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DATE: September 14, 2010

TO: Chief Business Officials
K-12 and Community College Districts

FROM: Carolyn Nielsen, District Payroll and Retirement Coordinator
District Fiscal Services

Division of Administration and Business Services
(951) 826-6538 / FAX (951) 826-6961

SUBJECT: Policy on Release of Deferred Pay

Certificated Employees:

Education Code 45040 provides authority to withhold part of a certificated employee's salary for payment no later than August 5th and September 5th when annual salary is not paid in 12 equal monthly payments. It further provides for repayment of any deferred pay when an employee dies or otherwise leaves the service of the district. It does not address refunding withheld deferred pay because the employee decides to terminate participation in the program.

In an effort to provide the best service, and at the same time limit the excessive manual input required when an employee changes his/her mind, our policy is to allow an employee to withdraw from this program during the first two months of each school year with an immediate refund of withheld pay. However, if an employee decides to withdraw from this program after the two-month grace period, our policy requires specific district board action requesting refund of deferred pay.

Classified Employees:

Education Code 45165 permits an employer, upon election by a classified employee employed for less than 12 months per year, to withhold from each payment the following amounts:

11-month employee – 8.33% of regular earnings
10-month employee – 16.67% of regular earnings

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The funds are held in an agency account of the county superintendent and are paid to the employee as follows:

11-month employees –paid 100% of total amount deferred on or before August 5
10-month employees –paid 50% of total amount deferred on or before August 5
paid 50% of total amount deferred on or before September 5

Per Education Code 45165, once the employee has elected to participate in the deferred pay program, such election shall not be revocable until the commencement of the next ensuing fiscal year. In the event an employee leaves the service of the district before receiving deferred monies due to him/her, the amount due shall be paid within 30 days from the last working day.

The district is responsible for requesting a refund when an employee leaves the service of the district. Request for refunds must be in writing by an authorized payroll approver and directed to the Riverside County Office of Education, District Fiscal Services Payroll Department.

Please disseminate this information to all affected personnel and new employees if they elect to participate in this program.

Should you have any questions, please contact me at the number above, or Lisa Smith, Senior Accounting Technician, at (951) 826-6557.

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