

**Internal Auditor's Memorandum on
Classroom Site Fund (CSF) Performance Pay
January 11, 2018**

Purpose: Tucson Unified School District administrators do not clearly define which employees are eligible to receive Prop 301 payouts. Since the term "teacher" is not clearly defined. This memorandum and the associated recommendations are intended to assist administrators in determining which employees are eligible for Prop 301 payouts.

Background: Based on conversation with an auditor from the Arizona Auditor General's Office and review of prior legal opinions, the auditor determined the following:

Reeves v. Barlow

According to Reeves v. Barlow, 22738, 251 P.3d 417, (Ariz.App.Div. 1, 2011) "An employee who does not possess a teaching certificate may not participate in the compensation system".

Although the word "teacher" is not specifically defined by statute, Arizona Revised Statutes A.R.S. 15-502(B) makes it clear that a school district may not employ as a teacher anyone who has not received a teaching certificate. Accordingly, even though the Legislature did not limit "teacher" in A.R.S. 15-977(C)(9) with qualifying terms such as "certified", "certificated", or "classroom" as it did in other provisions. A.R.S. 15-502(B) and A.R.S. 15-977(C)(9), when read together, establish that the class of persons eligible to participate in the compensation system as "teachers" is limited to persons who have the requisite teaching certificate.

In this court case, five employees held positions in the district as a physical therapist, psychologist, speech therapist/pathologist, language pathologist, and a registered nurse. Only one of the employees possessed a teaching certificate. The court ruled none of the

R7-2-614...[and **WOULD** meet qualifications for participation in a CSF plan". (If the Junior Reserve Officer is currently teaching the class)

Example "A Guidance Counselor Certificate, pursuant to A.A.C R7-2-617(B), is listed as an 'Other Professional Certificate' and **WOULD NOT** qualify to participate in the CSF plan"

Reminder "An employee **MUST** be employed to provide instruction to students to participate in