

MEDFORD AREA PUBLIC SCHOOL DISTRICT

DATE ADOPTED: October 17, 2002 FILE SECTOR: FISCAL MANAGEMENT
DATE REVISED: October 21, 2004 POLICY TITLE: DEFERRED COMPENSATION
DATE REVISED: November 15, 2007 VENDORS - 403(b) & 457(b)
DATE REVISED: June 22, 2017

403(b)

Plan

The Medford Area Public School District (the "District") offers a voluntary 403(b) Plan to help employees save money for retirement. The 403(b) Plan is a type of tax-deferred retirement savings program. Future benefits from the 403(b) Plan will reflect the amount of a participant's voluntary salary deferral contributions plus earnings. Vesting is immediate.

Although this Plan is offered by the District, this Plan is not established or maintained by the District for purposes of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Accordingly, this Plan and the District are not subject to ERISA.

Participation

Every District employee is eligible to participate in this Plan, with the exception of (a) non-resident aliens, (b) those who do not have sufficient income to be eligible to contribute at least \$200 per year or (c) those who regularly work under 20 hours per week for the District. To participate, employees need to fill out a Salary Reduction Agreement and select the investment desired from the list of District approved vendors. Employees are limited to changing their salary reduction amount to a maximum of five (5) changes per calendar year. Employees may cease contributions at any time.

Vendors

Employees can invest deferral monies in a variety of different investment options. Vendors through which the investment vehicles are available are approved by the District.

457(b)

Plan

The Medford Area Public School District (the "District") allows its employees to voluntarily participate in the Wisconsin Deferred Compensation Plan (this "Plan").

The Wisconsin Department of Employee Trust Funds ("ETF") maintains this Plan in compliance with Internal Revenue Code §457(b). This Plan is not established or maintained by the District for purposes of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Accordingly, this Plan and the District are not subject to ERISA.

Participation

To participate in this Plan (or to change an existing contribution election), employees must provide the District with a signed Salary Reduction Agreement. Employees must choose the whole dollar amount that employees wish to contribute each payroll period. The Agreement must be signed by the employee and returned to the District before the start of the payroll period when the election or change will become effective. The employee can always decide to stop contributing to this Plan—such changes must also be made, in writing, using a Salary Reduction Agreement.

ETF may require additional paperwork to be completed in order to participate in this Plan.

Vendors

ETF selects the investment vehicles that are available under this Plan. There are a variety of investment options ranging from conservative to aggressive. It is entirely up to the employee to determine which approved vendor and investment options to use, provided that a vendor agree to certain limitations that ETF and the District applies to all vendors. Additional information on investment options and Vendors is available from ETF at www.wdc457.org.

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403(b)

Tax Treatment

The District intends to ensure that this Plan is qualified for preferential tax treatment under Internal Revenue Code (“IRC”) §403(b). There are two ways employees can elect to have a portion of their current pay saved and invested via salary deferral. Employees may contribute pre-tax 403(b) deferrals and/or Roth after-tax 403(b) deferrals.

Pre-tax Deferrals. Because employees do not have to pay taxes on the amount contributed to a 403(b) plan for the year in which it was contributed to this plan, investing in a 403(b) plan can lower the overall tax burden—at least in the present. Employees can defer the income tax on their contributions until they begin making withdrawals from their account—typically when they retire. The earnings on the account also grow tax-free until withdrawal. Contributions to the 403(b) Plan are reported annually on employees W-2 forms, but are not included in income subject to taxation. Employee’s 403(b) contributions are deducted from employee’s gross salary and income taxes are calculated on the remaining pay.

Roth after-tax deferrals. With Roth deferrals, employees must pay current income tax on their deferral contribution. This means the amount that is deferred under the Roth portion of the 403(b) Plan is subject to income taxes in the year of the deferral, but the deferral amount and its earnings are distributed tax-free if certain conditions are met. These conditions are met if employees follow the distribution rules of this Plan and at least 5 years have passed between the first Roth deferral and the date of the first distribution.

As described below, there are legal restrictions that limit how much employees can contribute to this Plan each year. The Business Office may need to ask employees for information to show that the contributions are within these limits. Employees should consult with their own investment, tax and/or legal advisor about the ability to participate in this Plan. The District cannot provide employees with this type of advice.

