MINUTES Board of Regents March 13, 2020

The Board of Regents of Washington State University (WSU or University) met pursuant to call in Open Meeting at 8:00 a.m. on Friday, March 13, 2020, at WSU Tri-Cities, in Richland, Washington.

Present: Brett Blankenship, Chair; Regents Ted Baseler, Scott Carson, Marty Dickinson, Johanna Pantig, Lura Powell, Heather Redman, Ron Sims, and Mike Worthy; Interim Executive Vice President and Provost Bryan Slinker and President Kirk H. Schulz. Attending the meeting via videoconferencing: Regent Lisa Schauer and Faculty Representative A.G. Rud.

I. OPENING

- **A.** Report from the Chair of the Board of Regents. Chair Blankenship called the meeting to order, welcomed members of the audience and reported the following recent activities Regents have participated in:
 - January 29th Regents Pantig and Blankenship attended Regents and Trustee Day in Olympia.
 - February 28th Regent Blankenship attended The Bellhop at WSU Pullman.
 - March 5th Regent Carson attended a Veteran's Symposium at WSU Tri-Cities.
 - During the month of February, Regents Worthy, Schauer and Powell participated in Strategic Planning dialog sessions with WSU advisory councils in Vancouver, Spokane and the Tri-Cities.

In conclusion, Chair Blankenship reminded the audience there would be a public comment period during the meeting. He said the public comment period would be after the regular agenda items and would be for up to ten minutes.

B. Report from the President of the University. President Schulz welcomed the audience and the Regents to WSU Tri-Cities and commented that he would like to take a moment to acknowledge some of WSU's senior leadership: Vice President for Student Affairs Mary Jo Gonzales, Vice President for Marketing and Communications Phil Weiler, Faculty Senate Chair Greg Crouch, and Administrative Professional Advisory Council Chair Stephanie Rink. President Schulz commented that he has been very impressed with how leadership had pulled together over the last couple of weeks focused around the COVID 19 crisis. He said many people are working around the clock to make sure WSU is putting our students first and our faculty, staff and students are trained as we move to online educational resources. President Schulz also stressed that leadership is empathetic to the fact that some students face food and housing insecurities and said WSU will work to keep residence and dining halls open on campus so long as they can do so safely. President Schulz said his colleagues have done a fantastic job of communicating and providing information, and he wanted to express his sincere appreciation to the entire university community for coming together.

President Schulz went on to report the following updates:

- State Legislative Session. President Schulz reported the State completed its legislative session and he recognized Vice President of External Affairs and Chief Legislative Officer Colleen Kerr and her team for the outstanding job they do. President Schulz reported one of the big takeaways this session was that WSU received funding for design work on a new Life Sciences Building on the Vancouver campus. He said WSU would be seeking construction money for the building in the 2021 session. President Schulz further reported WSU received \$800,000 for its soil health project, a collaboration with the Washington State Department of Agriculture to inventory soils throughout the state of Washington. President Schulz said WSU is already gearing up to start work on the 2021 session.
- 2020 2025 WSU System Strategic Plan. President Schulz reported there are four goals that have been articulated in the draft of the system strategic plan. Goal 1, Research, Innovation, and Creativity, will recognize and embrace bold thinking to serve the needs of WSU's communities through innovative research, scholarship and creative activities. Goal 2, Student Experience will engage students in scholarly research and experiential learning activities to prepare them to be future leaders, scholars and global citizens. Goal 3, Outreach, Extension, Service and Engagement making WSU a national leader in advancing the quality of life, economic development, sustainability, and equity through meaningful engagement in discovery, education, and service with partners throughout the state, nation and world. Goal 4, Institutional Effectiveness and Infrastructure, which will advance a culture of engagement and collaboration across WSU's multi-campus system that values and invests in resources physical, financial, human and intellectual leveraging these to become a social economic driver within the communities WSU serves.

President Schulz said WSU's future is bright and it is very important for leadership to be forward looking and positive when planning for its future.

C. Report from the Chancellor of WSU Vancouver. Chancellor Sandra Haynes welcomed the Regents and audience to campus. Chancellor Haynes reported the Tri-cities Campus has also been working to develop its strategic plan. She said that Tri-Cities strategic planning includes efforts to scale-up to serve the needs of a fast-growing population with indemand degrees, focusing on underserved populations. It will address local degree gaps and accommodate a rapidly diversifying industry base by providing corporate and continuing education. Chancellor Haynes further provided updates on the new WSU Tri-Cities Academic Building groundbreaking, advancement and community engagement, and upcoming campus events.

II. CONSENT AGENDA.

Chair Blankenship reported there were 4 items on the Consent Agenda.

- A) Approval of Minutes November 15, 2019, Board of Regent Meeting
- B) Approval of Minutes January 24, 2020, Board of Regents Meeting
- C) Discontinuation of the Master of Arts in Hispanic Studies
- D) Discontinuation of the Master of Nursing Plan (Family Nurse Practitioner and Psychiatric Mental Health Nurse Practitioner)

Chair Blankenship asked if any Regent wished to remove an item on the Consent Agenda to be considered separately. Hearing no requests, it was moved and seconded that the Consent Agenda be approved. Carried.

- **III. REPORTS FROM SHARED GOVERNANCE GROUPS.** Representatives from the following University groups—Foundation Board of Directors, Faculty Senate, Associated Students of Washington State University Tri-Cities, and the Graduate and Professional Student Association—reviewed their reports as submitted. Administrative Professional Association Committee and the Alumni Association submitted written reports but did not present in person. (*Exhibit A*)
- IV. EXECUTIVE AND GOVERNANCE COMMITTEE REPORT. Chair Blankenship reported the Executive and Governance Committee met as a committee of the whole on March 12. He said the Committee would be advancing nominations for Chair and Vice Chair at the upcoming May 7-8, 2020, Board of Regents meeting. Chair Blankenship further reported the Executive and Governance committee reviewed a presentation on one Future Action Item, a proposed Bylaws modification to formalize the selection process for the Faculty Representative on the Board. Lastly, Chair Blankenship reported the committee reviewed and discussed a presentation on the WSU System-Wide Strategic Plan by Chief of Staff Christine Hoyt and Vice Provost for System Innovation and Policy Craig Parks.
- V. STUDENT AFFAIRS AND STUDENT LIFE COMMITTEE REPORT. Regent Schauer reported the Student Affairs and Student Life Committee reviewed two presentations. She said the committee heard an update on Athletics Strategic Planning Student Initiatives presented by Associate Athletic Director Brian Blair and a presentation on Holistic Well-Being: Student Health and Wellness Across #OneWSU presented by Vice President for Student Affairs Mary Jo Gonzales and Associate Vice President for Student Engagement Ellen Taylor.
- VI. RESEARCH AND ACADEMIC AFFAIRS COMMITTEE REPORT. Regent Sims Reported the Research and Academic Affairs Committee heard presentations on two Future Action items: Discontinuation of the Master of Arts in Hispanic Studies and the Discontinuation of the Master of Nursing Plan (Family Nurse Practitioner and Psychiatric Mental Health Nurse Practitioner) both presented by Interim Executive Vice President and Provost Bryan Slinker. After committee discussion, it was decided to place both Future Action Items on the consent agenda. Regent Sims further reported the Committee reviewed the following Information Items: Faculty Manual Change Reconciliation to Ensure Alignment with the Tracks and Appointment Initiative approved under delegated authority and a presentation, Genetics and Epigenetics, Connecting Organisms and Their Environments presented by Associate Professor in the School of Biological Sciences Joanna L. Kelley. Lastly, Regent Sims said the Committee reviewed a presentation on one Action Item and submitted the following for the Board's consideration.

Establish the School of Information (iSchool)

It was moved and seconded that the Board of Regents establish the School of Information as proposed. Carried. (Exhibit B)

VII. INSTITUTIONAL INFRASTRUCTURE COMMITTEE REPORT. Regent Powell reported the Institutional Infrastructure Committee reviewed and discussed a Real Estate Update presentation

by Vice President Stacy Pearson and Executive Director for Real Estate Services Ryan Goodell, and one Future Action Item – Wilmer Davis Renovation Design and Preconstruction.

VIII. FINANCE AND COMPLIANCE COMMITTEE REPORT. Regent Dickinson reported the Finance and Compliance Committee was provided an Internal Audit Update by Chief Audit Executive Heather Lopez. She further reported Vice President for Business and Administration Stacy Pearson and Associate Vice President for Finance Matt Skinner reviewed with the committee the FY2019 WSU Comprehensive Annual Financial Report and annual Debt Report. Regent Dickinson reported the WSU Comprehensive Annual Financial Report received a clean unmodified opinion from the State of Washington Auditor's Office and applauded Vice President Pearson and her team for their outstanding efforts.

It was further reported the committee heard presentations on the following Future Action Items: Fiscal Year 2021-2023 Biennial Operating Budget Request, Fiscal Year 2021-2023 Biennial Capital Budget Request, Academic Year 2020-2021 Tuition Rates, Services and Activities Fee Rates for Academic Year 2020-2021, WSU Tri-Cities, Safety and Transportation Fee Increase, WSU Pullman, Student Health Fee Increase, WSU Undergraduate Application Fee Increase, Services and Activities Fees Committee Allocations for Summer 2020 and Academic Year 2020-2021, WSU Pullman, Undergraduate Technology Fee Committee Allocations for Fiscal Year 2020, WSU Vancouver, Undergraduate Technology Fee Committee Allocations for Fiscal Year 2020 and WSU Pullman, and Proposed Changes to Parking System Rates and Fines. Regent Dickinson reported the committee reviewed four Action Item presentations and submitted the following for Board consideration:

FY2021 Housing and Dining Rates

It was moved and seconded that the Board of Regents approve the Fiscal Year 2021 Housing and Dining Rates as proposed. Carried. (Exhibit C)

FY2020 Athletics Budget Update and Approval of Expenditures

It was noted for the record that it was decided that this item will be presented as an Action Item rather than a Future Action Item, in accordance with Board of Regents Bylaw II.12.B.

It was moved and seconded that the Board of Regents approve Athletics expenditure transfers related to the 2020 football coach transition in accordance with SSB6493 as proposed. Carried. (Exhibit D)

<u>WSU College of Nursing, New Lease Agreement with Pacific Northwest University</u> (<u>PNWU</u>) in Yakima, <u>WA</u>

It was noted for the record that it was decided that this item will be presented as an Action Item rather than a Future Action Item, in accordance with Board of Regents Bylaw II.12.B.

It was moved and seconded that the Board of Regents adopt Resolution #20313-622 and authorize a ten (10) year Office/Classroom Lease on the PNWU campus in Yakima, WA and delegate authority to the President or his designee to enter into any and all documents necessary to complete the execution of said Lease as proposed. Carried. (Exhibit E)

<u>Proposed Changes to the President's Delegations of Authority</u>

It was moved and seconded that the Board of Regents adopt Resolution #200313-624 and approve the changes to the President's delegated authority as proposed. Carried. (Exhibit F)

IX. STRATEGIC AND OPERATIONAL EXCELLENCE COMMITTEE REPORT. Regent Redman reported the Strategic and Operational Excellence Committee reviewed presentations on two Information Items: Modernization Initiative Update, presented by Associate Vice President for Finance Matt Skinner and Executive Policy 38 Revisions presented by Vice President for Research Chris Keane. She further reported the Committee reviewed one Future Action Item – WSU System-Wide Strategic Plan presented by Chief of Staff Christine Hoyt and President Schulz and three Action Items. Regent Redman submitted the following for Board consideration:

<u>Proposed Amendments to WAC 504-26-110: Standards of Conduct for Students – Composition of Conduct Board</u>

It was moved and seconded that the Board of Regents approve the proposed amendments to WAC 504-26-110: Standards of Conduct for Students – Composition of Conduct Board as proposed. Carried. (Exhibit G)

<u>Proposed Amendments to WAC 504-26-213: Standards of Conduct for Students – Firearms and Dangerous Weapons</u>

It was moved and seconded that the Board of Regents approve the proposed amendments to WAC 504-26-213: Standards of Conduct for Students – Firearms and Dangerous Weapons as proposed. Carried. (Exhibit H)

<u>Proposed Amendments to the Washington State University Retirement Plan and</u> Washington State University Voluntary Investment Plan

It was noted for the record that it was decided that this item will be presented as an Action Item rather than a Future Action Item, in accordance with Board of Regents Bylaw II.12.B.

It was moved and seconded that the Board of Regents approve the proposed changes to the Washington State University Retirement Plan and the Washington State University Voluntary Investment Program and to approve the resolution delegating authority to the President to execute the proposed changes, contingent upon the satisfactory outcome of an additional review by outside tax counsel, HRS Benefits Services, and WSU's Department of Finance and Administration, specifically focusing on whether any of the changes could present potential financial consequences or liability to WSU. The results of the review will be presented to the Regents at the next regularly scheduled meeting as an information item as proposed. Carried. (Exhibit 1)

X. OTHER BUSINESS. Chair Blankenship reported that the Board meet in Executive Session to discuss the performance of a public employee. He further reported the Board would not be taking any action as a result of the Executive Session.

- XI. PUBLIC COMMENT PERIOD. No Public Comment.
- XII. ADJOURNMENT. The meeting adjourned at 12:12 p.m.

Approved by the Board of Regents at its meeting held May 8, 2020.

SIGNED COPIES AVAILABLE IN THE PRESIDENT'S OFFICE



March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: WSU Foundation Regents Report

SUBMITTED BY: Lisa Calvert, Vice President for Advancement

CEO, Washington State University Foundation

The Washington State University Foundation is pleased to report the following:

- The WSU Foundation's ultimate goal is to grow a sustainable pipeline of philanthropic investment in WSU's academic, research, and service initiatives through which lives, livelihoods, and communities are transformed. Alignment to best-in-industry systems, staffing, and resources continues to be a priority. During the WSU Foundation Directors Retreat last month, the Directors engaged in strategic planning to build and scale advancement to maximize philanthropic growth, optimize volunteer engagement, and ensure optimal fiduciary oversight.
- Donors give in response to a dynamic vision and bold, fundable ideas—the bolder the better. We are
 in robust conversations with each campus, college, and unit area about developing their philanthropic
 opportunities, and honing the visionary bold, fundable ideas that will collectively define the
 philanthropic agenda and messaging for the campaign.
- The WSU Foundation has identified nearly 18,000 potential donors who are currently unassigned to a development professional. These individuals are donors and have wealth capacity. This indicates tremendous opportunity for WSU and for those who are looking to make a difference during the next campaign. The Foundation is in the process of optimizing the portfolios for WSU's development officers to ensure that WSU is able to engage these individuals in philanthropic activity that will make a lasting impact for WSU and those it serves.
- As of February 29, 2020, total philanthropic activity is trending 5.1% higher in FY2020 over the previous fiscal year, with more than \$80.6 million in total commitments received. Outright gifts and pledges are trending 19% higher in FY2020, which is an indication that WSU's core philanthropic activity—cash in the door—is strong and growing. As a reminder, development professionals are being trained to shift the gift mix to more cash.

FY2020 Year-to-Date Philanthropic Activity Report (as of Feb. 29, 2020)

	7/1/2019 through 2/29/2020	7/1/2018 through 2/29/2019	% Change
Outright Gifts & New Pledges			
Cash	\$28,709,323	\$27,040,431	6.17%
Securities	\$4,807,808	\$1,368,079	251.43%
Real Estate	\$1,677,100	\$0	100.00%
Gifts in Kind	\$365,784	\$502,059	-27.14%
Pledges - New	\$7,649,931	\$7,380,727	3.65%
Total Outright Gifts & New Pledges	\$43,209,946	\$36,291,295	19.06%
Planned Gifts			
Irrevocable	\$239,000	\$1,385,817	-82.75%
Revocable	\$20,520,174	\$8,891,830	130.78%
Total Planned Gifts	\$20,759,174	\$10,277,647	101.98%
Other Contributions	\$1,000,000	\$5,816,860	-82.81%
Private Grants	\$15,641,550	\$24,311,153	-35.66%
Total Philanthropic Activity Grand Total:	\$80,610,670	\$76,696,956	5.10%



Office of Faculty Senate

March 13, 2020

TO: All Members of the Board of Regents

SUBJECT: Faculty Senate Report SUBMITTED BY: Greg Crouch, Chair

Update on 2020/2021 Faculty Senate Leadership. Two faculty members are running unopposed.

- Chair-Elect Doug Call, Regents Professor of Molecular Epidemiology
- Executive Secretary Matt Hudelson, Associate Professor of Mathematics and Statistics Voting has started and the election will be certified on March 26.

Update on the Faculty Manual Project. Faculty Affairs Committee (led by Professor Steve Hines) and Laura Griner Hill (Vice Provost for Faculty Development and Affairs) have continued to update and refine language in the Faculty Manual. One such change refines language around faculty tracks and appointments. These language changes were the result of many meetings, surveys, and individual discussion. Additional Faculty Manual updates include:

- Stoppage of tenure clock for family leave
- Emeritus faculty appointments
- Royalties and Trademarks

These changes follow a major reorganization of the manual and will complete the committee work for this year. Several future updates are cycling through the Ombudsman and AG for consideration in the 2020/2021 academic year. In summer 2020, Senate Executive Committee will focus on drafting updates to the senate constitution and bylaws as well as continuing to update the Educational Policy and Procedure Manual (EPPM). Specifically, the EPPM will be updated to in order to comply with state, federal, and accreditation requirements.

Update on the Campus and Community Mental Health Task Force. Task Force campus members include representatives from Faculty Senate, Cougar Health Services and Student Affairs administration. Community members include representatives from Schweitzer Engineering Laboratories, Pullman Regional Hospital, Pullman City Council, and Palouse Psychiatry and Behavioral Health. The task force is finalizing its report and will focus on two recommendations:

- Retain and recruit Counseling and Psychological Services (CAPS) psychologist providers. CAPS has struggled to
 meet student demand because it has been unable to fill 3-4 vacant psychologist positions for the last few years.
 WSU Human Resource Services is conducting a salary analysis. By fully staffing CAPS to meet student needs, the
 task force anticipates increased community resource capacity as these currently carry a large student clientele.
- 2) Develop a prevention model that collects all current WSU interventions in and out of the classroom (stress management, coping strategies, etc.). These measures will be connected to a student's four-year path at developmentally appropriate levels. This model is projected to be in place by fall 2021 and available system wide.

Update on Faculty Participation in Strategic Planning. Faculty Senate has collected responses to the draft strategic plan and is working with the president and provost to produce a second draft of the system-level plan. A summary analysis will be available on the Faculty Senate website by March 26, 2020.

Other Updates

- Everett campus will have Faculty Senate representation in fall 2020.
- Spokane campus is developing a campus faculty council similar in structure to the Resident Faculty
 Organization (Tri-Cities) and Council of Faculty Representatives (Vancouver). This organization will elect
 representatives to the Faculty Senate and Faculty Senate Steering Committee.

Date: March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: GPSA Report

SUBMITTED BY: Jennifer E. Johnson, GPSA President

On behalf of GPSA, I would like to thank the Board of Regents for your continued support of graduate and professional students. It is with great pleasure that I report the following:

PDI Update: The Professional Development Initiative (PDI) continues to be a successful program as it progresses through its fourth official year. This incredible partnership between GPSA, the Graduate School, and the President's Office, truly provides the opportunity for graduate and professional students; postdoctoral students, faculty, and staff to develop both personal and professional skills in order to become a better person, student, researcher, instructor, and/or administrator. This year, PDI will facilitate a total of 52 events, four of which were held on other campuses, and expects to serve over 1,200 individuals.

Dissertation Grants: Following the success of our travel grants, GPSA created a new application for students seeking funding, no more than \$500, to support the completion of dissertation projects. The funds can be used to buy equipment, compensate participants in studies, travel for data collection purposes, or in any other aspect that is necessary for the research. Although this is a new source of funding from GPSA, we have already received 17 applications since the launch this semester. We have granted funds to 11 graduate students totaling nearly \$5000.

GPSA Chat & Chew with President Schulz: In efforts to better connect graduate and professional students to GPSA and WSU administration, GPSA is hosting the second annual "Chat & Chew" event. The event is designed to be a casual and low-risk way for graduate and professional students to interact with WSU administrators. GPSA wants to ensure that our constituents' voices are amplified, and we felt that this would be a great way to do so. As this event carries forward with future GPSA leaders, we hope to invite additional WSU administrators to get various perspectives about campus life.

Graduate Stipend Level: A major concern for graduate students at WSU is the current stipend level that they receive. As the standard of living continues to rise in Pullman, graduate students are struggling to provide for themselves and sometimes their families. GPSA has had broad and initial discussions with WSU Administration about the current stipend levels and its effects on student well-being and degree completion rates. As it has been confirmed that 12% of the total stipend for a graduate student is reallocated towards their student fees, It is our hope that GPSA can work with WSU administrators to implement a higher minimum-stipend level across the WSU system.

Graduate Writing Center (GWC): This year, the GPSA increased our support of the GWC by relocating the center, adding consultants, and improving the work space. The GWC works with students to help them learn to revise and edit their own writing. The center averaged 350 appointments the past two years, serving approximately 200 graduate and professional students, not including walk-ins. We are hoping that by tripling the availability of consultants for students to meet with, we will be able to serve more students. We are already seeing a 20% increase in students served since opening the new center in January.

Graduate Study Lounge: The Graduate Study Lounge located in the library is one of the only places on campus devoted solely to graduate and professional students. We have improved the space by adding new qualitative and quantitative software to the provided computers. Last year alone, we had nearly 500 students come visit the study center over 6,500 times.



Date: March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: ASWSUTC's Report

SUBMITTED BY: Zackary Harper, ASWSUTC President

The Associated Students of WSU Tri-Cities (ASWSUTC) have had an awesome year thus far! I'm happy to go over what we have accomplished as well as what we have in store for the rest of the academic year.

Advocacy Projects:

This year, Savanna and I decided to take a different approach to working on advocacy projects. To begin, the entire ASWSUTC Team met over the summer to brainstorm what projects to work on. The team then chose which projects they were passionate about, and then they had to convince their team members that this project was worth working on. Upon submitting their projects to the team, we all voted on which projects would be priority, and then we met with the Chancellor's Cabinet to discuss these projects. We are extremely lucky to have Dr. Sandra Haynes, as she helped us create Task Forces that included students, staff, and faculty to research their topic and provide recommendations back to Cabinet. The biggest change we made this year is that we approached these improvements as campus-wide improvements, as all members of the campus community would benefit from our projects. We have met with Chancellor Haynes about the outcomes of the task forces, and we're ready to present to Cabinet soon.

These projects include: Student Advising Improvements, Mental Health Resources, Wellness Rooms, Class Scheduling Conflicts, Supporting Student Parents, Campus Security Visibility, LGBTQIA+ Education, Campus-Wide Sustainability, Campus Pride, Food Equity Program, Veteran's Financial Aid, Campus Cleanliness, College of Education Policies, CAHNRS Website, Improved Lab Equipment, and Extended Library Hours.

Coug Day at the Capitol:

Our ASWSUTC Director of Legislative Affairs, Remy Plate, was the chair of the Student Government Council Legislative Committee. This committee is primarily charged with planning the WSU System-wide event Coug Day at the Capitol. The impressive work of Remy, Andrea and Davina from Vancouver, Morgan and Sheridan from Global, and Brandy from Health Sciences shows how multi-system collaboration can be extremely beneficial to WSU students.

ASWSUTC Spring Executive Election:

We held our Spring 2020 Executive Election this semester to accomplish two things: (1) elect the 2020-2021 ASWSUTC President and Vice President, and (2) vote on the Safety and Transportation Fee Referendum. We had record turnout (over 19%) for both ballots in this election! Robin Kovis and Stephanie Warner won the Executive Ballot, and the Safety and Transportation Fee passed with an 80% approval rating. Kudos to our team for getting out the vote!



Administrative Professional Advisory Council

March 13, 2020

TO: ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: Administrative Professional Advisory Council Report

SUBMITTED BY: Stephanie Rink, Chair

The Administrative Professional Advisory Council is pleased to report the following:

- 1. APAC will hold elections this spring in the March and April time frame for new council members and a new executive team.
- 2. APAC council members will submit a summary of collected thoughts surrounding the draft strategic plan; what APAC thinks of the draft plan and how this plan will impact staff positively and negatively.
- 3. Monday, February 17th APAC hosted a seminar on "Emotions and Politics" during Staff Appreciation Week. Due to the holiday, the seminar didn't draw a large audience as we hoped. However, the discussions were very engaging and interesting. Systemwide, we had 55 people attend.
- 4. Staff Appreciation Week was the week of February 17th which included seminars on the following topics: Emotions & Politics, Appreciation in the Flow of Work, Investing Beyond Your Retirement Account, Holding Difficult Conversations, and Smart Health. The seminars have been well attended.
- 5. APAC will hold a spring seminar in coordination with the Carson College of Business. Jan Hargrave, a leading expert in behavioral authority and body language will present "Actions Speak Louder Than Words: Understanding Nonverbal Communication".
- 6. For the first time, APAC has a council member representing our extension staff. We are very proud of the strides we have made representing all sites where there may not be an actual campus and extension staff are attending our events via Zoom. We are proud of this partnership and hope it can continue to grow.
- 7. APAC continues to have a voice on several university committees and councils including the Fiscal Health Advisory Committee, the Strategic Planning and Institutional Effectiveness Council, and The Commission on the Status of Women, among others.
- 8. APAC continues monthly council meetings where all APs are encouraged to attend, and VPs and upper administration are asked to present on initiatives and updates throughout the year. APAC Executive Leadership will continue to meet with President Schulz monthly.

March 13, 2020

TO: ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: WSU Alumni Association Progress Report

SUBMITTED BY: Jane Yung, WSUAA President 2019-20

Tim Pavish, WSUAA Executive Director

WSUAA Impact Study Next Steps

Following the presentation of the study's results to President Schulz by Lisa Calvert and Bob Burdenski, the WSUAA was cleared to implement the study's recommended actions. The study helped the WSUAA to assess strengths to be enhanced, weaknesses to be improved, and new opportunities for meaningful programming and engagement. Strategic workgroups with members drawn from the WSU Foundation, WSUAA, the WSU system community, and alumni were formed to begin implementing the recommendations. More news on our progress to come.

Events & Activities Review

For the WSUAA, 2019 was a year filled with success, excitement, and achievement. During the 2018-19 academic year, the highest-recorded total of 39,674 alumni and friends of WSU gathered at 966 WSUAA events. Kudos to the WSUAA staff and the Association's army of volunteers across the country.

All six of the international gold-medal winning *Feast* dinners sold out in record time last fall. (The 12th straight year *The Feast* has sold out.) These exquisite four-course dinners feature WSU-sourced fare prepared by talented HBM students and exceptional wines from a Wine-By-Cougars winery. *The Feast* is the result of a partnership among the WSUAA, its Wine-By-Cougars Wine Club, the Carson College of Business and its School of Hospitality Business Management, the Jordan Schnitzer Museum of Art/WSU, the Cougar Marching Band, and the School of Music.

The WSUAA Fall Leadership Conference took place over Homecoming weekend, October 17-19. In addition to voting in new WSUAA vice president Shelly Spangler, the Leadership Conference included special guest speakers Regent Scott Carson, President Kirk Schulz, and WSUV Chancellor Mel Netzhammer. Homecoming weekend also featured the WSUAA Student Alumni Ambassadors' annual Bonfire and Pep Rally and the exclusive Platinum Life and Life Member Reception. The reception attracted over 400 Platinum Life and Life Members to the Lewis Alumni Centre.

The WSUAA conducted five PreGame events last fall in conjunction with WSU Athletics. The events took place before the football games with Houston, Utah, Arizona State, Cal, and the Cheez-It Bowl in Phoenix. For the first time ever, the WSUAA executed three PreGames that averaged over 1,500 attendees each, including 2,000 fans at the Cheez-It Bowl event.

Scholarships

The WSUAA scholarship application process closed on January 31 for students in the upcoming 2020-21 academic year. Scholarships are powered by membership, generous donations, and the Cougar license-plate program. In 2019, \$656,450 in scholarships were awarded across WSU through the license-plate program alone! The crimson WSU plate continues to be the #1 specialty plate in the state of Washington, with 23,072 currently on the road.

Cultivating Cougar Careers

To engage and assist recent graduates as they enter (or re-enter) the job market after college, the WSUAA's expanded career support services specifically aim at assisting Cougs post-graduation. *Better Budgeting for Cougs* events – powered by a partnership with BECU – include programming on managing a budget, paying off student loans, tips for purchasing a house, and other pertinent topics. The WSUAA's *Cougar Career Academy*, a series of online workshops, is designed to provide graduates with some of the necessary tools for career success by connecting them with career-development professionals and field experts. Finally, the WSUAA's *Women's Leadership Summit*, in Seattle on May 6, will focus on sharing the life and career experiences of guest speakers to help WSU alumnae achieve success in their chosen professions. First Lady Dr. Noel Schulz will be a keynote speaker, joined by WSUAA President Jane Yung and other highly talented alumnae to guide Cougs on their path to career success.

The WSUAA – Investing in the Future

ACTION ITEM #1

Establish the School of Information (iSchool) (Bryan K. Slinker)

March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: Establishment of the School of Information

PROPOSED: That the Board of Regents establish the School of Information

SUBMITTED BY: Bryan K. Slinker, Interim Provost and Executive Vice President

SUPPORTING

INFORMATION: The College of Arts and Sciences proposes the establishment of the

School of Information (iSchool). The iSchool aims to unite integrative research, teaching and service oriented programs, personnel and pedagogical approaches and to educate the next generation of datasavvy, culturally aware, creative thinkers. The development of such a school would mirror similar recent developments at universities including, among the most prominent, University of California - Berkeley, MIT, and Cornell. What these new interdisciplinary programs have in common is their commitment to the cross-pollination of ideas, diverse faculty, and interdisciplinary knowledge to fuel innovative and sustainable research driven by community engagement and industry

need.

