



Wilkes-Barre Area School District

Section 403(b) Salary Reduction Agreement Plan

Wilkes-Barre Area School District
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Universal Availability Rule for All Eligible Employees

Section I: What is a Section 403(b) Salary Reduction Plan?

This document is established for all full-time Employees and several part-time Employees of the Wilkes-Barre Area School District (WBASD).

A "Section 403(b) Salary Reduction Agreement Plan" is similar to better known terms such as "Tax Sheltered Annuity", "TSAs" or, "403(b)s". The laws and regulations governing such retirement plans are established by the Internal Revenue Service (IRS) and, as such, the Wilkes-Barre Area School District (or, "WBASD" or "DISTRICT") has retained DeHey McAndrew of Scranton, Pennsylvania to help insure that WBASD and the Plan complies with these new IRS rules and regulations. DeHey McAndrew will serve as the District's Section 403(b) administrator. Since IRS rules and regulations are subject to change, the policies and procedures affecting WBASD are also subject to change in the future.

The Wilkes-Barre Area School District has adopted a Section 403(b) Salary Reduction Plan program several years ago. Any contribution to this Plan is through an Employee's salary reductions and, as such, the contribution is an accommodation only. As such, WBASD will not contribute to nor match the Employee's contribution to the Plan. The Employee's participation with this program is completely voluntary. Employee elects a §403(b) service provider through a list of qualified vendors (Page 4).

The employee's established contribution amount will be forwarded to the investment company through the payroll deductions. Though WBASD is under the "prudent man rule" in qualifying a vendor, the Employee has the full responsibility of his/her election of the vendor and investment. In this way, the decision of the investment vehicle is totally with the Employee.

As stated, the Internal Revenue Service (IRS) establishes rules that govern Internal Revenue Code Section 403(b) Salary Reduction Agreement Plans. However, the Department of Labor (DOL) gives other responsibilities to plan sponsors.

The title, "Section 403(b) Salary Reduction Agreement Plan" is another term that some Employees referred to as a "Tax Sheltered Annuity", or, "TSA". However, the IRS and DOL do not mandate Employees to use only annuities. Eligible Employees can establish a mutual fund (or, "Custodian Accounts"). All investments with the Wilkes-Barre Area School District §403(b) Salary Reduction Agreement Plan complies with all IRS and DOL rules pertaining to IRC Section 403(b). The rules of the IRS can change from time to time; as such, any new and future rules shall have precedence over old procedures.

Rules and regulations established by the IRS place certain requirements on the Wilkes-Barre Area School District, as the sponsor of this plan. Employees are also subject to certain compliance regulations. These procedures are designed to assure compliance with the laws associated to this Plan and will not create any conflicts with Employee's

contribution, investment, transfer, distribution, exchange and/or any other activities associated with the employee's required compliance. The Wilkes-Barre Area School District does not assume responsibility for Employee's non-compliance with this Plan nor the Employee's §403(b) Vendor, if one of these parties exercise any activities that are prohibited under IRC Section 403(b). Because the regulations are legal and binding amongst the three parties (WBASD, Employee and Vendor), when an illegal action has been taken, such contention can be mutually exclusive amongst the parties. When the action taken is a conflict of interest amongst these parties and the School District is not a party of the contender of the activity, the Wilkes-Barre Area School District can be held harmless & indemnified, as well as the District's plan administrator for the District's Section 403(b) Salary Reduction Plan, DeHEY McANDREW, of Scranton, Pennsylvania.

No action taken by The Wilkes-Barre Area School District under the §403(b) Salary Reduction Plan shall be construed to create a trust of any kind or any fiduciary relationship between WBASD and participating Employees, designated beneficiaries, or any other person. Contributions made by an Employee to a Salary Reduction Plan service provider are non-forfeitable. After the re-directed salary from the Employee to the Vendor, all monies and assets in the Employee's account(s) are owned and controlled by the Employee. The Wilkes-Barre Area School District is not compensated in any way for offering this program. The School District's involve-

ment is limited to the following functions:

- A. Establishing and maintaining a Section 403(b) Salary Reduction Plan;
- B. Informing Employees of eligible Section 403(b) service providers;
- C. Collecting and remitting contributions through properly executed salary reduction agreements; and
- D. Providing Employees availability to a reasonable choice of investment options (reasonable choice is not the number of providers, but rather, the number of different classes in which investments can be made (annuities, custodian accounts, e.g. large cap, small cap stock, bond etc.).

