

WESTERN WASHINGTON UNIVERSITY  
401(a) SUPPLEMENTAL RETIREMENT PLAN  
Amended and Restated, Effective January 1, 2009

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## **ARTICLE 1. INTRODUCTION**

1.1. Amendment and Restatement. This document amends, restates, and continues Part III of the Western Washington University Retirement Plan (WWURP) , as in effect on December 31, 2008, which previously set out the terms and conditions of the supplemental retirement benefit provided for in RCW 28B.10.400(3), as amended.

1.2. 401(a) Status. The Plan, as set forth herein and previously in the WWURP document, is a governmental plan as defined in section 414(d) of the Code intended to qualify under section 401(a) of the Code, and shall be construed accordingly.

## **ARTICLE 2. DEFINITIONS**

2.1. “Average Annual Salary” means the average annual Basic Salary paid to a Participant for his or her highest 24 consecutive Months of Service.

2.2. “Basic Salary” means the salary received by a Participant under the terms of his or her appointment, excluding summer and other extended appointments. Basic Salary shall be determined before taking into account any salary reduction under Code sections 125, 132, 403(b) or 457(a). Basic salary shall exclude leave cash-out payments, any settlement, severance or tenure purchase payments, and any other amounts that are not taken into account in computing WWURP contributions. For any Participant who first became a participant in this Plan or the WWURP on or after July 1, 1996, Basic Salary shall not be taken into account for any Plan Year in excess of \$245,000 (or such other limit as shall apply for such Plan Year under section 401(a) (17) of the Code).

2.3. “Beneficiary” means either (a) the surviving spouse of the Participant; or (b) with the written consent of the Participant’s spouse, if any, in accordance with Section 7.3, such other person or persons as shall have an insurable interest in the Participant’s life and who shall have been designated by the Participant in writing duly executed and filed with WWU. A new designation may be made at any time before the Participant or Beneficiary has started to receive annuity payments under the Plan; any such new designation shall be subject to the conditions of this Section 2.3.

2.4. “Board” means the Board of Trustees of WWU.

2.5. “Break in Service” means termination of all WWU employment and appointments for a full calendar month.

2.6. “Code” means the Internal Revenue Code of 1986, as amended (Title 26 of the United States Code).

2.7. “Eligible Employee” means any employee of WWU who is employed in an Eligible Position, other than an employee who has retired from a position which is covered by RCW 28B.10.400 et seq.

2.8. “Eligible Position” means an academic, research, librarian, professional, or other position designated by the Board of Trustees that requires at least 70 hours per month of the normal full-time workload per month for five or more months of the Plan Year. However, a position held by a person on a fee, retainer, or special contract basis, or as an incident to the private practice of a profession or to the employee's education, is not an Eligible Position. An Eligible Employee, once having begun participation in this Plan, shall be deemed to be employed in an Eligible Position even if his or her position no longer requires at least 70 hours per month of the normal full-time workload per month for five or more months of the Plan Year, so long as the position otherwise qualifies as an Eligible Position.

2.9. “Fixed Annuity” means a Retirement Annuity contract issued by Teachers Insurance and Annuity Association (“TIAA”) under which 100% of the accumulation is invested in the TIAA Traditional Account.

2.10. “Month of Service” is a calendar month throughout which the employee is employed in an Eligible Position with 50 percent of the normal full time work load. If the employee is so employed for only a fraction of a month, credit shall be given for that fraction.

2.11. “Participant” means any Eligible Employee who participates in the Plan in accordance with Article 3.

2.12. “Plan” means the Western Washington University 401(a) Supplemental Retirement Plan set forth in this document as it may be amended from time to time and, prior to January 1, 2009, as set forth in Part III of the WWURP.

2.13. “Plan Year” means a 12 consecutive month period beginning on July 1st and ending on June 30th.

2.14. “Retirement Age”: “Normal Retirement Age means the last day of the calendar month in which age 65 is attained; Early Retirement Age means the last day of the calendar month in which age 62 is attained.

2.15. “Trust” means the trust established to hold and invest assets of the Plan.

2.16. “Trustee” means the person or persons appointed by WWU to administer the Trust.

2.17. “USERRA” means the Uniformed Services Employment and Reemployment Rights Act of 1994.

2.18. “Variable Annuity” means a variable Retirement Annuity certificate issued by College Retirement Equities Fund (CREF) under which the entire accumulation is invested in the CREF Stock Account.

2.19. “WWU” means Western Washington University.

2.20. “WWURP” means the Western Washington University Retirement Plan.

