

Minnesota  
Deferred Compensation Plan (MNDCP)  
Marriage Dissolution Guide





3. This Order applies to the Minnesota Deferred Compensation Plan (“MNDCP” or “Plan”) administered by the Minnesota State Retirement System (“MSRS”) pursuant to Minn. Stat. §352.96. The Plan is a defined contribution plan within the meaning of the Internal Revenue Code, 457(b).
4. [Petitioner or Respondent] (hereinafter “Participant”) has an MNDCP account.
5. The Decree requires a transfer of a portion of the Participant’s MNDCP account to [Petitioner or Respondent] (hereinafter “Alternate Payee”) pursuant to a Domestic Relations Order.
6. The Participant’s current address is [ ] and [his/her] date of birth is [ ].
7. The Alternate Payee’s current address is [ ] and [his/her] date of birth is [ ].
8. The Participant and the Alternate Payee must notify MSRS, 60 Empire Drive, Suite 300, St. Paul, MN 55103-3000, of any change of address.

### Identifying information (3-8)

This section identifies which MSRS account is to be divided by the court order. If there are multiple MSRS plans to be divided, separate language is required for each plan. This section also identifies the Participant and the Alternate Payee and requires them to keep a current address on file with MSRS.

9. This Order assigns to the Alternate Payee an amount equal to **[insert option 1, 2, or 3.]**

**Option 1:** [number] percent of the Participant’s total MNDCP account balance as of [date], which is the date of division. The total MNDCP account balance includes all money types (pre-tax, Roth, and rollover) and shall not include any contributions to the Plan that occur after the date of division. Any investment gains or losses from the date of division to the date of transfer shall be pro-rated between the Participant and the Alternate Payee.

-OR-

**Option 2:** \$ [dollar amount] of the Participant’s total MNDCP account balance as of [date], which is the date of division. The total MNDCP account balance includes all money types (pre-tax, Roth, and rollover) and shall not include any contributions to the Plan that occur after the date of division. Any investment gains or losses from the date of division to the date of transfer shall be pro-rated between the Participant and the Alternate Payee.

-OR-

**Option 3:** \$ [dollar amount] of the Participant’s total MNDCP account balance. The total MNDCP account balance includes all money types (pre-tax, Roth, and rollover) and shall not include any contributions, gains or losses to the Plan that occur.

10. A separate MNDCP account in the name of the Alternate Payee shall be established by MSRS. The amount or percentage specified in paragraph 9 shall be transferred and deposited into the Alternate Payee’s account using the same investment option percentages as the Participant’s account. If the MNDCP funds are in the self-directed brokerage account (SDBA) and are subject to the division, the Participant will liquidate the SDBA funds required to satisfy the division and transfer the liquidated funds to the core MNDCP funds.

### Assignment of benefits and account structure (9-10)

This section is critical because the terms of the division are detailed. The benefit awarded can be a percentage or a dollar amount. If the award specifies a division date, any investment gains or losses from the date of division to the date of transfer shall be pro-rated between the two parties. If no division date is specified, the awarded dollar amount will be transferred with no investment gains or losses.

**NOTE:** Due to recordkeeper changes, MSRS only has access to quarter-end balances for the MNDCP, Unclassified Plan and HCSP accounts prior to July 1, 2009. The order must specify a quarter-end division date after June 30, 1999, because MSRS cannot determine investment gains or losses before that date.

**Each party’s Social Security number must be provided separate from the order.**

11. The Alternate Payee shall have control over the investment allocation of their MNDCP account, once established.
12. The Alternate Payee may elect any option available under the MNDCP for withdrawal or transfer of funds in their MNDCP account, once established.
13. The Alternate Payee shall be responsible for any applicable taxes on distributions from the Alternate Payee’s MNDCP account.

### Alternate Payee (11-13)

Explains the Alternate Payee’s rights and responsibilities.

### Beneficiary designation, benefits after death (14-16)

Informs the Participant and the Alternate Payee that they are able to name the beneficiary of their respective accounts, unless the court specifies otherwise. Also specifies what occurs upon the death of the Participant and Alternate Payee.



14. The Alternate Payee may designate a beneficiary of their MNDCP account in accordance with the terms of the Plan.
15. In the event of the Alternate Payee's death prior to receiving the full amount assigned under the Order, the remaining amount shall be paid to the Alternate Payee's beneficiary(ies) as designated to MSRS, or, in the absence of a beneficiary designation, in accordance with the terms of the Plan.
16. Should the Participant predecease the Alternate Payee, the Participant's death shall in no way affect the Alternate Payee's right to the portion of the MNDCP account as ordered herein.

### Limitations on order (17)

Ensures that the Order will be administered consistently with federal and state law and the terms of the Plan.



17. This Order is not intended, and shall not be construed in such a manner as to require the Plan to provide any type or form of benefits or any option not otherwise provided under the Plan; to pay more than the amount payable under the terms of the Plan; to assign any benefits or payments previously required to be paid to another alternate payee; or to require any payment or option inconsistent with any federal or state law, rule, regulation, or judicial decision.

