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To: School Board Members  
Through: Todd Bowden, Superintendent  
From: Mitsi Corcoran, Assistant Superintendent, Chief Financial Officer  
Date: January 18, 2018  
RE: Employee Dependent Care Assistance

At the August 15, 2017 School Board meeting, a motion was passed to have staff investigate dependent care solutions to include Section 129 Dependent Care Plan or any other such plan that will allow our teachers to have dependent care before and after school for school age children.

A review of the provisions of Section 129 Dependent Care Assistance Program was performed and the following information was found:

- A separate written plan is required by the employer for the exclusive benefit of their employees to provide such employees with dependent care assistance.
- The term dependent care assistance means the payment of, or provision of, those services which, if paid for by the employee, would be considered employment-related expenses under Section 21(b)(2) (relating to expenses for household or dependent care services necessary for gainful employment).
- The plan must not discriminate in favor of highly compensated employees.
- Reasonable notification of the availability and terms of the program must be provided to all eligible employees.
- The employer shall furnish to an employee, on or before January 31, a written statement showing the amount paid or expenses incurred by the employer in providing dependent care assistance during the previous calendar year.
- The benefit amount is limited to \$5,000 or \$2,500 in the case of a separate return by a married individual, but may be further reduced by the earned income amount of the employee or their spouse.

These requirements create a need for staff direction in order to properly implement such a plan. The plan is required to be for the exclusive benefit of District employees, but the request is to incorporate a plan into an existing childcare program funded by our student's parents. Currently, school administration has been advised that our school-based employees who are required to attend staff meetings or parent/teacher conferences are able to have their children attend the

child care programs without cost, as this is considered an occasional use that is de minimis in nature. Some schools will elect to pay for an aide to watch staff children, again a de minimis benefit. This is handled individually at each school.

Since the current childcare programs at our schools are not subsidized by the school district, offering this benefit on a full-time daily basis may be perceived to be subsidized at the expense of our parents even if the addition of staff children does not require additional staffing. We would need to ensure our schools are held harmless by this solution, which requires implementing a dependent care assistance program that is fiscally neutral to our school's childcare programs. This can be accomplished by having our schools track the incremental expenditures incurred by the program, reimbursing our schools, and reporting this benefit to our employees.

The burden of additional reporting requirements for our schools will require us to work closely with every childcare location to put systems in place to collect the employee's use of this benefit (days per week, before-care, after-care or both) in order to accurately calculate and report the value of the benefit received and/or amounts to be reimbursed by the District to each childcare program.

The Board's desire to provide this benefit to our employees is commendable and generous, although it may generate questions from staff who have children at schools that do not offer a childcare program. Another possible solution is providing this benefit using a dependent care reimbursement account. The District currently offers flexible spending accounts (FSA) for childcare via a voluntary salary reduction. If the Board desired to provide eligible employees with a dependent care benefit, they could choose to deposit an amount into a dependent care FSA to offset the cost of childcare. One option for the deposit amount is to use the current cost for a child attending the 180-day before-care and after-care program, which is \$2,160 per year. This benefit would be available to all eligible employees and can be easily tracked and reported by our current third-party vendor. Employees could choose to voluntarily contribute additional pre-tax funds to cover any additional cost of their childcare up to a total of \$5,000.

This solution allows principals to not have to be concerned with their school's childcare program losing funding, costing more or giving the appearance that parents are subsidizing employee childcare. It would also reduce the amount of administrative tracking required by the school childcare program. Every employee would be required to pay for their childcare, even if received at the school where they work, but they would receive reimbursement, tax-free, through their dependent care FSA. This also provides an equitable benefit to those employees whose children attend schools that do not offer a child care program so that no one group of employees with dependent care needs will feel slighted. Should an employee elect this benefit, but not incur the cost associated with dependent care, the funds would return to the District at the end of the claiming period.

The District does not have the data available on the number of employees who might take advantage of this benefit, so the actual cost is unknown. Estimating a cost of \$2,160 per year, if 500 employees utilized the FSA benefit, the cost is a little over \$1 million per year. The cost to reimburse school childcare programs could be less if there is not a need to provide additional

staffing or could be more if there is a need for additional staffing and more than one dependent per employee is attending the childcare program.

If the Board wishes to pursue dependent FSA accounts with employer contributions, it should be fairly simple to amend the District's Section 125 plan documents to incorporate the Section 129 benefit, as the existing plan includes dependent FSAs. If the Board wishes to pursue the use of our existing childcare programs only, staff will work with our consultant, AON, on drafting a Section 129 plan. Finally, since this is an employee benefit, language will most likely need to be incorporated into our collective bargaining agreements for this benefit.

Please contact me with any questions or comments.