

# WASHINGTON STATE UNIVERSITY RETIREMENT PLAN

## RETIREMENT PLAN RULES

As Amended and Restated  
Effective January 1, 2012

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## **SECTION 1. ESTABLISHMENT OF PLAN**

The Washington State University Board of Regents established the Washington State University Retirement Plan as of July 1, 1974. This plan document sets forth the provisions of the Plan, as amended through and effective as of January 1, 2012. This plan is a governmental plan as defined in Code Section 414(d) and is intended to satisfy the provisions of Code Section 403(b).

## **SECTION 2. DEFINITIONS**

The terms and phrases defined in this section have the following meanings throughout this Plan document.

**2.1. Accumulation Account** means the separate account established for each Participant with a Fund Sponsor. The current value of a Participant's Accumulation Account includes all Plan Contributions to the Fund Sponsor, less expense charges, and reflecting investment experience.

**2.2. Annuity Contract** means a nontransferable contract described in Code Section 403(b)(1) that is issued by a Fund Sponsor and that includes payment in the form of an annuity.

**2.3. Beneficiary** means the person(s), including one or more trusts or other entities the Participant designates in writing, contingently or successively, to receive the Participant's Accumulation Account (or remaining Accumulation Account) under the Plan in the event of the Participant's death. If the Participant is married or has a state registered domestic partner under RCW 26.60 et seq. (a "domestic partner"), the Participant's designation of someone other than the spouse or domestic partner as a primary Beneficiary requires the written consent of the spouse or domestic partner. Any such consent must be witnessed by a notary public. Spousal or domestic partner consent will be effective only with respect to that spouse or domestic partner. Such consent will not be required if it is established to the satisfaction of the Plan Administrator that the spouse or domestic partner cannot be located. A Participant's Beneficiary designation must be made on a form provided for this purpose by the Plan Administrator or by a Fund Sponsor and must be on file with the Plan Administrator or Fund Sponsor. If a Participant fails to designate a Beneficiary, the Participant's Accumulation Account (or remaining Accumulation Account) remaining on the Participant's death will be paid in the following order of priority: (i) to the Participant's surviving spouse or state registered domestic partner, and, if none; (ii) to the Participant's surviving children and lineal descendants, by right of representation and not per capita, and, if none; (iii) to the Participant's surviving parents, and, if none; (iv) to the Participant's estate. For purposes of Sections 6.3 and 6.5, a Designated Beneficiary means as described in Treas. Reg. § 1.401(a)(9)-4.

**2.4. Board** means the Board of Regents of Washington State University.

**2.5. Break in Service** means termination of all WSU employment and appointments for at least a full day.

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

**2.7. Compensation** for purposes of computation of Plan contributions means the amount paid by WSU to a Participant under the terms of his or her appointments, including summer and other extended appointments. Compensation shall be determined before taking into account any salary reduction under Code Sections 125, 132, 403(b) or 457(a). Compensation shall not include leave cash-out payments, any settlement, severance or tenure purchase payments, any amounts paid for teaching overloads, extra services, and royalties from intellectual property, deferred compensation, incentive compensation, supplemental compensation, and any other forms of additional compensation not included in the base salary. In the case of employees on contract, the contract may exclude additional items from Compensation. Notwithstanding the foregoing, for purposes of Code Section 415 testing under Section 4.10, Compensation means “includible compensation” as defined in Treas. Reg. § 1.403(b)-2(b)(11).

**2.8. Custodial Account** means the group or individual custodial account or accounts described in Code Section 403(b)(7), to hold regulated investment company stock issued by a Fund Sponsor.

**2.9. Election** means any Participant or Beneficiary written election under the Plan and which is made on the form the Plan Administrator or the Fund Sponsor provides for this purpose. An Election must be made in the manner and within the time period the Plan, the Plan Administrator, or the Fund Sponsor prescribe, and as is consistent with Code Section 403(b) or other applicable law.

