



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

DATE OF MEETING: **March 6, 2018**

TITLE: **Approval of Post-Retirement Employment Opportunities during the 2018-2019 Fiscal Year for Staff Retiring in the Current Fiscal Year.**

BACKGROUND:

Significance of Staff Retention

As the Governing Board has previously studied and discussed, Arizona school districts face increasing pressures to retain highly qualified personnel that have their origins in a number of factors:

- Federal and Arizona state laws, such as the Every Student Succeeds Act and the Individuals with Disabilities Education Act, demand high levels of qualifications for teachers and paraprofessionals providing instruction to students.
- Student achievement goals as well as school labels established under state and federal law depend upon placement and retention of skilled staff.
- Fifty percent (50%) of all teachers in the profession today are expected to retire by the end of this decade.
- Twenty percent (20%) of teachers nationally leave the teaching workforce every year – one of the highest turnover rates in any employment sector.
- Arizona state retirement contribution rates for employees have increased significantly over the last several years and are expected to continue to increase, leading many to retire after a cost/benefit analysis.
- The private sector and other schools continue to compete for personnel in hard to fill disciplines (e.g., Math, Science, and various professional disciplines such as Speech and Physical Therapy).
- Decreased state funding for Arizona schools diminishes the appeal of serving in Arizona classrooms.
- The vast majority of graduates from Arizona education colleges last year left Arizona to seek employment elsewhere.

The impact of the growing teacher shortage in Arizona resulting from factors such as these is evident throughout the State. Amphitheater Public Schools, for example, now encounters difficulty recruiting for positions that traditionally were never difficult to fill. Arizona school districts across the State currently use long-term substitute teachers to staff classrooms, and the rural districts, hit even harder by this teaching shortage, have begun offering substantially higher salaries, free bussing to their schools from metropolitan areas, and even free housing to attract staff.

Amphitheater Public Schools, like many school districts in the State, offers salary enhancements for personnel teaching in “hard-to-fill” positions. Amphitheater Public Schools has also been hiring retirees through post-retirement, third-party “employee-leasing” arrangements with smartschoolsplus, Inc. (SSP) which enables the District to lease personnel whose valuable and much needed skills might have otherwise been lost. SSP is a vendor that offers leased employment service through the Strategic Alliance for Volume Expenditures (SAVE) group procurement cooperative.

Lease-Back Employee Option

Arizona state law permits school districts to lease-back retired personnel from a third-party vendor like SSP or Educational Services, Inc. (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.

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.

The District “saves” the difference between the cost of the employee’s pre-retirement salary (and employee related costs) and the fees paid to the third-party vendor. The employee earns income both as a state retiree and as a third-party vendor employee placed with the District.

Proposed Terms and Conditions for Retired Employees

Retirees hired through a third-party vendor (TPV), such as SSP or ESI, both of which are available to the District through the SAVE group procurement cooperative, may fill their pre-retirement position upon approval by the District, under the following terms and conditions:

All Retirees:

1. The post-retirement employment option will be offered for the 2018-2019 fiscal year and allow the retiree’s retention through the approved TPV beginning on July 1, 2018.
2. This option will be available for all employment classifications in the District other than: (a) classroom teachers who have been retired for more than twelve months, and (b) administrators who have been retired for more than two years. The TPV option is available to classroom teachers who have been retired for less than twelve months. Because the District qualifies for funding based on the overall experience rating of its classroom teachers, there is a financial benefit to hiring qualified post-retirement classroom teachers directly in order to increase the overall experience rating of the District and increase potential teacher experience index funding from the State. The District also benefits by providing increased promotional opportunities for certificated employees and, thus, post-retirement employment options should be limited for administrators beginning with the 2019-2020 fiscal year. The post-retirement employment options for qualified classroom teachers and administrators are addressed more specifically below in paragraphs 9 and 10, respectively.

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 approved TPV will compensate former employees of the District at the approximate rate of eighty percent (80%) of the wage paid to the employee by the District prior to retirement. This difference remains the same as last year to account for the state mandate to make the ASRS alternative contribution on contract fees paid to third party contractors.
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.

Classroom Teachers:

9. Retired teachers assigned to classroom positions who have been retired for twelve months, *i.e.* three hundred sixty-five (365) calendar days, may qualify for employment directly with the District. This will enable the District to recoup funds from the state of Arizona for these retired teachers' classroom teaching experience. Qualified retired classroom teachers may be re-hired by the District pursuant to the terms and conditions set forth in the attached ASRS Retiree Returning to Work Teacher Employment Contract. The salary and benefits shall be consistent with that earned through SSP for the 2017-2018 fiscal year.

