

EMPLOYER COMPENSATION DEFINITIONS

Definitions of Compensation in the NC 401(k) and NC 457 Plans

These definitions are used to calculate employee and employer contributions.

NC 401(k) Plan

Section 1.08 of the plan document

“Compensation” means all salaries and wages prior to any reduction pursuant to Sections 125, 132(f), 401(k), 403(b), 414(h)(2), and 457 of the Code, not including any terminal payments for unused sick leave derived from public funds, which are earned by a Member while an Employee of an Employer. Compensation shall not include any payment, as determined by the Board of Trustees, for the reimbursement of expenses or payments for housing or any other allowances whether or not classified as salary and wages. However, Compensation for a Plan Year shall not exceed the Annual Dollar Limit. Notwithstanding the foregoing, effective as of January 1, 2004, with respect to a Member who is a member of the General Assembly contributing to the Legislative Retirement System, “Compensation” means salary and expense allowance paid to a Member for service as a legislator in the North Carolina General Assembly, exclusive of travel and per diem. Notwithstanding the foregoing, effective January 1, 2009, Compensation shall include differential wage payments within the meaning of Section 3401(h) of the Code.

Examples of items included in “compensation”

Note: This list is not intended to be exclusive.

- All salaries and wages
- Differential military pay (HEART Act)
- Deductions from pay that are contributed to the NC 457 Plan, NC 403(b) Program, or any other defined contribution plan of the employer under Internal Revenue Code section 457(b) or 403(b)
- Deductions in pay that are contributed to TSERS, LGERS, or other qualified defined benefit plan (pension)
- Deductions from pay for premiums for the State Health Plan or other health insurance

Examples of items excluded from “compensation”

Note: This list is not intended to be exclusive.

- Payout of unused sick leave upon termination of employment
- Expense reimbursements or allowances (e.g., for housing)
- Worker’s compensation
- Vacation/sick leave used with worker’s comp
- Paid parental leave (but see below)
- Group term life insurance premium (employer-paid)

EXCEPTIONS DUE TO COVID-19 ILLNESS OR EXPOSURE

Notwithstanding the above, the following are included in compensation if due to COVID-19 illness or exposure:

- Amounts paid to take care of non-sick children due to school closures; and
- Paid parental leave.

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NC 457 Plan

Section 1.08 of the plan document

The information required to be reported under Code §§ 6041, 6051, and 6052 (i.e., “Wages, Tips and other Compensation” on Form W-2), as modified by Code § 415(c)(3) and the Treasury Regulations and IRS guidance thereunder, and to include post-severance payments as defined by the final Treasury Regulations under Code § 415 and as may be deferred and treated as deemed compensation under Code § 415. Pursuant to the Heroes Earnings Assistance and Relief Tax Act of 2008, amounts paid as differential military pay are included in the Code definition of includible compensation. Includible Compensation does not include amounts treated as “deemed 125 compensation” because of an Employer’s requirement that its Employees participate in an Employer-sponsored health insurance program unless they state that they are provided health care coverage elsewhere.

Examples of items included in “compensation”

Note: This list is not intended to be exclusive.

- Form W-2, Box 1 compensation (“Wages, Tips, and Other Compensation”)
- Differential military pay (HEART Act)
- Deductions from pay that are contributed to the NC 401(k) Plan, NC 403(b) Program, or any other defined contribution plan of the employer under Internal Revenue Code section 457(b) or 403(b)
- Deductions in pay that are contributed to TSERS, LGERS, or other qualified defined benefit plan (pension)
- Deductions from pay for premiums for the State Health Plan or other health insurance
- Payout of unused sick leave upon termination of employment (contrast to NC 401(k) Plan)