

4070
EARLY VOLUNTARY SEPARATION PROGRAM

A. PURPOSE

The Early Voluntary Separation Program ("Program") is intended to benefit qualified certificated employees who are considering retirement. The Program's objectives include, but are not limited to, the following:

1. Offering financial incentives which will assist long-term employees who are considering retirement;
2. Reducing costs to the school district by replacing maximum salaried employees with lesser salaried employees; and
3. Providing a balance of employee experience.

B. QUALIFICATIONS

1. Certificated Employee. To participate in the Program, a person must be a teacher certificated by the Nebraska Department of Education, be employed by the School District in a capacity which requires such certification, and meet eligibility requirements as set forth in this section.

2. Full-Time Equivalency. Certificated employees who are employed 1.0 full-time equivalency (FTE) in an employment position that requires a certificate from the Nebraska Department of Education may participate in the Program.

3. Minimum Age and Years of Service. To be eligible for this Program, a certificated employee must: (a) be fifty-five (55) years of age on or before August 31st after the school year of application; (b) have completed twenty (20) total years of continuous, credited service in the employment of the School District; (c) be within the first four (4) years of eligibility based on the age and years of service requirements (see Section H); and (d) meet any other criteria established by the board of education at the regular December meeting. Credited service shall be defined as continuous employment with the school district as a 1.0 FTE certificated employee through the employee's last year of service in an employment position that requires a certificate from the Nebraska Department of Education. Board-approved leave for military service, for a sabbatical or for a leave of absence, or any leave required to be granted according to law, shall not be included as credited years of service. In determining years of credited service with the district for the purpose of meeting the eligibility requirement of twenty (20) total years of service, less than full-time employment would reduce the employee's full-time equivalent employment for a school year.

C. ENROLLMENT REQUIREMENTS

1. Resignation. Participants in the Program will resign their positions with the school district effective at the close of the school year in consideration for the benefits outlined in Section D below.

2. Application. An employee must submit a signed Application and Agreement form to the board of education on or before February 1st of the employee's last intended school year of employment. The superintendent shall review the employee's record to determine whether the employee is eligible for the Program. The Board will notify the applicant on or before March 20th of its action on his or her application.

3. Employee's Ineligibility. An employee who has received written notice of possible contract termination or cancellation shall not be eligible to participate in this Program unless (1) the notice of termination or cancellation is withdrawn by the administration, or (2) after a hearing before the board of education, the board determines that said employee's employment should not be canceled or terminated. Employees who are receiving or who have applied to receive long-term disability benefits are also not eligible to participate in the Program.

D. BENEFITS

1. Calculation of Benefits: The total benefit to be paid under this Program shall not exceed \$35,000.

2. Payment of Benefit. The benefit shall be paid in two (2) equal payments unless Medicare eligibility requires an accelerated payment. The first payment shall be made in September of the calendar year of the teacher's resignation, with the remaining payments made in September of the following calendar year. The District will pay the benefit to a non-elective 403(b) fixed annuity. All payments shall be paid within five years after the voluntary termination of employment or prior to the employee becoming eligible for Medicare, whichever occurs first.

3. Limitation on Payment. The board of education shall, in its sole and unfettered discretion, determine whether to budget and fund any Early Voluntary Separation Program payments in a particular year, and shall determine the total amount of such payments, if any, that will be made available for such payments.

4. Source of Funds. The school district shall pay the entire cost of the plan.

5. Administration of Program. This Program shall be administered by the board of education by and through the administration of the school district.

6. Beneficiary Designation. In order for the application to be considered complete, a beneficiary must be designated.

7. Income Tax Consequences. Payments pursuant to this plan have been determined to be taxable income for state and federal income tax purposes, and will be treated as such. The school district will withhold such sums as are required by law, and payments will be reported as a taxable income.

8. COBRA Rights. A separating employee will have the opportunity to continue health insurance benefits as may be permitted by the provisions of the Comprehensive Omnibus Budget Reconciliation Act or other applicable law. The employee shall be responsible for any payments required to participate in the COBRA program.

E. ADMINISTRATION OF PROGRAM

Application and Waiver. An employee who elects to participate in the Program, and the school district, through its board of education, shall execute the Application and Agreement, Exhibit "A" attached hereto. That Application and Agreement shall inform the employee that the Voluntary Separation Program is totally voluntary in nature and provides each employee at least twenty-one (21) days to consider the ramifications of participation in the Program before making a decision. An employee may waive the twenty-one (21) day consideration period. The Application and Agreement shall also include a specific Waiver and Release of Claims of the participants' rights under the Age Discrimination and Employment Act (ADEA), 29 USC § 621-63 and the Act Prohibiting Unjust Discrimination in Employment Because of Age, NEB. REV. STAT. § 48-1001 *et seq.*, the Employee Separation Income Security Act of 1974 (ERISA), 29 USC § 1001 *et seq.*, and all other state and federal constitutions, statutes and regulations that relate to the validity of the Program, and allows the employee to revoke the Release or Waiver at any time within seven (7) days after submitting the Application and Agreement, and advises the employee to consult with an attorney before signing the Application and Agreement.

