



Nebraska's  
Natural Resources  
Districts

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To: NARD Board of Directors  
From: Dean E. Edson, Executive Director  
Re: Restatement of NARD 414 (h) and 457 Retirement Plans  
Date: June 2, 2022

Attached are the Resolutions and Participation Agreements to restate the NARD 414 (h) and 457 Plans. Both the 414(h) Plan and 457 Deferred Compensation Plan are required to be updated to a more modernized platform. These are not being updated for legislation and no changes have been made to design.

I provided the managers with a report on this issue and followed up with the documents that each of the districts need to adopt and return to NARD by July 31, 2022.

*WHAT needs to be approved?*

1. **414 (h) and 457 Resolutions and Participation Agreements - These needs to be approved at the NARD Board Meeting**
2. **NARD 414.qdr** – This outlines the procedures the districts will follow in the case of a domestic relations order/divorce
3. **NARD 457.qdro** – This outlines the procedures the districts will follow in the case of a domestic relations order/divorce.

**Supplemental Information provided as a separate handout:**

1. **414 Plan.pdf**. NO ACTION is required on this document. It is for your review and reference only.
2. **457 Plan.pdf** – NO ACTION is required on this document. It is for your review and reference only.

**NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS  
414(H) PLAN**

**QUALIFIED DOMESTIC RELATIONS ORDER (QDRO) PROCEDURE**

In the case of any domestic relations order (DRO) received by Nebraska Association of Resources Districts 414(h) Plan, its status as a "qualified domestic relations order" (QDRO) under the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code will be determined under the following procedures. The Administrator is responsible for administering the QDRO Procedure. The purpose of the QDRO Procedure is to establish a reasonable and consistent procedure for determining the qualified status of a domestic relations order and for making distributions pursuant to a domestic relations order which qualifies under Internal Revenue Code Section 414(p).

Procedure prior to receipt of order: The Plan will apply the following procedure prior to the Plan's receipt of a domestic relations order.

1. **Suspension of Participant distributions or loans.** If the Administrator is on notice (verbal or written) regarding a pending domestic relations action (e.g., a divorce) and has a reasonable belief the Participant's account may become subject to a QDRO, the Administrator may suspend processing the Participant's distribution or loan requests pending resolution.
2. **Removing hold on the account.** After placing a hold on the account, the Administrator should notify the Participant of the hold on the account. In order to remove the hold, the Administrator should request the Participant to provide written confirmation that a court will not issue a QDRO with respect to the account; such as a property settlement agreement awarding the entire account to the Participant.

Procedure after receipt of order: The Plan will apply the following procedure whenever it receives a DRO which purports to be a QDRO.

1. **Notice to Participant and to alternate payee.** Within a reasonable time period after receipt of a domestic relations order, the Administrator will notify the Participant and any alternate payee of the receipt of the order, and will deliver to the Participant and to each alternate payee a copy of this QDRO Procedure. Any alternate payee may designate a representative to receive copies of notices that are to the alternate payee regarding a domestic relations order.
2. **Notice to Trustee.** The Administrator, within a reasonable time period after receipt of a domestic relations order, will notify the Trustee of the receipt of the order. The Administrator, for any period during which the Administrator (or a court of competent jurisdiction) is determining the issue of whether the order is a QDRO, will account separately for the amount of the Participant's benefit which is subject to the order. The Administrator will direct the Trustee to segregate the "QDRO amount" if possible.
3. **Review of order.** The Administrator will review the order within a reasonable time to determine its qualified status. The Administrator will complete a QDRO DETERMINATION CHECKLIST with respect to each order the Plan receives. In most circumstances, the Administrator will complete review of the order within 30 days of receipt. After review, the Administrator will determine whether the order is a QDRO.
4. **Suspension of Participant investment or distributions.** The Plan will suspend the Participant's right to direct any investments during the period the Administrator is determining the qualified status of the order. If the Participant is receiving benefits from the Plan at the time of receipt of the order, the Administrator will suspend distributions to the Participant to the extent the Administrator deems necessary to comply with the order should the Administrator determine the order is a QDRO.
5. **Determination order is a QDRO.** If the Administrator determines the order is a QDRO:
  - a. The Administrator will notify the Participant and each alternate payee that the order is a QDRO and the Plan will distribute amounts pursuant to the QDRO. The Administrator will notify the Participant and each alternate payee of the decision within ten days of the determination by mailing to each party a copy of the QDRO DETERMINATION CHECKLIST, which will include the Administrator's certification.
  - b. If the QDRO requires immediate payment, the Plan will pay the designated amounts as soon as administratively feasible. Payment of any amount the order required the Plan to pay during the determination period will include interest from the date the QDRO required the first payment, at the rate of interest determined to be reasonable. The rate of interest payable on a regular savings account is a reasonable rate of interest for this purpose.
  - c. If the Plan cannot make the distribution within 30 days of the determination of qualified status of the QDRO, the Administrator will advise the parties of the delay, of the reason for the delay and of the date by which the Plan expects to make payment.
  - d. The Administrator will advise the Participant when the Plan has completed payment to the alternate payee.
  - e. The Plan will maintain a separate accounting (which may include a segregated account) for each alternate payee until the Plan has completed benefit payments under the QDRO.

f. Each alternate payee is entitled to file with the Plan a beneficiary designation in the same manner as a Participant in the Plan, except that the joint and survivor annuity provisions do not apply to the alternate payee's spouse.

