

WASHINGTON STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

401(a) RETIREMENT PLAN

Restatement Effective Date: January 1, 2010

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WASHINGTON STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

401(a) RETIREMENT PLAN

THIS RESTATED PLAN is hereby adopted as of the 1st day of January, 2006, by Washington State Board for Community and Technical Colleges (herein referred to as the "Sponsor").

INTRODUCTION

WHEREAS, the Sponsor desires to recognize the contribution made by the Eligible Employees of Participating Employers and to reward such contribution by means of Plan benefits for those Eligible Employees who qualify as Participants hereunder;

WHEREAS, the Sponsor wishes to expand the opportunities for Eligible Employees of Participating Employers to save for retirement in addition to any existing retirement plans or other savings vehicles which may be maintained by the Participating Employers for their respective Employees;

WHEREAS, the Sponsor wishes to take advantage of certain tax favored contribution options that allow certain Employee Contributions (sometimes called Pick-Up Contributions) to be treated as Employer Contributions for tax purposes under Code Section 414(h);

WHEREAS, the Sponsor is a governmental entity not subject to the provisions of the Employee Retirement Income Security Act of 1974 ("ERISA") nor subject to certain coverage and non-discrimination provisions of the Code, and whereas the Sponsor does not intend to voluntarily subject the Plan to any other provisions of ERISA or the Code that are not required of a governmental plan;

WHEREAS, the State Board desires to separately provide, from assets of the State Board, certain qualifying Participants with a supplemental annual retirement income as specified in separate retirement plan provisions under state law (and referred to herein as a Supplemental Retirement Benefit), exclusive of Federal Old Age Survivors Insurance Benefits;

WHEREAS, effective January 1, 1998, the Sponsor established a 403(a) Retirement Plan (the "Pre-Restatement Plan"), with investment vehicles in the form of annuity contracts held for the exclusive benefit of the Participants and their Beneficiaries, to fulfill the purposes stated above;

AND WHEREAS, the Sponsor wishes to offer Participants, as an investment alternative to annuity contracts, a set of mutual fund or other investment fund options which require such Plan assets to be held in a Plan and trust under Code Section 401(a), in lieu of an annuity plan under Code Section 403(a);

NOW, THEREFORE, effective January 1, 2006, the Sponsor hereby adopts this restated Plan, which is intended to function as a Code Section 401(a) qualified Plan, and a related trust, for the purpose of further fulfilling the purposes stated above.

1. DEFINITIONS

1.1 "Anniversary Date"

"Anniversary Date" means December 31.

1.2 "Appointing Authority"

"Appointing Authority" means a Participating Employer's governing board or the designees of such boards.

1.3 "Average Annual Compensation"

"Average Annual Compensation" means, for purposes of determining any applicable Supplemental Retirement Benefit for a Participant hereunder, the amount derived when the Compensation received during the two consecutive highest salaried Fiscal Years of Service for which contributions were made to this Plan by a Participating Employer is divided by two.

1.4 "Benefit Administrator"

"Benefit Administrator" means the service provider to the Plan that is responsible for maintaining the records of the Participants' Accounts and determining benefits under the Plan, and for performing certain other benefit administration and communications functions, in accordance with such contractual agreements and direction letters as may exist from time to time between such service provider and the Plan Administrator or Sponsor. The Benefit Administrator is sometimes referred to as the "Record Keeper" in certain documents such as the trust agreement with the Trustee. As of the Restatement Effective Date, the Benefit Administrator is Teachers Insurance and Annuity Association of America.

1.5 "Code"

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and regulations issued pursuant thereto.

1.6 "Compensation"

"Compensation" with respect to any Participant means the sum of the following elements of compensation paid by the Participant from his or her Participating Employer, including base salary, summer quarter compensation, extra duty pay, leave stipends, and grants made by or through the Participating Employer or State Board; but not including any severance pay, early retirement incentive payment, remuneration for unused sick or personal leaves, settlement payments resulting from claims, disputes or litigation, or

remuneration for unused annual or vacation leaves in excess of the amount payable for thirty days or two hundred forty hours of service. For purposes of this Section, the determination of Compensation shall be made by including both: (i) amounts which are contributed by the Participating Employer pursuant to a salary reduction agreement and which are not includable in the gross income of the Participant under Code Sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457, and (ii) Employee Contributions (sometimes called Pick-Up Contributions).

For a Participant's initial year of participation, Compensation shall be recognized as of such Employee's effective date of participation pursuant to Section 3.3.

Compensation in excess of the applicable dollar limitation under Code Section 401(a)(17) that is in effect for the applicable Plan Year (e.g., \$210,000 for 2005) shall be disregarded. Such dollar limitation shall be adjusted as determined by the Secretary of the Treasury in accordance with Code Section 401(a)(17), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with or within such calendar year. If Compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in a Plan Year beginning after December 31, 1993, the Compensation for that prior determination period is subject to the adjusted compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first Plan Year beginning on or after January 1, 1994, the annual compensation limit is \$150,000. For any short Plan Year the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins multiplied by the ratio obtained by dividing the number of full months in the short Plan Year by twelve (12).

For purposes of this Section 1.6, amounts under Code Section 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code Section 125 only if the Participating Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

1.7 "Contract"

"Contract" means any annuity contract (group or individual), issued pursuant to the terms of the Plan. The term Contract includes, by way of example, group retirement annuity contracts (GRA contracts) and retirement annuity contracts (RA contracts, transferred to this Plan from the Predecessor Plan) issued by Teachers Insurance and Annuity Association ("TIAA") and the College Retirement Equities Fund ("CREF"), and investments in any such Contract shall be governed by the terms of such Contract.

1.8 "Deferred Compensation"

"Deferred Compensation" with respect to any Participant means the aggregate amount of the Participant's Employee Contributions that have been contributed to this Plan pursuant to Section 4.1, excluding any such amounts distributed as "excess additions" pursuant to Section 4.6.

1.9 "Designated Beneficiary"

"Designated Beneficiary" means the person to whom the remaining balance of a deceased Participant's total account is payable. The Designated Beneficiary shall be the spouse (if any) to whom the Participant was married as of his or her benefit commencement date (or date of death, if earlier), or, with the consent of such spouse, if any, such other person or persons as shall have been nominated by written designation duly executed and filed with either the Benefit Administrator, the retiree's Participating Employer, or the State Board.

1.10 "Eligible Employee"

"Eligible Employee" means any Employee who meets the conditions for eligibility in Section 3.1. Provided, however, that the definition of Eligible Employee shall be determined based on the payroll records of the respective Participating Employer, and shall not include any "leased employee" (as defined by Code Section 414(o)) or any person who, on the payment records of the Participating Employer, is treated as an independent contractor or as an employee of a third-party temporary services provider.

1.11 "Employee"

"Employee" means any person who is a common law employee of a Participating Employer, but excludes any person who performs services as an independent contractor. The definition of Employee includes any "leased employee" (as defined by Code Section 414(o)) of a Participating Employer.

1.12 "Employee Contribution"

"Employee Contribution" is synonymous with the term "Pick-Up Contribution," and means a contribution to the Plan as described in Section 4.1.

1.13 "Employer Contribution"

"Employer Contribution" means any Participating Employer contributions to the Plan that are made pursuant to Section 4.2.

1.14 "Fiscal Year"

"Fiscal Year" means the Sponsor's accounting year of 12 months commencing on July 1st of each year and ending the following June 30th.

1.15 "Former Participant"

"Former Participant" means a person who has been a Participant, but who has ceased to be a Participant for any reason.

1.16

1.16 "415 Compensation"

"415 Compensation" with respect to any Participant means the sum of:

(i) such Participant's wages as defined for Federal Income Tax purposes in Code Section 3401(a) and all other payments of compensation by the Participating Employer (in the course of the Participating Employer's trade or business) for a Plan Year for which the Participating Employer is required to furnish the Participant a written statement on IRS Form W-2 under Code Sections 6041(d), 6051(a)(3) and 6052; and, for Plan Years commencing on or after January 1, 1998, "415 Compensation" shall also include the following:

(ii) such Participant's pre-tax contributions to a cafeteria plan under Code Sections 125 and to a qualifying commuting or parking program under Code Section 132(f)(4); and

(iii) such Participant's elective deferrals under Code Section 402(e)(3), 402(h), 403(b) or 457.

"415 Compensation" must be determined without regard to any rules under Code Section 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)).

For purposes of this Section 1.16, amounts under Code Section 125 include any amounts not available to a Participant in cash in lieu of group health coverage because the Participant is unable to certify that he or she has other health coverage. An amount will be treated as an amount under Code Section 125 only if the Participating Employer does not request or collect information regarding the Participant's other health coverage as part of the enrollment process for the health plan.

For limitation years beginning on or after January 1, 2008, "415 Compensation" shall include amounts paid after severance from employment with a participating Employer to the extent permitted by Treasury Regulations Section 1.415(c)-2(e)(3) and shall exclude all other amounts paid after severance from employment with a participating Employer as required by Treasury Regulations Section 1.415(c)-2(e)(3)(iv).

Effective January 1, 2009, "415 Compensation" shall include any payment which is:

(i) Made by a Participating Employer to individuals with respect to any period during which they are performing service in the uniformed services while on active duty for a period of more than 30 days; and

(ii) Represents all or part of the wages that such individuals would have received from the Participating Employer if such individuals were performing services for the Participating Employer.

1.17 "Investment Advisory Committee"

"Investment Advisory Committee" means a committee consisting of a chairperson, plus at least two additional voting members appointed by the chairperson. Except to the extent determined otherwise by the State Board, the Director of Human Resources for the State Board shall serve as the chairperson of the Investment Advisory Committee. Effective on and after January 1, 2006, the Investment Advisory Committee shall have the authority and responsibility to monitor the performance of any of the Contracts or other investment fund options of the Plan Fund and of any Investment Manager, and to provide advice to the State Board on the selection, retention, elimination or replacement at any time any and all of the Contracts and other investment fund options available for Participant investment direction under this Plan, and/or advice on the appointment, discharge or replacement of any Investment Manager.

1.18 "Investment Manager"

"Investment Manager" means an entity that (a) has the power to manage, acquire, or dispose of Plan assets and (b) acknowledges fiduciary responsibility to the Plan in writing. Such entity must be a person, firm, or corporation registered as an investment adviser under the Investment Advisers Act of 1940, a bank, or an insurance company.

1.19 "Late Retirement Date"

"Late Retirement Date" means the first day of the month coinciding with or next following a Participant's actual Retirement Date after having reached his or her Normal Retirement Date.

1.20 "Normal Retirement Date"

"Normal Retirement Date" means, as applied to a Participant, the earliest to occur of any of the three following dates: (a) his or her attainment of age fifty-five (55), the date of his or her completion of thirty (30) Years of Service, or the date of termination of employment as a result of a disability, where such disability status has been determined by the Participant's Participating Employer after consideration of a medical evaluation.

1.21 "Participant"

"Participant" means any Eligible Employee, Terminated Participant or Retired Participant who meets the conditions for participation in this Plan and has commenced participation

in accordance with Section 3 of this Plan, and who has not yet ceased to participate in this Plan as a result of death or receipt of all Vested benefits that are due or payable hereunder.

1.22 "Participant's Account"

"Participant's Account" means an account established and maintained by the Benefit Administrator for each Participant with respect to his or her total interest in the Plan including the Participant's Employee Contributions Account, the Participant's Employer Contributions Account and (if any) the Participant's Rollover Account.

1.23 "Participant's Employer Contributions Account"

"Participant's Employer Contributions Account" means an account established and maintained by the Benefit Administrator for each Participant with respect to the Participant's interest in the Plan resulting from Employer Contributions pursuant to Section 4.2.

