

CERTIFICATED EMPLOYEE EARLY RETIREMENT

A. PURPOSE:

The York Public School District Board of Education (referred to as the District and Board respectively) will annually consider the implementation and funding of a Separation Incentive Program (referred to as the Program) for the certificated teachers of the District (referred to variously as teacher, eligible employee, employee, applicant, or participant). The Program is a Board policy that is intended to benefit certificated teachers who are considering terminating their employment with the District. Its objectives include, but are not limited to, providing a balance of employee experience and offering financial incentives to assist long-term employees who are considering separating from employment.

B. QUALIFICATIONS:

1. Eligible Employees: To be eligible, an employee must be employed by the District as of the date of acceptance of his/her application in the position of a fully certificated teacher who is paid in his/her last school year of employment pursuant to the salary schedule negotiated by the Board and the York Education Association.
2. Program Eligibility Requirements:
 - a. The teacher must make written application on the approved form along with a letter of resignation to the Superintendent between September 1 and February 1 preceding the August 31 separation date. The letter of resignation will only be accepted if the early retirement is approved.
 - b. The teacher must have at least fifteen (15) years of service as a teacher with the York Public Schools prior to his/her separation date.
 - c. A teacher receiving long-term disability benefits is not eligible to participate in this program.
 - d. Teachers who have received notice of contract cancellation are ineligible to participate in this program.
 - e. Notice of approval shall be given within 30 days of the receipt of the application, but in no case later than April 15.

3. **Applications and Criteria for Selection:** On or about October of each year, the Board, in its sole and absolute discretion, will determine the total number of applicants it will approve for participation in the Program based on financial exigencies, availability of funds, budget, expenses, revenue, and other school financial issues. If there are more applicants than the number the Board has authorized, the selection of the approved applicants shall be based on the following criteria in descending order:
 - a. **Highest Salary:** The applicant(s) with the highest salary on the teacher salary schedule will be given preference for participation.
 - b. **Years of Experience in the District:** If two (2) or more applicants are tied after consideration of criterion “a” above, the applicant(s) with the most years of full-time teaching experience in the district will be given preference.
 - c. **Date of Application:** If two (2) or more applicants are tied after consideration of criterion “b” above, the applicant(s) with the earlier date of application (based on the date stamp from the Superintendent’s Office) will be given preference.
 - d. **Tie Breaker:** If two (2) or more applicants are tied after consideration of criteria “a”, “b”, and “c” above, the names of the applicants who are tied shall be placed in a container and drawn from the container for opening(s) in the Program.

C. PROVISION OF BENEFITS

- a. If the teacher participating in this program is re-employed by the school district as a teacher within three years of his/her date of separation, payment of early benefits will be suspended one month prior to re-employment by the York Public Schools. Payment of early retirement benefits will resume the month following the final payment for his/her re-employment. This provision shall not apply to a participant substitute teaching for the district on a per diem basis. In no case can a teacher receive benefits for less than 36 months nor more than 60 months.
- b. Entrance into the program will commence on September 1 following his/her August 31 separation date. Changes or modifications in this program will not affect any recipients currently participating in the program except by mutual agreement of the recipient and the York Public Schools.
- c. Payment of benefits will be monthly into a “Special Pay Deferral Program” that provides both the retiree and the school district the ability to be excluded from the requirement to pay the FICA (Social Security) tax on the benefit. All retirees eligible for the district Early Retirement Program will be required to participate in the “Special Pay Deferral Program”.
- d. Payments will be made by the district on behalf of the retiree to the “Special Pay Deferral Program” administrator in a timely manner so that the retiree will be able to access his/her benefit on September 25 of the year the teacher enters the program and on the 25th of each month thereafter. The teacher shall have the option to participate in the school district's health insurance plan in the same manner as he/she would be eligible in the Nebraska Educators Health Alliance (EHA) plan with conversion rights.

- e. Before entering the program, the teacher will need to complete a beneficiary form. In the event of the death of the recipient before all benefits have been paid, the beneficiary shall continue to receive the monthly benefits until all benefits have been paid.
- f. **The total benefit for an approved applicant shall not exceed \$35,000.** For the purpose of determining the amount to be paid under this program, the base salary and the schedule placement shall be frozen at the time of discontinuation of employment and used for all calculations. **For any teacher who has served the district less than full time during his/her tenure, the payments under this program will be based on his/her accumulated full time equivalency with the district.** Teachers on sabbatical leave or other board of education approved leave of at least one semester will not have those years of leave counted in their service to the district. This salary schedule placement includes only the salary schedule salary and does not include extra assignments such as extra duty, sponsorships, grade level or curriculum chairmanships, noon duty, or any other extra assignments.

The total compensation shall be 3% times the years of service, not to exceed twenty-five (25) years, times the teacher's accumulative full time equivalency with the district, times the teacher's full time equivalent salary schedule salary at the time his/her application for entrance into the program is approved. The teacher will receive monthly payments for a minimum of three (3) consecutive years and a maximum of five (5) consecutive years beginning with the year he/she discontinue employment.

