

SAN DIEGO CITY UNIFIED SCHOOL DISTRICT
San Diego, California

403(b) TAX SHELTERED ANNUITY PLAN DEFINITIONS

1. Purpose. The District intends by adopting this Plan to make available to its Employees the provisions of IRC Section 403(b) and RTC Section 17501. It is not the purpose of the District, by adoption of this Plan, necessarily to recommend its use by any individual Employee. Use of the Plan by an individual Employee shall be left to the discretion of the Employee.

2. Definitions.

"403b Compare" means the vendors have registered with CalSTRS 403bCompare website in order to sell 403b products to our employees. *California Education Code, Sections 25100 et seq.*

"Account" means a custodial account the balance of which is invested in regulated investment company stock, and which meets the requirements of IRC Section 403(b)(7) and the Regulations there under.

"Administrator" means the District officer or other employee designated as such in the Resolution.

"Allowable Amount" means the maximum amount that may be contributed under this Plan with respect to a Participant for a Taxable Year that is excludable from gross income under IRC Sections 403(b) and 415(a)(2)(B), and the Regulations there under.

"Annuity" means a fixed or variable annuity contract without a life insurance element issued by a life insurance company on either an individual or group basis that is nontransferable, is nonforfeitable except for failure to pay future premiums, and meets the requirements of IRC Section 403(b)(1) and the Regulations there under.

"Board" means the governing body of the District.

"District" means this Employer, as Employer of the Employee. The school District, community college District, regional occupational center or program, County Office of Education, charter school, joint powers agency established by two or more school Employers or other educational agency, which has adopted this Plan by Resolution.

"Employee" means an employee of the District, other than employees who are excluded from participating in this Plan by the terms of the Resolution, or who are not eligible to participate pursuant to the provisions of IRC Section 403(b)(1)(A)(ii) and the Regulations thereunder (such as elected or appointed governing board members or personnel committee members).

"Employment Contract" means the employment contract (written or otherwise) between an Employee and the District.

"Includible Compensation" for the limitation means an Employee's compensation from the District which is includible in the Employee's gross income for federal income tax purposes, earned during the most recent Year of Service ending prior to the close of the Employee's relevant Taxable Year and determined in accordance with IRC Sections 403(b)(2), 403(b)(3) and the Regulations thereunder.

"Includible Compensation" for the limitation means an Employee's compensation from the District, which is includible in the Employee's gross income for federal income tax purposes, ending prior to the close of the Employee's relevant Taxable Year and determined in accordance with IRC Section 415(c) and the Regulations thereunder. (It is normally the amount of taxable earnings that would appear on the W-2)

"IRC" means the Internal Revenue Code of 1986, as amended.

"Maximum Annual Contribution (MAC)" means the maximum annual elective Salary Reduction that a Participant may exclude from gross income for a Taxable Year under IRC Sections 403(b)(1)(E), 402(g) and 415(c).

"Non-elective Contribution" means a contribution made by the District to a Participant's TSA, other than a Salary Reduction contribution.

"Nontransferable" shall have the meaning set forth in IRC Section 401(g).

"Provider" means a life insurance company offering Annuities or an organization offering

Custodial Accounts in accordance with this Plan.

"Participant" means an Employee of the District who elects to participate in this Plan.

"Plan" means this 403(b) Tax Sheltered Annuity Plan.

"Regulation" means a regulation promulgated under the Code.

"Resolution" means the resolution by which the governing Board of the District adopted this Plan.

"RTC" means the California Revenue and Taxation Code, as amended.

"Salary Reduction" means the portion of a Participant's compensation from the District, which the Participant elects to defer and have contributed by the District to a TSA in accordance with this Plan and the applicable Salary Reduction Agreement.

"Salary Reduction Agreement (SRA)" means a written amendment to an Employment Contract on a form prescribed by the District by which an Employee elects to participate in this Plan, or revises certain elections made in a prior Salary Reduction Agreement.

"SDUSD Code" means the payroll deduction code assigned by the District. Codes are a three-digit number that is listed next to each company on the Approved Companies List.

"State Code" means the deduction code assigned by the 403bCompare web site. Codes are a four-digit number that is listed next to each company on the Approved Companies List.