1.24 "Participant's Employee Contributions Account"

"Participant's Employee Contributions Account" means an account established and maintained by the Benefit Administrator for each Participant with respect to his or her interest in the Plan resulting from mandatory Employee Contributions which have been "picked up" by the Participating Employer pursuant to Section 4.1 and Code Section 414(h)(2).

1.25 "Participant's Rollover Account"

"Participant's Rollover Account" means an account established and maintained by the Benefit Administrator for each Participant with respect to his or her interest in the Plan resulting from the transfer to the Plan of funds from another Eligible Retirement Plan pursuant to Section 4.5.

1.26 "Participating Employer"

"Participating Employer" means an educational organization described in Code Section 170(b)(1)(A)(ii) operated by the State of Washington or an agency or instrumentality of the foregoing, which is the common law employer of one or more Eligible Employees or former Eligible Employees, and which is an employing entity designated by the Sponsor to participate in the Plan. The Participating Employers include the State Board, the Higher Education Coordinating Board and other educational institutions in the State of Washington listed on Appendix A of this Plan, as it may be amended from time to time.

1.27 "Pick-up Contributions"

"Pick-up Contributions" means Employee Contributions that are treated as employer contributions for determining tax treatment under Code Section 414(h)(2).

- 1.28 "Plan"
"Plan" means this instrument, including all amendments thereto.
- 1.29 "Plan Administrator"
"Plan Administrator" means the persons or entities designated by the Sponsor pursuant to Article 7 to administer the Plan on behalf of the Sponsor. As of the Restatement Effective Date, the Plan Administrator is the Director of Human Resources of the State Board.
- 1.30 "Plan Fund"
"Plan Fund" means the assets of the Plan as the same shall exist from time to time. Prior to the Restatement Effective Date, the Plan Fund was invested exclusively in Contracts meeting the requirements of Code Section 403(a). On and after the Restatement Effective Date, the Plan Fund shall include a combination of (i) Contracts (which shall be deemed to be held in trust in accordance with Code Section 401(f)), and (ii) other Plan assets, including, by way of example, shares or units of mutual funds or other investment vehicles which shall be held in trust by the Trustee. Notwithstanding any other provision of the Plan, the Plan Fund, including all amounts of Deferred Compensation, all property and rights purchased with those amounts and all income attributable thereto, shall be held solely for the purposes set forth in this Plan.
- 1.31 "Plan Year"
"Plan Year" means the Plan's accounting year of twelve (12) months commencing on January 1st of each year and ending the following December 31st.
- 1.32 "Predecessor Plan"
"Predecessor Plan" means the Washington State Board for Community and Technical Colleges 403(b) Plan that was in effect prior to January 1, 1998.
- 1.33 "Pre-Restatement Plan"
"Pre-Restatement Plan" means the Washington State Board for Community and Technical Colleges 403(a) Retirement Plan, as such plan was in effect from January 1, 1998 to December 31, 2005.
- 1.34 "RCW"
"RCW" means the Revised Code of Washington, as it may be amended from time to time.
- 1.35 "Restatement Effective Date"
"Restatement Effective Date" means January 1, 2006, that being the effective date of the conversion of the Pre-Restatement Plan from its qualified status under Code Section 403(a) to qualified status under Code Section 401(a).

1.36 "Regulation"

"Regulation" means the Income Tax Regulations as promulgated by the Secretary of the Treasury or his delegate, and as amended from time to time.

1.37 "Retired Participant"

"Retired Participant" means a person who has been a Participant, but who has become entitled to Retirement Benefits under the Plan and has not yet ceased to be a Participant as a result of receiving all Vested benefits which are due or payable hereunder.

1.38 "Retirement Benefit"

"Retirement Benefit" means, for purposes of calculating any applicable Supplemental Retirement Benefit that may be payable by the State Board under Section 6.2, the amount of annual retirement income derived from a Participant's accumulated annuities including dividends at the time of retirement, provided, that such amount shall be adjusted to meet the assumptions set forth in RCW 28B.10.401 and WAC 131-16-061(2) as may be amended from time to time.

1.39 "Retirement Date"

"Retirement Date" means the date on which a Participant retires (i.e. the effective date of commencement of benefits hereunder), whether such retirement occurs on a Participant's Normal Retirement Date or Late Retirement Date.

1.40 "Sponsor"

"Sponsor" means Washington State Board for Community and Technical Colleges, any successor which shall sponsor this Plan, and any predecessor which has sponsored this Plan.

1.41 "State Board"

"State Board" means the Washington State Board for Community and Technical Colleges, as created in RCW 28B.50.050.

1.42 "Supplemental Retirement Benefit"

"Supplemental Retirement Benefit" means a benefit determined in accordance with RCW 28B.10.400(3) and WAC 131-16-061, which, if payable to an individual, shall be payable by the State Board from assets of the State Board. The recitation in Section 6.2 of this Plan document of the terms and provisions of the said RCW and WAC statutory and regulatory requirements is not intended to cause any obligation that the State Board may have to pay a Supplemental Retirement Benefit into an obligation to pay any such benefit from Plan assets hereunder. The Supplemental Retirement Benefit may be payable to an eligible Retired Participant or Designated Beneficiary whose Retirement Benefits provided by this Plan (with the exception of Section 6.2) do not attain the level of the retirement benefit goal established by WAC 131-16-015.

1.43 "Terminated Participant"

"Terminated Participant" means a person who has been a Participant, but whose employment has been terminated other than by death, disability or retirement and who has not yet ceased to be a Participant as a result of receiving all Vested benefits which are due or payable hereunder.

1.44 "Trustee"

"Trustee" means JPMorgan Chase Bank, N.A., in its capacity as trustee of certain Plan assets under the terms of a trust agreement with the Sponsor, or any entity which the Sponsor may in its discretion subsequently appoint at any time to hold assets in trust under this Plan.

1.45 "Valuation Date"

"Valuation Date" means, for the investment funds held by the Trustee that are valued daily, each day of the Plan Year that the New York Stock Exchange is open. The Plan Administrator may also designate any additional date as a "special Valuation Date."

1.46 "Vested"

"Vested" means the nonforfeitable portion of any Account maintained on behalf of a Participant. Under the terms of this Plan, the entire balance of a Participant's Account shall be 100% Vested immediately, and at all times.

1.47 "WAC"

"WAC" means the Washington Administrative Code, as now or hereafter amended.

1.48 "Year of Service"

"Year of Service" means retirement credit based on full time employment or the equivalent thereof based on part-time employment in an eligible position for a period of not less than five months in any Fiscal Year during which Plan contributions were made by a Washington public higher education institution (whether or not it is a Participating Employer) or the State Board, or any year or fractional year of prior service in a Washington Public Retirement System while employed at a Washington public higher education institution; provided, that the Participant will receive a pension benefit from such other retirement system; and provided further, that not more than one Year of Service will be credited for service in any one Fiscal Year. Periods of leave without pay or other periods in which a Participant is not earning Compensation from a Participating Employer shall not be included in a Participant's Years of Service.

Years of Service with any Participating Employer shall be recognized.

2. PLAN SPONSOR

2.1 POWERS AND RESPONSIBILITIES OF THE SPONSOR

- (a) In addition to the authority to amend, merge or terminate the Plan, and in addition to the authority and responsibilities otherwise provided for in this Plan, the Sponsor, by action of the State Board, shall be empowered to appoint and remove a Plan Administrator. Effective on and after the Restatement Effective Date, and in the absence of a subsequent Plan amendment to the contrary, the Plan Administrator shall be the Director of Human Resources of the State Board.
- (b) The Sponsor shall have the authority and responsibility to appoint and replace the Benefit Administrator. The Benefit Administrator shall have such duties as may be stated in a contract between that service provider and either the State Board or the Plan Administrator.
- (c) Effective on and after the Restatement Effective Date, the State Board shall have the authority and responsibility to appoint the Trustee for the purpose of holding any or all Plan assets.

2.2 AUTHORITY TO APPOINT BENEFIT ADMINISTRATOR

The Sponsor, by action of the State Board, may appoint one or more Benefit Administrators. As of the Restatement Effective Date, the Benefit Administrator is Teachers Insurance and Annuity Association of America.

Any person or entity shall be eligible to serve as a Benefit Administrator. In the case of any Benefit Administrator that is a third-party service provider (rather than an Employee of the State Board or a Participating Employer), the contractual terms applicable to the Benefit Administrator shall be stated in a written agreement between the Benefit Administrator and the State Board (or Plan Administrator). A Benefit Administrator may resign by delivering a written resignation, subject to the terms and any notice requirements specified in the applicable contract. Any Benefit Administrator may be removed by the Sponsor by delivery of written notice of removal, to take effect at a date specified therein, or upon delivery to the Benefit Administrator if no date is specified, subject to the terms and any notice requirements specified in the applicable contract.

The Sponsor, upon the resignation or removal of a Benefit Administrator, shall promptly designate in writing a successor to this position. If the Sponsor does not appoint a successor Benefit Administrator, the Plan Administrator will function as the Benefit Administrator.

2.3 ALLOCATION AND DELEGATION OF RESPONSIBILITIES

If more than one person or entity is appointed as Benefit Administrator, the responsibilities of each Benefit Administrator may be specified by the Sponsor and accepted in writing by each Benefit Administrator, in accordance with the terms of a contractual agreement between the Benefit Administrator and the Sponsor or Plan Administrator.

2.4 APPOINTMENT OF ADVISERS

The Sponsor may appoint counsel, specialists, advisers, and other persons as the Sponsor deems necessary or desirable in connection with its sponsorship and oversight of this Plan.

2.5 INFORMATION FROM PARTICIPATING EMPLOYERS

To enable the Plan Administrator and Benefit Administrator to perform their functions, any Participating Employer shall supply full and timely information to the Plan Administrator and/or Benefit Administrator on all matters relating to the Compensation of all Participants, their hours of service, their Years of Service, their retirement, death or termination of employment, and such other pertinent facts as the Plan Administrator or Benefit Administrator may require. The Plan Administrator and Benefit Administrator may rely upon such information as is supplied by the Participating Employer and shall have no duty or responsibility to verify such information.

3. ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

- (a) Excepted as otherwise noted in this section, eligibility in this Plan is limited to Eligible Employees of a Participating Employer who hold appointments as full-time or part-time faculty or administrators/professionals exempt from the provisions of 41.06 RCW and who are assigned a cumulative total of at least fifty percent of a full-time workload as defined by the collective bargaining agreement and/or Appointing Authority at one or more Participating Employers for at least two consecutive college quarters or its equivalent. Participation in the plan by employees of the higher education coordinating board is limited to eligible employees who have contributed premiums to a similar qualified plan and who are not receiving or accruing a retirement allowance under Title 41 RCW or chapter 43.43 RCW.
- (b) Participation in the Plan is also permitted for current and former Employees of a Participating Employer who are on leave of absence or who have terminated employment by reason of permanent disability who are receiving a salary continuation benefit through a plan made available by the State of Washington, provided that such noncontributory participation shall not be creditable toward Years of Service utilized in calculating eligibility for Supplemental Retirement Benefits as defined herein.
- (c) An Employee who moves from an ineligible to an eligible position for the same Participating Employer may become a Participant by so electing within six months following such move. In the event that an eligible Employer makes a timely and valid election to participate in the Plan, the Employee shall be enrolled as a Participant as soon as administratively practical following the completion of such election procedure.
- (d) A Participant who moves from an eligible to an ineligible classified position for the same Participating Employer may continue to be a Participant by so electing within six months following such move.

(e) Participants shall continue participation regardless of the proportion of full-time duties assigned, except as otherwise provided in this Section, as long as continuously employed within the community and technical college system. Participating Employers shall notify their newly hired faculty and exempt administrator employees of their potential right to participate. Employees who have established eligibility with a previous employer are responsible for notifying their new college or state board employer of their potential right to maintain that participation. For the purposes of, maintaining participation and/or establishing initial eligibility, spring and fall quarters shall be considered as consecutive periods of employment.

