

A Tale of a SERP

Summary

As an incentive to retire, many school districts offer Supplemental Employee Retirement Plans (SERP) as a means to encourage highly paid staff to retire so that the district can save money by hiring a lower-paid replacement. A SERP provides eligible employees with a monthly income supplement to regular retirement benefits. Participating in a SERP is voluntary for employees who meet certain eligibility guidelines established by the district and approved by the board of education.

A financial crisis in a school district is often the primary reason for offering a SERP. School districts are required to submit reports on the financial health of the district to the county office of education during each fiscal year. The reports declare whether or not the district is able to meet its financial obligations. Districts that are unable to meet the financial goals for the year and subsequent years must prepare and implement a fiscal recovery plan showing how they plan to remedy the problem.

A SERP is typically offered to an eligible employee on a one-time basis only. Giving employees only a single opportunity tends to generate the highest rate of participation, which leads to greater fiscal savings. The district establishes the amount of the financial incentive to offer employees and the payment options. The benefit can range from a set dollar amount per eligible employee to a percentage of salary.

Since 2006, Pajaro Valley Unified School District (PVUSD) has been in financial distress. A SERP was offered in 2005-2006 and again in 2007-2008. In 2008-2009, the district was again faced with a severe budget shortfall. Cuts and adjustments had to be made for that school year and the following. Offering a SERP to three employee groups was one of the cost-saving measures implemented by the district. Although the PVUSD Board of Education followed proper procedures to award the SERP and all employees qualified for the benefit, the Grand Jury found that several procedures could be implemented to strengthen the SERP process to ensure fiscal responsibility of public funds.

Scope

The Grand Jury investigated the SERP that was authorized and executed by Pajaro Valley Unified School District in 2008 to determine whether:

- the Board of Education used the proper procedures to authorize and implement the SERP
- employees receiving the SERP qualified for the retirement incentive
- the projected cost savings of the SERP were realized in the next year's budget
- public funds were used appropriately
- the process was transparent to the public

Findings

1. On March 12, 2008, PVUSD Board Agenda item 13.4 reports that the district will not have the funding to meet the current budget. Due to the State's financial crisis,

PVUSD would be \$9,400,000 short for 2008-2009 and \$17,500,000 short for 2009-2010 if cuts and adjustments were not made.

Response: Pajaro Valley Unified School District - AGREES

2. PVUSD hired Keenan and Associates, a financial planner, to conduct a *Fiscal Cost Analysis* to analyze the potential savings of offering a SERP. The report was prepared and submitted to the district on June 6, 2008. It established plan assumptions, benefit options, demographic analysis, SERP cost analysis, and benefit data sheets for three employee groups in the district. PVUSD staff stated that offering a SERP to management employees could generate a cost savings of approximately \$159,000 depending upon the number of employees who took advantage of the opportunity. The proposal identified twelve managers as potential candidates for the incentive.

Response: Pajaro Valley Unified School District - AGREES

PVUSD staff stated the projected savings generated would be \$159,000 over five years as the projected by Keenan and Associates in the report dated March 6, 2008. The power point presentation to the board March 12, 2008 listed projected savings by year.

Yr 1: \$50,794

Yr. 2: 40,546

Yr. 3: 30,672

Yr. 4: 21,349

Yr. 5: 15,867

The projection was that an estimated 12 employees would take advantage of the SERP, there were more than 12 employees that would qualify.

3. Three months before Keenan and Associates submitted the *Fiscal Cost Analysis*, PVUSD Board of Education approved Resolution 0708-22 on March 12, 2008, offering a SERP for management employees. The criteria set forth by the Board requires that the employee:
 - is a certificated or classified management employee
 - will be at least 55 years of age by June 30, 2008
 - has at least five years of continuous service with the district by date of retirement
 - submits a letter of resignation and SERP enrollment package by May 9, 2008
 - is eligible to retire from State Teacher Retirement System (STRS) or Public Employee Retirement System (PERS)
 - retires from the district as of June 30, 2008
 - will not be eligible for reemployment in the district other than as a substitute

Response: Pajaro Valley Unified School District - AGREES

The projections were brought to the board March 12, 2008 with the resolution to request permission to proceed with the offering. This criterion is the same for management and teachers.

