



Western Michigan University Voluntary Early Retirement Plan

Plan Document

June 1, 2020

Faculty & Academic Administrators

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Western Michigan University Voluntary Early Retirement Plan

Introduction

The Board of Trustees of Western Michigan University (the “University”) is pleased to offer a Voluntary Early Retirement Plan (“Plan”) for eligible faculty members and academic administrators at Western Michigan University. Many of these faculty members and academic administrators have dedicated the greater part of their professional careers to the University. Their collective achievements and distinguished service have provided stability to the University in achieving its overall strategic goals.

Accordingly, the University is offering an age- and service-based Voluntary Early Retirement Plan for eligible individuals for a limited period of time. The Plan will allow the University to provide a substantial and well-earned benefit to eligible individuals. The Plan also will allow identified units of the University to be proactive in addressing budgetary and/or ongoing workforce challenges.

This document shall serve to govern the terms of the Plan. Eligibility and payments under the Plan are governed by the terms set forth herein. Please refer to this document for information concerning any rights and obligations you may have under the Plan.

Plan Description

Each eligible faculty member and academic administrator who elects to participate in the Plan will receive an amount equal to 100% of the employee’s 2019-2020 academic year or fiscal year base faculty salary. This amount shall be distributed in two (2) equal payments. Each payment shall be subject to required state and federal withholdings. The first payment shall be made in September, 2020. The second payment shall be made in September, 2021. Plan payments do not count as “earnings” for any benefit purposes, including the University’s retirement programs. Therefore, these payments will not be eligible for pre-tax deferral under the University’s retirement programs. For the purposes of this Plan, “base salary” is based upon a faculty member’s level of appointment (either academic year or fiscal year) for 2019-2020. In the case of academic administrators, the base salary shall be their ‘return to faculty’ salary, i.e. what the administrator would have earned if, in lieu of his/her administrative appointment, he/she had been working as a faculty member in the WMU-AAUP bargaining unit for the 2019-2020 academic or fiscal year, whichever is applicable. Base salary does not include Summer I and Summer II appointments, temporary stipends or other supplements given as part of an assignment of administrative or other duties.

Plan participants shall also be paid any accrued and unused vacation and compensable sick leave payments owed to Employee at the time of separation in accordance with established policies, plans and procedures. Other employee benefits (health, dental, etc.) will be provided as described in Article 35, Sections 3.1 through 3.3 and Article 36 of the Collective Bargaining Agreement between the University and the WMU Chapter of the American Association of University

Professors (“WMU-AAUP”), but subject to all conditions, limits, rights and other terms of the applicable health and other welfare plan.

As a condition of participation in the Plan, a faculty member or academic administrator shall waive any right to continued or future employment with the University. His/her resignation is irrevocable.

The opportunity for eligible employees to apply for the Plan is limited. **The application period begins on June 1, 2020 and ends on June 30, 2020, at 5 p.m., ET.** Participating faculty members and academic administrators will be required to separate from the University no later than August 31, 2020.

Eligibility

Eligibility for the Plan is limited solely to designated faculty members and academic administrators at Western Michigan University. Except for those working under reduced work load retirement agreements with the University, faculty members and academic administrators who have served notice on the University prior to May 15, 2020, of their desire to retire or terminate are expressly excluded from participation in the Plan regardless of the date of retirement or termination was to actually be effective.

University-wide: Subject to other restrictions and requirements set forth elsewhere in this Plan document, a faculty member or academic administrator may make application to participate in the Plan if, as of the date of his/her proposed retirement, the faculty member or academic administrator:

- (1) holds academic tenure and is actively employed by the University; and
- (2) is at least age 55; and
- (3) has at least ten (10) years of regular full-time service at the University.

In addition, faculty members and academic administrators who are on approved leaves of absence or on sabbaticals and otherwise meet the applicable eligibility criteria above are eligible to participate in the Plan. A faculty member or academic administrator on paid leave of absence or sabbatical who elects to participate in the Plan shall receive no compensation from the University for any period of leave or sabbatical occurring after his or her Termination Date under the Plan. The provisions of return to active service requirement, as outlined in the Collective Bargaining Agreement between the University and the WMU Chapter of the American Association of University Professors dated September 5, 2017, to and including September 5, 2020, shall also be waived.

The classifications and ages of those faculty members and academic administrators who meet the eligibility criteria and have been selected to participate in the Plan, and the classifications and ages of all faculty members and academic administrators who do not meet the eligibility criteria and have not been selected to participate in the Plan are set forth in Appendix A to Enclosure 2.

Release and Waiver of Claims

To be eligible for the benefits under the Plan, a participating faculty member or academic administrator must sign and not revoke the attached Separation Agreement and General Release (“Agreement”) (Enclosure 2). The terms of the Agreement are hereby incorporated by reference. The Agreement contains a waiver of all claims against the University, including a waiver of claims under the Age Discrimination in Employment Act of 1967. The participating faculty member or academic administrator must also acknowledge that he or she is voluntarily relinquishing his or her rights to continued and future employment and tenure with the University in exchange for the benefits under the Plan. The terms of the Agreement are incorporated by reference in the Plan and should be carefully reviewed. If there is a discrepancy between the Plan and the Agreement, the terms of the Agreement shall control.

Application Procedure

The application period begins on June 1, 2020 and ends at 5:00 p.m., ET on June 30, 2020.