Inspired by these developing programs and grounded in WSU's rich tradition of research driven by and through outreach and engagement, the iSchool will establish a collision-rich, silo-free educational and research environment that encourages deep thought and interaction between faculty, students, industry leaders, and community groups. WSU's ongoing commitment to our land-grant tradition and the university's long-term engagement with state and regional industries, provides the necessary foundation to connect the skills that today's industry leaders are looking for with the ideals of providing an inclusive, diverse and equitable educational structure that fosters creativity, collaboration, and curiosity to solve local problems with global solutions.

In addition to offering existing degree programs in Data Analytics (DA) and Digital Technology and Culture (DTC), the iSchool will be

positioned to develop new interdisciplinary degree programs as well as minors and certificates that include an emphasis on data visualization, statistical learning, artificial intelligence, user experience, creative coding, and integrative design. Growing organically from the core offerings in DA and DTC, the iSchool will build a curriculum that values integrative approaches, collaborative frameworks, and practical skill building through innovative, critical, and creative outputs. Ultimately, the iSchool will become a hub for both affiliated faculty and students across degree programs to unite through research agendas, open lab settings, and classrooms all geared to generate new knowledge and durable learning with wide-reaching benefits.

The complete proposal for the School of Information is attached. This proposal was reviewed carefully and has support from the Provost's Office. This proposal was recommended by the Faculty Senate's Steering Committee and Faculty Affairs Committee on September 19, 2019.

ACTION ITEM #1

FY2021 Housing and Dining Rates (Mary Jo Gonzales/ Terry Boston)

March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: FY2021 Housing and Dining Rates

PROPOSED: That the Board of Regents approve an increase in the

Housing and Dining Rates not to exceed the following

percentage from the FY2020 Rates.

Residence Halls:

2.5% (\$285) of the total weighted average for room and board (weighted average of a double room and level 2

dining plan).

Apartments:

2.0% of the total weighted average for Single Student

Apartment (SSA) rates.

1.0% of the total weighted average for Family apartment

rates.

SUBMITTED BY: Terry Boston, Acting Vice President for Student Affairs

SUPPORTING INFORMATION:

The Housing and Dining System is a self-sustaining auxiliary

unit that requires establishing room and board rates that are sufficient to meet bond covenants and support the

University's strategic goals.

The Housing and Dining Advisory Board is comprised of student representatives from the Resident Hall Association (RHA), Associated Students of Washington State University (ASWSU), Graduate and Professional Students Association (GPSA), as well as representatives from the Budget Office,

Finance & Administration, and Student Affairs.

The Advisory Board met throughout the fall and part of spring semester to review current operations and discuss operational changes anticipated for next year. The Advisory Board toured various facilities within the system and were provided notebooks containing detailed budget information, organizational charts and system goals for the long-range housing plans. The rate increase recommendations are based on student input, economic projections and system demands (see supporting information). The proposed increases received unanimous support from the Advisory Board. Pending Regent's approval, the new rates will be effective for fall semester 2020.

The Advisory Board is very conscious of the impact that cost increases have on college affordability for students. Inquiries with other Washington higher education institutions indicate that plans to increase housing rates for fall 2020 range between 4-6%.

The Advisory Board is comprised of seven student representatives* and six administrators as outlined below.

Representative:	Area:
Alyssa Cove*	RHA Representative
Brad Doering*	Apartment Coordinator
Michael Faust *	GPSA Representative
Kevin Kissinger*	Resident Technology Advisor
Jhordin Prescott*	ASWSU Vice President
Noah Sanchez*	Resident Advisor
Patrick Summit*	Assistant Hall Director
Cyndi Arbour	Facilities Services
Terry Boston	Student Affairs
Sean Greene	Housing & Dining Services
Edwin Hamada	Residence Life & Housing
Gail Nash	Finance/Budget Manager
Kelly Westhoff	Budget Director

WSU Housing and Dining System

Resident Hall, Dining and Apartment Rate Proposal 2020-2021 Academic Year

Occupancy trends, Fall Census Day (10th day after classes start)

	Residence Single Student			Family				
	Halls	Apartments] 3		ments		
2016	5,191	829*	97%	867	97%			
2017	5,372	891*	95%	865	97%			
2018	5,818	914	97%	850	94%			
2019	5,726	908 97%		824	91%			
2020 (projected)	5,744 908 97% 829 92							
*Chief Joseph Units varied due to construction and renovation								

Revenue Assumptions

4,200 targeted freshmen class

Expense Assumptions

- 2.2% cost of living increase for employees per legislature approval
- 7.5% increase for temporary and student employees due to minimum wage increase
- 2.0% increase in food costs
- 3.4% net increase in employee benefits.
- 5.0% increase in utility costs
- 2.5% increase in perquisites
- 2.0% increase inflation on supplies and services

Target \$2.0 million for major repairs and equipment

Recommended Increases Apartments

Single Student apartments increase 2.0% Family Housing increase 1.0%

Residence Halls Room and Board

residence mails room and board								
	2019-20	2020-21	Increase	% Increase				
Weighted Average Residence	\$7,019	\$7,254	\$235	3.3%				
Hall Double Room								
Dining Plan, Level 2	4,300	4,350	50	1.2%				
Total* \$11,319 \$11,604 \$285 2.5%								
*Total is the sum of weighted average double room and level 2 dining plan.								

EXHIBIT D Board of Regents March 13, 2020

ACTION ITEM #2

FY2020 Athletics Budget Update Expenditure Transfer Approval (Stacy Pearson/Pat Chun)

March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: FY2020 Athletic Budget Update and Expenditure Transfer Approval

PROPOSED: That the Washington State University Board of Regents approve

Athletics expenditure transfers related to the 2020 football coach transition in accordance with SSB6493, even though net impact to the FY2020 budget of the additional revenues and expenditures is

zero.

SUBMITTED BY: Stacy Pearson, Vice President for Finance and Administration

SUPPORTING INFORMATION:

Washington State University has implemented a fiscal recovery plan for WSU Athletics to achieve an operating breakeven position by FY2023. This plan also ensures that WSU is fully compliant with RCW 28B.15.120 (Board of trustees or regents—annual budget requirements), which requires certain actions of state college and university boards related to the budgets of intercollegiate athletics programs.

The statute requires that the WSU Board of Regents specifically approve, in an open public meeting, any expenditure over two hundred fifty thousand dollars that was not included in the approved annual budget, in an open public meeting. While this legislation requires that these expenditures be approved in advance, it also allows for the approval to occur at the next regularly scheduled board meeting after the expenditure if the expenditure is: (a) Time sensitive and the net fiscal impact of the expenditure results in a direct revenue gain to the program.

In January 2020, WSU hired Nick Rolovich as the head coach of the WSU football program. As is standard practice in this type of transition, WSU committed to cover the buyout of Coach Rolovich's contract with the University of Hawaii. This buyout exceeded the \$250,000 threshold outlined in SSB6493 which requires BOR approval.

WSU also incurred additional costs to hire the new coach and for

the transition of the football staffs. However, none of the additional costs individually exceeded the \$250,000 approval limit. Further, the full cost of the transition, approximately \$1.6 million, is covered in the budget as outlined below.

The additional costs include; (a) paying the contractual obligations for the remaining staff members, (b) relocation expenses for the new staff coming to Pullman, (c) search expenses, (d) office and equipment changes, (e) increases in recruiting and (f) other normal transition expenses. These costs are covered by the \$2.25 million buyout, which is due to WSU per the terms in Coach Leach's contract. In addition, the impact of the lower bowl payout is also included in this update and covered by the contract buyout revenues.

The net impact to the FY2020 budget of the additional revenues and expenditures is zero and is reflected in Attachment B.

ATTACHMENTS:

Attachment A: Athletics Five Year Annual Operating Budgets Approved by the WSU Regents FY2020-2024

Attachment B: January 2020 Update to the FY2020 Approved Operating Budget with Revenue and Expenditure Impacts for the Football Coaching Transition.

Washington State University					
Athletics Budget - Projected					
			Projected		
	FY2020	FY2021	FY2022	FY2023	FY2024
REVENUES:					
01 - Ticket Sales	8.6	10.7	11.0	12.0	11.1
02 - Direct State/Gov Support	-	-	-	-	-
03 - Student Fees	1.5	1.4	1.4	1.4	1.3
04 - Direct Inst. Support	3.7	3.8	3.9	4.0	4.1
05 - Less Xfer to Inst.	-	-	-	-	-
06 - Indirect Inst. Support	0.4	0.4	0.4	0.4	0.5
06A - Debt Service, Lease, Rentals	-	-	-	-	-
07 - Guarantee Revenue	0.1	0.2	-	0.3	0.3
08 - Contributions	11.1	11.7	11.5	12.0	11.6
09 - In-Kind	1.6	1.6	1.6	1.6	1.6
10 - 3rd Party Compensation	-	-	-	-	-
11 - Media Rights	21.9	23.0	24.2	25.5	26.7
12 - NCAA Distribution	1.5	1.6	1.6	1.7	1.7
13 - Conference Distribution	12.1	12.1	12.8	13.0	13.3
14 - Program/Concessions etc.	1.1	1.5	1.6	1.7	1.8
15 - Royalties/Advert. etc.	3.2	4.5	5.0	5.2	5.3
16 - Sport Camp Revenue	0.3	0.3	0.3	0.3	0.3
17 - Endowments	0.6	0.7	0.7	0.7	0.7
18 - Other Revenue	2.0	2.4	2.5	2.5	2.5
19 - Bowl Revenue	2.6	2.7	2.8	2.9	3.0
Total Revenue	72.5	78.9	81.4	85.3	85.9
EXPENSES:					
20 - Athletic Aid	11.0	11.7	12.0	12.2	12.5
21 - Guarantee Expense	1.8	1.3	1.8	1.6	1.5
22 - Coaches Comp: WSU	14.3	15.4	14.8	14.9	14.9
23 - Coaches Comp: 3rd Party	-	-	-	- 1	-
24 - Admin Comp: WSU	15.1	15.3	15.5	15.8	16.0
25 - Admin Comp: 3rd Party	-	-	-	-	-
26 - Severence	2.0	1.7	1.3	-	_
27 - Recruiting	1.5	1.6	1.6	1.7	1.7
28 - Team Travel	4.7	4.7	4.8	5.0	5.2
29 - Equipment	2.2	2.3	2.3	2.5	2.7
30 - Game Expenses	2.5	2.7	2.7	2.8	2.6
31 - Fund Raising/Marketing	2.4	2.5	2.6	2.7	2.7
32 - Sport Camp Expense	0.3	0.3	0.3	0.3	-
33 - Spirit Groups	0.2	0.2	0.2	0.2	0.2
34 - Facilities: Debt/Lease/Rental	9.6	10.0	10.0	10.0	10.0
35 - Direct Admin Expense	2.0	2.1	2.1	2.2	2.2
36 - Indirect Inst. Support	0.4	0.4	0.4	0.4	
37 - Medical/Insurance	0.9	0.9	0.4	1.0	1.0
38 - Dues & Memberships	2.4	2.5	2.6	2.7	2.8
39 - Student-Athlete meals	1.0	1.0	1.0	1.0	1.0
40 - Other Expense	4.7	4.6	4.7	4.8	4.9
41 - Bowl Expenses	2.1	2.2	2.3	2.4	2.5
41A - Coaches Bowl Bonuses	0.5	0.5	0.5	0.5	0.5
Total Expenses	81.7	83.9	84.6	84.7	85.3
Net Income from Operations	(9.3)	(5.0)	(3.2)	0.5	0.5
EC Controlled Fundament			0.0		
56-Capitalized Expenses	6.7	0.3	0.0	-	-
Net Income after Capitalized Epenses	(16.0)	(5.3)	(3.2)	0.5	0.5
Accumulated Deficit	(92.8)	(98.1)	(101.3)	(100.8)	(100.28
Accumulated Deficit					

Attachment B

Washington State University Athletics Budget - FY2020 Budget Update

	FY2020	Jan Update	
REVENUES:			
01 - Ticket Sales	8.6	8.6	-
02 - Direct State/Gov Support	-	-	-
03 - Student Fees	1.5	1.5	-
04 - Direct Inst. Support	3.7	3.7	-
05 - Less Xfer to Inst.	-	-	-
06 - Indirect Inst. Support	0.4	0.4	-
06A - Debt Service, Lease, Rentals	-	-	-
07 - Guarantee Revenue	0.1	0.1	-
08 - Contributions	11.1	11.1	(0.0)
09 - In-Kind	1.6	1.6	-
10 - 3rd Party Compensation	-	-	-
11 - Media Rights	21.9	21.9	-
12 - NCAA Distribution	1.5	1.5	-
13 - Conference Distribution	12.1	12.2	0.1 Audit surplus from Pac-12
14 - Program/Concessions etc.	1.1	1.1	-
15 - Royalties/Advert. etc.	3.2	3.2	-
16 - Sport Camp Revenue	0.3	0.3	-
17 - Endowments	0.6	0.6	-
18 - Other Revenue	2.0	4.2	2.3 Leach buyout
19 - Bowl Revenue	2.6	1.4	(1.2) Lower Bowl payout
Total Revenue	72.5	73.6	1.1
EXPENSES:			
20 - Athletic Aid	11.0	11.0	-
21 - Guarantee Expense	1.8	1.9	0.0
22 - Coaches Comp: WSU	14.3	14.3	-

23 - Coaches Comp: 3rd Party	-	-	-
24 - Admin Comp: WSU	15.1	15.1	0.0
25 - Admin Comp: 3rd Party	-	-	-
26 - Severence	2.0	3.1	1.1 Severence for FB staff not retained
27 - Recruiting	1.5	1.5	-
28 - Team Travel	4.7	4.8	0.1
29 - Equipment	2.2	2.2	-
30 - Game Expenses	2.5	2.5	-
31 - Fund Raising/Marketing	2.4	2.4	-
32 - Sport Camp Expense	0.3	0.3	-
33 - Spirit Groups	0.2	0.2	-
34 - Facilities: Debt/Lease/Rental	9.6	9.6	-
35 - Direct Admin Expense	2.0	2.0	-
36 - Indirect Inst. Support	0.4	0.4	-
37 - Medical/Insurance	0.9	0.9	-
38 - Dues & Memberships	2.4	2.4	-
39 - Student-Athlete meals	1.0	1.0	-
40 - Other Expense	4.7	5.2	0.5 Coach transition - moving exp & transition cost
41 - Bowl Expenses	2.1	1.5	(0.6) Savings on bowl expenses
41A - Coaches Bowl Bonuses	0.5	0.5	-
Total Expenses	81.7	82.9	1.1
Net Income from Operations	(9.3)	(9.3)	0.0
56-Capitalized Expenses	6.7	6.7	
Net Income after Capitalized Epenses	(16.0)	(16.0)	
	4		
Accumulated Deficit	(92.8)	(92.8)	

Cheez-It Bowl summary: The Cheez-It bowl has a very low payout compared to other Pac-12 affiliated bowls. The pay out was \$1.2M less than the Alamo Bowl (WSU bowl from FY19). Bowl expenses were reduced by more than \$400,000 by minimizing travel costs and other efforts.

ACTION ITEM #3

Pacific Northwest University of Health Sciences (PNWU) Lease for Nursing Program in Yakima (Stacy Pearson/Daryll DeWald)

March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: PNWU Lease for Nursing Program in Yakima

PROPOSED: That the Board of Regents authorize a ten (10) year Office/Classroom

Lease on the PNWU campus in Yakima, WA, and delegate authority to the President or his designee to enter into any and all documents

necessary to complete the execution of said Lease.

SUBMITTED BY: Stacy Pearson, Vice President for Finance and Administration

SUPPORTING

INFORMATION: The College of Nursing (CON) currently occupies approximately

13,200 gross sq. ft. of office space on the Yakima Valley Community College campus located at W Nob Hill Blvd. and S 16th Ave., Yakima, WA. The CON has an opportunity to relocate onto the Pacific Northwest University of Health Sciences (PNWU) campus (the same location as the WSU College of Pharmacy), which is becoming the Health Sciences hub of that region. This would provide significantly better space long-term for nursing's educational program in Yakima. The initial term of the lease, if approved, is ten (10) years. Final negotiations with PNWU are ongoing, but the estimated total amount of rent and payment for services for the ten-year term will be approximately \$6,500,000. The WSU Spokane Health Sciences Campus and the CON will adjust their annual operating budgets to cover this new annual cost. CON's plan to grow enrollments (See Attachment B) is intended to be one source of revenue for this

purpose.

The new space on the PNWU campus consists of approximately 17,800 gross square feet and includes furniture, utilities, parking, and other services and amenities. Importantly, colocation with PNWU and the Nursing and Pharmacy programs allows for greater collaboration and interprofessional development. This environment

is fertile for expansion of the undergraduate (R.N., B.S.N and D.N.P. and professional Doctor of Nursing practice nursing degree programs; therefore, plans have been formulated and are in the process of being implemented. Expansion will provide greater impact and revenue for the WSU College of Nursing and WSU.

Yakima is an important site regionally for health sciences education and health care delivery, and the health sciences college faculty have many educational and research ties to collaborators in the region. WSU Tri-Cities and WSU Vancouver also have interest and engagement with WSU Yakima programs. This request is for the approval of a lease agreement between WSU Health Sciences and PNWU on behalf of the College of Nursing. Currently, the College of Pharmacy and Pharmaceutical Sciences has a five-year lease agreement with PNWU.

Additional key terms and dates for the new Lease with PNWU are outlined in the Memo from WSU Health Sciences to PNWU (Attachment A). The CON's 5-Year Strategic Plan for Growth is provided in Attachment B. Nursing expansion in Yakima and across the state will be facilitated and enhanced by having the CON located on the PNWU campus because of the improved quality of facilities and expanded opportunities for interprofessional education.

ATTACHMENTS:

Attachment A – WSU Heath Sciences Memo

Attachment B – College of Nursing's 5-Year Strategic Plan for Growth

BOARD OF REGENTS

Pacific Northwest University of Health Sciences (PNWU) Lease for Nursing Program in Yakima

Resolution #200313-622

WHEREAS, the Board of Regents of Washington State University by virtue of RCW 28B.10.528 has authority to delegate by resolution to the President of the University, or designee, powers and duties vested in or imposed upon the Board by law and to enable the President, or designee to act on behalf of the Board of Regents in matters relating to the administration and governance of the University.

RESOLVED: That the Board of Regents authorize a ten (10) year Office/Classroom Lease on the PNWU campus in Yakima, WA, and delegate authority to the President or his designee to enter into any and all documents necessary to complete the execution of said Lease.

Dated this 13th day of March, 2020.

Chair, Board of Regents

Secretary, Board of Regents



Office of the Vice President/Chancellor

MEMORANDUM

TO:

Michael Lawler, President, Pacific Northwest

University of Health Sciences

Ed Bilsky, Provost and Chief Academic Officer, Pacific Northwest

University of Health Sciences

FROM:

Darvll DeWald, Vice President & Chancellor Washington State University

Dangel B. Dollatel.

Health Sciences

Stacy Pearson, Vice President for Finance & Administration,

Washington State University

DATE:

January 24, 2020

SUBJECT:

WSU Nursing Relocation to PNWU Yakima Campus

This memorandum serves as official notice that WSU Health Sciences (WSU) plans to relocate its College of Nursing program located on the Yakima Valley College (YVC) campus to the Pacific Northwest University of Health Sciences (PNWU) campus.

The planned date to relocate WSU's nursing program to PNWU's campus is late Spring of 2020. To meet this timeline, WSU and PNWU will need to act diligently and in good faith to finalize a mutually acceptable written agreement by March 15, 2020. The agreement will need to include certain WSU standard contract terms and conditions for an arrangement of this size and complexity. The agreement must also comply with all WSU policies and applicable laws for public institutions of higher education.

As WSU is terminating its current lease with YVC and relocating its nursing program to PNWU's campus, the space WSU will be occupying on the PNWU's campus needs to be move-in ready. Important terms that will need to be incorporated into the lease agreement to ensure WSU can continue to offer educational and administrative services to its nursing students during this relocation include the following:

Intent to locate into approximately 10,694 Net Assigned Square Feet (NASF) in the Project NEXT Building

Planned date of relocation: Late Spring 2020

Planned initiation of lease agreement: July 1, 2020

Duration of the Lease will be 10 years

Approximate cost of the lease will be around \$600,000 per year, which will include space and utilities, furniture and certain services or amenities that are consistent with the draft Cooperative Agreement between WSU and PNWU. Other services not subject to the base fee may be negotiated by the parties such as those stated in the draft Cooperative Agreement between WSU and PNWU.

Finalizing the space arrangements will also require defining the simulation capabilities and spaces, classrooms, and office designation of designated (for WSU Nursing) and shared space (with PNWU and WSU Pharmacy) and who is responsible for completion and maintenance of the different facilities.

WSU also commits to work in good faith and develop secondary agreements, where appropriate, with PNWU to define costs and services for PNWU-occupied WSU Spokane-leased space, WSU IRB serving PNWU, WSU EHS serving PNWU, and WSU instructional collaboration.



Attachment B



5 Year Strategic Plan For Growth



Nursing is Poised For Growth



Strategies:

- Statewide Demand Expand enrollments in all fields of nursing to address critical shortage of nurses in the state of Washington
- Offensive Minimize impact of other programs from getting established/growing
- Defensive Maintain control of programs

Conclusion:

• Need to implement incentive for College of Nursing by remodeling the budget so that they receive net tuition and can make strategic investments to grow programs







History of Nursing Net Tuition

Net Tuition by Campus	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019	Total
Pullman (from Spokane/Yakima) - Grad	627,413	707,653	804,876	815,557	922,285	3,877,783
Pullman (from Spokane/Yakima) - UG	4,838,879	4,482,973	4,092,430	4,261,097	4,406,239	22,081,618
Spokane/Yakima - UG - > EBB	84,000	43,867	39,067	48,400	-	215,333
Tri-Cities - Grad	57,872	119,654	222,134	234,720	190,689	825,068
Tri-Cities - UG	982,928	985,113	993,922	870,456	732,621	4,565,040
Vancouver - Grad	1,010,389	1,194,072	922,797	1,134,629	1,168,116	5,430,003
Vancouver - UG	566,312	567,290	662,611	682,591	756,754	3,235,557
Total	8,167,793	8,100,621	7,737,837	8,047,450	8,176,703	40,230,403

The College of Nursing has generated \$40M in net tuition system-wide over the past five years, \$26M to Pullman, \$5M to Tri-Cities, and \$9M to Vancouver

Current Tuition for: Undergrad - \$10,290 Grad - \$17,816





Forecasted RN-BSN Program Headcount by Location



RN-BSN	FY19	FY20	FY21	FY22	FY23	FY24
Puyallup						
Spokane	37	40	50	60	60	60
Tri-Cities	11	10	15	15	20	20
Vancouver	153	155	160	160	160	160
Walla Walla	7	10	15	15	20	20
Yakima	9	8	15	20	20	20
Everett						
RN-BSN - Total	217	223	255	270	280	280

Strategies:

- **Expand to Everett** for students in the northern corridor. Currently students who live in the northern corridor must drive to Vancouver. We have an opportunity to expand our presence in Everett.
- The RN-BSN program has an opportunity to **create a dual enrollment program** where *community college students who are accepted in the Associate Degree program could apply to WSU to complete the Associate Degree and BSN at the same time*. Clark College and Spokane Community College are exploring with WSU a statewide option for students. If we were to offer this option statewide it will vastly increase our RN-BSN numbers.
- Moving online. A very complicated multi-campus issue. The dual enrollment program to be fully online. The RN-BSN is currently revising the curriculum to decrease the clinical hours. This change will focus on practice hours with a specific focus (research, policy, population health and leadership). Our community stakeholders (Kaiser) want a population health/nurse care manager course. We have built that into our new curriculum to prepare students to manage complex populations.
- **Hire a full-time advisor/program coordinator**. We currently need to increase our presence statewide. Our competitors have better presence, swag and marketing strategies. We propose hiring a staff member to work strategically with our community college partners to work on innovative ways to gets students to chose WSU. This person would collaboratively work with the campus advisor to create a growth-oriented strategic plan.
- Explore new program development. RN to DNP/PhD, RN to MBA/MSN





Forecasted Pre-Licensure (BSN) Program Headcount by Location



Pre-Licensure	FY19	FY20	FY21	FY22	FY23	FY24
Puyallup						
Spokane	351	360	360	360	360	368
Tri-Cities	79	96	96	96	104	112
Vancouver						
Walla Walla						
Yakima	92	96	96	104	112	120
Everett						
Pre-Licensure - Total	522	552	552	560	576	600

Strategies:

- Expand Prelicensure enrollment on Yakima & Tri-Cities: Possible expansions that may be responsive to need would be to expand the Yakima and Tri-Cities campuses by 1 section (8 students) over the next two years. Yakima campus would be the most reasonable campus to increase in 2020-2021, enjoying the more stable faculty. The Tri-Cities campus has traditionally had large faculty and leadership turnover, but also has a great nursing need. With appropriate support, Tri-Cities could potentially add a new section (8 students) in 2021- 2022.
- Expansion of Spokane capacity: Could be accomplished by expanding the Spokane site by 1 section AFTER the "teach out" of the new curriculum is complete, in 2022. A new section of 8 students could be supported in 2022 2023. The addition of each new section would be anticipated to result in at least 0.5 clinical faculty and 0.25 didactic faculty increase per term for a total of 3 new faculty FTE for each new section on each campus.
- Change the program on all campuses to Year Round BSN Program: The existing BSN program does not offer courses in the summer. This results in Fall admission students "sitting out" one summer between their 2nd and third terms, and Spring admission students sitting out two summers between their 1st and 2nd and 3rd and 4th terms. This proposal would be to change the program to year round, best deployed with the new curriculum. Admission would be twice per year, in the spring and fall, with an increase in the enrollment to 100 on the Spokane campus (2 additional sections) in addition to expansion on the TC and Yakima campus would result in 32 additional enrolled annually across the campuses. The new curriculum decreases clinical hours but increases the didactic faculty need. This program would result in the graduation of 150-155 students each cycle, with 300 graduates over two years, up from the existing 250 per year. Admissions would be the same as above, but with students graduating after 4 terms, rather than 5 or 6 total terms, accelerating the number of graduates.





Forecasted MN PH Program Headcount by Location



MN PH	FY19	FY20	FY21	FY22	FY23	FY24
Puyallup	2	2	5	7	20	30
Spokane	5	5	5	13	40	45
Tri-Cities	3	3	5	12	20	25
Vancouver	20	20	10	35	40	50
Walla Walla	1	1	2	5	10	15
Yakima			5	5	15	20
Everett				5	10	15
MN - Total	31	31	32	82	155	200

Strategies:

- To expand by Fall 2021, target admissions in Central Washington (Yakima and Tri-Cities) & Eastern WA (Spokane):
- The MN PH program is developing more visibility for the three Graduate Certificates: Nursing
 Education, Nursing Leadership and Public Health. While the majority of students are completing the
 certificates within their primary graduate degree programs (MN PH, DNP, PhD), growth is feasible in
 non-matriculated tracks for post BSN/post MN-RN applicants seeking the Public health certificate.
- Another avenue for program expansion is through the RN-MN pathway for RN applicants (RN-B program) with a BA/BS in another degree and a prelicensure RN-MN pathway for BSN students with a BA/BS in another degree.





Forecasted DNP Program Headcount by Location



DNP	FY19	FY20	FY21	FY22	FY23	FY24
Puyallup	46	35	35	35	35	35
Spokane	60	55	55	55	55	55
Tri-Cities	18	16	30	18	18	24
Vancouver	53	60	60	60	60	60
Walla Walla	5	3				
Yakima	6	4	16	18	18	24
Everett				30	30	42
DNP - Total	188	173	196	216	216	240

Positioned for success:

There were just 31 students enrolled in 2012, the program's first year, versus 173 in the 2019-20 academic year. The college closed the MN Advanced Degree option in fall 2019 which will account for more students in the DNP program. Additionally:

- A plan developed by WSU and the Kadlec Foundation in 2019 promises to boost DNP enrollments in the Tri-Cities. Those graduates will create a larger pool of potential faculty to support growth of the Yakima program.
- Yakima DNP enrollment will be enhanced by the move of the program to <u>PNWU</u>. The more modern facilities will:
 - Attract new DNP faculty and students
 - Expand opportunities for learning via high-fidelity simulation
 - o Provide better technological support for hybrid delivery of distance education
 - Enable students to engage in interprofessional education activities with PNWU students, preparing better clinical practitioners and educators, and begin opportunities for nursing faculty to serve as Affiliate faculty at PNWU.





