



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

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**DATE OF MEETING:**      **April 9, 2013**

**TITLE:**            **Approval of Post-Retirement Employment Opportunities During the 2013-2014 Fiscal Year for Staff Retiring in the Current Fiscal Year.**

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**BACKGROUND:**

**Significance of Staff Retention**

As the Board has previously studied and discussed, there are increasing pressures on Arizona school districts to retain highly qualified personnel:

- NCLB and IDEA demand that instruction be provided by teachers and paraprofessionals meeting high levels of qualification.
- Student achievement goals under state and federal law depend upon placement and retention of skilled staff.
- Fifty percent of all teachers in the profession today are expected to retire by the end of this decade.
- Arizona state retirement contribution rates for employees have increased and will continue to do so, pressuring some people to retire.
- The private sector and other schools continue to compete for personnel in hard to fill disciplines.

The loss of staff to retirement can therefore be counterproductive to the efforts of school districts to overcome these pressures. School districts are consequently searching for new ways to attract and retain personnel.

Many personnel who retire from school districts do pursue “second careers” in another field. Often, they would prefer to remain in the field of education or other public service, but state retirement rules preclude them from doing so, at least in a direct employment relationship.

**The “Lease-Back” Solution**

New businesses have arisen which offer school districts the ability to hire teachers, administrators and classified employees who have retired. (The Arizona State Retirement System would normally preclude those retirees from returning to employment with any Arizona school district for one year after retirement. In this way, those employees whose valued skills might have otherwise been lost can continue their contributions. Additionally, these personnel may earn substantial post-retirement incomes without violating state retirement rules.

At present, more than seventy Arizona school districts have this kind of program.

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.

The District currently offers such a program through Educational Services, Inc., a service provider under a Mohave Educational Services Contract. Our ESI contract sets a fee for the service to be provided by the retiree based on a percentage of the retiree’s former salary as a district employee (currently, approximately 74% of the retired employee’s former pay). ESI hires the retiree and “leases” the employee back to the District. ESI assumes all responsibilities for paying the retiree, who is then an employee of ESI. Like any employer is required, ESI makes appropriate withholdings and payments of all applicable taxes and the issues W-2 forms. ESI also offers a benefit plan that its employees may purchase. ESI bills the District for the cost of the retirees, salary costs and ESI’s service fee.

The district saves the difference between the cost of the employee’s pre-retirement salary (and employee related costs) and the fees paid to ESI. The employee earns income both as a state retiree and as an ESI employee placed with the district.

The District has offered such a program 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.

In recent years, these “leased employee” arrangements have received scrutiny from both the Arizona State Retirement System and the legislature. We have seen, for example, the introduction of legislation which modified the terms of these arrangements in various ways. One recent law, for example, now requires a “contribution” to the ASRS by the employer of approximately 8.4% for “leased employee” wages.

This obviously reduces the amount of savings enjoyed by the District in these arrangements.

### **The Administration’s Proposal**

The Administration recommends again offering current Amphitheater employees the opportunity to continue their public service even after retirement through this program. Specifically, the recommendation is that retiring Amphitheater employees may again be retained through ESI to fill their pre-retirement positions following their retirement, on the following terms and conditions:

1. The option will be offered for the remainder of the current fiscal year, allowing the retiree’s retention through ESI beginning in 2013-2014.
2. The terms of the retiree’s employment with the service provider are determined by the provider, and the retiree must acknowledge those terms prior to placement with the District.

3. ESI will compensate former employees of the District at the rate of 71.8% of the wage paid to the employee by the District prior to retirement. This difference in pay has increased following the state mandate to make ASRS contributions on contract fees paid to third party contractors.
4. The provider 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.
5. Personnel placed with the District through this program must meet all district, state and federal qualification standards, including but not limited to, fingerprint/background clearance, certification, endorsement, education level, and licensure.
6. Pursuant to the terms and conditions of the District's Early Retirement Program (ERP) and Early Retirement Phase Out Program (ERPOP), participants in those former programs are ineligible to participate in this program.
7. 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 the Amphitheater District.

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**RECOMMENDATION:**

This item is presented for the Board's consideration and action. The administration recommends the Board approve continued participation on the terms and conditions specified above.

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**INITIATED BY:**



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Todd A. Jaeger, Associate to the Superintendent

Date: April 3, 2013



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Patrick Nelson, Superintendent