

WASHINGTON STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

401(a) SUPPLEMENTAL RETIREMENT PLAN

Effective Date: January 1, 2016

**AMENDMENT NO. ONE
TO THE
WASHINGTON STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES
401(a) SUPPLMENTAL RETIREMENT PLAN**

THIS AMENDMENT, by the Washington State Board for Community and Technical Colleges, hereinafter sometimes referred to as the "Sponsor," is made with reference to the following facts:

Effective January 1, 2016, the Sponsor adopted the WASHINGTON STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES 401(a) SUPPLMENTAL RETIREMENT PLAN (the "Plan"), which reserves to the Sponsor the right to amend the Plan (Article 8 thereof). The Sponsor has executed this Amendment No. One for the purpose of amending the Plan in the manner hereinafter provided.

NOW, THEREFORE, the WASHINGTON STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES 401(a) SUPPLMENTAL RETIREMENT PLAN is hereby amended as follows:

Section 1.12 is hereby amended in its entirety as follows, effective January 1, 2016:

"1.12 'Fixed Annuity' means a retirement annuity contract issued by Teachers Insurance Annuity Association ('TIAA') under which the entire accumulation is invested in the TIAA Traditional Account. For actuarial equivalence purposes for this Fixed Annuity, the current guaranteed annuity conversion rate is based upon an interest rate of 2.5% and the A2000 mortality table, merged gender, set back nine years, or as may be declared by TIAA from time to time."

II

Section 6.4(b)(2)(ii) is hereby amended in its entirety as follows, effective January 1, 2016

"(ii) Joint and 50% Survivor Annuity: At retirement, a Participant may choose to receive a reduced payment for his or her lifetime and, if the Participant's Designated Beneficiary survives the Participant, to provide for the continuation of payments equal to the % of the payments paid during the Participant's lifetime. This form is actuarially equivalent to the Single Life form of payment using the Participant's and his or her Designated Beneficiary's actual dates of birth and the dividend, interest and mortality basis then in effect for the Fixed Annuity. If the Designated Beneficiary is not the Participant's spouse, the spouse must consent in writing. Notification of such choice shall be filed in writing with the State Board and shall be irrevocable after retirement"

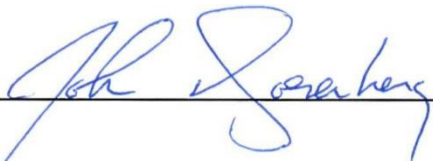
III

Section 6.4(b)(2)(iii) is hereby amended in its entirety as follows, effective January 1, 2016:

"(iii) Joint and 66-2/3% or 100% Survivor Annuity: At retirement, a Participant may choose to receive a reduced payment while the Participant and his or her lifetime Designated Beneficiary are both alive. Following the death of the first to die, the survivor will receive either 66-2/3% or 100% (as the Participant elects prior to retirement) of the amount payable during their joint lifetimes. This form is actuarially equivalent to the Single Life form of payment using the Participant's and his or her Designated Beneficiary's actual dates of birth and the dividend, interest and mortality basis then in effect for the Fixed Annuity. If the Designated Beneficiary is not the Participant's spouse, the spouse must consent in writing. Notification of such choice shall be filed in writing with the State Board and shall be irrevocable after retirement."

IN WITNESS WHEREOF, the Sponsor has caused this Amendment No. One to be executed this 19 day of June, 2017.

Washington State Board for Community and Technical Colleges

By:  _____



6-19-17
Beth J. Gordon

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WASHINGTON STATE BOARD FOR COMMUNITY AND TECHNICAL COLLEGES

401(a) SUPPLEMENTAL RETIREMENT PLAN

INTRODUCTION

WHEREAS, Washington State Board for Community and Technical Colleges (herein referred to as the "Sponsor") Sponsor, a governmental entity, has been providing certain qualifying Employees of Participating Employers with a supplemental annual retirement income benefit in accordance with the provisions of RCW 28B.10.400(1)(c), as amended; and

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

WHEREAS, the Sponsor wishes to provide the supplemental benefits in a separate retirement plan that is intended to be qualified under Code Section 401(a) and to make certain other changes;

NOW, THEREFORE, effective January 1, 2016, the Sponsor hereby adopts this Washington State Board for Community Colleges 401(a) Supplemental Retirement Plan (the "Plan"), which is intended to function as a Code Section 401(a) qualified Plan, and a related trust, for the purpose of providing the supplemental annual retirement income benefit described above.

1. DEFINITIONS

1.1 "Appointing Authority"

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

1.2 "Assumed Retirement Benefit"

"Assumed Retirement Benefit" means the theoretical amount of annual retirement income derived from contributions made on behalf of a Participant and the resulting dividends, provided, that such amount shall be calculated based upon the assumptions set forth in RCW 28B.10.401 as may be amended from time to time.

