

**DOUGLAS COUNTY WEST COMMUNITY SCHOOL DISTRICT  
EARLY RETIREMENT INCENTIVE PROGRAM**

**A. PURPOSE:**

The purpose of this program is to encourage Eligible Employees who are considering an early-leaving decision to accelerate their retirement plans. Objectives include, but are not limited to, the following:

1. To offer financial incentives which will assist long-term employees considering early retirement or early-leaving decisions at the end of any school year during which this Early Retirement Incentive Program (ERIP) is in effect.
2. To reduce costs to the School District by replacing maximum salaried employees with lesser salaried employees.
3. To provide a better balance of employee experience.

**B. QUALIFICATIONS:**

1. **Eligible Employee:** To be a participant a person must be employed by the School District as of the date of acceptance of the person's application in the position of a fully certified employee covered by the negotiated agreement between the Douglas County West Community School District and paid pursuant to the salary schedule incorporated into said agreement in effect for the employee's last school year of employment, "Teacher" or "Eligible Employee").

2. **Full-Time Equivalency:** Eligible Employees, both full-time and part-time, may participate in the ERIP provided that the part-time employees' benefits under such plan shall be prorated based on their FTE (full-time equivalency), said FTE to be determined based on the employee's actual scheduled salary as of November 1 of the employee's last school year of employment. Part-time employees who are on a leave of absence in part and work part-time as of November 1 of the employee's last school year of employment shall be eligible to participate in this ERIP to the extent of their on-duty FTE. Employees who are on a leave of absence in total as of November 1 of any school year shall not be eligible to participate in this ERIP.

3. **Criteria for Eligibility:** To be eligible to participate in the ERIP, an employee must meet each of the following criteria to wit:

a. **Years of Service:** The employee must have at least fifteen (15) consecutive years of creditable service to the School District. While a leave of absence is not counted as a year of creditable service, it does not constitute a break in consecutive years of service.

b. **Period of Eligibility:** There shall be a period of eligibility, hereinafter referred to as a “window” when the Eligible Employee may elect to participate in this ERIP. This window of eligibility will continue for four (4) fiscal years. The window of the first year of eligibility shall open on the September 1st immediately following their Fifty-Fourth (54) birthday. The second year of eligibility shall open on the September 1st immediately following their Fifty-Fifth (55) birthday. The third year of eligibility shall open on the September 1st immediately following their Fifty-Sixth (56) birthday. The fourth year of eligibility shall open on the September 1st immediately following their Fifty-Seventh (57) birthday

c. **Salary Schedule Placement:** To be eligible for participation in this ERIP the Teacher shall have a placement on the salary schedule in effect for the subject contract year in the BA+36, MA, MA+9, MA+18, MA+27, or MA+36 columns.

4. **Application During Period of Eligibility:** The eligible employee must apply for ERIP by the February 1<sup>st</sup> of their last school year of employment, providing that year is within the window period.

5. **Acceptance or Rejection of Applications:** The Board of Education of the School District, in its sole and absolute discretion, reserves the right to accept or reject any or all applications based on staffing needs, financial exigencies, availability of funds, budget, expenses, revenue, and other school finance issues.

### C. **ENROLLMENT REQUIREMENTS:**

1. **Resignation:** Eligible Employee participants in the program shall resign their positions with the School District effective at the close of the Employee’s last school year of employment as set forth on such Eligible Employee’s application and thereby relinquish the employee’s actual and existing continuing contract rights in consideration for the benefits outlined in paragraph "D" below.

2. **Notice of Plan and Future Employment:** The Superintendent or Superintendent's designee shall notify all Eligible Employees of the School District of the adoption of this ERIP and the attendant ERIP Application form and Agreement form on or before December 1 of each school year this ERIP is in effect. A copy of said ERIP Application

and Agreement as it now exists or as it may be from time to time be amended may be obtained from the district central office.

If the Eligible Employee participating in this program is re-employed by the School District as an Eligible Employee to a position within three (3) years of the Eligible Employee's last date of employment with the School District, said Eligible Employee shall relinquish all rights under this program to monies yet to be received under this plan for any portion of said three year period that has not elapsed on a per diem pro rata basis as of the date said Eligible Employee is re-employed; provided, however, this provision shall not apply to a participant substitute teaching for the district on a per diem basis.

**3. Application and Agreement:** Any Eligible Employee who attains the minimum eligibility requirements shall be eligible to participate in the ERIP. Each qualified Eligible Employee who wishes to participate must submit an Application and Agreement form properly executed on or before February 1 of the last school year of employment. An Application and Agreement may be withdrawn by the employee at any time within seven (7) days following the date when it was received by the Superintendent's office. The Superintendent, or his designee, shall review the employee's record to determine eligibility. **FAILURE TO SUBMIT THE APPLICATION OR AGREEMENT WITHIN THE TIME FRAME SPECIFIED THEREIN SHALL RESULT IN THE REJECTION OF SUCH APPLICATION OR AGREEMENT.**

**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 this program, UNLESS after a hearing before the Board of Education it is determined that said employee's contract shall not be canceled or terminated, or the decision of the Board of Education to terminate or cancel is subsequently set aside.

An employee who has received written notice of possible termination for reason of a reduction in force shall be eligible and may participate in this program if, but only if, said employee expressly waives all rights to which he or she may be entitled under the reduction in force law.