The IRS holds Employers responsible for proper tax withholding. Subject to changes in federal and state laws, contributions to a qualified Section 403(b) Salary Reduction Plan are not subject to current federal income taxes. Currently, an amount contributed toward a Section 403(b) Salary Reduction Plan account is taxed for federal FICA Tax, PA State income tax and local income tax. If a Section 403(b) Salary Reduction Agreement is not administered in accordance with law, the IRS can determine the Section 403(b) Salary Reduction Plan is not qualified. This determination could result in *all* associated salary taxes, plus penalties and interest being assessed. If these assessments are made against a Wilkes-Barre Area School District's Employee, the District has the obligation to collect the taxes, penalties and interest from the Employee, unless the tax assessment results from negli-



gence by the District.

Employees are responsible for filing a correct income tax return, including correctly reporting taxable income. When a contribution is made to a plan that is not qualified, it is considered taxable income. Employees have the responsibility to assure that their Section 403(b) Salary Reduction contributions are qualified. If the contribution is not qualified, the Employee is obligated to report contributions as taxable on their personal income tax return.

To avoid the potential of a tax assessment, Wilkes-Barre Area School District has created procedures to help assure the Section 403(b) Salary Reduction Plan meets the qualification requirements of the IRS. These procedures establish certain responsibilities for WBASD, for Employees and for Section 403(b) Salary Reduction Plan's investment service providers. Eligibility for participation in the Section 403(b) Salary Reduction Plan program is open only to Employees of the District and Section 403(b) Salary Reduction Plan service providers who comply with these procedures. **The most effective way to assure that Employees and WBASD will not be subjected to unintended tax consequences is to work only with reputable Section 403(b) Salary Reduction Plan service providers, who have assured the District that they will administer the plans in accordance with law.**

A Section 403(b) Salary Reduction Plan service provider is required to certify that they are in compliance with all IRS regulations, will remain in compliance and, if the regulations change, will adjust to the state of the change. Service

providers must submit their certification as a condition of being permitted to offer Section 403(b) Salary Reduction Plan products to WBASD's Employees. This certification is called an "Information Sharing Agreement".

It is the intent of the Wilkes-Barre Area School District to transfer Employees' contributions made to a Section 403(b) Salary Reduction Plan with a qualified payroll reductions for any associated exclusion from federal income tax. The School District makes no warranty or representation that any annuity or custodial contract offered by eligible Section 403(b) Salary Reduction Plan's service providers will be qualified in future regulation under Section 403 (b) of the Internal Revenue Code; except in the occasion of failing, in principle, to bring due diligence for transfers or exchanges and for any salary reductions applied to the purchase of annuity contracts or invested in custodial accounts that were excluded from gross income of the employee but not covered under the current payroll fiduciary rules under IRS and DOL. In a singular event that a provision of these two instances occurs, the balance of the Plan's provisions shall continue in effect.

The Wilkes-Barre Area School District has the responsibility for testing the minimum and maximum annual Contributions with regulations under IRC § 403(b), administer the payroll deduction(s) with the applicable revenue tax affect and to transfer or exchange the funds or Plan assets from the participant to the service provider/Vendor in a reasonable manner. The WBASD will transfer Section 403(b) contribution monies from a participant's payroll in

seven (7) business days from the date of the payroll deduction. This procedure for the transfer of funds from payroll to Vendor could be by First Class mail, electronically or with a third party, common remitter.

Section II: Who is Eligible to Participate in a Section 403(b) Salary Reduction Plan?