(f) As a condition of employment all Employees who become eligible on or after January 1, 1998 shall participate pursuant to an irrevocable salary reduction agreement. Such participation shall commence upon initial eligibility. Notwithstanding this provision, all eligible new employees who at the time of employment are members of the Washington State Teachers Retirement System or the Washington Public Employees Retirement System may elect to participate in this Plan or may elect to continue to participate in the Washington State Teachers Retirement System or the Washington Public Employees Retirement System so long as they are eligible as provided in the Washington Administrative Code adopted by the Washington State Department of Retirement Systems.

3.2 APPLICATION FOR PARTICIPATION

In order to become a Participant hereunder, each Eligible Employee is required to complete an application to participate in the Plan and to agree to the terms thereof.

3.3 EFFECTIVE DATE OF PARTICIPATION

An Eligible Employee shall become a Participant effective as of the first day on which such Employee met the eligibility requirements of Section 3.1, provided said Employee was still employed as of such date (or if not employed on such date, as of the date of rehire) by a Participating Employer.

3.4 DETERMINATION OF ELIGIBILITY

An Employee's Participating Employer shall determine the eligibility of the Employee for participation in the Plan in accordance with Section 3.1. Such determination shall be conclusive and binding upon all persons, as long as the same is made in accordance with the terms of the Plan.

3.5 OMISSION OF ELIGIBLE EMPLOYEE

If, in any Plan Year, any Employee who should be included as a Participant in the Plan is erroneously omitted and discovery of such omission is not made until after a contribution for the year has been made by his or her Participating Employer, the Participating Employer shall make a subsequent contribution with respect to the omitted Employee in the amount that the said Participating Employer would have contributed with respect to the Participant had he or she not been omitted.

3.6 INCLUSION OF INELIGIBLE EMPLOYEE

If, in any Plan Year, any person who should not have been included as a Participant in the Plan is erroneously included and discovery of such incorrect inclusion is not made until after a contribution for the year has been made, the Employer shall be entitled to recover the contribution made with respect to the ineligible person. In such case, the amount of the erroneous Employer Contribution shall be remitted from the Plan Fund to the Participating Employer, and the Participating Employer shall pay the amount of the erroneous Employee Contribution to the Employee (after withholding any applicable taxes).

3.7 REEMPLOYMENT OF FORMER PARTICIPANT

If any Former Participant shall be reemployed by a Participating Employer he or she shall resume participation in the Plan subject to reestablishing eligibility in accordance with Section 3.1 in the same manner as if such termination had not occurred.

3.8 ELECTION NOT TO PARTICIPATE

Participation in this Plan is required of all Eligible Employees provided that any such new employee, who at the time of employment is a member of the Washington State Teachers Retirement System or the Washington Public Employees Retirement System, may irrevocably elect to retain such membership or, if not vested in that system, retain membership until vesting occurs and then irrevocably elect to participate in this Plan. The option to remain in the Washington State Teachers Retirement System or the Washington Public Employees Retirement System shall be available only if the Employee is employed in a position that would be considered eligible for the applicable plan.

4. CONTRIBUTIONS AND ALLOCATIONS

4.1 EMPLOYEE CONTRIBUTIONS

(a) The Participating Employer shall reduce an Eligible Participant's Compensation by an amount equal to the mandatory Employee Contributions required by this Plan, and such Employee Contributions shall be contributed to the Plan by the Participating Employer on behalf of the Eligible Participant. Such Employee Contributions (sometimes referred to as Pick-Up Contributions) shall be treated as employer contributions for tax purposes pursuant to Code Section 414(h)(2).

(b) Employee Contributions made under subsection (a) of this Section shall be paid from the same source of funds as used in paying wages to affected Employees. Employees do not have the option to receive the amounts contributed under subsection (a) directly.

(c) The amounts of the contributions described in this Section shall be determined as follows:

- (1) Five percent of Compensation each pay period until the Participant attains age thirty-five (35).
- (2) Seven and half percent of Compensation each pay period from age thirty-five (35) through and including age forty-nine (49).
- (3) Ten percent of Compensation each pay period after attaining age fifty (50).

4.2 EMPLOYER CONTRIBUTIONS

This Plan shall provide for discretionary Employer Contributions. Unless and until this Plan is amended to the contrary, the discretionary Employer Contributions to a Participant's Account shall be in an amount as stated in this Section 4.2. For each pay period in which a Participant receives Compensation from a Participating Employer which results in Employee Contributions pursuant to Section 4.1, the Participating Employer shall contribute Employer Contributions in an amount that is precisely equal to the dollar amount of Employee Contributions contributed pursuant to Section 4.1 for the same pay period.

4.3 ALLOCATION OF CONTRIBUTIONS, FORFEITURES AND EARNINGS

- (a) The Benefit Administrator shall establish and maintain an account in the name of each Participant (referred to as the Participant's Account) to which the Benefit Administrator shall credit as of each pay period all amounts allocated to each such Participant as hereafter set forth.
- (b) Employee Contributions and Employer Contributions made on or after January 1, 1998 shall be allocated to a Participant's Account as follows:

- (1) With respect to the Participant's Employee Contributions made pursuant to Section 4.1(a), to the Participant's Employee Contributions Account (formerly called "Pick Up Account") in an amount equal to such Participant's mandatory Employee Contributions contributed since the last prior Valuation Date.
- (2) With respect to the Employer Contributions made pursuant to Section 4.2 for a Participant, to the Participant's Employer Contributions Account (formerly called the "Non-Elective Account") in an amount equal to the Employer Contributions contributed since the last prior Valuation Date.

4.4 MAXIMUM ANNUAL ADDITIONS UNDER CODE SECTION 415

- (a) Notwithstanding the foregoing, the maximum 'annual additions' (as defined by Code Section 415(c)) credited to a Participant's Account for any 'limitation year' shall equal the lesser of: (1) the applicable dollar limitation in effect for such limitation year, as determined by the Secretary of Treasury, and as adjusted by the Secretary from time to time pursuant to Code Section 415(d)(1) (for example, \$44,000 for Plan Year 2006), or (2) 100% of the Participant's '415 Compensation' for such 'limitation year'. For any short 'limitation year', the dollar

limitation in (1) above shall be reduced by a fraction, the numerator of which is the number of full months in the short 'limitation year' and the denominator of which is twelve (12).

(b) For purposes of applying the limitations of Code Section 415, 'annual additions' means the sum of any and all contributions or forfeitures credited to a Participant's Account under this Plan and any other defined contribution plan, for any 'limitation year'. 'Annual additions' do not include transfers or rollovers of funds from one plan to another. In addition, the following are not 'annual additions' for the purposes of this Section: (1) rollover contributions as defined in Code Sections 401(a)(31), 402(c)(1), 403(a)(4), 403(b)(8), 408(d)(3), and 457(e)(16); and (2) Employee contributions to a simplified employee pension excludable from gross income under Code Section 408(k)(6)."

(c) For purposes of applying the limitations of Code Section 415, the "limitation year" shall be the Plan Year).

(d) A Participant may not participate in more than one plan maintained by the Participating Employer pursuant to Code Section 401(a). Notwithstanding the foregoing, if a Participant does participate in more than one plan maintained by a Participating Employer pursuant to Code Section 401(a) which plans have different Anniversary Dates, the maximum "annual additions" under this Plan shall equal the maximum "annual additions" for the "limitation year" minus any "annual additions" previously credited to such Participant's accounts in any other plan during the "limitation year."

(e) Notwithstanding anything contained in this Plan to the contrary, the limitations, adjustments and other requirements prescribed in this Plan shall at all times comply with the applicable provisions of Code Section 415 and the Regulations thereunder, as applicable to plans maintained by governmental entities, the terms of which are specifically incorporated herein by reference.

4.5 TRANSFERS AND ROLLOVERS FROM ELIGIBLE RETIREMENT PLANS

(a) Amounts may be transferred to the Plan Fund, by means of a direct trust-to-trust transfer or by means of a tax-free rollover from any other Eligible Retirement Plan (as that term is defined in Subsection 4.5(e) below); provided that the plan from which such funds are transferred permits the transfer to be made and provided that the Participant delivers information in a form and manner required by the Benefit Administrator to determine that the transfer or rollover is permissible under applicable law. The amounts transferred shall be set up in a separate account herein referred to as a "Participant's Rollover Account." Such account shall be fully Vested at all times and shall not be subject to forfeiture for any reason.

(b) Amounts in a Participant's Rollover Account shall be held in the Plan Fund pursuant to the provisions of this Plan, and may not be withdrawn by, or distributed to the Participant, in whole or in part, except as provided in Paragraph (c) of this Section.

(c) At Normal Retirement Date, or such other date when the Participant or his Beneficiary shall be entitled to receive benefits, the fair market value of the Participant's Rollover Account shall be used to provide additional benefits to the Participant.

(d) For purposes of this Section the term "amounts transferred from another plan" shall mean:

(1) amounts transferred to this Plan directly from another qualified plan;

(2) distributions from another qualified plan which are eligible rollover distributions and which are either transferred by the Employee to this Plan within sixty (60) days following their receipt thereof or are transferred pursuant to a direct rollover;

(3) amounts transferred to this Plan from a conduit individual retirement account provided that the conduit individual retirement account. Prior to accepting any transfers to which this Section applies, the Benefit Administrator may require the Employee to establish that the amounts to be transferred to this Plan meet the requirements of this Section and may also require the Employee to provide information satisfactory to the Benefit Administrator that the amounts to be transferred meet the requirements of this Section.

(e) For purposes of this Section, the term "Eligible Retirement Plan" shall mean any retirement plan that is qualified under Code Section 401(a) or 403(a), or, on or after January 1, 2002, which is designed to comply with the requirements of Code Section 403(b) or 457. Furthermore, "Eligible Retirement Plan" shall also mean a conduit individual retirement annuity or individual retirement account which is designed to comply with the requirements of Code Section 408(a) or 408(b), and which has no assets other than assets which: (i) were previously distributed to the Employee by another eligible retirement plan as a lump-sum distribution, (ii) were eligible for tax-free rollover to an eligible retirement plan, or (iii) were deposited in such conduit individual retirement account within sixty (60) days of receipt thereof and other than earnings on said assets, and (iv) amounts distributed to the Employee from a conduit individual retirement account meeting the requirements of clause (3) above, and transferred by the Employee to this Plan within sixty (60) days of their receipt thereof from such conduit individual retirement account.

4.6 ADJUSTMENT FOR EXCESSIVE ANNUAL ADDITIONS

(a) For 'limitation years' beginning on or after July 1, 2007, if the Benefit Administrator determines that the amount of a Participant's 'annual additions' exceed the limitations set forth herein, the excess 'annual additions' shall be corrected as permitted under the Internal Revenue Service's Employee Plans Compliance Resolution System ('EPCRS'), including any successor system or program thereto, or pursuant to any other available guidance from the Internal Revenue Service or U.S. Department of the Treasury.

(b) If as a result of a reasonable error in estimating a Participant's Compensation, a reasonable error in determining the amount of Participant Pick Up Contributions that may be made with respect to any individual under the limits of Code Section 415, or other facts and circumstances, the "annual additions" under this Plan would cause the maximum 'annual additions' to be exceeded for any Participant, the Benefit Administrator, to the extent permitted by paragraph (a) of this Section 4.6, shall return Employee Contributions attributable to the affected Participant. To the extent permitted by paragraph (a) of this Section 4.6, any Employer Contributions attributable to such return shall be drawn from the Participant's Account and shall be held in suspense, to be used to reduce future Employer Contributions to the Plan.