4. The PVUSD SERP offered eligible employees 95% of current salary to be paid according to the option selected by the employee. The terms of payment varied from a monthly payment through the remainder of life or a five to ten year distribution.

Response: Pajaro Valley Unified School District - AGREES

5. The Associate Superintendent of Business and the Interim Superintendent prepared the SERP Resolution 0708-22 and the agenda item for the PVUSD Board. The resolution was approved in open session and the public had the opportunity to see the item on the agenda prior to the action taken by the board. Both the Interim Superintendent and the Secretary of the Board signed the resolution according to district procedures.

Response: Pajaro Valley Unified School District - AGREES

Associate Superintendent prepared the item and Superintendent approved the item for the board packet. The appropriate protocols for submitting and approving resolutions were followed.

6. PVUSD Board Members did not have a copy of the *Fiscal Cost Analysis* prepared by Keenan and Associates and were not privy to the information in the document except what was reported to them by staff prior to approving the SERP.

Response: Pajaro Valley Unified School District – PARTIALLY AGREES

The appropriate protocols for the adoption of resolutions were followed. The projected savings were supplied to the board, without the individual salary data which was not presented for reasons of confidentiality.

7. The district SERP administrators were the Associate Superintendent of Business and Assistant Superintendent, Human Resources. Keenan Financial Services served as the contract administrator to assist in implementation of the plan.

Response: Pajaro Valley Unified School District - AGREES

The Board authorized the two positions in Resolution 07-08-22 dated March 12, 2008 to administer and execute the plan. This included, executing documents and authorizing the contract.

8. Following the approval of the SERP by the PVUSD Board, an announcement flyer was prepared and distributed to all management employees in the district.

Response: Pajaro Valley Unified School District - DISAGREES

The flyer was mailed to eligible managers only.

9. Twelve employees submitted the proper paperwork and met the established criteria to receive the retirement incentive.

Response: Pajaro Valley Unified School District - AGREES

10. Eleven of those employees, the Associate Superintendent of Business and the Assistant Superintendent of Human Resources were subordinate to the superintendent and they reported directly to the superintendent.

Response: Pajaro Valley Unified School District - DISAGREES

While all employees were subordinate to the Superintendent, all of the employees other than the Associate Superintendent, Business and the Assistant Superintendent, Human Resources were directly supervised by someone other than the Superintendent.

11. One of the employees was directly evaluated by the PVUSD Board and had a specific written contract that stipulated all terms and conditions of employment including compensation and benefits. The contract did not provide authorization for a SERP. In addition, this employee had previously retired from the district and was serving in an interim capacity.

Response: Pajaro Valley Unified School District - AGREES

12. Keenan Financial Services estimated cost savings of \$159,000 if all eligible management employees took advantage of the SERP. Interviews with the PVUSD officials revealed that the SERP savings was approximately \$46,000, \$113,000 less than projected.

Response: Pajaro Valley Unified School District - DISAGREES

The PVUSD officials showed that the savings for the FIRST year was \$46,000. The Keenan document stated an estimated savings over FIVE years of \$159,000. At the time when the district officials were asked for the savings amount only ONE year had past therefore only one year of savings could be calculated.

13. A financial analysis of the projected savings compared to the actual savings was not shared with the Board of Education.

Response: Pajaro Valley Unified School District - AGREES

The savings for the first year after the SERP had not been shared with the Board.

14. PVUSD stated that the County Office of Education was informed about the SERP. However officials at the county office stated they were not involved in the SERP offered by PVUSD and would only be involved if the SERP was part of a fiscal recovery plan or a payment agreement with employee bargaining units.

Response: Pajaro Valley Unified School District - AGREES

The county was not involved in the offer of the SERP to Management Employees.

