

**NEW HAVEN RETIRED EMPLOYEES
BENEFIT PLAN AND TRUST
FOR CERTIFICATED AND MANAGEMENT
EMPLOYEES
(AMENDED AND RESTATED EFFECTIVE
JULY 1, 2001)**

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The New Haven Teachers Association/CTA/NEA (“NTAA”), the New Haven Administrators Association (“NHAA”), and the New Haven Unified School District on August 25, 1988 adopted and established the New Haven Retired Employee Health and Welfare Benefit Fund (“Fund”) to provide health benefits to certain retired employees of the District who were members of the management/confidential and non-management certificated employee units. The parties hereby adopt this amendment and restatement of the Fund effective as of July 1, 2001, except as otherwise indicated, and change the name of the Fund to the “New Haven Retired Employees Health Benefit Plan and Trust for Certificated and Management Employees” (the “Plan”).

The Plan is intended to be a governmental plan that is exempt from the provisions of the Employee Retirement Income Security Act of 1974 (“ERISA”).

ARTICLE I – DEFINITIONS

1.1 “Agreements” means the agreements between NHAA and NHTA and the District, and any extensions, amendments, modifications, or renewals of the agreements, or any successor agreements which provide for participation in this Plan.

1.2 “Benefits” means the medical benefits paid to or on behalf of a Participant described in Article V.

1.3 “Board” means the Board of Directors of the Plan, appointed under Article V.

1.4 “District” means the New Haven Unified School District.

1.5 “Director” means a member of the Board appointed pursuant to Section 5.1.

1.6 “Domestic Partner” means the person with whom, at the time Benefits are provided, an unmarried Employee has an exclusive and close personal relationship that is intended to be permanent, with whom the Employee shares a primary residence and joint responsibility for each other’s welfare and financial obligations, and with whom the Employee

has registered the partnership (if such registration is available in the Employee's jurisdiction of residence). The Board may establish such procedures and request such information as it deems necessary to establish an Employee's domestic partnership status. For purposes of Article XI, "Domestic Partner" shall include the Employee.

1.7 "Employee" means each individual included in the employee units as described in the Agreements and each individual who was included in one of those units at the time of his or her Retirement.

1.8 "NHAA" means the New Haven Administrators Association.

1.9 "NHTA" means the New Haven Teachers Association/CTA/NEA.

1.10 "Participant" means an Employee who has satisfied the requirements in Section 4.2 to receive Benefits from the Plan.

1.11 "Plan" means the New Haven Retired Employees Health Benefit Plan and Trust for Certificated and Management Employees, as amended from time to time.

1.12 "Plan Year" means the period from July 1 to June 30.

1.13 "Retirement" means an Employee's termination of employment with the District immediately following his or her application for benefits for which he or she is eligible under the California Public Employees Retirement System ("PERS") or the California State Teachers Retirement System ("STRS").

1.14 "Spouse" means the person to whom an Employee is legally married at the time Benefits are provided and, for purposes of Article XI, the Employee.

1.15 "Trust" means the trust fund created and established to hold the assets of the Plan.

ARTICLE II – PURPOSE OF THE PLAN AND TRUST

2.1 The Plan has been established for the sole purpose of providing Benefits to Participants and paying Plan expenses. Neither the District, NHAA, NHTA, nor any Employee, nor any other person shall have any right, title, or interest in the Plan or Trust other than as specifically provided in the Plan, and no part of the Trust shall revert to the District, NHAA or NHTA. The Plan shall not be, liable for or subject to the debts, contracts, or liabilities of the District, NHAA, NHTA, or any Employee. No part of the Trust, nor any Benefits payable under

the Plan, shall be subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge by any person.

2.2 Neither the District nor any officer, agent, or employee of the District shall be under any liability to the Plan, except to the extent that contributions are required to be made to the Plan, or to the extent an individual may incur liability as a Director. The liability of the District to the Plan shall be limited to the contributions required by the Agreement.