2.21. “Year of Service” is a Plan Year in which a Participant completes at least five Months of Service, excluding Months of Service before a prior Break in Service (if any). On or after July 1, 1979, a Year of Service shall include only those Months of Service in which contributions were made by the Participant under the WWURP or any other plan established pursuant to RCW 28B.10.400. Authorized leaves of absence will also be included, as will periods of absence in the uniformed services to the extent provided in USERRA. A Participant's Years of Service will also include his or her credited Years of Service in a position covered by RCW 28B.10.400 et seq. or in a WWU position covered by a Washington State Retirement System, provided that, with regard to the Washington State Retirement System, (a) the Participant transfers directly from the System to the WWURP, (b) the Participant will receive a retirement income benefit from such System, (c) service that has been withdrawn does not count, and (d) the Participant signs a release within 60 days after the application for benefits, as needed to obtain the relevant information from the System. Any retirement income benefit that he or she is eligible to receive under the System attributable to Years of Service that are covered under the preceding sentence shall be included in the assumed benefit offset described in Section 5.3. Except as otherwise provided in USERRA, a Participant may receive credit for no more than two years during his or her entire working career for periods of authorized leave without pay, provided that the Participant contributes both the employer and employee contributions under the WWURP while on authorized leave, and returns to the employment of WWU immediately following the leave for a period of not less than two years. The employee and employer contributions shall be based on the average of the Participant's Basic Salary at the time the leave of absence was authorized and the time the Participant resumes employment. However, the benefit provided by this Plan shall be based only on the Participant's Basic Salary earned from employment with WWU.

### **ARTICLE 3. PARTICIPATION**

3.1. Commencement of participation. An Eligible Employee begins (or began) participation in this Plan on the later of (a) the date he or she begins (or began) participation in the WWURP or (b) the beginning of the first period for which the Eligible Employee has made a contribution under the WWURP.

3.2. Cessation of participation. A Participant will continue to be a Participant so long as he or she continues to contribute under the WWURP, and shall cease to be a Participant in this Plan when he or she ceases to contribute under the WWURP.

### **ARTICLE 4. RETIREMENT**

4.1. Retirement because of age. On the first of any month after attaining age 62, a Participant who is actively employed by WWU may elect to retire. A written notification shall be submitted to his or her supervisor with a copy to the WWU Human Resources Office. A person is ineligible for any benefit under this Plan if he or she ceases to be a Participant prior to age 62 for reasons other than retirement because of condition of health as described in Section 4.2.

4.2. Retirement because of condition of health. A retirement because of condition of health may be approved by the President of WWU upon request by a Participant or by the

administrative officer concerned. The basis for approval is whether continued service by the Participant is likely to seriously impair or endanger the Participant's health, or if the Participant is permanently unable to carry on his or her usual duties because of health. This determination shall be made by the employee's physician, but will be subject to verification by a physician selected and paid for by WWU.

4.3. Retiree reemployment means the reemployment of a former Participant up to 40% of full time following the date of retirement under Section 4.1. Such reemployment shall be subject to all applicable WWU rules. Such reemployment after retirement will not be counted as service under the Plan or result in any eligibility for increased benefits under the Plan. A reemployed retiree who retired under this Plan or the WWURP is not a Participant under the Plan.

## **ARTICLE 5. BENEFITS**

5.1. Eligibility for benefit. A Participant is eligible for a benefit under this Plan if, at retirement, all of the following are true:

- (a) The Participant has reached age 62 or retires under Section 4.2, and
- (b) The number of his or her Years of Service is ten or more, and
- (c) The amount of his or her benefit, as calculated under Section 5.2, is a positive amount.

5.2. Amount of benefit. The monthly amount of lifetime benefit payable to an eligible retired Participant is the amount determined by WWU at the time of retirement to be the excess, if any, of:

- (a) One-twelfth of two percent of the Participant's Average Annual Salary multiplied by the number of his or her Years of Service (such product not to exceed one-twelfth of 50% of the Participant's Average Annual Salary) over
- (b) The amount of the assumed annuity benefit offset the retired Participant would receive in the first month of retirement, calculated as provided in Section 5.3.

The percentage factor in (a) above shall be 1.5 percent instead of 2 percent for any Month of Service commencing on or after July 1, 1974, during any portion of which the Participant, having attained the age of fifty, had not elected to participate in the WWURP at the 10% plan contribution rate. The benefit hereunder is reduced by .5% times the number of full calendar months that benefit payments begin prior to Normal Retirement Age; however, if the Participant was given a retirement because of condition of health under Section 4.2, this reduction will not apply.

5.3. Assumed annuity benefit offset. The assumed annuity benefit offset for a married Participant is equal to the amount of monthly benefit from the Fixed and Variable Annuities calculated as a joint and survivor annuity with two-thirds of the benefit to the survivor, with the Participant's spouse as the survivor (using the spouse's actual age, if within five years of the

Participant's age; otherwise, using the age closest to the spouse's age that is five years less than or five years greater than the Participant's age). For an unmarried Participant, the benefit offset is calculated as a single life annuity with a ten-year guaranteed period. In either case, the assumed annuity benefit offset will be the amount estimated by WWU at the time of retirement. The following assumptions shall be used in computing the assumed annuity benefit offset:

(a) Benefit calculations related to contributions under the WWURP shall be computed on the assumption that the Participant had allocated 50 percent of such contributions to the Fixed Annuity and 50 percent of such contributions to the Variable Annuity and made no subsequent transfers from these accounts.