Forecast of Nursing Net Tuition

System Wide Headcount						
	FY19	FY20	FY21	FY22	FY23	FY24
DNP	188	173	196	216	216	240
MN PH	31	31	32	82	155	200
RN-BSN	217	223	255	270	280	280
Pre-Licensure	522	552	552	560	576	600
Conversion to AAFTE						
	FY19	FY20	FY21	FY22	FY23	FY24
DNP	132	121	137	151	151	168
MN PH	22	22	22	57	109	140
RN-BSN	239	245	281	297	308	308
Pre-Licensure	574	607	607	616	634	660
Projected Revenue (At FY19 Tuition	on)					
Average Net Tuition - UG		9,300				
Average Net Tuition - Grad		15,000				
	FY19	FY20	FY21	FY22	FY23	FY24
DNP	\$ 1,974,000	\$ 1,816,500	\$ 2,058,000	\$ 2,268,000	\$ 2,268,000	\$ 2,520,000
MN PH	\$ 325,500	\$ 325,500	\$ 336,000	\$ 861,000	\$ 1,627,500	\$ 2,100,000
RN-BSN	\$ 2,219,910	\$ 2,281,290	\$ 2,608,650	\$ 2,762,100	\$ 2,864,400	\$ 2,864,400
Pre-Licensure	\$ 5,340,060	\$ 5,646,960	\$ 5,646,960	\$ 5,728,800	\$ 5,892,480	\$ 6,138,000
Total	\$ 9,859,470	\$ 10,070,250	\$ 10,649,610	\$ 11,619,900	\$ 12,652,380	\$ 13,622,400
Incremental Revenue Over FY19		\$ 210,780	\$ 790,140	\$ 1,760,430	\$ 2,792,910	\$ 3,762,930
PNWU Investment		\$ 650,000	\$ 650,000	\$ 650,000	\$ 650,000	\$ 650,000
Net (Deficit)/Surplus		\$ (439,220)	\$ 140,140	\$ 1,110,430	\$ 2,142,910	\$ 3,112,930
Cumulative (Deficit)/Surplus		\$ (439,220)	\$ (299,080)	\$ 811,350	\$ 2,954,260	\$ 6,067,190





Summary



Summary:

- The College of Nursing historically and currently has been/is the largest nursing program in the state of Washington and our plan to expand enrollment in all program tracks (RN-to-BSN, BSN, MN-Population Health, DNP, and PhD) is designed to keep us as the acknowledged leader in nursing education in the state.
- Our expansion plan involves engaging in formal partnerships with large hospital care facilities across the state (Premera, Kadlec, MultiCare, Veterans, Kootenai, Kaiser-Permanente, PNWU) to name a few.
- We believe the plan is a reasonable estimate of enrollment over the next five years.
- To achieve success, we will need funding to increase the number of qualified faculty to teach and conduct clinical supervision, additional staff to run the daily operations, and the capacity to open new clinical placements for students across the state, including rural placements.
- The dire need for the Spokane campus to receive tuition reimbursement is central to our expansion plans as is the need for a nursing financial model that works for all campuses.
- We are optimistic we will find a way forward together and we look forward to growing in conjunction with our health sciences partners located state-wide.



ACTION ITEM #4

Proposed Changes to the President's Delegations of Authority (Stacy Pearson)

March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: Proposed Changes to the President's Delegations of Authority

PROPOSED: That the Board of Regents approve the following

changes to the President's Delegated Authority:

• Increase the threshold amount for required approval by the Board of Regents from \$2,500,000 to \$5,000,000 for general business and financial affairs.

- Increase the real estate transaction threshold amount for required approval by Regents from \$1,000,000 to \$5,000,000.
- Increase the capital construction projects threshold amount for required approval by Regents from \$1,000,000 to \$5,000,000, for all projects, regardless of funding source.

Provided, however, that the President or designee provides an appropriate committee of the Board of Regents with a written update at the subsequent, regular meeting of the Board, describing all transactions executed under this delegation of authority that fall between \$2,500,000 and \$5,000,000 (for general business and financial affairs) and between \$1,000,000 and \$5,000,000 (for real estate transactions and capital construction projects.

SUBMITTED BY: Stacy Pearson, Vice President, Finance and Administration

SUPPORTING INFORMATION:

Pursuant to RCW 28B.10.528, the Board of Regents is authorized to delegate to the President, or his designees, powers and duties vested in or imposed upon the Board by law to enable the President or his designee to act on behalf of the Board of Regents in matters relating to the administration and governance of the University. Concerns have been raised regarding the existing

limits in the delegation of authority adopted by Resolution #011005-143 dated October 5, 2001 including:

- General Business and Financial Affairs: Purchases of goods, equipment, supplies and materials do not generally involve major policy. The proposed \$5,000,000 threshold amount will provide Purchasing Services with a more consistent threshold and enable more effective and efficient operations.
- **Real Estate:** Real estate transactions usually require a short turnaround time. The current approval process can take three to four months and is not conducive to timely real estate negotiations.

Under the University's current threshold, all real estate transactions that exceed \$1,000,000 require the approval of the Board of Regents, regardless of transaction type as generally illustrated in the table below:

Leases	Acquisitions	Dispositions	Easements
\$1,000,000 over the term of the Lease, as landlord or tenant	\$1,000,000	\$1,000,000	\$1,000,000

The University's threshold amounts are outdated and relatively low compared to other similar institutions. We propose an increase to the threshold for all University real estate transactions to \$5,000,000, as illustrated below:

Leases	Acquisitions	Dispositions	Easements
\$5,000,000 over the term of the Lease, as landlord or	\$5,000,000	\$5,000,000	\$5,000,000
tenant			

The proposed \$5,000,000 threshold amount will allow CREO (Contracts and Real Estate Office) to function more effectively and efficiently, which is critical when the University needs to work quickly to complete an acquisition or disposition, or to finalize a lease agreement.

• Capital Projects: Under the University's current threshold, all non-state funded capital projects that exceed \$1,000,000 require the approval of the Board of Regents.

The University's \$1,000,000 delegation of authority for non-state funded capital projects is outdated and has been in place since the early 2000's. This delegation was most recently changed in 2013 to allow an increase to \$5,000,000 for state funded projects

The proposed \$5,000,000 threshold amount provides Facilities Services a consistent threshold, allowing the unit to function more effectively and efficiently.

The capital construction transaction threshold amount required for Board of Regents approval is proposed to increase as follows:

For projects that have an estimated total cost of five (5) million dollars or less, the President or designee is delegated the authority to approve and execute contracts relating to the selection and appointment of architects, engineers, planners, and other professional consultants;

- > to approve and adopt schematic design plans;
- to establish project budgets;
- to award and execute construction contracts for new buildings, additions;
- to reject any or all bids, and to rebid projects where determined to be appropriate;
- ➤ to authorize the use of alternative public works procurement consistent with RCW 39.10

The Office of Finance and Administration will provide a written quarterly update to the Board of Regents for all transactions between \$1,000,000 and \$5,000,000.

The current delegated authority approvals that require the President to consult with the Chair of the Board of Regents for emergency expenditures that exceed the current delegated authority limits will be revised to include these new amounts.

BOARD OF REGENTSWashington State University

Resolution #200313-624

Delegation of Authority

WHEREAS, the Board of Regents of Washington State University by virtue of RCW 28B.10.523 has authority to delegate by resolution to the President of the University, or his designee, powers and duties vested in or imposed upon the Board by law and to enable the President or his designees to act on behalf of the Board of Regents in matters relating to the administration and governance of the University;

WHEREAS, the Board finds it necessary, desirable, and expedient to the timely and efficient operation of the University to delegate authority to the President of the University, Kirk H. Schulz or to his designee to act for the Board of Regents in matters pertaining to the general business and financial affairs, organization, and management of the University;

NOW, THEREFORE, be it resolved:

That the Board of Regents hereby delegates to the President of the University, Kirk H. Schulz and to his designees, authority to act for the Board of Regents regarding the general business and financial affairs, organization, and management of the University, including but not limited to the following:

- (a) The execution and administration of contracts relating to the general business and financial affairs of the University including but not limited to purchase orders and all other written instruments relating to the procurement or disposal of personal property including but not limited to goods, supplies, materials and insurance where the total costs to the University are estimated to be less than \$5,000,000.
- (b) The execution and administration of purchases that have been pre-authorized or pre-allocated by the Regents. Said authority extends but is not limited to purchases incident to capital construction projects.
- (c) The execution and administration of purchases made pursuant to an external grant.
- (d) The execution of contracts regarding real property acquisition and disposal, leases, rental agreements, facilities management agreements, easements, permits, licenses, and other written instruments relating to acquisition of or granting of interests in real property where the value of the property to be disposed of or

obligated in such manner is under \$5,000,000.

- (e) The execution of contracts for personal or professional services to or by the University. The execution of contracts, purchase orders or other written instruments relating to the acquisition of heating fuels and other heating, electrical, telephone, water and sewage utility services.
- (f) The selection and appointment of architects, engineers, planners, and other professional consultants, the approval or adoption of conceptual, schematic and preliminary (design development) plans, and the approval of working drawings where the total project costs (that is the estimate of the ultimate overall costs of the entire project) are estimated to be less than \$5,000,000; the authority to call for bids, to establish project budgets, to advertise and receive bids and to award construction contracts for new buildings, additions, alterations, improvement, and repairs where the total project costs are less than \$5,000,000; and to reject any or all bids, and to rebid projects where determined to be appropriate.
- (g) Execution of contracts providing for the receipt of grant funds, sponsored research funds, awards, matching grants, or acceptance of gifts or bequests by the University.
- (h) Investment or re-investment of current, endowment or trust funds and the acquisition, sale, or transfer of stocks, bonds, or certificates of investment in accordance with general policies established by the Board of Regents, or the joint University/WSU Foundation Investment Committee, from time to time.

Provided, however, that the President or designee provides an appropriate committee of the Board of Regents with a written update at the subsequent, regular meeting of the Board, describing all transactions executed under this delegation of authority that fall between \$2,500,000 and \$5,000,000 (for general business and financial affairs) and between \$1,000,000 and \$5,000,000 (for real estate transactions and capital construction projects.

Signed the 13th day of March, 2020.

President of the Board of Regents		
ecretary of the Board of Reger	 nts	

ACTION ITEM #1

Proposed Amendments to WAC 504-26-110: Standards of Conduct for Students - Composition of Conduct Board (Mary Jo Gonzales/Terry Boston)

March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: Proposed Amendments to WAC 504-26-110: Standards of Conduct

for Students - Composition of Conduct Board

PROPOSED: That the Board of Regents approve the proposed amendments to

WAC 504-26-110: Standards of Conduct for Students - Composition

of Conduct Board

SUBMITTED BY: Terry Boston, Acting Vice President for Student Affairs

SUPPORTING INFORMATION:

The University President has authority to adopt emergency rules, provided that a summary of any action taken is presented to the appropriate committee of the Board of Regents at the next regularly scheduled meeting. WAC 504-26-110 was previously amended by emergency rule and a summary was presented to the Board at the November 2019 meeting. This action item seeks to make that emergency rule permanent through the Board of Regents' authority under Chapter 28B.30 RCW and Chapter 34.05 RCW to adopt, amend, and repeal University regulations published in the Washington Administrative Code.

WAC 504-26-110 sets forth the composition of the University Conduct Board (see attached) for adjudicating student conduct matters where suspension or expulsion is a possible outcome. Delays in having timely hearing presents potential Title IX compliance concerns and may negatively impact both reporting and responding students awaiting a conduct board hearing. By reducing the number of conduct board members, delays in scheduling hearings will be significantly reduced.

The proposed changes were discussed with student leaders across the WSU system. They understood the negative impact that the delays were having on students and were generally supportive of the smaller boards, although some expressed concern with the reduction of student members required for each conduct board from three to one. It was conveyed that while only one would be required, whenever

possible the board would strive to keep the original vision of a strong student presence (majority students) while ensuring compliance with our institutional agreement from the U.S. Department of Education's Office of Civil Rights. Ultimately, student leaders understood the need for the emergency rule and supported the change.

During the time the emergency rule has been in place, the University Conduct Board eliminated the backlog of delayed cases and completed hearings in a more efficient and timely manner. On February 5, 2020, a public hearing was conducted to solicit public comments regarding the amendments (see attached). Generally, the comments in support noted that scheduling was easier, resulted in a reduction in the length of the hearings, and had little to no effect on the amount of student participation in the outcome. There were no comments opposing the amendments.

ATTACHMENT: Attachment A: Filed Report pursuant to RCW 34.05.325(4)



Office of Procedures and Forms

MEMORANDUM

DATE:

February 7, 2020

TO:

Kirk H. Schulz

FROM:

Deborah L. Bartlett
Rules Coordinat

SUBJECT:

Amend WAC Chapter 504-26: Standards of Conduct for Students

This report is filed pursuant to RCW 34.05.325(4).

On February 5, 2020, a public hearing was conducted to solicit public comments regarding amendment of WAC Chapters 504-26: Standards of Conduct for Students. The proposed amendments are intended to modify, clarify, and update the University's standards of conduct for students. The proposed amendments decrease the number of student conduct board members from five to three and remove the option for storage of student firearms at the WSU police department. The rules regarding the composition of a conduct board are updated because the amount of time required for WSU to schedule and complete student conduct hearings with five conduct board members presents potential Title IX (of the Civil Rights Act) compliance concerns and may negatively impact both reporting and responding students awaiting a conduct hearing. Therefore, WSU proposes changes to WAC 504-26-110 to reduce the number of conduct board members required to hear a case. These changes will reduce the difficulty in scheduling cases for a hearing, reduce waiting times, and reduce the risk of noncompliance with Title IX's timely resolution requirements, while also promoting the well-being of reporting and responding students awaiting a conduct board hearing. WSU's student conduct code regarding firearms is updated to reflect the discontinuation of student firearm storage by the WSU Police Department. Recent amendments to RCW 9.41.345 made the university's firearms storage program unfeasible and thus the university discontinued the program. Accordingly, WAC 504-26-213 must be amended to reflect this change in university policy.

Four employees submitted written comments to the Office of Procedures, Records, and Forms, via the Office of Student Affairs, during the public comment period prior to the close of business on February 5, 2020. Two students made a statements at the public hearing. Copies of the written comments and a synopsis of the oral comments are attached to this memorandum.

Prior to the hearing, notice of opportunity to make public comment on this proposal, either verbally or in writing, was published on January 21, 2020 in the WSU Tri-Cities Currents newsletter; on January 27, 2020 in the WSU Insider, the WSU Spokane Announcements, the WSU Everett weekly newsletter, and the WSU Vancouver employee and student e-mail newsletters; on January 28, 2020 in the online edition of the Daily Evergreen at WSU Pullman; and on January 29, 2020 in the print edition of the Daily Evergreen at WSU Pullman; and was duly submitted for publication on January 13, 2020 in the WSU Events Calendar. Notice was also published on January 15, 2020 on the WSU rule-making website, which is accessible by a direct link from the WSU home page. Each notice included notification of the time and place of the public hearing where oral comments could be provided and a request for written comments to be submitted no later than the close of business on February 5, 2020.

Other than the oral and written comments received from the individuals indicated above, no additional comments were received, oral or written, from the public regarding this proposal.

dlb

cc: Danielle Hess, Senior Assistant Attorney General, Attorney General's Office--WSU Division

Desiree Jacobsen, Executive Assistant to the Board of Regents

Nathan Deen, Assistant Attorney General, Attorney General's Office--WSU Division Karen Metzner, Assistant Director, Center for Community Standards Steve Hansen, Associate Director, WSU Police Department Bill Gardner, Associate Vice President and Executive Director, Public Safety Jill Creighton, Associate Vice President, Office of Student Affairs and Dean of Students Terry Boston, Acting Vice President, Office of Student Affairs Vicky Murray, Executive Director, Office of Finance and Administration Stacy Pearson, Vice President, Office of Finance and Administration

Attachments: Written comments received during public commenting period ending February 5, 2020 regarding amendment of WAC Chapters 504-26: Standards of Conduct for Students

> Synopsis of oral comments received from attendees at public hearing held February 5, 2020 regarding amendment of WAC Chapters 504-26: Standards of Conduct for Students

Copy of proposed amendment to WAC Chapters 504-26: Standards of Conduct for Students

University Conduct Board Statistics

MEMBERSHIP

Current Composition

- Active Roster
 - 13 Students, 11 Staff
- Inactive Roster Schedules did not work, requested semester off, or unresponsive to communications
 - 22 Students, 3 Staff

Membership Changes Since June 1

- Added 16 total members
 - 14 students, 2 staff
- Lost 20 total members
 - 16 students, 4 staff

Current University Conduct Board Membership by Campus

- Pullman 9 active staff, 13 active students, 1 inactive staff, 19 inactive students
- Spokane 1 active staff, 1 inactive student
- Tri-Cities 1 inactive student
- Vancouver 1 inactive staff
- Everett 1 inactive staff
- Global 1 active staff, 1 inactive student

SCHEDULING FOR HEARINGS:

Before Emergency WAC 504-26-110

- Summer scheduling was challenging to find enough students available to do a hearing with alternates available. Scheduling was put together as possible
- Fall 2019 Hearings were scheduled weekly only on Monday, Wednesday, and Friday mornings from 8am-12pm as student schedules allowed since at least 4 students with the same availabilities were needed

Since Emergency WAC 504-26-110

- Spring 2020 Hearings are scheduled based on weekly alternating teams
 - Monday and Wednesdays
 - Noon-6PM
 - 2 Staff chairs
 - 4 Staff alternates
 - 7 Students
 - Tuesday and Thursdays
 - Noon-6PM
 - · 2 Staff chairs
 - 3 Staff alternates
 - 6 Students

STATEMENTS REGARDING EMERGENCY WAC 504-26-110

Nathan Deen, Assistant Attorney General, WSU Division of the Office of the Attorney General

"I wholeheartedly support the proposed amendment. For certain types of Conduct Board cases-particularly those involving Title IX matters were witness credibility is often at issue, stakes and emotions are high for all parties, and relevant evidence is often voluminous-due process and state law requirements regularly result in conduct board hearing times of twelve hours or more. With lengthy hearings, it becomes increasingly difficult to schedule long blocks of hearing times with student schedules. Prior to reducing the Conduct Board quorum size, this difficulty in scheduling long periods of hearing times caused a back log of student conduct cases resulting in delays for respondents and complainants to achieve finality in their student conduct cases. The quorum size also complicated hearings once they begin. There are several cases that have taken weeks to complete as the parties, their lawyers, the conduct board, and the Administrative Law Judge assigned to the case must all have the same availability to complete the hearing. By reducing the conduct board's quorum, this mitigates these problems by reducing the number of personal schedules that must align to complete lengthy hearing. In addition, reducing the conduct board's quorum has little to no effect on the amount of student participation in the outcome. Under WSU's process, the Appeals Board has the final review of the matter and owes no deference to the Conduct Board's decision. Appeal Board membership remains unchanged under the proposed amendments and continues to require a majority of students to reach quorum."

Audrey Van Nuland, Academic Advisor and University Conduct Board Chair

Scheduling has changed for the better since the quorum changed. It is much easier to schedule 3 people than 5, especially if a case takes more than the time originally presumed. It was very difficult when I worked on a hearing that one of the students quit. It was difficult to find someone to get caught up and replace them. With a quorum of 3, it is a much easier process.

Kyle Holbrook, Student Housing Coordinator and University Conduct Board Chair

My experience with the quorum of five went smoothly enough though the case we worked on was already pretty cut and dry. I did feel the number could lead to some hesitance in discussing differing viewpoints or exploring points of clarification because of the high number of people.

My experience with the quorum of three people was very good. We still had a diversity of opinions, and due to having less people, we had more time to discuss sensitive/differing viewpoints as a group. This in turn I feel led to a more genuine consensus building as we all had an opportunity to have a full conversation on the case. I would wholeheartedly recommend an official change to a 3-member quorum.

Karen Fischer, Associate Dean of Students

From a student care perspective – The emergency WAC revisions provide a more expedient scheduling process and provides more favorable timelines to conclusion for both reporting party and responding party.

The longer timelines due to challenges of scheduling multiple volunteer board members negatively impacts both reporting party and responding party by having significant uncertainty for longer time periods and the uncertainties impede educational and personal progress.

CASES

University Conduct Board Cases by Campus since March 2019

- Pullman 13, 1 pending
- Spokane 0
- Tri-Cities 0

- Vancouver 0
- Everett 0
- Global 1 pending

COMPARISON

Case comparison since Emergency WAC 504-26-110 went into effect, bold cases are Title IX / EP 15:

Cases prior to 10/22/19 when WAC change went into effect. Policy to schedule 4 students and 3 staff, one of which is a chair. This allows for one student and one staff alternate.

- Case 1 4 hours and 2 minutes, 7 hours real time
 - Respondent represented
 - Investigation commenced 8/8/18, case concluded 4/19/19
- Case 2 5 hours and 53 minutes, 8 hours real time
 - Respondent represented
 - Investigation commenced 9/4/18, case concluded with appeal 8/21/19
- Case 3 3 hours, 6 hours real time
 - All parties represented
 - Investigation commenced 12/5/18 (additional pending cases of similarity), case concluded with appeal 6/26/19
- Case 4 3 hours and 44 minutes, 6-8 hours real time
 - All parties present, not represented
 - Investigation commenced 9/12/18, case concluded with appeal 7/22/19
- Case 5 8 hours in total time
 - University party only
 - · Needed to use an alternate student
 - Investigation commenced 3/29/18, case concluded 6/20/19
- Case 6 2 hours total time
 - University and student initially present, ended participation after rescheduling
 - Hearing needed to be continued due to lack of students

Case 7 - 30 hours in total time

- All parties represented
- Needed to use a student alternate, and an additional student resigned mid-hearing
- Investigation commenced 6/11/18, case concluded with appeal 12/18/19
- Case 8 4 hours total time
 - University and student with representation present
 - Need to use alternate student and staff as two members were not able to participate in the hearing known a week before hearing date

Cases after 10/22/19 with WAC change in effect. Current policy to schedule two students and two staff, one of which is a chair. At time of hearing the additional staff member is released as an alternate unless a student cannot participate in the hearing.

- Case 1 3 hours total time
 - University only party
 - Heard by 2 students (student chair) and 1 staff

- Case 2 - 14 hours total time

- University, reporting student with representation, and responding student with representation
- 2 days before hearing, one student called in sick, day of hearing second student was going to participate via conference call while driving. Was able to procure a backup student. Heard by 2 staff and 1 student
- · Case is currently in appeal

Case 3 - 10 hours total time

- University and student with representation present
- · Heard by staff chair and two students
- Case is currently in appeal
- Case 4 3 hours total time
 - University and student with representation present
 - Heard by staff chair and two students
- Case 5 2 hours total time
 - University and student participated
 - 3 days before hearing, student had an unexpected medical appointment, heard by 2 staff and 1 student
- Case 6 pending hearing
 - University and student participant
 - 2 staff and 2 students scheduled

Case 7 - pending hearing

- University, reporting student, responding student with representation
- 2 staff and 2 students scheduled

updated February 2020



The following oral comments were received during the public comment period concerning proposed changes to WAC 504-26 Standards of conduct for students. (WSR 20-02-107)

Jhordin Prescott, ASWSU Vice President

My name is Jhordin Prescott. I am the ASWSU vice president. I am testifying in support of this passage. I felt like our voices really were heard as we talked to Terry and Jill a couple of times, multiple times. I felt like it was a really transparent process, and I felt like it was really very well communicated to us.

I think that it is really unfair for students to have to wait months in order to be heard, so that is why I am testifying in support of it. Thank you.

Joshua Hiler, WSU Student

Good afternoon, my name is Josh Hiler. I want to speak on the 504-26-110 revision. I do want to first say that I am currently a student member of the student conduct board, but I am speaking as an individual.

I support the reduction in the forum from five to three; the timeliness issues have certainly been a problem in the past. However, I wanted to raise a concern with some the change in the intent. Part of the intent in the original version when we had the five [members] and three students required meant that anyone who . . . for a final decision to be made, at least one student would have to vote in favor of it, because of the requirement for three students. Under the current revision, that is no longer the case. Now I do not think we should change it to be a majority of students under the new formula; I think the new formula is a good formula.

However, since we want to sort inspire that intent, or at least I would imply that we want to inspire that intent, I would suggest a small change to the language inserting after "any rank or classification," language along the lines of "and the Office of Student Conduct shall endeavor to maximize the number of student members where feasible." The idea behind this that it lends legitimacy to the board where there is at least one student voting in favor. Which, given the severity of the offenses that are brought before the board and the gravity of the potential sanctions, I think this is important for the University and for the student body. Thank you.

WSR 20-02-107 PROPOSED RULES WASHINGTON STATE UNIVERSITY

[Filed January 2, 2020, 9:04 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 19-21-171.

Title of Rule and Other Identifying Information: Chapter 504-26 WAC, Standards of conduct for students.

Hearing Location(s): On February 5, 2020 at 4:00 p.m., at Lighty 401, Washington State University (WSU) Pullman, Pullman, Washington; SPBS 125A, WSU Spokane, Spokane, Washington; TFLO 210, WSU Tri-Cities, Richland, Washington; DEN 301, WSU Vancouver, Vancouver, Washington; Seminar 261, WSU Everett, Everett, Washington; 1-720-707-2699 or 1-646-558-8856 for call-in attendees. Join Zoom meeting from PC, Mac, Linux, iOS, or Android https://wsu.zoom.us/j/896935775, meeting ID 896 935 775.

Date of Intended Adoption: March 13, 2020.

Submit Written Comments to: Deborah Bartlett, Rules Coordinator, P.O. Box 641225, Pullman, WA 99164-1225, email prf.forms@wsu.edu, fax 509-335-3969, by February 5, 2020.

Assistance for Persons with Disabilities: Contact Joy Faerber, phone 509-335-2005, fax 509-335-3969, email prf.forms@wsu.edu, by February 3, 2020.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The university is modifying, clarifying, and updating the university's standards of conduct for students.

Reasons Supporting Proposal: The proposed amendments decrease the number of student conduct board members from five to three and remove the option for storage of student firearms at the WSU police department.

The rules regarding the composition of a conduct board are updated because the amount of time required for WSU to schedule and complete student conduct hearings with five conduct board members presents potential Title IX (of the Civil Rights Act) compliance concerns and may negatively impact both reporting and responding students awaiting a conduct hearing. Therefore, WSU proposes changes to WAC 504-26-110 to reduce the number of conduct board members required to hear a case. These changes will reduce the difficulty in scheduling cases for a hearing, reduce waiting times, and reduce the risk of noncompliance with Title IX's timely resolution requirements, while also promoting the well-being of reporting and responding students awaiting a conduct board hearing.

WSU's student conduct code regarding firearms is updated to reflect the discontinuation of student firearm storage by the WSU police department. Recent amendments to RCW <u>9.41.345</u> made the university's firearms storage program unfeasible and thus the university discontinued the program. Accordingly, WAC 504-26-213 must be amended to reflect this change in university policy.

Statutory Authority for Adoption: RCW 28B.30.150.

Statute Being Implemented: RCW 9.41.345(5).

Rule is necessary because of federal law, Title IX of the Civil Rights Act of 1964.

Name of Proponent: WSU, public.

Name of Agency Personnel Responsible for Drafting: Danielle Hess, Senior Assistant Attorney General, Attorney General's Office, WSU Division, French Administration 332, Pullman, WA 99164-1031, 509-335-2636; Implementation and Enforcement: Mary Jo Gonzales, Vice President, Student Affairs, French Administration 134, Pullman, WA 99164-1013, 509-335-4531, or Terry Boston, Acting Vice President, Student Affairs, French Administration 134, Pullman, WA 99164-1013, 509-335-4531.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW <u>34.05.328</u>. The university does not consider these rules to be significant legislative rules.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure,

practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Is exempt under RCW 19.85.025.

Explanation of exemptions: The amendments to WSU student conduct code only apply to students at WSU, and therefore do not affect business or commerce in any way.

January 2, 2020 Deborah L. Bartlett, Director Procedures, Records and Forms and University Rules Coordinator

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-110 Composition of conduct board.

A conduct board must consist of ((five))three members. A quorum of ((five))three is needed to hear a matter. The presiding officer is not a member of the conduct board and therefore is not considered for purposes of determining whether there is a quorum. A ((majority of))minimum of one conduct board member((s)) hearing a matter must be an enrolled WSU student((s)) (undergraduate, graduate, or professional) and may be full-time or part-time. The remaining members may be students, or full-time or part-time faculty or staff of any rank or classification. When the complainant or respondent is enrolled at a particular campus, at least one member of the conduct board must be from that campus. No conduct board member may serve on a case if the member previously served on a board in a case involving the same complainant or respondent.

AMENDATORY SECTION (Amending WSR 18-23-083, filed 11/19/18, effective 12/20/18)

WAC 504-26-213 Firearms and dangerous weapons.

No student may carry, possess, or use any firearm, explosive (including fireworks), dangerous chemical, or any dangerous weapon on university premises or in university-approved housing. Airsoft guns and other items that shoot projectiles are not permitted in university-approved housing. ((Students wishing to maintain a firearm on eampus for hunting or sporting activities must store the firearm with the Washington State University department of public safety.))

ACTION ITEM #2

Proposed Amendments to WAC 504-26-213: Standards of Conduct For Students - Firearms and Dangerous Weapons (Stacy Pearson/Bill Gardner/Terry Boston)

March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: Proposed Amendments to WAC Chapter 504-26-213: Standards of

Conduct for Students - Firearms and Dangerous Weapons

PROPOSED: That the Board of Regents approve the proposed amendments to

WAC 504-26-213: Standards of Conduct for Students – Firearms and

Dangerous Weapons.

SUBMITTED BY: Stacy Pearson, Vice President for Finance and Administration

SUPPORTING INFORMATION:

The University President has authority to adopt emergency rules, provided that a summary of any action taken is presented to the appropriate committee of the Board of Regents at the next regularly scheduled meeting. WAC 504-26-213 was previously amended by emergency rule and a summary was presented to the Board at the November 2019 meeting. This action item seeks to make that emergency rule permanent through the Board of Regents' authority under Chapter 28B.30 RCW and Chapter 34.05 RCW to adopt, amend, and repeal University regulations published in the Washington Administrative Code.

The university is updating the rules to remove the option for storage of student firearms at the WSU Police Department. While only the Pullman Campus was equipped for storage, the rule, as updated, extends to all campuses. A summary of the background and reason for the rule change follows, and a copy of the chapter, illustrating the specific changes, is appended as Attachment A.

These changes are necessary to ensure that WSU policy is consistent with RCW 9.41.113, which was modified as a result of Washington Initiative 1639. Essentially, the law requires a background check prior to transferring a firearm to the owner, and there is no exception for our unique service of storing firearms for our students who wish to bring them to campus for hunting or sporting activities. The length of time to conduct a background check is unpredictable, varying from days to weeks, which renders the service impractical in meeting the needs of

our students, as such a background check would have to be conducted each and every time a firearm is retrieved. Current legal opinion is that WSU should discontinue this service in order to be consistent with the law as currently written.

The University filed an emergency rule making order on September 26, 2019 in order to maintain compliance with RCW 9.41.113, and refiled the emergency rule making order on January 23, 2020. Emergency rules are effective for 120 days while the permanent rule making process is in progress.

