

**FREQUENTLY ASKED QUESTIONS**  
**OUHSD RETIREE HEALTH BENEFITS TRUST**  
**PREPARED BY THE LEADERSHIP COMMITTEE OF THE**  
**OUHSD RETIREES' ASSOCIATION**

**June 4, 2019**

**Who is eligible to receive retiree health benefits?** Management, certificated, and full-time classified employees, in other words, vested employees, who retired at the age of 55 or above with a minimum of a 15 years of service. A small number of paraeducators is included in this group. Any current district employee is considered vested and therefore eligible to receive lifetime medical benefits if he/she meets three criteria: 1) works for the district for at least 15 years 2) retires at the age of 55 or above, and, 3) was hired before July 1, 2004. Vested retired employees remain on the district's active plan until the age of 65. At that point, Medicare eligible retirees are to sign up for Medicare and then are covered by the Medicare Advantage plans, which were instituted October 1, 2013 as a cost saving measure to the District and the bargaining unit.

**Who does not qualify for lifetime benefits?** Campus supervisors, part time classified employees, and anyone hired after July 1, 2004.

**Why was a cutoff date established for eligibility for lifetime benefits?** In 2004, due to concerns over the unfunded liability to pay for future retiree health benefits, **District employees voted to end the offer of lifetime benefits** to any employee hired after July 1, 2004.

**What has been done by the District and the bargaining unit to assist employees who do not qualify for lifetime benefits?** When the employees voted to end the offer of lifetime benefits, the bargaining unit and the District agreed to negotiate and establish a means to bridge the gap between retirement and Medicare eligibility by creating a supplemental plan. This never happened. Bargaining unit agreements also stated, "It is understood that a joint subcommittee of the District and Federation representatives will be established to explore retirement benefits for employees hired after July 1, 2004." To date this also has not happened.

**Who pays for retiree benefits?** Per bargaining unit agreements, the District pays for classified and management benefits for active employees and vested retirees, and the certificated unit share formula does the same for certificated. To date, Trust funds have never been used to pay for benefits (that we know of).

**Why has this become an issue?** As we know, all medical benefits costs have increased dramatically in recent years, especially pharmacy costs. The demographics of the District employee pool have changed since 2004 so that at present, the majority of employees are not eligible for lifetime benefits. In recent years, bargaining unit leaders have become less and less willing to support OFT-SE's contractual obligation to pay for certificated retiree health benefits.

Their solution has been continued attempts to utilize the Retiree Health Benefits Trust funds for that purpose so that non vested employees can receive salary increases. On the District side, they are looking to free up money for other purposes.

**What is the Trust and why was it established?** The Trust was established November 17, 1999. Because of concerns over the growing unfunded liability of providing lifetime medical benefits to retirees, District employees voted to create and fund a Retiree Health Benefits Trust. As stated in a 2005 position paper issued by the Trust board, the purpose of the Trust is to “financially ensure, through investment of Trust funds... a comprehensive health and benefits program for every eligible retiree of the District...” For many years, bargaining unit members and the District agreed to forgo a portion of salary increases to fund this Trust. The Trust is not intended to be spent on salaries or anything other than retiree benefits. It was designed not to be used until it was fully funded to be able to cover all costs. The intent was to protect these funds from use during times of financial difficulty for the District. It was not designed to pay for benefits so that employees can get a raise.

According to the above referenced position paper, “Neither the District nor the OFT has the power to unilaterally amend the Agreement. Furthermore, no part of the Trust shall revert to the District or to the OFT. Therefore, neither the District nor the OFT has the power to unilaterally revoke the Trust or claim part or all of the assets for itself.”

**Who runs the Trust and who are they responsible to?** The Trust is governed by a Board of Trustees comprised of six members, three appointed by the District and three appointed by OFT-SE. All Trust matters are decided by a majority vote of District representative trustees and a majority vote of OFT representative trustees. Votes are not individual; each side must agree. The Trustees are responsible to the beneficiaries of the Trust. The beneficiaries are vested retired employees of the District and their dependents and current active vested District employees and their dependents.

**Are there other advisers to the Trust?**

Yes. The Trustees are assisted by the Trust's attorneys and its accountants. The accountants produce quarterly financial statements.

**What are the responsibilities of the Trustees?** Trustees’ investment management responsibilities are numerous and are delineated in Article 6 of the Trust agreement. Article 6.22 states, “Trustees shall be free of compromising influences and loyalties. A Trustee shall fulfill his or her responsibility solely on behalf of the mission of the Trust.” In addition, Article 8.5 states, “Neither the District nor the Federation shall be liable in any respect for any of the obligations, acts or omissions of the Trustees, or any of them, because such Trustees are in any way associated with any of the District or the Federation.”

**The Retiree Association believes that the current Trustees are in violation of Article 6.22 because four of the six Trustees were on their respective teams for the most recent certificated negotiations and signed the written bargaining unit agreement that calls for the breach of the Trust. Article 8.5 makes it clear that the Trustees are not to take direction or act on behalf of the entity that appointed them.**

**Can Trust funds be used to pay for benefits before it is fully funded?** In 1999, when the Trust was approved and established, it was stipulated that Trust funds could not be used to pay for retiree benefits until it was fully funded; in other words, until there was enough money in the Trust to pay for benefits for all vested retirees and employees and their dependents through the retirees' lifetime. Resolution 2002-01, dated January 25, 2002, states "...the goal of the Trust, through the investment of Trust assets, is to fully meet the District's unfunded liability obligations for retiree health and welfare benefits, which otherwise would be paid by the District and current district employees." This was not an issue until district administration changed and wanted to use Trust funds for purposes other than for which they were intended. In an RFP issued by the Trust Board in September 2016, information about the Trust states, "The goal of the trust from its inception has been to build up funds to fully meet the District's unfunded obligation to pay for retiree benefits to eligible district employees and retirees and their respective dependents who are Trust beneficiaries, i.e., to reach a point where the total assets of the Trust are equal to the long term projected obligations of the District to fund and provide contractual health care benefits to all eligible retirees and dependents. Contributions to the Trust have been made by the District through agreement with the Federation. Contributions have been minimal for the past several years."

**Why do the District and OFT think they can use Trust funds now?** The District and the bargaining unit jointly have made several attempts to access Trust funds in recent years. They signed a Memorandum of Understanding in 2016 requesting that their respective appointees to the Trust board seek legal counsel to utilize Trust assets. The Trust board issued two RFP's seeking such legal counsel, to no avail. These actions lead us to question the commitment of the Trust board to their fiduciary duties.

Since these efforts were unsuccessful, they have now negotiated in the certificated contract language that will allow the use of "interest" to pay for benefits now. Their position is that contract language can amend the Trust. However, Trust language states that the Trust can be amended only by members of the Trust board.

**When, if ever, will the Trust be fully funded?** Only minor contributions from Medicare Part D reimbursements have been made to the Trust since 2008. At this rate, the Trust will be fully funded only when enough of the beneficiaries die.

**Closing statement:** This document does not provide data regarding Trust fund balances or the number of retirees or actives who are insured, or the cost of that insurance. These numbers are fluid, and the data is provided by the District and/or the Trust board. The Retiree Association does not want to provide data that we cannot verify. You are welcome to attend both District and Trust board meetings to acquire up to date information.