1.3 "Average Annual Compensation"

"Average Annual Compensation" means, for purposes of determining any applicable Supplemental Retirement Benefit for a Participant hereunder, the amount derived when

the Compensation received during the two consecutive highest salaried Fiscal Years of Service for which contributions were made to this Plan by a Participating Employer is divided by two.

1.4 "Break in Service"

"Break in Service" means termination of all employment with a Participating Employer for a full academic year quarter or an equivalent period of time, excluding summer quarter or an equivalent off-season quarter.

1.5 "Code"

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

1.6 "Compensation"

"Compensation" with respect to any Participant means the sum of the following elements of compensation paid to the Participant from his or her Participating Employer, including base salary, summer quarter compensation, extra duty pay, leave stipends, and grants made by or through the Participating Employer or State Board; but not including any severance pay, early retirement incentive payment, remuneration for unused sick or personal leaves, settlement payments resulting from claims, disputes or litigation, or remuneration for unused annual or vacation leaves in excess of the amount payable for thirty days or two hundred forty hours of service. For purposes of this Section, the determination of Compensation shall be made by including both: (i) amounts which are contributed by the Participating Employer pursuant to a salary reduction agreement and which are not includable in the gross income of the Participant under Code Sections 125, 132(f)(4), 402(e)(3), 402(h), 403(b) or 457, and (ii) Employee Contributions to the Retirement Plan.

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

Compensation in excess of the applicable dollar limitation under Code Section 401(a)(17) that is in effect for the applicable Plan Year (e.g., \$265,000 for 2015) shall be disregarded. Such dollar limitation shall be adjusted as determined by the Secretary of the Treasury in accordance with Code Section 401(a)(17), except that the dollar increase in effect on January 1 of any calendar year shall be effective for the Plan Year beginning with or within such calendar year. If Compensation for any prior determination period is taken into account in determining an Employee's benefits accruing in a Plan Year beginning after December 31, 1993, the Compensation for that prior determination period is subject to the adjusted compensation limit in effect for that prior determination period. For this purpose, for determination periods beginning before the first day of the first Plan Year beginning on or after January 1, 1994, the annual compensation limit is \$150,000. For any short Plan Year the Compensation limit shall be an amount equal to the Compensation limit for the calendar year in which the Plan Year begins multiplied by the

ratio obtained by dividing the number of full months in the short Plan Year by twelve (12).

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

1.7 "Designated Beneficiary"

"Designated Beneficiary" means the person who is entitled to receive Supplemental Retirement Benefits, if any, payable upon the death of the Participant. The Designated Beneficiary shall be the spouse (if any) to whom the Participant was married as of his or her benefit commencement date (or date of death, if earlier), or, with the consent of such spouse, if any, such other person or persons having an insurable interest in the Participant's life and shall have been nominated by written designation duly executed and filed with either the Plan Administrator, the Participant's Participating Employer, or the State Board.

1.8 "Effective Date"

"Effective Date" means January 1, 2016.

1.9 "Eligible Employee"

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

1.10 "Employee"

"Employee" means any person who is a common law employee of a Participating Employer, but excludes any person who performs services as an independent contractor. The definition of Employee includes any "leased employee" of a Participating Employer.

A "leased employee" is any person (other than an Employee of a Participating Employer) who, pursuant to an agreement between such Participating Employer and any other person (the leasing organization), has performed services for a Participating Employer (or for the Participating Employer and related persons determined in accordance with Code Section 414(n)(6)) on a substantially full-time basis for at least one year, provided that such services are performed under the primary direction or control of the Participating Employer.

1.11 "Fiscal Year"

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

1.12 "Fixed Annuity"

"Fixed Annuity" means a retirement annuity contract issued by Teachers Insurance and Annuity Association ("TIAA") under which the entire accumulation is invested in the TIAA Traditional Account.

1.13 "Former Participant"

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

1.14 "415 Compensation"

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

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

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

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

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

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

“415 Compensation” shall include amounts paid after severance from employment with a participating Employer to the extent permitted by Treasury Regulations Section 1.415(c)-2(e)(3) and shall exclude all other amounts paid after severance from employment with a participating Employer as required by Treasury Regulations Section 1.415(c)-2(e)(3)(iv).

415 Compensation” shall include any payment which is:

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

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

1.15 "Late Retirement Date"

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

1.16 "Normal Retirement Date"

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

1.17 "Participant"

"Participant" means any Eligible Employee, Terminated Participant or Retired Participant who meets the conditions for participation in this Plan and has commenced participation in accordance with Section 3 of this Plan, and who has not yet ceased to participate in this Plan as a result of death or receipt of all vested benefits that are due or payable hereunder.

