

**§ 115D-25.4. Department of State Treasurer-sponsored 403(b) option.**

(a) In addition to the opportunities for local boards of trustees to offer section 403(b) of the Internal Revenue Code of 1986 retirement annuities and/or mutual funds to their employees under G.S. 115D-25, local boards of trustees may also offer the "North Carolina Public School Teachers' and Professional Educators' Investment Plan" as operated by the Department of State Treasurer.

(b) The criteria in this subsection apply to the Department of State Treasurer's 403(b) offerings to employees of local boards of trustees under this section:

- (1) Annuity contracts, trust accounts, and/or custodial accounts shall be administered by a qualified third-party administrator that shall, under written agreement with the Department of State Treasurer, provide custodial, record-keeping, and administrative services. The third-party administrator may also be the selected vendor for the North Carolina Public School Teachers' and Professional Educators' Investment Plan.

For local boards of trustees as employers choosing to participate in the North Carolina Public School Teachers' and Professional Educators' Investment Plan, the third-party administrator shall, at a minimum, provide the following:

- a. Maintain a written plan document.
  - b. Review hardship withdrawal requests, loan requests, and other disbursements permitted under section 403(b) of the Internal Revenue Code of 1986.
  - c. Maintain specimen salary reduction agreements for the employer and employees of that employer to initiate payroll deferrals.
  - d. Monitor maximum contributions.
  - e. Coordinate responses to the Internal Revenue Service in any case of an IRS audit.
  - f. Generate educational communication materials to employees concerning the enrollment process, program eligibility, and investment options.
  - g. Maintain internal reports to ensure compliance with section 403(b) of the Internal Revenue Code and Title 26 of the Code of Federal Regulations.
  - h. Provide compliance monitoring/oversight for all 403(b) plans established under G.S. 115D-25 within each participating local board of trustees plan by creating and establishing the necessary connections and processes with existing and future vendors.
  - i. Keep an updated schedule of vendor fees and commissions as to the Department's statewide plan of 403(b) offerings.
- (2) Governance and oversight of the North Carolina Public School Teachers' and Professional Educators' Investment Plan will be performed under Article 5 of Chapter 135 of the General Statutes by the Department of State Treasurer and the Supplemental Retirement Board of Trustees established pursuant to G.S. 135-96. Because of the administrative and record-keeping duties enumerated in subdivision (1) of this subsection, any existing vendor of a 403(b) with a participating employer must either agree to share data with the State's 403(b) vendor under this provision (so as to permit oversight over contribution limits, loans, and hardship withdrawals) or be directed by the participating employer to cease accepting new contributions, loans, and hardship withdrawals.

- (3) Investment options shall be solely determined by the Department of State Treasurer and the Supplemental Retirement Board of Trustees consistent with section 403(b) of the Internal Revenue Code of 1986, as amended.
- (4) Investment staff of the Department of State Treasurer may make recommendations to the State Treasurer and the Supplemental Retirement Board of Trustees as to appropriate investment options. Pursuant to G.S. 135-96, the State Treasurer and Board of Trustees shall have sole responsibility for the selection of the vendor, third-party administrator, providers of investment options, and any other service provider for the North Carolina Public School Teachers' and Professional Educators' Investment Plan.
- (5) All contributions made in accordance with the provisions of section 403(b) of the Internal Revenue Code of 1986, as amended, and this section shall be remitted directly to the administrator and held by the administrator in a custodial account on behalf of each participating employee. Any investment gains or losses shall be credited to those accounts. The forms of payment and disbursement procedures shall be consistent with those generally offered by similar annuity contracts, trust accounts, and custodial accounts and applicable federal and State statutes governing those contracts and accounts.
- (6) Any local board of trustees may elect to make contributions to the employee's account on behalf of the employee. The local board of trustees shall take whatever action is necessary to implement this section.
- (7) The design and administration of annuity contracts, trust accounts, and custodial accounts under this provision shall comply with all applicable provisions of the Internal Revenue Code of 1986, as amended.

(c) The administrative costs of the North Carolina Public School Teachers' and Professional Educators' Investment Plan may be charged to members or deducted from members' accounts in accordance with nondiscriminatory procedures established by the Department of State Treasurer and Board of Trustees.

(d) If the Department of State Treasurer and the Supplemental Retirement Board of Trustees elect to discontinue offering the North Carolina Public School Teachers' and Professional Educators' Investment Plan, participating local boards of trustees that continue sponsoring their 403(b) plan shall designate another investment provider in their 403(b) plan to receive any assets remaining in their 403(b) plan upon the discontinuation of the North Carolina Public School Teachers' and Professional Educators' Investment Plan. In the event that a local board of trustees fails to designate another investment provider, the Department of State Treasurer and the Supplemental Retirement Board of Trustees may transfer the remaining assets, on behalf of the local board of trustees, to an individual retirement account selected in a vendor solicitation pursuant to subsection (e) of G.S. 135-96. (2015-169, s. 2; 2016-108, s. 7(b); 2020-48, s. 1.15; 2022-14, s. 3.2.)