not QDRO experts leading the plan to reject the DRO, which then renders the QDRO process more complex, time-consuming, and costly.

---

<sup>11</sup> A DRO is a prospective QDRO that has not yet been approved by the retirement plan.

Retirement plan administrators who participated in the Center's roundtable discussions routinely indicated that family law attorneys who researched the retirement plan prior to drafting and submitting a prospective QDRO had dramatically higher success rates. They emphasized that plans are diverse, with a variety of rules and features. However, retirement plan rules and features are frequently very technical and navigating them often requires expertise that family law practitioners do not have the opportunity to develop in any context other than the QDRO process.

Family law practitioners who took part in the Center's information gathering process echoed that retirement plan operations are not well understood among the family law bar. The QDRO process essentially requires family law attorneys to step outside the field of law in which they are experts and to develop technical expertise in a totally separate field of law. One contributor also noted that many mediators do not understand retirement benefits, explaining that mediation is a stand-alone profession and that mediators are not required to understand family law or ERISA in order to work on divorce matters.

In addition, family law attorneys indicated that they do not have access to practical training resources on retirement matters. On the other hand, multiple participants from the retirement industry who have attempted to provide training and education to the family law bar reported meeting significant resistance or ambivalence among family law practitioners.

Without the needed expertise, family law attorneys are afraid of committing malpractice, and thus avoid proactive involvement in the QDRO process. A family law practitioner noted during one roundtable session that courts rely heavily on outside expertise during the QDRO process. However, family law attorneys are often overwhelmed, find the QDRO process frustrating, and aren't confident that accumulating QDRO expertise is ultimately worth the needed time and resources.

New training and educational opportunities for family law practitioners should be made available, but training alone is not sufficient. Educational efforts must overcome the psychological hurdles that discourage family law attorneys from attempting to better understand the QDRO process by providing a support network that goes beyond simple classes and informational materials. This approach is especially important for attorneys providing family law services through legal services providers or volunteer programs, as these organizations and programs experience high staff turnover. Sporadic training in these environments will be ineffective.

Retirement plan administrators also noted that problems often stem from the divorce decree itself, which must be resolved before further steps can take place. Retirement plan administrators also noted that problems often stem from the divorce decree itself. While a divorce decree *can* serve as a DRO itself and be qualified by a retirement plan on its own, it is more common that the divorce decree will not address the retirement benefit in sufficient detail.

In that case, a separate order must be drafted that is consistent with the divorce decree language addressing the retirement benefit. Frequently, however, divorce decrees will be so vague that there isn't even enough detail on which to base a DRO. It is also not uncommon that a divorce decree will include instructions that retirement plans are simply unable to follow. It is therefore important to provide education to family law judges as well as attorneys about the importance of ensuring that divorce decree language addressing retirement benefits be well drafted.

Participants in the information-gathering process flagged specific information that should be provided to family law practitioners and judges. Differences between defined contribution and defined benefit plans were among the most commonly recommended topics, as well as the availability and usefulness of model QDROs. They also stated that family law attorneys should, at the outset of the QDRO process, understand the retirement plan's approval procedures and rules as well as the benefit-earner's account or benefit information to avoid delays and potential rejection of the prospective QDRO. One contributor recommended that all family court judges as a matter of course should ask divorcing spouses if they understand each other's retirement benefits and are aware that those benefits can be split, including whether the parties have discussed splitting the benefits.

Contributors also stressed that the entire QDRO process should be completed during the divorce proceeding, even though common practice is to wait until the divorce is final to begin the process of obtaining a QDRO. Engaging in the QDRO process during a divorce proceeding ensures there is opportunity for the family law judge to address any problems that may arise during the QDRO process, including correcting the divorce decree, if necessary. It is also possible for the divorce decree itself to serve as a DRO for these purposes, and to become a QDRO if it meets the requirements for qualification.

Conversely, reopening a divorce case to address problems after the fact is an onerous process. Retirement plan representatives involved in QDRO administration noted that many family law practitioners don't know they have the option to draft and submit a DRO before the divorce is final. They also recommended that family law attorneys communicate with the plan in advance to make sure that the language included in the divorce decree and the DRO are understandable to the plan, and that they and the retirement plan have the same understanding of what the language actually means.

Potential solutions stemming from the Initiative include: (1) providing a checklist to both attorneys and judges detailing information that should be included in a DRO; (2) identifying a resource center that family law practitioners can call with specific questions; (3) creating a certification program for attorneys who are knowledgeable about QDROs to demonstrate that they meet objective standards of ability. Family law judges have also indicated that "bench books" or "bench cards" with more information about the QDRO process would be very useful. Some family law courts employ a master or magistrate with QDRO expertise to make QDRO-

related determinations. The Initiative could assist in facilitating recommendations for best practices for family law courts nationwide.

## **Increasing Access to Effectively Drafted QDROs**

Family law attorneys prefer to outsource QDRO drafting services to third parties, but in many areas there are few QDRO drafting experts relative to demand. Accessibility is even more challenging for low-income individuals, who may be unable to afford the fees charged by QDRO drafters and who, if self-represented, may not have an attorney to make a referral to a QDRO drafter.

Very few organizations provide free QDRO drafting services on a systematic basis. In fact, many legal services organizations do not provide family law services of any kind. It follows that involving legal services providers in efforts to increase QDRO access is not simply a matter of layering QDRO training on top of an existing framework for providing representation at divorce. This lack of legal services-based family law assistance also contributes to the high number of lower-income individuals who are self-represented at divorce, highlighting the need for QDRO solutions that cater directly to unrepresented divorce parties.

