

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

Adoption Agreement

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

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 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**

a. *The Plan Administrator of this Plan is (check one):*

(1) ☐ Employer: \_\_\_\_\_

(2) ☐ Committee: \_\_\_\_\_

(3) ☐ Organization: \_\_\_\_\_

(4) ☐ Other: \_\_\_\_\_

**ITEM 2: PROGRAM SETUP INFORMATION****2.1 FUNDING VEHICLES**

- a. *Funding Vehicles.* The Funding Vehicles for this Plan are annuity contracts and custodial accounts provided by the Funding Agent.

**2.2 ELIGIBILITY AND ENROLLMENT**

- a. *Eligible Employees.* The following employees are Eligible Employees that are eligible to participate in the Plan (*check either (1) or (2)*).

- (1) ☐ *No Exclusions.* All Employees of the Employer are eligible to participate in the Plan.
- (2) ☐ *Exclusions.* All Employees of the Employer are eligible to participate in the Plan except the following, either as to all contribution types (if checked below) or to the designated contribution type (if checked below):

	All Contributions	Elective Deferrals	Matching Contributions	Nonelective Contributions
<input type="checkbox"/> No exclusions.	N/A OR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Non-resident aliens described in Code section 410(b)(3)(C).	<input type="checkbox"/> OR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Employees who normally work less than 20 hours per week ( <i>see below for explanation of this rule</i> ).	<input type="checkbox"/> OR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Employees eligible to participate in another Employer plan that is a 401(k) plan.	<input type="checkbox"/> OR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Employees	<input type="checkbox"/> OR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

eligible to participate in another Employer plan that is a 403(b) plan.				
<input type="checkbox"/> Employees eligible to participate in another Employer plan that is a governmental 457(b) plan.	<input type="checkbox"/> OR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Student employees performing services described in Code section 3121(b)(10).	<input type="checkbox"/> OR	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Note: An Employee normally works fewer than 20 hours per week if, for the 12-month period beginning on the date the Employee's employment commenced, the Employer reasonably expects the Employee to work fewer than 1,000 hours of service (as defined under Code section 410(a)(3)(C)) in such period, and, for each Plan Year ending after the close of that 12-month period, the Employee has worked fewer than 1,000 hours of service in the preceding 12-month period. Under this provision, an Employee who works 1,000 or more hours of service in the 12-month period beginning on the date the Employee's employment commenced or in a Plan Year ending after the close of that 12-month period shall then be eligible to participate in the Plan.

*b. Automatic Enrollment.* Automatic enrollment, as described in Section 2.4 of the Base Plan Document, ☐ shall/☐ shall not apply.

## 2.3 BENEFITABLE COMPENSATION

*a. General Definition.* For purposes of an Employee's Contribution Agreement, "Benefitable Compensation" means all cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses and overtime pay, that is includible in the Employee's gross income for the calendar year and amounts that would be cash compensation includible in gross income but for a reduction election under a cafeteria plan, a qualified transportation fringe benefit plan, a 401(k) plan, a 403(b) plan, or a 457(b) plan, subject to the elections in Items 2.3(b) and (c) below.

*b. Items to Include.* The following items are included in Benefitable Compensation for

purposes of all contributions under the Plan (*please check all applicable items; none is the default if nothing is selected*):

- (1) ☐ *Post-Severance Compensation.* Regular pay paid after Severance from Employment to the extent permitted under the Code.
  - (2) ☐ *Leave Cashouts.* Leave cashouts to the extent permitted under the Code.
  - (3) ☐ *Other (please describe).*
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c. *Items to Exclude.* The following items are excluded from Benefitable Compensation for purposes of all contributions under the Plan (*please check all applicable items; none is the default if nothing is selected*):

- (1) ☐ *Overtime.* Amounts classified as overtime by the Employer.
  - (2) ☐ *Bonuses.* Amounts classified as bonuses by the Employer.
  - (3) ☐ *Other (please describe).*
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## 2.4 CONTRIBUTIONS

a. *Employee Contribution Source Types:* Employee may make the following types of contributions to the Plan (*check all that apply*):

- (1) ☐ Elective Deferral Contributions.
- (2) ☐ Roth Elective Deferral Contributions.

b. *Catch-Up Contributions:* Catch-Up Contributions are (*check either (1) or (2)*):

- (1) ☐ *Permitted.* Employees may make the following Catch-Up Contributions to the Plan (*check (i), (ii), or both, as applicable*):
  - (i) ☐ Age 50 Catch-Up Contributions.
  - (ii) ☐ Qualified Educational Organization Catch-Up for Employees

With 15 Years of Service.