- g. There shall be a window when eligible teachers can choose to participate in this program. For teachers that become eligible by meeting the provisions of the "Rule of 85" the window will be triggered by the date that the teacher is first eligible to receive benefits from the Nebraska School Employee Retirement System without a reduction in benefits. The window shall exist during the contract year that the "trigger" date occurs and the seven (7) contract years immediately following the contract year when the window is "triggered".
- h. For teachers who become eligible by any criteria other than the "Rule of 85," the window will be triggered seven years prior to the date that the teacher is first eligible to receive benefits from the Nebraska School Employee Retirement System without a reduction in benefits. A contract year shall be September 1 through August 31.

D. ENROLLMENT REQUIREMENTS:

1. **Resignation:** An approved applicant shall resign his/her employment with the District effective at the close of his/her last year of employment in consideration for the benefits outlined in paragraph "E" below. An applicant's application to participate in the Program is not, in and of itself, a resignation of his/her contract with the School District. However, the Board's approval of an application will be considered the approval of the applicant's voluntary resignation and termination of his/her continuing contract. If the Board does not approve an application, the applicant's contract will continue in effect, and he/she will remain employed by the District unless he/she otherwise resigns or his/her contract is

terminated or cancelled for cause.

2. Notice of Program: On or before September 15th of each year, the Superintendent or Superintendent's designee shall notify eligible employees of the Program and the Application and Agreement form.
3. Application and Agreement: An employee who wishes to participate must submit a completed Application and Agreement form between September 1 and February 1 of the school year in which he/she intends to resign. The failure to submit an Application and Agreement form by the application deadline shall result in the rejection of the application. An applicant may withdraw his/her Application and Agreement within seven (7) days after the date it was received by the Superintendent's office. The Superintendent or his/her designee shall review the employee's record to determine eligibility.
4. Terminated Employee's Ineligibility: An employee who has received written notice of possible termination for reasons other than reduction in force or who has received written notice of possible cancellation shall NOT be eligible and may NOT participate in the Program, UNLESS after a hearing before the Board, it is determined that said employee's contract shall not be cancelled or terminated or the decision of the Board to terminate or cancel is subsequently set aside.

E. TIME FOR CONSIDERATION OF APPLICATION AND AGREEMENT AND WAIVER AND RELEASE OF CLAIMS:

1. Time to Consider Application and Agreement: Employees shall be given at least forty-five (45) days within which to consider the terms of the Program. The Application and Agreement form shall inform applicants that the Program is totally voluntary in nature.
2. Waiver and Release of Claims: An employee who participates in the Program will be required to release, waive, acquit, and forever discharge the District, all past, present, and future members of the Board in their official and individual capacities, the administrators, and all other officers, agents, and employees of the District, in their official and individual capacities, from any and all claims, however characterized, whether for damages, costs, expenses, compensation, penalties, wages, benefits, reinstatement, attorneys' fees, which the participant may now have or which may accrue in the future with respect to, arising out of, or in relation to the participant's employment with the District, including, but not limited to, claims or rights under the Age Discrimination in Employment Act (ADEA) and the Older Workers Benefit Protection Act (OWBPA), 29 USC §621-634, the Employee Retirement Income Security Act of 1974 (ERISA), 29 USC §1001 et. seq., and the Act Prohibiting Unjust Discrimination in Employment on the Basis of Age, NEB. REV. STAT. §48-1001 et seq., Title IX and under Title VII of the Civil Rights Act of 1964, as amended, the Civil Rights Act of 1866 and 1871, as amended from time to time, claims or rights under 42 U.S.C. §1981, through and including 42 U.S.C. §1988, the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Family Medical Leave Act of 1993, all claims or rights relating to

discrimination on the basis of race, ethnic background, color, religion, sex, age, disability, handicap, marital status or national origin before the state or federal EEOC or NEOC, or any other agency or department or the state or federal courts under any state or federal constitution, law, rule, or regulation, all claims or rights relating to libel, slander, breach of confidentiality or privacy, or any claims or rights of whatsoever nature arising under any other state, federal, or local constitution, statute, regulation, or ordinance arising out of the participant's employment with the District, this Application and Agreement form, the Program, or the participant's resignation from such employment. The participant must covenant not to sue and agree not to institute any proceedings against, and agree to indemnify and hold harmless, the District or any other persons named herein in their official or individual capacities based on any matter relating to the participant's employment by the District, the Application and Agreement, the Program, or the participant's resignation.

This waiver, release, and indemnification agreement will be given in exchange for consideration in addition to that which the participant is already entitled pursuant to law. The participant will acknowledge that he/she has been advised by this Application and Agreement to consult with an attorney before signing it and participating in the Program. The participant will acknowledge that he/she has had sufficient time to decide whether or not to execute the Application and Agreement, including sufficient time to consider the waiver and release of claims and all other matters contained therein.

F. TERM OF PROGRAM:

The Board, in its sole and unfettered discretion, shall determine whether to make the Certificated Employee Early Retirement Program available in any particular year and whether to budget and fund any Program payments and to determine the total amount, if any, that will be made available for such payments.

Approved 06/08/2020

Reviewed 05/11/2020

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