There are several organizations, however, that provide divorce representation and other legal services specifically to survivors of domestic violence or to other discrete groups. Trainings and other resources for these organizations could increase the availability of QDRO drafting services for a large segment of the impacted population and also create the foundation for replicable service models.

A particular challenge for low-income clients seeking means-tested legal services at divorce is that, because they are still married at the time, a spouse's retirement assets can disqualify them from eligibility for legal assistance. The Initiative should encourage legal services providers to exempt marital retirement assets from consideration when means testing. Legal services providers must also consider the impact that increased retirement income post-QDRO can have on other benefits, such as Social Security Insurance, state-funded income assistance, and low-income food and housing assistance programs.

Legal services providers that do not provide QDRO or family law services but receive inquiries from lower-income women about dividing retirement benefits at divorce are typically unable to provide referrals to affordable QDRO drafters because *pro bono* QDRO assistance simply does not exist in the client's area. Even when impacted individuals are able to pay, there are very few qualified QDRO drafting specialists relative to demand, which can result in large geographic areas that lack a single QDRO specialist and/or long wait times. Referrals to private family law attorneys are ineffective because family law attorneys usually do not draft QDROs, and those

that do often lack the expertise to do so effectively, which can cause the QDRO process to fail or to become unnecessarily complex and costly for both the client and the retirement plan.

The Center asked QDRO and retirement experts whether they would be willing to provide casework assistance to attorneys who have less QDRO expertise and who practice in other states. Answers were mixed. Some indicated that this may not be a feasible option because QDROs are still rooted in state divorce law, which can vary dramatically from state to state, noting concerns about providing bad information or possible malpractice exposure.

Others indicated that providing technical assistance to out-of-state attorneys may be a feasible solution because state law matters can be dealt with in the divorce decree, and QDRO experts could provide advice solely pertaining to the federally regulated QDRO process. The possible solution of developing partnerships between QDRO experts and legal services or other attorneys, especially in states that lack QDRO drafters, merits further exploration. The impact of state divorce law variations must be fully analyzed before the Initiative pursues the possible solution of training volunteer QDRO drafters.

Many parties obtain DROs drafted by companies that some have referred to as “QDRO mills,” often through a referral by a family law attorney. These companies specialize in drafting prospective QDROs for a flat fee, and some operate nationwide. Because there has never been meaningful academic or quantitative research specifically on QDROs, data does not exist to illuminate the scope of these companies’ activities. It is unclear how many of these companies exist, how many DROs they produce each year, or the quality of services they offer. Anecdotal discussions during our information gathering activities have revealed skepticism among some in the QDRO-drafting community as to the quality of the orders produced by these companies. Based on the pervasive problem of poorly drafted orders, further research as to the efficacy and legitimacy of mass QDRO providers is warranted.

Simply obtaining a DRO does not complete the QDRO process. Many family law attorneys refer their clients to third party QDRO drafter and end the representation. This leaves clients unrepresented during the process of actually submitting the DRO to the retirement plan for qualification and responding if the order is rejected by the plan. This is a point at which many impacted women fail to complete the QDRO process.

### *Model QDROs as a Means of Increasing Access*

Many, though not all, retirement plans offer model QDROs. Model QDROs are designed to help drafters of prospective QDROs meet that plan’s specific qualification requirements, and therefore a model QDRO is typically not useful, without significant modification, for plans other than the exact plan for which it was designed. Furthermore, model QDROs still require drafters

to include information specific to the facts of the particular divorce. Some retirement plans charge submission fees, which are taken out of the retirement benefit prior to distribution. Plans that offer model QDROs will sometimes waive this fee for parties who use the plan's model QDRO.

Retirement plan administrators universally agreed that model QDROs are among the most promising methods for increasing QDRO access while simultaneously making administration smoother and less costly for retirement plans. Larger, more resourced plans are more likely to offer model QDROs than smaller or less resourced plans.

There was some disagreement with respect to smaller plans that process few QDROs annually as to the ease and cost effectiveness of developing a model QDRO. Some individuals told the Center that these models pay for themselves, and that every retirement plan should have one. Others said that for smaller, less resourced plans, plan-specific checklists or other education materials for those seeking to submit prospective QDROs may be a better choice.

Many stakeholders outside the retirement plan community agreed that model QDROs have the potential to increase QDRO access, but some noted challenges that must be addressed for model QDROs to be an effective solution. For instance, Model QDROs for large, national plans often do not account for variances in divorce law from state to state. Plans in this case expect that the family law practitioner will take the federal and plan compliant language and add the necessary state provisions. Some family law practitioners with QDRO expertise noted that model QDROs may not comply with state law in their jurisdictions, and need to be modified to comply with such law.

Furthermore, some roundtable participants said that model QDROs do not enable enough customization to adequately address all individual circumstances. Others said that models may contain language that is designed primarily to benefit the retirement plan and can be disadvantageous to those getting the divorce. For instance, this occurs when model language removes the divorcing parties' right to sue the retirement plan for incorrectly administering benefits pursuant to the QDRO or for other errors. There was also concern that some retirement plans may have a greater sense of loyalty or duty to benefit-earners than to former spouses, and that the language in some model QDROs may therefore provide an inferior result for the former spouse compared to custom drafted and negotiated QDROs.

Family law practitioners who have worked with model QDROs said that such models do not always provide the benefits they are purported to offer. One family law attorney told of having submitted a model QDRO only to learn months later that the model no longer complied with plan rules that had been amended, or, in another case, that the order had been rejected because it contained a "miniscule" error.



