

DRAFT

NORTH CAROLINA PUBLIC SCHOOL TEACHERS' AND PROFESSIONAL EDUCATORS' INVESTMENT PLAN

WHEREAS, the North Carolina Department of State Treasurer (the "Department") has established an approved third-party investment program, named the North Carolina Public School Teachers' and Professional Educators' Investment Plan (the "Program"), which is designed to qualify under § 403(b) of the Internal Revenue Code of 1986;

WHEREAS, the Program is governed and overseen by the Department and the North Carolina Supplemental Retirement Board of Trustees (the "Board");

WHEREAS, the Department and the Board maintain a Base Plan Document and an Adoption Agreement for the North Carolina Public School Teachers' and Professional Educators' Investment Plan 403(b) Volume Submitter Plan (collectively, the "Plan Documents"), which can be used by adopting employers in the Program; and

WHEREAS, the Board desires to amend the Base Plan Document and the Adoption Agreement to include community colleges as eligible Employers (as defined in the Plan Documents), clarify the Board's flexibility in naming and replacing a Funding Agent for the Program (as defined in the Plan Documents), and to various clarifying revisions;

NOW, THEREFORE, be it

RESOLVED, that, effective September 15, 2016, the Plan Documents be and hereby are amended in the following respects:

1. The provisions of the Base Plan Document included in Attachment 1 are amended as indicated in Attachment 1; and
2. The provisions of the Adoption included in Attachment 2 are amended as indicated in Attachment 2.

**Attachment 1 to the Board Resolution dated September 15, 2016
Amendments to the Base Plan Document for the NC 403(b) Program**

“Disability” means a disability within the meaning of Code section 72(m)(7).

“Elective Deferral Contributions” means pre-tax contributions by an Active Participant as described in Section 3.2(a).

“Eligible Employee” means an Employee eligible to participate in the Plan as specified in the Adoption Agreement.

“Employee” means a common law employee of a State performing services for a Public School of the State, including an individual who is appointed or elected, where the compensation is paid by the State. Further, a person occupying an elective or appointive public office is not an Employee performing services for a Public School unless such office is one to which an individual is elected or appointed only if the individual has received training, or is experienced, in the field of education. A public office includes any elective or appointive office of a State.

“Employer” means the plan sponsor named in the Adoption Agreement. No other employer will be included in this definition of Employer and employees of any such other employer are not eligible to participate in this Plan.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Funding Agent” means the vendor(s) identified in the Adoption Agreement and retained by the Program Administrator to provide the Funding Agent’s services in this Plan Document. Funding Agent also includes the affiliates and vendors of the entity in the previous sentence~~TIAA-CREF, its affiliates, and vendors.~~

“Funding Vehicles” means the terms of the annuity contract(s) as defined in Code sections 403(b)(1) and 401(g) and custodial account(s) provided by the Funding Agent which are incorporated herein by reference.

“Hour of Service” means the unit of time credited to an Eligible Employee for purposes of determining whether he or she has completed a Year of Service. Except as provided in the Adoption Agreement, an Eligible Employee will be credited with Hours of Service as follows:

- (a) Each hour for which an Eligible Employee is paid, or entitled to payment, for the performance of duties for the Employer, which will be credited to the Eligible Employee for the computation period in which the duties are performed;
- (b) Each hour for which an Eligible Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence, except that no more than 501 Hours of Service will be credited under this subsection (2) for any single continuous period (regardless of whether such period occurs in a single computation period);

- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer, except that the same Hours of Service will not be credited both under subsection (1) or subsection (2), as the case may be, and under this subsection (3), and these Hours of Service will be credited to the Eligible Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made.

“Investment Funds” means the investment fund(s) available for the investment of a Participant’s Account that are held inside a Funding Vehicle.

“Loan Administration Policy” means the policy establishing the requirements and operational provisions of the Plan’s loan program.

“Matching Contributions” means matching contributions made by the Employer pursuant to Section 3.3(a).

“Non-elective Contributions” means non-elective contributions made by the Employer pursuant to Section 3.3(b).

“North Carolina Public School Teachers' and Professional Educators' Investment Plan” means the program established pursuant to N.C. Gen. Stat. §§115C-341.2 and 115D-25.4, for 403(b) plans sponsored by K-12 school districts and community colleges in the State of North Carolina under which the Department of State Treasurer and the Board of Trustees for the North Carolina Supplemental Retirement Plans, as Program Administrator, selects and contracts with Funding Agent(s) to provide recordkeeping and other services to the Code section 403(b) plans participating in the program.

“Participant” means an Eligible Employee or a former Eligible Employee who is entitled to any benefits under the Plan.

“Plan” means the plan identified in the Adoption Agreement.