- (2) ☐ *Not Permitted.* Employees may not make any Catch-Up Contributions to the Plan.

c. *Roth Catch-Up Contributions:* Roth Catch-Up Contributions are (*check either (1) or (2)*):

- (1) ☐ *Permitted.* Employees may make the following Roth Catch-Up Contributions to the Plan (*check (i), (ii), or both as applicable*):
- (i) ☐ Age 50 Catch-Up Contributions.
- (ii) ☐ Qualified Educational Organization Catch-Up for Employees With 15 Years of Service.

- (2) ☐ *Not Permitted.* Employees may not make any Roth Catch-Up Contributions to the Plan.

d. *Matching Contributions:* Employer Matching Contributions are (*check either (1) or (2)*):

- (1) ☐ *Permitted.* The Employer will make a Matching Contribution in accordance with the following provisions:
- (i) *Matching Contribution Formula (check (A), (B), or (C)).*
- (A) ☐ The Employer will make a Matching Contribution to the Participant's Account equal to \_\_\_\_\_ cents (*insert a number from 1 to 100*) for each one dollar of an Active Participant's Employee's matchable savings contributions (as defined in Item 2.4(d)(1)(ii)). However, the Employer will not make Matching Contributions on an Active Participant's Benefitable Compensation above \_\_\_\_\_ % (*insert a number up to 100%*), up to a maximum of \$ \_\_\_\_\_ (*insert a dollar amount*).
- (B) ☐ The Employer will make a Matching Contribution to the Participant's Account equal to the following formula specified below:

Years of Vesting Service	Percent of Participant's Matchable Savings Contributions
At least _____	_____ %

At least _____ but not more than _____	_____ %
At least _____ but not more than _____	_____ %
At least _____ but not more than _____	_____ %
At least _____ but not more than _____	_____ %
_____ or more	_____ %

- (C) ☐ The Employer, at its sole discretion, may make Matching Contributions in an amount determined each Plan Year on behalf of each Participant who makes matchable savings contributions (as defined in Item 2.4(d)(1)(ii)). Discretionary Matching Contributions will be allocated to each Participant's Account on a pro-rata basis based on the ratio each Participant's matchable savings contributions for the Plan Year bear to the total matchable savings contributions from all Participants in the Plan.

- (ii) *Matchable Savings Contributions.* The Employer will make a Matching Contribution on the following Participant savings contributions (*check all that apply*):

- (A) ☐ Elective Deferral Contributions.
- (B) ☐ Roth Elective Deferral Contributions.
- (C) ☐ Catch-Up Contributions.
- (D) ☐ Roth Catch-Up Contributions.

- (iii) *Matching Period.* The Employer will make a Matching Contribution for each Matching Period. The Matching Period will be the following period (*check one*):

- (A) ☐ Payroll period.
- (B) ☐ Bi-weekly.
- (C) ☐ Monthly.
- (D) ☐ Quarterly.
- (E) ☐ Semi-annually.



(F) ☐ Annually.

(2) ☐ *Not Permitted.* The Employer will not make Matching Contributions.

e. *Nonelective Contributions.* Nonelective Contributions are (*check either (1) or (2)*):

(1) ☐ The Employer will make Nonelective Contributions in accordance with the following provisions (*complete (i) and (ii) below*).

(i) *Nonelective Contribution Formula.* The Nonelective Contribution formula will be determined as follows (*check (A), (B), or (C)*).

(A) ☐ *Discretionary.* The Employer, at its sole discretion, may make Nonelective Contributions to the Plan. Discretionary Nonelective Contributions shall be allocated on a pro-rata basis based on each Participant's Benefitable Compensation for the Plan Year.

(B) ☐ *Fixed.* The Employer will make a Nonelective Contribution equal to the following formula specified below (*check (I) or (II) below*):

(I) ☐ *Uniform Percentage.* A fixed \_\_\_\_\_% (*insert a number up to 100%*) of each Participant's Benefitable Compensation contributed to the Participant's Account each:

(a) ☐ Payroll period.

(b) ☐ Bi-weekly period.

(c) ☐ Month.

(d) ☐ Quarter.

(e) ☐ Six-month period.

(f) ☐ Plan Year.

(II) ☐ *Fixed Dollar Amount.* A fixed amount equal to \$\_\_\_\_\_ (*insert a dollar amount*) of each Participant's Benefitable Compensation contributed to the Participant's Account each:

(a) ☐ Payroll period.

- (b) ☐ Bi-weekly period.
- (c) ☐ Month.
- (d) ☐ Quarter.
- (e) ☐ Six-month period.
- (f) ☐ Plan Year.

(2) ☐ *Not Permitted.* The Employer will not make Nonelective Contributions.

f. *Rollover Contributions.* Rollover Contributions are (*check either (1) or (2)*):

(1) ☐ The Plan will accept Rollover Contributions in accordance with the following provisions (*check all that apply*).

