



**GOVERNING BOARD AGENDA ITEM
AMPHITHEATER UNIFIED SCHOOL DISTRICT NO. 10**

DATE OF MEETING: **January 25, 2022**

TITLE: **Approval to Provide Post-Retirement Employment Opportunities during the
2022-2023 Fiscal Year**

BACKGROUND:

Arizona’s school funding formulas create challenges for public school districts to remain competitive in hiring of essential school personnel. Currently, there is a national shortage of workers. The media has coined this year as the “Great Resignation.” Employers throughout the nation have struggled to hire and retain employees, and the same is true for public school districts as employee turnover has increased significantly as market conditions drive up wages to attract employees.

Notwithstanding this, public schools continue to struggle to remain competitive with private industry because the state never changed its school funding formula to address the annual state-mandated minimum wage increases after the Fair Wages and Healthy Families Act went into effect in January 2017. Without the benefit increased state funding, public employers, and especially school districts, have not had funds needed to address critical wage compression created with each annual minimum wage increase. School districts simply cannot compete with private employers who have the option to increase consumer pricing to hire employees. The Arizona state retirement contribution rates for employees have also continued to increase leading many to retire after a cost/benefit analysis.

Moreover, the national teacher shortage that has been in place for nearly a decade is the worst that it has ever been. Arizona universities report that the number of students enter their programs are insufficient to meet state teacher needs. Teacher retirements, combined with competition from private sector and other schools to hire teachers, particularly in hard to fill disciplines (e.g., math, science, and various professional disciplines that serve students who qualify for special education services), make it even more difficult for public school districts right now. The turmoil caused by the COVID-19 pandemic further exacerbates these struggles for Arizona school districts, as the high attrition rate of educators across the nation has been a primary topic in the media this year.

There are specific limitations on the financial relief available from the federal government that prohibit it from being used for teacher salaries. The federal funds provided through the Elementary and Secondary School Emergency Relief Act (ESSER) do not relieve school districts from their obligations to meet high qualification requirements necessary to work at a public school district as a teacher or instructional staff member. Federal and Arizona state laws, such as the Every Student Succeeds Act and the Individuals with Disabilities Education Act, continue to demand high levels of qualifications for teachers and paraprofessionals providing instruction to students despite the national worker shortages and known attrition from the teaching profession. In addition, the student achievement goals and the school labels established under Arizona state law depend upon placement and retention of skilled educators.

Amphitheater Public Schools, like many school districts in the State, offers salary enhancements for personnel teaching in “hard-to-fill” positions. The District also currently hires retirees through a post-retirement, third-party “employee-leasing” arrangement with Educational Services, Inc. (“ESI”), which has enabled the District to lease personnel with valuable and much needed skills that might otherwise have been lost. Last year, the ESI

contract was procured through the Mohave Cooperative, a procurement cooperative approved by the State of Arizona.

Lease-Back Employee Option

Arizona state law permits school districts to lease-back retired personnel from a third-party vendor, like ESI, without violating state retirement rules. The legality of retaining retired teachers and other employees through a third party “lease-back” arrangement is expressly established in A.R.S. § 15-502. It reads in relevant part:

“The governing board may obtain the services of any employee, including teachers, substitute teachers and administrators, by contracting with a private entity that employs personnel required by the school district.”

Recognizing that the District has a goal of hiring employees directly when possible, the District has offered a program to lease-back ASRS retirees through a third-party vendor (“TPV”), like ESI, for several years, and participants have been very positive about the opportunity. The program’s approval by the Board expires at the end of this fiscal year.

Benefits of Hiring Retired Employees

Permission to hire ASRS retirees in FY 2022-2023, whether by direct-hire or by lease through a TPV, is more important than ever. As explained above, school districts are operating in the middle of a “perfect storm” with the number of available workers continuing to dwindle through the Great Resignation and COVID-19. The District needs to be able to retain the loyal and dedicated employees who have helped it continue services to students and the community during the pandemic. An employee eligible to retire risks losing retirement payments to which they are entitled if they wait to retire to be able to continue working at the District.

By granting permission to hire ASRS retirees, the District employees who are eligible to retire will benefit because they will not have to wait to retire to continue doing their current job. Instead, they will be able to keep earning an income from the District while also receiving the retirement income that they are eligible to receive. It will also benefit the District by enabling it to retain loyal and trained employees, and by expanding the number of eligible candidates who the District can hire to fill its vacancies. There is also a slight savings when the District hires an ASRS retiree, particularly when the employee is a direct hire, since the alternative contribution owed to ASRS for an ASRS Retiree Return to Work is about 1.5% less than for an employee who participates in the ASRS system.

