

# **INTER-OFFICE CORRESPONDENCE**

**LOS ANGELES UNIFIED SCHOOL DISTRICT**

**Human Resources**

**TO:** Members, Board of Education  
Dr. John E. Deasy, Superintendent

**DATE:** August 16, 2012

**FROM:** Dr. John Bowes, Assistant Chief Human Resources Officer  
Office of Staff Relations

**SUBJECT: 2012-2014 HEALTH BENEFITS AGREEMENT**

Please recall that on November 29, 2011, the Board of Education adopted the attached 2012-2014 Health Benefits Tentative Agreement that became effective January 1, 2012 (also attached is the corresponding Stamped Board Agenda). The adopted Tentative Agreement was also successfully ratified by all unions. The language in that November 2011 Tentative Agreement provided that the substance of the 2009-2011 Health and Welfare Agreement would be extended to cover the 2012-2014 calendar years, and that the parties would then draft language to implement the changes included in the new Agreement. Those details have been finalized and signatures obtained by every union represented by the Health Benefits Committee. No further action is needed and the attached are for your information.

c: Michelle King  
David Holmquist  
Enrique Boull't  
Jaime Aquino  
Vivian Ekchian  
Jefferson Crain

**2012-14 HEALTH BENEFITS AGREEMENT BETWEEN  
LOS ANGELES UNIFIED SCHOOL DISTRICT AND THE  
UNIONS/ASSOCIATIONS REPRESENTING DISTRICT EMPLOYEES**

**As of January 1, 2012**

- I. **PURPOSES:** The terms and conditions of this 2012-14 Health Benefits Agreement ("this Agreement") constitute the successor agreement to the parties' expiring 2009-2011 Health Benefits Agreement. This Agreement is intended to continue to accomplish the following purposes:
1. To establish and maintain stability in the delivery, annual cost and level of District contributions to health and welfare benefits;
  2. To mitigate, if not remove, the necessity for annual negotiations over matters relating to the cost of health and welfare benefits;
  3. To provide for an annual increase in the District's contribution which shall be recognized by all parties as part of negotiated total compensation increases for District employees;
  4. To calculate the annual increase in the District's contribution, taking into account increases or decreases in the number of active and retired pre-Medicare eligible and Medicare eligible benefited participants on an annual basis;
  5. To emphasize the critical role of the Health Benefit Committee ("HBC") to contain costs within the annual "budget" for health and welfare benefits (plus reserve funds, if any) through plan design and, if necessary, through direct contributions from participants;
  6. To incentivize the HBC to enact, in a timely and preventive manner, meaningful changes to District plan designs and to take whatever measures are necessary to "live within" the health and welfare budget as set forth herein; and
  7. To address meaningfully the District's growing unfunded liability resulting from other post employment benefits (OPEB) in accordance with GASB 45.
- II. **ROLE AND OPERATIONS OF THE HEALTH BENEFITS COMMITTEE ("HBC")**
1. **Plan Consultant:** A consultant shall be mutually selected by the HBC and the District who will remain in a contractual and/or employment relationship with the District. If the parties cannot reach mutual agreement, the contract for the consultant shall be recommended by the HBC, subject to District contract approval processes and final approval by the Board. Such approval shall not be withheld except for good and sufficient cause.
  2. **HBC Responsibility for Plan Design:** The HBC shall be responsible for proposing all plan design modifications including but not limited to co-pays, deductibles, premium contributions and assessments, and selection, addition, termination of health plans/providers for all active and retired employees, provided that the HBC shall not recommend any changes that would expand

eligibility. Any such changes shall be implemented upon action by the HBC and in accordance with the provisions of this Agreement.

3. Board Approval of Contracts: All vendor contracts shall be negotiated by the HBC and/or its designated representative(s), in accordance with District procurement rules and related policies. Such contracts shall be subject to Board of Education approval, which shall not be withheld except for good and sufficient cause.