A notice of opportunity to make public comment on the proposal, either verbally or in writing, was publish on January 21, 2020 in the WSU Tri-Cities Currents newsletter; on January 27, 2020 in the WSU Insider, the WSU Spokane Announcements, the WSU Everett weekly newsletter, and the WSU Vancouver employee and student e-mail newsletters; on January 28, 2020 in the online edition of the Daily Evergreen at WSU Pullman; and on January 29, 2020 in the print edition of the Daily Evergreen at WSU Pullman; and was duly submitted for publication on January 13, 2020 in the WSU Events Calendar. Notice was also published on January 15, 2020 on the WSU rule-making website, which is accessible by a direct link from the WSU home page. Each notice included notification of the time and place, on each campus, of the public hearing where oral comments could be provided, and a request for written comments to be submitted no later than the close of business on February 5, 2020.

No comments, either oral or written, were received with regard to WAC Chapter 504-26-213.

ATTACHMENT: Attachment A - WAC Chapter 504-26-213

Attachment A

WAC 504-26-213 Firearms and dangerous weapons. No student may carry, possess, or use any firearm, explosive (including fireworks), dangerous chemical, or any dangerous weapon on university premises or in university-approved housing. Airsoft guns and other items that shoot projectiles are not permitted in university-approved housing. ((Students wishing to maintain a firearm on campus for hunting or sporting activities must store the firearm with the Washington State University department of public safety.))

WAC 504-26-213 Firearms and dangerous weapons. No student may carry, possess, or use any firearm, explosive (including fireworks), dangerous chemical, or any dangerous weapon on university premises or in university-approved housing. Airsoft guns and other items that shoot projectiles are not permitted in university-approved housing.

ACTION ITEM #3

Proposed Amendments to the Washington State University Retirement Plan and Washington State University Voluntary Investment Program (Theresa Elliot-Cheslek/Ann Monroe)

March 13, 2020

TO ALL MEMBERS OF THE BOARD OF REGENTS

SUBJECT: Amendments to and Restatement of the Washington State University

Retirement Plan (WSURP) and the Washington State University Voluntary

Investment Program (VIP)

PROPOSED: That the Board of Regents approve and adopt the amended and restated

Washington State University Retirement Plan (WSURP) and the amended and restated Washington State University Voluntary Investment Program (VIP) in substantially the same form as the versions attached to the agenda

item; and

That the Board of Regents delegate to the President or his designee(s) the authority to make such changes in the plan documents in substantial conformity with the versions presented at this meeting, to execute the plans in the University's name, and to take such other actions as deemed

necessary or appropriate to implement the plans.

SUBMITTED BY: Theresa Elliot-Cheslek, Vice President and Chief Human Resource Officer;

and Ann Monroe, HRS Benefits Director, Human Resource Services

SUPPORTING INFORMATION:

The Board of Regents has authority pursuant to RCW 28B.10.400 through 28B10.423, RCW 28B.30.095 and RCW 28B.30.150 to establish and govern the retirement plans for eligible employees. The Board of Regents adopted the WSURP, effective July 1, 1974. Several revisions have been made since that time, the most recent on January 1, 2012. The Board of Regents established a Washington State University Tax-Deferred Annuity Program January 1, 1983, now name the Washington State University Voluntary Investment Program, with the most recent plan document

effective January 1, 2009.

Treasury Regulations require 403(b) plans to contain certain provisions. The IRS is providing a Remedial Amendment Period for employers to review and amend or restate their 403b plans, which for Washington State University are the Washington State University Retirement Plan (WSURP) and Voluntary Investment Plan (VIP). In addition, other regulatory changes have occurred, including the SECURE Act, Tax Cuts and Jobs Act, the HEART Act and Department of Retirement Systems Regulation Changes, which have been incorporated into the plan

documents. The proposed amendments and recommendations are tracked in the attached plan documents reflect the components and approved wording the IRS would expect to see in 403(b) plan documents.

The primary changes are highlighted below:

Washington State University Retirement Plan

SECTION 2. **DEFINITIONS** Unless otherwise identified, amendments to definitions are in response to the Remedial Amendment Period and incorporate definitions the IRS expects to see in 403(b) plan documents. Due to additions and changes in this section, correspondingly the new terms are reflected throughout the document. Definitions will be in alignment with the VIP document, where applicable. Compensation: Definition is being modified in order to 2.8 be able to collect contributions from the majority of faculty pay types. 2.14 Eligible Employee: Removing (d), addressed in (a) of this section. SECTION 3. **ELIGIBILITY AND PARTICIPATION** Retirees under WSRS Hired Into an Eligible Position: 3.3 – prior version struck from the document, addressed in 2.14 of the document. 3.4 Enrollment in Plan and Failure to Make Elections: modified to reflect an enrollment can occur in various media/formats, and may not only be in hardcopy form. SECTION 4. **CONTRIBUTIONS** Age 50 Catch-up Deferrals: additions are part of Remedial 4.2(a) Amendment Period activity. Limit on Compensation Taken into Account: reworded as 4.4 part of Remedial Amendment Period activity. 4.5 Contribution Transmission: additions are part of Remedial Amendment Period activity. additions are part of Remedial Military Service: 4.6(b) Amendment Period activity. Maximum Contribution: additions are part of Remedial 4.12 Amendment Period activity. **BENEFITS** SECTION 6. 6.3 Minimum Distribution Requirements: subsections (b) and (c)(i) updated to reflect age requirement changes from 70 ½ to 72 due to the SECURE Act. Rollover Distributions: additions are part of Remedial 6.5

Amendment Period activity.

Washington State University Voluntary Investment Plan

SECTION 2. DEFINITIONS

Unless otherwise identified, amendments to definitions are in response to the Remedial Amendment Period and incorporate definitions the IRS expects to see in 403(b) plan documents. Due to additions and changes in this section, correspondingly the new terms are reflected throughout the document. Definitions will be in alignment with the WSURP document, where applicable.

SECTION 3. ELIGIBILITY AND PARTICIPATION

- 3.1 Eligibility and Participation: changed to reflect that elections can be made in various formats, including electronic or hardcopy.
- 3.2 Revision to SRA: added to clarify changes can be made at any time.
- 3.3 Termination of Contributions: previous wording reflected termination of participation, where the topic is contributions.

SECTION 4. VIP CONTRIBUTIONS

VIP Contributions: updates to this section incorporate the Roth Deferral option, which previously had been addressed in a January 1, 2010 amendment document. Additions and amendments reflect IRS preferred wording and information as part of Remedial Amendment Period activity.

4.1 Contributions to other Plans: deleted since it is an prior version unnecessary section.

SECTION 5. FUND SPONSORS AND FUNDING VEHICLES

5.1 The Fund Sponsors and Funding Vehicles: clarification that WSU identifies the default investments if a participant does not make an election. Clarification that Plan terms are controlling over Funding Vehicle(s), if there is a conflict.

5.3 Fund Transfer: VIP document adjustments reflect alignment with the same topic in the WSURP document.

SECTION 6. BENEFITS

6.2 Death Benefits: adjustments are part of Remedial Amendment Period activity.

6.3	Hardship Distributions: amendments incorporate the Tax Cuts and Jobs Act		
6.4	Minimum Distribution Requirements: amendments incorporate the SECURE Act and the preferred IRS language being addressed as part of Remedial Amendment Period activity.		
6.6	Loans: rewording to preferred IRS language as part of Remedial Amendment Period activity.		
6.7	Direct Rollover of Eligible Rollover Distributions: rewording to preferred IRS language as part of Remedial Amendment Period activity.		
SECTION 7. prior version	 GENERAL PROVISIONS AND LIMITATIONS REGARDING BENEFITS This section has been moved to Section 8: Miscellaneous 		
SECTION 8. 8.6	MISCELLANEOUS Mistaken Contributions of other Plan Failures:		

ATTACHMENTS: Attachment A – WSURP 403(b) Redline Copy

Attachment B - WSURP 403(b) Clean Copy

Attachment C – WSU Voluntary Investment Program (VIP) Redline Copy Attachment D – WSU Voluntary Investment Program (VIP) Clean Copy

Remedial Amendment Period activity.

amendments to reflect preferred IRS language as part of

Board of Regents

Proposed Amendments to the Washington State University Retirement Plan and Washington State University Voluntary Investment Program

Resolution #200313-623

WHEREAS, the Board of Regents has authority pursuant to RCW 28B.10.528 and RCW 28B.10.400, *et seq.*, to establish and govern retirement and annuity programs to faculty and other eligible staff of the University; and

WHEREAS, the Board of Regents has determined that the Washington State University Retirement Plan and the Voluntary Investment Program should be amended and restated in substantially the same form as the versions attached to the agenda item to incorporate state and federal regulatory changes including the SECURE Act, Tax Cuts and Job ACT, the HEART Act and Department of Retirement Systems regulation changes. Additionally, modifications and additions to the document should be reflective of IRS recommended 403(b) components and language, and responsive to the IRS Remedial Amendment Period.

NOW, THEREFORE, BE IT RESOLVED that the Washington State University Retirement Plan and the Voluntary Investment Program, each as amended and restated effective March 31, 2020, are approved and adopted in or substantially in the form presented at the March 13, 2020 meeting of the Board of Regents; and

The President or his designee(s) is authorized to make the changes in the Washington State University Retirement Plan and the Voluntary Investment Program, not substantially at variance with the document presented to this meeting, and to take such other actions deemed necessary or appropriate to implement the Plan and Program.

Dated this 13 th day of March, 2020.	
	Chair of the Board of Regents
	Secretary to the Board of Regents

WASHINGTON STATE UNIVERSITY RETIREMENT PLAN	
RETIREMENT PLAN RULES	
As Amended and Restated March, 2020 Effective January 1, 2012 March, 2020	

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SECTION 1. ESTABLISHMENT OF PLAN

The Washington State University ("WSU") Board of Regents established the Washington State University Retirement Plan as of July 1, 1974. This plan document sets forth the provisions of the Plan, as amended through March , 2020 but with a general retroactive effective date of January 1, 2010 as provided for in Rev. Proc.2013-22. and effective as of January 1, 2012March XX, 2019. This plan is a governmental plan as defined in Code Section 414(d) and is intended to satisfy the provisions of Code Section 403(b).

SECTION 2. DEFINITIONS

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

2.1 Account means the account maintained for the benefit of any Participant or Beneficiary under a Funding Vehicle.

2.2 Account Balance means the total benefit to which a Participant or a Beneficiary is entitled under all Funding Vehicles, taking into account all contributions made to the Funding Vehicle and all Earnings and expenses allocable to the Account, and any distributions made to the Participant or Beneficiary.

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

2.1. 2.4 Accumulation Account means the separate account established for each Participant with a Fund Sponsor. The current value of a Participant's Accumulation Account includes all Plan Contributions to the Fund Sponsor, less expense charges, and reflecting investment experience.

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

2.45 Beneficiary means the person(s), including one or more trusts or other entities the Participant designates in writing, contingently or successively, to receive the Participant's Account (or remaining Account) under the Plan in the event of the Participant's death. If the Participant is married or remaining, or has a state registered domestic partner under RCW 26.60 et seq. (a "domestic partner"), the Participant's designation (including a pre-existing designation in the case of remarriage) of someone other than the spouse or domestic partner as a primary Beneficiary requires the written consent of the spouse or domestic partner. Any such consent must be witnessed by a notary public. Unless the consent expressly provides that the Participant may designate an additional Beneficiary or Beneficiaries without further consent of the spouse, the consent will be effective only with respect to the specific designation to which the consent relates. Spousal or domestic partner consent will be effective only with respect to that spouse or domestic partner. Such consent will not be required if it is established to the satisfaction of the Plan Administrator that there is no spouse or that the spouse or domestic partner cannot be located. A Participant's Beneficiary designation must be made on a form provided for this purpose by the Plan Administrator or by a Fund Sponsor and must be on

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file with the Plan Administrator or Fund Sponsor. If a Participant fails to designate a Beneficiary, the Participant's Account—Account (or remaining Account) remaining on the Participant's death) will be paid in the following order of priority: (ai) to the Participant's surviving spouse, or state registered domestic partner, and, if none; (bii) to the Participant's surviving children and lineal descendants, by right of representation and not per capita, and, if none; (ciii) to the Participant's surviving parents, and, if none; (div) to the Participant's estate. For purposes of Sections 6.3 and 6.5, a Designated Beneficiary means as described in Treas. Reg. Section§1.401(a)(9)-4 and, as applicable and the context requires, an "Eligible Designated Beneficiary" under the Secure Act.

- 2.3. **Board** means the Board of Regents of Washington State University.
- 2.4. 2.67 Break in Service means termination of all WSU employment and appointments for at least one (1)a full day.
- 2.5. 2.78 Code means the Internal Revenue Code of 1986, as amended—(Title 26 of the United States Code).
- 2.89 Compensation for purposes of computation of Plan contributions means the amount paid by WSU to a Participant under the terms of his or her appointments, including summer and other extended appointments. Compensation shall be determined before taking into account any salary reduction under Code Sections 125, 132, 403(b) or 457(a). Compensation includes Post-Severance Compensation consisting of regular pay but excludesing all other Post-Severance Compensation. Compensation shall not include also excludes leave cash-out payments, any settlement, severance or tenure purchase payments, any amounts paid for teaching overloads, extra services, and royalties from intellectual property, deferred compensation, incentive compensation, supplemental compensation, and any other forms of additional compensation not included in the base salary. In the case of employees on contract, the contract may exclude additional items from Compensation. Notwithstanding the foregoing for purposes of Code Section 415 the Annual Additions Limit testing under Section 4.10 under Section 4.12(b)(vi), Compensation means "lincludible Ceompensation".

2.6. as defined in Treas. Reg. § 1.403(b)-2(b)(11).

- 2.7. 2.910 Custodial Account means the group or individual custodial account or accounts described in Code Section 403(b)(7), to hold regulated investment company stock issued by a Fund Sponsor.
 - **2.101** <u>Differential Wage Payment means as defined in Code Section 3401(h).</u>
 - **2.8. 2.11. Earnings** means the net income, gain or loss earned by an Account or with respect to a contribution or distribution, as the context requires.
- 2.122 Election means any Participant or Beneficiary written election (including made in electronic form) under the Plan and which is made on/in the form the Plan Administrator or the Fund Sponsor provides for this purpose. An Election must be made in the manner and

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within the time period the Plan, the Plan Administrator, or the Fund Sponsor prescribe, and as is consistent with Code Section 403(b) or other applicable law.

2.133 Elective Deferral means a Participant's pre-tax deferrals which WSU contributes to the Participant's Account at the Participant's Election in lieu of the Participant receiving cash compensation. A Mandatory Contribution is not an Elective Deferral.

2.9. 2.145 Eligible Employee means any Eemployee of WSU who is employed in an Eligible Position; provided however, that an Eemployee is not an Eligible Employee if the Eemployee:

(a) was was first hired hired byby -WSU on or after July 1, 2011, and who within thirty (30) days of hire after employment commencement made an irrevocable Election to participate in a WSRS plan as identified in RCW 41.32 or RCW 41.40 (including an Election under Section 3.2(b));

(a)(b) has retired from WSU having been a Participant in the Plan, has retired from WSU as described in and in accordance with the policies and guidelines established by the Plan Administrator and then in effect; or

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

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

2.10. 2.156 Eligible Position means a WSU faculty, or administrative professional staff, or coach position in which the Eemployee has at least fifty (50%) percent full-time equivalency in at least one (1) semester of each Plan Year or equivalent period, but does not include Agricultural Extension Service employees on a federal appointment or persons rendering a professional service on a fee, retainer, or special contract basis, or as an incident to the private practice of a profession. Classified positions prior to April 26, 1973, and administrative professional positions prior to April 26, 1973, or after September 30, 1992, are Eligible Positions, provided the Eemployees holding such positions did not elect to participate in or transfer to PERS prior to January 1, 1974. A civil service position held by a Participant as described in Section 3.1(e) and 3.2(d) is an Eligible Position. An Eligible Employee, once having begun participation in this Plan, shall be deemed to be employed in an Eligible Position even if his or her position no longer requires at least fifty (50%) percent full-time equivalence, so long as the position otherwise qualifies as an Eligible Position.

2.167 Employee means each individual who is a common law employee of the State of Washington performing services for WSU, including an individual who is appointed or elected. This definition is not applicable unless the Employee's compensation for performing services for WSU is paid by the State of Washington, Further, a person occupying an elective or appointive

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public office is not an Employee unless such office is one to which an individual is elected or appointed only if the individual has received training, or is experienced, in the field of education. A public office includes any elective or appointive office of the State of Washington. An individual receiving a Differential Wage Payment from WSU is treated as a WSU Employee.

- **2.17** Employment Commencement Date means the date on which the Employee first performs Service for WSU. References in the Plan to "hire date" mean the Employment Commencement Date. The Re-Employment Commencement Date means the date on which the Employee first performs Service for WSU after WSU re-hires the Employee.
- 2.11. 2.188 Fund Sponsor means an insurance, variable annuity, or investment company that provides Funding Vehicles available to Participants under this Plan.
- 2.1919 Funding Vehicles means the Annuity Contracts and Custodial Accounts available for investing contributions under this Plan, as specifically approved by WSU under Section 5.1.
- 2.200 Includible Compensation means an Employee's compensation received from the Employer that is includible in the Participant's gross income for Federal income tax purposes (computed without regard to Code Section 911 relating to United States citizens or residents living abroad), including Differential Wage Payments, for the most recent period that is a Year of 403(b) Service. Includible Compensation also includes Includible Compensation also includes any Elective Deferral or other amount contributed or deferred by the Employer at the election of the Employee that would be includible in the Employee's gross income but for the rules of Code Sections125, 132(f)(4), 402(e)(2), 402(h)(1)(B), 402(k), or 457(b). Includible Compensation does not include any Compensation other than Post-Severance Compensation, paid after Severance of Employment. The amount of Includible Compensation is determined without regard to any community property laws. Except as provided in Treas. Reg. Section 1.401(a)(17)-1(d)(4)(ii) with respect to eligible participants in governmental plans, the amount of Includible Compensation of any Participant taken into account in determining contributions will not exceed \$285,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B) for periods after 2020.
- <u>2.21</u> IRA means means an individual retirement account under Code Section 408(a) or an individual retirement annuity under Code Section 408(b).
 - **2.22 IRS** means the Internal Revenue Service.
- **2.231** <u>Mandatory Contribution means a mandatory pre-tax contribution by a Participant which the Participant agrees to make as a condition of employment by WSU. All contributions to the Plan made from a Participant's Compensation, except Elective Deferrals, are Mandatory Contributions.</u>
- **2.242** <u>Matching Contribution means a WSU funded contribution made with respect to a Participant's Elective Deferrals.</u>

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- 2.12. 2.253 Nonelective Contribution means a WSU funded contribution which is not a Matching Contribution.
- 2.24 IRA means an individual retirement account under Code Section 408(a) or an individual retirement annuity under Code Section 408(b).
- 2.265 Participant means any Eligible Employee of WSU who participates in the Plan in accordance with Section 3 and who is contributing to the Plan (or has made contributions to the Plan and who still has an Account) in accordance with Section 4.
- 2.2730 PERS means the Washington Public Employees' Retirement System under RCW 41.40.

2.13.

- 2.14. 2.286 Plan means the Washington State University Retirement Plan as set forth in this document as it may be amended from time to time in accordance with Section 109.1.
- $\underline{\textbf{2.15.}}$ 2.297 Plan Administrator means WSU and its designees in accordance with Section 8.1.
- 2.16.—2.3028 Plan Contributions means <u>Elective Deferrals</u>, <u>Mandatory Contributions</u>, <u>Nonelective Contributions and/or Matching Ceontributions</u> <u>by WSU and the Participant under this Plan in accordance with Section 4.1as the context requires</u>,

2.31 Plan Year means the calendar year.

Post-Severance Compensation means Compensation paid after Participant's Severance from Employment from WSU, to include regular pay, leave cash-outs, or deferred compensation paid within the time period described herein. Any other payment paid after Severance from Employment is not Compensation even if payment is made within the time period described below. Post-Severance Compensation does not include severance pay, parachute payments under Code Section 280G(b)(2) or payments under a nonqualified unfunded deferred compensation plan unless the payments would have been paid at that time without regard to Severance from Employment. Post-Severance Compensation includes regular pay, leave cash-outs, or deferred compensation only to the extent WSU pays such amounts by the later of two and one-half (2 ½), months after Severance from Employment or by the end of the Limitation Year (under Section 4.12(b)(viii)), that includes the date of such Severance from Employment. Regular pay means the payment of regular Compensation for services during the Participant's regular working hours, or Compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, but only if the payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with WSU, Leave cash-outs means payments for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued and if Compensation would have included those amounts if they were paid prior to the Participant's Severance from Employment. Deferred compensation means the payment of deferred compensation pursuant to an unfunded deferred compensation plan, if Compensation would have included the deferred compensation if it had been paid prior to the Participant's Severance from Employment, but only if the payment would have been paid at the same time if the Participant

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had continued in em	ployment with WSU and only to the extent that the payment is includible in			
the Participant's gros	s income,		Formatted: Font: (Default) Times New Roman, 12	pt
under RCW 41.40.2 414(u)(5). Notwiths	tanding any provision in the Plan to the contrary, as to Qualified Military		Formatted: List Paragraph, Justified, Indent: First 0.5", No bullets or numbering, Tab stops: 1", List Not at 1.07"	
	ll credit Service, the Employer will make Plan Contributions, and the Plan		Formatted: Font: Bold	
will provide benefits	in accordance with Code Section 414(u).	`	Formatted: Font: (Default) Times New Roman, 12	pt
	ed Employer means WSU and any other entity that is related to WSU under	_	Formatted	(
	(a), (b), (c), (m) or (o). WSU will determine which entities are Related Employers le, good faith standard and taking into account the special rules applicable		Formatted	
inder IRS Notice 89				
2.35 SECT	URE Act means the Setting Up Every Community for Retirement			
Enhancement Act of	 			
2.36 5 Servi	ce means any period of time the Employee is in the employ of WSU.		Formatted: Font: Bold	
	the Employee is on an unpaid leave of absence authorized by WSU under a	\leq	Formatted	
ıniform policy appli	cable to all Employees.		Tornatted	(
2.3 64 7 Sever	rance from Employment "or "Separation from Service" occurs when an		Formatted: Font: Times New Roman, 12 pt	
Employee ceases to	be employed by WSU or a Related Employer that is eligible to maintain a		Formatted	<u> </u>
	under Treas. Reg. Section 1.403(b)-2(b)(8), even if the Employee remains	\rightarrow	Formatted	
	ther entity that is a Related Employer where either; (a) such Related eligible employer; or (b) the Employee is employed or in a capacity that is	//		(
	n an eligible employer.	/		
Plan also includes a	se means the person to whom the Participant is legally married and for this registered domestic partner under RCW 26.60 et seq or other applicable law.			
<u>2.30</u> 9 1 axa	ble Year means the taxable year of a Participant.			
2.340975 RCW_41.32.	TRS means the Washington State Teachers' Retirement System under			
2. <u>410</u> 386	Unbroken Service means Service as an Employee without a Break in		Formatted	
Service.				
2.421 USE Act of 1994, as ame	RRA means the Uniformed Services Employment and Reemployment Rights nded.			
2. <u>432_3937</u>	WSU means Washington State University.			
	Washington State Retirement System (WSRS) means any retirement the State of Washington and administered by the Washington State		Formatted: Justified, Indent: First line: 0.5", Space Before: 0 pt, Line spacing: single, Widow/Orphar control, Tab stops: 1", List tab	
•	ement Systems, as identified in RCW 41.50.030. The strength of the strength o			
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2.454391 Year of 403(b) Service means for purposes of determining Includible Compensation, each full year during which an individual is a full-time Employee, plus fractional credit for each part of a year during which the individual is either a full-time Employee of the Employer for a part of a year or a part-time Employee of the Employer, determined under Treas. Reg. Section 1.403(b),4(e). An Employee's number of Years of 403(b) Service equals the aggregate of such years or parts of years. The work period is the Employer's annual work period.

SECTION 3. ELIGIBILITY AND PARTICIPATION

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

- (a) Two (2)-Year Voluntary Contribution—Elective Deferral Period. And Eligible Employee may become a Participant as of the date of his or her employment in an Eligible Position or any time during the first two (2) years of employment by submitting an Election to the Plan Administrator to make Elective Deferrals. A Participant during the first two (2) years of employment also may make an Election to: (i) change the amount of their Elective Deferralseontribution; (ii) revoke their Election to make Elective Deferralseontributions; or (iii) re-elect to make contributions—Elective Deferrals after having revoked a prior Election. Any Elective Deferral Election submitted to the Plan Administrator will become effective as of the first (1st) day of any pay period following receipt to which the Plan Administrator reasonably may apply the Election-administratively practicable payroll date or payroll period on or following the Plan Administrator's actual receipt of the Election. The provisions of this Section 3.1(a) apply notwithstanding any contrary provision in Section 4.1.
- (b) <u>Mandatory Contributions After Two (2) Years</u>. An Eligible Employees must become a Participant and begin making <u>Mandatory Ce</u>ontributions no later than the second <u>(2nd)</u> anniversary of his or her date of employment in an Eligible Position. Once having begun –participation in this Plan, a Participant cannot cease participation while employed in an Eligible Position, except as provided below.
- Eemployee who is then a pparticipant in a WSRS plan and who is reclassified or appointed to an Eligible Position may irrevocably make an irrevocable Eelection to become a Participant in this Plan or remain in the WSRS plan by making such Election in writing within ninety (90) days of being notified of reclassification or appointment to an Eligible Position. If no timely Election is made, the Participant Employee will remain in the WSRS plan. Such Election may be made only once in an individual Employee's Unnbroken Service to WSU, and such Election shall be irrevocable, except as identified in Section 3.1(c)(i). For this purpose, "unbroken service" means service without a Break in Service.
 - (i) Reclassification or Appointment to a Different Eligible Position-Classification. An Eemployee who under Sections 3.1(c) or 3.1(d) was offered the option to an Eelection to become a member Participant in this Plan or remain as a participant in a WSRS plan, and who on or after July 1, 2011, is reclassified or

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appointed to an Eligible Position in an employment type not previously held, will be offered a new Election opportunity to stay in their current retirement plan or elect to enroll in this Plan or the applicable WSRS plan. For purposes of this section, "employment type" means an eligible faculty. —or—administrative professional or coach classification.

(d) New Employee Participating in WSRS Plan. A new WSU employee who is Aa participant in a WSRS plan who leaves their former employer and immediately commences employment with WSU (no work days missed) and who transfers to WSU without a Break in Service in into an Eligible Position, may make an irrevocable irrevocably Eelection to become a Participant in this Plan or remain in the WSRS plan, (provided that such plan is offered at WSU and such Eelection to remain is permitted by the Department of Retirement Systems), by making such Election in writing within thirty (30) days upon being hired into after commencing employment in an Eligible Position. If no timely Election is made, the Participant Employee will immediately begin participation in this Plan. Such Election may be made only once in an individual Employee's Unnbroken Service to WSU, and such Election shall be irrevocable, except as identified in Section 3.1(c)(i). For this purpose, "unbroken service" means service without a Break in Service.

(e) Participants Reclassified or Appointed to Civil Service.

- (i) <u>Reclassification or Appointment Prior to January 1, 2012</u>. A Participant in this Plan who prior to January 1, 2012, is—was reclassified or appointed to a civil service position will remain a Participant in the WSURP, provided there is no Break in Service. If an Eligible Employee has not reached the second (2nd) anniversary of his or her date of employment in an Eligible Position, and has not made an Election to become a Participant, the Eemployee will be enrolled in a WSRS plan.
- (ii) <u>Reclassification or Appointment After December 31, 2011</u>. A Participant in this Plan who after December 31, 2011, is reclassified or appointed to a civil service position, may make an Election to participate in a WSRS plan or remain in this Plan as specified in the policies adopted by the Plan Administrator and then in effect.

3.2 Participation for Employees <u>Hired Hired</u> On and After January 1, 2012.

(f)(a) Immediate Mandatory Contributions. Unless they make an Election under this Section 3 to participate in a WSRS plan, Aan Eligible Employee who is hired into an Eligible Position immediately will become a Participant in the Plan effective as of the date of hire Employment Commencement Date and is subject to making the Memandatory Ceontributions described in Section 4.1.

(g)(b) New WSU Employee Never a Member in a WSRS Plan. An otherwise-Eligible Employee who has never been a member of a WSRS plan who is hired into an Formatted: Space Before: 0 pt, Line spacing: single, Widow/Orphan control

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Eligible Position within thirty (30) days thereafter may make an Election to participate either: (i) in this Plan; or (ii) in TRS Plan 3 if employed in an eligible faculty position; or (iii) in PERS Plan 3 if employed in an eligible administrative professional position. If the employee elects to participate in TRS 3 or PERS 3, the Eemployee is not an Eligible Employee in accordance with Section 2.140(a). If no timely Election is made, the Eligible Employee will become a Participant in this Plan.