An Employee of The Wilkes-Barre Area School District may participate in the Section 403(b) Salary Reduction Agreement program if:

- A. S/He has a regular weekly work schedule;
- B. S/He has sufficient income to be eligible to contribute at least \$200 per year to a qualified plan;
- C. S/He completes a Salary Reduction Agreement on a form specified by the Wilkes-Barre Area School District.
- D. S/He submits contribution calculation information, in a form acceptable by Wilkes-Barre Area School District, when requested;
- E. S/He makes contributions to a Section 403(b) Salary Reduction Plan service provider determined to be eligible to participate in the Wilkes-Barre Area School District Section 403(b) Salary Reduction Plan program;
- F. S/He makes contributions only to an eligible funding vehicle;
- G. His/Her participation is legal under applicable federal, state and local laws; and
- H. His/Her participation would not render any part of

the Section 403(b) Salary Reduction Plan program as nonqualified under the Internal Revenue Code.

Salary Reduction Agreements

A Salary Reduction Agreement (SRA) is a contract between the Employee and The Wilkes-Barre Area School District under which the Employee directs the District to reduce his/her salary in exchange for contributing the specified amount to a tax sheltered annuity plan or a custodian account (mutual fund) selected by the Employee. The amount of salary that can be contributed to a Section 403 (b) Salary Reduction Plan is limited by law. Furthermore, an Employee who decides to terminate his/her contribution toward his/her 403(b) account can stop the contribution with a written and signed Salary Reduction Agreement form at any time, associated to the provisions of the WBASD's Payroll Department and within the rules under the Payroll Department and through its payroll sequence. **WBASD allows for employees to make changes to their plan in regards to their contribution amount and Investment Vendor on a quarterly basis. Employees may start new contributions or terminate contributions at anytime throughout the year.**

In the event that an Employee who has established a Salary Reduction Agreement with the Wilkes-Barre Area School District's Section 403 (b) Salary Reduction Plan and wishes to make a change to the Plan, either an *establishment, modification, transfer, or exchange* of a Plan's contribution(s) or Plan's Vendor, such Employees will provide a completed WBASD Section 403(b) SRA form or Transfer and Exchange Form if applicable. The Employee can



receive the WBASD Section 403(b) Transfer and Exchange Form from WBASD or the plan administrator, DeHey McAndrew. The vendor of the Employee's Section 403(b) could also require the employee to complete the vendor's own Transfer/Exchange Form.

An Employee may establish and/or modify a current Salary Reduction Agreement any time through the Plan Year; Plan Year is coincident to January each year. Employees who establish or participate in the District's §403(b) Salary Reduction Plan, or plans to modify or change their contribution, can do so on a quarterly basis in accordance with the calendar year. The IRS limits the changes an employee can make to his or her contribution amount to four times per calendar year. These quarterly periods are termed: "The Wilkes-Barre Area School District Section 403(b) Section 403(b) Salary Reduction Plan Open Enrollment". **The Wilkes-Barre Area School District allows for employees to make changes to their plan in regards to their contribution amount and Investment Vendor on a quarterly basis. Employees may start new contributions or terminate contributions at anytime throughout the year.**

If an Employee receives an increase of pay through any time of the year, either from a collective bargaining unit contract increase, a contract raise, salary step-up increase or stipend from the WBASD's *In Lieu of Health Insurance Option* payment (if applicable), the Employee who adopts a Section 403(b) Salary Reduction Plan cannot modify his/her contributions at the time of the increase, except through the administration of the Wilkes-Barre Area School

District Section 403(b) Section 403(b) Salary Reduction Plan Open Enrollment period. It is important to remember that in the issue of an *establishment, modification, transfer, or exchange* of a Plan's contribution(s) or an effect of the Plan's Vendor, the Employee's *establishment, modification, transfer, or exchange* can only be made during the Plan's open enrollment periods, except for the time of a new Employee's hire date. Revocation or termination of all existing salary reduction agreements does not count as a modification of an *establishment, modification, transfer, or exchange*. As such, an Employee who plans to terminate all his/her Section 403(b) Salary Reduction Plan contribution(s) can stop a current Salary Reduction Agreement at any time with a qualified Section 403(b) Salary Reduction Agreement Vendor.