**2.10. Eligible Employee** means any employee of WSU who is employed in an Eligible Position. An employee is not an Eligible Employee if the employee:

(a) was first hired by WSU on or after July 1, 2011, and who within thirty days of hire made an irrevocable Election to participate in a WSRS plan as identified in RCW 41.32 or RCW 41.40 (including an Election under Section 3.2(b));

(b) has retired from WSU having been a Participant in the Plan in accordance with the policies and guidelines established by the Plan Administrator;

(c) was hired by WSU on or after July 1, 2011, and is eligible to retire or has retired under a WSRS plan as identified in RCW 41.50.030, as described in RCW 28B.10.400(2); or

(d) was hired by WSU on or after July 1, 2011, and who made an irrevocable Election (including an Election under Section 3.2(c)) to participate in a PERS or TRS plan.

**2.11. Eligible Position** means a WSU faculty or administrative professional staff position in which the employee has at least fifty percent full-time equivalency in at least one semester of each Plan Year or equivalent period but does not include Agricultural Extension Service employees on a federal appointment or persons rendering a professional service on a fee, retainer, or special contract basis, or as an incident to the private practice of a profession. Classified positions prior to April 26, 1973, and administrative professional positions prior to April 26, 1973, or after September 30, 1992, are Eligible Positions, provided the employees holding such positions did not elect to participate in or transfer to PERS prior to January 1, 1974. A civil service position held by a Participant as described in Section 3.1(e) and 3.2(d) is 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 fifty percent full-time equivalence, so long as the position otherwise qualifies as an Eligible Position.

**2.12. Fund Sponsor** means an insurance, variable annuity, or investment company that provides Funding Vehicles available to Participants under this Plan.

**2.13. Funding Vehicles** means the Annuity Contracts and Custodial Accounts available for investing contributions under this Plan, as specifically approved by WSU under Section 5.1.

**2.14. IRA** means an individual retirement account under Code Section 408(a) or an individual retirement annuity under Code Section 408(b).

**2.15. Participant** means any Eligible Employee of WSU who participates in the Plan in accordance with Section 3 and who is contributing to the Plan (or has made contributions to the Plan and who still has an Accumulation Account) in accordance with Section 4.

**2.16. Plan** means the Washington State University Retirement Plan as set forth in this document as it may be amended from time to time in accordance with Section 9.1.

**2.17. Plan Administrator** means WSU and its designees in accordance with Section 7.1.

**2.18. Plan Contributions** means contributions by WSU and the Participant under this Plan in accordance with Section 4.1.

**2.19. Plan Year** means the calendar year.

**2.20. PERS** means the Washington Public Employees' Retirement System under RCW 41.40.

**2.21. Related Employer** means WSU and any other entity that is related to WSU under Code Sections 414(b), (c), (m) or (o).

**2.22. TRS** means the Washington State Teachers' Retirement System under RCW 41.32 .

**2.23.** WSU means Washington State University.

**2.24. Washington State Retirement System (WSRS)** means any retirement system paid for by the State of Washington and administered by the Washington State Department of Retirement Systems, as identified in RCW 41.50.030.

### **SECTION 3. ELIGIBILITY AND PARTICIPATION**

#### **3.1. Participation for Employees Hired Before January 1, 2012.**

(a) Two-Year Voluntary Contribution Period. An Eligible Employee may become a Participant as of the date of his or her employment in an Eligible Position or any time during the first two years of employment by submitting an Election to the Plan Administrator. A Participant during the first two years of employment also may make an Election to: (i) change the amount of their contribution; (ii) revoke their Election to make contributions; or (iii) re-elect to make contributions after having revoked a prior Election. Any Election submitted to the Plan Administrator will become effective as of the first day of any pay period following receipt to which the Plan Administrator reasonably may apply the Election. The provisions of this Section 3.1(a) apply notwithstanding any contrary provision in Section 4.1.

(b) Mandatory Contributions After Two Years. An Eligible Employee must become a Participant and begin making contributions no later than the second anniversary of his or her date of employment in an Eligible Position. Once having begun participation in this Plan, a Participant cannot cease participation while employed in an Eligible Position, except as provided below.

(c) Reclassification or Appointment to Eligible Position. An existing WSU employee who is a participant in a WSRS plan and who is reclassified or appointed to an Eligible Position may irrevocably elect to become a Participant in this Plan or remain in the WSRS plan by making such Election in writing within ninety days of being notified of reclassification or appointment to an Eligible Position. If no timely Election is made, the Participant will remain in the WSRS plan. Such Election may be made only once in an individual's unbroken service to WSU, and such Election shall be irrevocable, except as identified in Section 3.1(c)(i). For this purpose, "unbroken service" means service without a Break in Service.