Salary Reduction Agreements

To participate in this Plan (or to change an existing contribution election), employees must provide the District with a signed Salary Reduction Agreement. Employees must choose the whole dollar amount that they wish to contribute each payroll period. The Agreement must be signed by the employee and returned to the District before the start of the payroll period when the election or change will become effective.

Contributions and Limitations

Employees may choose how much of their salary to contribute to this Plan, the contribution must comply with all of the following legal limitations:

- **Annual Deferral Limitation**

The first limitation applies to all elective deferrals (both pre-tax and Roth added together) from the employee's salary to this Plan. Elective deferrals are contributions that are made instead of receiving all of the pay at that time. The elective deferrals under this Plan are not considered in conjunction with deferrals made under the 457 Plan of the District.

- **Special Catch-up Contribution**

If employees have worked for the District for at least 15 years and have not contributed all of the excess contributions available under this Plan, employees can elect to make "catch-up" contributions, in addition to the salary deferrals employees may otherwise be eligible for.

- **"50 and over" Catch-up Contribution**

A participant age 50 or over (by the end of the calendar plan year) may defer additional amounts to this Plan as an additional "catch-up" contribution. Contribution limits can be found at <https://www.irs.gov/>.

Distributions

The law restricts the times when distributions are permitted from accounts under this Plan. Employees may receive a distribution upon retirement from the District. The IRS requires complete severance from the District upon retirement, which means that if rehired by the District after employees have retired, employees must stop receiving distribution from the account during the time employed by the District after retirement.

A participant or a beneficiary may receive a distribution upon death or disability.

Distributions are also permitted from this Plan upon: severance from employment with the District or attainment of age 59 ½.

457(b)

Tax Treatment

The ETF, not the District, is responsible for maintaining compliance with §457(b). If this Plan maintains its tax preferred status, the employee will not pay income tax on the money that was elected to be saved or on the investment earnings until the employee takes the money out of this Plan.

Contributions to the 457(b) Plan are reported annually on the W-2 forms, but are not included in income subject to taxation. The employee's 457(b) contributions are deducted from the gross salary and income taxes are calculated on the remaining pay.

As described below, there are legal restrictions that limit how much employees can contribute to this Plan each year. The Business Office may need to ask employees for information to show

that the contributions are within these limits. Employees should consult with their own investment, tax and/ or legal advisor about the ability to participate in this Plan. The District cannot provide employees with this type of advice.

Contributions and Limitations

Employees may choose how much of their salary to contribute to this Plan, the contribution must comply with all of the following legal limitations.

- **Annual Deferral Limitation**

The first limitation applies to all elective deferrals from salary to this Plan. Elective deferrals are contributions that employees make instead of receiving all of the pay at that time. The elective deferrals under this Plan are not considered in conjunction with deferrals made under the 403(b) Plan of the District.

- **“Last Three-Year” Catch-up Contribution**

In addition, employees may be eligible to contribute more than the elective deferral limit. For any one or more of the last three (3) taxable years before the normal retirement age, the employee may make additional contributions to this Plan. The amount of additional contributions will be the lesser of:

- (a) two times the amount of elective deferrals allowed; or
- (b) the amount of the elective deferral allowed plus any portion of the elective deferral which was allowed but which the employee did not contribute.

- **“50 and over” Catch-up Contribution**

A participant age 50 or over (by the end of the calendar plan year) may defer additional amounts to this Plan as an additional “catch-up” contribution. Contribution limits can be found at <https://www.irs.gov/>.

ETF also establishes its own rules to comply with these limitations and certain state law requirements.

Distributions

The employee will be eligible for distributions from this Plan under the following circumstances;

- (a) Separation from Employment with the District;
- (b) Attainment of age 70 ½; or
- (c) In the event of a financial hardship due to an unforeseeable emergency.

Hardship Withdrawal

In the event of an unforeseeable emergency, a Participant or Beneficiary may request a distribution of his or her benefits at any time.

Benefits paid under a Hardship Withdrawal shall be limited strictly to the amount necessary to meet the unforeseeable emergency constituting financial hardship. Such a financial hardship must first be relieved by: (1) Reimbursement from insurance; (2) liquidation of Participant’s assets not held in this Plan; or (3) by cessation of deferrals under this Plan.

A Participant’s deferrals will automatically be terminated upon approval of a Hardship Withdrawal and the Participant must wait six months before re-enrolling in this Plan.

For more information about what constitutes an unforeseeable emergency, please contact the District or ETF.