**6. Determination order is not a QDRO.** If the Administrator determines the order is not a QDRO:

a. The Administrator will advise the Participant and each alternate payee of the adverse decision and of the reasons for the adverse decision. The Plan will advise the Participant and each alternate payee of the decision within ten days of the determination by mailing to each party a copy of the QDRO DETERMINATION CHECKLIST, which will include the Administrator's certification of the decision.

b. The Administrator will discontinue separate accounting for the amounts payable under the order. The Plan will pay the benefits to the party entitled to receive the benefits. If the Participant is not entitled to a present distribution of any of the segregated benefits, the Plan will continue to account for the Participant's benefits as if the Plan had not received the order.

c. If the Administrator determines the status of the order within the 18-month period beginning on the date the order would require the first payment, the Administrator may delay distribution of any benefits subject to the order if the Administrator has reason to believe a party will seek to cure the defects in the order. The Administrator will continue to delay distribution during the period the Administrator determines to be necessary to fulfill the Administrator's fiduciary duties under the Plan.

**7. Consultation with legal counsel.** The Administrator will consult with the Plan's legal counsel in case of questions which arise with respect to the interpretation of any provision of the order or with respect to the qualified status of the order.

\* \* \* \* \*

**Adoption of QDRO Procedure**

The Administrator of Nebraska Association of Resources Districts 414(h) Plan adopts this QDRO Procedure on the date specified below.

By: \_\_\_\_\_  
Administrator

Date: \_\_\_\_\_

FOR INSERTION INTO THE  
RESOLUTIONS OF THE BOARD OF DIRECTORS OF THE  
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

For the Minutes of the July 14, 2022, Board Meeting

Resolved, that the District Office, as a Participating Employer in the Plan, hereby consents to the adoption of the Amendment and Restatement of the Nebraska Association of Resources Districts 414(h) Plan (the "Amendment and Restatement") to bring the Plan into compliance with the Cycle 3, other applicable law and guidance and to make certain other adjustments, is hereby authorized and approved;

Resolved Further, that the officers and management of the District office be, and they hereby are, authorized and directed to take whatever actions may be necessary to effectuate the foregoing Resolutions including, but not limited to, execution of the restated Plan and the Consent to the Amendment and Restatement, notification of employees and participants of the Plan, and the preparation and distribution of explanatory booklets and materials as necessary; and

Resolved Further, that any and all action taken and documentation executed by management or the officers of the District Office to effectuate the foregoing Resolutions and the transactions described therein be, and they hereby are, approved and ratified.

Dated this 14<sup>th</sup> day of July, 2022.

Papio-Missouri River NRD,  
Participating Employer

By: \_\_\_\_\_

Title: \_\_\_\_\_

**NEBRASKA ASSOCIATION OF RESOURCES DISTRICTS  
414(H) PLAN**

**PARTICIPATION AGREEMENT**

*(Note: Each Participating Employer must execute a separate Participation Agreement, the terms of which control as to that Participating Employer. If the Plan is a Multiple Employer Plan under Article XI, a Participating Employer may be a Related Employer or an Employer which is not a Related Employer. Under a Multiple Employer Plan, the Lead Employer may execute a Participation Agreement with regard to its own Employees. See Section 11.2(b).)*

**Agreement as to Signatory/Lead Employer control.** The undersigned Related Employer (or non-Related Employer if this Plan is a Multiple Employer Plan), by executing this Participation Agreement, elects to become a Participating Employer in the Plan identified in the foregoing Adoption Agreement. The Participating Employer accepts, and agrees to be bound by, all of the Elections as made by the Signatory/Lead Employer except as otherwise indicated below. *The Participating Employer also hereby consents to the Signatory/Lead Employer's sole authority (without further signature or other action by the Participating Employer) to amend, to restate or to terminate the Plan, to terminate the Participating Employer's participation in the Plan, and to take certain other actions, in accordance with Sections 11.2(b) and 11.8 as applicable.*

**A. PARTICIPATING EMPLOYER INFORMATION**

a. District Name: Papio-Missouri River Natural Resources District

**B. PLAN STATUS**

b.  Modification of existing Participation Agreement/Plan Restatement

**C. EFFECTIVE DATE(S)**

c. **Initial Effective Date of Plan** January 1, 1998 (enter month day, year)

d. **Modification/Restatement Effective Date.** January 1, 2022 (enter month day, year)

By: \_\_\_\_\_

Date: July 14, 2022

Title: \_\_\_\_\_