(i) Reclassification or Appointment to a Different Eligible Position Classification. An employee who under Sections 3.1(c) or 3.1(d) was offered the option to elect to become a member in this Plan or remain as a participant in a WSRS plan, and who on or after July 1, 2011, is reclassified or appointed to an Eligible Position in an employment type not previously held, will be offered a new Election opportunity to stay in their current retirement plan or elect to enroll in this Plan or the applicable WSRS plan. For purposes of this section,



“employment type” means an eligible faculty or administrative professional classification.

(d) New Employee Participating in WSRS Plan. A new WSU employee who is a participant in a WSRS plan and who transfers to WSU without a Break in Service into an Eligible Position may irrevocably elect to become a Participant in this Plan or remain in the WSRS plan, provided that such plan is offered at WSU and such election to remain is permitted by the Department of Retirement Systems, by making such Election in writing within thirty days upon being hired into an Eligible Position. If no timely Election is made, the Participant will immediately begin participation in this Plan. Such Election may be made only once in an individual’s unbroken service to WSU, and such Election shall be irrevocable, except as identified in Section 3.1(c)(i). For this purpose, “unbroken service” means service without a Break in Service.

(e) Participants Reclassified or Appointed to Civil Service.

(i) Reclassification or Appointment Prior to January 1, 2012. A Participant in this Plan who prior to January 1, 2012, is reclassified or appointed to a civil service position will remain a Participant in the WSURP, provided there is no Break in Service. If an Eligible Employee has not reached the second anniversary of his or her date of employment in an Eligible Position, and has not made an Election to become a Participant, the employee will be enrolled in a WSRS plan.

(ii) Reclassification or Appointment After December 31, 2011. A Participant in this Plan who after December 31, 2011, is reclassified or appointed to a civil service position, may make an Election to participate in a WSRS plan or remain in this Plan as specified in the policies adopted by the Plan Administrator.

### **3.2. Participation for Employees Hired On and After January 1, 2012.**

(a) Immediate Mandatory Contributions. An Eligible Employee who is hired into an Eligible Position immediately will become a Participant in the Plan effective as of the date of hire and is subject to making the mandatory contributions described in Section 4.1.

(b) New WSU Employee Never a Member in a WSRS Plan. An otherwise Eligible Employee who has never been a member of a WSRS plan who is hired into an Eligible Position may make an Election to participate either: (i) in this Plan, or (ii) in TRS Plan 3 if employed in an eligible faculty position, or (iii) in PERS Plan 3 if employed in an eligible administrative professional position. If the employee elects to participate in TRS 3 or PERS 3, the employee is not an Eligible Employee in accordance with Section 2.10(a). If no timely Election is made, the Eligible Employee will become a Participant in this Plan.

(c) New WSU Employee Currently or Formerly a Member in a WSRS Plan.

An otherwise Eligible Employee who is hired into an Eligible Position and who is or was a member of a WSRS plan may make an Election to participate either in this Plan or in a PERS or TRS plan as specified in the policies adopted by the Plan Administrator. If the employee elects to participate in a PERS or TRS plan, the employee is not an Eligible Employee in accordance with Section 2.10(d). If no timely Election is made, the Eligible Employee will become a Participant in this Plan.

(d) WSU Employee Who is Reclassified or Appointed to or from an Eligible Position. A WSU employee who is (i) a participant in a WSRS plan who is reclassified or appointed to an Eligible Position, or (ii) a Participant in this Plan who is reclassified or appointed to a position that qualifies for participation in a WSRS plan, may make an Election to participate in this Plan or a WSRS plan as specified in the policies adopted by the Plan Administrator.

**3.3. No Simultaneous Participation.** A Participant may not contribute under both this Plan and a WSRS plan at the same time; provided, that this Section 3.3 does not limit participation in a plan established pursuant to RCW 28B.10.480 or RCW 41.50.770.

**3.4. Retirees Under WSRS Hired Into an Eligible Position.** Those employees who have retired under any WSRS plan and who are rehired into an Eligible Position will immediately begin participation in the Plan, except as provided in Section 2.10(c).