1.18 “Participating Employer”

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

- 1.19 "Plan"
"Plan" means this instrument, including all amendments thereto.
- 1.20 "Plan Administrator"
"Plan Administrator" means the persons or entities designated by the Sponsor pursuant to Article 7 to administer the Plan on behalf of the Sponsor. The Plan Administrator is the Deputy Executive Director of Business Operations for the State Board.
- 1.21 "Plan Fund"
"Plan Fund" means the assets of the Plan as the same shall exist from time to time, which shall be held in trust by the Trustee. Notwithstanding any other provision of the Plan, the Plan Fund, all property and rights purchased with those amounts and all income attributable thereto, shall be held solely for the purposes set forth in this Plan.
- 1.22 "Plan Year"
"Plan Year" means the Plan's accounting year of twelve (12) months commencing on January 1st of each year and ending the following December 31st.
- 1.23 "Predecessor Retirement Plan"
"Predecessor Retirement Plan" means the Washington State Board for Community and Technical Colleges 403(b) Plan that was in effect prior to January 1, 1998.
- 1.24 "RCW"
"RCW" means the Revised Code of Washington, as it may be amended from time to time.
- 1.25 "Effective Date"
"Effective Date" means January 1, 2016.
- 1.26 "Regulation"
"Regulation" means the Income Tax Regulations as promulgated by the Secretary of the Treasury or his delegate, and as amended from time to time.
- 1.27 "Retired Participant"
"Retired Participant" means a person who has been a Participant, but who has become entitled to Supplemental Retirement Benefits under the Plan and has not yet ceased to be a Participant as a result of receiving all vested benefits which are due or payable hereunder.

1.28 "Retirement Date"

"Retirement Date" means the date on which a Participant retires (the effective date of commencement of benefits hereunder), whether such retirement occurs on a Participant's Normal Retirement Date or Late Retirement Date. The Retirement Date for Participants opting for a Phased Retirement, as described in Section 6.1, shall mean the same as Late Retirement Date.

1.29 "Retirement Plan"

"Retirement Plan" means the Washington State Board for Community and Technical Colleges 401(a) Retirement Plan, as in effect on January 1, 2016 and as amended from time to time.

1.20 "Sponsor"

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

1.21 "State Board"

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

1.22 "Supplemental Retirement Benefit"

"Supplemental Retirement Benefit" means a benefit determined and payable in accordance with RCW 28B.10.400(3) and the provisions of this Plan.

1.33 "Terminated Participant"

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

1.34 "Trustee"

"Trustee" means the trustee of Plan assets under the terms of a trust agreement with the Sponsor, or any entity, including the State Board, which the Sponsor may in its discretion subsequently appoint at any time to hold assets in trust under this Plan.

1.35 "Variable Annuity"

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

1.36 "Vested"

"Vested" means the non-forfeitable portion of a Participant's Supplemental Retirement Benefit, if any. Under the terms of this Plan, a Participant's Supplemental Retirement Benefit, if any, shall be 100% Vested immediately, and at all times.

1.37 "Year of Service"

"Year of Service" means retirement credit based on unbroken full time employment or the equivalent thereof based on part-time employment in an eligible position in a Fiscal Year during which Plan contributions were made by a Washington public higher education institution to the State Board Retirement Plan or any other plan established pursuant to RCW 28B.10.400. Any year or fractional year of prior service in a Washington Public Retirement System while employed at a Participating Employer is included, provided the Participant transferred directly from such retirement system to the State Board Retirement Plan and will receive a pension benefit from such other retirement system; and provided further, that not more than one Year of Service will be credited for service in any one Fiscal Year. For this purpose, "unbroken service" means service without a Break in Service. Except as otherwise provided for within this Plan Document, periods of leave without pay or other periods in which a Participant is not earning Compensation from a Participating Employer and periods after termination of employment by reason of permanent disability while receiving a salary continuation benefit through a plan made available by the State of Washington shall not be included in a Participant's Years of Service.

2. PLAN SPONSOR

2.1 POWERS AND RESPONSIBILITIES OF THE SPONSOR

(a) In addition to the authority and responsibilities otherwise provided for in this Plan, the Sponsor has the authority to amend, merge or terminate the Plan, and to appoint and remove a Plan Administrator. The Sponsor may delegate its authority and duties as delineated in this Plan Document to the Plan Administrator. In the absence of a subsequent Plan amendment to the contrary, the Plan Administrator shall be the Deputy Executive Director of Business Operations of the State Board.

(b) The State Board shall have the authority and responsibility to appoint the Trustee for the purpose of holding any or all Plan assets.

2.2 APPOINTMENT OF ADVISERS

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

2.3 INFORMATION FROM PARTICIPATING EMPLOYERS

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

3. ELIGIBILITY

3.1 CONDITIONS OF ELIGIBILITY

(a) A Participant is eligible for a benefit calculation, as described in Section 6, if all of the following are true:

(1) The Participant actively participated in the Retirement Plan prior to July 1, 2011.