4.7 DIRECTED INVESTMENT OF A PARTICIPANT'S ACCOUNT

(a) Each Participant shall have the right to direct the investment of all or a portion of his or her Participant Account balance. Each Participant may, subject to a procedure established and applied in a uniform nondiscriminatory manner, direct the Benefit Administrator, in a form or manner satisfactory to the Benefit Administrator, to invest his or her Participant Account in specific Contracts or other investment funds permitted as investments under the Plan.

(b) Expenses incurred in connection with a Participant's directed investment of the Participant's Account shall be charged against the balance in such Account.

5. ACCOUNTS, INVESTMENTS AND VALUATIONS

5.1 INDIVIDUAL ACCOUNTS

The Benefit Administrator shall establish and maintain an Account for each Participant that shall reflect contributions made on behalf of the Participant, and earnings, expenses, gains and losses attributable thereto, and investments made with amounts in the Participant's Account.

5.2 ALLOCATION OF EARNINGS AND LOSSES TO ACCOUNTS

As of each Valuation Date, the Benefit Administrator shall:

(a) Adjust the balances in each of the Participant's Accounts upward or downward to reflect investment gains and losses (adjusted by any expenses charged to the Plan that are charged to the Participant's Account) since the last Valuation Date; the gain or loss of each separate investment fund or Contract will be allocated to each Participant's Account in the same proportion that the value of Participant's investment in such fund or Contract as of the last Valuation Date bears to the value of all Participant Accounts invested in that fund or Contract as of the same date;

(b) Credit to the Accounts of each Participant the contributions which were deposited in the Plan Fund since the last Valuation Date;

(c) Charge to each Participant's Account all payments or distributions made to or on behalf of the Participant since the last Valuation Date;

(d) Charge each Participant's Account such Participant's share of any administrative expenses as are allocable to such Account; and

(e) Credit and charge the proper investment fund or Contract subaccount of each Participant to reflect transfers among investment funds.

5.3 ACCOUNT STATEMENTS

Each Participant shall be provided by the Benefit Administrator with a statement of his or her Account under the Plan showing the values of each investment fund or Contract, and the aggregate value, at least once each Plan Year. Account statements may be delivered in hard copy or electronically as determined by the Plan Administrator.

5.4 PERMISSIBLE INVESTMENTS

On and after the Restatement Effective Date, the State Board (with the advice of the Investment Advisory Committee), shall arrange for the establishment of one or more investment funds and Contracts within the Trust Fund. The State Board (with the advice of the Investment Advisory Committee) may change the investment funds and Contracts from time to time in its discretion. The State Board (with the advice of the Investment Advisory Committee) shall have the authority and responsibility to select, eliminate or replace the investment funds and Contracts for the Plan, and to monitor the investment performance of the funds and Contracts offered under the Plan.

Except as otherwise provided in this Article 5, all contributions allocated to a Participant's Account shall be invested in one or more of the permissible investments, in accordance with the investment elections of the Participant (or, where applicable, the alternate payee or beneficiary with rights over an Account). As is the case for an active Participant, an inactive Participant may continue to make investment elections with respect to his or her Account.

5.5 INVESTMENT OF CONTRIBUTIONS

Each Participant may direct the investment of his or her Account among the permissible investment funds and Contracts. An investment direction shall remain effective with regard to all subsequent amounts credited to a Participant's Accounts, until changed in accordance with the provisions of this Article 5.

The Plan is intended to constitute a Plan described in ERISA section 404(c) with respect to Participant directed investments. The Plan Administrator shall make available to Participants information concerning the portfolio characteristics of each investment, its historic earnings performance, and other information to assist the Participants in exercising their investment discretion, as contemplated in ERISA section 404(c).

5.6 INITIAL INVESTMENT ELECTIONS

Coincident with commencement of Employee and Employer Contributions (or a rollover or transfer into the Plan), a Participant shall make an investment direction election allocating his or her future contributions among one or more of the permissible investment funds or Contracts in increments of one percent (1%). Such an investment election shall be presented in the manner, and in accordance with deadlines, established by the Plan Administrator.

The Plan Administrator may establish and communicate that, in the absence of any such investment election by the Participant, all such contributions shall be invested in a default fund. In the absence of a timely investment election from the Participant, the Benefit Administrator shall instruct the Trustee to invest the Participant's contributions in such default fund until the effective date of any change in investment election by the Participant.

5.7 CHANGING FUTURE CONTRIBUTIONS

A Participant may change his or her investment elections with respect to future contributions, among one or more investment funds or Contracts, by giving direction in the manner, and in accordance with deadlines and limitations, established by the Plan Administrator and managed by the Benefit Administrator. The Participant's election shall specify a percentage in increments of one percent (1%), which percentage may not exceed one hundred percent (100%).

5.8 REINVESTING EXISTING ACCOUNT BALANCES

A Participant may re-invest existing balances of his or her Account, from one or more of the permissible investments, by giving direction in the manner, and in accordance with deadlines and limitations, established by the Plan Administrator and managed by the Benefit Administrator. Elections will be implemented in accordance with the written administrative procedures of the Plan and of the underlying investment fund, if any, including by way of example any limitations on the frequency of trading or transferring between investment funds. The Participant's transfer election shall specify either (i) a percentage in increments of one percent (1%), which aggregate percentage may not exceed one hundred percent (100%), or (ii) a dollar amount in whole dollars that is to be transferred.

5.9 PURPOSE OF THE PLAN FUND

A Plan Fund has been created and will be maintained for the purposes of the Plan, consisting of:

(a) one or more Contracts which shall have the status of qualified trust assets of the Plan in accordance with Code Section 401(f), and

(b) on and after the Restatement Date, trust assets held by the Trustee in accordance with the terms of a trust agreement between the Sponsor and the Trustee.

The Trustee shall be appointed by the State Board, as further provided in Article 2 of this Plan. All contributions will be paid into the Plan Fund, and all benefits under the Plan (*but not any Supplemental Retirement Benefit under Section 6.2*) will be paid from the Trust.

5.10 EXCLUSIVE BENEFIT OF PARTICIPANTS AND BENEFICIARIES

Subject to the provisions for the return of erroneous contributions, the Plan Fund will be used and applied only in accordance with the provisions of the Plan to provide the benefits thereof, and no part of the corpus or income of the Plan Fund shall be used for or diverted to purposes other than for the exclusive benefit of the Participants and their Beneficiaries and with respect to expenses of administration.

5.11 BENEFITS SUPPORTED ONLY BY THE PLAN FUND

Any person having any claim under the Plan will look solely to the assets of the Plan Fund for satisfaction; provided, however, that any Supplementary Retirement Benefit payable pursuant to Section 6.2 shall be payable from assets of the State Board and not from the Plan Fund.

5.12 PAYMENT OF EXPENSES

Except as provided below, all reasonable costs and expenses incident to the administration and protection of the Plan and the Plan Fund, including but not limited to legal, accounting, and Trustee fees, shall be paid by the Trust, unless the Plan Administrator elects to cause the State Board or any or all of the Participating Employers to pay such expenses. Until paid, such expenses shall constitute a first and prior claim and lien against the Plan Fund.

All such costs and expenses paid from the Plan Fund, unless allocable to one or more Participant Accounts for transaction expenses attributable directly to such Participants, shall be charged against the Accounts of all Participants on a pro rata basis or in such other reasonable manner as may be directed by the Plan Administrator.

Notwithstanding the foregoing, any and all expenses relating to settlor functions that arise from the creation, design or termination of the Plan must be paid by the Sponsor or Participating Employers and may not be paid from the Plan Fund.

6. DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON RETIREMENT

Except as provided under Section 6.3 (describing the eligibility to commence benefits as early as 180 days following a termination of employment), a Participant may commence receiving Retirement Benefits under this Plan upon the later of the date of his or her termination of employment and the date of attaining his or her Normal Retirement Date. Upon such benefit commencement date, all amounts credited to such Participant's Account shall become eligible for distribution in accordance with the form of payment elected by the Participant. However, subject

to the rules pertaining to mandatory commencement of distributions under Article 11 and Code Section 401(a)(9), a Participant may postpone the commencement of benefit payments under this Plan. Upon a Participant's Normal or Late Retirement Date (whichever occurs first), or as soon thereafter as is practicable, the Benefit Administrator shall distribute all amounts credited to such Participant's Account in accordance with Section 6.4.

6.2 SUPPLEMENTAL RETIREMENT BENEFITS

This Section 6.2 describes the terms of a benefit (the Supplemental Retirement Benefit) which, if payable, shall not be payable from assets of the Plan Fund but shall instead be payable from assets of the State Board.

(a) A Participant is eligible to receive Supplemental Retirement Benefit payments if at the time of termination of employment the Participant is age sixty-two or over and has at least ten Years of Service in either the Predecessor Plan, this Plan, or a combination of both at a Washington public institution of higher education, provided, that the amount of the Supplemental Retirement Benefit, as calculated in accordance with the provisions of this Section, is a positive amount.

(b) Subject to the provisions of subdivisions (3), (4), and (5) of this subsection, the annual amount of Supplemental Retirement Benefit payable to a Participant upon retirement is the excess, if any, when the value determined in subdivision (2) is subtracted from the value determined in subdivision (1), as follows:

(1) The lesser of fifty percent of the Participant's Average Annual Compensation or two percent of the Average Annual Compensation multiplied by the number of Years of Service; provided that if the Participant did not elect to contribute ten percent of salary beginning July 1, 1974, or if later, after attainment of age fifty, service for such periods shall be calculated at the rate of one and one-half percent instead of two percent.

(2) The combined Retirement Benefit from the Predecessor Plan, this Plan and any other Washington State public retirement system as a result of service while employed by a Washington public higher education institution that the Participant would receive in the first month of retirement multiplied by twelve; provided, that the benefit under this subsection "(b)" shall be calculated on the following assumptions.

(i) After July 1, 1974, fifty percent of the combined contributions to the Predecessor Plan and this Plan were made to the TIAA Traditional Annuity and fifty percent to the CREF Stock Account during each Year of Service, provided, that benefit calculations related to contributions made prior to July 1, 1974, shall be computed on the basis of actual allocations between TIAA and CREF; and

(ii) The full TIAA-CREF annuity accumulations, including all dividends payable by TIAA and further including the amounts, if any, paid in a single sum under the retirement transition benefit option, were fully settled on a joint and

two-thirds survivorship option with a ten-year guarantee, using actual ages of retiree and spouse, but not exceeding a five-year difference; except that for unmarried Participants the TIAA accumulations, including dividends, were settled on a life annuity with ten-year guarantee option, all to be based on TIAA-CREF estimates at the time of retirement; and

(iii) Annuity benefits purchased by premiums paid other than as a participant in a Washington public institution of higher education TIAA-CREF retirement plan shall be excluded; and

(iv) For the purposes of this calculation, the assumptions applied to the TIAA-CREF accumulation settlement shall also apply to settlement of the benefit from any other retirement plan.

(3) The amount of Supplemental Retirement Benefit for a Participant who has not attained age sixty-five at retirement is the amount calculated in subsection (2) of this Section reduced by one-half of one percent for each calendar month remaining until age sixty-five, provided that the Supplemental Retirement Benefit for an otherwise qualified Participant retired for reason of health or permanent disability shall not be so reduced.

(4) Any portion of a Participant's TIAA and/or CREF annuity accumulation paid to a Participant's spouse upon dissolution of a marriage shall be included in any subsequent calculation of Supplemental Retirement Benefits just as if these funds had remained in the Participant's TIAA and/or CREF annuity.

(5) The selection of a TIAA-CREF retirement option of joint and two-thirds survivorship with ten-year guarantee shall not alter the method of calculating the Supplemental Retirement Benefit; however, if the Participant's combined TIAA-CREF Retirement Benefit and calculated Supplemental Retirement Benefit, expressed, if married, in the form of a joint and two-thirds survivorship annuity, and, if not married, in the form of a single-life annuity, exceeds fifty percent of the Participant's Average Annual Compensation, the Supplemental Retirement Benefit shall be reduced so that the total combined benefits do not exceed fifty percent of Average Annual Compensation.

