



LARAMIE COUNTY
COMMUNITY COLLEGE
Cheyenne ♦ Laramie ♦ Pine Bluffs

MEMORANDUM

TO: Members of the Board of Trustees

FROM: Dr. Joe Schaffer, President

DATE: December 7, 2015

SUBJECT: Recommendation to Adopt Plan Document for 401(a) Defined Contribution Retirement Plan

On January 1, 1970, LCCC established a 401(a) retirement plan with TIAA-CREF as the administrator, as a second retirement option for eligible employees at LCCC. As a qualified plan under IRS, we are required to keep our plan up-to-date with changes.

In 1985, a "Retirement Resolution" was created, updating the original plan document. In 1988, the College submitted their most current 401(a) Plan Document to the IRS and received a favorable letter of determination in September of 1989. A favorable determination letter is issued by the IRS in response to a request by a plan sponsor as to the qualified status of its retirement plan under IRC Section 401(a). It expresses the IRS's opinion regarding the form of the plan. Since that time, there have been many changes in law, but the plan document has not been updated.

In 2013, TIAA-CREF requested an updated plan document. Because we didn't have an updated version, TIAA-CREF suggested we contact an attorney and update our plan document. We reached out to attorneys from Boutwell-Fay, LLP, in early 2014, who reviewed our plan document and agreed that it would be prudent to update our plan document and apply for a letter of determination. The plan document, after many meetings between Dorothy Lank and Evan Giller and LCCC, is complete.

The next step is to apply for forgiveness and a determination letter from the IRS, which we can't do until our plan document is adopted. A determination letter is voluntary. However, there are compelling reasons to apply for one: A favorable letter allows the plan to minimize the risk that the IRS will disqualify the plan on audit because the plan document doesn't satisfy the applicable tax-qualification requirements and allows us to use certain IRS correction programs to correct any plan errors. Boutwell-Fay strongly advises us applying for a letter of determination to show our good faith effort to be in compliance.

There are four things that are obvious "changes" to the plan under which we have been operating all these years—and three of these are not really changes, but clarifications:

Plan name – Laramie County Community College 401(a) DC Plan

- Update to Laramie County College Defined Contribution Retirement Plan

Article 1, #7 – Definition of compensation – previously compensation was described as "W-2 wages."

- Update to exclude bonuses, fringe benefits, welfare benefit plans, early retirement incentive pay, severance payments or unused accrued sick, vacation or other leave except for accrued unused compensatory time. (This mirrors how WRS defines compensation.)

Article 3, #3.1 – Eligible employees – previously eligible employees was described as "All full-time employees."

- Update to exclude the following (a) Employees who have elected to participate in Wyoming Retirement System; (b) Leased Employees; (c) Independent contractors who are categorized as such in good faith, even if they are later determined to be Eligible Employees;

(d) Employees who are scheduled to work less than 80 hours per month; (e) Temporary Employees who work for less than 6 consecutive months; (f) Adjunct faculty. (This mirrors how WRS defines eligible employees.)

Article 9, #9.6 – Loans – previously were not allowed.

- Update to allow loans. 2 loans maximum at a time. No loan available until defaulted loan cured.
- We will prepare paperwork to add loans.

Any other changes are to reflect new laws governing plans, such as how roll-overs are handled, rules regarding disbursements by age 70½. TIAA-CREF has incorporated all of the changes into how the plan has been administered. With a restated plan document the changes will be documented.

RECOMMENDATION:

That the Board of Trustees adopts the TIAA-CREF Plan Document as provided and that LCCC moves forward with application for a Favorable Letter of Determination from the IRS for the plan.