**MEDFORD AREA PUBLIC SCHOOL DISTRICT
SALARY REDUCTION AGREEMENT**

Dated: _____

Read this before completing this form: This salary reduction agreement does not establish a tax deferred annuity with a specific vendor but only authorizes the withholding of funds from each paycheck. For new enrollments, separate 403(b) enrollment applications must be requested from the vendor(s) chosen from the list of District-approved vendors (this list is available at the District office). Please return these separate enrollment application(s) to the District office along with this salary reduction agreement form.

Employee: _____ SSN: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Date of Birth: _____

I. Employee Deferrals – Section 403(b) Pre-tax Deferral Election.

I hereby authorize the Medford Area Public School District ("District") to withhold \$_____ OR _____% (whole dollar amount or whole percentage of total pay period compensation) from my compensation per pay period.

This Agreement shall be effective as of the first pay date which is not less than ten (10) business days following the date of execution of this Agreement. The District shall remit the withheld funds to the following Vendor(s) that I have selected:

<u>Amount</u> (whole dollar/percentage)	<u>District-Approved Vendor Name</u>
\$_____ OR _____%	_____

<u>Amount</u> (whole dollar/percentage)	<u>District-Approved Vendor Name</u>
\$_____ OR _____%	_____

Please use back of this form, continuing in the same fashion above to select additional vendors.

II. Employee Deferrals – Section 403(b) Roth After-tax Deferral Election.

I hereby authorize the Medford Area Public School District ("District") to withhold \$_____ OR _____% (whole dollar amount or whole percentage of total pay period compensation) from my compensation per pay period.

This Agreement shall be effective as of the first pay date which is not less than ten (10) business days following the date of execution of this Agreement. The District shall remit the withheld funds to the following Vendor(s) that I have selected:

Amount (whole dollar/percentage) District-Approved Vendor Name
\$ _____ OR _____% _____

Amount (whole dollar/percentage) District-Approved Vendor Name
\$ _____ OR _____% _____

III. Employee Deferrals – WDCP Section 457(b) Election.

I have elected to participate in the Wisconsin Deferred Compensation Plan ("WDCP") sponsored by the Wisconsin Department of Employee Trust Funds. I hereby authorize the Medford Area Public School District ("District") to withhold \$_____ (whole dollar amount) from my compensation per pay period.

This Agreement shall be effective as of the first pay date which is not less than ten (10) business days following the date of execution of this Agreement. The District shall remit the withheld funds to the following Vendor(s) that I have selected:

Amount (whole dollar/percentage) Vendor Name
\$ _____ OR _____% _____

IV. Terms/Conditions.

This Agreement is legally binding upon me and may be terminated by me only by giving notice of termination in the payroll period preceding the payroll period in which the terminations is to be effective. **I understand and agree** that there are limitations on my deferrals under the Medford Area Public School District Employee Savings Plan (403(b) Plan) and the Wisconsin Deferred Compensation Plan (457(b) Plan) and that my contributions under this election do not exceed those limits. Further, I confirm that any deferrals in excess of the general limitations are due to my eligibility for either "catch-up" election which allows for a deferral in excess of the current year's limit for the 403(b) plan and for the WDCP Section 457(b) Plan.

Year: _____ 403(b) Plan Limit: _____ Year: _____ 457(b) Plan Limit: _____

By the execution of this Agreement, I represent that:

- This Agreement shall terminate any prior Salary Reduction Agreement executed between myself and the District under the Medford Area Public School District Employee Savings Plan (403(b) Plan) and Wisconsin Deferred Compensation Plan (457(b) Plan).
- I have not executed more than the number of Salary Reduction Agreements permitted during the same plan year under this Plan(s).
- I have made an independent determination as to my desire to make these salary deferrals.
- I have assessed the risk associated with such investment(s) and have determined, with such professional advise as I deemed necessary, that the product offered by the Vendor is suitable to me.
- The District has no responsibility to evaluate or apprise me, now or in the future, as to the performance, status or otherwise as to the operation or viability of any product offered by the Vendor or alternative investments.
- I have made an independent determination as to my deferral level after consideration of the requirements of law and affirm that my contributions are within the limits of the law.
- I understand that I am responsible for determining that the amount of my deferral contributions elected above in this Salary Reduction Agreement, plus any amount deferred under a SIMPLE plan, a 401(k) plan or other 403(b) plan not sponsored by the District, does not exceed the maximum limit specified under Internal Revenue Code section 402(g) for any given plan year.