4. Calculations of Defined District Total Annual Contribution: For purposes of adjusting the District's increased contribution for any given calendar year to account for increases or decreases in benefited participants (excluding AB528, COBRA and Charter School Participants, but including opt-out participants) as set forth below, the District's aggregate estimated contributions set forth below have been converted to a "per participant" contribution geared to the percentage change in the aggregate estimated contribution as compared to the prior year, and relating to the number of benefited participants who are active employee enrollees, enrolled pre-Medicare-eligible retirees, and enrolled Medicare-eligible retirees as of November of the preceding calendar year based upon the BTS (Business Tools for Schools) census. Such counts will be deemed fixed for the following calendar year, and shall determine the actual District total aggregate contribution. The parties acknowledge that the adjustment to the District's annual aggregate contribution will vary from year to year based on the number of active and retired benefited employee participants who are part of the calculation.

5. Components of District Contribution: The District's annual "total contribution" or "total aggregate contribution" amounts as set forth throughout this Agreement represent the complete and total amount of such contribution from all sources. Therefore, while sources such as interest earned on the health fund, Medicare D reimbursements, or any other rebates or refunds, may be utilized by the District to contribute to its total contribution amounts, they shall not be utilized to increase such contribution obligations beyond the amounts set forth herein.

6. Administrative Costs: The requirement that health benefit expenses "live within" the annual budget as established by the District's annual contribution set forth below shall include, as an expense to be covered by the health fund, any costs associated with administration of the health fund with the expenses and contributions to be evaluated on an incurred basis. By May 15 of each plan year covered by this Agreement, the District shall provide the HBC with an itemized report on the administrative costs incurred in the previous plan year. With respect to legal costs for outside counsel in defense of claims against the District arising out of decisions or actions of the HBC and/or the District arising under this Agreement, and that are therefore to be treated as administrative costs, the District and the HBC shall cooperatively consult regarding selection of such counsel, defense strategies to be employed, scope of work and estimated costs.

7. Unspent Reserve Funds: Any unspent funds in the health fund (after all of the prior year's costs have been covered) shall remain as an ending balance in the fund and carried over as a beginning balance to the next calendar year. Such Plan funds are referred to herein as the "reserve fund," the "reserve account," the "carryover balance(s)," or the "beginning balance(s)." Such a balance is one-time money that shall be applied the following year to offset increases in benefits costs, if needed. Conversely, if actual costs for any given year exceed the District's

defined total aggregate contribution, such amount shall be deducted from the District's contribution obligation for the following year.

8. HBC's August 1 Obligations: The HBC shall take action and the parties shall ratify agreements by August 1 of the prior year, that result in a total projected health benefits cost for the upcoming year that does not exceed the District's contribution set forth below, plus available beginning balance "reserve fund" revenue carried over from the prior year, if any.

9. Cooperation Between the HBC and District: It is agreed that the arrangements and relationships between the HBC and the District are to be approached on a mutually cooperative and professional basis, with full reciprocal disclosure of Plan-related data and practices.

### **III. PROCEDURES REGARDING POTENTIAL SHORTFALL IN HEALTH FUND**

1. Quarterly Report: The Plan Consultant/District shall report to the HBC and all participating unions/associations on a quarterly basis regarding the status of the Health Fund. Specifically, such reports shall indicate whether the full accrued or incurred (i.e., this means that expenses are to be recognized in the period they are accrued/incurred regardless of when they are paid) expenditures from all components of the Health Plan are projected to exceed budgeted Health Fund revenues and carryover "reserve fund" balances (the "shortfall"). This determination shall be made based on claims experience and expenses to date, projected according to objective, industry-based and historical trends to yield an annualized projection of total expenditures.

2. Required Plan Design Changes: If any two consecutive reports project a shortfall, the HBC shall act immediately to implement plan design changes pursuant to this Agreement to negate the projected shortfall within the applicable calendar year. If the HBC fails or refuses to take such action, or if the District asserts that the proposed HBC action is insufficient to avoid a deficit, the dispute resolution procedure in section V-2 (Expedited Arbitration Process) shall apply.

