

1 **459-050-0070**

2 **Catch-Up Programs**

3 The purpose of this rule is to establish the criteria and process to allow *[an eligible employee]* a
4 plan participant to contribute additional amounts, in excess of the regular applicable maximum
5 allowable contributions, to the eligible employee's account.

6 (1) For purposes of this rule, "normal retirement age" shall be:

7 (a) For employers that do not sponsor another deferred compensation plan under IRC 457(b), the
8 earlier of:

9 (A) Age 65; or

10 (B) The normal retirement age for non-police and fire employees established in the employer's
11 defined benefit pension plan or money purchase pension plan.

12 (b) For employers additionally sponsoring another deferred compensation plan under IRC 457(b)
13 with a 3-Year Catch-Up Program, for purposes of this rule, "normal retirement age" shall have
14 the same meaning as defined in the plan provisions of the other deferred compensation plan. If
15 the other plan does not define normal retirement age, normal retirement age shall be determined
16 as outlined in subsection (1)(a) of this rule.

17 (2) 50-Plus Catch-Up Program. Pursuant to the conditions of this rule, *[eligible employees]* plan
18 participants who are 50 years of age and older may elect to contribute an additional amount
19 under section 414(v) of the Internal Revenue Code in excess of the maximum regular
20 contribution allowed.

21 (a) Conditions for participation: *[An eligible employee]* A plan participant must be 50 years of
22 age or older on December 31 of the calendar year in which the eligible employee begins to
23 participate in the 50-Plus Catch-Up Program.

24 (A) *[An eligible employee]* A plan participant may participate in the 50-Plus Catch-Up
25 Program during years either before or after participation in the 3-Year Catch-Up Program, but
26 may not participate in both programs during the same calendar year.

(B) *[An eligible employee]* A plan participant may participate in the 50-Plus Catch-Up Program during the calendar year containing the employee's retirement date.

(b) Additional deferral amounts. The additional deferral may be an amount elected by *[an eligible employee]* a plan participant, but may not exceed the maximum additional deferral amount allowed under section 414(v) of the Internal Revenue Code, 26 USC 414(v). *[An eligible employee]* A plan participant may change the amount of additional contributions deferred within the maximum additional deferral amount allowed. Changes may be made at any time by using online account access or other methods approved by the Deferred Compensation Program.

(3) 3-Year Catch-Up Program. *[An eligible employee]* A plan participant may elect to contribute an additional amount under section 457 of the Internal Revenue Code, in excess of the maximum regular contribution allowed, for one or more of the three consecutive calendar years of employment before attaining normal retirement age, if in previous years the plan participant *[eligible employee]* did not contribute the maximum regular contribution amount.

(a) Conditions for participation. The earliest date to begin participation in the 3-Year Catch-Up Program is in the three calendar years immediately preceding the year in which *[an eligible employee]* a plan participant reaches normal retirement age.

(A) Contributions over the maximum allowable regular contribution limit are permitted only to the extent of the unused portions of the maximum allowable regular contribution for previous calendar years during which the eligible employee contributed less than the maximum allowable regular contribution or did not make contributions to the Deferred Compensation Program.

(B) Calendar years during which contributions were made under the 50-Plus Catch-Up Program may not be included in the calculation to determine the maximum allowable contribution under the 3-Year Catch-Up Program.

(C) *[An eligible employee]* A plan participant may not participate in the 3-Year Catch-Up Program and the 50-Plus Catch-Up Program during the same calendar year.

(D) *[An eligible employee]* A plan participant must designate a proposed retirement date upon application. The designated proposed retirement date shall be used for the purpose of determining the catch-up period only. The catch-up period so determined may not include the

year of the designated proposed retirement date. *[An eligible employee]* A plan participant who retires during the catch-up period may contribute the maximum allowable amount for the year of the employee's retirement.