By executing this Agreement, I hereby elect, where the general limitations of Code sections 403(b), 415(c) and 457(b) are not satisfied, such alternative limitations as are available and necessary for me to comply with the annual addition limitations, as determined under Code sections 415(c)(4) and 457(e).

I release the District from any and all claims that I may assert in the event that the product which I have chosen under this Agreement shall fail to qualify for preferential tax treatment under Code section 403(b). I understand that the District assumes no responsibility, actual or implied, with respect to the calculation of the contribution or the limits on such contributions.

Dated this _____ day of _____, 20__.

Signature of Employee

Medford Area Public School District Vendor Hold Harmless Agreement

Medford Area Public School District and 403(b) Tax-Sheltered Annuity (TSA) Vendor Vendor Certification and Vendor Hold Harmless and Indemnification Agreement

In consideration of the Medford Area Public School District (the "District") permitting _____ (the "Vendor") to serve as a 403(b) TSA Vendor for the employees of the District, the sufficiency of which is hereby acknowledged, the Vendor represents and agrees as follows:

- 1) The Vendor shall provide the District with information sufficient to confirm that deferrals to the Vendor under the Medford Area Public School District Employee Savings Plan (403(b) Plan) (the "Plan"), including all documents memorializing or implementing this Plan, satisfies the requirements for status as a "Section 403(b) Arrangement" under the relevant provisions of Sections 401(a), 402(g), 403(b) and 415(c) of the Internal Revenue Code of 1986, as amended (the "Code").
- 2) The Vendor must comply with all federal and state requirements regarding security or privacy of employee/client information.
- 3) The Vendor is aware that the District has the right to reject any investment product or vehicle from the Vendor that the District deems not to be in the best interest of the District or its employee.
- 4) The Vendor is aware that the District has the right to remove a Vendor from its Approved Vendor List as listed in this Plan's plan document if the Vendor's total number of eligible participants under this Plan drops under five (5) eligible participants for one fiscal year. Furthermore, the Vendor is aware only upon attaining five (5) or more eligible participants under this Plan, and upon signing this Agreement, may a Vendor qualify to be added to the District's Approved Vendor List.
- 5) The distribution of funds will be made only after a distributable event, as defined in this Plan's document and available under the applicable Code section. The Vendor will be responsible for supplying all necessary distribution paperwork for those permissible distributions. The Vendor will also be responsible for locating and initiating communication with missing participants.
- 6) Loans. This Plan Eligible participants are permitted to take loans (for any reason) from their vested 403(b)(1) annuity and/or 403(b)(7) custodial accounts to the extent permitted by the Vendor, pursuant to the terms of this Plan and pursuant to the Vendor's terms and conditions. The Vendor will provide written notice of its terms and conditions to the Participant along with the loan application. The Vendor will be responsible for all information reporting and tax withholding required by applicable federal and state law in connection with distributions and loans. The Vendor will accept repayment for the loan via payroll reduction from the District in a manner consistent with the form of remittance described herein or directly from the participant. The Vendor shall notify the participant and the District of missed repayments and/or default in accordance with the terms of this Plan.

Hardship Distributions. Hardship withdrawals will be permitted pursuant to the terms of this Plan's document. Only upon written approval by the District may the Vendor honor a request for a hardship withdrawal. The Vendor will be responsible for supplying the employees with its own necessary distribution forms.

- 7) The Vendor will be solely responsible for tracking, notifying participants and distributing all required minimum distributions as a result of a participant's attainment of age 70 ½.
- 8) The Vendor shall be responsible for the completion and distribution of Form 1099, any applicable reporting forms to the IRS (such as, Form 945), and all communication with the participant for any distribution including but not limited to ineligible or impermissible distribution, proper distributions and defaulted loans. The Vendor shall further be responsible for and hold harmless the District against any negative tax and/or tax qualification implications that stems from any distribution including but not limited to ineligible or impermissible distribution.