2.3 Neither the District, NHAA, NHTA, nor any Employee shall be liable or responsible for any debts, liabilities, or obligations of the Plan or the Directors.

ARTICLE III – DISTRICT CONTRIBUTIONS TO THE FUND

3.1 All Benefits shall be financed entirely by contributions from the District and earnings thereon. The District shall make contributions to the Plan in the amount set forth in the current Agreements. The District shall pay its contributions to the custodian appointed by the Board.

3.2 Contributions to the Plan shall be due and payable on August 1st of each plan year based on the District's projected assignment of Employees. Contributions to the Plan shall also be due and payable on November 1st of each plan year as necessary to make adjustments based on the District's actual employment of Employees.

3.3 Each contribution to the Plan shall be made on or before the fifth day of the calendar month in which it becomes payable, on which date the contribution, if not then paid in full, shall be delinquent. The parties recognize and acknowledge that the regular and prompt payment of District contributions to the Plan is essential to the maintenance and effectiveness of the Plan and that it would be extremely difficult, if not impracticable, to fix the actual expense and damage to the Plan which would result from the failure of the District to make timely payment. Therefore, if the Directors or custodian or custodians have not received payment by the due date, the Board of Directors or custodian or custodians shall send a written request for immediate payment to the chief business officer of the District. If the payment is not received by the fifteenth day of the month in which it is due, the District shall pay, in addition to the amount due, interest at the rate the District is receiving on deposits with the County Treasurer. If the payment is not received by the end of the thirtieth calendar day after the payment is due and

payable, starting the thirty-first day the District shall pay interest at the average rate the Trust is receiving on its deposits.

3.4 On or before each August 1, the District shall bill the Trust for any amounts paid by the District on behalf of the Plan to provide Benefits for the preceding Plan Year. The Trust shall repay the District for these amounts on or before September 1. Amounts not paid by September 1 will accrue interest at the rate then paid by the County Treasurer for funds on deposit with the County.

ARTICLE IV – BENEFITS

4.1 Employees employed by the District on or later than June 1, 1986 are eligible for Benefits in accordance with the Plan. Employees who retired before June 1, 1986 shall not be eligible for Benefits.

4.2 At or after the date of his or her Retirement that coincides with his or her termination of employment with the District, an Employee shall be entitled to Benefits if he or she has been employed full time by the District for a total of ten or more full school years. An Employee who is employed part-time by the District shall be entitled to Benefits if he or she has worked for the District for a period of time that is equivalent to ten full years. For Employees employed in the NHAA management/confidential unit before July 1, 1986, all service with the District shall be counted toward the ten year requirement. For all other Employees, only service on or after July 1, 1986 in the NHTA Certificated non-management unit or the NHAA management/confidential unit shall count toward the ten year requirement. An Employee who terminates employment with the District without satisfying the requirements for Retirement shall not be entitled to Benefits.

4.3 An Employee who has fewer than ten years of service credited under Section 4.2 shall be entitled to partial Benefits in accordance with the following rules:

- (a) The Employee must have a combined total of ten or more years of service under this Plan and under the New Haven Retired Employees Benefit Plan and Trust for Classified Employees (“Classified Plan”);
- (b) The Employee must otherwise satisfy the requirements for receiving Benefits from the Plan; and

- (c) The Employee shall receive a percentage of the full Benefits under this Plan equal to 10% for each year of service credited to the Employee under this Plan in his or her last ten years of service with the District. The Employee shall receive the remainder of his or her retirement medical benefits from the Classified Plan based on the Employee's years of service under that plan in his or her last ten years of service with the District.

4.4 The Board shall establish a monthly dollar amount for payment of Benefits to each Participant. The Benefit amount shall be set forth in Appendix A to the Plan, and may be increased or decreased by the Board from time to time in its discretion. Benefits shall continue for the life of the Participant and shall not be transferred or assigned to any other individual.