Both retirement plan administrators and individuals who work with divorce parties during the family law process reported examples of misuses of model QDROs by family law attorneys. Model QDROs typically provide multiple options from which users must select and/or blanks that must be completed, however it is common for impacted individuals or their representatives to submit model QDROs without completing this information, resulting in the its rejection by the plan. Family law attorneys who are unfamiliar with the highly individualized nature of retirement plans frequently attempt to submit model QDROs that are designed for one retirement plan to a different retirement plan without attempting to adapt it. Another error that was identified occurs when attorneys alter the model's language to a point that it no longer complies with plan rules, causing the plan to reject it.

It is important for model QDROs to include detailed, clear instructions that educate users how to use them correctly. Ideally, plans offering model QDROs will have a hotline or other resources to help individuals attempting to fill out a model QDRO.

There was also significant concern that model QDROs are still too technical to be useful to the average person seeking a divorce, particularly those who are unrepresented by a family law attorney. Individuals who lack strong English skills are also likely to struggle to use model QDROs. Given that legal services providers typically use means testing that can disqualify people from getting services and frequently do not offer family law assistance, the potential for model QDROs to increase QDRO access may be limited.

### *Solutions Beyond the Model QDRO*

Three additional solutions for increasing QDRO access have been proposed: (1) a universal model QDRO, (2) an online model QDRO repository, and (3) automated QDRO drafting websites or software.

The Center was told by many individuals that a universal model QDRO is possible for defined contribution plans (individual account plans such as 401(k) plans) but not for defined benefit plans (pension plans). Others pointed out, however, that even QDROs for defined contribution plans must sometimes include highly technical information, such as a clear valuation date for the amount of money in the account and instructions to the plan for addressing outstanding loans made to the plan participant.

A universal model QDRO for defined contribution plans, ideally, could be made available to family law attorneys, legal services providers and other professionals working directly with impacted individuals. These models could be accompanied by educational materials and other training resources to ensure they are used effectively. Retirement plans could be enlisted to pre-approve the universal model and agree to waive submission fees when the universal model is

used. For defined benefit plans, many recommended creating a universal checklist of information that prospective QDRO drafters should gather from the plan as well as information needed when drafting a plan-specific QDRO.

Participants in roundtable discussions also considered the possibility of an online repository to which retirement plans can submit their existing plan-specific model QDROs. Some plans already make their model QDROs publicly available online. Responses to this solution were generally positive, but concerns were raised. An online repository would create the risk that model QDROs could fall out of date as participating plans are amended, and would require regular monitoring. There was also concern that making plan-specific QDROs more readily accessible online could increase the frequency with which attempts are made to use one plan's model QDRO for an entirely different plan without sufficiently adapting the QDRO to the second plan.

A third solution is the development of algorithmic software or online tools to help individuals who are not experts in QDRO-drafting to produce prospective QDROs. This tool would be similar to existing websites that enable non-attorneys to draft documents such as wills, leases, powers of attorney, and other common legal instruments. At least one company has already developed such a website for use by family law attorneys in California with plans to expand to other states in the near future. The Center is also aware of a third party retirement plan administrator that processes QDROs on behalf of retirement plans and allows benefit-earners under those plans to use its website to fill out model QDROs that reflect the user's answers to specific questions.

## **Streamlining the QDRO Submission Process**

**Kara M.'s divorce decree awarded her 50 percent of her former husband's 401(k) benefit. The retirement plan was advised of the divorce, and properly froze benefit distributions while it waited for the parties to submit a DRO. Kara was able to obtain an attorney to draft a DRO for her. However, her former husband refused to execute the DRO and without the approval of her former husband or the divorce court the DRO could not be submitted to the plan for qualification. Her former husband's noncooperation delayed the submission process. During that time, Kara died. Because a QDRO was not in place, Kara's anticipated share of the 401(k) remained with her former husband and was not inherited by her children as she wanted. Relatives reported that Kara's former husband had been harassing her on the phone every night about the QDRO and pressuring her to share privileged information that she had discussed with her attorney. They believe that the stress from his harassment exacerbated a preexisting illness, which played a role in Kara's death.**

A DRO is not a QDRO. A DRO that correctly reflects the benefit division in the divorce decree and complies with the retirement plan's rules is nonetheless useless until it is approved by the retirement plan. In the course of our research, the Center identified many scenarios in which a divorced woman had obtained a DRO that was never qualified and, as a result, did not receive the benefits that she had been awarded in her divorce decree. In some cases, a woman incorrectly believed that the DRO alone was sufficient to secure her retirement benefits, only to learn much later that she would receive nothing. In other cases, a woman was impeded from submitting a DRO to the plan for qualification. And in many cases, a DRO is submitted to the retirement plan, but is rejected because it fails to meet the plan's qualification requirements.

It is common for family law attorneys to represent clients during the divorce proceedings, refer them to a QDRO drafter, and then provide no further representation. Many QDRO drafting specialists do not provide services beyond simply producing a DRO. This means that parties are often on their own during important steps in the QDRO process, including obtaining the consent of the former spouse and/or family law court to submit a DRO for qualification, properly submitting the DRO to the appropriate plan, and ensuring that the plan determines the DRO to be qualified, making it a QDRO.

Many problems highlighted in this section would be mitigated if family law practitioners sought to complete the QDRO process concurrently with the divorce process, and family law courts did not close out a divorce until the DRO has been qualified by the retirement plan. While most divorce decrees are not written to act as DROs for QDRO purposes, it is possible to draft a divorce decree to act as a DRO that can also meet retirement plan qualification requirements. However, this is not common practice. Most parties do not begin the process of obtaining a QDRO until after the divorce is complete. Some participants in the Center's information gathering process said family law practitioners do not know that it is an option to simultaneously produce both orders or to include QDRO provisions directly in the divorce decree. Others noted that family law judges face high volume and are under pressure to remove matters from their dockets without insuring the completion of the QDRO process.