Retired Administrators:

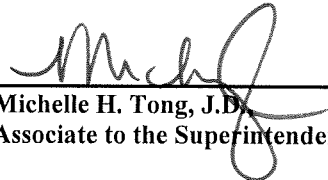
10. Beginning January 1, 2019, positions filled during the 2018-2019 school year by administrators who have been retired for more than two (2) years may be posted for employment for the 2019-2020 school year. Once posted, the position may be filled by a retired administrator hired through the approved TPV if and only if the position remains unfilled by a qualified candidate after being posted for at least one (1) month.

RECOMMENDATION:

This item is presented for the Board's consideration and action. The administration recommends the Board approve continuation of post-retirement employment opportunities for District retirees under the foregoing terms and conditions. Administration further recommends that the Board approved the attached ASRS

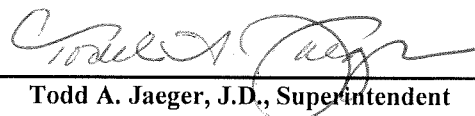
Retiree Returning to Work Teacher Employment Contract for use with qualified post-retirement classroom teachers.

INITIATED BY:



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

Date: February 26, 2018



Todd A. Jaeger, J.D., Superintendent

AMPHITHEATER UNIFIED SCHOOL DISTRICT
CERTIFICATED ASRS RETIREE RETURNING TO WORK
TEACHER'S CONTRACT

This contract is entered into between _____ ("Teacher") and the Governing Board of Amphitheater Unified School District No. 10 of Pima County, Arizona ("District"). The parties agree as follows:

1. District agrees to employ Teacher for fiscal year 2017-2018 ("the fiscal year"). The contract year for Teacher shall be in accordance with the official calendar adopted by the Governing Board. If, however, an emergency or other circumstance as determined and declared by the Governing Board or its authorized designee delays the opening or requires the closing of the schools, the period of time covered by the employment contracts shall be extended so as to maintain open schools for the number of days required by state law without additional compensation to Teacher.

2. District agrees to pay Teacher a salary of _____. In the event there is a difference between the salary amount stated here and the amount approved for payment to Teacher by the Governing Board, then the amount approved for Teacher by the Governing Board shall govern. Teacher shall also receive performance pay if Teacher qualifies for such pay in accordance with the District's performance pay plan(s), subject to any reduction in Classroom Site Funding as described below in section six (6) below. The amount of performance pay and the method and timing of payment of performance pay shall be as specified in the District's performance pay plan(s). Teacher shall also receive such fringe benefits as the Governing Board has approved for this fiscal year. The Teacher's compensation shall be payable in bi-weekly installments as Teacher directs.

3. Teacher shall teach such grade, grades or subjects in the school(s) of the District and at such location(s) as the Governing Board, Superintendent, Principal, or their designees, may direct for the fiscal year and will faithfully perform the duties as may be assigned according to law, rules, policies and regulations legally established for the governance of the District as are in effect or may be amended during the term of this contract. Teacher shall teach in accordance with the academic standards established by the State of Arizona Board of Education.

4. Teacher's employment is conditioned upon the possession at all times of a valid Arizona Teacher's certificate for the position being offered and upon the possession at all times of a valid fingerprint clearance card, as well as the satisfactory completion of a background check and minimum requirements for the District's Teacher job description. Teacher agrees to be appropriately certified according to Arizona Department of Education standards, and to hold all requisite endorsements appropriate to the position held by the commencement date and throughout the duration of this contract. This contract shall be null and void and Teacher's employment shall be terminated if these conditions are not satisfied.

5. District's budget incorporates assumptions about the amount of funding that will be available to the District. Teacher acknowledges and agrees that at any time after execution of this contract, the Base Salary specified above may be reduced by an amount not to exceed four percent (4%) of Teacher's salary or may be cancelled, if any of the following, individually or in conjunction, occurs: a) if the District's Base Support Level, the Revenue Control Limit, or the General Budget Limit authorized for the 2018-2019 fiscal year is less or becomes less than that authorized at the beginning of the 2018-2019 fiscal year; b) the District fails to receive, during the 2018-2019 fiscal year, funds in the amount initially budgeted for such year due to a transition to current year funding or for any other reason; or c) the District does not receive federal or state funds that, as of May 30, 2018, the District anticipates receiving for use in the 2018-2019 fiscal year. Teacher shall be given not fewer than ten (10) calendar days' notice of any reduction in Base Salary that occurs as a result of this paragraph. In addition, if the District receives new and undesignated state or federal funding after execution of this agreement, and such funding may be utilized for staff compensation, the compensation paid under this contract may increase following additional meet and confer proceedings and recommendations and Governing Board action.

6. Pursuant to A.R.S. § 15-977 and provisions of the Proposition 301 Classroom Site Fund, the District may or may not receive funds to support supplements to Teacher's Base Salary. Teacher expressly acknowledges that total pay will depend upon allocation of the Classroom Site Funds, amount of Classroom Site Funds received, if any, and employee eligibility. Payments associated with the Classroom Site Fund may be paid only if the balance in the applicable Site Fund account is sufficient to support the payment.