Response: Santa Cruz County Office of Education – PARTIALLY AGREES

The Santa Cruz County Office of Education disagrees with the statement made by the PVUSD that the County Office of Education was informed about the SERP. We do agree with the second sentence in the Finding that officials at the county office stated they were not involved in the SERP offered by PVUSD and would only be involved if the SERP were part of a fiscal recovery plan or a payment agreement with employee bargaining units.

The Santa Cruz County Office of Education has no role in reviewing or approving district Supplemental Early Retirement Programs; however, the role of the County Office of Education does include submitting retirement information in district matters of the Public Employees Retirement System (PERS) and the State Teachers Retirement System (STRS). Even in those cases, the role is not one of approval but rather submitting the retirement information and that only in the case of PERS. The Santa Cruz County Office of Education had no role in PVUSD's SERP early retirement program of which this action was directed.

Under fiscal oversight statutes (collectively referred to as AB 1200), the Santa Cruz County Office of Education does have a responsibility to review certain elements that involve added costs to districts if the district is under fiscal stress. The PVUSD at the time the SERP was granted had a positive certification. Even if not under fiscal stress, any agreements that are made between the district and a PERS recognized bargaining unit must be disclosed and the Santa Cruz County Office of Education must be provided the information as to the costs, if any, and it must also be disclosed to the public prior to board action.

The 2007-2008 PVUSD budget was approved in August of 2007 by the Santa Cruz County Office of Education and the referenced First Interim Report for that year was filed by the district and received a positive certification in January, 2008.

A positive certification is defined as an interim budget report that, based upon current projections, certifies the district will meet its financial obligations for the current fiscal year and subsequent two fiscal years.

In April of 2008, the district filed the required Second Interim Report and it was assigned a negative certification.

One of the solutions the district proposed was to offer a supplemental early retirement option through a third party vendor, Keenan and Associates. They are among one of several vendors that work with school districts to craft such programs. By their very nature, these are programs that are offered with certain criteria in place with a stipulated timeframe. The decision to implement them is contingent upon projected cost savings. These preliminary reports only serve to define the possible eligibles not the actual outcome. The final actual application submitted determines the financial feasibility after the close of the application period.

The Santa Cruz County Office of Education's role is only to acknowledge that the district is using this program as a projected cost reduction strategy. It is within the purview of the district board to approve such strategies.

15. County Office of Education officials weren't aware of a SERP being awarded to a retired employee serving as interim administrator for a district. County officials stated the practice of awarding a SERP in that situation was unusual and they had never heard of it happening before in the county.

Response: Santa Cruz County Office of Education – AGREES

The Santa Cruz County Office of Education was not aware of the final offering to administrators. The Santa Cruz County Office of Education is not aware of other instances in which a retired or interim employee was provided such a benefit in the past.

Conclusions

1. The procedure used to authorize offering the SERP to PVUSD management employees followed district board policy and procedures.
2. The *Fiscal Cost Analysis* document was prepared after the PVUSD Board approved offering the SERP, so the analysis was not used by the Board to make an informed decision.
3. The true fiscal impact of the SERP is difficult to determine and the numbers given by the district appear to be guesses rather than statistically based. No one could confidently determine the actual savings to the district.
4. Each employee that received a SERP got 95% of their salary over a set amount of time. An offer of less than 95% could have been just as successful and it would have had a positive impact on future savings.
5. All PVUSD employees offered the SERP met the district's qualifying criteria and were treated equally even though their job status in the district was not equal.
6. No employee should be authorized to approve benefits for a person who supervises them. It is unwise and subjects the district to criticism from the public. The one contracted employee who reported directly to the PVUSD Board met the criteria for

the SERP but did not receive Board approval for the benefit and an amendment to the contract.

7. Offering a retirement incentive to an administrator who is already retired and is serving in an interim capacity is not a common practice and verges on misuse represents a questionable allocation of public funds by the PVUSD Board of public funds.
8. Both the PVUSD Board and district administrators were unable to provide an accounting for the actual savings generated by the SERP.
9. The oversight authority of the Santa Cruz County Office of Education regarding offering a SERP was not clear to district administration.

Recommendations

1. PVUSD administrators should provide the PVUSD Board with all documents related to projected cost savings prior to approving a SERP.