**3.5. Enrollment in Plan and Failure to Make Elections.** An Eligible Employee must complete and return to the Plan Administrator the appropriate Election forms. Forms for the Fund Sponsors and for the Funding Vehicles selected must be returned to the Fund Sponsor(s) or as directed by the Plan Administrator. Failure to submit Elections will not delay participation in the Plan and may result in the application of default provisions, each in accordance with the Plan terms.

**3.6. Cessation of Participation.** An employee's participation in the Plan will cease if:

- (a) He or she separates from service with WSU and all Related Employers; or
- (b) The Plan is terminated in accordance with the provisions of Section 9.1; or
- (c) He or she makes an Election or is defaulted into a WSRS plan in accordance with the provisions of this Plan; or
- (d) He or she ceases to be employed in an Eligible Position.

## **SECTION 4. CONTRIBUTIONS**

**4.1. Plan Contributions.** A Participant must contribute five percent of Compensation from date of participation until the end of the month in which his or her 35th birthday occurs, then must contribute seven and one-half percent commencing thereafter. A Participant may make an Election to increase the contribution rate to ten percent at any time following the month during which his or her 50th birthday occurs; provided that such Election may be revoked and thereafter re-elected at the option of the Participant. WSU will make a matching contribution equal in amount to each Participant contribution and will transmit all Plan Contributions to the Fund Sponsor(s).

**4.2. Income Tax Deferral.** Plan Contributions shall be made on a tax-deferred basis as authorized under Section 403(b) of the Code; provided that Participant contributions shall be made on a non-tax-deferred basis for certain Participants who so elected on an irrevocable basis prior to February 1, 1998.

**4.3. Limit on Compensation Taken into Account.** In addition to other applicable limitations stated in the Plan affecting the amounts contributed to the Plan and notwithstanding any other provision of the Plan to the contrary, the Compensation taken into account for any Plan Year may not exceed the amount identified in Code Section 401(a)(17), adjusted by the Commissioner of Internal Revenue from time to time for increases in the cost of living, except such limit does not apply to any Participant who first became a Participant on or after July 1, 1996, and who otherwise qualifies for the transitional rule under Treas. Reg. § 1.401(a)(17)-1(d)(4)(ii).

### **4.4. Leave of Absence.**

(a) Leave of Absence With Pay. During an authorized leave of absence with pay, Plan Contributions will continue to be made. Plan Contributions will be calculated based on the Participant's actual compensation paid by WSU during the leave of absence.

(b) Military Service. To the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994, Participants who are absent from employment by reason of service in the uniformed service of the United States shall be entitled to make up contributions that they would have made had they remained in employment during the period of service and to benefit from WSU matching contributions.

(c) Leave of Absence Without Pay. A Participant who returns to employment with WSU immediately following an authorized leave of absence without pay, other than an absence described in Section 4.4(b), and who remains employed by WSU for at least two years after such return, will receive credit for the leave period to be used in the computation of benefits as described in RCW 28B.10.407, not to exceed a maximum of two years' credit, provided: (i) the Participant is eligible for such benefits; and (ii) makes the contributions described in this Section 4.4(c). The Participant must contribute the total amount that would have been contributed had the Participant not been on leave

(including any amount WSU would have contributed) less any contributions under Sections 4.4(a) or (b) with respect to the same leave. The contributions under this Section 4.4(c) will be based on the average of the Participant's Compensation at the time the leave of absence was authorized and the time the Participant resumes employment. WSU will not match such contributions. The Participant may not make the contributions until they have satisfied the two year post-leave service condition described above, and the Participant must make the contributions no later than the end of the fifth year after returning from the leave.

**4.5. Rollovers or Transfers to the Plan.** Rollovers or transfers from other plans, accounts, or annuities to the Plan will not be accepted.

**4.6. Allocation of Plan Contributions.** A Participant may allocate Plan Contributions to Funding Vehicles while assuming the sole responsibility for the investment performance of his or her chosen Funding Vehicles.

**4.7. Vesting of Contributions.** Each contract and certificate issued in accordance with the provisions of the Plan is the property of the Participant. Amounts attributable to Plan Contributions by the Participant and WSU are immediately vested and shall be nonforfeitable, subject to Section 8.7.

