



North Carolina Retirement Systems

NC 401(k) & NC 457 Plans

MEMORANDUM

TO: Supplemental Retirement Board of Trustees

FROM: Reid Chisholm, Assistant General Counsel

DATE: December 4, 2025

SUBJECT: Amendments to the NC 401(k) and NC 457 Plans

Expanded distributions options

Staff recommends adding the following distributions options to the NC 401(k) and NC 457 Plans, as provided in the Internal Revenue Code.

- Qualified birth and adoption distributions: Parents would have the opportunity to withdraw up to \$5,000 upon the birth or adoption of a child and to recontribute the amount of the distribution within three years of receipt.
- Qualified reservist distributions: Participants who are members of the military reserves would have the option to make withdrawals if they are called to active service for at least 180 days or indefinitely.
- Deemed severance distributions: Participants who are on active military duty for at least 30 days could be treated as separated from employment and therefore eligible to make withdrawals. Participants who take Deemed Severance Distributions are prohibited from contributing to the plan for six months following a distribution, unless the distribution also qualifies as a Qualified Reservist Distribution (which is not subject to the six-month suspension). The NC 457 Plan already permits Deemed Severance Distributions, but staff recommends clarifying the current provision.

Use of forfeited contributions

Occasionally, employer contributions to the NC 401(k) or NC 457 Plan are forfeited, which means they are removed from a participant's account but are not returned to the employer; instead, the funds remain in the plan. For example, when excess employee contributions are returned to an employee, any employer matching contributions on such excess employee contributions are forfeited.

In the NC 401(k) and NC 457 Plans, forfeited funds are used to reduce future employer contributions, as stated in the Board's Policy on Plan Administration. However, the plan documents do not address the use of forfeited

funds in all situations. Therefore, staff recommends adopting general provisions in both plan documents to require the use of forfeited funds to reduce future employer contributions.

Unforeseeable emergency withdrawals

The NC 457 Plan allows participants to withdraw funds to pay for expenses related to certain unforeseeable emergencies, as described in U.S. Treasury Regulations. These regulations allow the consideration of expenses for a participant's beneficiary, spouse, and children. The NC 457 Plan currently allows consideration of a participant's beneficiary, spouse, and children, but the plan document needs to be updated to reflect these considerations.

Required minimum distributions

Staff recommends minor updates to the required minimum distribution ("RMD") provisions in both plans to clarify the provisions and align them with the current procedures used by the plans to process RMDs.

Employer true-up contributions

Many employers match an employee's contribution up to a certain percentage of the employee's compensation, in which case the employer is required to provide the matching contribution each payroll period. However, if an employee reaches the Internal Revenue Code's contribution limit before the end of the year, the employee may not receive on an annual basis the maximum percentage of compensation matched by the employer. A so-called "true-up" contribution allows an employer to make a special matching contribution to ensure that the employee receives the maximum amount of matching contributions.

Staff recommends revising the employer match provision in the NC 401(k) Plan to explicitly give an employer the option to provide "true-up" contributions, provided that the employer makes "true-up" contributions to all employees who are eligible to receive them. No change is required in the NC 457 Plan.

Employer contributions to certain management employees

In the NC 401(k) Plan, an employer is generally required to provide the same matching or the same across-the-board contributions to all employees, subject to narrow exceptions for years of service and matching tiers. However, employers sometimes provide special plan contributions to certain management employees pursuant to an employment contract (e.g., a city or county manager). Currently, these special contributions must be made to the NC 457 Plan (which has few restrictions on employer contributions), and the employees who receive them are included in the determination of whether an employer's contributions comply with the NC 401(k) Plan's restrictions.

Staff recommends providing the flexibility for employers to make special NC 401(k) Plan contributions to the small number of employees who work pursuant to an employment contract that has been approved by the employer's governing board (e.g., city council, county commissioners).

Minor Corrections

There are a few non-material references and omissions in the plan documents that need to be corrected. For example, the term "Participant" needs to be changed to "Member" in several places in the plan document for the NC 401(k) Plan.

Recommendations

Staff recommends the Board adopt the attached resolution, which makes the plan changes described above.

