



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

DATE OF MEETING: February 28, 2023

TITLE: Approval to Provide Post-Retirement Employment Opportunities during the 2023-2024 Fiscal Year

BACKGROUND:

Arizona’s school funding formulas create challenges for public school districts to remain competitive in hiring of essential school personnel. Currently, the national shortage of workers continues to exist after the “Great Resignation” of 2021. Employers throughout the nation continue to struggle 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 of 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 the past decade is the worst that it has ever been. Arizona universities report that the number of students entering 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. Following the turmoil caused by the COVID-19 pandemic, the high attrition rate of educators across the nation continues to be an issue for schools nationwide.

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 2023-2024, whether by direct-hire or by lease through a TPV, is more important than ever. 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 slightly 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:

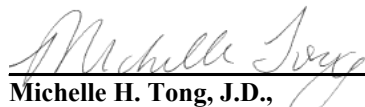
1. The post-retirement employment option will be offered for the 2023-2024 fiscal year and allow the retiree’s retention through a TPV, such as ESI, as may be selected by the District from the available options through the Mohave procurement cooperative, or its equivalent, beginning on July 1, 2023.
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, 2023. 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, 2023 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. It is further recommended that an ASRS retired employee who is currently working for the District, whether hired through a TPV or by direct hire with the District (once qualified), continue to be compensated at the same rate (prorated by FTE) as this year and receive the benefit of any Board-approved compensation increase that may be approved for FY 2023-2024 if they remain in the same classification. The compensation of any ASRS Retiree Return to Work who is hired as a new hire or who is hired into a different classification from that worked in FY 2022-2023 shall be paid at 100% of the wage for which a non-ASRS retiree would qualify in the same circumstances.
6. Employment transitions between direct hire by the District and employment with the TPV must occur at the start of a pay period.
7. 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.
8. 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.
9. 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:

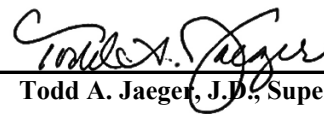
This item is presented for the Board's discussion, consideration and, if desired, approval and direction to the Administration.

INITIATED BY:



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

Date: February 22, 2023



Todd A. Jaeger, J.D., Superintendent