(i) *Direct Rollovers (other than Roth Elective Deferrals).* The Plan will accept a direct rollover of an Eligible Rollover Distribution (other than Roth Elective Deferrals) from (*check all that apply*):

- (A) ☐ A tax-qualified plan described in Code section 401(a) or 403(a), excluding after-tax employee contributions.
- (B) ☐ A tax-qualified plan described Code section 401(a) or 403(a), including after-tax contributions.
- (C) ☐ A Code section 403(b) plan, excluding after-tax contributions.
- (D) ☐ A Code section 403(b) plan, including after-tax contributions.
- (E) ☐ An eligible governmental plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(ii) *Direct Rollovers of Roth Elective Deferrals.* If the Plan permits Participants to make Roth Elective Deferrals, the Plan may accept a direct rollover of an Eligible Rollover Distribution of Roth Elective Deferrals from a designated Roth Elective Deferral account under (*check all that apply*):

- (A) ☐ A tax-qualified plan described in Code section 401(a).

- (B) ☐ A Code section 403(b) plan.
- (iii) *Participant Rollover Contributions from Other Plans.* The Plan will accept Participant rollovers of eligible Rollover Distributions from (check all that apply):
- (A) ☐ A tax-qualified plan described in Code section 401(a) or 403(a), excluding after-tax employee contributions.
- (B) ☐ A Code section 403(b), excluding after-tax contributions.
- (C) ☐ An eligible plan under Code section 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.
- (iv) *Participant Rollover Contributions from Traditional IRAs.* The Plan ☐ will / ☐ will not (check one) accept a Participant rollover contribution of the portion of a distribution from an individual retirement account or annuity that is eligible to be rolled over and would otherwise be includible in gross income. The Plan will not accept a Participant rollover contribution of any portion of a distribution from a Roth IRA.
- (2) ☐ *Not Permitted.* The Plan will not accept Rollover Contributions.
- g. *Automatic Increase Program.* A Participant ☐ may/☐ may not elect to automatically increase his rate of Elective Deferral Contributions and/or Roth Elective Deferral Contributions. If the Participant fails to specify in his election which deferral type is to be increased, the increase is limited only to Elective Deferral Contributions. If the Participant elects to automatically increase his rate of Elective Deferral Contributions and/or Roth Elective Deferral Contributions, then such contribution(s) will increase annually by one percentage point up to a maximum rate of 8% as soon as administratively possible each year following the date selected by the Participant or, if no date is selected by the Participant, August 1.

## 2.5 VESTING

- a. *Vesting In Matching Contributions.* To extent that the Employer makes Matching Contributions, a Participant will vest in Matching Contributions in the following situations (check all that apply):
- (1) ☐ *Immediately.* All Employer Contributions are immediately 100% vested.
- (2) ☐ *Vesting Schedule.* According to the following vesting schedule:

Years of Vesting Service	Vesting Percentage
At least _____	_____ %
At least _____ but not more than _____	_____ %
At least _____ but not more than _____	_____ %
At least _____ but not more than _____	_____ %
At least _____ but not more than _____	_____ %
_____ or more	_____ %

- (3) ☐ Death of the Participant while an Employee.
- (4) ☐ Disability of the Participants while an Employee.
- (5) ☐ Once reaching age \_\_\_\_\_ (*insert age*).
- (6) ☐ *Other (please describe).*
- \_\_\_\_\_
- \_\_\_\_\_

*b. Vesting in Nonelective Contributions.* To extent that the Employer makes Nonelective Contributions, a Participant will vest in Nonelective Contributions in the following situations (*check all that apply*):

- (1) ☐ *Immediately.* All Nonelective Contributions are immediately 100% vested.
- (2) ☐ *Vesting Schedule.* According to the following vesting schedule:

Years of Vesting Service	Vesting Percentage
At least _____	_____ %
At least _____ but not more than _____	_____ %
At least _____ but not more than _____	_____ %
At least _____ but not more than _____	_____ %
At least _____ but not more than _____	_____ %

_____ or more	_____ %

- (3) ☐ Death of the Participant while an Employee.
  - (4) ☐ Disability of the Participants while an Employee.
  - (5) ☐ Once reaching age \_\_\_\_\_ (*insert age*).
  - (6) ☐ *Other (please describe).*
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c. *Computation Period for Calculating Years of Vesting Service.* The Computation Period for purposes of calculating Years of Vesting Service shall be (*check one*):

- (1) ☐ The Computation Period set in the Base Plan Document.
- (2) ☐ Each calendar year.

d. *Hours of Service Required for a Year of Vesting Service.* The following number of hours must be completed in a Computation Period for an Eligible Employee to be credited with a Year of Vesting Service (*check one*):

- (1) ☐ 1,000 Hours of Service.
- (2) ☐ Other \_\_\_\_\_ (*please insert number of Hours of Service not to exceed 1,000*).

e. *Counting of Hours of Service.* For purposes of counting Hours of Service under the Plan, the following rules shall apply (*check one*):

- (1) ☐ Hours of Service shall be determined based on actual hours as set forth in the Base Plan Document.
- (2) ☐ Hours of Service shall be determined based on an hours of service equivalency as follows (*check one*):
  - (i) 10 Hours of Service if a single actual hour is completed in the day.
  - (ii) 45 Hours of Service if a single actual hour is completed in the week.
  - (iii) 95 Hours of Service if a single actual hour is completed in the biweekly pay period.