#### *Failure to Submit a Prospective QDRO in Time*

Many divorce parties do not understand that a DRO should be submitted for approval immediately. Until a QDRO is approved by the retirement plan, the benefit is vulnerable. For instance, the benefit-earner could die, resulting in a survivor benefit being paid to someone other than the former spouse, or the survivor benefit disappearing entirely because the retirement plan is not aware that there is anyone due a survivor benefit. The benefit-earner could also remarry and then divorce that new spouse, who could then obtain her own DRO and submit it for qualification first.

The benefit-earner could also take all of the benefits out of the plan as a lump sum distribution before a DRO is submitted. The benefit-earner's former spouse or her divorce attorney can take proactive steps to prevent such a distribution, to a degree. Retirement plans typically need time after a DRO is submitted to determine whether it is qualified and will respond to a submission by placing a hold on benefit distributions that can last up to 18 months. Therefore, a party can potentially trigger this hold by submitting a divorce decree or other "provisional DRO" to the retirement plan. The exact requirements to trigger a hold will vary from plan to plan. However, a retirement plan cannot keep a hold on an individual's earned retirement benefit indefinitely because benefit-earners have a right to receive their benefits. Plan administrators will typically allow benefit distributions after 18 months unless there are extenuating circumstances. Most, though not all, family law attorneys and other family law practitioners stated that it is not common practice for family law attorneys or self-represented litigants to attempt to trigger a hold because they are unaware of this practice.

The question arose during information gathering conversations as to whether retirement plans should advise parties to submit a QDRO. Many retirement plan administrators expressed concern that this would be overstepping, as they do not want to insert themselves into the personal lives of benefit-earners and there may be valid reasons why the parties elected not to seek a QDRO. They did, however, note that retirement plans should always determine the marital status of benefit-earners before beginning retirement benefit distributions, and require submission of a divorce decree in the case of divorced participants.

### *Obstacles to QDRO Completion and Submission*

**Janet L. escaped her abusive husband, losing access to her husband's income and assets. While her husband was financially secure, Janet had no money of her own because she had not worked while they were married. The divorce decree awarded Janet half of her former husband's 401(k) account and pension benefits, which was already being disbursed to her former husband as a monthly distribution of \$6,000. However, three weeks after the divorce, before a DRO could be submitted, Janet's former husband took a lump sum distribution of his entire 401(k) account. Janet was later able to find an attorney willing to draft a QDRO for her *pro bono*, however her former husband and his attorney refused to comply with the QDRO process. They would not provide benefits information that her attorney needed and refused to sign off on the DRO. Her former husband's actions delayed the QDRO process for several months, during which time Janet's only option was to live in public housing because of a lack of income. Janet and her attorney were forced to return to court several times during this process. Her former husband began to cooperate only after the court threatened to hold him in contempt. Once the DRO was qualified by the retirement plan she received \$3,000 each month from her former husband's pension benefit and was able to leave public housing.**

Even if a former spouse of a benefit-earner is aware of the need to obtain and submit a DRO quickly, she can still face obstacles to submission. It is not unusual for the benefit-earner to refuse to comply with the QDRO process in order to prevent a former spouse from obtaining the benefits she has been awarded at divorce. This can include refusing to execute an order, which forces the former spouse to again return to court to enforce her rights. The Center is aware of situations in which spiteful benefit-earners have acted against their own financial interests and/or faced contempt charges simply to keep their former spouse from accessing the benefit. We are aware of at least one case in which the benefit-earner, whose benefit was divided at divorce and who was also the retirement plan administrator, *went to jail* rather than comply with a court order to pay benefits to his former spouse.<sup>12</sup>

There is also a concern that individuals who have earned retirement benefits from a defined contribution plan will intentionally make poor investment choices in order to prevent a former spouse from enjoying the benefit. This is another reason to submit a DRO as quickly as possible. A defined contribution plan can segregate benefits between a benefit-earner and the benefit-earner's former spouse so that the former spouse can make her own investment decisions for her share of the benefit, if the plan or the QDRO so provide.

Benefit-earning spouses can also interfere with a former spouse's ability to submit a DRO by refusing to provide needed information about the retirement plan. This can include hiding assets, as well as refusing to provide information about the value of the benefit or the retirement plan's qualification requirements and submission procedures. But refusal to provide needed information is not limited to spouses.

Retirement plans owe a duty of confidentiality to the individuals who have earned benefits from them. Some retirement plans are very forthcoming with general information that applies to the overall plan. However, retirement plans are protective of information relating to benefits earned by a specific individual and many will not provide any information without the benefit-earner's written consent or a subpoena. This includes whether a benefit was earned at all as well as the nature and monetary value of the benefit.

Current spouses of benefit-earners have the right to receive information about the benefit because, as beneficiaries of the plan, they are automatically entitled to receive a portion of the benefit if they outlive their benefit-earning spouses. This right is lost when the parties divorce.

---

<sup>12</sup>It is not unusual for one of the divorcing parties to be the retirement plan administrator when the retirement plan is sponsored by a small employer, such as a family-owned business or doctor's office. Another scenario occurs when one of the parties to the divorce is friends with the plan administrator, or the plan administrator otherwise has personal knowledge of the events leading up to the couple's divorce. This situation is much less likely to occur in large, corporate plans or plans that employ a third-party administrator to process QDROs.