(1) A Participant, who is actively participating in the Retirement Plan, dies or elects to retire, consistent with a Participating Employers policies, having reached age 62 or retires due to reasons of health or permanent disability; and

(2) The Participant has ten or more Years of Service,

(b) A Participant is eligible for a benefit under the Plan if the amount, as calculated in Section 6, is a positive amount.

3.2 DETERMINATION OF ELIGIBILITY

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

3.3 REEMPLOYMENT OF A RETIREE

If a retiree who is receiving a benefit under the Plan shall be reemployed at 40% or more of full-time by any Participating Employer, the benefit payment will be suspended until the percentage of work falls below 40% of full time.

4. CONTRIBUTIONS

4.1 EMPLOYER CONTRIBUTIONS

The Participating Employers shall contribute to the Plan Fund pursuant to RCW 28B.10.423.

4.2 EMPLOYEE CONTRIBUTIONS

Employees are neither permitted nor required to contribute to the Plan.

5. PLAN FUND

5.1 PURPOSE OF THE PLAN FUND

A Plan Fund has been created and will be maintained for the purposes of the Plan, consisting of trust assets held by the Trustee in accordance with the terms of a trust agreement between the Sponsor and the Trustee.

The Trustee shall be appointed by the State Board, as further provided in Article 2 of this Plan. The Trustee will receive and invest all contributions, if any, made under the Plan to the Trust and all income derived therefrom. The State Board or Plan Administrator may remove a Trustee and may appoint a successor or additional Trustees and may divide their duties and responsibilities as it sees fit.

5.2 EXCLUSIVE BENEFIT OF PARTICIPANTS AND BENEFICIARIES

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

5.3 BENEFITS SUPPORTED ONLY BY THE PLAN FUND

Any person having any claim under the Plan will look solely to the assets of the Plan Fund for satisfaction.

5.4 PAYMENT OF EXPENSES

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

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

5.5 VALUATION OF THE PLAN FUND

The State Board shall engage an actuary to conduct periodic actuarial valuations and experience studies for the Plan Fund, in accordance with the requirements of RCW 28B.10.423, as may be amended from time to time.

6. DETERMINATION AND DISTRIBUTION OF BENEFITS

6.1 DETERMINATION OF BENEFITS UPON TERMINATION

A Participant is eligible to receive Supplemental Retirement Benefit payments if he or she meets or exceeds the criteria delineated in Section 3.

6.2 SUPPLEMENTAL RETIREMENT BENEFITS

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

(1) Two percent of the Participants' Average Annual Compensation multiplied by the number of Years of Service, not to exceed 25 Years of Service, divided by twelve. The percentage factor used in this calculation shall be one and one-half percent instead of two percent for any month that the Participant did not elect to contribute ten percent of salary beginning July 1, 1974, or if later, after attainment of age fifty.

(2) The combined monthly Assumed Retirement Benefit from the Predecessor Retirement Plan, the Retirement Plan and income from any other Washington State public retirement system (to the extent attributable to Years of Service) when a Participant transfers directly from such other retirement system to the State Board Retirement Plan. Based on TIAA-CREF estimates at the time of retirement, the Assumed Retirement Benefit under this subsection shall be calculated on the following assumptions.

(i) After July 1, 1974, fifty percent of the combined contributions to the Predecessor Retirement Plan and the Retirement Plan were made to the Fixed Annuity and fifty percent to the Variable Annuity during each Year of Service. Benefit calculations related to contributions made prior to July 1, 1974, shall be computed on the basis of actual allocations between TIAA and CREF; and

(ii) The full annuity accumulations, including the amounts, if any, paid in a single sum under the retirement transition benefit option, were fully settled on a joint and two-thirds survivorship option with a ten-year guarantee, using actual ages of retiree and spouse, but not exceeding a five-year difference; except that for unmarried Participants accumulations, were settled on a life annuity with ten-year guarantee option.; and

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

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

(3) The amount of Supplemental Retirement Benefit for a Participant who has not attained age sixty-five at retirement is the amount calculated in subsections (1) and (2) of this Section reduced by one-half of one percent for each calendar month remaining until age sixty-five, provided that the Supplemental Retirement Benefit for an otherwise qualified Participant retired for reason of health or permanent disability shall not be so reduced.

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

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

(b) For purposes of this Section 6.2, if the value of a Participant's benefit is zero, the Participant shall be deemed to have received a distribution of such benefit.

6.3 VESTING

A Participant's Supplemental Retirement Benefit, if any, shall be fully Vested at all times, and shall not be subject to forfeiture under any circumstances.

6.4 DISTRIBUTION OF BENEFITS

(a) Supplemental Retirement Benefit payments are to be received as lifetime income and may only be made over

(1) The life of the retiree, or

(2) At the written election of the retiree, the lives of the retiree and Beneficiary.