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ATTACHMENT

RESOLUTION OF THE SUPPLEMENTAL RETIREMENT BOARD OF TRUSTEES

WHEREAS, the North Carolina Department of State Treasurer (the “Department”) and the North Carolina Supplemental Retirement Board of Trustees (the “Board”) administer the Supplemental Retirement Income Plan of North Carolina (the “NC 401(k) Plan”) and the North Carolina Public Employee Deferred Compensation Plan (the “NC 457 Plan,” and with the NC 401(k) Plan, the “Plans”);

WHEREAS, the Internal Revenue Code (the “Code”) permits 401(k) and 457(b) retirement plans to offer the option for members of the military reserves to make withdrawals if they are called to active service for at least 180 days or indefinitely (“Qualified Reservist Distributions”);

WHEREAS, the Code permits 401(k) and 457(b) retirement plans to treat participants as separated from employment and therefore eligible to make withdrawals if they are on active military duty for at least 30 days (“Deemed Severance Distributions”);

WHEREAS, the Code permits 401(k) and 457(b) retirement plans to allow parents to withdraw up to \$5,000 from 401(k) and 457(b) retirement plans upon the birth or adoption of a child (“Qualified Birth and Adoption Distributions”) and to recontribute the amount of Qualified Birth and Adoption Distributions to a 401(k) or 457(b) retirement plan within three years of receipt;

WHEREAS, when employer contributions to the Plans are forfeited, they are used to reduce future employer contributions, as stated in the Board’s *Policy on Plan Administration*; however, the plan documents do not address the use of forfeited funds in all situations;

WHEREAS, the NC 457 Plan allows consideration of a participant’s beneficiary, spouse, and children in determining whether a participant is eligible for an unforeseeable emergency withdrawal; however, the plan document needs to be updated to reflect these considerations;

WHEREAS, the Plans require minor updates to the required minimum distribution (“RMD”) provisions to clarify the provisions and align them with the current procedures used to process RMDs;

WHEREAS, if an employee reaches the Code’s contribution limit before the end of the year, the employee may not receive on an annual basis the maximum matching contribution provided by an employer. An employer could make a special matching contribution to ensure that the employee receives the maximum amount of matching contributions (“True-Up Contribution”); however, the plan document does not explicitly address an employer’s option to provide True-Up Contributions;

WHEREAS, certain employees (“Contractual Management Employees”) receive retirement plan contributions pursuant to employment contracts that have been approved by their employers’ governing boards (“Contractual Contributions”). However, the NC 401(k) Plan does not allow employers the flexibility to provide

Contractual Contributions to Contractual Management Employees because the plan generally prohibits employers from distinguishing among employees when providing contributions;

WHEREAS, from time to time, non-material references and omissions in the plan documents need to be corrected; and

WHEREAS, the Board wishes to amend the plan documents for the NC 401(k) and NC 457 Plans to incorporate the changes described above;

NOW, THEREFORE, be it

RESOLVED, that:

1. The Board hereby adopts Qualified Reservist Distributions, Deemed Severance Distributions, and Qualified Birth and Adoption Distributions for the NC 401(k) and NC 457 Plans.
2. The Board hereby adopts a general provision in the NC 401(k) and NC 457 Plans to require the use of forfeited funds to reduce future employer contributions.
3. The Board hereby directs the Department to amend the plan documents for the NC 401(k) and NC 457 Plans as necessary to do the following:
 - a. Incorporate the provisions in Nos. 1-2 above;
 - b. Allow the consideration of expenses for a participant's beneficiary, spouse, and children in determining whether a participant is eligible for an unforeseeable emergency withdrawal from the NC 457 Plan;
 - c. Clarify the RMD provisions and align them with the current procedures used to process RMDs;
 - d. State that an employer can elect whether to provide True-Up Contributions, provided that the employer makes True-Up Contributions to all employees who are eligible to receive them;
 - e. Exclude Contractual Management Employees and Contractual Contributions from the NC 401(k) Plan's restrictions on employer contributions; and
 - f. Correct non-material references and omissions.

Approved by the Board on December 4, 2025.

Jeff Hancock, Secretary
North Carolina Supplemental Retirement Board of Trustees