#### **D. BENEFITS:**

##### **1. Early Retirement Benefit:**

- a. **Calculation of Benefits:** An Eligible Employee requesting to receive the ERIP shall receive a benefit calculated below:
- |                        |                              |
|------------------------|------------------------------|
| 15-19 Years of Service | \$5,000 per year for 3 years |
| 20-24 Years of Service | \$6,667 per year for 3 years |

25-29 Years of Service	\$8,333 per year for 3 years
30+ Years of Service	\$10,000 per year for 3 years

PROVIDED, HOWEVER, THAT IN NO EVENT SHALL AN ELIGIBLE EMPLOYEE'S BENEFIT EXCEED THE TOTAL SUM OF \$30,000.00.

**b. Payment:** The sums to be paid pursuant to paragraph D.1. above shall be payable in six (6) equal installments, the first two to be paid on the first September 15 and April 15 immediately following the Eligible Employee's last day of employment, the third and fourth payment to be made on the second September 15 and April 15 immediately following the Eligible Employee's last day of employment, and the fifth and sixth payment to be made on the third September 15 and April 15 immediately following the Eligible Employee's last day of employment.

**c. Tax Treatment of Payments:** The Employee will be paid all amounts and benefits due under the Early Retirement Incentive Agreement. The Early Retirement Incentive benefit shall be deemed a voluntary Early Retirement Incentive payment. It will be reported as a taxable Early Retirement Incentive payment. Any required state or federal income tax withholdings will be subtracted from each payment to the Employee. It is understood and agreed that their currently exists an issue with the Internal Revenue Service (IRS) as to whether a severance payment paid by an employer in exchange for the relinquishment of continuing contract and tenure rights by the employee constitutes "wages" paid to the employee for purposes of the payment of FICA taxes; and, as such, whether the employer and employee are liable for payment of FICA taxes on monies paid for total severance of employment. It is therefore understood and agreed that:

(1) State and federal withholding, FICA, FUTA, including employer and employee share thereof have been, or will be, withheld from or contributed in relation to the severance pay amount set forth above.

(2) State employees retirement will not be withheld from such amounts.

(3) In the event the School District determines to seek a refund of the Employer and Employee share of the FICA tax payments made on any severance pay amount paid to an Employee under paragraph 5 through the filing of a IRS forms 941 and 843, or other applicable forms, process or procedures, the Employee will cooperate to the fullest extent possible in pursuing such refunds as are allowed by law.

**2. Source of Funds:** The School District shall pay the entire cost of the Plan.

3. **Administration:** This Plan shall be administered by the Board of Education by and through the administration of the School District.

4. **Beneficiary Designation:** In order for the application to be considered complete, a beneficiary must be designated. Upon the death of the participant employee before all benefits are paid, the beneficiary shall receive benefits pursuant to the terms of this ERIP.

5. **COBRA Rights:** Pursuant to COBRA, a retired employee will have the opportunity to continue participation in the School District's group health insurance plan for at least eighteen (18) months following retirement upon payment by the employee of the monthly insurance premiums.

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

1. **Time to Consider Application and Agreement:** An employee who elects to participate in the Douglas County West Community School District Early Retirement Incentive Program shall be given at least thirty one (31) calendar days within which to consider the ERIP Application and Agreement. That ERIP Application and Agreement shall alert the employee that the Douglas County West Community School District Early Retirement Incentive Program is totally voluntary in nature.

2. **Waiver and Release of Claims:** The ERIP Application and Agreement shall also include a specific Waiver and Release of Claims of the participant's rights under the Age Discrimination and Employment Act (ADEA), 29 U.S.C. §§ 621-634 and the Act Prohibiting Unjust Discrimination in Employment Because of Age, Neb. Rev. Stat. § 48-1001, et seq., the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 1001, et seq., and all other state and federal constitutions, statutes and regulations that relate to the validity of the ERIP and allow the employee to revoke the Release or Waiver at any time within seven (7) days after signing the contract and advise the employee to consult with an attorney before signing the Application and Agreement. **THE SPECIFIC TERMS OF THE WAIVER AND RELEASE OF CLAIMS SHALL BE AS FOLLOWS:**

**WAIVER AND RELEASE OF CLAIMS:** By entering into this Agreement, the Eligible Employee hereby releases, waives, acquits, and forever discharges the School District, all past, present, and future members of the Board of Education of such School District in their official, and individual capacities, the Administrators, and all other officers, agents, and employees of the School 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, or attorneys' fees under

42 U.S.C. § 1988 or the like, which Eligible Employee may now have or which may accrue in the future with respect to, arising out of, or in relation to the Eligible Employee's employment with the School 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 U.S.C. §§ 621-634, the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. § 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 Eligible Employee's employment with the School District, this Application and Agreement, the ERIP, or the Eligible Employee's resignation from such employment.

This waiver and release is given in exchange for consideration in addition to that which the Eligible Employee is already entitled to pursuant to law. The Eligible Employee acknowledges that the Eligible Employee has been advised by this Application and Agreement, and in writing to consult with an attorney before entering into the ERIP or signing this Application and Agreement. The Eligible Employee further acknowledges that the Eligible Employee has had sufficient time to decide whether or not to execute this ERIP Application and Agreement, including sufficient time to consider the Waiver and Release of Claims and all other matters contained herein.

**F. TERM OF PROGRAM:**

The Douglas County West Community School District's ERIP shall be offered only to Eligible Employees as defined herein, and those who timely submit an ERIP Application and Agreement. This ERIP program and policy, and all benefits provided herein, may be repealed at any time by the Board of Education in its sole and absolute discretion.

Date of Adoption: May 9, 2022