

This form must be completed by **TEACHERS/RN's ONLY**

Employee NAME:

Employee 409A Nonqualified Deferred Compensation Plan and Election Form

IRS Tax Code, Section 409A, which defines the tax rules governing Nonqualified Deferred Compensation Plans, has determined that the common practice among public school systems of deferring a portion of 10 month employees' regular compensation that is paid as a lump sum in June or spread over the payrolls of July and August qualifies as "Nonqualified Deferred Compensation Plan" under 409A and therefore subject to the rules and regulations as well as the penalties associated with non-compliance. The final regulations require that in order to annualize "recurring part-year compensation" and not have employees subject to a 20% tax on amounts deferred from one calendar year to the next requires that all 10 month Hamilton Wenham Regional School District employees elect their preferred method of compensation prior to the first work day of the next school year.

NOTE: Any eligible 10 month employee who neglects to submit this form to the district before the beginning of the work period for the upcoming school year will be liable for the 20% tax on any wages earned this tax year that are deferred to the next summer.

In accordance with Article 25.7 of the 2007-2010 of the Teachers' Contract and Article 7.1.6 of the Nurses Contract eligible employees may elect 26 pays (June lump sum or summer pay) or 22 equal pays. In the absence of an election the contracts state that 26 pays is the default plan. For the purpose of bringing this Nonqualified Deferred Compensation Plan into full compliance with 409A, 10 month employees who do not return this election form by the Thursday prior to the first payroll of the school year will receive 26 pays with a June lump sum summer payment.

Food Service, Bus Drivers, and LPN staffs, are not governed by either of the aforementioned contracts. However, those who may currently receive their wages under the same compensation schedule fall under requirements of this plan.

An essential feature of the Nonqualified Deferred Compensation Plan is to assist the employee to annualize their 12 month benefit deductions, such as employee paid health and life insurance premiums. Any employees who elect to participate in annual benefits, but elect not to participate in the Nonqualified Deferred Compensation Plan will need to double up on their deductions during the month of June (for July and August benefits) and the month of September (for September and October benefits).

Once the work period (the school year) begins the plan election is irrevocable for that fiscal year's compensation and automatically remains in effect for all subsequent fiscal years until the employee submits an updated plan election. The Hamilton Wenham Regional School District also reserves the right to pay out all accumulated deferred compensation upon the resignation, retirement or termination of the employee participating in the Nonqualified Deferred Compensation Plan.

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This agreement is made between _____ (employee) and the Hamilton Wenham Regional School District. Each hereby agrees that with the school year beginning _____ compensation of said employee will be paid in accordance with the following schedule:

- **Non Deferred-** employee's annual salary or scheduled hourly wages will be paid in 22 equal payments with the final payment in June. Annualized benefits as applicable will be double deducted in June for July and August and September for September and October premiums.
- **Deferred Summer Pay-** Employees' annual salary or scheduled hourly wages will be paid in 26 equal payments with the final payment in August.
- **Deferred Summer Lump Sum Payment-** Employee's annual salary or scheduled hourly wages will be paid in 26 equal payments with the final 5 payments paid as a lump sum on the last payroll in June.

Employee's Signature

Date