

# POLICY DLB

## Board of Education Las Cruces Public Schools

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Related Entries: DLB-R  
Responsible Office: Assistant Superintendent of Finance

### TAX-DEFERRED COMPENSATION

#### I. PURPOSE

To provide a tax deferred compensation plan in compliance with section 403(b) of the Internal Revenue Code and appropriate Internal Revenue Service regulations.

#### II. BACKGROUND

The Board of Education believes it is in the best interest of LCPS employees that a deferred compensation plan under section 403(b) of the Internal Revenue Code should be provided so that public school employees may take advantage of tax deferred retirement savings. Employee salary deferrals into a 403(b) plan are made before income tax is paid and allowed to grow, tax-deferred, until the money is taxed as income when withdrawn from the plan. 403(b) plans are also referred to as a tax-sheltered annuity. Such plan assists in the recruitment and retention of employees as well as provides an avenue for employees to save for their retirement.

#### III. DEFINITIONS

- A. *“Compensation” means* – All cash compensation for services to the Employer, including salary, wages, incremental pay and overtime that is includable in the Employee’s gross income for the calendar year as defined by Internal Revenue Code (IRC) §125, 132(f), 401(k), and 403(b).
- B. *“Participant” means* – An individual for whom elective deferrals are currently being made or for whom elective deferrals have previously been made and have not received a distribution of his or her entire benefit under the plan.
- C. *“Elective Deferral” means* – The Employer contributions made to the plan at the election of the participant in lieu of receiving cash compensation. Elective deferrals are limited to pre-tax salary reduction contributions.
- D. *“Funding Vehicles” means* – The Annuity Contracts or Custodial Accounts issued for funding amounts held under the Plan and specifically approved by Employer for use under the plan.
- E. *“Service Provider” means* – (i) An issuer of annuity contracts under Section 403(b) (I) of the Code, or a custodian of custodial accounts under Section 403(b) (7) of the Code; or (ii) A related entity of the foregoing that provides

recordkeeping or administrative services in connection with such contracts or custodial accounts, i.e., broker or agent which has entered into an Individual Agreement with a Participant.

**IV. POSITION**

- A. The Las Cruces Public Schools will provide the opportunity for employees to defer taxable compensation (elective deferrals) to future years by maintaining a legally recognized deferred compensation plan in compliance with IRC §403(b).
- B. The plan shall offer Funding Vehicles that are reputable within the investment industry.
- C. The plan shall offer Funding Vehicles that offer a variety of investment options and appropriate risk levels to maintain a diverse portfolio.
- D. Service providers shall be appropriately licensed, be in good standing with the New Mexico Regulation and Licensing Department Security Division, and in good standing with the District.
- E. All contracted employees (excluding temporary employees) are eligible to become a participant in the plan.
- F. All employees are notified annually of plan availability.
- G. The District shall make the plan information and deferral process available to the employees.
- H. Employees may enroll in the plan at any time during the calendar year.
- I. The Superintendent of Schools shall promulgate a regulation for the enforcement of this policy.

**V. REVIEW**

This policy shall be reviewed on an ongoing basis in accordance with the Board of Education policy review process.



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*Board of Education, President*

January 15, 2013

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*Date Approved*

**History:** Formerly policy 527 Tax Sheltered Annuities; Revised 10.06.09; Revised 1.15.13

**Legal Reference:** IRS §125, 132(f), 401(k), and 403(b)