**4.8. Account Statement.** At least once a year, and more often as may be required by applicable law, the Fund Sponsor(s) will send each Participant a report summarizing the status of his or her Accumulation Account(s). A Participant may obtain similar reports or illustrations upon termination of employment or at any other time by writing directly to the Fund Sponsor(s).

**4.9. No Reversion.** Under no circumstances will any Plan Contributions revert to, be paid to, or inure to the benefit of, directly or indirectly, WSU, except as provided in the second sentence of Section 8.7.

**4.10. Maximum Contribution.** Plan Contributions for a Participant for any calendar year, together with contributions for the Participant under any other plan subject to Code Sections 402(g) or 403(b), shall not exceed the limitations in Code Sections 402(g) and 415(c), to the extent applicable, except as permitted by Code Section 414(v). The limitations of Code Sections 402(g), 414(v) and 415(c) are herein incorporated by reference. See Section 8.7 as to correction of contributions which exceed these limitations. If the limitations are exceeded because the Participant is also participating in another plan required to be aggregated with this Plan for the purposes of Code Sections 402(g), 414(v) or 415, and such other plan is maintained by WSU or a Related Employer, then the extent to which annual contributions under this Plan will be reduced, as compared with the extent to which annual benefits or contributions under any other plans will be reduced, will be determined by WSU. If the reduction is under this Plan, WSU will advise the affected Participant of any limitations on his or her Plan Contributions required by this Section 4.10.

## **SECTION 5. FUND SPONSORS AND FUNDING VEHICLES**

**5.1. The Fund Sponsors and Funding Vehicles.** Participants and Beneficiaries may invest all Plan Contributions made to their Accumulation Account in one or more Funding Vehicles made available by WSU to Participants and Beneficiaries under this Plan. If a Participant or Beneficiary fails to direct the investments of his or her Accumulation Account, the Account will be invested in a Funding Vehicle selected by WSU for such non-directing Participants and Beneficiaries. WSU's current choice of Fund Sponsor(s) and Funding Vehicles is not intended to limit future additions or deletions by WSU of Fund Sponsors and Funding Vehicles. The Plan Administrator shall maintain a list of all Fund Sponsors under the Plan. Such list is hereby incorporated as part of the Plan. The Fund Sponsor(s) and WSU shall exchange such information as may be necessary to satisfy Code Section 403(b) or other requirements of applicable law. In the case of a Fund Sponsor that is not eligible to receive Plan Contributions (including a Fund Sponsor that has ceased to be a Fund Sponsor eligible to receive Plan Contributions), WSU shall keep the Fund Sponsor informed of the name and contact information of the Plan Administrator in order to coordinate information necessary to satisfy Code Section 403(b) or other requirements of applicable law.

**5.2. Transfer of Funds.** A Participant may transfer all or a part of his or her Accumulation Account between Funding Vehicles, subject to Fund Sponsor and/or Funding Vehicle contractual requirements, and to Code Section 403(b) and the regulations thereunder. However, an investment transfer that includes an investment with a Fund Sponsor that is not eligible to receive contributions under Section 5.1 is not permitted.

**5.3. Third Party Trading.** The Participant is responsible for directing all funds invested under this Plan, and cannot assign that responsibility to another party, except that a Participant may assign that responsibility in writing to a third party that has been given a power of attorney, and investment directions may be given by the legal representative of a Participant or Beneficiary who is under a legal disability.

## **SECTION 6. BENEFITS**

### **6.1. Benefits During Life.**

(a) **Timing.** A Participant may make an Election to commence distribution of his or her Accumulation Account upon or following separation from service from WSU and at such other times (or upon such events) as the applicable Funding Vehicles and the Plan may permit; provided that such times and events are permissible under Code Section 403(b) and the regulations thereunder.

(i) **In-Service Distribution at Age 59½ With Phased Retirement.** A Participant who has elected phased retirement under applicable WSU procedures may commence distribution after reaching age 59½ even though the Participant has not separated from service from WSU.

(ii) No Other In-Service Distributions. The Plan does not permit any other distributions prior to a Participant's separation from service from WSU.