“Plan Administrator” means the Plan Administrator, as specified in the Adoption Agreement. If no Plan Administrator is specified or the Plan Administrator ceases to exist for any reason, the Employer shall be the Plan Administrator. In no event shall the Program Administrator be the Plan Administrator and any such designation in the Adoption Agreement shall be null and void.

“Plan Year” means the calendar year, unless otherwise provided in the Adoption Agreement.

“Program Administrator” means the Department of State Treasurer and the Board of Trustees for the North Carolina Supplemental Retirement Plans.

**Attachment 2 to the Board Resolution dated September 15, 2016
Amendments to the Adoption Agreement for the NC 403(b) Program**

The undersigned Eligible Employer, by executing this Adoption Agreement for the North Carolina Public School Teachers' and Professional Educators' Investment Plan 403(b) Volume Submitter Plan ("Adoption Agreement"), elects to establish or restate a 403(b) plan ("Plan") as provided below. This Adoption Agreement is intended to be used only with the North Carolina Public School Teachers' and Professional Educators' Investment Plan 403(b) Volume Submitter Plan Base Plan Document ("Base Plan Document").

ITEM 1: GENERAL INFORMATION

1.1 PLAN SPONSOR/EMPLOYER INFORMATION

- a. Name of Plan Sponsor/Employer: _____
- b. Address: _____
- c. City, State, Zip: _____
- d. Phone #: _____ e. Fax #: _____
- f. EIN: _____ g. Plan Number: _____
- h. Fiscal Year-End: _____ i. Plan Year-End: _____
- j. Contact Email Address: _____
- k. Institution Type. The Employer is a public school educational organization described in Code section 170(b)(1)(A)(ii) and is a K-12 School District (e.g., with primary, secondary and/or high schools) or a community college.

1.2 GENERAL PROGRAM INFORMATION

- a. Name of Plan: _____
- b. Effective Date (check one):
 - (1) New Plan. The Plan's Effective Date is: _____.
 - (2) Restated Plan. The Plan's restated Effective Date is: _____.
The Plan's original Effective Date was: _____.
- c. The Plan is a governmental plan within the meaning of Code section 414(d).

1.3 PLAN ADMINISTRATOR

ITEM 4: PLAN EXECUTION

By signing this Adoption Agreement the Employer hereby certifies that it (1) is a governmental public school entity eligible to participate in the North Carolina Public School Teachers' and Professional Educators' Investment Plan that is exempt from the nondiscrimination requirements in Code section 403(b)(12), (2) has received a copy of the Base Plan Document, (3) accepts the terms and conditions of such Base Plan Document and any related services agreements between it, the Funding Agent, and the Program Administrator, (4) acknowledges that it has relied upon its own advisors regarding the completion of this Adoption Agreement, (5) understands or has been advised by its own legal and tax advisors of the legal and other tax implications of adopting the Plan, including, but not limited to, the requirements of Code section 403(b), (6) has had legal counsel review and revise the Plan and Adoption Agreement to ensure that the Plan and Adoption Agreement comply with all applicable state and local law requirements, (7) understands that the Program Administrator has reserved the right to amend the Plan as necessary to ensure that the form of this Adoption Agreement and the Base Plan Document remains in compliance with applicable Internal Revenue Service requirements, (8) the failure to properly complete this Adoption Agreement may result in the loss of favorable tax treatment for the Plan, (9) substantial modification of the Adoption Agreement and/or Base Plan Document, including through the use of Section 3 of this Adoption Agreement may result in the Plan being considered an individually designed plan not covered by the Plan's Internal Revenue Service advisory letter, and (10) understands that this Adoption Agreement can only be used with the Base Plan Document.

The Employer further understands that (1) it will be informed by the Program Administrator's representative of any amendments made to the Adoption Agreement or Base Plan Document, including the discontinuance or abandonment of the Plan and (2) the Program Administrator's representative can be contacted for information about the adoption of the volume submitter plan, the meaning of volume submitter provisions, or the effect of the volume submitter plan advisory letter at:

North Carolina Department of State Treasurer Retirement Systems Division ~~TIAA-CREF~~
3200 Atlantic Avenue ~~PO Box 1299~~
Raleigh, NC 27604 ~~Charlotte, NC 28262~~

Attn:

Phone number:

IN WITNESS WHEREOF, the Employer has caused this Adoption Agreement to be executed by a duly authorized representative this _____ day of _____, 20__.

Attest:

Name of Employer

By:

Title: _____

Appendix A
Information Required By The Internal Revenue Service
(as of September 15, 2016, and subject to change by the Program Administrator)

- I. Plan Administrator: Plan Administrator From Item 1.3

- II. ~~Record Keeper~~ Funding Agent: Teachers Insurance and Annuity Association TIAA

- III. Funding Vehicles : TIAA Annuity Contracts
TIAA-CREF Trust Company, FSBJP Morgan Chase Custodial Accounts

This Appendix may be modified from time to time. A modification of this Appendix is not an amendment of the Plan.