

MEMORANDUM

TO: NC Supplemental Retirement Board of Trustees

FROM: Reid Chisholm, Assistant General Counsel

DATE: May 6, 2020

SUBJECT: Amendment to the base plan document for the NC 403(b) Program

The NC 403(b) Program offers a base plan document and adoption agreement for 403(b) plan sponsors (i.e., school districts and community colleges) that participate in the NC 403(b) Program. Plan sponsors are not required to use the program's documents, but they are offered as part of the program.

A provision in the base plan document provides that if the primary beneficiary dies after the participant but before the account is transferred to the primary beneficiary, then the participant's account is transferred to the contingent beneficiary instead of the primary beneficiary's estate. This is different than in the NC 401(k) and NC 457 Plans and in TSERS and LGERS, where, the primary beneficiary's estate receives the funds in the participant's account.

The amendment in the attachment would change the base plan document so that the primary beneficiary's estate would receive the proceeds from a deceased participant's account if the primary beneficiary survives the participant but dies prior to the establishment of the primary beneficiary's plan account.

Staff recommends that the Board approve the amendments in the attachment.

Attachment – Amendments to the Base Plan Document for the NC 403(b) Program

SPECIMEN DOCUMENT 05/28/2012/13/18

**North Carolina Public School Teachers' and
Professional Educators' Investment Plan 403(b) Volume Submitter Plan**

Base Plan Document

[Note: This document has been amended since the IRS issued its approval as a volume submitter 403(b) plan document on March 31, 2017.]

Section 7.2 Designation of Beneficiary

- (a) **Designation Process.** A Participant has the right to designate a Beneficiary to receive any benefits provided by the Plan under Article VI or Article VII after the death of the Participant. This designation of a Beneficiary will not be effective for any purpose unless and until it has been filed on an appropriate form by the Participant with the Plan Administrator. This designation will take effect prospectively only, and without prejudice to any payer or payee on account of any payments made before receipt of the appropriate form by the Plan Administrator.
- (b) **Legal Requirements.** Notwithstanding Section 7.2(a), the following provisions will apply:
- (1) **Spousal Rights.** A Participant's default Beneficiary will be his or her estate.
 - (2) **Changing a Designation.** A Participant may change his or her Beneficiary any number of times.
 - (3) **Disclaimer.** A Beneficiary may disclaim Plan benefits by filing a disclaimer with the Plan Administrator before the earlier of (a) the date a check for Plan benefits is sent to such Beneficiary, or (b) nine months after the Beneficiary becomes entitled to a benefit under the Plan. A disclaimer is valid only if it qualifies under Code section 2518 and is valid under applicable state law. If a Beneficiary timely files a disclaimer with the Plan, the benefits will pass as if the Beneficiary had predeceased the Participant.
 - (4) **Default Beneficiary.** If a Participant dies without having a valid Beneficiary designation in effect, the Participant's Account will be distributed to the deceased Participant's default Beneficiary.
 - (5) **Death of Beneficiary After Participant Death.** If the Beneficiary dies after the death of the Participant but prior to distribution of the Participant's Account, the Participant's Account will be distributed to the Beneficiary's estate~~Participant's contingent Beneficiary, or, if there is no contingent Beneficiary, to the Participant's default Beneficiary.~~