April 10, 2020

David Bean
Director of Research and Technical Activities
Governmental Accounting Standards Board
401 Merritt 7
PO Box 5116
Norwalk, Connecticut 06856-5116

Re: Project No. 3-38

Dear David:

On behalf of the National Association of College and University Business Officers (NACUBO), we submit the following comments on the Exposure Draft (ED) of the Governmental Accounting Standards Board, Certain Component Unit Criteria, and Accounting and Financial Reporting for Internal Revenue Code Section 457 Deferred Compensation Plans. NACUBO’s comments on the ED were developed with input from our Accounting Principles Council (APC). The APC consists of experienced business officers from various types of institutions who, collectively, possess a thorough knowledge of higher education accounting and reporting issues and practices.

NACUBO is a nonprofit professional organization representing chief financial and administrative officers at approximately 2,000 colleges and universities. In its capacity as a professional association, NACUBO issues accounting and reporting best-practice guidance for higher education institutions and educates more than 2,000 preparers annually on accounting and reporting issues and practices.

Overall Observations and Conclusions

We agree with conclusions expressed in the ED. Specifically:

1. The absence of a governing board would not be treated the same as the appointment of a governing board for defined contribution pension plans, defined contribution OPEB plans, or a benefit plan such as a Section 457 plan to which only employees contribute.

2. The financial burden criterion in paragraph 7 of Statement 84, Fiduciary Activities, is only applicable to defined benefit pension plans and defined benefit OPEB plans that are administered through a trust that meet the criteria in paragraph 3 of Statement 67, Financial Reporting for Pension Plans, or paragraph 3 of Statement 74, Financial Reporting for Postemployment Benefit Plans Other Than Pension Plans, respectively.

3. The proposed revisions of Statement No. 32, Accounting and Financial Reporting for
Internal Revenue Code Section 457 Deferred Compensation Plans, as amended, that would change investment valuation and require that investments of all Section 457 plans be measured as of the end of the plan’s reporting period.

Specific Observations and Suggestions

The ED needs to be clearer concerning Section 457 plans and fiduciary component unit criteria. Without clarity that includes descriptive statements about Section 457 plans, it will be difficult for preparers to discern the circumstances under which Section 457 plans with employer contributions, either in trust or trust equivalent arrangements, are subject to fiduciary component unit criteria.

For instance, the second paragraph in the summary indicates that Section 457 plans, to which only employees contribute, would not be subject to financial accountability criteria. Subsequently, paragraph 1 notes that Section 457 plans that meet the definition of a pension plan would not be exempt from the construct that a government performing the duties of a governing board in the absence of one would be considered equivalent to a governing board for which the government appoints a voting majority. A government appointing a voting majority of an organization’s governing board is a criterion of financial accountability per paragraph 21 of Statement 14, The Financial Reposting Entity. As such, the implication when reading the summary and then paragraph 1 of the ED is that Section 457 plans with employer contributions may not be exempt from the governing board financial accountability criteria in the same way that defined contribution plans are exempt because they may meet the definition of a pension plan.

However, the definition of a pension plan for Section 457 plans comes from the glossary of Statements 68 and 73 and appears to describe a defined benefit plan:

**Pension Plan** - arrangements through which pensions are determined, assets dedicated for pensions are accumulated and managed, and benefits are paid as they come due.

Defined benefit pension plans have determined pension amounts and assets are accumulated so that benefits can be paid as they come due. Section 457 plans are tax deferred savings plans, benefits do not “come due” as with defined benefit plans. Section 457 of the Internal Revenue Code allows withdrawals by employees either while actively employed or post-employment. For these reasons, Section 457 plans are considered to be defined contribution plans rather than defined benefit plans.

Further, it is tough to understand if Section 457 plans with employer contributions would be exempt from the financial burden criteria, because the proposal notes that such plans are subject to paragraph 7 of Statement 84 as amended. However, the proposal amends paragraph 7 to only apply to defined benefit plans. Section 457 plans with employer contributions are not typically defined benefit plans.

The ED leaves the reader wondering what the Board’s intent is concerning Section 457 plans that have employer contributions. Clear intent, definitions, examples, or perhaps a decision-tree type of flow-chart are recommended.
In closing, we wish to express our appreciation for the opportunity to comment. We welcome any questions the Board or staff may have about our remarks. Please direct your questions to me at 202-861-2542 or smenditto@nacubo.org.

Sincerely,

Susan M. Menditto
Senior Director, Accounting Policy