

# Executive Summary

## Prepared for Board of Trustees Meeting

### June 24, 2008

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#### Adopting a 403(b) Plan Document

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##### Purpose of Report

For many years school districts have been offering employees 403(b) plans without much in the way of guidance from the Internal Revenue Service (IRS). On November 15, 2004, the IRS posted proposed 403(b) regulations. IRS issued final 403(b) regulations on July 23, 2007 to be effective January 1, 2009. The final 403(b) regulations outline certain requirements that must be satisfied for a 403(b) program to qualify for the exclusion from income available under section 403(b) of the Code. One of these requirements is that the employer sponsoring the 403(b) plan must establish and maintain a single written plan that includes all material terms and conditions relating to eligibility, limitations and benefits under the plan. Other plan features are optional and may or may not be included under the written plan document.

- IRS now treats 403(b) programs as “Employer Plans.”
- IRS implemented rules to make 403(b) programs similar to other elective deferral plans, i.e. 401(k) plans
- Failure to implement and maintain a written 403(b) Plan Document will cause the loss of “income exclusion” for contributions to the District’s 403(b) Plan.

##### Objectives

- A checklist of plan features is included in the materials. It includes information as to whether the feature is mandatory or optional, IRS model plan and comments from National Plan Administrators (NPA).
- A draft written Plan Document is included indicating proposed plan features. Prior to finalizing this document, vendor names must be listed in Appendix 1. Only TRS approved vendors are eligible to offer products to our employees. Vendors must agree in writing to share information necessary for compliance purposes with the Employer, and Administrator and/or any other 403(b) provider as may be required to facilitate compliance with the Plan and all applicable laws and regulations.
- The District must satisfy the Universal Availability Requirements by notifying all employees of their eligibility to participate in the 403(b) program.

##### Operational Impact

The District has contracted with National Plan Administrators to provide third party administrator services for the 403(b) plan. They have prepared a draft Plan Document using the IRS model language provided in Revenue Procedure 2007-71. Revenue Procedure 2007-71 may be used by public schools either to adopt a written plan to reflect the requirements of the final 403(b) regulations or to amend its 403(b) plan. It also provides transitional relief for contracts or custodial accounts that were issued or exchanged under Revenue Ruling 90-24 before January 1, 2009.

##### Results

We will propose a Board Resolution delegating to the Executive Director of Administrative Services, the authority and responsibility to adopt a 403(b) plan, to act on the Board’s behalf with respect to this plan and to take any and all actions necessary to implement, maintain and administer the plan in accordance with the Board’s intentions and all applicable state and federal law.