7. Teacher warrants the truth of all representations and statements made by Teacher to District in connection with Teacher's employment. Any breach of this warranty may be grounds for termination of employment.

8. Pursuant to A.R.S. § 15-550, if Teacher is arrested for or charged with any non-appealable offense listed in A.R.S. § 41-1758.03(B), Teacher shall immediately report the arrest or charge to Teacher's supervisor. Failure to do so shall result in Teacher's immediate dismissal in accordance with Arizona law.

9. Teacher affirms and represents that Teacher and Teacher's dependents will not have a financial interest in any product or service purchased or otherwise procured by the District during the fiscal year. Alternatively, Teacher affirms that Teacher will disclose, in the records of the District's central office, whenever Teacher or Teacher's dependents do have a financial interest in a school district procurement of any product or service. This Contract is subject to cancellation pursuant to A.R.S. § 38-511, regarding conflicts of interest.

10. Teacher hereby acknowledges and agrees that his/her employment is pursuant to A.R.S. § 38-766.01 which allows retirees under the Arizona State Retirement System ("ASRS") to return to work after retirement under certain conditions. Teacher acknowledges and represents that Teacher has attained normal retirement age as set forth by the ASRS, has retired under the ASRS, has terminated employment with all ASRS participating employers for at least twelve months, i.e. three hundred sixty-five (365) calendar days, before returning to work, and has chosen to work without interrupting or terminating receipt of ASRS retirement benefits. Teacher also acknowledges, desires and intends that District and Teacher will not make the contributions to ASRS for the salary paid to Teacher pursuant to this Contract or pursuant to any other aspect of Teacher's employment with District, but will comply with A.R.S. § 38-766.02. Teacher also acknowledges, desires and intends that Teacher will not accrue credited service, retirement benefits or long-term disability program benefits through ASRS for the employment agreed to pursuant to this contract. Finally, Teacher expressly acknowledges that Teacher is not subject to the requirements and conditions prescribed in Arizona Revised Statutes §§ 15-538, 15-538.01 and 15-539 through 15-543, including but not limited to, accrual of continuing status, preliminary notice of inadequacy of performance, or contract renewal. District and Teacher therefore expressly agree that Teacher's employment under this Contract is for 2018-2019 school year only. Teacher is hereby notified that Teacher's employment is for the 2018-2019 school year only and Teacher's contract will not be renewed for the following school year. This contract will automatically terminate upon the conclusion of the 2018-2019 school year without any further notice or action on either party's part.

11. Teacher is entitled to have the same paid holidays as other certificated employees in which that position is normally assigned. Teacher shall also receive the same number of sick and personal days in which that position is normally assigned, but unused personal or sick days will not be paid out at the end of the year. Fringe benefits-eligibility for health insurance, life insurance and the Employee Assistance Program will be determined under existing District policy.

12. Teacher understands that, pursuant to A.R.S. §15-545, resignation from employment during this contract without obtaining advance Governing Board approval is an unprofessional act which may subject Teacher to disciplinary action before the State Board of Education, including revocation of Teacher's certificate. Teacher therefore agrees not to resign from employment prior to the conclusion of the final duty day required by this Contract, unless the resignation has been approved in advance by the Governing Board. Teacher also recognizes that District will incur expenses of securing a replacement, including substitute costs, in the event that Teacher does not fulfill the full term of this Contract. Teacher and District agree that these expenses and the damage done to District's program and its students due to the premature loss of Teacher's services are difficult to determine, and therefore that it is appropriate to assess a certain amount as liquidated damages in the event of Teacher's breach of this contract in this respect. Teacher and District specifically agree that the liquidated damages which may be assessed against Teacher for resigning or leaving employment without advance Board approval shall be the amount of two thousand five hundred dollars and no cents (\$2,500.00). Teacher agrees that District, in addition to any other remedies available to it by law, may deduct all or any portion of the amount of the liquidated damages from any earnings due to Teacher from any fiscal year, or from any other source. District will consider individual circumstances in the application of this provision.

13. This contract constitutes the entire agreement of the parties, and any prior or contemporaneous agreements, whether written or oral, are superseded by this contract except as provided or referenced herein. Any subsequent amendment or addendum to this contract shall be in writing and signed by both parties. This contract and any subsequent amendment, revision, or addendum to this contract is subject to all applicable State and Federal statutes.

14. Pursuant to Arizona law, Teacher must sign this Contract and return it to the District's Human Resources Office within fifteen (15) days from the date it is issued, without any additions or deletions, or District's offer of employment shall be automatically revoked.

APPROVED AT A LEGALLY CONVENED MEETING OF THE GOVERNING BOARD on the 6th day of March, 2018.

Teacher

The Governing Board:

(table of signatures of Governing Board to be inserted)