(b) Any portion of a Participant's accumulation account under the WWURP which is awarded by a court to such person's spouse under a domestic relations order is included in any subsequent calculation of the benefit under the WWURP as if such portion had remained in the Participant's accumulation account under the WWURP until the date of retirement.

(c) Annuity accumulations attributable to any additional voluntary employee contributions, beyond those provided for in the WWURP, and any contributions paid through employers other than State of Washington institutions of higher education, are excluded.

(d) All benefits that a retired Participant is eligible to receive from a plan established pursuant to RCW 28B.10.400 or (to the extent attributable to Years of Service) from a Washington State Retirement System shall be included in the assumed annuity benefit offset to the same extent as if received from the WWURP.

5.4. Alternative method of benefit calculation. The monthly amount of the benefit for a participant whose Months of Service began not later than October 1, 1955, is the greater of:

(a) The benefit defined in Section 5.2; or

(b) The supplemental benefit that would have been provided the Participant under the rules of the WWURP in effect on June 30, 1974.

5.5. Death benefit. If a Participant dies while eligible for benefits under the Plan after attaining age 62, the benefit, if any, payable to the Participant's Beneficiary shall be equal to the benefit that the Beneficiary would have received if the Participant had begun to receive retirement income on the first day of the month following the month in which the Participant's death occurs and had elected a two-thirds benefit to survivor option with the Beneficiary as the survivor.

5.6. Form of distribution. Benefits under the Plan are to be received as lifetime income and may only be made over (a) the life of the retiree, or (b) at the written election of the retiree, the lives of the retiree and a Beneficiary, in any form of lifetime annuity made available by WWU that does not include a guarantee period. If option (b) is chosen, the actuarially equivalent income shall be computed using the dividend, interest and mortality basis then in effect for the Fixed Annuity. Any form of distribution hereunder to a married Participant, other

than a joint and survivor form under which the spouse to whom the Participant is married at the time of the election hereunder receives a survivor annuity equal to 50% or more of the lifetime annuity payable to the Participant, requires the consent of the Participant's spouse at the time of the election hereunder, in accordance with Section 5.7. Once an election has been made hereunder, the form of distribution may not be changed at any later time for any reason, including (without limitation) remarriage of the Participant, provided that in the event of a Beneficiary's death (or any other change in circumstances) before the starting date of any annuity payments a new Beneficiary may be designated by the Participant prior to that starting date. Benefit payments are made in equal monthly installments or more frequently, consistent with WWU's payroll practices. At the election of WWU, the supplemental payment may be made at longer intervals if the installments for a Participant or his or her Beneficiary would otherwise be less than a minimum amount established from time to time by the WWU Human Resources Department.

5.7. Application for benefits; spousal consent. To begin receiving benefits, the Participant or Beneficiary must write directly to the WWU Human Resources Department. The WWU Human Resources Department will provide the necessary forms to the Participant or the Beneficiary. WWU will pay benefits upon receipt of a satisfactorily completed application for benefits and supporting documents. In any case in which the consent of the Participant's spouse is required, the consent must be in writing, must acknowledge the effect of the election or action to which the consent applies, and must be witnessed by a notary public. Unless the consent expressly provides that the Participant may make further elections without further consent of the spouse, the consent will be effective only with respect to the specific election of form of benefit, or Beneficiary, or both, to which the consent relates. Spousal consent will be effective only with respect to that spouse. Spousal consent will not be required if it is established to the satisfaction of the WWU Human Resources Department that the spouse cannot be located.

5.8. Application for benefits. Procedures for calculation of the benefits under this Plan are initiated by submitting an "Application for Retirement" form to the WWU Human Resources Department.

5.9. Benefit payments. Any benefits that become payable under this Article 5 will be paid from the general assets of WWU, unless paid from the Trust. If benefits are paid from general assets of WWU, they shall be treated as a contribution to the Trust and payment by the Trust. Nothing in this Plan will be construed to create a trust or obligate WWU to segregate a fund, purchase an annuity contract, or fund in any other way the future payment of any benefits under this Plan.

5.10. Minimum distributions. All benefits under this Plan will be made in accordance with Code section 401(a)(9) and the regulations there under. Minimum distributions must begin no later than April 1 of the calendar year following the calendar year in which the Participant attains age 70½ or, if later, April 1 following the calendar year in which the Participant retires from WWU. Upon the Participant's death after the time benefits are required to begin hereunder, any remaining benefits will be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death. If the Participant dies before benefit payments are required to begin under the second sentence of this Section 5.10, any benefits payable to (or for the benefit of) a designated Beneficiary will be paid beginning no later than the

end of the first full calendar year after the Participant's death over the life of the designated Beneficiary.

