

UNIFORM RULES FOR THE SUFFOLK COUNTY PUBLIC EMPLOYEES DEFERRED COMPENSATION PLAN'S LOAN PROGRAM

The Suffolk County Public Employees Deferred Compensation Board ("Board") adopts the following uniform rules as part of the Plan. These uniform rules are consistent with Section 457(b) of the Internal Revenue Code; current Treasury Regulations and the provisions set forth in Sections 7.3 and 7.4 of the NYS Model Plan, as amended and restated June 22, 2011 and inclusive of its Schedule A; the Uniformed Services Employment and Reemployment Rights Act of 1994 contained in Chapter 43 of title 38 of the United States Code (USERRA) and the Servicemembers Civil Relief Act (SCRA). All Plan loans shall be made from the Trust Fund and promissory notes evidencing such obligation shall be considered assets of the Trust Fund.

The Board reserves the right to discontinue or suspend the offering of new loans or to make changes to these uniform rules, as necessary.

DEFINITIONS

- Administrator: the Plan's Deferred Compensation Plan Administrator.
- Approved Leave of Absence: a disability or illness extending beyond the employee's accrued sick leave which has been approved by the County.
- Beneficiary Transfer: the transfer of a Participant's assets, upon the death of a Participant, to an account in the name of a Participant's beneficiary (ies).
- Deemed Distribution: unpaid loan balance that the Internal Revenue Service considers unpaid yet distributed, resulting in taxable income in the year that the loan was unpaid.
- Disciplinary Suspension: a suspension from work imposed by Suffolk County resulting from charges imposed against an employee for incompetency or misconduct.
- Default Fund: a fund that has been identified as the proper fund to allocate a payment if the Participant's contribution allocation is not known.

- Funds: mutual funds, fixed interest options and common trust funds offered by a Provider.
- Outstanding Plan Loan: any loan that is being repaid in compliance with the Plan document until repaid in full and any loan that is in default until subsequently repaid.
- Participant: an employee of Suffolk County who is receiving a bi-weekly paycheck and who has an account or rollover account under the Plan.
- Plan: the government 457(b) plan offered to employees of Suffolk County, as may be amended from time to time.
- Plan Document: the amended and restated version of the NYS Model Plan, inclusive of Schedule A, as of June 22, 2011.
- Provider(s): identical to the definition of “Administrative Service Agency” found in Section 1 of the current NYS Model Plan amended and restated as of June 22, 2011.
- Rollover Account: a Participant’s assets from an eligible deferred contribution account, such as a 401(k), 403(b) or 457(b), that are transferred into the Participant’s Plan account.
- Trust Fund: the assets of the Plan, including cash and other rights and properties arising from payroll contributions, transfers and rollover contributions which are held and administered by the Trustees for the Plan.

LOAN APPLICATIONS

Eligibility

- A Participant may apply for a loan from the Plan.
- Participants on an Approved Leave of Absence, Disciplinary Suspension or former employees who maintain an account under the Plan shall not be eligible for a loan.

One Loan Rule

- A Participant can only have one Outstanding Plan Loan at a time. This “one loan rule” applies even if a Participant has accounts with both Providers.

- A Participant is permitted to have an Outstanding Plan Loan and a loan with the NYS Pension plan provided the both loans do not exceed \$50,000 in total.
- A Participant may not apply for a second loan until the Outstanding Plan Loan is paid in full. A Participant may apply for a loan as soon as the previous loan is paid in full. There is no waiting period.
- Providers must advise of this one-loan limitation to all prospective borrowers before processing a loan. Both Providers must ensure that this requirement is conveyed to potential borrowers through telephone script, website instructions or written loan application. If a Participant is inadvertently allowed a second Plan loan, the Provider that processed the second loan shall consider the second loan a Deemed Distribution immediately upon notification from Suffolk County that a second loan was issued. The Provider that issued the second loan shall send a 1099R to the Participant the following January.

LOAN FEES

- Providers will charge the following fees to the Participant's account:
 - a) VALIC account
 - \$50.00 loan initiation fee
 - \$30.00 annual loan maintenance fee
 - b) T. Rowe Price account
 - \$50.00 loan initiation fee
 - No annual loan maintenance fee
- The fees will be extracted by the Providers from the source from which the loan is taken (i.e., Rollover Account, 457account.) The loan fees will be taken from the Participant's account pro-rata by Fund.
- Fees are determined by the Providers and may be modified by giving the Board and the Participants 30 days prior written notice to Suffolk County.
- The Board reserves the right at any time to institute an administrative fee to Participants and/or their accounts who apply for loans.

LIMITATION ON LOAN AMOUNT/PURPOSE OF LOAN

The principal amount of any loan shall be for an amount equal to at least \$1,000, and shall not exceed the lesser of:

- (i) 50% of the value of the sum of (A) the Participant's account; and (B) the Participant's Rollover Account, if applicable, at either Provider;
- and**
- (ii) \$50,000, reduced by the highest value in the last 12 months of any loans by the Participant from the Plan and other eligible Retirement Plans, as that term is defined in the NYS Model Plan, amended and restated as of June 22, 2011, sponsored by the Plan or in which the Plan participates.