4.5 Benefits payable from the Plan shall be the following expenses for health coverage of a Participant and his or her Spouse or Domestic Partner, for which the Participant, Spouse or Domestic Partner is personally responsible and for which he or she is not otherwise entitled to reimbursement:

- (a) premiums for coverage under a medical plan made available by the District to retired Employees;
- (b) premiums for coverage under any other comprehensive medical plan that has been approved by the applicable state insurance department or other administrative agency; and
- (c) premiums for coverage under Part B of Medicare to the extent that the Participant is personally responsible and is not otherwise reimbursed for payment of those premiums.

4.6 Payment of Benefits may be made directly to the provider of medical coverage for a Participant, or a Participant's Spouse or Domestic Partner. Alternatively, the Plan may directly reimburse a Participant for expenses for Benefits if the Participant provides documentation satisfactory to the Board: (i) establishing that the Participant or the Participant's Spouse or Domestic Partner actually incurred the expenses for medical coverage which was in force at the time the expense was incurred; and (ii) specifying the nature and amount of the expense.

ARTICLE V – BOARD OF DIRECTORS

5.1 The Plan shall be administered by a Board of Directors which shall consist of six Directors. Three Directors shall be appointed by written designation by the District (“District Directors”). Two Directors shall be appointed by written designation by NHTA (“NHTA Directors”). One Director shall be appointed by written designation by NHAA (“NHAA Director”).

5.2 The Directors shall select two Co-Chairs of the Board to serve for a term of two years or any other period the Directors shall determine.

5.3 Each Director shall serve until death, resignation, removal from office or until a successor is designated as provided in this Article V.

5.4 A Director may resign at any time by serving written notice of such resignation, at least 30 days before to the date on which such resignation is to become effective, upon the Co-Chairs of the Board, and upon NHAA, NHTA and the District.

5.5 Any Director may be removed from the office at any time for any reason by an instrument in writing signed by the Director’s appointing organization and served on the Director concerned, the Co-Chairs of the Board, the District, NHAA and NHTA.

5.6 If any Director dies, resigns, or is removed from office, a successor Director shall be promptly designated in writing by the organization appointing the Director.

5.7 No vacancy or vacancies in the offices of the directors shall impair the power of the remaining Directors to administer the Plan.

5.8 The Directors shall not be compensated for their services by the Plan, but Directors shall be reimbursed by the Plan for all reasonable and actual expenses incurred in connection with the performance of their official duties as Directors, as authorized by the Board.

ARTICLE VI – POWERS AND DUTIES OF THE BOARD OF DIRECTORS

6.1 The Board shall have the power and duty to administer the Plan and Trust.

6.2 The Board shall enter into an agreement with a custodian or custodians for the purpose of receiving, holding, and disbursing the assets of the Plan.

6.3 The Board shall have power to demand and enforce the prompt payment of contributions to the Plan and delinquent payments and interest as provided in Section 3.3. If the Board files any suit or claim with respect to delinquent contributions, the Board and/or Plan shall be entitled to recover reasonable attorneys' fees, court costs, and all other reasonable expenses for the collection action if it is adjudged to be the prevailing party.

6.4 The Board shall have the power and authority:

- (a) To pay or provide for the payment of all reasonable and necessary expenses of the Plan.
- (b) To pay Benefits in accordance with the terms of the Plan.
- (c) To establish and accumulate such reserve funds as the Board, in its sole discretion, deems necessary and desirable for the proper operation of the Plan.
- (d) To pay or provide for the payment of premiums on the contracts of policies of insurance or fees on service provider agreements entered into by the Board on behalf of the Plan.
- (e) To compromise, settle, or release claims or demands in favor of or against the fund on such terms and conditions as the Board may deem desirable subject to the requirements of the Plan.
- (f) To adopt rules and regulations for the administration of the Plan which are not inconsistent with the terms of the Plan.
- (g) The power and authority, in its sole discretion, to invest and reinvest funds that are not necessary for current expenditures or liquid reserves, as it may from time to time determine, in legal investments under applicable law. The Board may sell, exchange, or otherwise dispose of such investments at any time and from time to time. The Board shall also have power and authority (in addition to, and not in limitation of, common law and statutory authority) to invest in any stocks, bonds, or other property, real or personal, including improved or unimproved real estate and equity interests in real estate, where such an investment appears to the Board, in its discretion and consistent with its fiduciary obligations, to be in the best interests of the Participants judged by then prevailing business conditions and standards. The Board shall have the authority, in respect to any stocks, bonds, or other property, real or personal, held by it, to exercise all such rights, power, and

privileges as might be lawfully exercised by any persons owning similar stocks, bonds, or other property in their own right.