(c) The payment of Supplemental Retirement Benefits shall be consistent with the following provisions:

(1) Supplemental Retirement Benefits shall be paid in equal monthly installments, except that if such monthly installments shall be less than ten dollars, such benefit payments may be paid at longer intervals as determined by the State Board.

(2) Supplemental Retirement Benefit payments will continue for the lifetime of the Retired Participant; however, prior to retirement, a Participant may choose to provide for the continuation of Supplemental Retirement Benefit payments, on an actuarially equivalent reduced basis, to his or her spouse or Designated Beneficiary after the retiree's

death. Notification of such choice shall be filed in writing with the State Board and shall be irrevocable after retirement. If such option is chosen, the Supplemental Retirement Benefit payments shall be in the same proportion as any survivor annuities option potentially payable to and elected by the Participant. If a designation of a survivor's option is not made and the Participant dies after attaining age sixty-two but prior to retirement, any Supplemental Retirement Benefit payable shall be based on the two-thirds benefit to survivor option.

(3) Prior to making any Supplemental Retirement Benefit payments, the State Board shall obtain a document signed by the Participant and spouse, if any, or Designated Beneficiary acknowledging the Supplemental Retirement Benefit option chosen by the Participant.

(d) A Retired Participant who is reemployed shall continue to be eligible to receive retirement income benefits, except that the Supplemental Retirement Benefit shall not continue during periods of employment for more than forty percent of full-time or seventy hours per month for five months during any Fiscal Year. Employee and Employer Contributions shall not be made from the salary for any such period of re-employment where the individual does not meet the eligibility conditions of Section 3.1, unless the individual once again becomes eligible to participate under the provisions of Section 3.1 and WAC 131-16-021.

6.3 DETERMINATION OF BENEFITS UPON TERMINATION

(a) On or before the Anniversary Date coinciding with or subsequent to the termination of a Participant's employment for any reason other than death or retirement, the Plan Administrator may direct the Benefit Administrator to segregate a Terminated Participant's Account and invest the aggregate amount thereof in a separate annuity Contract. In the event the Participant's Account is not segregated, the amount shall remain in a separate account for the Terminated Participant and share in investment gains and losses per Section 5.2 until such time as a distribution is made to the Terminated Participant.

(b) Distribution of the funds due to a Terminated Participant shall be made to Participants who have either: (i) attained age fifty-five (55), (ii) separated from service due to disability, (iii) completed thirty Years of Service, or (iv) been separated from service from all Participating Employers for more than 180 days. Any distribution under this paragraph shall be made in a manner that is consistent with and satisfies the provisions of Section 6.4, including, but not limited to, all notice and consent requirements of Code Sections 411(a)(11) and 417.

For purposes of this Section 6.3, if the value of a Terminated Participant's benefit is zero, the Terminated Participant shall be deemed to have received a distribution of such benefit.

(c) Participants shall be fully Vested in their Employer Contributions and Employee Contributions immediately upon entry into the Plan. Consequently, the full balance of a Participant's Account shall be fully Vested at all times, and (except as provided under Section

3.6, with regard to erroneous contributions) shall not be subject to forfeiture under any circumstances.

(d) The computation of a Participant's Vested percentage of his or her interest in the Plan shall not be reduced as the result of any direct or indirect amendment to this Plan. In the event that the Plan is amended to change or modify any vesting schedule, a Participant with at least three (3) Years of Service as of the expiration date of the election period may elect to have his or her Vested percentage computed under the Plan without regard to such amendment. If a Participant fails to make such election, then such Participant shall be subject to the new vesting schedule. The Participant's election period shall commence on the adoption date of the amendment and shall end 60 days after the latest of:

- (1) the adoption date of the amendment,
- (2) the effective date of the amendment, or
- (3) the date the Participant receives written notice of the amendment and the end of the 60 day period from the Employer or Plan Administrator.

(e) If any Former Participant shall be reemployed by the Participating Employer, the Participant shall continue to participate in the Plan in the same manner as if such termination had not occurred provided that he or she is re-employed in an eligible position pursuant to Section 3.1.

6.4 DISTRIBUTION OF BENEFITS

(a) The Benefit Administrator, pursuant to the election of the Participant (or Designated Beneficiary), shall direct the distribution to a Participant (or the Participant's Designated Beneficiary) any amount to which he or she is entitled under the Plan in one or more of the following methods:

- (1) With respect to any portion of the balance of a Participant's Account that is held in an investment fund other than a Contract, the optional forms of distribution shall be as follows:
 - (i) one lump-sum payment in cash;
 - (ii) systematic distributions, consisting of distributions in an amount per payment elected by the Participant, and occurring either semi-monthly, monthly, quarterly, semi-annually or annually (as elected by the Participant), and continuing until the earliest to occur of the date: (A) the Participant directs the distributions to cease; (B) the Participant directs the amount of each distribution to change; (C) the exhaustion of the balance of the Participant's Account; or (D) the death of the Participant (and, in case of such a death, any remaining balance shall be payable to the Participant's Designated Beneficiary); or

(iii) upon the reinvestment transfer to a Contract of any or all of the balance of the Participant's Account that is held in an investment fund, then any such transferred balance that is held in an investment vehicle under a Contract shall thereafter be eligible for distribution in accordance with any of the alternate forms of distribution stated in subsection "(2)" below.

(2) With respect to any portion of the balance of a Participant's Account that is held in an investment vehicle under a Contract, the optional forms of distribution shall be as follows:

(i) One lump-sum payment in cash. Under the Group Retirement Annuity (GRA) contract, cash payments from the TIAA Traditional Annuity must be made no later than 120 days after the 180 day period referenced in Section 6.3(b) expires. Under the Retirement Annuity (RA) contract, lump-sum withdrawals from the TIAA Traditional Annuity may be received through the Transfer Payout Annuity, in substantially equal annual payments over a period of 10 years. The 120 day period for withdrawals from the TIAA Traditional Annuity applicable to the GRA does not apply to the RA. For both the GRA and RA, there is no time limit on cash payments from the CREF and TIAA Real Estate Accounts.

(ii) Purchase of or providing an annuity in a form selected by the Participant, acceptable to the Benefit Administrator and provided under the Contract, or

(iii) Payments over a period certain in monthly, quarterly, semiannual, or annual cash installments according to terms selected by the Participant acceptable to the Benefit Administrator and provided under the Contract.

(iv) In the form of a Retirement Transition Benefit. The Retirement Transition Benefit (RTB) permits a Participant to receive a one-time lump-sum payment for up to 10 percent of his or her Participant Account at the time annuity income begins, provided the one-sum payment from each Contract does not exceed 10 percent of the Participant Account being converted to retirement income.

(v) In the form of an Interest Payment Retirement Option. Participants who are age 55 or older may receive payments of the interest that would otherwise be credited to their TIAA Traditional Annuity accumulation.

(vi) a systematic distribution, as described in Section 6.4(a)(1)(ii).

(b) Any distribution to a Participant shall require such Participant's consent. With regard to this required consent:

(1) No consent shall be valid unless the Participant has received a general description of the material features and an explanation of the relative values of the optional forms of benefit available under the Plan that would satisfy the notice requirements of Code Section 417.

(2) A Terminated Participant who has a right to commence a benefit prior to his or her Normal Retirement Date must be informed of his or her right to defer commencement of the benefit to a subsequent date, but not later than the date required by Article 11. If a Terminated Participant fails to consent to a distribution, it shall be deemed an election to defer the commencement of payment of any benefit. However, any election to defer the receipt of benefits shall not apply with respect to distributions that are required to commence under Article 11.

(3) Notice of the rights specified under this paragraph shall be provided no less than 30 days and no more than 90 days before the "annuity starting date" (as defined in the Code).

(4) Written consent of the Participant to the distribution must not be made before the Participant receives the notice and must not be made more than 90 days before the first day on which all events have occurred which entitle the Participant to such benefit.

(5) No consent shall be valid if a significant detriment is imposed under the Plan on any Participant who does not consent to the distribution.

(6) If a distribution is one to which Code Sections 401(a)(11) and 417 do not apply, such distribution may commence less than 30 days after the notice required under Regulation 1.411(a)-11(c) is given, provided that: (1) the Benefit Administrator clearly informs the Participant that the Participant has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and (2) the Participant, after receiving the notice, affirmatively elects a distribution.

6.5 DISTRIBUTION OF BENEFITS UPON DEATH

(a) If a Participant dies before he or she has begun to receive distribution of his or her benefits under the Plan, the Benefit Administrator shall direct that the Participant's Designated Beneficiary be paid all amounts credited to such Participant's Account which are payable to the Designated Beneficiary under the Plan, in one or more of the methods described in Section 6.4(a).

(b) Any distribution to a Participant or Designated Beneficiary must meet the requirements of Code Section 401(a)(9) as set forth in Article 11.

(1) If the distribution of a Participant's interest has begun (or is deemed to have begun in accordance with the Code) and the Participant dies before his or her entire interest has been distributed, the remaining portion of such interest shall be distributed at least as rapidly as under the method of distribution selected pursuant to Section 6.4 as of the Participant's date of death.

(2) If a Participant dies before he or she has begun to receive any distributions of his or her interest under the Plan (or before distributions are deemed to have begun pursuant to the Code), then the Participant's death benefit shall be distributed to his or her Beneficiaries in accordance with the following:

(i) The entire death benefit shall be distributed to the Participant's Beneficiaries by December 31st of the calendar year immediately following the calendar year in which the fifth anniversary of the Participant's death occurs.

(ii) The 5-year distribution requirement of (i) above shall not apply to any portion of the deceased Participant's interest that is payable to or for the benefit of a Designated Beneficiary. In such event, such portion shall be distributed over the life of such Designated Beneficiary (or over a period not extending beyond the life expectancy of such Designated Beneficiary) provided such distribution begins not later than December 31st of the calendar year immediately following the calendar year in which the Participant died.

(iii) However, in the event the Participant's spouse (determined as of the date of the Participant's death) is the Designated Beneficiary, a spousal election may be made to delay the time at which distributions must commence until the later of: (A) December 31st of the calendar year immediately following the calendar year in which the Participant died; or (B) December 31st of the calendar year in which the Participant would have attained age 70 1/2. If the surviving spouse dies before distributions to such spouse begin, then the 5-year distribution requirement of this Section shall apply as if the spouse was the Participant.

(c) For the purpose of Section 6.5(b), the election by a Designated Beneficiary to be excepted from the 5-year distribution requirement must be made no later than December 31st of the calendar year following the calendar year of the Participant's death. Except, however, with respect to a Designated Beneficiary who is the Participant's surviving spouse, the election by the Participant's surviving spouse to delay the payment of benefits must be made by the earlier of: (1) December 31st of the calendar year immediately following the calendar year in which the Participant died or, if later, the calendar year in which the Participant would have attained age 70 1/2; or (2) December 31st of the calendar year that contains the fifth anniversary of the date of the Participant's death. An election by a Designated Beneficiary must be in writing and shall be irrevocable as of the last day of the election period state herein. In the absence of an election by the Participant or a Designated Beneficiary, the 5-year distribution requirement shall apply.

For purposes of this Section, the life expectancy of a Participant and a Participant's spouse (other than in the case of a life annuity) shall be re-determined annually in accordance with Regulations. Life expectancy and joint and last survivor expectancy shall be computed using the return multiples in Tables V and VI of Regulation Section 1.72-9.