- (iv) 190 Hours of Service if a single actual hour is completed in the month.

## 2.6 DISTRIBUTIONS

a. *Distribution Events.* In addition to permitting distributions after a Participant's Severance from Employment, a Participant may also elect to receive a distribution in the following situations (*check all that apply*):

- (1) ☐ Age 59.5. A Participant may receive a distribution when he or she reaches age 59.5.
- (2) ☐ Hardship Distributions. A Participant may receive a distribution when he or she incurs a hardship. The rules governing the determination of hardship are as follows (*complete (i) and (ii)*).
- (i) *Definition of Hardship.* The Plan's definition is hardship is:
- (A) ☐ The Internal Revenue Service's safe harbor definition of hardship.
- (B) ☐ Other (*please describe*).

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- (ii) *Plan Administrator Approval.* The Plan Administrator's approval ☐ is / ☐ is not (*check one*) needed for each hardship withdrawal request.
- (iii) *Employer Contributions.* A Participant ☐ may / ☐ may not receive a hardship distribution from Employer Contributions.
- (iv) *Rollover Contributions.* A Participant ☐ may / ☐ may not receive a hardship distribution from Rollover Contributions.
- (3) ☐ Severance. When the Employee has a Severance from Employment.
- (4) ☐ Disability. When the Employee becomes Disabled.
- (5) ☐ Qualified Reservist Distribution. When the Employee is eligible for a qualified reservist distribution as provided under Code section 72(t)(2)(G) and applicable guidance thereunder.

- (6) ☐ Deemed Severance From Employment While in Military Service. When the Employee is still considered an Employee but in military service and deemed to have had a Severance from Employment. Any distributions pursuant to this feature shall also trigger the mandatory suspension of contributions to the extent required by Code section 414(u)(12)(B)(ii).
- b. *Distribution Options.* Distributions from the Plan shall be paid as follows:
- (1) ☐ A lump sum payment of the Participant's Account.
- (2) ☐ Installment payments.
- (3) ☐ Annuity payments as provided under the terms of a Funding Vehicle.
- c. *Spousal Consent.* Spousal consent is required in the following situations (*check all that apply with the default rule being no consent is required if no election is made*):
- (1) ☐ Spousal consent is required to the selection of a distribution option other than that specified in Item 2.6(b).
- (2) ☐ Spousal consent is required to designate a beneficiary for post-death benefit payments that is other than a Participant's Spouse; provided that, the default beneficiary, regardless of spousal consent, is the Participant's estate, as provided in Section 7.2(b)(1) and Appendix A of the Base Plan Document.
- d. *Plan Loans.* Plan loans ☐ are / ☐ are not (*check one*) permitted. Plan loans are subject to the plan loan policy. If Plan loans are permitted, ☐ all Plan Participants (including former Employees with balances in the Plan and Employees not currently eligible to contribute to the Plan / ☐ only Plan Participants who are Active Participants (*check one*) are eligible to request a loan.
- f. *Transfers to Purchase Permissive Service Credit.* Transfers from the Plan to purchase permissive service credit in governmental defined benefit plans ☐ are / ☐ are not (*check one*) permitted.
- g. *Rollover Accounts.* Amounts rolled into the Plan from another plan and earnings on these rollovers ☐ are available for distribution at any time / ☐ are subject to the Plan's standard distribution rules (*check one*).
- h. *De Minimis Cashouts.* The Plan ☐ does / ☐ does not (*check one*) require that Accounts valued at \$5,000 or less be automatically distributed after a Participant's Severance from Employment. If the Plan requires that Accounts valued at \$5,000 or less be distributed, when determining the value of a Participant's Account, a Participant's Rollover Contributions and earnings on these Rollover Contributions ☐ will / ☐ will not (*check one if Accounts of \$5,000 must be distributed*) be counted in

determining whether an Account's value is more than \$5,000.



**ITEM 3:      ADDENDA**

The following additional terms shall supersede the terms and provisions of the Adoption Agreement and Base Plan Document, as applicable:

**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  
3200 Atlantic Avenue  
Raleigh, NC 27604  
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. Funding Agent: Prudential Retirement Insurance and Annuity Company
- III. Funding Vehicles : Prudential Bank & Trust, FSB Custodial Accounts

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