- 9) The Vendor, its authorized agents and representatives, shall comply with all pertinent written directives regarding the Vendor's solicitation of employee of the District for the purpose of providing information or soliciting purchases of TSAs by District employees.
- 10) This Plan offers its eligible participants the option of contributing all or some of their elective deferrals into Roth after-tax accounts in accordance with the terms of this Plan. The Vendor will be responsible for tracking the 5 year period in which the participant must maintain the Roth deferral account in order to take a qualifying distribution. Any improper distribution, including those occurring prior to the distributable event as defined by this Plan or prior to the participant satisfying the 5-year period will be the responsibility of the Vendor and the Vendor shall be responsible for and hold harmless the District any penalties or negative tax and/or tax qualification implications on the participant and/or this Plan.
- 11) The Vendor will maintain accurate records on each participant in this Plan reflecting contributions received on a tax-deferred basis and identifying the account as a 403(b)(1) or 403(b)(7). The Vendor will also maintain appropriate accounts for the pretax deferrals, Roth after-tax deferrals, employer matching contributions, employer non-elective contributions and rollover contributions, as permitted by this Plan.
- 12) At least annually, and otherwise upon request, the Vendor shall prepare for all employees deferring amounts to it under a salary reduction agreement a calculation demonstrating that such election and all prior elections for this plan year, result in contribution levels which comply with the requirements of the applicable limitations under Section 402(g), 403(b), and 415(c) of the Code.
- 13) The Vendor will accept District remittances via electronic funds transfer (ACH format) or via paper checks from the District office.
- 14) The District may prohibit further deferrals to the Vendor if the Vendor fails to comply with the requirements of the Policy of the District.
- 15) The Vendor, at its own cost, expense and risk, shall defend any claim, demand, governmental audit or review or any other proceedings that may be brought against the District, including, by way of illustration and not limitation, any member of the Board of Education, officer or employee, relative to the failure of the Vendor to satisfy the representations hereunder and shall indemnify and hold harmless any such party from any and all liability, cost or assessment arising from the failure of the Vendor to perform as represented hereunder, including actual attorney's fees, except where such failure is the result of erroneous information provided by the District or the Employee or their willful misconduct. Such indemnification shall also include, but not be limited to, the 10% excise tax imposed on employers by Section 4979 of the Internal Revenue Code, additional taxes, interest, and penalties levied against the District due to a mandated reclassification of employee TSA contributions from "tax deferred" to "taxable," penalties imposed by the IRS or other taxing authorities or regulatory agencies upon employees who then seek indemnification from the District or upon the District. Furthermore, the Vendor shall agree to pay all legal fees, lost earnings, IRS penalties, IRS filing fees, cost to obtain qualification or repair this plan's unfavorable tax status, and all incidental and consequential damages that may arise or are incurred as a result of the disqualification of this plan or other imposed penalty or lawsuit which occurs as a result of the violation of one of the terms of this Agreement or as a result of the Vendor's negligence. The District shall notify the Vendor of any such claim within thirty (30) days of the receipt of any action within the scope of this indemnification provision.

In the event of an audit of the District relative to the operation of this Plan, the Vendor agrees that it shall extend its cooperation in providing necessary information to the District regarding employees in the products provided by the Vendor provided such information is within the scope of the representations of this Agreement or otherwise maintained or prepared by Vendor in providing such products.

- 16) If any unauthorized transfers of funds are made, the District will require the Vendor to recover the funds to make the participant's account whole.
- 17) The provisions of this Agreement are severable and, accordingly, if any term or provision of this Agreement is held by a court of competent jurisdiction to be unenforceable for whatsoever reason, the remaining terms and conditions hereof shall continue to bind the parties and be fully enforceable.

- 18) The Vendor is not and shall not be regarded as an agent or employee of the District, or any of their officers, agents or employees. The District is not and shall not be regarded as the agent or employee of the Vendor, or any of its officers, agents or employees.
- 19) This Agreement shall be construed under the requirements of the Internal Revenue Code and other applicable federal or Wisconsin laws. Any action on or under this Agreement shall be brought only in the State of Wisconsin, in the Circuit Court of Taylor County.
- 20) This Agreement reflects the entire agreement of the parties relative to this Plan of the Vendor. Any other representations, terms, conditions or provisions shall be of no force or effect.
- 21) The signatory to this Agreement for the Vendor represents and warrants that he/she has the authority to execute this Agreement and bind the Vendor to the terms and conditions hereof.
- 22) This Agreement supersedes all prior agreements between the District and the Vendor.

Dated this _____ day of _____, 20_____.

Medford Area Public School District:

Vendor:

By: _____

By: _____

Print Name

Print Name:

Title

Title

Address

Telephone Number