



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

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**DATE OF MEETING:**        **December 7, 2021**

**TITLE:**        **Approval of Budget Neutral Leave Buy-Back Program for Classroom Teachers  
(For Pilot in Current Fiscal Year)**

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**BACKGROUND:**

On April 14, 2020, the Governing Board approved a Joint Recommendation of the Meet and Confer Teams for Compensation Matters for Fiscal Year (FY) 2020-2021 (“Joint Recommendation”). All of the recommendations were fulfilled in FY 2020-2021 except the budget-neutral teacher sick leave buy-back program described in paragraph 5.

Paragraph 5 of that Joint Recommendation says:

“5. Develop and offer a cost neutral sick-leave buy-back program to allow teachers with a minimum of six (6) years of continuous service with the Amphitheater District and other qualifying criteria to sell back unused sick leave.”

**Reason for the Delayed Implementation**

The meet and confer committees signed that recommendation on April 6, 2020. Administration thereafter presented it to the Governing Board on April 14, 2020. At the time, COVID-19 was still being called a novel coronavirus. The meet and confer committee had stopped meeting in person and began meeting electronically, with some members participating by telephone and some members participating by video conference through WebEx<sup>1</sup>, because Arizona Governor Ducey and Superintendent of Public Instruction Kathy Hoffman had just announced that the 2-week school closure (March 15-30) was being extended to end of SY 2019-2020 to slow the spread of COVID-19.

People knew little about COVID-19 then. The state and local public health departments indicated a plan for things to return to normal during the summer. No one anticipated the global impact COVID-19 would have when the Joint Recommendation was finalized. Indeed, Governor Ducey had only approved schools to teach remotely through June 30, 2020, and the plan was for traditional school to return after summer break. Quite simply, the Joint Recommendation was made in full anticipation of schools being open for traditional in-person instruction for SY 2020-2021.

Sadly, the 2020-2021 school year was far from regular. The school year began with widespread community transmissions and the Pima County Health Department advising schools to continue to teach students remotely. State and local health department issued isolation and quarantine guidance for schools to mitigate COVID-19 on campus. Teachers fluctuated between teaching remotely and in a hybrid model for the better part of SY 2020-2021, and teachers were given the option to teach from home while students were remote to minimize the number of employees on District sites.

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<sup>1</sup> The District still used WebEx for video conferencing in April 2020 when Arizona Governor Ducey and Superintendent of Public Instruction Kathy Hoffman first announced the statewide school closure. The District acquired a Zoom license later that spring.

The overall message from the public health departments was “stay home when sick”. Notably, the federal government deemed this mitigation measure so important that the Families First Coronavirus Relief Act (FFCRA) was implemented which mandated that school districts provide an additional 80 hours of paid sick leave to qualified employees who needed to remain home to isolate, quarantine, and/or care for a child out of school due to COVID-19.

Suffice it to say, SY 2020-2021 was not the time to implement a sick leave buy-back program. That message could have confused the District’s COVID-19 mitigation measures and the recommendations of the public health departments in place for SY 2020-2021. It was important that the community understand that employees could isolate or quarantine without consequence in order for everyone at the site to feel comfortable coming to school. Now that COVID-19 vaccinations have become widely available to employees and students, it is finally appropriate for Administration to recommend implementation of a leave buy-back program to the Governing Board.

### **Minimum Criteria in the Joint Recommendation**

Paragraph 5 of the Joint Recommendation identifies three criteria necessary for the buy-back program:

- The program must be budget-neutral,
- The program must apply to sick leave, and
- The program must be offered to teachers who have provided at least 6 consecutive years of service to the District.

It is important to understand that the meet and confer teams put that criteria together without the benefit of knowing what the break-even point would be to keep the program budget-neutral. Their goal with the term “budget-neutral” was to avoid encumbering funds available that year for employee raises while still establishing a program designed to benefit teachers who reduce substitute costs through good attendance. They aligned the “6 consecutive years of service” with the requirements in the “Joint Recommendation of the Meet and Confer Team for Personnel Policy Matters” approved by the Governing Board on May 7, 2019 and Exhibit GCCA-E in the Amphitheater Policy Manual.