3. Deduction From Contribution For Following Year: If any of the foregoing actions does not negate the shortfall in the same fiscal year, and the District must temporarily fund the remaining shortfall, such amount shall be deducted from the District's contribution to the Health Fund for the following year.

### **IV. CONTRIBUTIONS TO THE HEALTH FUND: CALENDAR YEARS 2012, 2013, AND 2014 (AND POSSIBLY 2015)**

1. Base Contributions: The per-participant base contribution amounts for 2011 were \$9,683.17 per active enrollee, \$14,543.98 per retired pre-Medicare-eligible enrollee, and \$6,897.08 per retired Medicare-eligible enrollee. The District's 2011 total estimated aggregate annual contribution obligation, based on November 2010 enrollments, was \$958.6 million.

2. 2012 Contributions: The per-participant contribution amounts for 2012 are to be the same as for 2011 (above), and thus continue the District's 2012 total estimated aggregate annual contribution at \$958.6 million, but the actual 2012 total aggregate contribution will be determined by actual November 2011 enrollments. Accordingly, the per-participant contribution

amounts for 2012 shall continue at \$9,683.17 per active enrollee, \$14,543.98 per retired pre-Medicare-eligible enrollee, and \$6,897.08 per retired Medicare-eligible enrollee.

3. 2013 Contributions: The District's estimated aggregate contribution amount for 2013 shall be increased by \$45 million (4.6968%) over the 2012 base, thus increasing it to an estimated \$1.0036 billion, but the actual 2013 total aggregate contribution will be determined by actual November 2012 enrollments. Applying that 2013 percentage increase to the per-participant contribution amounts results in contributions for 2013 of \$10,137.97 per active enrollee, \$15,227.08 per retired pre-Medicare-eligible enrollee, and \$7,221.02 per retired Medicare-eligible enrollee. The District's 2013 total aggregate contribution shall be the product of such per-enrollee contribution levels multiplied by the 2013 enrollments as described above. The District shall transfer an amount from the Plan's reserve funds to match the above-described 2013 increase (as compared to 2012) in the District's aggregate contribution obligation.

4. 2014 Contributions: The District's estimated aggregate contribution amount for 2014 shall be increased by \$45 million (4.4838%) over the 2013 base, thus increasing it to an estimated \$1.0486 billion, but the actual 2014 total aggregate contribution will be determined by actual November 2013 enrollments. Applying that 2014 percentage increase to the per-participant contribution amounts results in contributions for 2014 of \$10,592.76 per active enrollee, \$15,910.18 per retired pre-Medicare-eligible enrollee, and \$7,544.96 per retired Medicare-eligible enrollee. The District's 2014 total aggregate contribution shall be the product of such per-enrollee contribution levels multiplied by the 2014 enrollments as described above. The District shall transfer an amount from the Plan's reserve funds to match the above-described 2014 increase (as compared to 2013) in the District's aggregate contribution obligation.

5. Contingent 2015 Provisions in the Event That Plan's Reserve Fund Balances Are \$200 Million or More:

- a. If Reserve Funds Are Less Than \$200 Million: In the event that the Plan's reserve fund balances for 2015 are estimated, as of June 1, 2014, to be lower than \$200 million, this Agreement shall expire December 31, 2014, and the terms and conditions for 2015 and subsequent years shall thereby immediately be reopened for negotiation, pursuant to Section X below.
- b. If Reserve Funds Are \$200 Million Or More: In the event that the Plan's reserve fund balances for 2015 are estimated, as of June 1, 2014, to be \$200 million or more, the parties have agreed that rather than a pre-set specific agreed-upon increase, the District's estimated aggregate defined contribution amount for 2015 shall be increased to reflect half of the estimated increased 2015 premium cost increases (for the actual benefit plan designs selected, but are not to reflect premium increases attributable to design changes made during the term of this Agreement), and that the other half will be covered by a transfer of funds from the Plan's reserve funds.
- c. For example, if the estimated premium cost increases for 2015 were \$90 million, the District's estimated total aggregate contribution amount would be increased by \$45 million (4.2914%), thus increasing it to an estimated \$1.0931 billion, but the actual 2015 total District aggregate contribution would be determined by increasing each

of the per-enrollee category contributions by 4.2914%, and then multiplying such per-enrollee contribution levels by the 2015 enrollments as described above. The District would also transfer funds from the Plan's reserve funds to match the above-described 2015 increase (as compared to 2014) in the District's aggregate contribution obligation.

