



Ohio Administrative Code

Rule 148-1-01 Ohio public employees deferred compensation program.

Effective: August 14, 2015

(A) The purpose of this rule is to provide all necessary standards or conditions for the administration of the Ohio public employees deferred compensation program created by sections 148.01 to 148.10 of the Revised Code.

(B) The following terms, when used herein, shall have the designated meaning unless a different meaning is plainly required by the context.

(1) "Program" - The Ohio public employees deferred compensation program as set forth in sections 148.01 to 148.10 of the Revised Code.

(2) "Board" - The Ohio board established pursuant to section 148.02 of the Revised Code for the purpose of administering the program.

(3) "Employer" - The state and various political subdivisions whose employees are permitted under division (A) of section 148.01 of the Revised Code to participate in the program.

(4) "Eligible employees" - Those employees defined in division (A) of section 148.01 of the Revised Code.

(5) "Employer agreement" - An agreement between an eligible employer and the board designed to facilitate the board's common administration of all employer plan agreements adopted under the program.

(6) "Plan(s) or plan agreement(s)" - The document adopted by an eligible employer under the program that sets forth the terms and conditions governing the deferral of an eligible employee's compensation.

(7) "Participating employees or participants" - Those eligible employees who have elected to defer a



portion of their compensation pursuant to a participation agreement or who have been automatically enrolled.

(8) "Participation agreement" - The agreement between the eligible employer and the eligible employee by which an eligible employee adopts the plan agreement and elects to become a participating employee under the plan.

(9) "Automatic enrollment" - Employers may adopt an arrangement under which in the absence of an affirmative election by their eligible employee, a certain amount of compensation may be automatically withheld from the eligible employee's pay and contributed to the plan as a deferral.

(10) "Investment options" - The various financial products offered as investments under the program.

(11) "Funding agents" - Those insurance companies, banks and other financial institutions that the board shall select to invest compensation deferred under plans adopted under the program.

(12) "Participant's account" - An account or accounts maintained by the plan administrator reflecting the interest of a participant, alternate payee or beneficiary under the plan.

(13) "Payroll center(s)" - Those facilities where the participating employees' paychecks are computed and issued.

(14) "Trust or plan-trust document" - The document that sets forth the terms and conditions governing the trust by which all funds of the plan are held in trust by the board on behalf of an eligible employer for the exclusive benefit of an eligible employee.

(C) The board or its designees shall observe the following procedures in implementing and administering the program.

(1) The board shall, with the advice and assistance of counsel, formulate and design plan agreements for adoption by those eligible employers electing to offer a plan of deferred compensation to their eligible employees under the program.



(2) The plan agreements prepared by the board shall be designed to obtain the desired federal and state income tax treatment of all amounts deferred by a participating employee under the plan agreement. The plan agreement may be amended from time to time, to reflect those changes that are necessary to assure the desired tax treatment and the proper administration of the individual plans under the program. Nothing in agency 148 of the Administrative Code shall be interpreted to prohibit a Roth 457 or other similar post-tax contribution or deferral. The limit on the portion of a participating employee's compensation that may be deferred shall be the maximum annual deferral permitted under section 457 of the "Internal Revenue Code," or any other applicable section of the "Internal Revenue Code," provided that such a limit does not cause a reduction of compensation in any given pay period that is greater than the amount of compensation available for such pay period.

(3) The board shall advise all eligible employees of the existence of the program and shall supply them with sufficient information to assist them in determining whether to participate in the program. Each employer shall execute an employer agreement upon an eligible employee's application to participate in a plan under the program. The employer shall assist the board in communicating the availability of the plan to all eligible employees including any personal explanation prepared and deemed necessary by the board for an eligible employee to make an informed decision regarding his right to participate. The different investment options into which the participating employees' deferred income may be invested shall be fairly and impartially presented to the eligible employees. The employer's payroll center shall recompute the participant's income as specified in the participation agreement and shall remit such deferred amounts to the board.

(4) Each eligible employee who elects to participate under a plan of deferred compensation established by an eligible employer under the program, shall execute a participation agreement by which he becomes a member of the plan. The board shall undertake to provide all the necessary services required to implement, offer and administer the program on behalf of the eligible employer, and shall be empowered in the employer agreement to perform any and all acts incidental to the administration of the plan.

(5) The board shall contract with funding agents who are selected by the board to provide investment options under plans adopted by the program. The board's contract with such funding agents shall provide that all amounts deferred under plans adopted under the program will be invested by the board with the funding agents for the period of time that the investment option is made available



under an eligible employer's plan and is selected by the participating employee.

(6) Plan assets are not the property of the participating employees. All plan assets and income shall be held by the board in trust on behalf of the eligible employer for the exclusive benefit of eligible employees and their beneficiaries. All assets, whenever contributed to the plan, are assigned to the trust established by the board. To facilitate administration of the program, the board shall create individual participant accounts, bearing the participant's name, but all assets and income of plans under the program shall be held in trust by the board on behalf of the employer for the exclusive benefit of eligible employees and their beneficiaries. The board shall issue to the participating employees, on behalf of the employer, at least annually, a statement of account values, setting forth the value of a participating employee's account as of such date.

(7) The board, on behalf of the employer, may assess a participant's account to pay the cost of administering the plan adopted under the program. Interest earned on any employer's funds prior to investment with the funding agent may be applied by the board to fund any costs incident to the operation of the program.

(8) In accordance with the payment option selected by a participant on the withdrawal form, or the default benefit methods if applicable:

(a) The board may at any time direct the funding agents to distribute benefits to the participants or their beneficiaries in the manner the board designates.

(b) The board may establish a commercial checking account from which it will distribute benefits to participants or their beneficiaries.

(9) If any plan is curtailed, terminated, or the acceptance of additional deferred amounts suspended permanently, the board shall nonetheless be responsible for the supervision and the payment of all participant benefits under such plan.

(10) The board is authorized to decide or to resolve any questions of fact regarding a participant or his deferred account needed or necessary to decide the participant's rights under the program and such decision is final and binding on the participant and any beneficiary thereof.



(11) The participant shall not be permitted to seek recovery against his employer, the board or any other participant, contractee, or agent of the board, or as against any other person having an administration or investment position relative to the program, for any loss, if any, sustained by the participant or his beneficiary, for the nonperformance of their duties, negligence, or any other misconduct of the above-named persons except that such persons shall not be excused from fraud or any wrongful taking of the participant's property.

(12) The members of the board shall be trustees of the funds created by sections 148.01 to 148.10 of the Revised Code. The board and other fiduciaries shall discharge their duties with respect to the funds solely in the interest of the eligible employees and beneficiaries.

(13) The board shall, with the advice and assistance of counsel, formulate and design a plan-trust document setting forth the terms under which the board shall hold all plan assets and income earned on those assets contributed by those eligible employers electing to offer a plan of deferred compensation to eligible employees under the program. The plan-trust document prepared by the board shall be designed for the exclusive purpose of investing plan accounts and paying plan distributions for the benefit of eligible employees and their beneficiaries.

(D) If any paragraph, term or provision of this rule shall be adjudged invalid for any reason, such judgment shall not affect, impair, or invalidate any other paragraph, term, or provision of this rule, but the remaining paragraphs, terms, and conditions shall be and continue in full force and effect.