

# GASB Statement No. 97 on Section 457 Deferred Compensation Plans

August 12, 2020

In June 2020, the Governmental Accounting Standards Board (GASB) finalized Statement No. 97.<sup>1</sup> Statement No. 97 represents a final rule of the accounting and financial reporting standards described in an Exposure Draft released in June 2019 and a revised Exposure Draft released in March 2020. Since this Statement will affect all governmental deferred compensation plans under Code section 457, NAGDCA provided comments to GASB on both of the Exposure Drafts.

## STATEMENT OBJECTIVES AND REQUIREMENTS

GASB's stated objectives in finalizing Statement No. 97 were to clarify rules related to reporting of fiduciary activities under Statements No. 14 and No. 84, to mitigate costs for defined contribution plans, and to enhance the relevance, consistency, and comparability of the accounting and financial reporting of Code section 457 plans that meet the definition of a pension plan.

Statement No. 97 applies four new requirements to section 457 plans:

1. First, all governmental section 457 plans must be classified as either a pension plan or other employee benefit plan depending on whether the plan meets the definition of a pension plan as set forth in paragraph 51 of GASB Statement No. 67 or paragraph 128 of Statement No. 73. Plan sponsors need to make this determination using the definitions of pension plan and defined contribution pension plan set forth below.

Definition of Pension Plan in Statement 67:

- Pension plans are “arrangements through which pensions are determined, assets dedicated for pensions are accumulated and

managed, and benefits are paid as they come due.”

- Statement 97 does not provide any examples of deferred compensation plans that meet the definition of a pension plan.

Definition of Defined Contribution Pension Plan under current GASB Guidance:

- Defined contribution pension plans are defined pursuant to three criteria:
  - i. the plan provides an individual account for each employee;
  - ii. the plan terms define the contributions that the employer is required to make for a specific period of service; and
  - iii. the pension an employee will receive depends only on the contributions to the employee's account, actual earnings on investments, and the effects of forfeitures and administrative costs that are allocated to the account.

It appears from the definitions above that the vast majority of governmental 457 plans will **NOT** meet the definition of a defined contribution

<sup>1</sup> [GASB Statement No. 97](#) Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans (an amendment of GASB Statements No. 14 and No. 84 and a supersession of GASB Statement No. 32).

pension plan, but rather should be defined as an other employee benefit plan. We are hopeful, however, that prior to the effective date of Statement No. 97, GASB will publish implementation guidance providing specific circumstances and plan designs that could cause a section 457 plan to meet the definition of pension plan. For example, governmental section 457 plans that serve as a FICA alternative plan for part-time, seasonal, and temporary employees where the employer is required to contribute 7.5% of the participant's compensation pursuant to written plan terms or statute, may meet the definition of a defined contribution pension plan, subject to future guidance from GASB. Once implementation guidance is published, NAGDCA may be able to provide additional information regarding when section 457 plans meet the definition of a pension plan.

2. If you determine that your 457 plan meets the definition of a pension plan, all accounting and financial reporting requirements that are relevant to pensions should be applied to benefits provided through your section 457 plan.
3. All governmental section 457 plans must measure the fair value of investments as of the end of the plan's reporting period. It is important to note that under the prior rules, section 457 plans were permitted to value investments based on the most recent report of the plan administrator, regardless of the plan's reporting period.
4. GASB Statement No. 84, as amended by Statement No. 97, should be applied to all section 457 plans to determine whether the plan should be reported as a fiduciary activity. GASB indicated, however, that Statement No. 97 revised the rules under Statements No. 14 and No. 84 to limit their applicability to defined contribution plans, including section 457 plans.

## EFFECTIVE DATES

The requirements that limit the applicability of fiduciary activity rules to defined contribution plans, as described in item 4 above, are effective immediately. The requirements related to accounting and financial reporting for section 457 plans, as described in items 1-3 above, are effective for **fiscal years beginning after June 15, 2021**.

## WHAT SECTION 457 PLANS THAT ARE PENSION PLANS NEED TO KNOW

All section 457 plans that meet the definition of a pension plan should apply all accounting and financial reporting requirements relevant to pensions to benefits provided through the plan, including:

- Specific accounting and financial reporting requirements for defined contribution pension plans are set forth in GASB Statement No. 68 and its Implementation Guide.
- In Appendix B (Paragraph B38) to Statement 97, GASB indicates that the costs of applying pension standards to section 457 plans that meet the definition of a pension plan will generally be limited to note disclosures related to defined contribution pension plans, except where a section 457 plan is reported as a fiduciary activity.
- Further, due to the changes in Statement 97 relating to the application of fiduciary activity standards to defined contribution plans, the circumstances in which a 457 plan should be reported as fiduciary activity are expected to be limited. See GASB Statements No. 14 and No. 84 for additional information about when a section 457 plan must be reported as a fiduciary activity.

*This publication is not intended to provide legal or accounting advice. Section 457 plans should consult with their legal counsel, accountants, and auditors with respect to the impact of GASB Statement No. 97 on the plan.*