- d. This use of premium increases to determine contribution changes is a one-time special formula condition, and does not change the future operations of the HBC or of the defined "total aggregate contribution" nature and limits of the Health and Welfare Plan as described in Sections I, II, and III of this Agreement.

## **V. DISPUTE RESOLUTION PROCEDURES**

1. The following kinds of disputes are to be subject to the identified resolution procedures set forth below:

- a. If the HBC fails to take action by August 1 of any given year to contain health and welfare benefit costs within the District contribution obligations/limits, or there is a disagreement over whether the proposed plan changes would contain health and welfare benefit costs within the District contribution obligations/limits ("within the budget" as set forth above) or over whether the District has fulfilled its contribution obligations under this Agreement, see expedited arbitration process in section 2 below;
- b. If there is a dispute as to whether the Board of Education has withheld approval of a timely-submitted HBC-negotiated vendor contract without good and sufficient cause, see section 3 below.
- c. There is a claim asserted by the District that a planned change is illegal (see section 4 below);
- d. There is a claim asserted by the District that a planned change would be inequitable and/or would adversely impact the best interests of the District and/or its present or future plan participants (see section 5 below); or

2. Expedited arbitration process for resolving disputes as to whether proposed plan changes will contain Health and Welfare costs within the budget or whether the District has fulfilled its contribution obligations under this Agreement:

- a. The issues in dispute regarding whether proposed plan design changes will contain health and welfare costs within the budget and/or whether the District has fulfilled its contribution obligations under this Agreement shall immediately be submitted to expedited binding arbitration before a three-person panel comprised of one union/HBC representative, one District representative and a third neutral panel member agreed upon by the first two panel members or, failing that, from a list provided by the California State Mediation and Conciliation Service. Such selection shall occur within three (3) work days of August 1.

- b. Such arbitration shall occur within five (5) work days of August 1.
- c. The sole issues for arbitration shall be (i) whether the HBC's plan design recommendations come within the District contribution obligation plus carryover "reserve fund" balances (if any), and/or (ii) whether the District has fulfilled its contribution obligations under this Agreement. The arbitration panel shall have no authority to increase the District's contribution as set forth in this Agreement. The arbitration panel shall issue a written decision no later than three (3) work days following the hearing.
- d. If the arbitration panel decides that the HBC's plan recommendations do not come within the District's defined total contribution obligation plus carryover balances, if any, the panel shall refer the issue of plan design back to the HBC. The HBC shall then have up to seven (7) working days from the date of the panel's decision to submit a new plan recommendation to the Panel and to the District. The arbitration panel shall thereafter have five (5) working days to determine if the amended plan comes within the defined total aggregate contribution obligation for the upcoming plan year, and if it does not, the panel, shall prescribe its own amended plan to come within the District's contribution obligation plus carryover balances, if any, which shall be binding on the parties.

3. Expedited Arbitration Procedure if HBC claims that the Board of Education has withheld approval of an HBC-negotiated vendor contract without good and sufficient cause:

- a. This procedure is available only if the vendor contract was submitted to the District on a timely basis (i.e., on or before August 1), and if the procedure is invoked in writing by the HBC no later than five (5) calendar days from the date the Board of Education declines to approve the HBC-designated vendor.
- b. Such issue shall immediately be submitted to expedited binding arbitration before a panel, selected per section 2.a. and with the arbitration occurring within the time limit of section 2.b. above.
- c. The sole issue for arbitration shall be whether the District's Board has withheld such approval without good and sufficient cause. The arbitration panel shall issue a written decision no later than three (3) work days following the hearing.
- d. If the panel decides that the Board's action was taken without good and sufficient cause, the panel shall direct the District to approve the vendor contract in dispute. If the panel decides that the Board action was taken for good and sufficient cause, it shall remit the matter to the HBC to re-negotiate the vendor contract consistent with the cause found, for re-submittal to the Board for its requested approval. All such procedures must be completed within 17 days of August 1.