All salary reductions must be stated in dollar amounts. Wilkes-Barre Area School District and its Section 403(b) Salary Reduction Agreement Plan will not accept a salary reduction based on a percentage of pay, except for Employees who work part-time and their amount of pay could vacillate. The Wilkes-Barre Area School District has the right to prorate or suspend the Employee's payroll contribution or the Employee's §403 (b) Vendor, through the District's Payroll Department provisions regarding the payroll sequence, if the Employee or his/her Vendor has reflected the amount as "annually", "monthly" or a "percentage" of the Employee's yearly salary and the Employee's contribution is greater than the total pay at the time of the payroll date. The dollar amounts for Employee's contributions will be constant through the plan year, except if the Employee

completes a Transfer and Exchange Form or institutes a change using a Salary Reduction Agreement (from WBASD or from its plan administrator). However, if an Employee established a Section 403(b) Salary Reduction Agreement and this Employee's work hours change to the extent that the Employee's salary will diminish, the Employee has the right to change or suspend his/her contributions at the time of the change in work hours for the next payroll date or the next reasonable payroll date. In the occasion of the resumption of the Employee's regular work hours, WBASD will resume the Employee's §403(b) contribution at the time of the resumption. In any event, Employees who elect to defer their salaries through a Section 403(b) Salary Reduction Agreement must also agree the provisions of the WBASD's Payroll Department sequence provisions. WBASD and the Plan cannot change or amend the Payroll Department's provisions, even if the Employee experienced a change of work hours or a modification of an *establishment, modification, transfer, or exchange* within the Plan Year.

403(b) Plan Loans and Hardship Withdrawals

Loans and Hardship Withdrawals are available under Plan in some circumstances. Please contact you plan administrator to receive more information on loans and hardship withdrawals.

Maximum Annual Contribution

The maximum amount of salary that may be contributed to a Section 403(b) Salary Reduction Plan is established by federal law. The limit is known as the maximum annu-

al contribution (MAC). The MAC is explained in greater detail in the next section.

How Much Can be Contributed?

Generally, contributions to a 403(b) account are limited to the lesser of; limit on annual additions, or the elective deferral limit. The limit on elective deferrals, the most that can be contributed to a 403(b) account through employee elective deferrals by means of a salary reduction agreement is \$19,000 for 2019. If permitted by the 403(b) plan, an employee that has at least 15 years of service with WBASD, his or her 403(b) elective deferral limit is increased by the lesser of; \$3,000, \$15,000, reduced by the amount of additional elective deferrals made in prior years because of this rule, or \$5,000 times the number of the employee's years of service for the organization, minus the total elective deferrals made for earlier years. If an employee qualifies for the 15-year rule, his or her elective deferrals under this limit can be as high as \$22,000 for 2019. The Plan allows participants who are age 50 or over at the end of the calendar year to make Catch-up elective contributions of \$6,000 in beyond the basic limit.

Participation in a qualified plan. Employees who participated in a 403(b) plan and a qualified plan must combine contributions made to their 403 (b) accounts with contributions made to qualified plans, SEPs and SIMPLE IRAs of all corporations, partnerships and sole proprietorships in which they have more than 50% control.

Generally, includible compensation for an employee's most recent year of service is the amount of taxable wages and benefits the employee received



from the 403(b) employer during his or her most recent year of service. An employee's most recent year of service is his or her last full year of service, ending on the last day of the employee's tax year that he or she worked for the 403(b) employer.

Section 403(b) Salary Reduction Plan Service Providers

Employees are responsible for the selection of their own Section 403(b) Salary Reduction Plan service provider from those determined to be eligible and qualified by the District. Eligibility is established in accordance with the procedures described in this document and the plan document. WBASD's eligibility list is not to be construed as a recommendation or an endorsement. WBASD does not provide advice or recommendations on the suitability of an individual retirement plan or the viability of a Section 403(b) Salary Reduction Plan service provider. The DISTRICT does not assume responsibility for the investment (s) made by the Section 403(b) Salary Reduction Plan service provider or consent to the provider's ability to perform under the Section 403(b) Salary Reduction Plan contract or to comply with the law. Though this Plan has an Agreement between WBASD, its Employee and the plan administrator, the Agreement does not establish a guaranteed agreement that the vendor will be a financially viable company or its investments now and in the future. Furthermore, an establishment of this Salary Reduction Plan Agreement is not a guarantee of an employment agreement between the Employee who establishes the Plan and the Wilkes-Barre Area School District.