"Superintendent" means the Superintendent of the District.

"Taxable Year" means the taxable year of an Employee for purposes of IRC Section 441.

"TSA" means an Annuity or a Custodial Account qualified under the provisions of IRC Section 403(b).

"Years of Service" means a period of service with the District, determined in accordance with IRC Section 403(b)(4) and the Regulations thereunder.

3. Participation. An Employee may become a Participant by properly completing and filing with the District a Salary Reduction Agreement or by being eligible to receive a Non-elective Contribution. A Salary Reduction Agreement shall be applicable to the school year to which such Salary Reduction Agreement originally applies and to each succeeding school year in accordance with such Salary Reduction Agreement.

4. Contributions to the Plan.

- a. Subject to subsection "d" to follow, the District shall contribute to the Plan on behalf of each Participant such amount as the Participant may elect in the Salary Reduction Agreement, but not in excess of the Participant's Maximum Annual Contribution limit.
- b. Contributions by the District with respect to any Participant, by means of Salary Reduction, shall only be effective with respect to compensation to be received by the Participant subsequent to the date of election to participate.
- c. Notwithstanding subsection "b", the District may provide for Non-elective Contributions on behalf of Participants.
- d. The Salary Reduction contributions and Non-elective Contributions on behalf of a Participant for a Taxable Year shall not exceed Maximum Allowable Limits.
- e. If for any Taxable Year of a Participant, this Plan applies to two or more TSA's, such TSA's shall be treated as one TSA for purposes of computing the Maximum Annual Contribution limit applicable to such Participant.
- f. The TSA's shall provide for corrective distributions of Salary Reduction contributions in excess of the Maximum Annual Contribution limit, in accordance with IRC Section 403(b)(2), 402(g) and the Regulations thereunder, and total contributions in excess of the Allowable Limit, in accordance with the Regulations under IRC Section 415(c) (if applicable).

- g. The District may terminate a Participant's Salary Reduction Agreement in the event that the Participant or the Provider fails to comply with this Plan, the rules, requirements, or procedures of the District, or with respect to the Provider, the applicable agreement between the District and the Offeror.

- 5. TSA's.
 - a. All contributions to the Plan shall be invested in one or more approved TSA's on behalf of the Participant with respect to whom such contributions are made.
 - b. Each Participant shall be entitled to elect one or more TSA's to be purchased with contributions made on behalf of the Participant.

- 6. Non-Recovery of Contributions. Contributions made by the District in accordance with this Plan shall not be recoverable by it, but shall irrevocably vest in the Participant through their TSA's.

- 7. Administration. The Board hereby authorizes the Administrator to act in its behalf in respect to the purchase and administration of the TSA's. Such rules, requirements and procedures as may be necessary or advisable in effecting proper administration by the said Administrator to ensure compliance with Federal and State regulations, including the delegation of functions to others, are likewise authorized.

- 8. Offering Provider Companies. Each Provider must have executed a Provider Hold Harmless Agreement in a form approved by the District. In addition to registering with the CALSTRS 403b Compare under *California Education Code, Sections 25100 et seq.*

- 9. Solicitation and District Directives. No contact of Employees shall be made on the premises of the District except as approved by the Administrator or designee, and as outlined in the written Solicitation Rules of the District.

- 10. Amendment or Termination. This Plan may be amended or terminated by the Board at any time, except that no amendment or termination shall be effective to recover for the District any contribution made to the Plan.

- 11. Existing Plan. Any Tax Sheltered Annuity Plan now in effect in the District shall be deemed amended and restated by this Plan. In the event there is a conflict between the provisions of the existing plan and this Plan, the provisions of this Plan shall be controlling.

- 12. Governing Law. This Plan shall be construed, administered and enforced in accordance with the laws of the State of California and in conformity with IRC Section 403(b) and the Regulations thereunder.

- 13. Number and Gender. For purposes of the Plan, the plural number shall include the singular, and vice versa, and the masculine gender shall include the feminine and neuter, and vice versa, whenever the context so requires.

- 14. Headings. The headings used in the Plan are for convenience only, and shall not limit, restrict or enlarge the provisions of the Plan.