- (h) (c) New WSU Employee Currently or Formerly a Member in a WSRS Plan. An otherwise Eligible Employee who is or was a member of a WSRS plan and who is hired into an Eligible Position within thirty (30) days thereafter and who is or was a member of a WSRS plan may make an Election to participate either in this Plan or in a PERS or TRS plan as specified in the policies adopted by the Plan Administrator. If the Eemployee elects to participate in a PERS or TRS plan, the employee is not an Eligible Employee in accordance with Section 2.150(d). If no timely Election is made, the Eligible Employee will become a Participant in this Plan.
- (i) (d) WSU Employee Who is Reclassified or Appointed to or from an Eligible Position. A WSU employee who is: (i) a participant in a WSRS plan who is reclassified or appointed to an Eligible Position; or (ii) a Participant in this Plan who is reclassified or appointed to a position that qualifies for participation in a WSRS plan, within thirty (30) days thereafter, may make an irrevocable Election to participate in this Plan or a WSRS plan as specified in the policies adopted by the Plan Administrator, provided the employee is an Eligible Employee in accordance with Section 2.140.
- 3.2. 3.3 No Simultaneous Participation. A Participant may not contribute underboth this Plan and a WSRS plan at the same time; provided that this Section 3.3 does not limit participation in a plan established pursuant to RCW 28B.10.480 or RCW 41.50.770.
- 3.3. 3.4 Retirees Under WSRS Hired Into an Eligible Position. Those employees who have retired under any WSRS plan or who are eligible for regular retirement under any WSRS plan and who are rehired into an Eligible Position cannot participate will immediately begin participation in the Plan, except as provided in Section 2.10(c).
- 3.4. 3.45 Enrollment in Plan and Failure to Make Elections. An Eligible Employee must make their Election in the form/format as provided by the Plan Administratoreomplete and return to the Plan Administrator the appropriate Election forms. Forms for the Fund Sponsors and for the Funding Vehicles selectioned must be made with returned to the Fund Sponsor(s) or as directed by the Plan Administrator. Failure to submit Elections will not delay participation in the Plan and may result in the application of Funding Vehicle default provisions, each in accordance with the Plan terms.
- 3.5. 3.56 Cessation-Termination of Contributions Participation. All Plan
 Contributions by and as to a A-Participant will cease n employee's participation in the Plan willcease if:
 - (a) The Participant ceases to be an Eligible Employee; He or she Seeparates from Service with WSU and all Related Employers; or

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- (b) (b) WSU terminates the Plan; The Plan is terminated in accordance with the provisions of Section 109.1; or
- (e) (c) The Participant He or she makes an Election or is defaulted into a WSRS plan in accordance with the provisions of this Plan; or
- (d) As to a Taxable Year or Limitation Year, the Participant has reached the Elective Deferral Limit or the Annual Additions Limit for that Year and as applicable to the Plan Contributions. He or she is transferred or reclassified to a position that is not ceases to be employed in an Eligible Position, and he or she does not remain an active Participant in this Plan under Section 3.1(c) or 3.2(d). ceases to be employed in an Eligible Position.

(d)

SECTION 4. CONTRIBUTIONS

- 4.1 Plan Mandatory Contributions and Nonelective Contributions. A* Participant must contribute a Mandatory Contribution equal to five (5%) percent of Compensation from date of participation until the end of the month in which his or her thirty-fifth (35th) the birthday occurs, then must contribute a Mandatory Contribution equal to seven and one-half (7½%) percent of Compensation commencing thereafter. WSU will make a Nonelective Contribution for each Participant in an amount equal to the Participant's Mandatory Contribution amount.
- 4.2 Elective Deferrals, Catch-up Deferrals and Matching Contributions, A Participant may make an Election to defer two and one-half (2½%) percent as an Elective Deferral increase the contribution rate to ten percent at any time following the month during which his or her fiftieth (50th) th-birthday occurs; provided that such Election may be revoked and thereafter re-elected at the option of the Participant. A Catch-up Eligible Participant also may or revoke make an Election to make Catch-up Deferrals. If the Participant makes Elective Deferrals or Catch-up Deferrals under this Section 4.2, WSU will make a Mmatching Ceontribution equal in an amount equal to each Participant contribution-the Participant's Elective Deferrals, and will transmit all Plan Contributions to the Fund Sponsor(s).

(a) Age 50 Catch-up Deferrals.

- (i) Definition of Catch-up Eligible Participant, A Catch-Up Eligible Participant is a Participant who is eligible to make Elective Deferrals and has attained age fifty (50), or who will attain age fifty (50), before the end of the Taxable Year in which the Participant will make a Catch-up Deferral. A Participant who dies or who incurs a Separation from Service before actually attaining age fifty (50), in such Taxable Year is a Catch-up Eligible Participant.
- Age 50 Catch-up Deferral is an Elective Deferral by a Catch-up Eligible Participant and which exceeds the Elective Deferral Limit under Section 4.12(a) or the Annual Additions Limit under Section 4.112(b), Age 50 Catch-up Deferrals

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are not subject to the Elective Deferral Limit under Section 4.112(a) or to the Annual Additions Limit under Section 4.112(b),

Catch-up Deferrals for a Taxable Year may not exceed the lesser of: (a) 100% of the Participant's Compensation for the Taxable Year when added to the Participant's other Elective Deferrals; or (b) the Catch-up Deferral dollar limit in effect for the Taxable Year (\$6,500 for 2020). After the 2020 Taxable Year, the IRS will adjust the Age 50 Catch-up Deferral dollar limit in multiples of \$500 under Code Section \$414(v)(2)(C).

4.1. 4.3 Income Tax Deferral. Plan Contributions shall be made on a tax-deferred basis as authorized under Section 403(b) of the Code; provided that Participant contributions shall be made on a non-tax-deferred basis for certain Participants who so elected on an irrevocable basis prior to February 1, 1998.

Limit on Compensation Taken into Account. In addition to other applicable limitations stated in the Plan affecting the amounts contributed to the Plan and notwithstanding any other provision of the Plan to the contrary, the Compensation taken into account for any Plan Year may not exceed the amount identified in Code Section 401(a)(17), adjusted by the Commissioner of Internal Revenue from time to time for increases in the cost of living, except such limit does not apply to any Participant who first became a Participant on or after July 1, 1996, and who otherwise qualifies for the transitional rule under Treas. Reg. § 1.401(a)(17) 1(d)(4)(ii). For any Plan Year, the Plan Administrator in allocating Plan Contributions, cannot take into account more than \$285,000 (or for years after 2020, such larger amount as the IRS may prescribe pursuant to an adjustment made in the same manner as under Code Section 415(d)) of any Participant's Compensation. Notwithstanding the foregoing, a Participant may make Elective Deferrals with respect to Compensation which exceeds the Plan Year Compensation limitation, provided such Elective Deferrals otherwise satisfy the Elective Deferral Limit and other applicable Plan limitations. In applying any Plan limitation on the amount of Matching Contributions, where such limits are expressed as a percentage of Compensation, the Plan Administrator may apply the Compensation limit under this Section 4.4 annually, even if the Matching Contribution formula is applied on a per pay period basis or is applied over any other time interval which is less than the full Plan Year or, the Plan Administrator may pro rate the Compensation limit. This Section 4.4 will not apply to a Participant who first became a Participant during a Plan Year beginning before January 1, 1996 (or, if earlier, the first Plan Year in which the Employer amended the Plan to reflect the limitation of Code Section 401(a)(17)) to the extent it would reduce the Participant's Compensation taken into account to an amount less than the amount allowed under the Plan as in effect on July 1, 1993.

4.2. 4.5 Contribution Transmission. WSU will transmit to the Fund Sponsors all Plan Contributions as soon as is administratively practicable and within any time period required under applicable law.

4.65 Leave of Absence.

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(a) Leave of Absence with Pay. During an authorized leave of absence with	Formatted	
pay, Plan Contributions will continue to be made. Plan Contributions will be calculated	Tormuttee	• ()
based on the Participant's actual Ceompensation paid by WSU during the leave of		
absence.	Formatted	<u></u>
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(b) Military Service. This Section 4.6(b) applies to an Employee who: (1) has	Formatted	ı
completed Qualified Military Service under USERRA; (2) the Employer has rehired	Formatted	
under USERRA; and (3) is a Participant entitled to make-up contributions under Code	Formatted	<u>()</u>
Section 414(u). This Section 4.6(b) also applies to an Employee who dies or becomes		()
disabled while performing Qualified Military Service.	Formatted	<u> </u>
(i) WSU Contributions. WSU will make up any Plan Contributions	Formatted	<u></u>
WSU would have made and which the Plan Administrator would have allocated	Formatted	I
to the Participant's Account had the Participant remained employed by WSU	Formatted	ı
during the period of Qualified Military Service. WSU will make up any Matching	Formatted	
Contribution or Nonelective Contribution that WSU would have made and which	Formatted	
the Plan Administrator would have allocated to the Participant's Account during		()
the period of Qualified Military Service, but only to the extent of any make-up	Formatted	<u> </u>
Elective Deferrals or make-up Mandatory Contributions that the Participant	Formatted	<u></u>
makes under Section 4.6(b)(iii).	Formatted	I
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(ii) <u>Compensation. For purposes of this Section 4.6(b), the Plan</u> Administrator will determine an affected Participant's Compensation as follows.	Formatted	ı
A Participant during his or her period of Qualified Military Service is deemed to	Formatted	
receive Compensation equal to that which the Participant would have received	Formatted	()
had he or she remained employed by WSU, based on the Participant's rate of pay		()
that would have been in effect for the Participant during the period of Qualified	Formatted	
Military Service. If the Compensation during such period would have been	Formatted	<u></u>
uncertain, the Plan Administrator will use the Participant's actual average	Formatted	<u></u>
Compensation for the twelve (12), month period immediately preceding the period	Formatted	I
of Qualified Military Service, or if less, for the period of employment.	Formatted	ı
(iii) Elective Deferrals and Mandatory —Contributions, During a	Formatted	ı
Participant's period of Qualified Military Service, the Plan Administrator must	Formatted	: Font: (Default) Times New Roman, 12 pt
allow a Participant to make up Elective Deferrals or Mandatory Contributions to	Formatted: Justified	
his or her Account. The Participant may make up the maximum amount of		
Elective Deferrals or Mandatory Contributions which he or she under the Plan		I: Font: (Default) Times New Roman, 12 pt
terms would have been able to contribute during the period of Qualified Military	Formatted	<u> </u>
Service (less any such amounts the Participant actually contributed during such	Formatted	<u></u>
period) and the Participant must be permitted to contribute any lesser amount as	Formatted	I
the Plan would have permitted. The Participant must make up any contribution	Formatted	ı
under this Section 4.5(b)(iii) commencing on his or her Re-Employment Commencement Date and not later than five (5), years following the Re-	Formatted	<u> </u>
employment Commencement Date (or if less, a period equal to three (3) times the	Formatted	
length of the Participant's Qualified Military Service triggering such make-up		
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Additions under Section 4.12(b) and are subject to the Elective Deferral Limit under Section 4.12(a) in the year to which such contributions are allocated, but not in the year in which such contributions are made.

meet the requirements of any provision described in this Section 4.6(b) by reason of any contribution or benefit which is based on a Differential Wage Payment. The preceding sentence applies only if all Employees performing service in the uniformed services described in Code & Code Section 3401(h)(2)(A) are entitled to receive Differential Wage Payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the Employer, to make contributions based on the payments on reasonably equivalent terms (taking into account Code & Code Sections 410(b)(3), (4), and (5)). The Plan Administrator operationally may determine, for purposes of any provision described in this Section 4.6(b), whether to take into account any Elective Deferrals, and if applicable, any Matching Contributions, attributable to Differential Wage Payments.

(vi) No Earnings. A Participant receiving any make-up contribution under this Section 4.6(b) is not entitled to an allocation of any Earnings on any such contribution prior to the time that WSU actually makes the contribution (or timely deposits the Participant's own make-up Elective Deferrals or Mandatory Contributions) to the Plan.

Qualified Military Service, the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death.

(e) Leave of Absence Without Pay. A Participant who returns to employment with WSU immediately following an authorized leave of absence without pay, other than an absence described in Section 4.54(b), and who remains employed by WSU for at least two (2) years after such return, will receive credit for the leave period to be used in the computation of benefits as described in RCW 28B.10.407, not to exceed a maximum of two (2) years' credit, provided: (i) the Participant is eligible for such benefits; and (ii) makes the contributions described in this Section 4.54(c). The Participant must contribute the total amount that the Participant would have been contributed had the Participant not been on leave

-(including any amount WSU would have contributed) less any contributions under Sections 4.64(a) or (b) with respect to the same leave. The contributions under this Section 4.64(c) will be based on the average of the Participant's Compensation at the time the leave of absence was authorized and the time the Participant resumes employment with WSU. WSU will not make Mmatching Contributions or Nonelective Contributions with respect to such contributions. The Participant may not make the contributions until they have satisfied the two (2) year post-leave service condition

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described above, and the Participant must make the contributions no later than the end of the fifth (5th) year after returning from the leave.

- 4.3. 4.76 Rollovers or Transfers to the Plan. The Plan does not accept rRollovers or transfers from other plans, accounts, or annuities to the Plan will not be accepted.
- **4.4. 4.87 Allocation of Plan Contributions.** As further described in Section 5.1, a Participant may allocate Plan Contributions to Funding Vehicles while assuming the sole responsibility for the investment performance of his or her chosen Funding Vehicles.
- **4.898 Vesting of Contributions.** Each contract and certificate issued in accordance with the provisions of the Plan is the property of the Participant. Amounts attributable to Plan Contributions by the Participant and WSU are immediately vested and shall be nonforfeitable, subject to Section 98.7. However, Plan Contributions based on a mistake of fact, shall be returned to WSU if WSU so requests as provided in Section 9.7(a) **XX**.
- **4.5. 4.9109 Account Statement.** At least once a year, and more often as may be required by applicable law, the Fund Sponsor(s) will send each Participant a report summarizing the status of his or her <u>Accountlation Account(s)</u>. A Participant may obtain similar reports or illustrations upon <u>Separation from Service termination of employment</u> or at any other time by writing directly to the Fund Sponsor(s).
- **4.6. 4.1010 No Reversion.** Under no circumstances will any Plan Contributions revert to, be paid to, or inure to the benefit of, directly or indirectly, WSU, except as provided in Section 4.7 and the second sentence of Section 898.7(a).
- **4.1121** Maximum Contribution-. Plan Contributions for a Participant for any calendar year, together with contributions for the Participant under any other plan subject to Code Sections 402(g) or 403(b), shall not exceed the Elective Deferral Limit and the Annual Additions Limit limitations in Code Sections 402(g) and 415(c), to the extent applicable, except as permitted by Code Section 414(v) as to age 50 Catch-up Deferrals. The limitations of Code Sections 402(g), 414(v) and 415(c) are herein incorporated by reference. See Section 8.7 as to correction of contributions which exceed these limitations.
 - (a) Annual Elective Deferral Limitation. A Participant's Elective Deferrals for a Taxable Year may not exceed the Elective Deferral Limit. Age 50 Catch-up Deferrals are not subject to the Elective Deferral Limit.
 - (i) Definition of Elective Deferral Limit. The Elective Deferral Limit is the Code Section 402(g) limitation on each Participant's Elective Deferrals for each Taxable Year. The Elective Deferral Limit is \$19,500 in 2020, and in future years is subject to adjustment by the IRS in multiples of \$500 under Code Section 402(g)(4). However, in no event shall a Participant's Elective Deferrals exceed the Participant's Compensation for the Taxable Year. If the Participant's Taxable Year is not a calendar year, the Plan Administrator must apply the Code Section 402(g)

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limitation in effect for the calendar year in which the Participant's Taxable Year begins.

(ii) <u>Definition of Excess Deferral, A Participant's Excess Deferral is the amount of Elective Deferrals for a Taxable Year which exceeds the Elective Deferral Limit.</u>

(iii) Suspension after Reaching Limit, If the Plan Administrator determines a Participant's Elective Deferrals to the Plan for a Taxable Year would exceed the Elective Deferral Limit, the Plan Administrator will suspend the Participant's Elective Deferrals, if any, until the following January 1 and will pay to the Participant in cash the portion of the Elective Deferrals which would result in the Participant's Elective Deferrals for the Taxable Year exceeding the Elective Deferral Limit.

(iv) Correction. If the Plan Administrator determines a Participant's* Elective Deferrals already contributed to the Plan for a Taxable Year exceed the Elective Deferral Limit, the Plan Administrator will distribute the Excess Deferrals as adjusted for Allocable Income, no later than April 15 of the following Taxable Year (or if later, the date permitted under Code Sections 7503 or 7508A).

(v) 415 Interaction. If the Plan Administrator distributes the Excess Deferrals by the April 15 deadline under Section 4.121(a)(iv), the Excess Deferrals are not an Annual Addition under Section 4.112(b), and the Plan Administrator may make the distribution irrespective of any other provision under this Plan or under the Code. Elective Deferrals distributed to a Participant as an Excess Amount in accordance with Section 4.112(b), are not taken into account in determining the Participant's Elective Deferral Limit.

More than One Plan. If a Participant participates in another plan subject to the Code Section 402(g) limitation under which the Participant makes elective deferrals pursuant to a 401(k) Plan, elective deferrals under a SARSEP, elective contributions under a SIMPLE IRA or salary reduction contributions to a 403(b) plan (irrespective of whether WSU maintains the other plan), the Participant may provide to the Plan Administrator a written claim for Excess Deferrals made to the Plan for a Taxable Year. The Participant must submit the claim no later than the March 1 following the close of the particular Taxable Year and the claim must specify the amount of the Participant's Elective Deferrals under this Plan which are Excess Deferrals. The Plan Administrator may require the Participant to provide reasonable evidence of the existence of and the amount of the Participant's Excess Deferrals. If the Plan Administrator receives a timely claim which it approves, the Plan Administrator will distribute the Excess Deferrals as adjusted for Allocable Income the Participant has assigned to this Plan, under this Section 4.121(a)(vi), If a Participant has Excess Deferrals because of making Elective Deferrals to this Plan and other WSU plans (but where the Elective Deferral Limit is not exceeded based on the Participant's Elective Deferrals to any single plan), the Participant for purposes of this Section

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4.121(a)(vi) is deemed to have notified the Plan Administrator of this Plan of the Excess Deferrals.

(vii) Definition of Allocable Income, Allocable Income means Earnings allocable to the Excess Deferrals for and through the end of the Taxable Year in which the Participant made the Excess Deferral. To calculate Allocable Income for the Taxable Year, the Plan Administrator will use a uniform method which reasonably reflects the manner used by the Plan Administrator to allocate Earnings to Participants' Accounts or the "alternative method" under Treas. Reg. Section 1.402(g)-1(e)(5)(iii).

(b) Annual Code Section 415 Limit. The amount of Annual Additions which the Plan Administrator may allocate under this Plan to a Participant's Account for a Limitation Year may not exceed the Annual Additions Limit.

(i) Prevention, If the Annual Additions the Plan Administrator otherwise would allocate under the Plan to a Participant's Account for the Limitation Year would exceed the Annual Additions Limit, the Plan Administrator will not allocate the Excess Amount, but instead will take any reasonable, uniform action the Plan Administrator determines necessary to avoid allocation of an Excess Amount including; (1) suspending or limiting a Participant's additional Mandatory Contributions or Elective Deferrals; (2) reducing WSU's future Plan Contribution(s); or (3) suspending or limiting the allocation to a Participant of any Plan Contribution previously made to the Plan (exclusive of Elective Deferrals). If the Plan Administrator allocates to a Participant an Excess Amount, the Plan Administrator must dispose of the Excess Amount in accordance with Section 4.121(b)(ix).

(ii) Aggregation of WSU 403(b) Plans. If Annual Additions are credited to any other WSU Code Section 403(b) Plan in addition to those credited under this Plan for a Limitation Year, the sum of the Participant's Annual Additions for the Limitation Year under the other plan and this Plan may not exceed the Annual Additions Limit.

Aggregation where Participant Controls any Employer. If a Participant is in control of any other employer for a Limitation Year, the sum of the Participant's Annual Additions for the Limitation Year under this Plan, any other WSU Code Section 403(b) plan, any defined contribution plans maintained by the controlled employers, and any Code Section 403(b) plans of any other employers may not exceed the Annual Additions Limit for the Limitation Year. The Plan Administrator determines "control," under Code Sections 414(b) or 414(c), as modified by Code Section 415(h), in accordance with the rules of Treas. Reg. Section 1.415(f)-1(f). A "defined contribution plan" means a defined contribution plan qualified under Code Sections 401(a) or 403(a), a Code Section 403(b) plan, or a simplified employee pension plan under Code Section 408(k). The Plan Administrator will provide written or electronic notice to Participants that explains the limitation in this Section 4.121(b)(iii) in a manner calculated to

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be understood by the average Participant and informs Participants of their responsibility to provide information to the Plan Administrator that is necessary to satisfy this Section. The notice will advise Participants that the application of the limitations in this Section will take into account information supplied by the Participant and that failure to provide necessary and correct information to the Plan Administrator could result in adverse tax consequences to the Participant, including the inability to exclude contributions to the Plan under Code Section 403(b). The notice will be provided annually, beginning no later than the year in which the Employee becomes a Participant.

(iv) Ordering Rules, If a Participant's Annual Additions under this Plan and any other plans aggregated with the Plan under this Section 4.121(b) result in an Excess Amount, such Excess Amount will consist of the Amounts last allocated. If the Plan Administrator allocates an Excess Amount to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the Excess Amount attributed to this Plan will equal the product of: (1) the total Excess Amount allocated as of such date, multiplied by (2) the ratio of (a) the Annual Additions allocated to the Participant as of such date for the Limitation Year under the Plan to (b) the total Annual Additions allocated to the Participant as of such date for the Limitation Year under this Plan and the other aggregated plans.

(v) Definition of Annual Addition. An Annual Addition means the Plan Contributions credited to a Participant's Account under this Plan and employer contributions, elective deferrals, employee contributions, mandatory contributions, allocations under a simplified employee pension plan and forfeitures credited to any other plan aggregated with the Plan under this Section 4.121(b); provided that Age 50 Catch-up Contributions, distributed Excess Deferrals under Section 4.121(a)(v) and certain other amounts described in Treas. Reg. Section 1.415(c)-1(b) are excluded. For purposes of the dollar limitation under Section 4.121(b)(vi), Annual Additions also include amounts allocated to an individual medical account (as defined in Code Section 415(l)(2), included as part of a pension or annuity plan maintained by WSU and contributions paid or accrued attributable to post-retirement medical benefits allocated to the separate account of a key-employee (as defined in Code Section 419A(d)(3)) under a WSU welfare benefit fund (as defined in Code Section 419(e)).

(vi) <u>Definition of Annual Additions Limit.</u> The Annual Additions <u>Limit is the lesser of: (i) \$57,000 in 2020 and as adjusted in future Limitation Years under Code Section 415(d)), or (ii) 100% of the Participant's Compensation for the Limitation Year.</u>

(vii) Definition of Excess Amount. An Excess Amount is an excess of a Participant's Annual Additions for a Limitation Year over the Annual Additions Limit.

(viii) Definition of Limitation Year, The Limitation Year means the

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calendar year. However, if the Participant is in control of an employer under Section 4.121(b)(iii), the Limitation Year is the Limitation Year as defined in the defined contribution plan controlled by the Participant.

(ix) Correction of Excess Amount. If a Participant's Account exceeds the Annual Additions Limit for the Limitation Year, then the Plan may correct such excess in accordance with Section 9.7(b). Alternatively, the Plan Administrator may hold the Excess Amount in a separate account. The Excess Amount held in the separate account is includible in the Participant's gross income or the taxable year in which the Plan Contributions exceed the Annual Additions Limit. This separate account will be treated as a separate contract to which Code Section 403(c) (or another application provision of the Code) applies. Amounts in the separate account may be distributed at any time, notwithstanding any other provisions of the Plan.

4.7. If the limitations are exceeded because the Participant is also participating in another plan required to be aggregated with this Plan for the purposes of Code Sections 402(g), 414(v) or 415, and such other plan is maintained by WSU or a Related Employer, then the extent to which annual contributions under this Plan will be reduced, as compared with the extent to which annual benefits or contributions under any other plans will be reduced, will be determined by WSU. If the reduction is under this Plan, WSU will advise the affected Participant of any limitations on his or her Plan Contributions required by this Section 4.10.

SECTION 5. FUND SPONSORS AND FUNDING VEHICLES

The Fund Sponsors and Funding Vehicles. Participants and Beneficiaries may invest all Plan Contributions made to their Account in one or more Funding Vehicles made available by WSU to Participants and Beneficiaries under this Plan and in accordance with any applicable law restricting investments by Participants not residing in the United States. A Participant or Beneficiary may allocate Plan Contributions among Funding Vehicles in any whole number percentages totaling one hundred percent (100%). Participants and Beneficiaries are solely responsible for the investment of their Account. If a Participant or Beneficiary fails to direct the investments of his or her Accumulation Account, the Account will be invested in a Funding Vehicle selected by WSU for such non-directing Participants and Beneficiaries. WSU's current choice of Fund Sponsor(s) and Funding Vehicles is not intended to limit future additions or deletions by WSU of Fund Sponsors and Funding Vehicles. The Plan Administrator shall maintain a list of all Fund Sponsors under the Plan. Such list is hereby incorporated as part of the Plan. The Fund Sponsor(s) and WSU shall exchange such information as may be necessary to satisfy Code Section 403(b) or other requirements of applicable law. In the case of a Fund Sponsor that is not eligible to receive Plan Contributions (including a Fund Sponsor that has ceased to be a Fund Sponsor eligible to receive Plan Contributions), WSU shall keep the Fund Sponsor informed of the name and contact information of the Plan Administrator in order to coordinate information necessary to satisfy Code Section 403(b) or other requirements of applicable law. In the event that the Plan terms and the Funding Vehicles are in conflict, the Plan terms are controlling; provided that as to the timing or form of any Plan distribution, such timing or form must be permitted under the Funding Vehicles as well as under the Plan.

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- 5.2. 5.2 <u>Funding Vehicle ExchangeTransfer of Funds</u>. A Participant <u>may exchange may transfer</u> all or a part of his or her <u>Accumulation</u> Account between Funding Vehicles <u>offered by a Plan Sponsor</u>, subject to Fund Sponsor and/or Funding Vehicle contractual requirements, and to Code Section 403(b) and the regulations thereunder. However, an investment <u>exchange to transfer that includes</u> an investment with a Fund Sponsor that is not eligible to receive <u>Plan Ceontributions</u> under Section 5.1 is not permitted.
- 5.3. 5.3 Third Party Trading. The Participant, or his or her Beneficiary in the event of the Participant's death, is responsible for directing all funds invested under this Plan, and cannot assign that responsibility to another party, except that a Participant or Beneficiary may assign that responsibility in writing to a third party that has been given a power of attorney, and investment directions may be given by the legal representative of a Participant or Beneficiary who is under a legal disability. Any investment direction under this Section 5.23 must be given in accordance with applicable law and any reasonable Plan Administrator or Fund Sponsor requirements.

SECTION 6. RETIREMENT

- 6.1. 6.1 Retirement Because of Age. As of the day after attaining Retirement Age or otherwise eligible to draw a lifetime annuity benefit from the Plan under Section 403(b) of the Internal Revenue Code, a Participant who is actively employed by WSU may elect to retire by submitting written notification to his or her superior with a copy to Human Resource Services.
- 6.2. 6.2 Retirement Because of Health Condition. A retirement because of health condition may be approved by the President of WSU in the event a Participant has a serious health condition that prevents him or her from performing the duties of his or her Eligible Position. Any request for retirement and supplemental payments because of health is submitted in writing to the Human Resource Services Benefits Director, who will convene a review of the request, and will presents its recommendations to the President.

SECTION 67. BENEFITS

6.1. 67.1 Benefits During Life.

- (a) <u>Timing</u>. A Participant may make an Election to commence distribution of his or her <u>Accumulation</u>—Account upon or following <u>Separation from Service from WSU</u> and at such other times (or upon such events) as the applicable Funding Vehicles and the Plan may permit; provided that such times and events are permissible under Code Section 403(b) and the regulations thereunder.
 - (i) <u>In-Service Distribution at Age 59½ with Phased Retirement</u>. As Participant who has elected phased retirement under applicable WSU procedures may commence distribution after reaching age 59½ even though the Participant has not <u>incurred a Separationed</u> from <u>Service from WSU</u>.
 - (ii) <u>No Other In-Service Distributions</u>. The Plan does not permit anyother distributions prior to a Participant's Separation from Service from WSU.

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- (b) Form. A Participant may receive distribution of his or her Accountable Account in the form of cash, payable either as a lump sum or in installment payments, or in the form of an annuity contract under which the Fund Sponsor will make payments to the Participant (and possibly to a Beneficiary), all in accordance with the payment options as authorized by the Fund Sponsor(s) and Funding Vehicles; provided that such payment options are consistent with the Plan and are permissible under Code Sections 403(b), 401(a)(9) and the regulations thereunder. The total amount of the annuity or other payment is calculated by the Fund Sponsors(s) on the rate and dividend basis then in effect and payments shall be made to the extent provided by the form of annuity.
- (c) <u>Participant Election</u>. A Participant may make Elections as to time and form of payment of benefits under this Section 6.1 at such times and in the manner required by the Plan Administrator and Fund Sponsor(s), provided such elections are consistent with Code Section 403(b) and the regulations thereunder. All lifetime benefits are further subject to the required minimum distribution requirements of Section 6.3. A Participant will make such Elections directly to the Fund Sponsor(s).
- (d) <u>Spousal or Domestic Partner Consent Required</u>. <u>Effective on and following the execution of this Plan, a married A-Participant's Election to withdraw all or lump sum payment of any portion of his or her <u>Accumulation</u> Account requires the written consent of the Participant's spouse, or state registered domestic partner under RCW 26.60 et seq. (a "domestic partner").</u>
 - (i) Form of Spousal-or-Domestic Partner Consent. The consent of the spouse or domestic partner must be in writing, must acknowledge the effect of the eElection or action to which the consent applies, and must be witnessed by a notary public. Unless the consent expressly provides that the Participant may make further elections without further consent of the spouse or domestic partner, the consent will be effective only with respect to the specific eElection to which the consent relates. Spousal or domestic partner consent will be effective only with respect to that spouse or domestic partner. Spousal Such-consent will not be required if it is established to the satisfaction of the Plan Administrator WSU Human Resource Services that there is no spouse or that the spouse or domestic partner cannot be located.
- 6.2. 67.2 **Death Benefits.** On the death of a Participant, the entire value of each-the-Participant's Account (or of the remaining Account) is payable to the Participant's Beneficiary or Beneficiaries. The Beneficiary may make an Election as to the time and form of payment under any payment option available under the Funding Vehicles, provided such payment options are consistent with Code Sections 403(b), 401(a)(9) and the regulations thereunder. A Beneficiary will make such Elections directly to the Fund Sponsor(s). However, to the extent that the Accountlation Account has previously been applied to purchase an annuity, payments shall be made only if and to the extent provided by the form of annuity. All death benefits are further subject to the required minimum distribution requirements of Section 6.3.