5.11. Maximum benefit. Benefits under the Plan shall not exceed the limitation of section 415(b) of the Code, to the extent applicable.

5.12. Forfeitures. Forfeitures shall not be applied to increase the benefits any Participant would otherwise receive under the Plan.

## **ARTICLE 6. ADMINISTRATION**

6.1. Plan Administration. WWU is the administrator of this Plan and has designated the WWU Human Resources Department to be responsible for the day to day administration of the Plan.

6.2. Authority of WWU. WWU shall have final authority to determine all questions concerning eligibility and benefits under the Plan, to interpret all terms of the Plan, including any uncertain terms, and to decide any disputes arising under and all questions concerning administration of the Plan. Any determination made by WWU shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary and capricious.

6.3. Requests for Information. Any request for information concerning eligibility, participation, benefits, or other aspects of the operation of the Plan should be in writing and directed to the WWU Human Resources Department.

6.4. Payment of Expenses. All reasonable costs and expenses incident to the administration of the Plan and the Trust, including but not limited to legal, accounting, and Trustee fees, shall be paid by the Trust unless WWU elects to pay such expenses. Notwithstanding the foregoing, any and all expenses relating to settlor functions such as creation or termination of the Plan shall be paid by WWU and may not be paid from the Trust.

## **ARTICLE 7. FUNDING**

7.1. Trust agreement or declaration. WWU shall appoint a Trustee (which may include WWU itself) and enter into a trust agreement or declaration of trust. The Trustee will receive and invest all contributions, if any, made under the Plan to the Trust and all income derived therefrom. WWU may remove a Trustee and may appoint a successor or additional Trustees and may divide their duties and responsibilities as it sees fit.

7.2. Exclusive benefit of Participants. All assets of the Trust shall be held for the exclusive purpose of providing benefits to Participants and Beneficiaries under the Plan and defraying reasonable expenses of administering the Plan and as otherwise permitted by law and the Plan. In no event shall it be possible at any time prior to the satisfaction of all liabilities under Plan for any part of the assets of the Trust, whether principal or income, to be used for or diverted to purposes other than those stated herein.

7.3. Return of contributions. Nothing herein shall prohibit a return to WWU, within one year after payment, of excess sums contributed to the Trust as a result of a mistake of fact.

In addition, in the event that the Commissioner of Internal Revenue (or his or her delegate) determines that the Plan is not initially qualified under the Code; any WWU contributions made to the Plan shall be returned to WWU within one year after the date the initial qualification is denied.

## **ARTICLE 8. AMENDMENT AND TERMINATION**

8.1. Amendment and termination. The Board reserves the right at any time to amend or terminate the Plan, in whole or in part, to the extent permitted by law. If the Plan is terminated, WWU will notify all Participants. All benefits accrued to the date of termination will be nonforfeitable to the extent funded or as otherwise required by law. No amendment shall be effective if it permits any part of the Trust assets (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries, or permits any portion of the Trust assets to revert to or become property of WWU, except as permitted by law.

8.2. Limitation. Notwithstanding the provisions of Section 8.1, the Board shall not make any amendment to the Plan that operates to recapture for WWU any contributions previously made under this Plan except to the extent permitted by law.

## **ARTICLE 9. MISCELLANEOUS**

9.1. Non-Alienation of Benefits. Except as provided in this Section, no benefit under the Plan may at any time be subject in any manner to alienation, encumbrance, the claims of creditors, or legal process. No participant will have power in any manner to transfer, assign, alienate, or in any way encumber his or her benefits under the Plan, or any part thereof, and any attempt to do so will be void and of no effect. This Plan will comply with any judgment, decree or order that establishes the rights of another person to all or a portion of a Participant's benefit under this Plan to the extent that it is treated as a qualified domestic relations order under Code section 414(p).

9.2. Plan Does Not Affect Employment. Nothing in this Plan is a commitment or agreement by any person to continue his or her employment with WWU, and nothing in this Plan is a commitment on the part of WWU to continue the employment or the rate of compensation of any person for any period. All employees of WWU will remain subject to nonrenewal, discharge or discipline to the same extent as if the Plan had never been put into effect.

9.3. Claims of Other Persons. The Plan does not give any Participant or any other person, firm, or corporation any legal or equitable right against WWU, or its officers, employees, or Trustees, except for the rights that are specifically provided for in this Plan or created in accordance with the terms and provisions of this Plan.

9.4. Governing Law. Except as provided under federal law, the provisions of the Plan are governed by and construed in accordance with the laws of the State of Washington.

*Western Washington University  
Business and Financial Affairs Division, Human Resources Department  
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