4. Procedure If District Asserts HBC Proposed Action is Illegal:

- a. If the District asserts that any proposed action of the HBC would be illegal, it shall notify the HBC as soon as possible in writing, together with a brief summary of legal authorities and reasoning for this assertion.
- b. The HBC may respond to the District in writing within five (5) work days with a brief summary of legal authorities and reasoning in support of its position that the proposed HBC action is legal. If the HBC does not submit such writing within this time frame, the HBC shall propose new action which complies with the District's legal opinion. The District will notify the HBC within five (5) workdays of such HBC response (ii above) as to whether the District has changed or maintained its opinion on the legality of proposed HBC action. In any event, the HBC's proposed action shall comply with the District's legal opinion.

5. Mediation procedure if District asserts that a planned change would be inequitable and/or would adversely impact the best interests of the District and/or its present or future Plan participants:

- a. If the District makes the assertion stated in section 5 immediately above, it shall notify the HBC as soon as possible, whereupon the matter shall be submitted to mediation immediately.
- b. The parties may agree on a mediator or request a mediator from the California State Mediation and Conciliation Service.
- c. The mediation shall be held as soon as possible, but in no event later than ten (10) work days following selection of the mediator.
- d. The mediation shall last no longer than one (1) day, at the end of which the mediator shall inform the parties verbally of his/her recommendations. The mediator shall provide the parties with a written summary of such recommendations within three (3) workdays following the mediation.
- e. The parties shall consider the recommendations of the mediator to determine whether agreement can be reached on the HBC's recommendations. To whatever extent agreement cannot be reached, the HBC's planned change (whether modified or not) shall be implemented.

6. Costs: If the time lines set forth above are not met and cause a delay in the open enrollment period and/or January 1 of the upcoming calendar (Plan) year such open enrollment and/or new plan structure shall not occur until such time as the foregoing processes are completed. In such case, the parties' agreement and/or the arbitration panel's decision, or, in any event, the HBC's final action shall include provisions for the recovery of District costs in excess of its required total contribution caused by maintenance of the status quo benefits structure beyond January 1.

7. District Implementation: If after exhaustion of the procedures set forth above, the HBC fails to or refuses to take action to contain health and welfare costs within the District's defined total



aggregate contribution level, the District may implement premium contributions from current employees through automatic payroll deduction and/or from retirees through direct payment or other means to the extent necessary to contain health and welfare costs within the District's defined total aggregate contribution level.

8. Unspent Funds and Excess Costs: Any unspent funds in the health fund (after all costs for the year in question have been covered) shall remain as an ending balance in the fund and carried over as a beginning balance to the next calendar year as part of the "reserve fund." Such a balance is one-time money that shall be applied to offset increases in benefits costs, if needed. Conversely, if actual costs for the year exceed the District's contribution as set forth herein and carryover balances, if any, such amount shall be deducted from the District's contribution obligation for the following year.

#### **VI. WITHDRAWAL FROM PLANS**

Prior to the November census of participants for any given year, each union and the District shall have the option of informing (in writing) the HBC of its intention to remove its pro-rata share of Health Plan expenditures (based on the active and retired participants represented by each union or by the District) and to establish a separate plan for its participants to be implemented for such removed participants for the second January 1 upcoming (e.g., a notice given October 30 of 2012 would be subject to implementation (assuming that it is finalized) effective January 1, 2014).

#### **VII. NEWER EMPLOYEES' ELIGIBILITY FOR RETIREE BENEFITS**

1. General Rule: Effective with employees hired on or after April 1, 2009, the years of qualifying service and age must total at least eighty-five (85) in order to qualify for retiree health benefits. This must include a minimum of twenty five (25) consecutive years of service with the District immediately prior to retirement.