- (h) The authority, in its discretion, to allocate to a committee any duties and responsibilities to invest and reinvest such Plan assets as it shall specify in such allocation.
- (i) The power and authority to appoint one or more investment managers who shall be responsible for the management, acquisition, disposition, investing, and reinvesting of such of the assets of the Plan as the Board shall specify. Any such appointment may be terminated for any reason at any time by the Board upon written notice. The fees of such investment manager, to the extent permitted by law, shall be paid out of the Trust.
- (j) The authority to adopt appropriate investment policies or guidelines.
- (k) The authority and discretion to construe and interpret the terms of the Plan.

6.5 The Board may allocate fiduciary responsibilities and various administrative duties to committees or subcommittees of the Board, and it may delegate such responsibilities and duties to other individuals as it may deem appropriate or necessary in its sole discretion.

6.6 The Board may employ or contract for the services of an individual, firm, or corporation, to be known as the “Plan Manager,” who shall, under the direction of the Board or under the direction of any appropriate committee of the Board, administer the Plan, coordinate and administer the accounting, bookkeeping, and clerical services, prepare all necessary reports and other documents and perform such other duties and furnish such other services as may be assigned, delegated, or directed or as may be contracted by or on behalf of the Board. The Plan Manager shall be the custodian of all documents and other records of the Board.

6.7 The Directors and employees of the District who handle the assets of the Plan shall be bonded in such amounts as the Board deems reasonable, in compliance with any applicable state law. The cost of such bonds shall be paid for by the Plan.

6.8 The Directors may in their discretion obtain insurance, to the extent permitted by law, to insure themselves, the Plan or agents of the Directors and of the Plan, (1) with respect to liability as a result of acts, errors, or omissions of such Director or Directors, employees or agents, and (2) with respect to injuries received or property damage suffered by them. The cost of the premiums for such policies of insurance shall be paid for by the Plan.

6.9 The Board shall be entitled, at any time, to have judicial settlement of its accounts and to seek judicial protection by any action or proceeding it determines necessary and, further, to obtain a judicial determination or declaratory judgment as to any question of construction the Plan or for instructions as to any action thereunder and as to any question relating to the discharge of its duties and obligations under the Plan. Any such determination, decision, or judgment shall be binding upon all parties to, or claiming under, this Plan.

6.10 The Board shall maintain or have maintained suitable and adequate records of and for the administration of the Plan. The Board may require the District, any Employee, or any other beneficiary under the Plan to submit any information reasonably relevant to the Plan's administration. Upon request in writing from the Board, the District will permit a certified public accountant selected by the Board to enter upon the premises of the District during business hours, at reasonable time or times, and to examine any copy such public books, records, papers, or reports of such District as may be necessary to determine whether the District is making full and prompt payment of all sums required to be paid by it to the Plan.

ARTICLE VII – PROCEDURE OF BOARD OF DIRECTORS

7.1 The Board shall hold at least one meeting each Plan Year and may hold other meetings at its discretion. Either Co-Chair, or any two members of the Board, may call a special meeting of the Board by giving written notice to all Directors of the time and place of such meeting at least 7 days before the date set for the meeting.

7.2 The Board shall appoint a secretary and additional assistants, if necessary, who shall keep minutes or records of all meetings, proceedings, and acts of the Board.

7.3 A quorum shall consist of one NHAA Director and one NHTA Director.

7.4 The Board shall not take any action or make any decisions on any matter coming before it or presented to it for consideration or exercise any power or right given or reserved to it or conferred upon it by this Plan except upon the vote of the Directors at a meeting of the Board duly called or except by the signed concurrence of all Directors without a meeting, as provided in Section 7.5.