It is also important, at this continuing time of health emergency, to ensure that a balance remains struck between incentivizing good attendance among staff while at the same time encouraging those who need to utilize leave to do so.

### **Budget-Neutral Analysis**

“Budget-neutral” means the District can create a leave buy-back program from within the existing budget and available funds spent to cover sick leave currently. The Joint Recommendation establishes the minimal criteria agreed to for who should be included in the buy-back program. However, that criteria is not exclusive. To ensure a new program such as this is indeed budget neutral, it is recommended that the program be piloted for the current fiscal year to measure its effectiveness and budget success. Thereafter, the Governing Board can continue and/or expand the buy-back program beyond what is described in the Joint Recommendation.

Following the Joint Recommendation, Administration reviewed financial data to determine the break-even point for a budget-neutral buy-back program. That break-even point derives from the District’s ability to save costs associated with hiring of a substitute teacher and the amount that the District currently owes to reimburse qualified employees for unused sick leave when they separate from the District.

1. *To fund the buy-back program, the District must derive savings from avoiding the cost of a substitute assignment.*

Certificated substitute teachers are hired to continue instruction when a classroom teacher is absent from work. Only certificated employees with a class roster require a substitute teacher. Thus, because there is no savings accrued from the substitute budget if there is no original need for a substitute to begin with, it is necessary at a minimum that the leave buy-back program be limited to classroom teachers to keep it budget-neutral.

Notably, teachers request a substitute if they are absent from work either for illness or for personal reasons. The District offers teachers paid sick leave to use when sick, to care for a sick family member, to attend health care appointments, or for the other reasons required by the Fair Wages and Healthy Families Act. *See* A.R.S. § 23-373. Whereas, personal leave is available to teachers who need to miss work for any reason as long as the personal leave is requested and approved in advance of the absence. Regardless of the reason for the absence or the type of paid leave used by the teacher, the fact remains that a substitute teacher will still be required for the absence. Thus, it actually benefits the District to have both personal leave and sick leave included in the leave buy-back program.

2. *The maximum reimbursement rate that the District can pay to keep the leave buy-back program budget-neutral is the lowest daily rate of pay approved for substitute teacher.*

A primary goal of the leave buy-back program is to encourage excellent teacher attendance for the overall benefit of the students in their classrooms. It is in the best interest of students to have their teacher at work as much as possible to teach them continuously without interruption. As qualified as the District substitutes are, it is inevitable that students experience some level of interruption when their regular teacher is absent. Therefore, the reimbursement rate for the unused leave must be high enough to increase teacher attendance.

Yet, the reimbursement rate also cannot exceed the cost that the District has to pay for a substitute teacher to be in the classroom when the teacher is absent. Otherwise, it will not be “budget neutral”. For example, a teacher who is in their 11<sup>th</sup> year of service with the District may have a daily rate of pay of \$254. When that teacher uses paid leave to be absent from work, the District still pays that teacher their daily rate of \$254 for the paid leave day and also pays the substitute teacher to cover the absence at the substitute daily rate of pay (currently \$125), for a total cost to the District of \$379 for the day of teacher absence. If the District were to reimburse the teacher for the unused leave at a higher rate, there is a cost to the buy-back program and it is no longer budget-neutral. Therefore, the maximum unused leave reimbursement rate for teachers who participate in the buy-back program must always align with the lowest certificated substitute teacher daily rate of pay.

3. *The leave must be sold back by the teacher at the end of the current year for the program to remain budget-neutral.*

School districts are obligated to close their budget at the end of the fiscal year. Unused personal leave is currently converted to sick leave at the end of the year and held for future years. *See* Regulation GCCB-R. Sick leave can only be reimbursed at separation pursuant to the terms of the Joint Recommendation of the Meet and Confer Team for Personnel Policy Matters approved by the Governing Board on May 7, 2019 and Exhibit GCCA-E in the Amphitheater Policy Manual.

Once unused personal leave is automatically converted, it becomes impossible to retrace it. Therefore, it is important that any new leave buy-back program for teachers specifically require a teacher’s buy-back be tied to leave accumulated during a current fiscal year and not from any other year of employment.