6.6 DISTRIBUTION FOR MINOR BENEFICIARY

In the event a distribution is to be made to a minor, then the Benefit Administrator may direct that such distribution be paid to the legal guardian, or if none, to a parent of such Designated Beneficiary or a responsible adult with whom the Designated Beneficiary maintains his residence, or to the custodian for such Designated Beneficiary under the Uniform Gift to Minors Act or Gift to Minors Act, if such is permitted by the laws of the state in which said Designated

Beneficiary resides. Such a payment to the legal guardian, custodian or parent of a minor Designated Beneficiary shall fully discharge the Sponsor, Plan Administrator, Benefit Administrator, Participating Employer, and Plan from further liability on account thereof.

6.7 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

In the event that all, or any portion, of the distribution payable to a Participant or Designated Beneficiary hereunder shall, at the Participant's attainment of age 70-1/2, remain unpaid solely by reason of the inability of the Benefit Administrator, after sending a registered letter, return receipt requested, to the last known address, and after further diligent effort, to ascertain the whereabouts of such Participant or Designated Beneficiary, the amount so distributable shall be disposed of pursuant to state law.

6.8 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

(a) A Participating Employer may approve the retirement of any Participant who has terminated employment for reasons of health or permanent disability, either upon the request of the Appointing Authority or the Participant, provided that reasonable consideration is first given to the written recommendations of the Employee's personal physician or, if requested by the Participant or the Appointing Authority, a review of such recommendations by another physician appointed by mutual agreement for that purpose.

(b) The Participant described in subsection (a) shall be treated in all respects as if he or she had attained his or her Normal Retirement Date. As of the date that would be the Participant's Normal Retirement Date, the Benefit Administrator, in accordance with the provisions of Section 6.4, shall direct the Custodian to distribute to such Participant all amounts credited to such Participant's Account as though the Participant had retired.

6.9 ADVANCE DISTRIBUTION FOR HARDSHIP

(a) In the event of a Participant's financial hardship, as such term is described herein, a Participant shall have a right to withdraw from his or her Account an amount up to the lesser of the Account balance or the amount necessary to satisfy the immediate and heavy financial need of the Participant; provided, however, such a withdrawal shall be limited to the Participant's Deferred Compensation and any income allocable thereto credited to the Participant's Account prior to December 31, 1988. Withdrawal under this Section shall be authorized only if the distribution is as a result of:

(1) Expenses for (or necessary to obtain) medical care that would be deductible under Code Section 213(d) (determined without regard to whether the expenses exceed 7.5% of adjusted gross income) incurred by the Participant, his or her spouse, children, or dependents;

(2) The need to prevent the eviction of the Participant from the Participant's principal residence or foreclosure on the mortgage of the Participant's principal residence; or

- (3) The need to prevent the bankruptcy of the Participant
- (b) No distribution shall be made pursuant to this Section unless the Participating Employer and Benefit Administrator, based upon the Participant's representation and such other facts as are known to the Participating Employer, determine that all of the following conditions are satisfied:
- (1) The distribution is not in excess of the amount of the immediate and heavy financial need of the Participant, where the amount of the immediate and heavy financial need may include any amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from such distribution;
 - (2) The Participant has obtained all distributions, other than hardship distributions, and all nontaxable loans currently available under all plans maintained by the Participating Employer; and
 - (3) The Plan, and all other plans maintained by the Participating Employer, provide that the Participant's elective deferrals to any other retirement plans (including, by way of example, programs under Code Section 403(b) or 457) will be suspended for at least six months after receipt of the hardship distribution.
- (c) Any distribution made pursuant to this paragraph shall be deemed to be made as of the first day of the Plan Year or, if later, the Valuation Date immediately preceding the date of distribution, and the Participant's Account shall be adjusted accordingly.
- (d) Any distribution made pursuant to this Section 6.9 shall be subject to the consent of the Participant's spouse, if any, and shall be paid as a single distribution.
- (e) The Participant shall be deemed to have no other resources reasonably available to meet the need if the Participant certifies that he or she cannot meet the need through:
- (1) Reimbursement or compensation by insurance or another source;
 - (2) Reasonable liquidation of assets;
 - (3) Borrowing from supplemental retirement accounts, life insurance values, or commercial sources; and/or
 - (4) Stopping any voluntary employee contributions to tax deferral or savings plans made available to by the employer, provided however that mandatory employee contributions to the Plan must continue while the Participant remains eligible for the Plan.

6.10 QUALIFIED DOMESTIC RELATIONS ORDERS

All rights and benefits, including elections, provided to a Participant in this Plan shall be subject to the rights afforded to any "alternate payee" under a "qualified domestic relations order."

Furthermore, a distribution to an "alternate payee" shall be permitted if such distribution is authorized by a "qualified domestic relations order," even if the affected Participant has not reached the "earliest retirement age" under the Plan. For the purposes of this Section, "alternate payee," "qualified domestic relations order" and "earliest retirement age" shall have the meaning set forth under Code Section 414(p).

6.11 DIRECT ROLLOVER

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect, at the time and in the manner prescribed by the Benefit Administrator, to have any portion of an eligible rollover distribution paid directly to an Eligible Retirement Plan specified by the distributee in a direct rollover.

(b) For purposes of this Section the following definitions shall apply:

(1) **Eligible rollover distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's Designated Beneficiary, or for a specified period of ten years or more; any minimum required distribution under Code Section 401(a)(9); any distribution made on account of financial hardship after December 31, 2000; and (except as permitted by the Code) any distribution that is not includible in gross income.

(2) **Eligible Retirement Plan** shall mean an individual retirement account or individual retirement annuity (IRA), other than an endowment contract, under Code Section 408(a) or 408(b), a Roth IRA under Code Section 408A, a trust qualified under Code Section 401(a) and exempt from tax under Code Section 501(a), which accepts rollover distributions (as limited by Code Section 401(a)(31)(D)), a plan designed to comply with Code Section 403(a) or 403(b), or an eligible plan under Code Section 457 that is maintained by a governmental entity which agrees to separately account for amounts transferred into such plan from this Plan. In the case of a distribution to a 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)).

(3) A distributee includes a Participant or Former Participant. In addition, the Participant's or Former Participant's surviving spouse and the Participant's or Former Participant's spouse or former spouse who is the alternate payee under a qualified domestic relations order, as defined in Code Section 414(p), are distributees with regard to the interest of the spouse of former spouse.

(4) A direct rollover is a payment by the Plan to the Eligible Retirement Plan specified by the distributee.

7. PLAN ADMINISTRATOR

7.1 PLAN ADMINISTRATOR

(a) Effective on and after the Restatement Effective Date, unless and until the State Board determines to the contrary, the Plan Administrator shall be the Director of Human Resources of the State Board.

(b) The Plan Administrator shall have the authority to appoint, replace and terminate the service of a legal counsel, consultant or adviser who may be selected to advise the Plan Administrator.

(c) The Plan Administrator shall have all powers necessary to enable it to carry out its duties under the Plan. Not in limitation, but in amplification of the foregoing, it will have the discretionary power to construe the Plan and to determine all questions that may arise hereunder, including all questions relating to the eligibility of Employees to participate in the Plan and the amount of benefit to which any Participant or Designated Beneficiary may become entitled. Decisions upon all matters within the scope of his or her authority will be final.

(d) The Plan Administrator, with the assistance and contractual services of the Benefit Administrator, shall administer the Plan in a nondiscriminatory manner for the exclusive benefit of Participants and their Beneficiaries. The Plan Administrator (or the persons or entities to whom the Plan Administrator delegates any of its discretion, authority, duties and responsibilities, including the Benefit Administrator) shall have the discretion in the performance of – and shall perform – all such duties as are necessary to supervise the administration of the Plan and to control its operation in accordance with the terms thereof, including, but not limited to, the following:

- (1) Make and enforce such rules and regulations as it shall deem necessary or proper for the efficient administration of the Plan, consistent with State Board policies;
- (2) Interpret the provisions of the Plan and resolve any question arising under the Plan, or in connection with the administration or operation thereof;
- (3) Make all determinations affecting the eligibility of any Employee to be or become a Participant;
- (4) Determine eligibility for and amount of benefits for any Participant;
- (5) Authorize and direct the Trustee with respect to all disbursements of benefits under the Plan;

(6) Employ and engage such persons, counsel and agents and to obtain such administrative, consulting, clerical, medical, legal, audit and actuarial services as it may deem necessary in carrying out the provisions of the Plan, including without limitation, the Benefit Administrator; and

(7) Delegate and allocate specific responsibilities, obligations and duties imposed by the Plan to one or more employees, officers or such other persons as the Plan Administrator deems appropriate, including the Benefit Administrator and the Trustee.

7.2 INVESTMENT ADVISORY COMMITTEE; STATE BOARD POWERS

(a) The Investment Advisory Committee shall consist of three or more employees of the Sponsor or of a Participating Employer, including, without limitation, the Director of Human Resources of the Sponsor, who shall serve as the voting chairperson of the Investment Advisory Committee. The chairperson shall have the authority to appoint, remove and replace other voting members of the Investment Advisory Committee. Any member of the Investment Advisory Committee may resign or may be removed by the chairperson of the Investment Advisory Committee.

(b) The Investment Advisory Committee shall serve as an advisory committee to the State Board. The State Board (with the advice of the Investment Advisory Committee) shall have the following powers and duties with respect to Contracts, other investment fund options offered by the Plan, and any Investment Managers:

(1) To set policy for the investment vehicles to be offered to Participant's for investment direction under the Plan Fund;

(2) To review, select or remove, and monitor the performance of, investment funds and Contracts;

(3) To receive and review reports of the performance of investment funds and Contracts;

(4) To review, select or remove one or more Investment Managers;

(5) To interpret and construe the Plan with respect to the investment, reinvestment, and disposition of Plan assets; and

(6) To appoint, replace and terminate an investment consultant or advisor who may be selected to advise the Investment Advisory Committee.

7.3 INDEMNITY, BONDING AND INSURANCE

(a) The Sponsor shall indemnify and hold harmless the Plan Administrator, from and against any and all loss resulting from liability to which the Plan Administrator may be subjected by reason of any act or conduct (except willful or reckless misconduct), in their official capacities in

the administration of the Plan, or the Plan Fund, or both, including all expenses reasonably incurred in the Plan Administrator's defense, in case the Sponsor fails to provide such defense.

(b) To the extent required by law, every member, every fiduciary of the Plan and every person handling Plan funds shall be bonded. The Plan Administrator shall take such steps as are necessary to assure compliance with applicable bonding requirements. The Plan Administrator may apply for and obtain fiduciary liability insurance insuring the Plan against damages by reason of breach of fiduciary responsibility at the Plan's expense and insuring each fiduciary against liability to the extent permissible by law. Nothing in this paragraph is intended to impose any duty upon the State Board or the Plan Administrator to assume the cost of insurance coverage, or to indemnify, any Benefit Administrator, Trustee or any other third-party advisor, fiduciary or service provider.

7.4 FIDUCIARIES

(a) **Limitation of Liability:** To the extent permitted by law, no Participant shall have any claim against the Sponsor, any Participating Employer, the Plan Administrator, the Investment Advisory Committee, the Trustee or any other fiduciary or service provider to the Plan, or against the directors, officers, members, agents or representatives of any of them (collectively "parties in interest"), for any benefits under the Plan, and such benefits (other than those described in Section 6.2) shall be payable solely from the Trust Fund; nor shall any of the parties in interest incur any liability to any person for any action taken or suffered or omitted to be taken by them under the Plan in good faith. The Sponsor intends that neither the Plan nor any party in interest shall be liable for any loss due to a Participant exercising control over the investment of assets in his or her Account.