A loan may be made for any purpose. Participants shall be advised to speak to their own tax advisors for specific tax advice or tax implications of loans.

INTEREST RATE

- All loans shall provide a fixed rate of interest of one percent (1%) above the prime interest rate as published in the Wall Street Journal on the last business day of the month immediately preceding the month in which the loan application is made.
- The interest rate of an Outstanding Plan Loan shall remain fixed throughout the life of the loan. Providers will notify the Board as soon as possible of any changes to the Plan loan interest rate.

REPAYMENT TERMS

- Loan payments are automatically deducted from the Participant's Suffolk County paychecks within 2 to 3 pay periods from the date the Plan loan was taken by the Participant.
- All loans must be taken for at least 1 year up to the maximum term allowed as follows:
 - a. Non-residential loans, which are loans taken for any purpose other than for acquiring a principal residence, shall be repaid over a non-renewable repayment period of up to 5 years.
- Residential loans or home loans, which are loans made for acquiring a principal residence which is, or within a reasonable time shall be, the principal place of residence of the Participant, shall be repaid over a non-renewable repayment period of up to 15 years.

- The loan shall be repaid in substantially equal installments of principal and accrued interest bi-weekly under a level amortization schedule.
- Loan payments made by the Participant shall be allocated the same as the Participant's current contribution allocation or last contribution allocation and, if for any reason, allocation is not known, the repayment shall be allocated to a default fund designated by each Provider. To avoid the use of default funds, Providers may contact Participants and request an allocation designation in the Participant's account.
- The Participant has the right to repay the entire Outstanding Plan Loan balance before its due date by sending a payment to the Provider for the outstanding balance, plus accrued interest.
- Once the Provider has supplied a payoff figure, the Participant has 30 days in which to make the payment in one single installment. T. Rowe Price requires this payment to be made by certified check or money order. VALIC will accept a personal check.
- If the amount of the check or money order sent to the Provider to satisfy the entire loan balance exceeds the Participant's current outstanding Plan loan balance, the Provider shall return the overage to the Participant in the form of a check.
- The Plan does not permit partial payments to be made for pre-payments or partial advance payment of future payments.
- If any loan payments are made via payroll after the loan is paid in full, the Provider shall return the overage to the Participant in the form of check. Both the Suffolk County Department of Audit & Control and the Administrator will be notified via email of this over-payment by the Provider.
- The Board will not allow the payoff of an outstanding balance of a loan with assets from the Participant's account until the Participant is eligible to receive a distribution.
- The loan payments and interest will be credited to the Participant account from which the loan amount was initially taken (i.e., Rollover Account, 457(b) account)
- The interest and the principal payments made by the Plan Participant to pay the loan will be credited to the Funds in the Participant's current investment allocation.

RE-AMORTIZATION OF LOAN

Unless the Participant is on an Approved Leave of Absence, the terms of Outstanding Plan Loans are not subject to renegotiation (i.e., interest rates, length of loan, bi-weekly payment) with the following specific exceptions:

- If a Participant's repayment of a loan is delayed through no fault of his or her own and the bi-weekly loan repayment has not yet been entered into the payroll system, the loan will be re-amortized by the Provider.
- If a Participant's bi-weekly repayment of a loan ceases to be taken by payroll through no fault of Participant, the loan will be re-amortized as soon as the error is discovered.

Under these limited circumstances, the loan shall be re-amortized to ensure the loan is repaid in compliance with the Plan rules. The Provider that performs the recalculation shall bring the re-amortization to the attention of the Administrator and the Suffolk County Department of Audit & Control in writing or by email.

APPROVED LEAVE OF ABSENCE

The Board may approve suspending payments on an Outstanding Plan Loan for a period not exceeding one year, which occurs during an Approved Leave of Absence for a Participant.

- If a Participant with an outstanding loan balance takes a leave of absence of one year or less, the Participant must immediately begin bi-weekly payroll payments upon return from the leave. The balance of the loan will be re-amortized to ensure the loan is satisfied within the maximum loan term allowed or loan payments may be re-amortized to extend the payment schedule to the maximum period allowed, in the event the loan originally had a term of less than the maximum.
- Military leaves are exempt from the above requirement (see below section labeled "Military Leave").

SUSPENSION FROM WORK

Participants who are on a Disciplinary Suspension from work will have 90 days from the date of their last payment to pay the outstanding loan balance in full. If the full payment is not received by the end of the 90 day period, the outstanding loan amount will be considered a Deemed Distribution and a 1099R will be issued to the Participant by the Provider the following January.

EVIDENCE AND TERMS OF LOAN

- Once a loan is approved, each Participant shall execute a promissory note in the form prescribed by the originating Provider of the loan.
- For residential loans, completed applications must be returned by the Participant to the Provider for processing within 30 days from when the application is received by the Participant. Failure to return paperwork in the allotted amount of time will result in the process having to start over.