## **Importance of Respecting Appropriate Use of Sick Leave**

Despite the availability of the COVID-19 vaccines, it is also important that teachers be encouraged to remain at home when necessary for their personal health and well-being and to keep our school campuses safe. The safety of students and other staff members on the campus must be considered in the development of the buy-back program as well.

Teachers should also be encouraged to carry forward some paid leave for future years to protect them in the event of an emergency. Employees may find themselves in a bind in the future if they are given absolute authority to cash out every bit of unused leave, especially when the District's leave donation program generally does not have sufficient balances to cover each donation request. Thus, it is recommended that at least three (3) paid leave days be exempted from reimbursement to ensure teachers who are sick can remain at home as needed.

Qualified teachers will still have the option to be reimbursed for those three (3) days at separation under the May 7, 2019 Joint Recommendation and Exhibit GCCA-E. The overall goal of reducing the District's mandatory reserves for those unused leave days can be met by allowing teachers to sell back the majority of their unused leave days.

## **Recommended Leave Buy-Back Program for Classroom Teachers**

With this in mind, Administration recommends that the Governing Board approve an annual leave buy-back program for all teachers who are assigned a class roster under the following terms and conditions:

1. The program is only available to certificated teachers who are assigned a class roster.
2. Certificated teachers must meet the following prerequisites to participate in the teacher leave buy-back program:
  - a. Teacher must fulfill their teacher contract and work until the final day of school that year, and
  - b. Teacher must satisfy one of the following criteria:
    - i. Teacher will have accumulated more than thirteen<sup>2</sup> (13) days of unused leave by the end of the school year and is seeking reimbursement for unused leave *in excess* of those thirteen (13) days, or
    - ii. Teacher has given notice that teacher will separate from the District at the end of the school year (*i.e.*, resignation, retirement, or teacher is on a short-term teacher contract and is not being renewed), and will not work for the District during the next fiscal year.
3. Qualified teachers may be reimbursed annually for all but three (3) days of unused paid leave accumulated during the current academic year. The reimbursement rate shall be equal to the lowest approved daily rate of pay for a District certificated substitute teacher.
4. The reimbursement rate is based on an eight (8) hour day and may be reimbursed at a prorated hourly rate where unused leave does not equate to a full day.
5. Each year that a teachers chooses to participate in the leave buy-back program, they must submit a reimbursement request form to the Payroll Department before the last day of school. Reimbursement will not occur automatically, and a new form is required each year that the teacher participates in the leave buy-

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<sup>2</sup> A full-time teacher qualifies to accumulate paid leave hours that are the equivalent of eight (8) sick leave days and five (5) personal leave days each year. See Policy GCCA, Policy GCCAA, and Regulation GCCB-R. This means that a teachers will need to have completed one year of continuous employment for compliance with option (b)(i).

back program. If reimbursement is not requested, unused personal leave will automatically convert to sick leave in accordance with Regulation GCCB-R and carry-forward to the next fiscal year.

6. Teachers who apply to participate in the leave buy-back program waive all rights to participate in the District's sick leave donation program.
7. The leave buy-back program does not apply to unused bereavement leave, leave acquired by donation, leave carried forward from a prior fiscal year, or to leave accumulated for supplementary assignments, summer work, or otherwise accumulated outside of the employee's teacher work contract.
8. Days for which such payment is received shall be deducted from the accumulated sick leave balance.
9. Payment as provided herein will be issued by the end of the fiscal year.

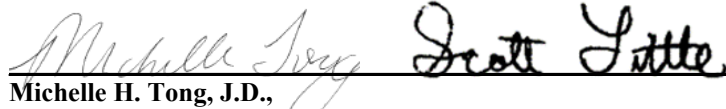
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**RECOMMENDATION:**

No action is required of the Board at this time. Administration developed the proposed teacher leave buy-back program based on the Joint Recommendation and is providing it to the Board for *study* at this time. Since teachers did not have an opportunity to review the proposal before this meeting, Administration recommends that Board study the item at this meeting and consider it for approval in January 2022.


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**INITIATED BY:**



Michelle H. Tong, J.D.,  
Associate to the Superintendent and General Counsel  
and  
Scott Little  
Chief Financial Officer

Date: December 1, 2021



Todd A. Jaeger, J.D., Superintendent