Supplemental Retirement Benefit payments may be made in any form of lifetime annuity made available by the Plan Administrator that does not include a guarantee period. If option (1) is chosen, the actuarially equivalent income shall be computed using the Beneficiary's actual date of birth and the dividend, interest and mortality basis then in effect for the Fixed Annuity.

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

(1) Supplemental Retirement Benefits shall be paid in equal monthly installments, except that if such monthly installments shall be less than ten dollars, such benefit payments may be paid at longer intervals as determined by the Plan Administrator. Once an election has been made hereunder, the form of distribution may not be changed at any later time for any reason, including (without limitation) remarriage of the Participant, provided that in the event of a Beneficiary's death (or any other change in circumstances) before the starting date of any annuity payments made under the Plan a new Beneficiary may be designated by the Participant prior to that starting date.

(2) The following forms of payment are available:

(i) **Single Life.** Under this form, payments will continue for the lifetime of the Retired Participant.

(ii) **Joint and 50% Survivor Annuity:** At retirement, a Participant may choose to receive a reduced payment for his or her lifetime and, if the Participant's Designated Beneficiary survives the Participant, to provide for the continuation of payments equal to $\frac{1}{2}$ of the payments made during the Participant's lifetime. This form is actuarially equivalent to the Single Life form of payment. If the Designated Beneficiary is not the Participant's spouse, the spouse must consent in writing. Notification of such choice shall be filed in writing with the State Board and shall be irrevocable after retirement.

(iii) **Joint and 66-2/3% or 100% Last Survivor Annuity:** At retirement, a Participant may choose to receive a reduced payment while the Participant and his or her Designated Beneficiary are both alive. Following the death of the first to die, the survivor will receive either 66-2/3% or 100% (as the Participant elects prior to retirement) of the amount payable during their joint lifetimes. This form is actuarially equivalent to the Single Life form of payment. If the Designated

Beneficiary is not the Participant's spouse, the spouse must consent in writing. Notification of such choice shall be filed in writing with the State Board and shall be irrevocable after retirement.

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

(d) Supplemental Retirement Benefits shall not continue during periods of employment for more than forty percent of full-time or seventy hours per month .

(e) Periodically, but at least annually, the Plan Administrator shall send notice to Supplement Benefit recipients asking for confirmation of information related to benefit administration. Failure to respond within a reasonable time, as determined by the Plan Administrator, may result in suspension of benefits.

6.5 DISTRIBUTION OF BENEFITS UPON DEATH

If a Participant who is entitled to a Supplemental Retirement Benefit under Sections 6.1 and 6.2 at his or her death, his or her surviving Designated Beneficiary or, if none, surviving spouse or, if none, registered domestic partner, shall receive a pre-retirement survivor benefit based on the Joint and 66-2/3% Last Survivor option, as described in Section 6.4(a)(2)(iii). Distribution shall begin as soon as reasonably possible after the Participant's death. Notwithstanding the foregoing, if the Participant's spouse (determined as of the date of the Participant's death) is the Designated Beneficiary, the spouse may delay the time at which distributions must commence but not past the later of: (A) December 31st of the calendar year immediately following the calendar year in which the Participant died; or (B) December 31st of the calendar year in which the Participant would have attained age 70 1/2.

Notwithstanding any provision of the Plan to the contrary, if a Participant dies while performing qualified military service, as defined in Section 414(u)(5) of the Code, the Participant's surviving spouse or other Designated Beneficiary shall be entitled to any benefits, including any benefit increases relating to the period of qualified military service, and the rights and features associated with those benefits which would have been provided under the Plan if the Participant had returned to active employment and died while in active service.

6.6 DISTRIBUTION FOR MINOR BENEFICIARY

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

custodian or parent of a minor Designated Beneficiary shall fully discharge the Sponsor, Plan Administrator, Participating Employer, and Plan from further liability on account thereof.

6.7 LOCATION OF PARTICIPANT OR BENEFICIARY UNKNOWN

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

6.8 DETERMINATION OF BENEFITS IN EVENT OF DISABILITY

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

(b) The Participant described in subsection (a) shall be treated in all respects as if he or she had attained his or her Normal Retirement Date and shall be eligible for a Supplemental Retirement Benefit, if any, as though the Participant had retired.

6.9 MAXIMUM BENEFITS UNDER CODE SECTION 415

In no event shall a Participant's annual benefit paid under the Plan exceed the amount specified in Code Section 415(b), as adjusted for any applicable increases in the cost of living, as in effect on the last day of the Plan Year, including any increases after the Participant's termination of employment. The provisions of Code Section 415 and the regulations thereunder are incorporated in this section by reference.

