



LAW UPDATE LABOR AND EMPLOYMENT

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RETIREMENT INCENTIVES IN UNCERTAIN FINANCIAL TIMES

The economic impacts of the COVID-19 pandemic will be long lasting on local education agencies. While completing the critical budget planning process, one item to consider is whether retirement incentives would benefit your district or county office of education (COE) financially. An early retirement incentive could be a way to address budget shortfalls. This may be particularly helpful if you have a large number of employees who are eligible for retirement (and who are normally at the high end of the salary schedule). There are two different options for retirement incentives: (1) a “golden handshake” under the California State Teachers Retirement System (“CalSTRS”), or (2) a district-developed retirement incentive.

Golden Handshake

A “golden handshake” program under the California Education Code allows for an additional two-year service credit for certificated employees under certain circumstances.¹ A district or COE can utilize the golden handshake provisions of the California Education Code after making a two-fold determination of impact to the district or COE that: (1) it is in their best interest to encourage retirements; and (2) the retirements will result in a net savings to the district or COE.

The California Department of Education (CDE) has explained that the net savings “must be demonstrated over a period of time . . . for the entire group of members electing to participate.”² The CDE also clarifies that no savings will be assumed for retirements beyond age 61 as they will be considered natural attrition and additional justification will be required to demonstrate a net savings to the district in that instance.³ Further, per the CDE, “[u]nder no circumstance will savings be accrued for participants age 65 or older.”⁴

The funding mechanism for the golden handshake requires an actuarial payment plus the payment of administrative fees associated with the implementation of the golden handshake program. The amount due can be paid over time with interest, but not to exceed eight years.⁵

1 California Education Code Sections 44929 and 22714.

2 <https://www.cde.ca.gov/Fg/ac/co/ghfieldtr2007b.asp>

3 *Ibid.*

4 *Ibid.*

5 Section 22714(a)(3).

The golden handshake program is a CalSTRS only program and has additional requirements, such as restrictions on returning to work. The way this program is designed makes it generally more costly and less flexible than an alternative program crafted by the district or COE.

Retirement Incentive

Another option is to design a retirement incentive program unique to the circumstances of the district or COE. The retirement incentive could come in many different forms and could be an option for both certificated and classified employees.

The more traditional option is to provide a structured retirement incentive. For example, in exchange for retiring, the retiring employee would receive \$10,000 per year for a designated number of years (typically two to five years). The payments would be deposited into an approved account selected by the employee. The retirement incentive should be discussed in advance with the exclusive representative. The California Teachers Association typically views retirement incentives as “wages” and may demand to bargain the retirement incentive.

Some districts have utilized “resignation incentives” to obtain early notice of resignations (not limited to retirement). For example, considering the March 15 layoff notification deadline for certificated employees, a payment is made to incentivize employees to accelerate providing notice of the decision to retire/resign (i.e., receive a payment of \$2,000 for providing notice of retirement/resignation by a certain date). This incentive option should also be discussed in advance with the exclusive representative.

It is important to begin working with the district’s chief business official, chief negotiator, and the labor partners to consider such options as early in the school year as possible to help reduce staffing levels at the top of the salary schedule. If your local education agency would like to pursue either a golden handshake program or another form of retirement incentive, our office is available to assist with all aspects of the process.

Should you have any questions about the foregoing information, please contact our office.

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