An Employee cannot con-

tribute to more than two (2) Wilkes-Barre Area School District Section 403(b) Salary Reduction Plan Service Providers at one time. Employees who established more than two Service Providers as of December 31, 2007 will be permitted to continue the contributions to the additional service providers, as a grandfathered provision to the regulations under IRC Section 403(b), published 07-26-07. However, the total of all contributions toward the Service Providers cannot exceed the maximum contributions amount under a §403(b) Salary Reduction Plan under law.

Eligible Funding Vehicles

Contributions to a §403(b) Salary Reduction Plans can be placed only into two types of funding vehicles:

- A. An annuity contract issued by a life insurance company; or,
- B. Custodial accounts which invest in mutual funds.

Roth Account 402A and 403(b) Account

IRC Section 402A Roth Accounts are elective, after-tax contributions; unlike Section 403(b) and 403(b)(7) accounts, when the Employer arranges the Employee's payroll on a pre-tax deferred basis, where his/her contribution is deferred from federal income tax. The Roth Account contributions are post-tax and are includible in the participant's income at the time the contributions are tax-withheld from the participant's payroll. For the Roth Account, both the contributions and earnings can be distributed tax-free, if the distribution is considered a qualified distribution and the Roth Account was qualified throughout the lifetime of the Account. Under the Economic Growth and Tax Relief Rec-

onciliation Act of 2001 ("EGTRAA") and beginning in 2006, Employees who own Section 403(b) Accounts may elect contributions to designate some or all of their contributions as "Roth Contributions". A distribution from Roth Account must be established five (5) years and with one of the following conditions: the Employee is 59½ years old or older; was used for the purchase/rebuilding of a first home; Employee becomes disabled; or, the Roth holder has passed away. Notwithstanding the after-tax character, Roth Contributions are, generally, treated in the same manner as pre-tax elective contributions under a Section 403(b) Salary Reduction Agreement Plan. If the distribution is not qualified, the Roth Account's distribution is included to the extent allocable to income and excluded to the extent allocable to the investment. The distribution is also subject to the IRC 10% Early Withdrawal Penalty, unless an exception applies.

Qualified Vendors

- Assurant (American Bankers Life of Florida) assurant.com tel. 1-800-326-2845
- AXA Equitable Life Insurance Company, AXA-equitable.com tel. 1-609-514-4714.
- Horace Mann Co. horacemann.com tel. 1-800-999-1030
- Ameriprise Financial, ameriprise.com tel. 570-208-9100
- Lincoln Investment lincolninvestment.com tel. 1-800-458-5299

- Franklin Templeton franklintempleton.com tel. 1-877-664-4286
- Kades Margolis Corp./GWN Securities, 4kmc.com tel. 1-800-433-1828
- Metropolitan Life Insurance Company, metlife.com tel. 1-800-638-7732
- NYLIAC (New York Life) newyorklife.com tel. 1-800-710-7945
- Prudential Insurance Company, prudential.com tel. 1-800-353-2847
- Security Benefit Life securitybenefit.com tel. 1-800-888-2461
- Thrivent Lutheran Financial, thrivent.com tel. 1-800-847-4836
- UMB Bank, umb.com tel. 1-800-996-2862
- Vanguard Group vanguard.com tel. 1-877-662-7447

These companies can be contacted directly, through their web sites, or you may find local representatives in the yellow pages. Furthermore, you will find more information about these companies through independent research sources, like Morningstar, Standard & Poor's, or Value Line. Your Plan third party administrator, DeHey McAndrew can assist you to direct a qualified vendor with the WBASD Salary Reduction Account Plan; however, DeHey McAndrew legally cannot assist nor recommend a company and its investment to you.