Response: Pajaro Valley Unified School District – HAS BEEN IMPLEMENTED

The projected savings were presented to the board. The board was made aware of criteria and annual estimated annual savings as well as the net savings for the five years.

2. PVUSD administrators and the PVUSD Board should analyze the potential savings from a SERP and develop a calculation to verify the actual savings versus the projected savings.

Response: Pajaro Valley Unified School District – HAS BEEN IMPLEMENTED

This activity was performed the Grand Jury misinterpreted the information that was provided for them.

3. PVUSD administrators and the PVUSD Board should thoroughly analyze the benefit options of a SERP such as dollar amount given and years of service to ensure the district is getting the most savings possible from the plan.

Response: Pajaro Valley Unified School District – HAS BEEN IMPLEMENTED

The SERP was analyzed for the benefit of savings and the district employees.

4. PVUSD Board should analyze the practice of awarding a SERP to a retired interim employee to determine if this practice is the best use of public funds.

Response: Pajaro Valley Unified School District – HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE

Upon other offerings of a SERP if there is an interim involved the board will have a chance to confer before offering it.

5. PVUSD Board should develop a board policy regarding any future practices of awarding a SERP to a retired, interim employee.

Response: Pajaro Valley Unified School District – WILL NOT BE IMPLEMENTED

Board Policy is not warranted in this situation. Board will review before offering to an interim in the future.

6. PVUSD Board should include all benefits and compensation, including a SERP, as part of a contracted employee’s employment agreement.

Response: Pajaro Valley Unified School District – WILL NOT BE IMPLEMENTED

All Certificated employees are under contract. District does not know year to year when it may offer a SERP.

7. PVUSD Board should eliminate the procedure that allows a subordinate employee to authorize a benefit for a supervisor.

Response: Pajaro Valley Unified School District –HAS BEEN IMPLEMENTED

This was not the intent of the subordinate processing paperwork.

8. PVUSD and the Santa Cruz County Office of Education should discuss the SERP process and clarify the roles of each agency prior to, during, and after implementation.

Response: Pajaro Valley Unified School District – HAS BEEN IMPLEMENTED

This was discussed prior to the offering of the first SERP.

Response: Santa Cruz County Office of Education – HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE

The Santa Cruz County Office of Education will communicate with all school districts with the request that, as such agreements are contemplated, the Santa Cruz County Office of Education should be informed.

The Santa Cruz County Office of Education will have no role in the ultimate implementation or approval except to comment, if it is deemed necessary, within the fiscal oversight responsibilities of the County Office of Education. The approval and implementation role is the responsibility of the local district school board.

Responses Required *Note: The Pajaro Valley Unified School District Administration and Board of Education combined their responses and these responses are identified as Pajaro Valley Unified School District responses.*

Respondent	Findings	Recommendations	Respond Within / Respond By
PVUSD Board of Education	3, 6, 11 – 13	1 – 7	90 Days October 1, 2009
PVUSD Administration	3, 6, 11 - 14	1 – 8	90 Days October 1, 2009
Santa Cruz County Office of Education	14, 15	8	90 Days October 1, 2009

Sources

Web Sites

- <http://www.cde.ca.gov/fg/fi/ss/csoverview.asp>
- <http://www.cde.ca.gov/fg/fi/ir/budgetstatus.asp>
- http://www.keenanassoc.com/fs/serp_overview.asp
- http://www.keenanassoc.com/fs/serp_how-it-works.asp

Interviews

- Pajaro Valley Unified School District
 - District Administration
 - Retired Administrator
 - Board Member
- Santa Cruz County Office of Education Administrators
- Santa Cruz County Legal Counsel

Publications / Documents

- Keenan and Associates, *Supplemental Employee Retirement Plan for California School, Pajaro Valley Unified School District Final Cost Analysis*, June 6, 2008.
- Keenan and Associates, *Supplemental Employee Retirement Plan* for other districts
- Pajaro Valley Unified School District, Board agendas and minutes
- Correspondence with Pajaro Valley Unified School District’s legal counsel