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6.3. 67.3 Minimum Distribution Requirements

- (a) Applicable Law. All distributions under this Plan will be made in accordance with Code Sections 403(b)(10) and 401(a)(9), as each is amended and in effect from time to time, and regulations thereunder. Notwithstanding anything to the contrary in this Section 7.3, required minimum distributions are subject to changes made under the SECURE Act and any regulations or other binding guidance issued thereunder.
- <u>Lifetime Required Minimum Distributions</u>. AFor Participants who reached attained age 70½ in 2019 or earlierprior to January 1, 2020, the Participant must receive distribution or commence distribution of his or her Accumulation-Account no later than April 1 following the calendar year in which the Participant attains age 701/2 or, if later, April 1 following the calendar year in which the Participant Separates from Service from WSU. For Participants who reach attain age 70 ½ in 2020 or later, required minimum distributions must begin no later than April 1 of the calendar year following the calendar year in which the Participant attains age 72, or, if later, by April 1 following the calendar year in which the Participant retires-Separates from Servicefrom the WSU. The annual lifetime minimum distribution amount will be calculated in accordance with Treas. Reg. §§1.401(a)(9)-2 and 1.401(a)(9)-5. The entire Accumulation-Account of each Participant will be distributed over a period not to exceed the life (or life expectancy) of the Participant or over the lives (or life expectancies) of the Participant and Designated Beneficiary. Notwithstanding the above, the Accumulation Account for each Participant as of December 31, 1986, will be distributed in accordance with Treas. Reg. Section §1.403(b)-6(e)(6).
- (e) (c) <u>Death Required Minimum Distributions</u>. The annual death minimum distribution amount will be calculated in accordance with Treas. Reg. §§1.401(a)(9)-3 and 1.401(a)(9)-5.
 - (i) <u>Death Before the Required Beginning Date.</u> <u>Prior to-January 1, 2020, ILif</u> the Participant dies <u>prior to January 1, 2020 and</u> before benefit payments are required to begin under Section 6.3(b), any benefits payable to a Designated Beneficiary will be paid, as the Designated Beneficiary elects: (a) by December 31 of the calendar year which contains the fifth (<u>5th</u>) anniversary of the Participant's death; or (b) <u>will be paid</u>, beginning no later than December 31 of the calendar year following the calendar year of the Participant's death, over a period not exceeding the life expectancy of the Designated Beneficiary. If the Designated Beneficiary is the surviving spouse, payment may be delayed until the date the Participant would have attained age 70½.

As of January 1, 2020, iIf the Participant dies in 2020 or later and before benefit payments are required to begin under Section 6.3(b),the preceding paragraph, any benefits payable to (or for the benefit of) a Designated Beneficiary will be paid, as the Designated Beneficiary elects: (c) by the end of the tenth (10th) full calendar year after the Participant's death; or (d) will be paid beginning no later than the end of the first (1st) full calendar year after the Participant's death over the life of the designated Beneficiary or over a period not

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exceeding the life expectancy of the designated Beneficiary. If the Designated Beneficiary is the surviving spouse, the spouse may Elect to defer commencement of payments may be delayed until the date the Participant would have attained age 72. Special rules apply as to payments to other (non-spouse) Designated Beneficiaries. If the Beneficiary is not a Designated Beneficiary, or if a Designated Beneficiary fails to make a payment Election, payment will be made within five (5) years as described in Section 6.3(c)(i)(a).

- (i) If there is no Designated Beneficiary, the entire Accumulation Account must be distributed within the period described in clause (a) above. If a Designated Beneficiary makes no Election, the period described in clause (a) applies.
- (ii) Death After the Required Beginning Date. Upon the Participant's death after the time benefits are required to begin under Section 6.3(b), any remaining benefits will be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death. Minimum distributions will be calculated based on the longer life expectancy of the Participant or his or her Designated Beneficiary. If there is no Designated Beneficiary, the minimum distributions will be based on the Participant's remaining life expectancy.
- (d) <u>Separate Treatment of Contracts and Accounts</u>. In applying the foregoing minimum distribution rules, each Annuity Contract or Custodial Account shall be treated as an IRA and distribution shall be made in accordance with the provisions of Treas. Reg. §1.408-8, except as provided in Treas. Reg. §1.403(b)-6(e).
- 6.4. 67.4 No Loans. The Plan does not make loans to Participants or Beneficiaries.

6.5. 67.5 Rollover Distributions.

- (a) <u>Direct Rollover</u>. A Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in Code Section 414(p)(1)(B)) who is entitled to an Eeligible Recollover Delistribution (as defined in Code Section 402(c)(4))—from the Plan may make an Election to have any portion of that distribution paid directly to an Eeligible Rectirement Pplan (as defined in Code Section 402(c)(8)(B))—specified by the Participant or Beneficiary in a Delirect Recollover. In the case of a distribution to a Designated Beneficiary who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the participant who is an alternate payee under a domestic relations order, a Delirect Recollover is payable only to an IRA that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Code Section 408(d)(3)(C)).
- (b) <u>Rollover and Tax Notice</u>. Each Fund Sponsor within a reasonable time period (and within any period prescribed by applicable law) before making an initial <u>Ee</u>ligible <u>Reollover Delistribution</u>, will provide an explanation to the Participant of his or

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her right to elect a <u>Delirect Reollover</u> and the income tax withholding consequences of not electing a <u>Delirect Reollover</u>.

- (c) Election. A Participant (including for this purpose, a former Employee) may elect, at the time and in the manner prescribed by the Fund Sponsor, to have any portion of his or her Eligible Rollover Distribution from the Plan paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover. For purposes of this Section 6.5, a Participant includes as to their respective interests: (1) a Participant's surviving spouse, (2) the Participant's spouse or former spouse who is an alternate payee under a QDRO, or (3) any other Beneficiary of a deceased Participant who is a Designated Beneficiary under Treas. Reg. Section 1.401(a)(9)-4.
- (d) Rollover and Withholding Notice. At least 30 days and not more than 180 days prior to the distribution of an Eligible Rollover Distribution, the Plan must provide a written notice (including a summary notice as permitted under applicable IRS guidance) explaining to the distributee the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient's right to roll over within 60 days after the date of receipt of the distribution ("rollover notice"). A recipient of an Eligible Rollover Distribution (whether he/she elects a Direct Rollover or elects to receive the distribution), also may elect to receive distribution at any administratively practicable time which is earlier than 30 days following receipt of the rollover notice. The provisions of this Section 6.5(d) do not apply to distributions to a Beneficiary described in Section 6.5(c)(3).
- (e) Default Rollover. The Fund Sponsor, in the case of a Participant who does not respond timely to the rollover notice, may make a Direct Rollover of the Participant's Account in lieu of distributing the Participant's Account.
- (f) (g) 'h) (fj) Definitions. The following definitions apply to this Section 6.5:
 - (i) <u>Direct Rollover. A Direct Rollover means a payment by the Plan to the Eligible Retirement Plan the distributee specifies in his or her Direct Rollover pelection or in the case of an automatic rollover, to the IRA that the Plan designates.</u>
 - (ii) Eligible Retirement Plan. An Eligible Retirement Plan means an IRA, an annuity plan described in Code \$Code Section 403(a), a qualified trust described in Code \$Code Section 401(a), an arrangement described in Code \$Code Section 403(b), or an eligible deferred compensation plan described in Code \$Code Section 457(b) sponsored by a governmental employer which accepts the Participant's or alternate payee's Eligible Rollover Distribution. 'Code Section_In the case of a Beneficiary described in Section 6.5(c)(3), an Eligible Retirement Plan is limited to an IRA that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Code \$Code Section 408(d)(3)(C)).

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Eligible Rollover Distribution. An Eligible Rollover Distribution means any distribution of all or any portion of the Participant's Account Balance, except: (a) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated beneficiary, or for a specified period of ten (10) years or more; (b) any required minimum distribution under Section 6.3; (c) the portion of any distribution which is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); (d) any hardship distribution; (e) any distribution which otherwise would be an Eligible Rollover Distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200; (f) any corrective distribution of excess amounts under Code §Code Section 402(g), 401(k), 401(m), and/or 415(c) and income allocable thereto; (g) any loans that are treated as deemed distributions under Code & Code Section 72(p) (h) dividends paid on employer securities described in Code & Code Section 408(k); (i) the costs of life insurance coverage (P.S. 58 costs); (j) prohibited allocations treated as deemed distributions under Code Scotion 409(p); and (k) permissible withdrawals from a EACA described in Code & Code Section 414(w). A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such portion may be transferred only to (i) an IRACode Sections or (ii) a qualified plan described in Code §\$Code Sections 401(a) or 403(a), or (iii) a tax-sheltered annuity described in Code & Code Section 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(iv) Code Section Code Section

SECTION 78. ADMINISTRATION

- 87.1 Plan Administration/Administrator. WSU is the Plan Administrator, of this Plan- and has designated WSU Human Resource Services to be responsible for the day-today administration of the Plan.
- 87.2 Authority of WSUPlan Administrator. The Plan Administrator has all the powers and authority conferred upon it herein and further shall have final authority to determine, in its discretion, all questions concerning eligibility and contributions under the Plan, to interpret all terms of the Plan, including any uncertain terms, to adopt Plan policies and procedures, and to decide any disputes arising under and all questions concerning administration of the Plan. Any determination made by the Plan Administrator shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary and capricious. In exercising these powers and authority, the Plan Administrator will at all times exercise good faith, apply standards of uniform application, and refrain from arbitrary action. WSU shall have final authority to determine all questions concerning eligibility and contributions under the Plan, to interpret all terms of the Plan, including any uncertain terms, to adopt Plan policies and procedures, and to decide any disputes arising under and all questions concerning administration

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of the Plan. Any determination made by WSU shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary and capricious.

7.3 Delegation of Authority. The Plan Administrator may delegate any power or powers to one or more other employees of WSU, or to any agent or independent contractor of WSU. Any such delegation shall be in writing, and may be obtained from the Plan Administrator.

SECTION 98. MISCELLANEOUS

- 89.1 Non-Alienation of Benefits. Except as provided in this Section 98, no benefit* under the Plan may at any time be subject in any manner to alienation, encumbrance, the claims of creditors, or legal process. No Participant or Beneficiary will have power in any manner to transfer, assign, alienate, or in any way encumber his or her Account or benefits under the Plan, or any part thereof, and any attempt to do so will be void and of no effect. Theis Plan Administrator will comply with any judgment, decree, or order (including a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child or other dependent of a Participant and is made pursuant to the domestic relations law of any state. establishes the rights of another person to all or a portion of a Participant's benefit under this Plan to the extent that it is treated as a qualified domestic relations order under Code Section 414(p). Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. WSU shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order. The Plan Administrator may pay from a Participant's Account an amount the Plan Administrator determines is lawfully demanded under a levy issued by the IRS with respect to a Participant or Beneficiary, or is sought to be collected by the U.S. Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.
- 8.1. 98.2 Plan Does Not Affect Employment. Nothing in this Plan is a commitment or agreement by WSU or by any Employee any person to continue his or her employment with WSU or by WSU to rehire a retired Participant, and nothing in this Plan is a commitment on the part of WSU to continue the employment or the rate of compensation of any Employeeperson for any period. All Eemployees of WSU will remain subject to nonrenewal, discharge, or discipline to the same extent as if the Plan had never been put into effect.
- 8.2. 89.3 Claims of Other Persons. The Plan does not give any Participant, Beneficiary or any other person, firm, or entity of any type, eorporation any legal or equitable right against WSU or against its past, present or future officers, employees, or Board members Regents, except for the rights that are specifically provided for in this Plan or created in accordance with the terms and provisions of this Plan.
- **8.3. 89.4 Contracts and Certificates.** In the event there is any inconsistency or ambiguity between the terms of the Plan and the terms of the contracts between the Fund Sponsor(s) and WSU and/or the Participants and any contracts and/or certificates issued to a Participant under the Plan, the terms of the Plan control.

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- **8.4. 98.5 Governing Law.** Except as provided under federal law, the provisions of the Plan are governed by and construed in accordance with the laws of the State of Washington.
- **8.5. 98.6 Requests for Information.** Any request for information concerning eligibility, participation, contributions, or other aspects of the operation of the Plan should be in writing and directed to the Plan Administrator via <u>WSU</u> Human Resource Services. Requests for information concerning the Fund Sponsor(s), the Funding Vehicles, their terms, conditions, and interpretations thereof, claims thereunder, any requests for review of such claims, and service of legal process, may be directed in writing to the Fund Sponsor(s).

98.7 Mistaken Contributions or Other Plan Failures.

(a) Mistake of Fact. If any Plan Contribution (or portion of a Plan-Contribution) is made to the Plan by a mistake of fact, then within one (1) year after the payment of the Plan Contribution, the Plan Administrator may return the amount of the mistaken contribution WSU contributes to the Plan on condition that its contribution is not due to a mistake of fact. The Fund Sponsor, upon WSU's written request, will return the amount of any WSU contribution (net of any investment loss, but not increased by any investment income or gains) to WSU. Thereafter, the Plan Administrator will determine if any or all of such amount should be refunded to the affected Participant. made due to a mistake of fact; provided, that any such contribution must be returned within one (1) year after the contribution was made.

(b) Other Failures. If any WSU or ParticipantPlan C-contribution is made to the Plan which exceeds the Plan or Code limits or which is not otherwise in accordance with the Plan terms, or if there are other Plan related failures, the Plan Administrator will make correction in accordance with the Plan and with the Employee Plans Compliance Resolution System under Rev. Proc. 201908-1950 or any other successor or applicable guidanceeline.

SECTION 109. AMENDMENT AND TERMINATION

- 9.1. 109.1 Amendment and Termination. The Board reserves the right at any time to amend or terminate the Plan, in whole or in part, or to discontinue any further Plan Contributions or payments under the Plan. If the Plan is terminated or if Plan Contributions are completely discontinued, the Plan Administrator WSU-will notify all Participants. As of the date of complete or partial termination, all Accumulation Accounts will remain nonforfeitable, and all Elective Deferral Elections will become void with respect to Compensation yet to be paid.
- 9.2. 109.2 Distribution Upon Termination of the Plan. WSU may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Annuity Contract and Custodial Account agreements, all Accountation—Accounts will be distributed, provided WSU and any Related Employer on the date of termination do not make contributions to an alternative Code Section 403(b) contract that is not part of the Plan during the period beginning on the date of plan termination and ending twelve (12) months after the distribution of

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all assets from the Plan, except as permitted by Code Section 403(b) and the regulations thereunder.

9.3. 102.3 Limitation. Notwithstanding the provisions of Section 9.1, the Board shall not make any amendment to the Plan that operates to recapture for WSU any Plan Contributions previously made under this Plan except to the extent permitted by Section 8.7.

WASHINGTON STATE UNIVERSITY

Voluntary Investment ProgramProgramIan (VIP)

As Amended and Restated Effective March XX, 2020 January 1, 2009

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SECTION 1. ESTABLISHMENT OF VOLUNTARY INVESTMENT PROGRAM

1.1 Establishment of Program. The Board of Regents of Washington State University established a Washington State University Tax-Deferred Annuity Program as of January 1, 1983, as allowed under State of Washington RCW 28.B.10.480. As of January 1, 2009, the programPlan is named the Washington State University Voluntary Investment ProgramPlan (VIP). This plan document sets forth the provisions of the Plan, as amended through March , 2020 but with a general retroactive effective date of January 1, 2010 as provided for in Rev. Proc.2013-22. This plan is a governmental plan as defined in Code Section 414(d) and is intended to satisfy the provisions of Code Section 403(b).

SECTION 2. This plan document sets forth the provisions of this Program, as in effect on January 1, 2009. Contributions under this Program are made under section 403(b) of the Internal Revenue Code and are invested, at the direction of the Participant, in one or more of the Funding Vehicles available under the Program.

DEFINITIONS

The words and phrases defined in this Article have the following meanings throughout this plan document:

- **2.1** Account means the account maintained for the benefit of any Participant or Beneficiary under a Funding Vehicle. The Plan Administrator will establish and maintain such separate Accounts for each Participant as may be necessary to properly account for Pre-taxPre-Tax Elective Deferrals versus Roth Elective Deferrals and the Earnings thereon, and otherwise as may be necessary for proper Plan administration.
- 2.2 Account Balance means the total benefit to which a Participant or a Beneficiary is entitled under all Funding Vehicles, taking into account all VIP Ceontributions made to the Funding Vehicle and all Earnings and expenses allocable to the Account, and any distributions made to the Participant or Beneficiary.
- 1.1. Accumulation Account means the separate account established for each Participant with each Fund Sponsor to which VIP Contributions have been made by the Participant. The current value of a Participant's Accumulation Account with a Fund Sponsor includes all VIP Contributions to the Fund Sponsor, less expense charges, transfers, and benefit distributions, and reflecting credited investment experience.
- 2.3 Annuity Contract means a nontransferable group or individual contract described in Code Section 403(b)(1) that is issued by a Fund Sponsor and that includes payment in the form of an annuity a non-transferable contract described in section 403(b)(1) of the Code, that is issued by an insurance company qualified to issue annuities in the State of Washington and that includes payment in the form of an annuity

Beneficiary means either (a) the surviving spouse of the Participant or (b) with the written consent of the Participant's spouse, if any, such person or persons who shall have been

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designated by the Participant in writing duly executed and filed with the Fund Sponsor(s) or (b) if no such person survives the Participant. A new designation may be made at any time before the Participant or Beneficiary has started to receive annuity payments under the Program; any such new designation shall be subject to the conditions of this Section 2.3.

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

2.4 Beneficiary means the person(s), including one or more trusts or other entities the Participant designates in writing, contingently or successively, to receive the Participant's Account (or remaining Account) under the Plan in the event of the Participant's death. If the Participant is married or remarries, the Participant's designation (including a pre-existing designation in the case of remarriage) of someone other than the spouse as a primary Beneficiary requires the written consent of the spouse. Any such consent must be witnessed by a notary public. Unless the consent expressly provides that the Participant may designate an additional Beneficiary or Beneficiaries without further consent of the spouse, the consent will be effective only with respect to the specific designation to which the consent relates. Spousal consent will be effective only with respect to that spouse. Such consent will not be required if it is established to the satisfaction of the Plan Administrator that there is no spouse or that the spouse cannot be located. A Participant's Beneficiary designation must be made on a form provided for this purpose by the Plan Administrator or by a Fund Sponsor and must be on file with the Plan Administrator or Fund Sponsor. If a Participant fails to designate a Beneficiary, the Participant's Account (or remaining Account remaining on the Participant's death) will be paid in the following order of priority: (a) to the Participant's surviving spouse, and, if none; (b) to the Participant's surviving children and lineal descendants, by right of representation and not per capita, and, if none; (c) to the Participant's surviving parents, and, if none; (d) to the Participant's estate. For purposes of Sections 6.4 and 6.7, a Designated Beneficiary means as described in Treas. Reg. Section 1.401(a)(9)-4 and, as applicable and the context requires, an "Eligible Designated Beneficiary" under the Secure Act.

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

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- **2.5 Board** means the Board of Regents of Washington State University.
- **2.6** Code means the Internal Revenue Code of 1986, as amended.
- **2.7** Compensation means W-2 taxable income and includes Post-Severance Compensation which consists of regular pay.
- **2.8 Custodial Account** means the group or individual custodial account or accounts, described in section 403(b)(7) of the Code, established for a Participant to hold assets of the ProgramPlan to hold regulated investment company stock issued by a Fund Sponsor.
 - **2.9 Differential Wage Payment** means as defined in Code Section 3401(h).
- 2.104 Earnings means the net income, gain or loss earned by an Account or with respect to a contribution or distribution, as the context requires. A Roth Elective Deferral Account will be credited and charged only with its own Earnings as attributable to Roth Elective Deferrals.
- 2.112 Election means any Participant or Beneficiary written election (including made in electronic form) under the Plan and which is made on/in the form the Plan Administrator or the Fund Sponsor provides for this purpose. An Election must be made in the manner and within the time period the Plan, the Plan Administrator, or the Fund Sponsor prescribe, and as is consistent with Code Section 403(b) or other applicable law.

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Commented [A1]: Are Roth in-plan conversions permitted

Commented [A2R1]: Nope.

2.123 Elective Deferral means a Participant's pre-taxPre-Tax elective deferrals or Roth elective deferrals (and as the context requires, Age 50 Catch-up Deferrals and Qualified Organization Catch-up Deferrals) which WSU contributes to the Participant's Account at the Participant's Election under a Salary Reduction Agreement Agreement, in lieu of the Participant receiving cash compensation.

1.2.

2.13 Eligible Employee means any Eemployee of Washington State University, except nonresident aliens who receive no U.S.-source earned income.

2.146 Employee means each individual who is a common law employee of the State of Washington performing services for WSU, including an individual who is appointed or elected. This definition is not applicable unless the Employee's compensation for performing services for WSU is paid by the State of Washington. Further, a person occupying an elective or appointive public office is not an Employee unless such office is one to which an individual is elected or appointed only if the individual has received training, or is experienced, in the field of education. A public office includes any elective or appointive office of the State of Washington. An individual receiving a Differential Wage Payment from WSU is treated as a WSU Employee.

- 2.15 Employment Commencement Date means the date on which the Employee first performs Service for WSU. References in the Plan to "hire date" mean the Employment Commencement Date. The Re-Employment Commencement Date means the date on which the Employee first performs Service for WSU after WSU re-hires the Employee.
- **2.16 Fund Sponsor** means an insurance, variable annuity, or investment company that provides Funding Vehicles to Participants under the <u>ProgramPlan</u>.
- **2.17 Funding Vehicles** means the Annuity Contracts and Custodial Accounts available for the purpose of investing contributions under this ProgramPlan and specifically approved by WSU under Section 5.1.

2.18 Includible Compensation means an Employee's compensation received from the Employer that is includible in the Participant's gross income for Federal income tax purposes (computed without regard to Code Section 911 relating to United States citizens or residents living abroad), including Differential Wage Payments, for the most recent period that is a Year of 403(b) Service. Includible Compensation also includes any Elective Deferral or other amount contributed or deferred by the Employer at the election of the Employee that would be includible in the Employee's gross income but for the rules of Code Sections125, 132(f)(4), 402(e)(2), 402(h)(1)(B), 402(k), or 457(b). Includible Compensation does not include any Compensation other than Post-Severance Compensation, paid after Severance of Employment. The amount of Includible Compensation is determined without regard to any community property laws. Except as provided in Treas. Reg. Section 1.401(a)(17)-1(d)(4)(ii) with respect to eligible participants in governmental plans, the amount of Includible Compensation of any Participant taken into account in determining contributions will not exceed \$285,000, as adjusted for cost-of-living increases in accordance with Code Section 401(a)(17)(B) for periods after 2020.

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2.1921 IRA means an individual retirement account under Code Section 408(a) or an individual retirement annuity under Code Section 408(b).

2.202 IRS means the Internal Revenue Service.

1.3.

1.4 2.21 Participant means any employee of WSU who participates in the Planrogram in accordance with Section 3.1.

Planrogram means the Washington State University Voluntary Investment Program Program lan as set forth in this document.

2.23 **Planrogram Administrator** is defined in Section 8.1.

Planrogram Year means the calendar year January 1 through December 31.

2.2532 Post-Severance Compensation means Compensation paid after Participant's Severance from Employment from WSU, to include regular pay, leave cash-outs, or deferred compensation paid within the time period described herein. Any other payment paid after Severance from Employment is not Compensation even if payment is made within the time period described below. Post-Severance Compensation does not include severance pay, parachute payments under Code Section 280G(b)(2) or payments under a nonqualified unfunded deferred compensation plan unless the payments would have been paid at that time without regard to Severance from Employment. Post-Severance Compensation includes regular pay, leave cash-outs, or deferred compensation only to the extent WSU pays such amounts by the later of two and one-half (2 1/2) months after Severance from Employment or by the end of the Limitation Year (under Section 4.12(b)(viii)) that includes the date of such Severance from Employment. Regular pay means the payment of regular Compensation for services during the Participant's regular working hours, or Compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar payments, but only if the payment would have been paid to the Participant prior to a Severance from Employment if the Participant had continued in employment with WSU. Leave cash-outs means payments for unused accrued bona fide sick, vacation, or other leave, but only if the Employee would have been able to use the leave if employment had continued and if Compensation would have included those amounts if they were paid prior to the Participant's Severance from Employment. Deferred compensation means the payment of deferred compensation pursuant to an unfunded deferred compensation plan, if Compensation would have included the deferred compensation if it had been paid prior to the Participant's Severance from Employment, but only if the payment would have been paid at the same time if the Participant had continued in employment with WSU and only to the extent that the payment is includible in the Participant's gross income.

2.3263 Qualified Military Service means as defined in Code Section 414(u)(5). Notwithstanding any provision in the Plan to the contrary, as to Qualified Military Service, the Plan will credit Service, the Employer will make Plan VIP, Contributions, and the Plan will provide benefits in accordance with Code Section 414(u).

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2.14. Roth Accumulation Account means an Accumulation Account established for a Participant who elects to make Roth VIP Contributions in accordance with Section 4.11.

2.27 Related Employer means WSU and any other entity which is related to WSU under Code Sections 414(b), (c), (m) or (o). WSU will determine which entities are Related Employers based on a reasonable, good faith standard and taking into account the special rules applicable under IRS Notice 89-23 any entity which is under common control with WSU under section 414(b) or (c) of the Code.

2.28 Salary Reduction Agreement (SRA) means is a written a greement (including made in electronic form) between the Employee and WSU under which the Employee's Compensation is reduced by an amount equal to the Elective Deferrals that the Employee wishes to have made to his or her Account. An SRA shall be subject to such rules and restrictions as may be imposed by the Plan Administrator not inconsistent with Code Section 403(b) and the regulations thereunder.

described in Section 3.1.

2.29 SECURE Act means the Setting Up Every Community for Retirement Enhancement Act of 2019.

2.306 Service means any period of time the Employee is in the employ of WSU, including any period the Employee is on an unpaid leave of absence authorized by WSU under a uniform policy applicable to all Employees.

2.317 Severance from Employment or "Separation from Service" occurs when an Employee ceases to be employed by WSU or a Related Employer that is eligible to maintain a section 403(b) Plan under Treas. Reg. Section 1.403(b)-2(b)(8), even if the Employee remains employed with another entity that is a Related Employer where either: (a) such Related Employer is not an eligible employer; or (b) the Employee is employed or in a capacity that is not employment with an eligible employer.

2.32 Spouse means the person to whom the Participant is legally married and for this Plan also includes a registered domestic partner under RCW 26.60 et seq or other applicable law.

2.338 Taxable Year means the taxable year of a Participant.

2.40 Unbroken Service means Service as an Employee without a Break in Service.

2.341 USERRA means the Uniformed Services Employment and Reemployment Rights Act of 1994, as amended.

1.5

2.35 VIP Contributions means pre-taxPre-Tax-Elective Deferrals and/or Roth Elective Deferrals and or Roth Elective Deferrals contributions to the Plan by athe Participant as described in Section 4.

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Commented [A3]: With our transition to a new system under WorkDay, participants will log onto their TIAA accounts and make their VIP elections there and no longer complete a hard-copy form and submit it to our office. Do we need to modify "written", or would that also include an electronic election?

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Commented [A4]: Contributions don't include Roth contributions?

2.36 WSU means Washington State University.

2.37 Year of 403(b) Service means for purposes of determining Includible Compensation and for Qualified Organization Catch-up Deferrals, each full year during which an individual is a full-time Employee, plus fractional credit for each part of a year during which the individual is either a full-time Employee of the Employer for a part of a year or a part-time Employee of the Employer, determined under Treas. Reg. Section 1.403(b)-4(e). An Employee's number of Years of 403(b) Service equals the aggregate of such years or parts of years. The work period is the Employer's annual work period.

SECTION 3. ELIGIBILITY AND PARTICIPATION

3.1 Eligiblity and Participation. All Eligible Employees may begin Plan participation as of their Employment Commencement Date or any later date they may elect by making an Election to enroll, which includes entering into a Salary Reduction Agreement (SRA). Participation will commence effective as of the first (1 to a salary Reduction Agreement (SRA). Participation will commence effective as of the first (1 to a salary Reduction Agreement (SRA). Participation will commence effective as of the first (1 to a salary Reduction Agreement (SRA). Participation will commence effective as of the first (1 to a salary Reduction Agreement (SRA). Participation will commence effective as of the first (1 to a salary Reduction Agreement (SRA). Participation will commence effective pay period the salary Reduction Agreement (SRA) and return them to WSU Human Resource Services prior to the effective pay period.

By making an election to participate in the Plan, the employee is entering into a Salary Reduction Agreement (SRA). An SRA is an written agreement between the employee and WSU under which the employee's salary is reduced by an amount equal to the contributions that the employee wishes to have made to the ProgramPlan. An SRA shall be subject to such rules and restrictions as may be imposed by the ProgramPlan Administrator not inconsistent with section 403(b) of the Code and the regulations thereunder.

3.2 Revision to SRA. A Participant may elect to stop Elective Deferrals, revise the amount of their Elective Deferrals, or change from pre taxPre-Tax to Roth Elective Deferrals or vice versa (including any combination thereof) at any time by making an Election on a SRA.

3.3 Termination of Contributions. Participation. A Participant may not make additional VIP Contributions after: (a) the Participant ceases they cease to be an Eligible Employee; (b) WSU terminates the Plan; or (c) as to a Taxable Year or Limitation Year, the Participant has they have reached the Elective Deferral Limit or the Annual Additions Limit for that Year, will continue to participate in the ProgramlanPlan until (a) he or she ceases to be an Eligible Employee, or (b) the ProgramlanPlan is terminated, or (c) his or her contributions under the Program are terminated, whichever occurs first.