SOURCE OF LOAN/SECURITY FOR LOAN

All Plan loans shall be made from the Trust Fund and notes evidencing such obligations shall be considered assets of the Trust Fund.

All loans shall be secured, as of the date of the loan, by the sum of (i) the Participant's account balance and (ii) the Participant's Rollover Account balance, if any, provided, however, that no more than 50% of such Participant's account balance, including the Rollover Account, shall be used as security for the Plan loan.

In the event the Participant has a Rollover Account, a loan shall be made first from the Participant's 457(b) account, until exhausted, and then from his or her Rollover Account.

The original loan amount will be taken pro-rata from the Participant's account pro-rata by Fund.

DEFAULT/RISK OF LOSS

The Participant remains obligated for any unpaid principal and accrued interest on an Outstanding Plan Loan until it is paid in full.

The Provider shall treat an Outstanding Plan Loan in default, shall declare a Deemed Distribution to have occurred with respect to such loan and shall reduce the value of the Participant's account by the amount of the Deemed Distribution:

- If a bi-weekly repayment of the loan is not made within 90 days following the due date of a scheduled payment; or

- If it is shown that someone has made a representation or statement in connection with a loan that is false in any material respect.

Participants who have defaulted on Outstanding Plan Loans and which are not repaid shall not be eligible to obtain another loan under the Plan until the defaulted loan balance and accrued interest is paid and then only to the extent permitted by Section 1.72(p) of the Treasury Regulations.

Participants in default who have outstanding loan balances who are currently employed by Suffolk County, on a Leave of Absence with Suffolk County or no longer employed by Suffolk County, will have the opportunity to pay the outstanding loan balance and accrued interest in 1 lump sum payment. Failure to do so within 90 days following the date of a scheduled payment will result in the default being considered a Deemed Distribution, which is a taxable event under the terms of the Plan. The Provider will issue a 1099R in January of the year following the Deemed Distribution for the taxable portion of the unpaid loan balance plus accrued interest.

MILITARY LEAVE

The Board permits the Plan to suspend Participant loan payments for periods during which he or she is performing military service. A leave of absence for military service will not cause the Outstanding Plan Loan to be considered a Deemed Distribution, even if the leave exceeds a year. Loan payments must resume upon the Participant's return to work. The entire loan must be repaid within the original term, plus the period of military service performed by the Participant.

Interest on the loan continues to accrue at the rate shown on the promissory note during a leave of absence for military service. However, in the event the interest rate on the loan is more than 6%, which is the maximum rate permitted under the SCRA, then the rate shall be reduced to 6% during the period of the Participant's military obligation.

UNFORESEEABLE EMERGENCY

A Participant must first apply for a loan before submitting an Unforeseeable Emergency (UFE) Withdrawal Application unless the taking of a loan would create a severe financial hardship for the Participant. Under those circumstances, the Board reserves the right to approve a UFE request without requiring the Participant to first apply for a loan.

ROLLOVERS

a.) The Plan will not allow:

- an incoming rollover of assets from another supplemental retirement plan or an IRA that has an outstanding loan balance counted as an asset. All loan balances in an incoming rollover must be paid in full to the originating plan or IRA before an incoming rollover will be accepted by the Plan.
- a rollover to an IRA or other retirement plan such as a 401(k) or 403(b) plan from a Participant unless the Outstanding Plan Loan balance is satisfied in full with assets from the Participant's account before the remaining assets are sent to the successor custodian/trustee.

b.) The Plan will accept an outstanding loan from a 457(b) plan to be transferred or rolled in from another New York State 457(b) plan provided:

- i. the entire Participant's account balance from the transferring or distributing 457 plan must be rolled into the Plan; **and**
- ii. the outstanding loan must have been from pre-tax deferrals only; **and**
- iii. the Participant does not have an Outstanding Plan Loan or defaulted Outstanding Plan Loan that has not been repaid at the time of the transfer or rollover; **and**
- iv. the outstanding loan will be subject to the same terms and conditions that were in place at the time it was acquired.

c.) The Plan will accept a transfer made by a Participant who is a named beneficiary under an IRA or other retirement plan such as a 401(k) or 403(b) plan in the event the owner of such IRA or other retirement plan is deceased. Such amount transferred shall be added to the Participant's account balance in the Plan and will be factored into the amount a Participant is eligible to borrow.

d.) The Plan will allow an Outstanding Plan Loan balance to be transferred to another NYS 457(b) plan provided the Participant transfers his/her entire account balance to the new 457(b) plan.

DEATH OF PARTICIPANT

- The beneficiary of a Participant with an Outstanding Plan Loan will be eligible to pay the Participant's outstanding loan balance in one single payment in the same timeframe as the Participant could have paid the outstanding loan balance.
- If a Participant should die prior to the disbursement of the proceeds of any Plan loan requested, the Participant's loan request shall be void as of the date of death and the proceeds shall not be disbursed.

Approved by vote of the Board on October 26, 2011.