

## **BENTLEY UNIVERSITY RETIREMENT PLAN**

### **Procedures for Determining the Qualified Status of a Domestic Relations Order**

As of January 1, 2013

1. **Definitions.** The following Procedures will be used in determining the qualified status of a domestic relations order received with respect to the “**Plan**” listed above. For purposes of these Procedures,
  - an “**Order**” is a written order signed by a judge or certified by a clerk of court issued pursuant to a state domestic relations law and relating to the assignment of all or a portion of a Participant’s benefits under the Plan;
  - a “**Qualified Order**” is an Order determined to be a qualified domestic relations order within the meaning of section 206(d)(3) of ERISA and, where applicable, Section 414(p) of the Internal Revenue Code in accordance with these Procedures;
  - a “**Participant**” is a current or former employee of Bentley University (the “University”) who has an undistributed accrued benefit under the Plan at the time the Order is received by the Plan Administrator;
  - an “**Alternate Payee**” means any spouse, former spouse, child or other dependent of a Participant who is recognized by the Order as having a right to receive all or a portion of the Participant's benefits under the Plan; and
  - the “**QDRO Administrator**” means, unless otherwise designated by the Plan Administrator (as defined under the Plan), the University’s Director of Benefits who shall determine the qualified status of Orders.
2. **Notification.** When an Order is received, the QDRO Administrator will promptly notify the Participant and each Alternate Payee that it has received the Order and will provide the Participant and each Alternate Payee with a copy of these Procedures. All notices and other correspondence to the QDRO Administrator shall be sent to:

Director of Benefits  
Bentley University  
175 Forest Street  
Waltham, Massachusetts 02452

All notices or other correspondence to the Participant or an Alternate Payee with respect to an Order shall be sent to the address for such person set out in the Order, or if none, to the last known address for such person on the records of the University's Human Resources Department. A Participant and an Alternate Payee may each designate a representative to receive copies of notices and correspondence with respect to an Order. An individual identifying himself or herself as a lawyer, professional mediator or arbitrator representing the Participant or Alternate Payee, or both, shall be presumed to be a duly authorized representative of such party unless and until the QDRO Administrator or Plan Administrator is notified by the party to the contrary or is notified by a succeeding lawyer, professional mediator or arbitrator.

**3. Participants Not in Pay Status.**

- (a) **Receipt of Actual Order.** Where a Participant is not already in pay status under the Plan, upon receipt of an Order, the QDRO Administrator shall make reasonable efforts to suspend new distributions and loans with respect to the Participant's benefits under the Plan pending determination of the qualified status of the Order.
- (b) **Receipt of Draft Order, etc.** Where a Participant is not already in pay status under the Plan, and the QDRO Administrator receives:
  - (i) a draft order for preliminary review,
  - (ii) a request for a model order, or
  - (iii) other information suggesting that an Order may be sought,and in each of cases (i), (ii) or (iii) above, the QDRO Administrator determines in his or her discretion that an Order will likely be sought and received within 90 days, the QDRO Administrator shall make reasonable efforts to suspend new distributions and loans with respect to the Participant's benefits under the Plan for 90 days. If an Order is not received within the initial 90 day period, the QDRO Administrator may extend the period of suspension by an additional 30 days upon determination in his or her discretion that an Order will likely be received within the 30-day extension period.
- (c) **Investment Direction, Contributions Levels, etc.** Suspension of distribution or loan activity under this Paragraph 3 shall not affect a Participant's ability to direct investments or change elective contribution levels under the Plan during the period of suspension.

4. **Permissible Provisions.** An Order will not fail to be a Qualified Order merely because:

- (a) the Order requires establishment of a separate account under the Plan in the name of the Alternate Payee pending distribution to the Alternate Payee, funded with all or a portion of the Participant's Account balance, provided, however, that Participant loans under the Plan shall not be available to fund an Alternate Payee's separate account;
- (b) the Order requires or permits distribution to an Alternate Payee prior to the time the Participant would be entitled to a distribution under the Plan.

Additionally, an Order issued after the Participant's death, divorce, or annuity starting date, or subsequent to an existing Qualified Order, will not fail to be treated as a Qualified Order solely because of the timing of issuance.

5. **Determination of Qualified Status.** The QDRO Administrator will determine whether an Order is a Qualified Order based upon the requirements for qualification under section 414(p) of the Internal Revenue Code and section 206(d)(3) of ERISA, and will notify the Participant and the Alternate Payee(s) of the determination. The QDRO Administrator will make the determination and notification under this Paragraph 5 within a reasonable period of time after the Order is received, which period may vary depending on when the first payment under the Order would be made if it were determined to be a Qualified Order and such facts and circumstances as the QDRO Administrator may deem relevant. No QDRO Administrator shall make a determination with respect to an Order that directly affects himself or herself.

6. **Claims Procedures.** The Participant or an Alternate Payee may file a claim for a review of the determination under Paragraph 5, or a distribution made pursuant to the Order in accordance with the applicable Plan's procedures for the filing and review of claims generally.

7. **Participant in Pay Status When Order Received.** In cases where a Participant is already in pay status under the Plan, during the period in which the issue of whether the Order is a Qualified Order is being determined (by the QDRO Administrator under Paragraph 5, by a court, or otherwise), the Plan will, to the extent that the amount of benefits payable under the Order can be determined, delay payment of and separately account for any amounts that would be payable to the Alternate Payee(s) during such period if the Order were determined to be qualified. If the Order is determined to be a Qualified Order before the expiration of the 18 month period beginning with the date (after receipt of the Order by the Plan) on which the first payment would be required to be made under the Order (the "18 month period"), the Plan will pay any amounts separately accounted for under this Paragraph to the person(s) entitled to such amounts. If the Order is determined not to be a Qualified Order before the expiration of the 18 month period, or if at the expiration of the 18 month period the issue as to whether the

Order is a Qualified Order is not resolved, any amounts separately accounted for under this Paragraph will be paid to the person(s) who would have been entitled to such amounts if there had been no Order. If the Order is determined not to be a Qualified Order before the expiration of the 18 month period and the QDRO Administrator has notice that the parties are attempting to rectify any deficiencies in the Order, the Plan Administrator or the QDRO Administrator may in his or her discretion continue to delay payment of any amounts in accordance with this Paragraph for up to 90 days from such determination but in no event later than the expiration of the 18 month period. If the Order is determined to be qualified after the expiration of the 18 month period, such determination shall be applied prospectively only and the Plan will make only those payments to the Alternate Payee(s) that are required under the Order to be made after the determination date.

8. **Amendment.** These Procedures may be amended in any manner (including without limitation, retroactively) and at any time by a writing signed by the Plan Administrator or its delegate. In addition, the Plan Administrator, together with the QDRO Administrator, shall have full discretionary authority to interpret and administer these Procedures pursuant to the administrative provisions of the Plan.

ADOPTED:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title