(b) Form. A Participant may receive distribution of his or her Accumulation Account in the form of cash, payable either as a lump sum or in installment payments, or in the form of an annuity contract under which the Fund Sponsor will make payments to the Participant (and possibly to a Beneficiary), all in accordance with the payment options as authorized by the Fund Sponsor(s) and Funding Vehicles; provided that such payment options are consistent with the Plan and are permissible under Code Section 403(b) and the regulations thereunder. The total amount of the annuity or other payment is calculated by the Fund Sponsors(s) on the rate and dividend basis then in effect and payments shall be made to the extent provided by the form of annuity.

(c) Participant Election. A Participant may make Elections as to time and form of payment of benefits under this Section 6.1 at such times and in the manner required by the Plan Administrator and Fund Sponsor(s), provided such elections are consistent with Code Section 403(b) and the regulations thereunder. All lifetime benefits are further subject to the required minimum distribution requirements of Section 6.3. A Participant will make such Elections directly to the Fund Sponsor(s).

(d) Spousal or Domestic Partner Consent Required. A Participant Election to withdraw a lump sum payment of any portion of his or her Accumulation Account requires the written consent of the Participant's spouse or state registered domestic partner under RCW 26.60 et seq. ("domestic partner").

(i) Form of Spousal or Domestic Partner Consent. The consent of the spouse or domestic partner 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 or domestic partner, the consent will be effective only with respect to the specific election to which the consent relates. Spousal or domestic partner consent will be effective only with respect to that spouse or domestic partner. Such consent will not be required if it is established to the satisfaction of WSU Human Resource Services that the spouse or domestic partner cannot be located.

**6.2. Death Benefits.** On the death of a Participant, the entire value of each Accumulation Account (or of the remaining Accumulation Account) is payable to the Participant's Beneficiary or Beneficiaries. The Beneficiary may make an Election as to the time and form of payment under any payment option available under the Funding Vehicles, provided such payment options are consistent with Code Section 403(b) and the regulations thereunder. A Beneficiary will make such Elections directly to the Fund Sponsor(s). However, to the extent that the Accumulation Account has previously been applied to purchase an annuity, payments shall be made only if and to the extent provided by the form of annuity. All death benefits are further subject to the required minimum distribution requirements of Section 6.3.

### **6.3. Minimum Distribution Requirements.**

(a) Applicable Law. All distributions under this Plan will be made in accordance with Code Sections 403(b)(10) and 401(a)(9), as each is amended and in effect from time to time, and regulations thereunder.

(b) Lifetime Required Minimum Distributions. A Participant must receive distribution or commence distribution of his or her Accumulation Account no later than April 1 following the calendar year in which the Participant attains age 70½ or, if later, April 1 following the calendar year in which the Participant separates from service from WSU. The annual lifetime minimum distribution amount will be calculated in accordance with Treas. Reg. §§ 1.401(a)(9)-2 and 1.401(a)(9)-5. The entire Accumulation Account of each Participant will be distributed over a period not to exceed the life (or life expectancy) of the Participant or over the lives (or life expectancies) of the Participant and Designated Beneficiary. Notwithstanding the above, the Accumulation Account for each Participant as of December 31, 1986, will be distributed in accordance with Treas. Reg § 1.403(b)-6(e)(6).

(c) Death Required Minimum Distributions. The annual death minimum distribution amount will be calculated in accordance with Treas. Reg. §§ 1.401(a)(9)-3 and 1.401(a)(9)-5.

(i) Death Before the Required Beginning Date. If the Participant dies before benefit payments are required to begin under Section 6.3(b), any benefits payable to a Designated Beneficiary will be paid, as the Designated Beneficiary elects: (a) by December 31 of the calendar year which contains the fifth anniversary of the Participant's death; or (b) will be paid, beginning no later than December 31 of the calendar year following the calendar year of the Participant's death, over a period not exceeding the life expectancy of the Designated Beneficiary. If the Designated Beneficiary is the surviving spouse, payment may be delayed until the date the Participant would have attained age 70½. If there is no Designated Beneficiary, the entire Accumulation Account must be distributed within the period described in clause (a) above. If a Designated Beneficiary makes no Election, the period described in clause (a) applies.