Proposed Terms and Conditions for Retired Employees

It is proposed that the Board permit the hiring of retirees through a TPV to fill a District position under the following terms and conditions:

1. The post-retirement employment option will be offered for the 2022-2023 fiscal year and allow the retiree’s retention through a TPV, such as ESI, as may be selected by the District from the available options through the Mohave procurement cooperative, or its equivalent, beginning on July 1, 2022.
2. This option will be available for all employment classifications in the District who retired with an ASRS-provider less than twelve months (365 calendar days) before July 1, 2022. However, it is recommended that qualified retired individuals who have been separated from direct employment with an ASRS-provider for more than twelve months by July 1, 2022 be hired directly by the District, which will avoid TPV fees

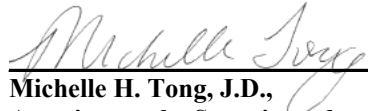
for that individual, and, if the retiree is in a position for which a District contract is issued, that the appropriate ASRS Retiree Return to Work contract version be issued for the retired staff member.

3. In the event of an emergency, the Superintendent or designee may appoint a retiree to fill a position on a temporary basis. This temporary appointment may be in effect for only one school year or until the position is otherwise filled, whichever comes first. The temporary appointee may apply for the position and go through the competitive process as stated above.
4. The terms of the retiree's employment with the approved TPV will be determined by the provider in consultation with the District, and the retiree must acknowledge those terms prior to placement with the District.
5. The District currently compensated ASRS retired employees at 80% of the rate paid that would be paid to a non-retiree. This practice has been in place for years to help the District cover TPV service fees and ASRS alternative contribution obligations owed for ASRS retirees. However, the current hiring difficulties outlined above justify ending this practice effective FY 2022-2023. To incentivize ASRS retirees to retain and/or return to the District, all ASRS Retiree Return to Work employees, whether hired directly or through a TPV, will be paid at 100% of the qualified wage authorized on the appropriate placement schedule.
 - a. If an employee retires after school ends in FY 2021-2022 and continues working in FY 2022-2023 as an ASRS Retiree Return to Work (through a TPV or direct hire), the employee will be compensated at 100% of the FY 2021-2022 wages and receive any compensation increase for which the employee may qualify when the Governing Board approves a compensation plan for FY 2022-2023.
 - b. If an ASRS Retiree Return to Work employee works for a TPV in FY 2021-2022 and continues in the same position in FY 2022-2023 as a direct-hire District employee, the amount of the twenty percent (20%) wage deduction applied in the first year after the employee retired will be added to the FY 2022-2023 compensation before any increase approved by the Governing Board for FY 2022-2023 is applied.
 - c. If an employee works as a direct-hire ASRS Retiree Return to Work during FY 2021-2022 and returns to work in the same position in FY 2022-2023, the amount of the twenty percent (20%) wage deduction applied in the first year after the employee retired will be added to the FY 2022-2023 compensation before any increase approved by the Governing Board for FY 2022-2023 is applied.
 - d. The compensation of any ASRS Retiree Return to Work who is hired as a new hire or who is hired into a different position from that worked in FY 2021-2022 shall be paid at 100% of the wage for which a non-ASRS retiree would qualify in the same circumstances.
6. The approved TPV will make and/or pay all appropriate payroll deductions and taxes. The District will pay a service fee to the provider as determined by the District's contract with the vendor. The District will also make the requisite contribution to the ASRS, which does not modify the retiree's retirement benefits.
7. Personnel placed with the District through this program must meet all District, Arizona state and federal qualification standards, including but not limited to, fingerprint/background clearance, certification, endorsement, education level, and licensure.
8. Regardless of their status as employees of a third party rather than the District, all personnel placed with the District must comply with district, state and federal laws, policies, regulations, directives as well as school improvement plans of Amphitheater Public Schools.

RECOMMENDATION:

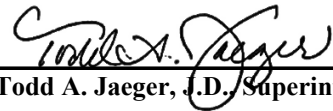
This item is presented for the Board's discussion, consideration and, if desired, approval and direction to the Administration.

INITIATED BY:



Michelle H. Tong, J.D.,
Associate to the Superintendent and General Counsel

Date: January 14, 2022



Todd A. Jaeger, J.D., Superintendent