7.5 Upon any matter which may properly come before the Board, the Board may act without a meeting provided such action has the written concurrence of all the Directors.

ARTICLE VIII – GENERAL PROVISIONS APPLICABLE TO DIRECTORS

8.1 The duties, responsibilities and liabilities of any Director under the Plan shall be determined solely by the express provisions of the Plan, and no further duties, responsibilities or liabilities shall be implied or imposed.

8.2 The Directors, to the extent permitted by applicable law, shall incur no liability in acting upon any paper or document believed by them to be genuine and to contain a true statement of facts and to be signed by the proper person. Any Director, to the extent permitted by applicable law, may rely upon any instrument in writing purporting to have been signed by a majority of the Directors as conclusive evidence of the fact that a majority of the Directors have taken the action stated to have been taken in such instrument.

8.3 Neither the District, NHAA nor NHTA shall be liable in any way for any of the obligations, acts, or omissions of a Director merely because the Director is in any way associated with the District or NHAA or NHTA.

8.4 The name of the Plan may be used to designate the Directors collectively, and all instruments may be executed by the Board in the name of the Plan, by signature of the two Directors who are authorized to sign various documents and instruments under Section 6.9.

8.5 In the event any question or dispute shall arise as to the proper person or persons to whom any payments shall be made under the Plan, the Board may withhold payment pending an adjudication of the question or dispute, satisfactory to the Board, or until the Board has been fully protected against loss by means of such indemnification agreement or bond as the Board, in its sole judgment, determines to be adequate.

ARTICLE IX – ARBITRATION

9.1 In the event that the directors deadlock or fail to take action on any matter arising in connection with the administration of the Plan, the Directors shall, within ten days after a written request is served upon the Co-Chair by any Director, agree upon a neutral person to serve as an arbitrator to decide the dispute. The decision of the arbitrator shall be final and binding upon the Directors, the parties, the Employees and beneficiaries of the Plan. In making his or her

decision, the arbitrator shall be bound by the provisions of the Plan and shall have no authority to alter or amend the terms of any thereof; provided, however, that the arbitrator shall have the authority to decide any dispute involving an amendment or modification of the Plan. The decision of the arbitrator shall be in writing.

9.2 If no agreement on who shall be arbitrator is reached within the ten day period set forth in Section 9.1, or within such further time as the Directors may allow for such purposes by mutual agreement, an arbitrator shall be chosen from a list of five arbitrators from the American Arbitration Association or comparable group. The District and the NHAA/NHTA Directors shall each alternatively strike one name until four names have been eliminated, and the person whose name remains shall be the arbitrator.

9.3 In the event the Directors are unable to agree on an arbitrator within a reasonable time, either the District or NHAA/NHTA Directors may petition the appropriate Superior Court for the State of California for appointment of an arbitrator, as provided in California Code of Civil Procedure, Section 128.1 *et seq.*

9.4 The reasonable expenses of any such arbitration, including any necessary court proceedings to secure the appointment of an arbitrator or the enforcement of the arbitration award (excluding the fees and expenses of witnesses who are not employees of the District, called by the parties and the cost of any attorneys other than the attorneys for the Plan), shall be a proper charge against the Trust. No expenses shall be deemed reasonable under this section unless approved by the Board.

ARTICLE X – GENERAL PROVISIONS

10.1 The rights and duties of all parties, including the District, NHAA or NHTA, Employees and Directors, shall be governed by the provisions of the Plan.

10.2 No employee or other beneficiary shall have any right or claim to benefits under the Plan except as specified herein. The Directors shall establish and maintain a reasonable claims procedure concerning claims for Benefits. To the extent that health benefits are provided or administered by an insurance company, or other similar organization, which is subject to regulation under the insurance laws of one or more states, any dispute as to eligibility, type, amount, or duration of benefit shall be resolved by the appropriate insurance carrier or other

organization under and pursuant to the policy or contract, and the employee or other beneficiary shall have no right or claim with respect thereto against the Plan or any of the Directors. Neither the District, NHAA, NHTA nor any of the Directors shall be liable for the failure or omission for any reason to pay Benefits under the Plan.