SECTION 4. VIP CONTRIBUTIONS

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Commented [A5]: Not a plan document question, but a general question. Elective contributions can only be elected on future earnings and not current earnings. I see "earnings" as when you are earning the money, not when you are being paid the money.

Therefore, our practice has been that if I submit an SRA between the $1^{\rm st}$ and $15^{\rm th}$ of a month, I am in a period of current earnings, so the earliest the change could go into effect would be with my $16^{\rm th}$ – end of month earnings. In this situation the contribution would be taken from paid earnings on the following months $10^{\rm th}$ paycheck, not on the current month's $25^{\rm th}$ paycheck.

In recent talks with TIAA, they led me to believe that most employers appear to interpret "earnings" as to when it is paid, not earned. Therefore, in the above example, they would make the election take on the current month's 25th paycheck, as future "pay".

Again, we can talk more after this week is over on this one

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Commented [A6]: Do we need to clarify that this could be due to reaching the IRS maximum contribution limit? We need to rethin this in the WSRUP as well. Technically, participant status continue until the person's account is fully paid out to them which could be long after they stop contributing. Here, and in the WSRUP, I think we are really saying no new contributions beyond the applicable

4.1 VIP Contributions; Other Plans. A Participant's VIP Contributions may consist of any or all of the following Elective Deferrals;

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(a) <u>Pre-taxPre-Tax Deferral.</u> <u>Pre-taxPre-Tax Deferral means an Elective</u> Deferral which is not a Roth Deferral.

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(b) Roth Deferral. Roth Deferral means an Eelective Deferral which the Participant irrevocably designates as a Roth deferral under Code Section 402A at the time of deferral and which is subject to income tax when made to the Plan. Except as the Plan otherwise provides, a Roth Elective-Deferrals is are treated as an Elective Deferral for all purposes under the Plan.

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(c) Age 50 Catch-up Deferral. Age 50 Catch-up Deferral means an Elective Deferral by a Catch-up Eligible Participant and which exceeds the Annual Additions Limit under Section 4.4(b)—— or the Elective Deferral Limit under Section 4.4(a)—. A Catch-up Eligible Participant is a Participant who is eligible to make Elective Deferrals and who has attained age 50 or who will attain age 50 before the end of the Taxable Year in which he or she will make an Age 50 Catch-up Deferral. A Participant who dies or who incurs a Separation from Service before attaining age 50 is a Catch-up Eligible Participant in such Taxable Year. A Participant's Age 50 Catch-up Deferrals for a Taxable Year may not exceed the lesser of: (a) 100% of the Participant's Compensation for the Taxable Year when added to the Participant's other Elective Deferrals; or (b) the Catch-up Deferral dollar limit in effect for the Taxable Year (\$6,500 for 2020). After the 2020 Taxable Year, the IRS will adjust the Age 50 Catch-up Deferral dollar limit in multiples of \$500 under Code

Section 414(v)(2)(C). A Participant's Age 50 Catch-up Deferrals are not subject to the Annual Additions Limit under Section 4.4(b)—or to the Elective Deferral Limit under

Section 4.4(a)—.

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(d) Qualified Organization Catch-up Deferral. A Participant who has completed at least fifteen (15) Years of 403(b) Service with WSU is a Qualified Participant and may elect to make a Qualified Organization Catch-up Deferral. The elective Deferral Limit for a Qualified Participant increases by the lesser of: (i) \$3,000; (ii) \$15,000 reduced by the Participant's Qualified Organization Catch-up Deferrals for prior Taxable Years; or (iii) the excess of \$5,000 multiplied by the Participant's Years of 403(b) Service with WSU over the Participant's deferral contributions made for prior Taxable Years pursuant to Code Sections 401(k), 408(k)(6), 408(p) or 403(b), other than under Code Section 414(v). A Qualified Organization Catch-up Deferral is subject to the Annual Additions Limit under Section—4.4(b) but is not subject to the Elective Deferral Limit under Section 4.4(a)—.

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Commented [A7]: My understanding is we have the option to do the 15 year catch-up, but are not required to do so. Is that correct?

Full disclosure: although not in our prior document, we have historically done about fout 15 year catch-ups.

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(e) <u>Catch-up Ordering.</u> A Participant who is eligible may elect to contribute both Age 50 Catch-up Deferrals and Qualified Organization Catch-up Deferrals. The Plan Administrator will treat any such amounts as first attributable to Qualified Organization Catch-up Deferrals.

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(f) Contributions to other Plans. Contributions to this ProgramPlan (referred to hereafter as "VIP Contributions") are in addition to contributions, if any, which may be made to the Washington State University Retirement Plan (WSURP), or any State of Washington retirement plan. To make VIP Contributions, an Eligible Employee must enter into a Salary Reduction Agreement with WSU as described in Section 3.1. Under the Agreement, the employee's salary is reduced and the amount of the reduction is forwarded to the Funding Vehicles available under this ProgramPlan.

- 4.2 Salary Reduction Minimum. A Participant's shall be permitted to make contributions under this ProgramPlan-only if the Salary Reduction Agreement must provides for minimum contributions of at least \$15.00 per pay period; provided, that a Participant is not required to make Elective Deferrals which exceed but this section shall not be construed to require contributions of more than \$200 per Taxable Yearyear.
- **4.3 Leave of Absence.** During a leave of absence <u>from WSU</u> with pay, VIP Contributions will continue to be made in accordance with the Salary Reduction Agreement. No VIP Contributions will be made during a leave of absence without pay.
- 4.4 Maximum Contribution. Plan VIP Contributions for a Participant for any calendar year, together with contributions for the Participant under any other plan subject to Code Sections 402(g) or 403(b), shall not exceed the Elective Deferral Limit and the Annual Additions Limit, except as permitted by Code Section 414(v) as to age 50 Catch-up Deferrals. [special c-ps?]
 - (a) Annual Elective Deferral Limitation. A Participant's Elective Deferrals for a Taxable Year may not exceed the Elective Deferral Limit. Age 50 Catchup Deferrals and Qualified Organization Catch-up Deferrals are not subject to the Elective Deferral Limit.
 - (i) Definition of Elective Deferral Limit. The Elective Deferral-Limit is the Code Section 402(g) limitation on each Participant's Elective Deferrals for each Taxable Year. The Elective Deferral Limit is \$19,500 in 2020, and in future years is subject to adjustment by the IRS in multiples of \$500 under Code Section 402(g)(4). However, in no event shall a Participant's Elective Deferrals exceed the Participant's Compensation for the Taxable Year. If the Participant's Taxable Year is not a calendar year, the Plan Administrator must apply the Code Section 402(g) limitation in effect for the calendar year in which the Participant's Taxable Year begins.
 - (ii) Definition of Excess Deferral. A Participant's Excess Deferral is the amount of Elective Deferrals for a Taxable Year which exceeds the Elective Deferral Limit.

Commented [A8]: What about contributions made to another ER in the same calendar year, that may have been made before starting employment at WSU? Or if they are a part-time worker for someone else through whom they are making contributions?

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(iii) Suspension after Reaching Limit. If the Plan Administrator determines a Participant's Elective Deferrals to the Plan for a Taxable Year would exceed the Elective Deferral Limit, the Plan Administrator will suspend the Participant's Elective Deferrals, if any, until the following January 1 and will pay to the Participant in cash the portion of the Elective Deferrals which would result in the Participant's Elective Deferrals for the Taxable Year exceeding the Elective Deferral Limit. [ROTH ordering]

A Participant's Elective Deferrals already contributed to the Plan for a Taxable Year exceed the Elective Deferral Limit, the Plan Administrator will distribute the Excess Deferrals as adjusted for Allocable Income, no later than April 15 of the following Taxable Year (or if later, the date permitted under Code Sections 7503 or 7508A).

(v) 415 Interaction. If the Plan Administrator distributes the Excess Deferrals by the April 15 deadline under Section 4.4(a)(iv), the Excess Deferrals are not an Annual Addition under Section 4.4(b), and the Plan Administrator may make the distribution irrespective of any other provision under this Plan or under the Code. Elective Deferrals distributed to a Participant as an Excess Amount in accordance with Section 4.4(b), are not taken into account in determining the Participant's Elective Deferral Limit.

More than One Plan. If a Participant participates in another plan subject to the Code Section 402(g) limitation under which the Participant makes elective deferrals pursuant to a 401(k) Plan, elective deferrals under a SARSEP, elective contributions under a SIMPLE IRA or salary reduction contributions to a 403(b) plan (irrespective of whether WSU maintains the other plan), the Participant may provide to the Plan Administrator a written claim for Excess Deferrals made to the Plan for a Taxable Year. The Participant must submit the claim no later than the March 1 following the close of the particular Taxable Year and the claim must specify the amount of the Participant's Elective Deferrals under this Plan which are Excess Deferrals. The Plan Administrator may require the Participant to provide reasonable evidence of the existence of and the amount of the Participant's Excess Deferrals. If the Plan Administrator receives a timely claim which it approves, the Plan Administrator will distribute the Excess Deferrals as adjusted for Allocable Income the Participant has assigned to this Plan, under this Section 4.4(a)(vi). If a Participant has Excess Deferrals because of making Elective Deferrals to this Plan and other WSU plans (but where the Elective Deferral Limit is not exceeded based on the Participant's Elective Deferrals to any single plan), the Participant for purposes of this Section 4.4(a)(vi) is deemed to have notified the Plan Administrator of this Plan of the Excess Deferrals.

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(vii) Definition of Allocable Income. Allocable Income means Earnings allocable to the Excess Deferrals for and through the end of the Taxable Year in which the Participant made the Excess Deferral. To calculate Allocable Income for the Taxable Year, the Plan Administrator will use a uniform method which reasonably reflects the manner used by the Plan Administrator to allocate Earnings to Participants' Accounts or the "alternative method" under Treas. Reg. Section 1.402(g)-1(e)(5)(iii).

(viii) Roth and Pre-Tax, Deferrals. If a Participant who will receive a distribution of Excess Deferrals, in the Taxable Year for which the corrective distribution is made, has contributed both Pre-Tax Deferrals and Roth Deferrals, the Plan Administrator operationally will determine the Elective Deferral Account source(s) from which it will direct the Fund Sponsor to make the corrective distribution. The Plan Administrator also may permit the affected Participant to elect the source(s) from which the Fund Sponsor will make the corrective distribution. However, the amount of a corrective distribution of Excess Deferrals to any Participant from the Pre-Tax Deferral or Roth Deferral sources under this Section 4.4(a)(viii) may not exceed the amount of the Participant's Pre-Tax Deferrals or Roth Deferrals for the Taxable Year of the correction.

(b) Annual Code Section 415 Limit. The amount of Annual Additions which the Plan Administrator may allocate under this Plan to a Participant's Account for a Limitation Year may not exceed the Annual Additions Limit.

(i) Prevention. If the Annual Additions the Plan Administrator otherwise would allocate under the Plan to a Participant's Account for the Limitation Year would exceed the Annual Additions Limit, the Plan Administrator will not allocate the Excess Amount, but instead will take any reasonable, uniform action the Plan Administrator determines necessary to avoid allocation of an Excess Amount including: (1) suspending or limiting a Participant's additional Mandatory Contributions or Elective Deferrals; (2) reducing WSU's future Plan Contribution(s); or (3) suspending or limiting the allocation to a Participant of any Plan Contribution previously made to the Plan (exclusive of Elective Deferrals). If the Plan Administrator allocates to a Participant an Excess Amount, the Plan Administrator must dispose of the Excess Amount in accordance with Section 4.12(b)(ix).

(ii) Aggregation of WSU 403(b) Plans. If Annual Additions are credited to any other WSU Code Section 403(b) Plan in addition to those credited under this Plan for a Limitation Year, the sum of the Participant's Annual Additions for the Limitation Year under the other plan and this Plan may not exceed the Annual Additions Limit.

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Aggregation where Participant Controls any Employer. If a Participant is in control of any other employer for a Limitation Year, the sum of the Participant's Annual Additions for the Limitation Year under this Plan, any other WSU Code Section 403(b) plan, any defined contribution plans maintained by the controlled employers, and any Code Section 403(b) plans of any other employers may not exceed the Annual Additions Limit for the Limitation Year. The Plan Administrator determines "control" under Code Sections 414(b) or 414(c), as modified by Code Section 415(h), in accordance with the rules of Treas. Reg. Section 1.415(f)-1(f). A "defined contribution plan" means a defined contribution plan qualified under Code Sections 401(a) or 403(a), a Code Section 403(b) plan, or a simplified employee pension plan under Code Section 408(k). The Plan Administrator will provide written or electronic notice to Participants that explains the limitation in this Section 4.12(b)(iii) in a manner calculated to be understood by the average Participant and informs Participants of their responsibility to provide information to the Plan Administrator that is necessary to satisfy this Section. The notice will advise Participants that the application of the limitations in this Section will take into account information supplied by the Participant and that failure to provide necessary and correct information to the Plan Administrator could result in adverse tax consequences to the Participant, including the inability to exclude contributions to the Plan under Code Section 403(b). The notice will be provided annually, beginning no later than the year in which the Employee becomes a Participant.

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(iv) Ordering Rules. If a Participant's Annual Additions under this Plan and any other plans aggregated with the Plan under this Section 4.12(b) result in an Excess Amount, such Excess Amount will consist of the Amounts last allocated. If the Plan Administrator allocates an Excess Amount to a Participant on an allocation date of this Plan which coincides with an allocation date of another plan, the Excess Amount attributed to this Plan will equal the product of: (1) the total Excess Amount allocated as of such date, multiplied by (2) the ratio of (a) the Annual Additions allocated to the Participant as of such date for the Limitation Year under the Plan to (b) the total Annual Additions allocated to the Participant as of such date for the Limitation Year under this Plan and the other aggregated plans.

(v) Definition of Annual Addition. An Annual Addition means the VIP Plan-Contributions credited to a Participant's Account under this Plan and employer contributions, elective deferrals, employee contributions, mandatory contributions, allocations under a simplified employee pension plan and forfeitures credited to any other plan aggregated with the Plan under this Section 4.12(b); provided that Age 50 Catch-up Contributions, distributed Excess Deferrals under Section 4.12(a)(v) and certain other amounts described in Treas. Reg. Section 1.415(c)-1(b) are excluded. For purposes of the dollar limitation under Section 4.12(b)(vi), Annual Additions also include amounts allocated to an individual medical account (as defined in Code Section 4.15(l)(2) included as part of a pension

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or annuity plan maintained by WSU and contributions paid or accrued attributable to post-retirement medical benefits allocated to the separate account of a key-employee (as defined in Code Section 419A(d)(3)) under a WSU welfare benefit fund (as defined in Code Section 419(e)).

(vi) Definition of Annual Additions Limit. The Annual Additions Limit is the lesser of: (i) \$57,000 in 2020 and as adjusted in future Limitation Years under Code Section 415(d)), or (ii) 100% of the Participant's Compensation for the Limitation Year.

(vii) Definition of Excess Amount. An Excess Amount is an excess of a Participant's Annual Additions for a Limitation Year over the Annual Additions Limit.

(viii) Definition of Limitation Year. The Limitation Year means the calendar year. However, if the Participant is in control of an employer under Section 4.12(b)(iii), the Limitation Year is the Limitation Year as defined in the defined contribution plan controlled by the Participant.

(ix) Correction of Excess Amount. If a Participant's Account exceeds the Annual Additions Limit for the Limitation Year, then the Plan may correct such excess in accordance with Section 9.7(b). Alternatively, the Plan Administrator may hold the Excess Amount in a separate account. The Excess Amount held in the separate account is includible in the Participant's gross income or the taxable year in which the VIPPlan Contributions exceed the Annual Additions Limit. This separate account will be treated as a separate contract to which Code Section 403(c) (or another application provision of the Code) applies. Amounts in the separate account may be distributed at any time, notwithstanding any other provisions of the Plan.

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4.5 Rollover Contributions and Transfers.

(a) <u>Eligible Rollover Contributions</u>. To the extent provided in the Annuity Contracts and Custodial Account agreements, a Participant who is entitled to receive an <u>Eeligible Recliver Delistribution</u> from another <u>Eeligible Recliver Delistribution</u> paid <u>directly or indirectly</u> to the <u>ProgramPlan</u>. Such rollover contributions shall be made in the form of cash only. The Fund Sponsor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with <u>Code Section 402 of the Code</u> and to confirm that such other plan is an <u>Eeligible Rectirement Pplan</u> within the meaning of section 402(e)(8)(B) of the Code. However, in no event does the <u>ProgramPlan accept a rollover contribution from a Roth elective deferral account under an applicable</u>

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Commented [A10]: If in-plan Roth rollovers (conversions permitted, language goes in this section.

Commented [A11R10]: We do not allow for in-plan Roth conversions. We do accept Roth rollovers, however.

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retirement plan described in section 402A(e)(1) of the Code or a Roth IRA described in section 408A of the Code.

Eligible Rollover Distribution. For purposes of Section 6.1(a), an eligible rollover distribution means any distribution of all or any portion of a Participant's benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code. In addition, an eligible retirement plan means an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code.

Eligible Rollover Distribution. An Eligible Rollover Distribution means any distribution of all or any portion of the Participant's Account Balance, except: (a) any distribution which is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated beneficiary, or for a specified period of ten (10) years or more; (b) any required minimum distribution under Section 6.3; (c) the portion of any distribution which is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); (d) any hardship distribution; (e) any distribution which otherwise would be an Eligible Rollover Distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200 (treating a Participant's Roth deferral amount as separate plan for purposes of the \$200 amount); (f) any corrective distribution of excess amounts under Code Section 402(g), 401(k), 401(m), and/or 415(c) and income allocable thereto; (g) any loans that are treated as deemed distributions under Code Section 72(p) (h) dividends paid on employer securities described in Code Section 408(k); (i) the costs of life insurance coverage (P.S. 58 costs); (j) prohibited allocations treated as deemed distributions under Code Section 409(p); and (k) permissible withdrawals from a EACA described in Code Section 414(w). A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of aftertax employee contributions which are not includible in gross income. However, such portion may be transferred only to (i) an IRA or (ii) a qualified plan described in Code Sections 401(a) or 403(a), or (iii) a tax-sheltered annuity described in Code Section 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

(ii) Eligible Retirement Plan, An Eligible Retirement Plan means an IRA, an annuity plan described in Code Section 403(a), a qualified trust described

Commented [A12]: I see you struck this portion, but in 4.5(a) (iv) we do accept the Roth rollover. Would that section now be struck as well based on my response on the previous comment?

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in Code Section 401(a), an arrangement described in Code Section 403(b), or an eligible deferred compensation plan described in Code Section 457(b) sponsored by a governmental employer which accepts the Participant's or alternate payee's Eligible Rollover Distribution. With regard to a Participant's designated Roth account, an Eligible Retirement Plan is a Roth IRA or another designated Roth account. In the case of a Beneficiary described in Section 6.5(c)(3), an Eligible Retirement Plan is limited 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)).

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(iii) Separate Accounts. The Fund Sponsor shall establish and maintain for the Participant a separate Account for any Eeligible Recollover Delistribution paid to the ProgramPlan. No such rollover shall be taken into account in applying the limits of Section 4.4.

(iv) Roth Rollovers. A rollover contribution to the Plan may include Roth elective deferrals made to another plan, as adjusted for earnings in such plan; provided that such amounts must be directly rolled from the other plan to this Plan and the other plan must be a qualified plan under Code Section 401(a), a Code Section 403(b) plan or a government Code 457(b) plan.

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(b) Plan-to-Plan Transfers to the ProgramPlan.

(i) At the direction of WSU, for a class of Employees who are participants or beneficiaries in another plan under section 403(b) of the Code, the Plan Administrator may permit a transfer of assets to the ProgramPlan as provided in this Section 4.6(b). Such a transfer is permitted only if the other plan provides for the direct transfer of each person's entire interest therein to the ProgramPlan and the participant is an Eemployee or former Eemployee of WSU. The ProgramPlan Administrator and any Fund Sponsor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The ProgramPlan Administrator or any Fund Sponsor accepting such transferred amounts may require such documentation from the other plan as it deems necessary to effectuate the transfer in accordance with <u>Treas. Reg. Section</u> §1.403(b) 10(b)(3) of the Income Tax Regulations and to confirm that the other plan is a plan that satisfies Code Section 403(b). of the Code. (ii) The amount so transferred shall be credited to the Participant's Accumulation Account, so that the Participant or Beneficiary whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to the Participant or Beneficiary immediately before

Commented [A14R13]: I think this was addressing a situation that occurred in 2007. We had another 403b vendor, Lincoln National. We stopped offering that plan, and those participates were able to do the plan-to-plan transfer. I will provide a copy of the letter we provided to participants at that time.

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Commented [A13]: This seems to be limited to a group of EEs. Could a single EE transfer in from another 403(b)? Also, are

A transfer is different than a rollover, but how do we make it clear that an individual could rollover into this plan, but the transfer is something different.

Also, currently transfers OUT are not permitted for active participants. When they are no longer eligible participants, they could roll out of the plan, but again, I don't think that would be a transfer.

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(iii)To the extent provided in the Annuity Contract and Custodial Account agreements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as a VIP Contribution, except that (1) the Annuity Contract or Custodial Account which holds any amount transferred to the Program Plan must provide that, to the extent any

amount transferred is subject to any distribution restrictions required under <u>Code</u> <u>Section 403(b)</u> of the Code, the Annuity Contract or Custodial Account agreement must impose restrictions on distributions to the Participant or Beneficiary whose assets are being transferred that are not less stringent than those imposed by the transferor plan and (2) the transferred amount is not subject to the limitations of <u>Section 4.4.</u>shall not be considered a VIP Contribution in determining the maximum deferral under Section 4.4.

- 4.6 Vesting of Contributions. Each contract and certificate issued in accordance with the provisions of the ProgramPlan is the property of the Participant. Amounts attributable to VIP Contributions are immediately vested and shall be nonforfeitable, subject to Section 10.5. However, VIP Contributions based on a good faith mistake of fact shall be returned to WSU if WSU so requests as provided in Section 810.56(a).
- **4.7** Account Statement. At least once a year the Fund Sponsor(s) will send each Participant a report summarizing the status of his or her Account. A Participant may obtain similar reports or illustrations upon termination of employment Separation from Service or at any other time by writing directly to the Fund Sponsor(s).
- 1.7. 4.8 No Reversion. Under no circumstances will any VIP Contributions revert to, be paid to, or inure to the benefit of, directly or indirectly, the WSU, except as provided in the second sentence of Section 10.54.7.

Protection of Persons Who Serve in a Uniformed Service. An Eligible Employee whose employment is interrupted by qualified military service under section 414(u) of the Code or who is on a leave of absence for qualified military service under section 414(u) of the Code may elect to make additional VIP Contributions upon resumption of employment with WSU or any Related Employer equal to the maximum VIP Contributions that the Employee could have elected during that period if the Employee's employment had continued (at the same level of Compensation) without the interruption or leave, reduced by the VIP Contributions, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent otherwise provided under section 414(u) of the Code, this right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

Roth Elective Deferrals. As of January 1, 2010, the ProgramPlan will accept Roth VIP Contributions made by Participants. A Participant's Roth VIP Contributions will be allocated to an Accumulation Account maintained for such Roth VIP Contributions as described in Section 4.11(a). Unless specifically stated otherwise, Roth VIP Contributions will be treated as VIP Contributions for all purposes under the ProgramPlan.

(a) Contributions and withdrawals of Roth VIP Contributions will be credited and debited to the Roth Accumulation Account maintained for each Participant. The ProgramPlan will maintain a record of the amount of Roth VIP Contributions in each Participant's Roth Accumulation Account. Gains, losses, and other credits or charges must be separately allocated on a reasonable and consistent basis to each Participant's Roth Accumulation Account and the Participant's other Accumulation Accounts under the ProgramPlan. No contributions other than

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Commented [A16]: Addressed as an amendment since January 1, 2010. Adding to document. I covered these provisions elsewhere except the part of (d) which refers to the \$1,000 mandatory distribution. As we discussed, the WSURP and VIP do not have mandatory distributions of small balances as to terminated participants. I also did not include (e) because again the plans do no impose the Code permitted \$500 minimum on the amount which must be rolled where a participant elects to keep some of the distribution and roll the rest.

Commented [A17R16]: OK – sounds good.

Roth VIP Contributions and properly attributable earnings will be credited to each Participant's Roth Accumulation Account.

- - (ai) Compensation. For purposes of this Section 4.940, the Plan Administrator will determine an affected Participant's Compensation as follows. A Participant during his or her period of Qualified Military Service is deemed to receive Compensation equal to that which the Participant would have received had he or she remained employed by WSU, based on the Participant's rate of pay that would have been in effect for the Participant during the period of Qualified Military Service. If the Compensation during such period would have been uncertain, the Plan Administrator will use the Participant's actual average Compensation for the twelve (12), month period immediately preceding the period of Qualified Military Service, or if less, for the period of employment.
 - (bii) Elective Deferrals. During a Participant's period of Qualified Military Service, the Plan Administrator must allow a Participant to make up Elective Deferrals or Mandatory Contributions—to his or her Account. The Participant may make up the maximum amount of Elective Deferrals or Mandatory Contributions—which he or she under the Plan terms would have been able to contribute during the period of Qualified Military Service (less any such amounts the Participant actually contributed during such period) and the Participant must be permitted to contribute any lesser amount as the Plan would have permitted. The Participant must make up any contribution under this Section 4.95(b)(iiii) commencing on his or her Re-Employment Commencement Date and not later than five (5) years following the Re-employment Commencement Date (or if less, a period equal to three (3) times the length of the Participant's Qualified Military Service triggering such make-up contribution).
 - (ciii) Limitations. Contributions under this Section 4.910 are Annual Additions under Section 4.412(b) and are subject to the Elective Deferral Limit under Section 4.412(a) in the year to which such contributions are allocated, but not in the year in which such contributions are made.
 - (div) Differential Wage Payments. The Plan is not treated as failing to meet the requirements of any provision described in this Section 4.940 by reason of any contribution or benefit which is based on a Differential Wage Payment. The preceding sentence applies only if all Employees performing service in the uniformed services described in Code Section 3401(h)(2)(A) are entitled to receive Differential Wage Payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the Employer, to make contributions based on the payments on reasonably equivalent terms

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(taking into account Code Sections 410(b)(3), (4), and (5)). The Plan Administrator operationally may determine, for purposes of any provision described in this Section 4.940, whether to take into account any Elective Deferrals, attributable to Differential Wage Payments.

(ex) No Earnings, A Participant receiving making any make-up contribution under this Section 4.6(b)9 is not entitled to an allocation of any Earnings on any such contribution prior to the time that WSU actually makes the contribution (or timely deposits the Participant's own make-up Elective Deferrals or Mandatory Contributions) to the Plan.

(vif) HEART Act Death Benefits. If a Participant dies while performing Qualified Military Service, the Participant's Beneficiary is entitled to any additional benefits (other than benefit accruals relating to the period of Qualified Military Service) provided under the Plan as if the Participant had resumed employment and then terminated employment on account of death.

4.10 Contribution Transmission. WSU will transmit to the Fund Sponsors all VIP Contributions as soon as is administratively practicable and within any time period required under applicable law.

SECTION 5. FUND SPONSORS AND FUNDING VEHICLES

1.8. 5.1 The Fund Sponsors and Funding Vehicles. VIP Contributions are invested in one or more of the Funding Vehicles made available to Participants through the Fund Sponsors under this ProgramPlan and in accordance with any applicable law restricting investments by Participants not residing in the United States. A Participant or Beneficiary may allocate VIP Contributions among Funding Vehicles in any whole number percentages totaling one hundred percent (100%). Participants and Beneficiaries are solely responsible for the investment of their Account. If a Participant or Beneficiary fails to direct the investments of his or her Account, the Account will be invested in a Funding Vehicle selected by WSU for such non-directing Participants and Beneficiairies. The Fund Sponsors that are available to Participants as of the date of this document are:

— Teachers Insurance and Annuity Association and College Retirement Equities Fund-(TIAA CREF): 730 Third Avenue, New York, NY 10017

WSU's The Institution's current choiceselection of Fund Sponsor(s) and Funding Vehicles is not intended to limit future additions or deletions by WSU of Fund Sponsors and Funding Vehicles. The ProgramPlan Administrator shall maintain a list of all Fund Sponsors under the ProgramPlan. Such list is hereby incorporated as part of the ProgramPlan. The Each Fund Sponsor(s) and WSU shall exchange such information as may be necessary to satisfy section 403(b) of the Code or other requirements of applicable law. In the case of a Fund Sponsor that which is not eligible to receive contributions under the ProgramPlan (including a Fund Sponsor that which has ceased to be a Fund Sponsor eligible to receive contributions under the ProgramPlan), WSUthe Employer shall keep the Fund Sponsor informed of the name and contact information of the ProgramPlan Administrator in order to coordinate information necessary to

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satisfy section 403(b) of the Code or other requirements of applicable law. <u>In the event the Plan terms and the Funding Vehicles are in conflict, the Plan terms are controlling; provided that as to the timing or form of any Plan distribution, such timing or form must be permitted under the Funding Vehicle as well as under the Plan.</u>

5.2 Allocation of Contributions. A Participant may allocate VIP Contributions among Funding Vehicles in any whole number percentages that equal 100 percent.

5.3 Funding Vehicle Exchange. A Participant may exchange all or a part of his or her Account between Funding Vehicles offered by a Plan Sponsor, subject to Fund Sponsor and/or Funding Vehicle contractual requirements, and to Code Section 403(b) and the regulations thereunder. However, effective on and following the execution of this Plan, an investment exchange to an investment with a Fund Sponsor that is not eligible to receive VIP Contributions under Section 5.1 is not permitted.