6.10 QUALIFIED DOMESTIC RELATIONS ORDERS

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

7. PLAN ADMINISTRATION

7.1 PLAN ADMINISTRATOR

(a) Unless and until the State Board determines to the contrary, the Plan Administrator shall be the Deputy Executive Director of Business Operations of the State Board.

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

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

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

- (1) Make and enforce such rules and regulations as it shall deem necessary or proper for the efficient administration of the Plan, consistent with State Board policies;
- (2) Interpret the provisions of the Plan and resolve any question arising under the Plan, or in connection with the administration or operation thereof;
- (3) Make all determinations affecting the eligibility of any Employee to be or become a Participant;
- (4) Determine eligibility for and amount of benefits for any Participant;
- (5) Authorize and direct the Trustee with respect to all disbursements of benefits under the Plan;
- (6) Employ and engage such persons, counsel and agents and to obtain such administrative, consulting, clerical, medical, legal, audit and actuarial services as it may deem necessary in carrying out the provisions of the Plan, including without limitation, the Plan Administrator; and

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

7.2 INDEMNITY, BONDING AND INSURANCE

(a) The Sponsor shall indemnify and hold harmless the Plan Administrator, from and against any and all loss resulting from liability to which the Plan Administrator may be subjected by reason of any act or conduct (except willful or reckless misconduct), in its official capacities in the administration of the Plan, or the Plan Fund, or both, including all expenses reasonably incurred in the Plan Administrator's defense, in case the Sponsor fails to provide such defense.

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

7.3 FIDUCIARIES

(a) **Limitation of Liability:** To the extent permitted by law, no Participant shall have any claim against the Sponsor, any Participating Employer, the Plan Administrator, the Trustee or any other fiduciary or service provider to the Plan, or against the directors, officers, members, agents or representatives of any of them (collectively "parties in interest"), for any benefits under the Plan, and such benefits shall be payable solely from the Plan Fund; nor shall any of the parties in interest incur any liability to any person for any action taken or suffered or omitted to be taken by them under the Plan in good faith.

(b) Indemnification

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

(2) **Scope of Indemnification.** The Sponsor agrees to indemnify an Employee fiduciary as described above for all acts taken in good faith in carrying out his or her

responsibilities under the terms of this Plan or other responsibilities imposed upon such fiduciary by applicable state law. This indemnification for all acts is intentionally broad but shall not provide indemnification for gross negligence, willful misconduct, embezzlement or diversion of Plan assets for the benefit of the Employee fiduciary. The Sponsor agrees to indemnify Employees and other individuals as described in the previous paragraph herein for all expenses of defending an action by a Participant, Designated Beneficiary or government entity, including all legal fees for counsel selected with the consent of the Sponsor and the Participating Employers and other costs of such defense. The Sponsor and the Participating Employers will also reimburse an Employee fiduciary for any monetary recovery in any court or arbitration proceeding. In addition, if the claim is settled out of court with the concurrence of the Sponsor and the Participating Employer, the Sponsor and Participating Employer will indemnify an Employee fiduciary for any monetary liability under said settlement. The Sponsor and the Participating Employer shall have the right, but not the obligation, to conduct the defense of such persons in any proceeding to which this Section applies. The Sponsor may satisfy its obligations under this Section in whole or in part through the purchase of a policy or policies of insurance providing equivalent protection.

7.4 CLAIMS AND APPEALS PROCEDURES

- (a) The claims and appeals procedures under the Plan shall be administered in accordance with the provisions of this Section 7.4 and any guidelines adopted by the Plan Administrator from time to time that comply with applicable law.
- (b) A “claim” (as that term is used in this Section) occurs when a Participant or Designated Beneficiary (“Claimant”) either (i) makes an application for a benefit under the Plan, or (ii) disputes information provided by a Participating Employer (or a person or persons authorized by the Plan Administrator to process claims hereunder) or a determination of the amount of any benefit or the resolution of any matter affecting a benefit under the Plan. A claim or appeal may be filed by an authorized representative of the Claimant.
- (c) Notwithstanding any other provision of the Plan, a Claimant shall not have a right to submit a dispute with respect to a benefit under this Plan more than one year after the date the individual has knowledge of all material facts that are the subject of the dispute.
- (d) Claims for benefits under the Plan shall be filed with the office of the Deputy Executive Director of Business Operations of the State Board on forms or in a manner provided for that purpose. Each claim will be decided by a person appointed by the Plan Administrator to serve as a claims administrator under this Plan (the "Claims Administrator"). The Claimant will be notified in writing of the approval or denial of a claim within ninety (90) days of the date that the Claims Administrator receives the claim, unless special circumstances require an extension of time for processing the claim. In the event an extension is necessary, the Claimant will be provided written notice prior to the end of the initial ninety (90) day period indicating the special circumstances requiring the extension and the date by which the Claims Administrator expects to

notify the Claimant of approval or denial of the claim. In no event will an extension extend beyond ninety (90) days after the end of the initial ninety (90) day period.