The former spouse's rights to information will be reinstated upon the execution of a QDRO that provides her with a share of the pension benefit.

This creates a period of ambiguity between the finalization of the divorce and the finalization of the QDRO process during which former spouses must obtain specific information from the plan to obtain a QDRO, but must get a QDRO to obtain specific information from the plan. It is particularly difficult for former spouses to navigate through these obstacles if they had no legal representation during the divorce proceeding or the services of their counsel has ended before a QDRO is approved.

The Department of Labor's stated position in its public education materials is that individuals who can show they are planning to submit a DRO for qualification have a right to receive information from retirement plans about a former spouse's retirement benefit. However, formal regulations state only that the Department has the authority to request this kind of information on behalf of former spouses, rather than providing former spouses the right to obtain information on their own. In our discussions with many different stakeholder communities, few retirement plan administrators or family law practitioners are aware of this guidance.

Self-represented divorce litigants and family law attorneys should be educated to obtain as much information about the retirement benefits as possible before the divorce is final and the benefit-earner's spouse ceases to be a beneficiary. Meanwhile, best practices for family law courts should include a requirement that parties sign written consent forms that authorize retirement plans to share specific benefit information. Such forms can also serve to notify plans of a request to freeze benefit distributions and provide a standardized list of retirement plan information that parties will need to obtain a properly drafted QDRO, including a copy of the plan's rules, a copy of its QDRO submission requirements, and a copy of the plan's model QDRO, if it has one.

A question arose during conversations with retirement plan administrators as to whether plans should notify former spouses when there is a reason to believe a benefit-earner may be concealing assets. Some noted that retirement plans have an obligation, first and foremost, to comply with the law, and that they must not be complicit in a benefit-earner's efforts to subvert the law or avoid complying with a valid divorce decree. They also raised the point that transparency during the QDRO process could potentially help plans avoid litigation if a benefit was later discovered by the benefit-earner's former spouse after the benefit-earner had already begun receiving benefit payments.

For instance, if the benefit-earner submits a divorce decree to a retirement plan in order to demonstrate that the benefit-earner is no longer married and that the former spouse is no longer a plan beneficiary, and the divorce decree fails address the retirement benefit, the plan might issue a letter to both parties indicating that it was unable to qualify the divorce decree because it failed to expressly award benefits to the former spouse. This would have the effect of notifying the former spouse about the retirement benefit.

However, others noted that plans owe a fiduciary duty to the benefit-earner and have an obligation to keep information private. Accordingly, plans should not actively assist benefit-earners in attempts to lie or mislead former spouses, but should also not take proactive steps to assist either party in the divorce.

### *DROs that Fail to Meet Plan Qualification Requirements*

**Patricia H. is low-income, speaks Spanish, and is living with a disability. She was awarded a share of her former husband’s pension benefit at divorce, but she was unable to obtain a QDRO at that time. After her former husband retired and began receiving monthly benefit payments from the plan, she located an attorney willing to draft a prospective QDRO for her *pro bono*. However, this attorney was a volunteer and was not trained in employee benefits law. The DRO was rejected by the plan because it was written for a 401(k) plan rather than a pension plan.**

It is also extremely common for parties or their representatives to submit poorly drafted DROs to retirement plans that do not meet the qualification requirements. Plan administrators who participated in the information gathering process noted that they frequently receive DRO submissions so flawed that it would be impossible to administer the benefit per their instructions. This may be because the order lacks meaningful instruction, is unclear as to how the plan is supposed to divide the benefit, contains erroneous information, or asks the plan to act in a manner that violates the plan’s rules.

Common types of errors that were cited by plan administrators during the information gathering process include:

- Submitting a DRO designed for defined contribution plans to a defined benefit plan, or vice versa (the most common issue);
- Naming the wrong retirement plan in the QDRO;
- Submitting a DRO to a defined contribution plan that explains how the former spouse’s share of the benefits in the account should be calculated using language that is unclear or vague, or failing to address important factors like valuation date or loans that the benefit-earner has taken out against the account;
- Failing to identify in the DRO when the former spouse may begin receiving benefit payments;
- Requiring a retirement plan to distribute a benefit using a method that the plan’s rules do not allow (e.g., the DRO requires the retirement plan to pay benefits out to the former spouse as a single lump sum, but the plan does not offer lump sum payments); and
- Providing for distributions from a retirement plan prior to the date the benefit-earner is eligible to begin receiving distributions.

Retirement plan administrators as well as QDRO drafting experts noted that these kinds of problems do not necessarily start with the DRO, if it is a separate order from the divorce decree, but can also stem from the divorce decree itself. DROs must reflect the information contained in the divorce decree. However, reopening a divorce in order to correct a divorce decree is a cumbersome process. This reinforces the need for family law courts to keep divorce matters open until the retirement plan has qualified the DRO, as it will enable parties to make needed changes to the divorce decree. In addition to creating DRO checklists for family law attorneys, the Initiative should consider creating checklists of information that judges can reference when drafting or approving a divorce decree.

Retirement plans should strive to make a free pre-submission review process available and to encourage parties and family law attorneys to use it. One family law attorney participating in a roundtable discussion noted that an executed DRO should never be submitted to the plan administrator until it has been approved, because if the DRO is executed but not approved, the plan will treat this as a formal submission, potentially triggering additional fees or a longer review process.