2. Rule for School Police: Effective with School Police (sworn personnel) hired on or after April 1, 2009, the years of qualifying service and age must total at least eighty (80) in order to qualify for retiree health benefits. This must include a minimum of twenty (20) consecutive years of service with the District immediately prior to retirement.

#### **VIII. ALTERNATIVES TO REDUCE UNFUNDED LIABILITY FOR RETIREE BENEFITS (GASB 45)**

1. Subcommittee: The parties agree to the establishment of a subcommittee, equally seated and comprised of three (3) representatives appointed by the District and three (3) representatives appointed by the unions party to this Agreement through the auspices of the HBC.

2. Agenda: The committee shall meet no less than once per month, and more often if mutually agreed. The committee shall meet to discuss alternatives for reducing the District's unfunded liability for retiree benefits that is the subject of GASB 45. The agenda, including specific subjects that either party desires to discuss, shall be developed through input and submissions from the respective representatives.

3. Recommendations: Within six (6) months from the establishment of the subcommittee referenced herein, a written report containing the alternatives discussed together with any specific recommendations shall be submitted to the HBC and the District. Any such recommendation may be implemented upon mutual agreement of the HBC unions and the District.

**IX. IMPACTS OF LEGISLATION**

The parties shall, upon the request of either the District or the unions (collectively), meet and negotiate over the impact (if any) of newly adopted state or national legislation or regulations upon the Health Plans or this Agreement, including but not limited to any legislation or implementing regulations arising under the Health Care Reform and Affordable Care Act of 2010, or Court decisions affecting such legislation or regulations, including but not limited to reopening of current terms of this Agreement to respond to such matters.


**X. TERM OF AGREEMENT**

This Agreement shall, as provided in Section IV above, cover the Health Plan years 2012, 2013 and 2014, and expire December 31, 2014, unless the contingency stated in Section IV-5 occurs, in which case this Agreement shall automatically be extended to cover 2015 and thereby expire December 31, 2015.

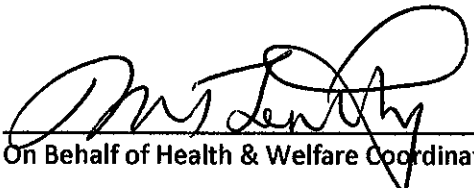
**XI. STATUS QUO UPON EXPIRATION OF AGREEMENT**

In the absence of a subsequent negotiated agreement, the District's per-enrollee contribution levels of the most recent Plan year shall remain in effect, and the District may unilaterally implement premium contributions from current employees through automatic payroll deduction and/or from retirees through direct payment or other means to the extent necessary to contain health and welfare costs within the District's contribution levels, subject to upward adjustment due to existing ending reserve fund balances (if any), and/or to downward adjustment to reflect prior year expenditures which exceeded the then-current contribution obligation (if any).

**IT IS SO AGREED:**

  
\_\_\_\_\_  
On Behalf of Los Angeles Unified School District

7/24/12  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
On Behalf of Health & Welfare Coordinated Bargaining Team

7/24/12  
\_\_\_\_\_  
Date

Jedryk Perez by [Signature]  
On Behalf of Associated Administrators Los Angeles

7/9/12  
Date

[Signature]  
On Behalf of California School Employees Association

07/09/2012  
Date

[Signature]  
On Behalf of Los Angeles/Orange Counties Building  
and Construction Trades Council

07/09/2012  
Date

Max [Signature]  
On Behalf of Los Angeles School Police Association

7/09/12  
Date

Pablo Quezada Jr  
On Behalf of Los Angeles School Police Sergeants  
and Lieutenants Association

07-30-12  
Date

Bill A [Signature]  
On Behalf of SEIU, Local 99

7-11-12  
Date

Auriana [Signature]  
On Behalf of Teamsters Local 572

7/9/12  
Date

Betty [Signature]  
On Behalf of United Teachers Los Angeles

7-9-12  
Date

Adopted and approved by the Board of Education on: 7-16-12  
Date

By: [Signature]  
Monica Garcia, Board President