



State of New Jersey
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS
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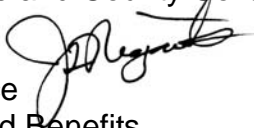
LOCATION:
50 WEST STATE STREET
TRENTON, NEW JERSEY

R. DAVID ROUSSEAU
State Treasurer

FREDERICK J. BEAVER
Director

January 12, 2009

TO: Certifying Officers, State and County Colleges and Universities

FROM: John D. Megariotis, 
Deputy Director, Finance
Division of Pensions and Benefits

SUBJECT: IRS Compliance for New Jersey ABP and ACTS 403(b) Programs

Effective January 1, 2009, the Internal Revenue Service implemented regulations that impose additional recordkeeping requirements and fiduciary responsibilities on educational and non-profit employers that provide 403(b) tax-deferred compensation plans to their employees. These regulations increase the similarities between 403(b) plans and other employer-sponsored deferred compensation plans, such as 457(b) plans and 401(k) plans. Under the proposed regulations, school employers will be required to maintain a legally binding "plan document," more closely monitor employee contributions and investment providers, and approve certain loans, transfers and distributions from their employees' 403(b) accounts.

Among other things, these new regulations require employers to:

- Keep records of each individual employee's account transactions including contributions, investment returns, distributions, sales or distribution expense charges, loans, hardship withdrawals, transfers, and tax withholdings;
- Oversee catch-up contributions to make sure they do not exceed the dollar limits imposed under the Internal Revenue Code;
- Monitor payroll deferrals elected by participating employees to ensure contributions do not exceed the maximum limits and ensure deferred contributions go only to specific funding arrangements.

The service providers for the Alternate Benefit Program (ABP) and Additional Contributions Tax Sheltered Program (ACTS) are currently providing many of the required recordkeeping services. However, as a result of these new regulations, the Division of Pensions and Benefits has determined that some of the requirements imposed by the IRS should be handled by each individual campus.

Therefore, beginning January 1, 2009, you will be required to monitor employee contributions, deferral limits and catch-up contributions, authorize hardship withdrawals and loans. The Division does not currently maintain provider information for each employee; therefore we are not able to properly administer these required IRS changes. For example, if an employee maintains multiple providers, it will be to the responsibility of the employer to ensure loans are properly documented so the employee does not exceed allowed limits. This would also apply to the maintenance of annual salary deferral amounts as well.

If you have any questions concerning this matter you may reach us at the Division of Pensions and Benefits, Defined Benefit & Contribution Plans Reporting Bureau, 50 West State Street, PO Box 295, Trenton, New Jersey, 08625-0295. Our telephone number is (609) 777-0887. Or you may e-mail the Unit at: *typabp1@treas.state.nj.us*.