(e) If a claim is denied, the written notification will state specific reasons for the denial, make specific reference to the Plan provision(s) on which the denial is based, and provide a description of any material or information necessary for the Claimant to perfect the claim and why such material or information is necessary. The written notification will also provide a description of the Plan's review procedures and the applicable time limits.

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

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

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

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

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

8. AMENDMENT, TERMINATION AND MERGERS

8.1 AMENDMENT

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

(b) No amendment to the Plan shall be effective if it authorizes or permits any part of the Plan Fund (other than such part as is required to pay taxes and administration expenses) to be used for or diverted to any purpose other than for the exclusive benefit of the Participants or their Beneficiaries or estates; or causes any reduction in the amount credited to the account of the Participant; or causes or permits any portion of the Plan Fund to revert to or become property of any Participating Employer.

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

8.2 TERMINATION

The Sponsor shall have the right at any time to terminate the Plan by delivering to the Plan Administrator a written notice of such termination. Upon any termination (full or partial) the affected Participant's Supplemental Retirement Benefit shall be one hundred percent vested and nonforfeitable to the extent the Plan is funded.

In the event the Plan shall, at any time, be partially or totally terminated, the assets of the Plan Fund shall be allocated, after providing for necessary expenses and subject to the provisions below, so that each of the following provisions shall be given full effect in the order set forth; further, if in so giving effect to any provisions, the assets remaining in the Plan Fund are

insufficient to carry out such provision in full, the assets available therefor shall be prorated in the payment of accrued benefits so that all eligible Participants shall receive the same percentage of their full monthly benefits:

- (a) To provide the Supplemental Retirement or death or Disability Benefits thereafter to be paid to each Retired or Disabled Participant, surviving spouse, or Designated Beneficiary of a deceased Participant;
- (b) To provide the Supplemental Retirement Benefit accrued by each Participant meeting eligibility criteria described in Section 3 who has not yet retired;
- (c) To provide the Supplemental Retirement, termination, or death or Disability Benefit accrued by each eligible Participant who was not included in the provisions above;
- (d) To return to the Participating Employers, in the case of termination of the Plan, any balance which arises because the Plan's experience differs from the assumptions used by the actuary and which remains in the Plan Fund after all fixed and contingent liabilities under the Plan have been fully satisfied.

The allocations provided for the groups of Participants above may be accomplished, as determined by the Sponsor, either by:

- (1) Continuance of the Plan or establishment of new retirement plan or plans; or
- (2) Purchase of annuity contracts from an insurance company; or
- (3) Any other allocation of assets for such group or groups which is in the interest of the Sponsor, the Participating Employers, the respective Participants and beneficiaries, and the Plan Fund.

8.3 MERGER OR CONSOLIDATION

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

9. MISCELLANEOUS

9.1 PARTICIPANT'S RIGHTS

This Plan shall not be deemed to constitute a contract between the Participating Employer and any Participant or to be a consideration or an inducement for the employment of any Participant or Employee. Nothing contained in the Plan shall be deemed to give any Participant or Employee

the right to be retained in the service of any Participating Employer or to interfere with the right of the Participating Employer to discharge any Participant or Employee at any time regardless of the effect which such discharge shall have upon them as a Participant of this Plan.

9.2 ALIENATION

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

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

9.3 CONSTRUCTION OF PLAN

This Plan shall be construed and enforced according to the Code and the laws of the State of Washington, other than its laws respecting choice of law, to the extent not preempted by the Code or other federal laws. In the event that any Section or Sections of the Code or other federal laws are later determined by any court, legislative body or regulatory agency to be inapplicable to the Plan specifically, or to governmental entity plans in general, then the Plan shall be operated and interpreted in light of any such determination.

9.4 GENDER AND NUMBER

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

9.5 RECOVERY OF ERRONEOUS CONTRIBUTIONS

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

9.6 SPONSOR'S PROTECTIVE CLAUSE

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

9.7 RECEIPT AND RELEASE FOR PAYMENTS

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

9.8 ACTION BY AN EMPLOYER

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

9.9 HEADINGS

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

9.10 APPROVAL BY INTERNAL REVENUE SERVICE

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

9.11 UNIFORMITY

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

9.12 COMPLIANCE WITH USERRA AND RELATED LAWS

Notwithstanding any provision of the Plan to the contrary, service shall be credited and benefits shall be provided to Eligible Employees with respect to qualified military service to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994, as such act may be amended from time to time, and as codified in Code Section 414(u) (“USERRA”). If a Participant or Former Participant dies while performing qualified military service (as defined in Code Section 414(u)), the Participant’s or Former Participant’s spouse or other Beneficiary shall be entitled to any benefits (including benefits relating to the period of qualified military service) and the rights and features associated with those benefits which would have been provided if the Participant or Former Participant had been reemployed by a Participating Employer and died while an active Eligible Employee.