Family law attorneys also noted that it is difficult to correct problems with DROs if retirement plans do not provide an explanation as to why the original DRO submission was deficient. One family law practitioner noted that, despite being legally required to do so, many retirement plans fail to create and publish clear submission procedures. In addition, it can also be difficult to determine who the plan administrator is or who to contact with questions.

It was also noted at multiple roundtable discussions that a plan's interpretation of language contained in a DRO or even a QDRO may differ from that of the lawyer who drafted the DRO. QDRO drafters should be encouraged to supplement the DRO with a plain language explanation of what is intended or to otherwise communicate to the plan exactly how she or he intends the benefit to be divided to ensure the plan administrator has the correct interpretation before finalizing the QDRO. In order to avoid miscommunication, some plans have adopted a best practice of explaining their interpretation of a QDRO to the parties that includes information as to what to expect going forward.

### *Fees*

Some defined contribution plans charge submission fees that range from a starting point of \$300 to as much as \$1,800.<sup>13</sup> Fees are deducted from the benefit distribution and do not present an

---

<sup>13</sup> Investment News, Clients getting divorced may encounter hidden 401(k) fees (January 23, 2017), <https://www.investmentnews.com/article/20170123/FREE/170129988/clients-getting-divorced-may-encounter-hidden-401-k-fees>



immediate barrier to QDRO access, but do reduce the amount of retirement benefits and can be detrimental to low-income individuals or individuals who have earned small benefits. It is unclear whether such fees influence divorce parties' decisions to submit a QDRO.

Employers and retirement plans use submission fees to cover the cost of QDRO administration, which is among the most expensive aspects of benefits administration. Streamlining the QDRO submission process could potentially lead to a lower fee structure and reduce the assessment of multiple fees based on the need to submit multiple versions of DROs for qualification.

Retirement plans frequently contract with third party administrators (TPAs) to provide their QDRO administration services. The law requires retirement plans to ensure QDRO submission fees are "reasonable," which results in a subjective standard. Fees can vary significantly depending on the level of service provided by the TPA and the pricing that has been negotiated by the retirement plan. For instance, pre-submission DRO review services or a phone hotline for benefit-earners and former spouses with QDRO questions will likely increase the cost of services, which will in turn increase fees.

Smaller plans that see infrequent DRO submissions are less likely to use a TPA for QDRO administration and are more likely to rely on an outside law firm to review QDROs, because TPA pricing tends to favor larger plans. However, using a law firm rather than a TPA tends to generate a higher cost per QDRO without providing services such as a hotline number. Plan administrators who spoke to the Center noted that particularly complex or difficult factual situations (discussed further in the next section) also frequently require the advice of outside legal counsel, rendering QDROs in these cases particularly costly. More generally, the lack of understanding of the QDRO process among divorcing parties and family law practitioners leads to increased workloads for retirement plans and multiple submissions of poorly drafted QDROs, thus increasing the administrative workload for plans and driving up costs and fees.

## **Additional Complicating Factors**

**Mary W. obtained a divorce from her abusive husband, but did not obtain a QDRO at that time. Seven years later, Mary located a QDRO drafting attorney who was willing to assist her *pro bono*. After the attorney explained that her former husband would need to be notified if she sought to pursue her share of the benefit by seeking a QDRO and that his benefit would likely be reduced, Mary decided not to pursue the share of the benefit that she had been awarded.**

Even when all the steps of the QDRO process are followed and a QDRO is created and put on file with a retirement plan, unforeseen circumstances can occur. Complex family law situations

can make the process of approving a prospective QDRO more complex, even to the point of requiring retirement plans to bring court actions to obtain clarity. Parties who obtain a QDRO may learn years later at the onset of benefit distributions that the QDRO did not address all expectations. At this point, it may be too late to make changes. Finally, the QDRO process also creates scenarios which have the potential to disproportionately harm members of some discrete populations, such as survivors of domestic violence, members of the LGBT community, and non-U.S. citizens residing here who may also have limited English proficiency.

### *Complex Family Law Situations*

**Jack J. was married six times. He did not obtain a legal divorce from any of his first three wives. He and his fourth wife did engage in divorce proceedings, and his fourth wife obtained a QDRO awarding her a share of his retirement benefit. Jack's fifth wife, however, brought a court action to have Jack's marriage to his fourth wife declared invalid because he was still legally married to his first wife, thus nullifying his fourth wife's QDRO.**

Cases like that of Jack J. and his spouses are surprisingly common, although most cases only involve two or three spouses. Many married individuals who have separated from a spouse do not undergo formal divorce proceedings and may later remarry. This is particularly common among lower income individuals or other individuals for whom there are barriers to accessing the court system.<sup>14</sup> Problems can also arise when a benefit-earner goes through multiple divorces, and has multiple spouses who obtain competing DROs. In cases involving defined contribution plans, which allow survivor benefits to be paid to a benefit-earner's children, conflicts can arise between the children and one or more former spouses.

Retirement plans find themselves caught in the middle, and must dedicate significant time and resources to resolving these types of conflicts. Plans must often consult with outside legal counsel or even bring court actions to obtain a legal determination authorizing them to distribute a benefit to one or more parties. These types of complex family law scenarios can dramatically increase the cost of QDRO administration for retirement plans.

---

<sup>14</sup>It should be noted that lack of access to divorce can also be a barrier to QDRO access. When a benefit-earner and a spouse become estranged without formal proceedings, there is no mechanism for ensuring that the estranged spouse receives a share of the benefits. While QDROs can be awarded without a divorce, such as in the case of a legal separation, this still requires action by a court or state administrative agency.