1.9. <u>5.3</u>Fund Transfers. Subject to a Funding Vehicle's rules for transfers and in accordance with the provisions of the Code governing the deferral of income tax with respect to Accumulation Accounts, a Participant may specify that a part or all of his or her Accumulation Account in one Funding Vehicle be transferred to another Funding Vehicle. However, an investment transfer that includes an investment with a Fund Sponsor that is not eligible to receive VIP Contributions (referred to below as an exchange) is not permitted unless the conditions in paragraphs (a) through (c) of this Section 5.3 are satisfied

(a) (a) The Participant or Beneficiary must have an Accumulation Account immediately after the exchange that is at least equal to the Accumulation Account of that Participant or Beneficiary immediately before the exchange (taking into account the Accumulation Account of that Participant or Beneficiary with both Fund Sponsors immediately before the exchange).

(b) (b) The Annuity Contract or Custodial Account agreement with the receiving Fund Sponsor has distribution restrictions with respect to the Participant that are not less stringent than those imposed on the investment being exchanged.

(e) (c) WSU enters into an agreement with the receiving Fund Sponsor for the other contract or custodial account under which the Employer and the Fund Sponsor will from time to time in the future provide each other with information necessary for the resulting contract or custodial account, or any other contract or custodial accounts to which contributions have been made through WSU, to satisfy Code Section 403(b) of the Code or other requirements, including WSU providing information as to whether the Participant's employment with WSU is continuing, notifying the Fund Sponsor when the Participant has had a Seeverance from Eemployment, and providing information on loans outstanding.

5.4 Third Party Trading. The Participant, or his or her Beneficiary in the event of the Participant's death, is responsible for directing all funds invested under this Plan, and cannot assign that responsibility to another party, except that a Participant or Beneficiary may assign that responsibility to a third party that has been given a power of attorney and directions may be given

Commented [A18]: This section not in WSURP. Add

Commented [A19R18]: It would make sense to add, however, I am not married to that if we don't want to as well.

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Commented [A20]: This differs from WSURP which says exchange with ineligible fund sponsor cannot be done, period. Is th difference intended?

Commented [A21R20]: I interpret the first section to be within one Fund Sponsor you are able to transfer funds from one vehicle to another.

As to the remainder of this section, we have not practiced transferring funds between two Fund Sponsors, except as was identified in 4.5(b). I wish I could clearly say what occurred in 2007, but I was with a different part of HR then, and don't have direct knowledge. Do you think this is a stand-alone section, or was in incorporated in connection with 4.5(b)? I will look for old documentation to see if I can find anything.

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by the legal representative of a Participant or Beneficiary who is under a legal disability. <u>Any investment direction under this section 5.4 must be given in accordance with applicable law and any reasonable Plan Administrator or Fund Sponsor requirements.</u>

SECTION 6. BENEFITS

- **6.1 Benefits in General.** The Participant is entitled to receive benefits under any of the Funding Vehicles at any time and in any form offered by the Fund Sponsors, not inconsistent with Code Section 403(b) of the Code and the regulations thereunder, and subject to the written consent of the Participant's spouse or state registered domestic partner under RCW 26.60 et sec ("domestic partner"), if any, in accordance with Section 6.5. However, distributions may be paid only after a Participant attains age 59 1/2, severs from employment with WSU and all Related Employers, dies or becomes disabled, or in the case of hardship. Hardship distributions are subject to the rules and restrictions set forth in Section 6.3. Distributions to a Participant made prior to attaining age 59 1/2 may be subject to early withdrawal penalties under the Internal Revenue Code.
- 6.2 Death Benefits. On the death of a Participant, the entire value of the Participant's each Accumulation—Account (or of the remaining Account) is payable to the Participant's Beneficiary or Beneficiaries. The Beneficiary may make an Election as to the time and form of payment under any payment option available under the Funding Vehicles, provided such payment options are consistent with Code Sections 403(b), 401(a)(9) and the regulations thereunder. A Beneficiary will make such Elections directly to the Fund Sponsor(s), named by the Participant under one of the options offered by the Fund Sponsor. However, to the extent such Account has previously been applied to purchase an annuity, payments shall be made only if and to the extent provided by the form of annuity. All death benefits are further subject to the required minimum distribution requirements of Section 6.4.

The designation of a Beneficiary other than the Participant's spouse, if any, requires the written consent of the spouse in accordance with Section 6.5.

6.3 Hardship Distributions. Hardship distributions under Section 6.1 shall be approved only if the Planrogram Administrator determines that the Participant has an immediate and heavy financial need and the distribution is necessary to satisfy the need. In such cases, there shall be paid to such Participant out of his or her Accountation Account only such portion of the amount requested as is necessary to prevent or alleviate the hardship. The ProgramlanPlan Administrator's determination shall be final and binding. No amount attributable to income credited after December 31, 1988 on VIP Contributions shall be available for distribution on account of hardship.

The following are deemed to be immediate and heavy financial needs of the Participant: (a) medical expenses described in Code section 213(d) incurred by the Participant or his or her spouse, or dependents, or primary beneficiary; (b) purchase (excluding mortgage payments) of a principal residence for the Participant; (c) payment of tuition, room and board for the next 12 months of post-secondary education for the Participant, his or her spouse, his or her children, or his or her dependents, or primary beneficiary; (d) the payment of amounts necessary to prevent the eviction of the Participant from his or her principal residence or the foreclosure on the mortgage

Commented [A22]: Should this also refer to registered domes partners under laws of other states? Ditto the WSURP.

Commented [A23R22]: Yes, it/they should.

Commented [A24]: The WSURP requires spousal consent only if the participant wants to take a lump sum distribution of all or par of the account. So this restriction would apply to a partial distribution at age 59 ½ while still working at WSU or to any distribution of the entire account in one payment.

The VIP requires spousal consent to ALL distributions (including

Why are these different

Commented [A25R24]: I don't know why they are different, and think they should probably be the same, with the only exception being that the VIP will allow for an in service distribution once someone is 59 ½ I'm going to connect with TIAA to see if they have any thoughts on this issue that I may not taking into consideration.

Commented [A26]: Code Definition of beneficiary alread covers this.

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of his or her principal residence; (e) burial or funeral expenses for the Participant's deceased parent, spouse, children, or dependents or primary beneficiary; or (f) expenses for the repair of damage to the Participant's principal residence described in section 165 of the Code; or (g) expenses and losses (including loss of income) incurred by a Participant on account of a disaster declared by FEMA, provided the Participant's principal residence or principal place of employment at the time of the disaster was located in an area designated by FEMA for individual disaster assistance. For purposes of this Section 6.3, a "primary beneficiary" is an individual who is a named beneficiary under the Plan (whether by Participant designation or application of the Plan terms) and who has an unconditional right, on the Participant's death, to all or a portion of the Participant's Account.

Hardship distributions will be deemed to be necessary to satisfy an immediate and heavy financial need of the Participant only to the extent that all of the following are satisfied: (a) the distribution does not exceed the amount of the applicable need under the second paragraph of Section 6.3 increased by including any amounts necessary to pay any federal, state or local taxes or penalties reasonable expected to result resulting from the distribution; (b) the Participant has reasonably obtained all distributions, other than hardship distributions, and all nontaxable loans currently available under the ProgramlanPlan and any other plan maintained by WSU or any Related Employer.; (e) the Participant's VIP Contributions under the ProgramPlan and his or her elective and employee contributions under any other deferred compensation plan maintained by WSU or any Related Employer are suspended for six (6) months after receipt of the hardship distribution. To obtain a hardship distribution after 2019, a Participant must represent in writing that he or she has insufficient cash or liquid assets reasonably available to satisfy the need and the Plan Administrator must not have actual knowledge to the contrary.

6.4 Minimum Distribution Requirements.

(a) Applicable Law. All distributions under this Plan will be made in accordance with Code Sections 403(b)(10) and 401(a)(9), as each is amended and in effect from time to time, and regulations thereunder. Notwithstanding anything to the contrary in this Section 7.3, required minimum distributions are subject to changes made under the SECURE Act and any regulations or other binding guidance issued thereunder.

(b) Lifetime Required Minimum Distributions. Participants who attained age 70½ prior to January 1, 2020, must receive distribution or commence distribution of his or her Account no later than April 1 following the calendar year in which the Participant attains age 70½ or, if later, April 1 following the calendar year in which the Participant Separates from Service. For Participants who attain age 70½ in 2020 or later, required minimum distributions must begin no later than April 1 of the calendar year following the calendar year in which the Participant attains age 72, or, if later, by April 1 following the calendar year in which the Participant Separates from Service. The annual lifetime minimum distribution amount will be calculated in accordance with Treas. Reg. §§1.401(a)(9)-2 and 1.401(a)(9)-5. The entire Account of each Participant or over the lives (or life expectances) of the Participant and Designated Beneficiary.

Commented [A27]: Can add as a new event: expenses and losses (including loss of income) participant incurs on account of FEMA declared disaster where the P's principal residence or employment is in the disaster area.

Commented [A28R27]: OK - let's add.

Commented [A29]: You can eliminate the requirement to fi exhaust loans, or not.

Commented [A30R29]: Yeah – I saw that was not an absolute requirement, but could still be used. The way it is written, does this give me the option to say if the loan option on your TIAA VIP will meet the need, you need to pursue that. If it will not, we won't require you seek another load and could pursue the hardship?

Notwithstanding the above, the Account for each Participant as of December 31, 1986, will be distributed in accordance with Treas. Reg. Section 1.403(b)-6(e)(6).

- (c) Death Required Minimum Distributions. The annual death minimum distribution amount will be calculated in accordance with Treas. Reg. §§1.401(a)(9)-3 and 1.401(a)(9)-5.
 - (i) Death Before the Required Beginning Date. If the Participant dies prior to January 1, 2020 and before benefit payments are required to begin under Section 6.3(b), any benefits payable to a Designated Beneficiary will be paid, as the Designated Beneficiary elects: (a) by December 31 of the calendar year which contains the fifth (5th) anniversary of the Participant's death; or (b) beginning no later than December 31 of the calendar year following the calendar year of the Participant's death, over a period not exceeding the life expectancy of the Designated Beneficiary. If the Designated Beneficiary is the surviving spouse, payment may be delayed until the date the Participant would have attained age 70½.

If the Participant dies in 2020 or later and before benefit payments are required to begin under Section 6.3(b), any benefits payable to (or for the benefit of) a Designated Beneficiary will be paid, as the Designated Beneficiary elects: (c) by the end of the tenth (10th) full calendar year after the Participant's death; or (d)beginning no later than the end of the first (1st) full calendar year after the Participant's death over the life of the designated Beneficiary or over a period not exceeding the life expectancy of the designated Beneficiary. If the Designated Beneficiary is the surviving spouse, the spouse may Elect to defer commencement of payments until the date the Participant would have attained age 72. Special rules apply as to payments to other (non-spouse) Designated Beneficiary fails to make a payment Election, payment will be made within five (5) years as described in Section 6.3(c)(i)(a).

- (ii) Death After the Required Beginning Date. Upon the Participant's death after the time benefits are required to begin under Section 6.3(b), any remaining benefits will be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death. Minimum distributions will be calculated based on the longer life expectancy of the Participant or his or her Designated Beneficiary. If there is no Designated Beneficiary, the minimum distributions will be based on the Participant's remaining life expectancy.
- (d) Separate Treatment of Contracts and Accounts. In applying the foregoing minimum distribution rules, each Annuity Contract or Custodial Account shall be treated as an IRA and distribution shall be made in accordance with the provisions of Treas. Reg. §1.408-8, except as provided in Treas. Reg. §1.403(b)-6(e).

1.10

All distributions under this Program will be made in accordance with Code sections 403(b)(10) and 401(a)(9), as each is amended and in effect from time to time, and regulations thereunder. The entire Accumulation Account of each Participant will be distributed over a period not to exceed the life (or life expectancy) of the Participant or over the lives (or life expectancies) of the Participant and a designated Beneficiary. As of December 20, 2019, for Participants who reached 70 1/2 in 2019 or earlier, the mMinimum distributions must begin no later than April 1 of the calendar year following the calendar year in which the Participant attains age 70 1/2, or, if later, April 1 following the calendar year in which the Participant retires from the WSU. For Participants who reach age 70 1/2 in 2020 or later, minimum distributions must begin no later than April 1 of the calendar year following the calendar year in which the Participant attains age 72, or, if later, April 1 following the calendar year in which the Participant retires from the WSU. Notwithstanding the above, the Accumulation Account of each Participant as of December 31, 1986 will be distributed in accordance with IRS Regulation 1.403(b)-6(e)(6). The Participant (or Beneficiary, after the Participant's death) may elect whether to use the permissive recalculation rule for life expectancies under Code section 401(a)(9)(D). Upon the Participant's death after the time benefits are required to begin hereunder, any remaining benefits will be distributed at least as rapidly as under the method of distribution in effect at the time of the Participant's death. Prior to January 1, 2020, iIf the Participant dies before benefit payments are required to begin under the preceding paragraph, any benefits payable to (or for the benefit of) a designated Beneficiary will be paid by the end of the fifth full calendar year after the Participant's death, or will be paid beginning no later than the end of the first full calendar year after the Participant's death over the life of the designated Beneficiary or over a period not exceeding the life expectancy of the designated Beneficiary. If the designated Beneficiary is the surviving spouse, payment may be delayed until the date the Participant would have attained age 70 1/2.

As of January 1, 2020, if the Participant dies before benefit payments are required to begin under the preceding paragraph, any benefits payable to (or for the benefit of) a designated Beneficiary will be paid by the end of the tenth full calendar year after the Participant's death, or will be paid beginning no later than the end of the first full calendar year after the Participant's death over the life of the designated Beneficiary or over a period not exceeding the life expectancy of the designated Beneficiary. If the designated Beneficiary is the surviving spouse, payment may be delayed until the date the Participant would have attained age 72.

(b)

In applying the foregoing rules, each Annuity Contract or Custodial Account shall be treated as an individual retirement account (IRA) and distribution shall be made in accordance with the provisions of section 1.408-8 of the IRS regulations, except as provided in section 1.403(b) 6(e) of the Regulations.

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6.5 Application for Benefits; Spousal Consent. Procedures for receipt of benefits are initiated by writing directly to the Fund Sponsor(s). Benefits will be payable by the Fund Sponsor(s) upon receipt of a satisfactorily completed application for benefits and supporting documents. The necessary forms will be provided to the Participant, the surviving spouse—or domestic partner, or the Beneficiary by the Fund Sponsor(s). Any In any case in which Section 6.1 or 6.2 requireds the consent of the Participant's spouse or domestic partner, the consent must be in writing, must acknowledge the effect of the election or action to which the consent applies, and must be witnessed by a notary public or a ProgramPlan representative. Unless the consent expressly provides that the Participant may make further elections without further consent of the spouse or domestic partner, the consent will be effective only with respect to the specific election or form of benefit, or Beneficiary, or both, to which the consent relates. Spousal or domestic partner—consent will be effective only with respect to that spouse or domestic partner. Spousal or domestic partner—consent will not be required if it is established to the satisfaction of the ProgramPlan Administrator representative that there—that there is no spouse or domestic partner, or that the spouse or domestic partner—cannot be located.

1.11. 6.6 Loans. Subject to the Code and terms of the Funding Vehicles, <u>Plan</u> loans are available to Participants before the commencement of benefit payments. <u>Plan loans are subject</u> to the spousal consent requirements of Section 6.5.

(a) Information Coordination Concerning Loans. Each Fund Sponsor is responsible for all information reporting and tax withholding required by applicable federal and state law in connection with distributions and loans. To minimize the instances in which Participants have taxable income as a result of loans from the ProgramPlan, the ProgramPlan Administrator shall take such steps as may be appropriate to coordinate the limitations on loans set forth in (b) below, including the collection of information from Fund Sponsors, and transmission of information requested by any Fund Sponsor, concerning the outstanding balance of any loans made to a Participant under the ProgramPlan or any other plan of WSU or any Related Employer. The ProgramPlan Administrator shall also take such steps as may be appropriate to collect information from Fund Sponsors, and transmission of information to any Fund Sponsor, concerning any failure by a Participant to repay timely any loans made to a Participant under the ProgramPlan or any other plan of WSU or any Related Employer.

(b) Maximum Loan Amount. No loan to a Participant under the ProgramPlan may exceed the lesser of:

\$50,000, reduced by the greater excess of (i) the highest outstanding balance on loans from the Plan to the Participant during the one-year period ending on the day before the date the loan is made the outstanding balance on any loan from the ProgramPlan to the Participant on the date the loan is made or—over (ii) the outstanding balance on any loan from the Plan to the Participant on the date the loan is made the highest outstanding balance on loans from the ProgramPlan to the Participant during the one year period ending on the day before the date the loan is approved by the ProgramPlan

Commented [A31]: Payback via payroll withholding

Loan treated as directed investment of borrower's account so no or else is at risk if default? Account balance pledged as collateral?

Spousal consent required:

Commented [A32R31]: WSU is not part of the loan repayment and currently the people work directly with TIAA, and it is n ot a payroll withholding.

I am feeling uninformed of the process. I will check with TIAA. Is this needed in the plan document, or just curiosity questions?

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Administrator (not taking into account any payments made during such oneyear period); or

one half of the <u>present</u> value of the Participant's <u>Accumulation</u>-Account<u>es</u> (as of the valuation date immediately preceding the date on which such loan is approved by the <u>ProgramPlan</u> Administrator).

For purposes of this Section 6.6(b), any loan from any other plan maintained by WSU and any Related Employer shall be treated as if it were a loan made from the ProgramPlan., and the Participant's vested interest under any such other plan shall be considered an Accumulation Account under this ProgramPlan; provided, however, that the provisions of this paragraph shall not be applied so as to allow the amount of a loan to exceed the amount that would otherwise be permitted in the absence of this paragraph.

(c) <u>Loan Terms. All Plan loans will require level amortization of principal and interest with quarterly (or more frequent) payments and over a payment term not exceeding five (5) years except where the loan is for the acquisition of the Participant's principal residence where a longer term may be available. Loan repayment will be by means of payroll deduction, AC or other means acceptable to the Plan Administrator and the Fund Sponsors. Plan loans will be treated as a directed investment of the borrower's Account as and when consistent with Fund Sponsor requirements.:</u>

6.7 Direct Rollover of Eligible Rollover Distributions.

(a) Direct Rollover. A Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in Code Section 414(p)(1)(B)) who is entitled to an Eligible Rollover Distribution from the Plan may make an Election to have any portion of that distribution paid directly to an Eligible Retirement Plan specified by the Participant or Beneficiary in a Direct Rollover. In the case of a distribution to a Designated Beneficiary who at the time of the Participant's death was neither the spouse of the Participant nor the spouse or former spouse of the participant who is an alternate payee under a domestic relations order, a Direct Rollover is payable only to an IRA that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of Code Section 408(d)(3)(C)).

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

(c) Election. A Participant (including for this purpose, a former Employee) may elect, at the time and in the manner prescribed by the Fund Sponsor, to

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Commented [A33]: If home purchase loans are permitted we

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have any portion of his or her Eligible Rollover Distribution from the Plan paid directly to an Eligible Retirement Plan specified by the Participant in a Direct Rollover. For purposes of this Section 6.75, a Participant includes as to their respective interests: (1) a Participant's surviving spouse, (2) the Participant's spouse or former spouse who is an alternate payee under a QDRO, or (3) any other Beneficiary of a deceased Participant who is a Designated Beneficiary under Treas. Reg. Section 1.401(a)(9)-4.

(d) Rollover and Withholding Notice. At least 30 days and not more than 180 days prior to the distribution of an Eligible Rollover Distribution, the Plan must provide a written notice (including a summary notice as permitted under applicable IRS guidance) explaining to the distribute the rollover option, the applicability of mandatory 20% federal withholding to any amount not directly rolled over, and the recipient's right to roll over within 60 days after the date of receipt of the distribution ("rollover notice"). A recipient of an Eligible Rollover Distribution (whether he/she elects a Direct Rollover or elects to receive the distribution), also may elect to receive distribution at any administratively practicable time which is earlier than 30 days following receipt of the rollover notice. The provisions of this Section 6.75(d) do not apply to distributions to a Beneficiary described in Section 6.75(c)(3).

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(e) Default Rollover. The Fund Sponsor, in the case of a Participant—who does not respond timely to the rollover notice, may make a Direct Rollover of the Participant's Account in lieu of distributing the Participant's Account.

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- (f) Definitions. The following definitions apply to this Section 6.75:
- (i) Direct Rollover. A Direct Rollover means a payment by the Plan to the Eligible Retirement Plan the distributee specifies in his or her Direct Rollover election or in the case of an automatic rollover, to the IRA that the Plan designates.

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(ii) Eligible Retirement Plan. An Eligible Retirement Plan means as defined in Section 4.5(a)(ii).an IRA, an annuity plan described in Code Section 403(a), a qualified trust described in Code Section 401(a), an arrangement described in Code Section 403(b), or an eligible deferred compensation plan described in Code Section 457(b) sponsored by a governmental employer which accepts the Participant's or alternate payee's Eligible Rollover Distribution. In the case of a Beneficiary described in Section 6.5(c)(3), an Eligible Retirement Plan is limited 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)).

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(iii) Eligible Rollover Distribution. An Eligible Rollover Distribution means as defined in Section 4.5(a)(i).

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SECTION any distribution of all or any portion of the Participant's Account Balance, except: (a) any distribution which is one of a series of substantially equal

periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Participant or the joint lives (or joint life expectancies) of the Participant and the Participant's designated beneficiary, or for a specified period of ten (10) years or more; (b) any required minimum distribution under Section 6.3; (c) the portion of any distribution which is not includible in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); (d) any hardship distribution; (e) any distribution which otherwise would be an Eligible Rollover Distribution, but where the total distributions to the Participant during that calendar year are reasonably expected to be less than \$200; (f) any corrective distribution of excess amounts under Code Section 402(g), 401(k), 401(m), and/or 415(c) and income allocable thereto; (g) any loans that are treated as deemed distributions under Code Section 72(p) (h) dividends paid on employer securities described in Code Section 408(k); (i) the costs of life insurance coverage (P.S. 58 costs); (j) prohibited allocations treated as deemed distributions under Code Section 409(p); and (k) permissible withdrawals from a EACA described in Code Section 414(w). A portion of a distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after tax employee contributions which are not includible in gross income. However, such portion may be transferred only to (i) an IRAor (ii) a qualified plan described in Code Sections 401(a) or 403(a), or (iii) a tax-sheltered annuity described in Code Section 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible.

1.12.

(a) A Participant or the Beneficiary of a deceased Participant (or a Participant's spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution (as defined in section 402(e)(4) of the Code) from the Program may elect to have any portion of that distribution paid directly to an eligible retirement plan (as defined in section 402(e)(8)(B) of the Code) specified by the Participant in a direct rollover. 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 individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of section 408(d)(3)(C) of the Code).

(b) Each Fund Sponsor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.

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SECTION 2. GENERAL PROVISIONS AND LIMITATIONS REGARDING BENEFITS

2.1. Non-Alienation of Retirement Rights or Benefits. To the fullest extent permitted by law, no benefit under the Program<u>Plan</u> may at any time be subject in any manner to alienation, encumbrance, the claims of creditors or legal process. No person will have the power in any manner to transfer, assign, alienate, or in any way encumber his or her benefits under the Program<u>Plan</u>, or any part thereof, and any attempt to do so will be void and of no effect. This Program<u>Plan</u> will, however, comply with any judgment, decree or order which establishes the rights of another person to all or a portion of a Participant's benefit under this Program<u>Plan</u> to the extent that it is treated as a qualified domestic relations order under Code section 414(p). Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Program<u>Plan</u>. WSU shall establish reasonable procedures for determining the status of any such decree or order and for effectuating distribution pursuant to the domestic relations order.

7. ADMINISTRATION

- 7.1 ProgramPlan Administrator. WSU is the ProgramPlan Administrator, and has designated the WSU Human Resource Services to be responsible for the day to day administration of the ProgramPlan.
- 7.2 Authority of the ProgramPlan Administrator. The ProgramPlan Administrator has all the powers and authority conferred upon it herein and further shall have final authority to determine, in its discretion, all questions concerning eligibility and contributions under the ProgramPlan, to interpret all terms of the ProgramPlan, including any uncertain terms, to adopt Plan policies and procedures, and to decide any disputes arising under and all questions concerning administration of the Planrogram. Any determination made by the ProgramPlan Administrator shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary and capricious. In exercising these powers and authority, WSU-the Plan Administrator will at all times exercise good faith, apply standards of uniform application, and refrain from arbitrary action.
- 7.3 Delegation of Authority. The ProgramPlan Administrator may delegate any power or powers to one or more other employees of WSU, or to any agent or independent contractor of WSU. Any such delegation shall be in writing, and may be obtained from the ProgramPlan Administrator.

SECTION 3. SECTION 8. AMENDMENT AND TERMINATION

3.1. Amendment and Termination. While it is expected that this ProgramPlan will continue indefinitely, WSU reserves the right at any time to amend or terminate the ProgramPlan, or to discontinue any further VIP Contributions under the ProgramPlan, by resolution of its Board of Regents. If the ProgramPlan is terminated or if contributions are discontinued, WSU will notify all Participants, all Accumulation Accounts will remain nonforfeitable, and all agreements for

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salary reduction that have been entered into will become void with respect to salary amounts we to be earned.

3.2. Distribution Upon Termination of the ProgramPlan. WSU may provide that, in connection with a termination of the ProgramPlan and subject to any restrictions contained in the Annuity Contracts and Custodial Account agreements, all Accumulation Accounts will be distributed, provided that WSU and any Related Employer on the date of termination do not make contributions to an alternative Code section 403(b) contract that is not part of the ProgramPlan during the period beginning on the date of ProgramPlan lantermination and ending 12 months after the distribution of all assets from the ProgramPlan, except as permitted by IRS regulations.

3.3. <u>Limitation</u>. Notwithstanding the provisions of Section 9.1, the Board shall not make any amendment to the ProgramPlan that operates to recapture for WSU any contributions previously made under this ProgramPlan except to the extent permitted by Sections 4.7 and 10.5.

MISCELLANEOUS

8.1 Non-Alienation of Retirement Rights or Benefits. Except as otherwise provided in this Section 8, t\(\frac{T}\) the fullest extent permitted by law, no benefit under the Plan may at any time be subject in any manner to alienation, encumbrance, the claims of creditors or legal process. No Participant or Beneficiary will have the power in any manner to transfer, assign, alienate, or in any way encumber his or her Account or benefits under the Plan, or any part thereof, and any attempt to do so will be void and of no effect. The Plan Administrator will comply with any judgment, decree or order (including a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child or other dependent of a Participant and made pursuant to the domestic relations law of any state. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Plan Administrator may pay from a Participant's Account an amount the Plan Administrator determines is lawfully demanded under a levy issued by the IRS with respect to a Participant or Beneficiary, or is sought to be collected by the U.S. Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

SECTION 4.

- 8.2 ProgramPlan Does Not Affect Employment. Nothing contained in this ProgramPlan may be construed as-is a commitment or agreement by WSU or by any Employee on the part of any person to continue his or her employment with WSU, or by WSU to rehire a retired Participant, and nothing contained in this ProgramPlan may be construed as-is a commitment on the part of WSU to continue the employment or the rate of compensation of any person-Employee for any period. All Eemployees of WSU will remain subject to discharge to the same extent as if the ProgramPlan had never been put into effect.
- 8.3 Claims of Other Persons. No provisions in this ProgramPlan will be construed The Plan does not give as giving any Participant, Beneficiary or any other person, firm, or corporation entity of any type, any legal or equitable right against WSU or against its past present or future officers, employees, or regentsBoard members, except for the rights that are specifically provided for in this ProgramPlan or created in accordance with the terms and provisions of this ProgramPlan.

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8.4 Contracts and Certificates. In the event there is any inconsistency or ambiguity between the terms of the ProgramPlan and the terms of the contracts between the Fund Sponsors and WSU and/or the Participants and any certificates issued to a Participant under the ProgramPlan, the terms of the ProgramPlan control.

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

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8.6 Mistaken Contributions or other Plan Failures.

(a) Mistake of Fact. If any VIP Ceontribution (or any portion of a contribution) is made to the ProgramPlan by a good faith-mistake of fact, then within one (1) year after the payment of the Plan Ceontribution, and upon receipt in good order of a proper request approved by the ProgramPlan Administrator WSU Human Resource Services Office, the Plan Administrator may return the amount of the mistaken contribution (net of any investment loss, but not increased by any investment income or gains) adjusted for any income or loss in value, if any, allocable thereto) to WSU. Thereafter, the Plan Administrator will determine if any or all of such amount should be refunded to the affected Participant. shall be returned directly to the Participant or, to the extent required or permitted by the ProgramPlan Administrator. WSU Human Resource Services Office, to WSU.

(b) Other Failures. If any VIP eContribution exceeds the Plan or Code limits or is otherwise not in accordance with the Plan terms, or if there are other Plan related failures, the Plan Administrator will make correction in accordance with the Plan and with the Employee Plans Compliance Resolution System under Rev. Proc. 2019-19 or any other successor or applicable guidance.

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

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SECTION 9. AMENDMENT AND TERMINATION

9.1 Amendment and Termination. The Board reserves the right at any time to amend or terminate the Plan, in whole or in part, or to discontinue any further VIP Contributions under the Plan. If the Plan is terminated or if VIP Ceontributions are discontinued, the Plan

Administrator will notify all Participants, all Accounts will remain nonforfeitable, and all Salary Reduction Agreements that have been entered into will become void with respect to Compensation salary amounts—yet to be paid.

- **9.2** Distribution Upon Termination of the Plan. WSU may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Annuity Contracts and Custodial Account agreements, all Accounts will be distributed, provided that WSU and any Related Employer on the date of termination do not make contributions to an alternative Code Section 403(b) contract that is not part of the Plan during the period beginning on the date of Plan termination and ending twelve (12) months after the distribution of all assets from the Plan, except as permitted by Code Section 403(b) and the regulations thereunder.
- 9.3 <u>Limitation.</u> Notwithstanding the provisions of Section 9.1, the Board shall-not make any amendment to the Plan that operates to recapture for WSU any contributions previously made under this Plan except to the extent permitted by Section 8.6.

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