



MAILING ADDRESS:  
PO Box 295  
TRENTON, NJ 08625-0295

LOCATION:  
50 WEST STATE STREET  
TRENTON, NEW JERSEY

CHRIS CHRISTIE  
*Governor*

KIM GUADAGNO  
*Lt. Governor*

State of New Jersey  
DEPARTMENT OF THE TREASURY  
DIVISION OF PENSIONS AND BENEFITS  
(609) 292-7524 TDD (609) 292-7718  
[www.state.nj.us/treasury/pensions](http://www.state.nj.us/treasury/pensions)

ANDREW P. SIDAMON-ERISTOFF  
*State Treasurer*

FLORENCE J. SHEPPARD  
*Acting Director*

May 16, 2013

**TO:** Certifying Officers, State and County Colleges and Universities

**FROM:** Joseph Zisa, Manager, Fiscal Resources,  
Division of Pensions and Benefits

**SUBJECT: Closure of ABP Pre-1995 Annuity Contracts**

The Division of Pensions and Benefits, with assistance from the Office of the Attorney General, recently completed a formal process to amend the New Jersey Administrative Code (N.J.A.C.) as it relates to the Alternate Benefit Program (ABP) (N.J.A.C. 17:7-1 through 21). The final rules were published in the New Jersey Register on March 18, 2013.

#### **CLOSURE OF PRE-1995 CONTRACTS**

As part of this process it became apparent that several long-time members of the ABP continued to make voluntary contributions to the 403(b) annuity contracts available under the ABP prior to 1995. Those contracts have been deemed to be "closed" and identified as the "ABP Pre-1995 Annuity Contracts Plan (Closed Plan)" (N.J.A.C. 17:7-1.2). It was determined that these non-qualified contracts should be closed not just to new members but to all future contributions from all program members. Under the newly adopted rules the only accounts approved to receive 403(b) contributions are those administered under the Additional Contributions Tax-Sheltered Program (ACTS) (N.J.A.C. 17:7-1.2). Therefore, we ask all employers to begin the process of transitioning their employees who continue to make contributions to a "Closed Plan" account to the qualified 403(b) annuities available under ACTS. We also ask that you complete this process as soon as is administratively possible but in all cases contributions should cease to these "Closed Plan" accounts no later than June 28, 2013.

Our plan service providers are aware of the need to transition these employees' accounts and will work with you and your affected employees to expedite this process. If you are in need of assistance please reach out to your campus service provider representative. If you require additional assistance, please contact us at the Division.

#### **IRS DETERMINATION**

The N.J.A.C. amendment process also resulted in a favorable determination letter being issued by the U.S. Department of the Treasury's Internal Revenue Service (IRS) for the ABP and ACTS. The favorable determination by the IRS means that the plan complies with federal standards as to the plan's design. A plan operating in compliance with

these federal standards will continue to receive favorable tax treatment under the U.S. Internal Revenue Code.

### **PLAN DOCUMENTATION AND ADMINISTRATION**

The IRS determination revealed that several areas of plan administration were not sufficiently defined in existing literature to allow for consistent interpretation of administration policy between educational institutions and the various service providers. The newly adopted rules resolve that program deficiency and provide what amounts to a complete "Plan Document" that may be referred to as the reference source for determination of all facets of program benefits. The Division is also working with the ABP's service providers to assure that the plan is administered consistently with its adopted rules.

The Plan Document ([N.J.A.C. 17:7](#)) has been placed on the Division's Web site at: ***[www.state.nj.us/treasury/pensions/abp1.shtml](http://www.state.nj.us/treasury/pensions/abp1.shtml)***

I encourage each of you with oversight responsibility for administration of this program to make use of this source for decision-making under the program.