### *Errors Discovered After the Fact*

**Gina D. was married to her husband, a truck driver, for fifteen years until they divorced in the late 1980s. Her husband did not disclose the existence of a retirement benefit at divorce. Gina recalls her attorney writing him a letter noting his failure to disclose the retirement benefit and has a vague recollection that her attorney filed something with her former husband's retirement plan. Her former husband died in the early 2000s, but Gina only recently learned that he had earned a substantial pension benefit from a large union plan. His second wife is currently receiving a survivor benefit from the plan. Gina reached out to the retirement plan, which asked to speak with her old divorce attorney, however she has not been able to get in touch with the attorney who represented her during her divorce.**

One of the largest surprises that can occur after the completion of the QDRO process is the discovery of assets that had not been addressed in the divorce. Sometimes benefit-earners willfully hide assets at divorce to keep a former spouse from accessing them. However, the Center frequently hears from individuals who learn after the divorce proceeding that they were entitled to benefits that the couple did not know about or consider.

Unfortunately, the latter case presents a greater obstacle for the benefit-earner's former spouse. Recourse is limited because it is often extremely difficult to reopen a divorce once it has been finalized. In many jurisdictions, a divorce can only be reopened to address new assets or if undisclosed assets were concealed through fraud. The burden of proof typically falls on the former spouse to demonstrate that the failure to disclose was willful and meets the elements of fraud. Conversely, in some jurisdictions, courts have greater flexibility to address honest mistakes or reopen a divorce case where the parties mutually agree to revisit the benefit division. However, as one family law attorney noted, when the missing asset is discovered decades later it may not be possible to locate the other party.

Practitioners have observed that individuals who earned benefits under multiemployer plans are in a better position to hide assets. Participants in multiemployer plans are likely to have earned benefits under several plans, thus enabling them to disclose some assets without revealing the existence of others.

Moreover, it is not uncommon for a QDRO to contain language that can have unintended effects for the couple or cause ambiguities years later. The Center has received numerous inquiries concerning the cessation of monthly distributions to a benefit-earner's former's spouse upon the death of the benefit-earner. Under federal law, a benefit-earner's spouse is automatically entitled to monthly pension payments worth at least half of what the benefit-earner received while he was alive. However, the retirement plan must be put on notice that the benefit-earner is married because it will slightly reduce the benefit-earner's lifetime payments to account for the payment of survivor's benefits. A retirement plan cannot be compelled to pay the survivor benefit in this case because it would result in an overpayment of benefits.

Plans are sometimes willing to qualify a DRO posthumously. This occurs when a divorce decree awards a survivor benefit to a benefit-earner's former spouse but the benefit-earner has died before a DRO could be submitted to the retirement plan. Plans are more likely to consider posthumous QDROs if the benefit-earner died shortly after divorce and the parties were already in the process of obtaining a QDRO.

It is also common for family law practitioners to submit a *shared payment* QDRO when a *separate interest* QDRO would have been in the best interest of the benefit-earner's former spouse. The shared payment method divides every benefit payment so that the benefit-earner's former spouse receives a portion of each payment made to the benefit-earner, and only when the benefit-earner receives a payment. By contrast, the separate interest method assigns a portion of the entire benefit to the benefit-earner's former spouse, rather than a part of each payment, which gives the former spouse separate and distinct rights. For example, if a benefit-earner chooses to work past normal retirement age and to delay commencement of benefit payments, a separate interest QDRO will allow the former spouse to begin taking benefit payments anyway, whereas a shared payment QDRO will not.

Whether the QDRO uses the separate interest method or the shared payment method has a significant impact on what happens to the benefit after the benefit-earner dies. If the QDRO uses the shared payment method, any payments to the former spouse will stop unless she has been expressly awarded a survivor benefit under the divorce decree and the QDRO. If the QDRO uses the separate interest method, the former spouse will continue to receive the retirement benefits awarded to her and can also receive a survivor benefit based on the remaining share of the benefit if it has been awarded by the QDRO. This will also allow the former spouse to designate a survivor beneficiary for her share of the benefit.

Shared payment QDROs may be appropriate in situations when a benefit-earner must rely on income from retirement benefits to make alimony or child support payments. However, a separate interest QDRO is more appropriate for ensuring the independent retirement security of a benefit-earner's former spouse. Once a benefit-earner retires and begins receiving benefit payments, any QDROs must use the shared payment method because a retirement plan cannot change the method by which it makes benefit payments once the benefit-earner has begun receiving payments. This is also another reason for which it is important to submit a DRO for qualification at the time of divorce and not at the time of retirement.

**Janice F. obtained a separate interest QDRO at divorce entitling her to her own share of her former husband's pension benefits. It also awarded Janice a survivor benefit based on her former husband's remaining share of the benefit if he predeceased her. However, her former husband had already misrepresented to the plan that Janice was not entitled to a share of his benefit, so the plan allowed him to take an unreduced single life annuity that did not provide a survivor benefit. Because Janice had a separate interest QDRO she was able to continue to receive benefit payments even after her husband's death.**

Problems can also occur when the value of a benefit changed or was corrected after the issuance of a QDRO. Benefit miscalculation is one of the most common issues faced by clients of the Center and the pension counseling projects with which it works. Even in the case of defined contribution plans, like 401(k) plans, with typically straightforward valuations of benefits, a scrivener's error can cause a retirement plan to incorrectly report the value of a benefit in its disclosures.