(b) Indemnification

(1) **Parties Protected by Indemnification.** In order to facilitate the recruitment of competent individuals as fiduciaries and/or service providers to the Plan, the Sponsor agrees to provide the indemnification as described herein. This provision shall apply to Employees who are considered Plan fiduciaries or service providers to the Plan. Notwithstanding the preceding, this provision shall not apply and indemnification will not be provided for any third party corporation, partnership or other business entity that may be appointed as a fiduciary or service provider to the Plan, or to any corporate Benefit Administrator, Trustee or Investment Manager, whether appointed as a service provider or a Plan fiduciary.

(2) **Scope of Indemnification.** The Sponsor agrees to indemnify an Employee fiduciary as described above for all acts taken in good faith in carrying out his or her responsibilities under the terms of this Plan or other responsibilities imposed upon such fiduciary by applicable state law. This indemnification for all acts is intentionally broad but shall not provide indemnification for gross negligence, willful misconduct, embezzlement or diversion of Plan assets for the benefit of the Employee fiduciary. The Sponsor agrees to indemnify Employees and other individuals as described in the

previous paragraph herein for all expenses of defending an action by a Participant, Designated Beneficiary or government entity, including all legal fees for counsel selected with the consent of the Sponsor and the Participating Employers and other costs of such defense. The Sponsor and the Participating Employers will also reimburse an Employee fiduciary for any monetary recovery in any court or arbitration proceeding. In addition, if the claim is settled out of court with the concurrence of the Sponsor and the Participating Employer, the Sponsor and Participating Employer will indemnify an Employee fiduciary for any monetary liability under said settlement. The Sponsor and the Participating Employer shall have the right, but not the obligation, to conduct the defense of such persons in any proceeding to which this Section applies. The Sponsor may satisfy its obligations under this Section in whole or in part through the purchase of a policy or policies of insurance providing equivalent protection.

7.5 CLAIMS AND APPEALS PROCEDURES

- (a) The claims and appeals procedures under the Plan shall be administered in accordance with the provisions of this Section 7.5 and any guidelines adopted by the Plan Administrator from time to time that comply with applicable law.
- (b) A “claim” (as that term is used in this Section) occurs when a Participant or Designated Beneficiary (“Claimant”) either (i) makes an application for a benefit under the Plan, or (ii) disputes a determination by a Participating Employer or the Benefit Administrator (or a person or persons authorized by the Plan Administrator to process claims hereunder) of the amount of any benefit or the resolution of any matter affecting a benefit under the Plan. A claim or appeal may be filed by an authorized representative of the Claimant.
- (c) Notwithstanding any other provision of the Plan, a Claimant shall not have a right to submit a dispute with respect to a benefit under this Plan more than one year after the date the individual has knowledge of all material facts that are the subject of the dispute.
- (d) Claims for benefits under the Plan shall be filed with the office of the Director of Human Resources of the State Board on forms or in a manner provided for that purpose. Each claim will be decided by a person appointed by the Plan Administrator to serve as a claims administrator under this Plan (the "Claims Administrator"). The Claimant will be notified in writing of the approval or denial of a claim within ninety (90) days of the date that the Claims Administrator receives the claim, unless special circumstances require an extension of time for processing the claim. In the event an extension is necessary, the Claimant will be provided written notice prior to the end of the initial ninety (90) day period indicating the special circumstances requiring the extension and the date by which the Claims Administrator expects to notify the Claimant of approval or denial of the claim. In no event will an extension extend beyond ninety (90) days after the end of the initial ninety (90) day period.
- (e) If a claim is denied, the written notification will state specific reasons for the denial, make specific reference to the Plan provision(s) on which the denial is based, and provide a description of any material or information necessary for the Claimant to perfect the claim and why such

material or information is necessary. The written notification will also provide a description of the Plan's review procedures and the applicable time limits.

(f) The Claimant will have sixty (60) days from receipt of the written notification of the denial of a claim to file a signed, written request for a full and fair review of the denial by the Plan Administrator, who shall serve as an appeals administrator for this purpose (the "Appeals Administrator"). This request should include the reasons the Claimant is requesting a review and may include facts supporting the request and any other relevant comments, documents, records and other information relating to the claim. Upon request and free of charge, the Claimant will be provided with reasonable access to, and copies of, all documents, records and other information relevant to the claim, including any document, record or other information that was relied upon in, or submitted, considered or generated in the course of, denying the claim. A final, written determination of the Claimant's eligibility for benefits shall be made within sixty (60) days of receipt of the Claimant's request for review, unless special circumstances require an extension of time for processing the claim, in which case the Claimant will be provided written notice of the reasons for the delay within the initial sixty (60) day period and the date by which the Claimant should expect notification of approval or denial of the claim. This review will take into account all comments, documents, records and other information submitted by the Claimant relating to the claim, whether or not submitted or considered in the initial review of the claim. In no event will an extension extend beyond sixty (60) days after the end of the initial sixty (60) day period. If an extension is required because the Claimant fails to submit information that is necessary to decide the claim, the period for making the benefit determination on review will be tolled from the date the notice of extension is sent to the Claimant until the date on which the Claimant responds to the request for additional information. If the claim is denied on review, the written notification will state specific reasons for the denial, make specific reference to the Plan provision(s) on which the denial is based and state that the Claimant is entitled to receive upon request, and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claim, including any document, record or other information that was relied upon in, or submitted, considered or generated in the course of, denying the claim.

(g) If the claim is initially denied or is denied upon review, the Claimant shall be entitled to receive upon request, and free of charge, reasonable access to, and copies of, any document, record or other information that demonstrates that (1) the claim was denied in accordance with the terms of the Plan, and (2) the provisions of the Plan have been consistently applied to similarly situated Participants, if any. In pursuing any of its rights set forth in this Section, a Claimant's authorized representative may act on the Claimant's behalf.

(h) The Plan hereby delegates full and complete discretion to the Claims Administrator and the Appeals Administrator:

- (1) To make findings of fact pertaining to a claim or appeal;
- (2) To interpret the Plan as applied to the facts; and
- (3) To decide all aspects of the claim or appeal.

The decision by the Appeals Administrator shall be the final and conclusive administrative review proceeding under the Plan.

8. AMENDMENT, TERMINATION AND MERGERS

8.1 AMENDMENT

(a) The Sponsor shall have the right at any time to amend the Plan. Any such amendment shall be adopted by formal action of the State Board and executed by the Plan Administrator or other person authorized to act on behalf of the State Board. Any such amendment shall become effective as provided therein upon its execution.

(b) No amendment to the Plan shall be effective if it authorizes or permits any part of the Plan Fund (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 estates; or causes any reduction in the amount credited to the account of the Participant; or causes or permits any portion of the Plan Fund to revert to or become property of any Participating Employer.

(c) Except as permitted by the Code, no Plan amendment or transaction having the effect of a Plan amendment (such as merger, plan transfer or similar transaction) shall be effective to the extent it eliminates or reduces any "Section 411(d)(6) protected benefits" the result of which is a further restriction on such benefit unless such protected benefits are preserved with respect to benefits accrued as of the later of the adoption date or effective date of the amendment. "Section 411(d)(6) protected benefits" are benefits described in Code Section 411(d)(6)(A), early retirement benefits and retirement-type subsidies, and optional forms of benefit.

8.2 TERMINATION

The Sponsor shall have the right at any time to terminate the Plan by delivering to the Plan Administrator and Benefit Administrator a written notice of such termination. A complete discontinuance of Employer Contributions to the Plan shall be deemed to constitute a termination. Upon any termination (full or partial) or complete discontinuance of contributions, all amounts credited to the affected Participant's Accounts shall not thereafter be subject to forfeiture and all unallocated amounts shall be allocated to the accounts of all Participants in accordance with the provisions thereof. Upon such termination of the Plan, the Sponsor, by written notice to the Plan Administrator and Benefit Administrator, may direct either:

(a) complete distribution of the assets in the Plan Fund to the Participants, in cash or in kind, in a manner consistent with the requirements of Section 6.4; or

(b) continuation of the frozen Plan and the distribution of benefits at such time and in such manner as though the Plan had not been frozen.

8.3 MERGER OR CONSOLIDATION

This Plan may be merged or consolidated with, or its assets and/or liabilities may be transferred to any other plan only if the benefits which would be received by a Participant of this Plan, in the event of a termination of the Plan immediately after such transfer, merger or consolidation, are at least equal to the benefits the Participant would have received if the Plan had terminated immediately before the transfer, merger or consolidation.

9. MISCELLANEOUS

9.1 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute a contract between the Participating Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in the Plan shall be deemed to give any Participant or Employee the right to be retained in the service of any Participating Employer or to interfere with the right of the Participating Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon them as a Participant of this Plan.

9.2 ALIENATION

(a) Subject to the exceptions provided below, no benefit which shall be payable out of the Plan Fund to any person (including a Participant or his or her Designated Beneficiary) shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge the same shall be void; and no such benefit shall in any manner be liable for, or subject to, the debts, contracts, liabilities, engagements, or torts of any such person, nor shall it be subject to attachment or legal process for or against such person, and the same shall not be recognized by the Plan Administrator, except to such extent as may be required by law.

(b) This provision shall not apply to any "qualified domestic relations order" defined in Code Section 414(p), and those other domestic relations orders permitted to be so treated by the Plan Administrator under such Code Section. The Plan Administrator shall establish a written procedure to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Further, to the extent provided under a "qualified domestic relations order" a former spouse of a Participant shall be treated as the spouse or surviving spouse for all purposes of the Plan.

9.3 CONSTRUCTION OF PLAN

This Plan shall be construed and enforced according to the Code and the laws of the State of Washington, other than its laws respecting choice of law, to the extent not preempted by the Code or other federal laws. In the event that any Section or Sections of the Code or other federal laws are later determined by any court, legislative body or regulatory agency to be inapplicable to

the Plan specifically, or to governmental entity plans in general, then the Plan shall be operated and interpreted in light of any such determination.

9.4 GENDER AND NUMBER

Wherever any words are used herein in the masculine, feminine or neuter gender, they shall be construed as though they were also used in another gender in all cases where they would so apply, and whenever any words are used herein in the singular or plural form, they shall be construed as though they were also used in the other form in all cases where they would so apply.

9.5 RECOVERY OF ERRONEOUS CONTRIBUTIONS

In the event a Participating Employer shall make an excessive contribution under a mistake of fact, the Participating Employer may recover such excessive contribution at any time within one (1) year following the discovery of the error and the Benefit Administrator shall cause the Trustee to return such amount to the Participating Employer within the one (1) year period.

9.6 SPONSOR'S PROTECTIVE CLAUSE

Neither the Sponsor nor its successors, shall be responsible for the validity of any Contract issued hereunder or for the failure on the part of the insurer issuing such Contract to make payments provided by any such Contract, or for the action of any person which may delay payment or render a Contract null and void or unenforceable in whole or in part.

9.7 RECEIPT AND RELEASE FOR PAYMENTS

Any payment to any Participant, his or her legal representative, Designated Beneficiary, or to any guardian or committee appointed for such Participant or Designated Beneficiary in accordance with the provision of the Plan, shall, to the extent thereof, be in full satisfaction of all claims hereunder. This shall include any and all claims against the Sponsor, Plan Administrator and the Participating Employer, any of whom may require such Participant, legal representative, Designated Beneficiary, guardian or committee, as a condition precedent to such payment, to execute a receipt and release thereof in such form as shall be determined by the Sponsor.

9.8 ACTION BY AN EMPLOYER

Whenever any Participating Employer under the terms of the Plan is permitted or required to do or perform any act or matter or thing, it shall be done and performed by a person duly authorized by its legally constituted authority.

9.9 HEADINGS

The headings and subheadings of this Plan have been inserted for convenience of reference and are to be ignored in any construction of the provision hereof.