An employee who submits an application to participate in the Program may withdraw the application within seven (7) days after submitting it, but not afterward without the written consent of the board of education. Each application will be reviewed on an individual basis. The board shall, in its sole

discretion, determine the number of applications to be approved in any given year. If the Board receives more applications for voluntary separation than it approves, the Board shall approve the applications as follows:

- a. The Board will approve the application of the employee whose salary is higher, as determined by the employee's placement on the salary schedule index (excluding all unit pay).
- b. If the salaries of those involved are exactly the same, the Board will approve the application of the employee who first signed and returned his or her employment contract for the then current contract year.
- c. If the salaries and signing dates of those involved are exactly the same, the Board will approve the application of the employee which was submitted earlier.

An employee's application to participate in the Program is in itself not a resignation of a contract with the School District. However, the Board's approval of an employee's application will be considered the approval of the employee's voluntary resignation and termination of the employee's continuing contract. If the Board does not approve an employee's application, the employee's contract will continue in effect, and the employee will remain an employee by the School District unless he or she otherwise resigns or his or her contract is terminated for just cause.

F. TERM OF PROGRAM

This policy shall generally be reviewed annually and its availability terminated at any time at the Board's sole discretion. The Board will generally determine no later than its regular December meeting the number of early retirement applications that will be accepted in the then current school year and any other eligibility limitations or requirements (such as building or department requirements). In the event that no such determination is made, the program will not be available for that school year. This Program shall be offered only to eligible employees as defined herein, who satisfy the Program requirements prior to the applicable deadline, and who submit an Application and Agreement prior to the applicable deadline.

G. LIMITATIONS OF APPLICATIONS

The Board reserves the right to limit the number of voluntary separation applications granted during any single school year if the number of requests results in separation payments that exceed budget constraints and/or if multiple requests from employees within a single department could, in the

opinion of the school administration, result in the excessive loss of continuity of instruction and effectiveness of that department. If multiple employees from the same department submit requests in the same school year, the priority of applicants granted will be determined in accordance with paragraph E.

H. ELIGIBILITY WINDOW

The “eligibility window” requirement shall be administered as follows:

- For the program approved by the Board of Education on December 14, 2020 meeting: Teachers who are employed by the school district as of the date of program approval, who are at least 55 years of age on or before August 31, 2021, and who have 20 years of continuous, credited service (or will have upon the completion of the 2020-21 school year), and meet all other eligibility or other requirements of the program shall be eligible to apply for the Program until February 1, 2024.
- For the program approved by the Board of Education on December 13, 2021 meeting: Teachers who are employed by the school district as of the date of program approval, who are at least 55 years of age on or before August 31, 2022, and who have 20 years of continuous, credited service (or will have upon the completion of the 2021-22 school year), and meet all other eligibility or other requirements of the program shall be eligible to apply for the Program until February 1, 2025.
- For the program approved by the Board of Education on December 12, 2022 meeting: Teachers who are employed by the school district as of the date of program approval, who are at least 55 years of age on or before August 31, 2023, and who have 20 years of continuous, credited service (or will have upon the completion of the 2022-23 school year), and meet all other eligibility or other requirements of the program shall be eligible to apply for the Program until February 1, 2026.
- For the program approved by the Board of Education on December 11, 2023 meeting: Teachers who are employed by the school district as of the date of program approval, who are at least 55 years of age on or before August 31, 2024, and who have 20 years of continuous, credited service (or will have upon the completion of the 2023-24 school year),

and meet all other eligibility or other requirements of the program shall be eligible to apply for the Program until February 1, 2027.

I. MODIFY OR SUSPEND

The Board of Education reserves the right to modify the various requirements, provisions, definitions, conditions, limitations, and benefits associated with this Program, or to suspend the Program. Separated employees participating in the Program will be governed by the requirements, provisions, definitions, conditions, limitations, and benefits of the Program that exist at the time of their approval by the Board to participate in the Program.

Approved: December 9, 2019

Reviewed:

Revised: December 14, 2020; December 13, 2021; December 12, 2022;
December 11, 2023