QDROs can be drafted in such a way that accounts for the possibility of a change in value by specifying the percentage of the benefit a former spouse should receive and the exact method for calculating that percentage. However, the Center is aware of a case in which a QDRO specified the dollar amount of the share that the retirement benefit should pay to the former spouse. It was later discovered that the value of the benefit had been grossly overstated by the plan administrator at the time of divorce. As a result, the dollar amount of the benefit payable to the former spouse that was stated in the QDRO now exceeded the value of the entire benefit even though it was not the parties' intent that the former spouse should receive the entire benefit. During the Center's information gathering activities, we were also made aware of several other cases in which a complex technical issue caused the expected value of the benefit to change after the issuance of a QDRO, and at least one such case in which the parties later had to return to court to renegotiate the benefit division.

DROs should also contemplate any potential tax ramifications for each benefit recipient. Special consideration should be given in defined contribution plans to the order and amount of distributions from each category of investments. In one case brought to the Center's attention, the QDRO failed to specify the source of funds to be used for distributions to the benefit-earner's former spouse. The plan distributed funds only from pre-tax assets when the account had also received substantial after-tax contributions. This resulted in a large tax liability for the benefit-earner's former spouse which could have been avoided if the QDRO specified that distributions should be made from after-tax assets.

In another case, a DRO was submitted to a defined benefit plan that contained language specifying a valuation date, which is only appropriate under a defined contribution plan. Defined contribution plans typically fluctuate in value every day because their assets are invested in the stock and/or bond market. Thus, it is appropriate to specify that the plan should divide defined contribution assets in the plan as of a specific date. Defined benefit plans, however, take into account the amount of time that a benefit-earner has worked when calculating the size of the benefit-earner's retirement benefit. The longer the benefit-earner works, the larger the benefit grows. By mistakenly including a valuation date for dividing benefits earned under a defined benefit plan, the QDRO unintentionally froze the amount of the benefit the former spouse could receive.

## *Protecting Vulnerable Communities*

**Mary R. was originally from a foreign country. She and her former husband represented themselves during their divorce, and the divorce decree divided her former husband's pension benefit between them. Mary never obtained a QDRO. Later, her former husband misrepresented to his retirement plan that Mary wasn't entitled to a share of the retirement benefit and the plan began paying him his monthly pension benefits. When Mary obtained the assistance of a *pro bono* attorney willing to help her obtain a QDRO, her former husband began threatening to have her deported. Luckily, Mary's attorney explained that her former husband did not have that power and ultimately helped Mary to obtain a fair share of the retirement benefit. Without legal representation, the former husband's threats may have deterred Mary from pursuing her benefit rights.**

The QDRO process can give rise to situations in which members of certain communities may have specific needs to which retirement plan administrators and other professionals should be sensitive. Retirement plan administrators must protect the contact information of survivors of domestic violence and implement procedures to avoid inadvertent disclosure of a survivor's contact information to an abusive former spouse. Retirement plan administrators who participated in the information gathering process indicated that retirement plans are usually willing to qualify DROs in which a party's contact information has been redacted or left blank. If alerted to the situation, many retirement plans will also take additional measures to protect a survivor's contact information, such as keeping the contact information in a separate electronic file from other materials to avoid accidental disclosure.

The QDRO process also creates a situation in which retirement plan staff may be alerted to the fact that a benefit-earner has been married to a same-sex spouse. Retirement plan staff should exercise awareness that the benefit-earner may not wish to reveal this information to coworkers, and should establish procedures to ensure that this information is not disclosed to others including the benefit-owner's co-workers.

Some individuals with limited English-speaking and comprehension skills may require extra assistance to fully understand their benefit rights from plan documents and disclosures that are available only in English. Retirement plans should have a procedure for obtaining appropriate translation services when needed. They also should be sensitive to situations in which disproportionate power dynamics are at play, such as a case in which only one spouse speaks English or is a U.S. citizen.

Retirement plans should also have procedures in place to address benefit payments for individuals who do not have a bank account and are unable to accept payments by direct deposit.

## Appendix

### **The Center consulted representatives of the following organizations during the information gathering process which informed our views<sup>15</sup>:**

AARP	National Caucus and Center on Black Aging
ABA Commission on Domestic and Sexual Violence	National Clearinghouse on Abuse in Later Life
American Council of Life Insurers	National Council of Juvenile and Family Court Judges
American Retirement Association	New England Pension Assistance Project
Ascensus	O'Donoghue & O'Donoghue LLP
Bank of America	Pension Benefit Guaranty Corporation
Boeing	QDRO Counsel
Bredhoff & Kaiser PLLC	SAGE
Central States Pension Fund	Schuchat, Cook & Werner
Cohen, Weiss & Simon LLP	Schwartz, Steinsapir, Dohrmann, & Sommers LLP
Court of Common Pleas, Philadelphia County, Family Division	Seattle Divorce Services
D.C. Volunteer Lawyers Project	Service Employees International Union
District of Columbia Courts Family Court Self-Help Center	Slevin & Hart, P.C.
Dow Chemical	South Central Pension Assistance Project
Family Mediation Services, Inc.	TIAA
Fidelity Investments	Trucker Huss APC
Groom Law Group, Chartered	Upper Midwest Pension Assistance Project
Harriett Buhai Center for Family Law	U.S. Administration for Community Living
Leadership Conference on Aging Organizations	U.S. Chamber of Commerce
Legal Counsel for the Elderly	The Wagner Law Group
Mid-Atlantic Pension Assistance Project	Weinberg Roger & Rosenfeld
Mooney Green, Saindon, Murphy & Welch, P.C.	Western States Pension Assistance Project
National Automatic Sprinkler Industry Pension Fund	WISER

---

<sup>15</sup> This report was written by the Pension Rights Center and does not necessarily reflect the views of the above organizations.