Submitting an application to participate in the Plan shall be on a voluntary basis for all eligible faculty members and academic administrators. If a person is eligible and declines to participate, he/she will not be treated any differently than any other similarly situated faculty members and academic administrators with respect to future terms and conditions of employment.

To apply for the Plan, eligible faculty members and academic administrators must complete and submit an application form to the University on or before 5:00 p.m., ET on June 30, 2020. (Enclosure 1). Applications submitted after that date and time will not be considered. Faxes are accepted at 269-387-3441 and receipt of applications will be acknowledged.

Eligible faculty members and academic administrators who have made timely application for the Plan will be presented with an Agreement for their review and approval. They will then have forty-five (45) days to return the signed Agreement to Warren L. Hills, Ph.D., Chief Human Resources Officer, 1903 West Michigan Avenue, Kalamazoo, MI 49008-5217. If the Employee signs the Agreement within less than forty-five (45) days of its delivery to him/her, he/she acknowledges by signing the Agreement that such decision was entirely voluntary and that he/she had the opportunity to consider the Agreement for the entire forty-five (45) day period. For a period of seven (7) days following the execution and return of the Agreement, participants will have the opportunity to revoke the Agreement by written notice to Dr. Hills at the above address. For such a revocation to be effective, it must be received by Dr. Hills at or before the expiration of the seven (7) day revocation period. It is recommended that written notice of revocation be via hand-delivery or certified mail to show proof of delivery. The Agreement shall not become effective or enforceable during the revocation period. The Agreement shall become effective on the first business day following the expiration of the revocation period (referred to as the “Effective Date of the Agreement”). In no event will the Effective Date of the Agreement extend beyond August 31, 2020. A faculty member or academic administrator who executes and does not revoke the Agreement shall sever employment from the University as of the Effective Date of the Agreement.

Taxes

The University and its employees, the Board of Trustees, agents, including, but not limited to, representatives and attorneys, shall have no liability regarding the tax consequences of payments under this Plan to eligible employees.

It is intended that payments made under the Plan shall be exempt from or in compliance with Internal Revenue Code Section 409A, and the provisions of the Plan are to be construed accordingly. However, in no event shall the University be responsible for any tax or penalty owed by a participating faculty member or academic administrator or his or her beneficiary with regard to payments and benefits provided herein. For purposes of Code Section 409A, each installment of payments or benefits is intended to be treated as a separate payment, and the terms “employment termination” and “termination of employment” or terms of like kind are intended to constitute “separation from service” as defined under Internal Revenue Code Section 409A.

No Assignment of Plan Payments

Under no circumstances may a Plan payments be subject to assignment, garnishment, lien or other encumbrances, and any attempt to cause any such payments to be so subjected shall not be recognized, except to such extent as may be required by law.

Recovery of Plan Payments Made by Mistake

An eligible employee must return to the University the Plan payments or other consideration, or portion thereof, made by a mistake of fact or law or paid contrary to the terms of the Plan.

Representations Contrary to the Plan

No employee, officer, director or agent of the University has the authority to alter, vary or modify the terms of the Plan. No verbal or written representations contrary to the terms of the Plan and its written amendments shall be binding upon the University.

No Employment Rights or Contract

The Plan does not confer employment rights upon any person. Nothing contained in the Plan shall be construed as a contract of any kind between the University or any related entity and any person. No person shall be entitled by virtue of the Plan to remain employed by the University and nothing in the Plan shall restrict the right of the University to terminate the employment of any eligible employee. Any person terminated by the University for cause prior to the Effective Date of the Agreement will be disqualified from participating in the Plan.

Nondiscrimination

The University will not discriminate against any person because of race, color, religion, sex, national origin, ancestry, age, marital status, disability, sexual orientation including gender identity, unfavorable discharge from the military or status as a protected veteran and will

comply with all federal and state nondiscrimination, equal opportunity and affirmative action laws, orders and regulations. This nondiscrimination policy applies to employment and access to the University's programs and activities.

Amendment of the Plan

The Plan shall comply with all state and federal laws and shall be amended, if necessary, in order to satisfy any such requirements.

Plan Administrator

This Plan is being administered by the Office of Human Resources, Warren L. Hills, Ph.D., Chief Human Resources Officer, shall have the discretionary authority to determine eligibility for Plan payments and other consideration and to construe the terms of the Plan, including the making of factual determinations. The Plan Administrator shall exercise authority in a nondiscriminatory manner. The decisions of the Chief Human Resources Officer shall be final and conclusive with respect to all questions concerning the administration of the Plan.

All questions regarding this Plan should be emailed to:

Warren L. Hills, Ph.D.
Chief Human Resources Officer
Western Michigan University
1903 West Michigan Avenue
Kalamazoo, MI 49008-5217

Claims Procedure

An eligible faculty member or academic administrator, or his or her personal representative, may file a claim in writing under this Plan if the participant believes he or she has been treated unfairly with respect to the Plan or has been improperly denied benefits under the Plan. A written claim must be filed with the Plan administrator within sixty (60) days of the alleged unfair treatment.

The Plan Administrator shall make a full and fair review of the claim within sixty (60) days and provide written notice as to the decision regarding the participant's claim. If the claim has been denied in whole or in part, the written notice shall set forth the reasons for the denial.

Future Plans

There is absolutely no assurance that this Plan or any similar plan will be offered in the future. The Plan is not precedent-setting.

End of the Plan

The Plan will terminate when all payments described herein have been provided.