### Errant payments (18)

Explains how an errant payment will be handled.



18. In the event that the Plan pays to one party any payment or benefit that is assigned to the other party, the party receiving the errant payment shall reimburse the other party within ten days of receipt of the errant payment.

### Court jurisdiction (19)

Explains that the Court retains jurisdiction over the domestic relations order.



19. The Court retains jurisdiction over this matter to amend this Order and to enter such further orders as are necessary to enforce the assignment of the Participant's MNDCP account to the Alternate Payee as set forth herein.

**LET JUDGMENT BE ENTERED ACCORDINGLY.**

Dated: \_\_\_\_\_

[Name of Judge]

JUDGE OF DISTRICT COURT

## Divorce Checklist - MNDCP

The following checklist should assist all parties of a marriage dissolution in addressing the MNDCP account during a divorce proceeding. This checklist may help prevent delays in the request for MSRS to divide the MNDCP assets. Nothing contained in this checklist should be construed as tax, financial, or legal advice.

- ❑ **Review sample language.** Sample language that MSRS administers is included in this publication. If MSRS is provided with a judgment and decree that includes acceptable direction for the division of MNDCP assets, a separate DRO may not be required.
- ❑ **Draft the judgment and decree or the DRO, if any.** To learn what language may be incorporated into the decree or DRO, please refer to the *Sample Domestic Relations Order to Divide a Minnesota Deferred Compensation Account*.
- ❑ **Prior to filing with the court, provide MSRS with a draft of the proposed judgment and decree and the DRO, if any.** It is critical that MSRS review the draft prior to filing with the court to ensure that MSRS is able to administer the provisions of the order. If MSRS is unable to administer the DRO as written, it may be necessary to return to court for clarification.
- ❑ **After filing with the court, provide MSRS with a certified copy of the final judgment and decree or the DRO, if any.** The MNDCP assets cannot be divided until MSRS has the final court document. To learn more, see *Transferring MNDCP assets to the Alternate Payee*.
- ❑ **Provide MSRS with each party's Social Security number.** This must be separate from the order.
- ❑ **Complete a *Beneficiary Designation* form if your former spouse was one of your beneficiaries.**

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### DOMESTIC RELATIONS ORDER

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A certified copy of the judgment and decree or domestic relations order (DRO) must be submitted to MSRS.



*If MSRS is provided with an acceptable judgment and decree, that MSRS can administer, a separate DRO may not be required.*

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### OUT-OF-STATE ORDERS

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MSRS requires a certified copy of the original out-of-state court order and documentation from a district court that the order was filed in Minnesota.

# Minnesota Deferred Compensation Plan (MNDCP)

During a marriage dissolution proceeding, the court may decide to divide the assets of the Minnesota Deferred Compensation Plan (MNDCP) account between the parties. Minnesota State Retirement System (MSRS) will provide the value of the MNDCP account to the court, the parties to a marriage dissolution, their attorneys, and an appointed actuary, upon receipt of a written request pursuant to Minn. Stat. §356.49.

A certified copy of the judgment and decree or domestic relations order (DRO) must be submitted to MSRS. If MSRS is provided with an acceptable judgment and decree, a separate DRO may not be required.

## Designating a beneficiary

Upon divorce, MSRS is required by Minn. Stat. §524.2-804 to remove a beneficiary designation naming a former spouse and by the MNDCP Plan document to remove other beneficiaries. To re-designate a former spouse or other beneficiary(ies) after a divorce, the *Beneficiary Designation* form must be completed and returned to MSRS. Keep in mind, the court may require the participant to reinstate the former spouse as a beneficiary.

## Transferring MNDCP assets to the Alternate Payee

If the court order is acceptable, a portion of the MNDCP account will be transferred to a new account established solely for the Alternate Payee (former spouse). The MNDCP account can be split after the participant has received withdrawals from the account.

A new account will be created even if the alternate payee already has an MNDCP account. Upon receipt by MSRS of an acceptable order, the Alternate Payee's account will be established within four weeks.

The amount transferred to the alternate payee's account is determined by:

- instructions in the divorce decree or DRO;
- the effective date of the division; and
- investment gains or losses in the account since the effective date of the division. Investment gains or losses from the date of division to the date of transfer shall be pro-rated between the participant and alternate payee.

## Alternate Payee's rights

Following the division of the MNDCP plan assets, the alternate payee can:

- modify the account investment allocation.
- designate a beneficiary.
- request withdrawals of the assets transferred to an account in their name. Please note: If the alternate payee is currently employed by a Minnesota public employer and has their own MNDCP account, until they terminate employment, they can only access the account balance attributed to the marriage dissolution.

## Contact Us – We're Here To Help!

If you have any questions regarding a marriage dissolution in regards to your HCSP account, please contact an MSRS representative or schedule an appointment at one of our offices.

Questions?    

Phone: 1.800.657.5757 or 651.296.2761 Fax: 651.297.5238

Web: [www.msrs.state.mn.us](http://www.msrs.state.mn.us) Email: [info@msrs.us](mailto:info@msrs.us)