9.10 APPROVAL BY INTERNAL REVENUE SERVICE

Notwithstanding anything herein to the contrary, if, pursuant to a ruling request filed by or in behalf of the Plan, the Commissioner of Internal Revenue or the Commissioner's delegate should determine that the Plan does not qualify under Code Section 401(a), and such determination is not contested, or if contested, is finally upheld, then the Plan shall be void as of the Restatement Effective Date and all amounts contributed to the Plan by the Participating Employers on or after that date, less expenses paid, shall be returned within one year and the Plan shall terminate, and the Sponsor shall be discharged from all further obligations.

9.11 UNIFORMITY

All provisions of this Plan shall be interpreted and applied in a uniform, nondiscriminatory manner.

9.12 SERVICE CREDIT UNDER USERRA AND APPLICABLE LAW

Service shall be credited to Eligible Employees to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994, as such act may be amended from time to time, and as codified in Code Section 414(u) ("USERRA").

9.13 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) Except as provided below and otherwise specifically permitted by law, it shall be impossible by operation of the Plan or the Plan Fund, by termination of either, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by any other means, for any part of the corpus or income of any Plan Fund maintained pursuant to the Plan or any funds contributed thereto to be used for, or diverted to, purposes other than the exclusive benefit of Participants, Retired Participants, or their Beneficiaries.

(b) In the event the Participating Employer shall make an excessive contribution under a mistake of fact, the Participating Employer may demand repayment of such excessive contribution at any time within one (1) year following the time of payment and the Trustees shall return such amount to the Participating Employer within the one (1) year period. Earnings of the Plan attributable to the excess contributions may not be returned to the Participating Employer but any losses attributable thereto must reduce the amount so returned.

10. PARTICIPATING EMPLOYERS

10.1 REQUIREMENTS OF PARTICIPATING EMPLOYERS

(a) Each Participating Employer shall be deemed, as a condition of its Participating Employer status, to acknowledge and accept the Plan Administrator, Investment Advisory Committee, Trustee, Benefit Administrator and any other fiduciaries or service providers appointed by the Sponsor or Plan Administrator.

(b) The Plan Administrator may, but shall not be required to, direct the Trustee to commingle, hold and invest as one Plan Fund all contributions made by Participating Employers, as well as all increments thereof.

(c) Any expenses of the Trust which are to be paid by the Participating Employer or borne by the Plan Fund shall be paid by each Participating Employer in the same proportion that the total amount standing to the credit of all Participants employed by such Participating Employer bears to the total standing to the credit of all Participants.

10.2 DESIGNATION OF AGENT

Each Participating Employer shall be deemed to be a part of this Plan; provided, however, that with respect to all of its relations with the Plan, each Participating Employer shall be deemed to have designated irrevocably the Sponsor as its agent. Unless the context of the Plan clearly indicates the contrary, the words "Employer" or "Participating Employer" shall be deemed to include each Participating Employer as related to its adoption of the Plan.

10.3 PARTICIPATING EMPLOYER'S CONTRIBUTION

All contributions made by a Participating Employer, as provided for in this Plan, shall be determined separately by each Participating Employer, and shall be paid to and held by the Plan for the exclusive benefit of the Participants who are Employees or former Employees of such Participating Employer (and the Beneficiaries of such Employees), subject to all the terms and conditions of this Plan.

10.4 AMENDMENT

Amendment of this Plan shall be by the written action of the Sponsor, regardless of whether there is a Participating Employer hereunder at such time. Each Participating Employer, by adopting this Plan, consents to the authority of the Sponsor to amend such Plan.

10.5 PLAN ADMINISTRATOR'S AUTHORITY

The Plan Administrator shall have authority to make any and all necessary rules or regulations, binding upon all Participating Employers and all Participants, to effectuate the purposes of this Plan.

11. MINIMUM DISTRIBUTION REQUIREMENTS

11.1 GENERAL RULES

(a) Effective Date. The provisions of this Article 11 will apply for purposes of determining required minimum distributions for calendar years beginning with the 2002 calendar year that are made on or after January 1, 2002.

(b) Coordination with Minimum Distribution Requirements Previously in Effect. Required minimum distributions for 2002 under this Article will be determined as follows. If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this Article 11 equals or exceeds the required minimum distributions determined under this Article, then no additional distributions will be required to be made for 2002 on or after that date. If the total amount of 2002 required minimum distributions under the Plan made to the distributee prior to the effective date of this Article is less than the amount determined under this Article, then required minimum distributions for 2002 on and after that date will be determined so that the total amount of required minimum distributions for 2002 made to the distributee will be the amount determined under this Article.

(c) Precedence. The requirements of this Article 11 will take precedence over any inconsistent provisions of the Plan.

(d) Requirements of Regulations Incorporated. All distributions required under this Article 11 will be determined and made in accordance with the Regulations under Code Section 401(a)(9).

11.2 TIME AND MANNER OF DISTRIBUTION

(a) Required Beginning Date. The Participant's entire interest will be distributed, or begin to be distributed, to the Participant no later than the Participant's "required beginning date."

(b) Death of Participant Before Distributions Begin. If the Participant dies before distributions begin, the Participant's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Participant has a Designated Beneficiary, then except as provided in Section 11.2(d) below, distributions to the Designated Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Participant died. Notwithstanding the preceding sentence, if the Participant's surviving spouse is the Participant's sole Designated Beneficiary, distribution is not required to begin until the December 31 of the calendar year in which the Participant would have attained age 70½.

(2) If there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest will be distributed in the form of a single lump sum distribution by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary and the surviving spouse dies after the Participant but before distributions to the surviving spouse begin, this Section 11.2(b) (other than Section 11.2(b)(1) as it applies to surviving spouses) will apply as if the surviving spouse were the Participant.

For purposes of this Section 11.2(b) and Section 11.4, unless Section 11.2(b)(3) applies, distributions are considered to begin on the Participant's "required beginning date." If Section

11.2(b)(3) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 11.2(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's "required beginning date" (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under 11.2(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the "required beginning date," as of the first "distribution calendar year" distributions will be made in accordance with Sections 11.3 and 11.4. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Regulations.

(d) Distribution Election. Notwithstanding Section 11.2(b), Participants or Designated Beneficiaries may elect on an individual basis whether the five-year rule or the life expectancy rule pursuant to Section 11.2(b) and Section 11.4(c) applies to distributions after the death of a Participant who has a Designated Beneficiary. The election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin or by September 30 of the calendar year which contains the fifth anniversary of the participant's (or if applicable, the surviving spouse's) death. If neither the Participant nor beneficiary makes an election under this paragraph, distributions will be made in accordance with Section 11.2(b) and Section 11.4(c).

11.3 REQUIRED MINIMUM DISTRIBUTIONS

(a) Amount of Required Minimum Distribution for Each Distribution Calendar Year. During the Participant's lifetime, the minimum amount that will be distributed for each "distribution calendar year" is the lesser of:

(1) the quotient obtained by dividing the "Participant's account balance" by the distribution period in the Uniform Lifetime Table in Regulation Section 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the "distribution calendar year;" or

(2) if the Participant's sole Designated Beneficiary for the "distribution calendar year" is the Participant's spouse, the quotient obtained by dividing the "Participant's account balance" by the number in the Joint and Last Survivor Table in Regulation Section 1.401(a)(9)-9, using the Participant's and spouse's attained ages as of the Participant's and spouse's birthdays in the "distribution calendar year."

(b) Lifetime Required Minimum Distributions Continue Through Year of Participant's Death. Required minimum distributions will be determined under this Section 11.3 beginning with the first "distribution calendar year" and up to and including the "distribution calendar year" that includes the Participant's date of death.

11.4 REQUIRED MINIMUM DISTRIBUTIONS AFTER DEATH

(a) Death On or After Date Distributions Begin and Participant Survived by Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each “distribution calendar year” after the year of the Participant's death is the quotient obtained by dividing the “Participant's account balance” by the longer of the remaining “life expectancy” of the Participant or the remaining “life expectancy” of the Participant's Designated Beneficiary, determined as follows:

(1) The Participant's remaining “life expectancy” is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(2) If the Participant's surviving spouse is the Participant's sole Designated Beneficiary, the remaining “life expectancy” of the surviving spouse is calculated for each “distribution calendar year” after the year of the Participant's death using the surviving spouse's age as of the spouse's birthday in that year. For “distribution calendar years” after the year of the surviving spouse's death, the remaining “life expectancy” of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(3) If the Participant's surviving spouse is not the Participant's sole Designated Beneficiary, the Designated Beneficiary's remaining “life expectancy” is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.

(b) Death On or After Date Distributions Begin and No Designated Beneficiary. If the Participant dies on or after the date distributions begin and there is no Designated Beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that will be distributed for each “distribution calendar year” after the year of the Participant's death is the quotient obtained by dividing the “Participant's account balance” by the Participant's remaining “life expectancy” calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.

(c) Death Before Date Distributions Begin. If the Participant dies before distribution begin, distributions shall be determined as follows:

(1) Participant Survived by Designated Beneficiary. Except as provided in Section 11.2(d), if the Participant dies before the date distributions begin and there is a Designated Beneficiary, the minimum amount that will be distributed for each “distribution calendar year” after the year of the Participant's death is the quotient obtained by dividing the Participant's Account balance by the remaining “life expectancy” of the Participant's Designated Beneficiary, determined as provided in Section 11.4(a).

(2) No Designated Beneficiary. If the Participant dies before the date distributions begin and there is no Designated Beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Participant dies before the date distributions begin, the Participant's surviving spouse is the Participant's sole Designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 11.2(b)(1), this Section 11.4(c) will apply as if the surviving spouse were the Participant.

11.5 DEFINITIONS

(a) The Designated Beneficiary is the individual who is designated as the Beneficiary under Section 1.4 and for purposes of Code Section 401(a)(9) and Regulation Section 1.401(a)(9)-1, Q&A-4.

(b) The “distribution calendar year” is a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year that contains the Participant's “required beginning date.” For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 11.2(b). The required minimum distribution for the Participant's first distribution calendar year will be made on or before the Participant's “required beginning date.” The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's “required beginning date” occurs, will be made on or before December 31 of that distribution calendar year.

(c) “Life expectancy” is the life expectancy as computed by use of the Single Life Table in Regulation Section 1.401(a)(9)-9.

(d) “Participant's account balance” is the Participant's Account balance as of the last Valuation Date in the calendar year immediately preceding the “distribution calendar year” (valuation calendar year), increased by the amount of any contributions made and allocated or forfeitures allocated to the account balance as of dates in the valuation calendar year after the Valuation Date, and decreased by distributions made in the valuation calendar year after the Valuation Date. The account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the “distribution calendar year” if distributed or transferred in the valuation calendar year.

(e) “Required beginning date” is the later of (1) the April 1 of the calendar year following the calendar year in which the Participant attains age 70 ½ or (2) the April 1 of the calendar year following the calendar year in which the Participant retires.

IN WITNESS WHEREOF, this Plan has been executed to be effective as of January 1, 2006.

WASHINGTON STATE BOARD
FOR COMMUNITY AND TECHNICAL COLLEGES

By _____

Appendix A: List of Participating Employers

The Participating Employers in this Plan, as of January 1, 2010, are as follows:

Bates Technical College
Bellevue College
Bellingham Technical College
Big Bend Community College
Cascadia Community College
Centralia College
Clark College
Clover Park Technical College
Columbia Basin College
Edmonds Community College
Everett Community College
Grays Harbor College
Green River Community College
Higher Education Coordinating Board
Highline Community College
Lake Washington Technical College
Lower Columbia College
Olympic College
Peninsula College
Pierce College (District 11)
Renton Technical College
Seattle Community Colleges (District 6)
Shoreline Community College
Skagit Valley College
South Puget Sound Community College
Community Colleges of Spokane (District 17)
Tacoma Community College
Walla Walla Community College
Washington State Board for Community and Technical Colleges
Wenatchee Valley College
Whatcom Community College
Yakima Valley Community College