10.3 If any provision of the Plan, the rules and regulations made pursuant thereto, or any step in the administration of the Plan is held to be illegal or invalid for any reason, such illegality or invalidity shall not affect the remaining portions of the Plan unless such illegality or invalidity prevents, or in substantial degree unfavorably affects, accomplishment of the objectives and purposes of the Plan.

10.4 Except to the extent necessary for the proper administration of the Plan or as required under one or both Agreements, all books, records, papers, reports, documents, or other information obtained with respect to the fund or the Plan shall be confidential and shall not be made public or used for any other purpose than the information of an action by the Board. Nothing in this section shall prohibit the preparation and publication of statistical data and summary reports with respect to the operations of the Plan.

ARTICLE XI – DUAL ENTITLEMENTS

11.1 Notwithstanding any other provision of the Plan, the following provisions shall apply in the case of a couple in which one Spouse or Domestic Partner is a eligible Employee under the Plan, and the other Spouse or Domestic Partner is either an eligible Employee under this Plan or an employee of the District who is entitled to retiree health benefits under another Plan to which the District contributes, or pursuant to a contract with the District.

11.2 If each Spouse or Domestic Partner is an eligible Employee:

- (a) The District shall make the full annual required contribution for each spouse or Domestic Partner;
- (b) Upon Retirement, each Spouse or Domestic Partner who is a Participant shall be entitled to the full Benefit available to a covered retiree in accordance with Section 4.2;

- (c) Any portion of an individual Spouse's or Domestic Partner benefit that is not required for his or her health coverage, shall, if required, be applied toward coverage of the other Spouse or Domestic Partner.

11.3 If one Spouse or Domestic Partner is an eligible Employee and one Spouse or Domestic Partner is entitled to retiree medical coverage under another Plan to which the District contributes:

- (a) The District shall make the full annual required contribution to this Trust for the eligible Employee Spouse or Domestic Partner;
- (b) Upon retirement, the eligible Employee Spouse or Domestic Partner who is a Participant shall be entitled to the full health benefit available to him or under Section 4.2;
- (c) Any portion of the eligible Employee Spouse's or Domestic Partner's benefit that is not required for his or her health coverage shall, if required, be transferred to the other plan and applied toward benefits for the Spouse or Domestic Partner who is covered under that plan or paid directly to the insurer or other health coverage provider of the Spouse or Domestic Partner who is covered under the other plan.

11.4 If one Spouse or Domestic Partner is an eligible employee and one Spouse or Domestic Partner is entitled to retiree medical coverage under a contract with the District:

- (a) The District shall make the full annual required contribution to this Trust for the eligible Employee;
- (b) Upon retirement, the eligible Employee shall be entitled to the full health benefit available to him or her under this Plan in accordance with Section 4.2, and;
- (c) Any portion of the eligible Employee benefit that is not required for his or her health coverage shall, if required, be paid directly to the insurer or other health coverage provider of the Spouse or Domestic Partner who is covered under the other health plan.

ARTICLE XII – AMENDMENT, MERGER AND TERMINATION

12.1 The provisions of the Plan may be amended or modified from time to time by the by resolution of the Board.

12.2 The Board shall have the power to merge with any other plan established for similar purposes as this Plan, subject to the approval of the District, NHAA and NHTA.

12.3 If the Plan is terminated, all assets of the Plan remaining after all administrative expenses are been paid will be used for the benefit of Employees, regular and retired, in a manner determined by the Board.

EXECUTED on _____, 2001.

NEW HAVEN RETIRED EMPLOYEE BENEFIT
PLAN AND TRUST FOR CERTIFICATED AND
MANAGEMENT EMPLOYEES

NHTA Director

NHTA Director

NHAA Director

District Director

District Director

District Director

APPENDIX A

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Revised Certificated Plan clean vr2
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