(E) Pursuant to section 457(b) of the Internal Revenue Code, *[an eligible employee]* a plan participant who is 70½ years of age or older may not participate in the 3-Year Catch-Up Program.

(F) *[An eligible employee]* A plan participant may participate only once in the 3-Year Catch-Up Program, regardless of whether participation in the 3-Year Catch-Up Program is for less than three calendar years or whether the eligible employee participates in an eligible plan after retirement.

(b) Application for enrollment. *[An eligible employee]* A plan participant may participate in the 3-Year Catch-Up Program by entering into a written agreement with the plan sponsor. The written agreement must specify the eligible employee's designated proposed retirement date, the month in which to begin the 3-Year Catch-Up Program contributions and the number of years the eligible employee plans to participate in the 3-Year Catch-Up Program.

(A) *[An eligible employee]* A plan participant may enter into a written agreement to participate in the 3-Year Catch-Up Program at any time while employed.

(B) A properly completed 3-Year Catch-Up Program enrollment form provided by the Deferred Compensation Program must be filed with and approved by the Deferred Compensation Program. Wage or salary information must be submitted for previous calendar years during which *[an eligible employee]* a plan participant either did not participate in the Deferred Compensation Program or did not contribute the maximum regular contribution amount. *[An eligible employee]* A plan participant may be requested to submit:

(i) Legible copies of W-2 Wage and Tax Statement forms for each relevant calendar or tax year;
or

(ii) Legible copies of final pay stubs showing gross and taxable salary for each relevant calendar year.

(C) If the application for enrollment is incomplete, if wage or salary information is incomplete or illegible, or if the application does not comply with the 3-Year Catch-Up Program conditions of enrollment, then the Deferred Compensation Program will notify the eligible employee within 30 calendar days from the date the enrollment documents are received of the reasons the Deferred Compensation Program cannot accept the enrollment.

(c) 3-Year Catch-Up Program deferral effective date. 3-Year Catch-Up Program contributions may be deferred for any calendar month by salary reduction only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

(d) Additional Deferral Amount. After receipt of a properly completed 3-Year Catch-Up Program enrollment form and required wage or salary information, the Deferred Compensation Program will notify the eligible employee of the maximum amount of additional contributions that may be deferred.

(A) The amount of the 3-Year Catch-Up Program salary reduction may not be less than the minimum additional contribution amount established by the plan sponsor and may not exceed the maximum allowable contribution under section 457(b)(3) of the Internal Revenue Code.

(B) *[An eligible employee]* A plan participant may change the amount of additional contributions deferred within the minimum and maximum additional deferral amounts allowed. Changes may be made at any time by using online account access or other methods approved by the Deferred Compensation Program and will be effective for any calendar month only if an agreement providing for the deferral has been entered into before the first day of the month in which the compensation is paid or made available.

(e) Cancellation of Participation in the 3-Year Catch-Up Program. *[An eligible employee]* A plan participant may cancel participation in the 3-Year Catch-Up Program at any time by using online account access or other methods approved by the Deferred Compensation Program. The cancellation will be effective for any calendar month only if an agreement providing for the cancellation has been entered into before the first day of the month in which the compensation is paid or made available. An election to cancel participation is irrevocable.

1 (4) Catch-up Contributions Required to be Roth Contributions. Beginning with taxable
2 years after December 31, 2025, if a plan participant's wages (as defined in IRC 3121(a))
3 from the participating employer for the preceding calendar year exceeded the threshold
4 amount of \$145,000, as adjusted for cost-of-living increases under IRC 414(v)(7)(E):

5 (a) All catch-up contributions under IRC 414(v) (50-Plus Catch-Up) must be designated
6 Roth contributions under IRC 402A; and

7 (b) If the plan participant is using the 3-Year Catch-Up, catch-up contributions must be
8 designated Roth contributions under IRC 402A to the extent required under IRC
9 457(e)(18)(A)(ii), as amended by Section 603(b)(2) of the SECURE 2.0 Act.

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