(ii) Death After the Required Beginning Date. Upon the Participant's death after the time benefits are required to begin under Section 6.3(b), 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. Minimum distributions will be calculated based on the longer life expectancy of the Participant or his or her Designated Beneficiary. If there is no Designated Beneficiary, the minimum distributions will be based on the Participant's remaining life expectancy.

(d) Separate Treatment of Contracts and Accounts. In applying the foregoing minimum distribution rules, each Annuity Contract or Custodial Account shall be treated

as an IRA and distribution shall be made in accordance with the provisions of Treas. Reg. § 1.408-8, except as provided in Treas. Reg. § 1.403(b)-6(e).

**6.4. No Loans.** The Plan does not make loans to Participants or Beneficiaries.

**6.5. Rollover Distributions.**

(a) Direct Rollover. A Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in Code Section 414(p)) who is entitled to an eligible rollover distribution (as defined in Code Section 402(c)(4)) from the Plan may make an Election to have any portion of that distribution paid directly to an eligible retirement plan (as defined in Code Section 402(c)(8)(B)) specified by the Participant or Beneficiary in a direct rollover. In the case of a distribution to a Designated Beneficiary who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the participant who is an alternate payee under a domestic relations order, a direct rollover is payable only to an IRA that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Code Section 408(d)(3)(C)).

(b) Rollover and Tax Notice. Each Fund Sponsor within a reasonable time period (and within any period prescribed by applicable law) before making an initial eligible rollover distribution, will provide an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.

## **SECTION 7. ADMINISTRATION**

**7.1. Plan Administration/Administrator.** WSU is the administrator of this Plan and has designated WSU Human Resource Services to be responsible for the day-to-day administration of the Plan.

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

## **SECTION 8. MISCELLANEOUS**

**8.1. 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). Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. WSU shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

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

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

**8.4. Contracts and Certificates.** In the event there is any inconsistency or ambiguity between the terms of the Plan and the terms of the contracts between the Fund Sponsor(s) and WSU and/or the Participants and any contracts and/or certificates issued to a Participant under the Plan, the terms of the Plan control.

**8.5. 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.

**8.6. Requests for Information.** Any request for information concerning eligibility, participation, contributions, or other aspects of the operation of the Plan should be in writing and directed to the Plan Administrator via Human Resource Services. Requests for information concerning the Fund Sponsor(s), the Funding Vehicles, their terms, conditions, and interpretations thereof, claims thereunder, any requests for review of such claims, and service of legal process may be directed in writing to the Fund Sponsor(s).

**8.7. Mistaken Contributions.** WSU contributes to the Plan on condition that its contribution is not due to a mistake of fact. The Fund Sponsor, upon WSU's written request, will return the amount of any WSU contribution (net of any investment loss, but not increased by any investment income or gains) made due to a mistake of fact; provided, that any such contribution must be returned within one year after the contribution was made. If any WSU or Participant contribution is made to the Plan which exceeds the Plan or Code limits or which is not otherwise in accordance with the Plan terms, the Plan Administrator will make correction in accordance with the Employee Plans Compliance Resolution System under Rev. Proc. 2008-50 or any other successor or applicable guideline.

## **SECTION 9. AMENDMENT AND TERMINATION**

**9.1. Amendment and Termination.** The Board reserves the right at any time to amend or terminate the Plan, in whole or in part, or to discontinue any further Plan Contributions or payments under the Plan. If the Plan is terminated or if Plan Contributions are completely discontinued, WSU will notify all Participants. As of the date of complete or partial termination, all Accumulation Accounts will remain nonforfeitable.

**9.2. Distribution Upon Termination of the Plan.** WSU may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Annuity Contract and Custodial Account agreements, all Accumulation Accounts will be distributed, provided WSU and any Related Employer on the date of termination do not make contributions to an alternative Code Section 403(b) contract that is not part of the Plan during the period beginning on the date of plan termination and ending twelve months after the distribution of all assets from the Plan, except as permitted by Code Section 403(b) and the regulations thereunder.

**9.3. Limitation.** Notwithstanding the provisions of Section 9.1, the Board shall not make any amendment to the Plan that operates to recapture for WSU any Plan Contributions previously made under this Plan except to the extent permitted by Section 8.7.