9.13 PROHIBITION AGAINST DIVERSION OF FUNDS

(a) Except as provided below and otherwise specifically permitted by law, all assets of the Plan, including investment income, shall be retained for the exclusive benefit of Participants and their beneficiaries and shall be used to pay benefits or administrative expenses of the Plan and shall not revert to or inure to the benefit of any other person or entity prior to the termination of the Plan and the satisfaction of all benefit liabilities under such retirement system.

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

10. PARTICIPATING EMPLOYERS

10.1 REQUIREMENTS OF PARTICIPATING EMPLOYERS

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

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

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

10.2 DESIGNATION OF AGENT

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

10.3 PARTICIPATING EMPLOYER'S CONTRIBUTION

All contributions made by a Participating Employer, as provided for in this Plan and RCW 28B.10.423, as amended, shall be determined separately by each Participating Employer, and shall be paid to and held by the Plan for the exclusive benefit of the Participants who are Employees or former Employees of such Participating Employer (and the Beneficiaries of such Employees), subject to all the terms and conditions of this Plan.

10.4 AMENDMENT

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

10.5 PLAN ADMINISTRATOR'S AUTHORITY

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

11. MINIMUM DISTRIBUTION REQUIREMENTS

11.1 GENERAL RULES

(a) Effective Date. The provisions of this Article 11 will apply for purposes of determining required minimum distributions for calendar years beginning with the 2016 calendar year that are made on or after January 1, 2016.

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

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

(d) Notwithstanding any provision in this subsection to the contrary, under Section 1.401(a)(9)-1, Q&A-2(d) of the United States Treasury regulations, the Plan shall be treated as

having complied with Section 401(a)(9) of the Code for all years to which Section 401(a)(9) of the Code applies to the Plan if the Plan complies with a reasonable and good faith interpretation of Section 401(a)(9) of the Code.

11.2 TIME AND MANNER OF DISTRIBUTION

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

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

(1) If the Participant's surviving spouse is the Participant's sole designated beneficiary, distributions to the surviving spouse shall begin by December thirty-first of the calendar year immediately following the calendar year in which the Participant died, or by December thirty-first of the calendar year in which the Participant would have attained age seventy and one-half years, if later;

(2) If the Participant's surviving spouse is not the Participant's sole designated beneficiary, distributions to the designated beneficiary shall begin by December thirty-first of the calendar year immediately following the calendar year in which the Participant died;

(3) If there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the Participant's death, the Participant's entire interest shall be distributed by December thirty-first of the calendar year containing the fifth anniversary of the Participant's death;

(4) If the Participant's surviving spouse is the Participant's sole designated beneficiary and the surviving spouse dies after the Participant but before distribution to the surviving spouse begins, this paragraph, except for subparagraph a. of this paragraph, shall apply as if the surviving spouse were the Participant.

For purposes of this Section 11.2(b) and Section 11.4, unless Section 11.2(b)(3) applies, distributions are considered to begin on the Participant's "required beginning date." If Section 11.2(b)(3) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 11.2(b)(1). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's "required beginning date" (or to the Participant's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 11.2(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Forms of Distribution. Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the "required beginning date," as of the first "distribution calendar year" distributions will be made in

accordance with Sections 11.3 and 11.4. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Regulations.

11.3 REQUIRED MINIMUM DISTRIBUTIONS

(a) If the Participant's interest is paid in the form of annuity distributions under the Plan, payments under the annuity shall satisfy the following requirements:

- (1) The annuity distributions shall be paid in periodic payments made at intervals not longer than one year;
- (2) The distribution period shall be over a life or lives, or over a period certain not longer than the period described in Section 11.4(a) or (b);
- (3) Once payments have begun over a period certain, the period certain shall not be changed even if the period certain is shorter than the maximum permitted;
- (4) Payments shall either be nonincreasing or increase only as permitted under Q&A-14 of Section 1.401(a)(9)-6 of the United States Treasury regulations.

(b) The amount distributed on or before the Participant's required beginning date, or if the Participant dies before distribution begins, the date distributions are required to begin under this subsection, shall be the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if the payment interval ends in the next calendar year. "Payment intervals" means the periods for which payments are received, such as bimonthly, monthly, semiannually, or annually. All of the Participant's benefit accruals as of the last day of the first distribution calendar year shall be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Participant's required beginning date.

(c) Any additional benefits accruing to the Participant in a calendar year after the first distribution calendar year shall be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which such amount accrues.

11.4 REQUIRED MINIMUM DISTRIBUTIONS AFTER DEATH

(a) (1) If the Participant's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Participant and a nonspouse beneficiary, annuity payments to be made on or after the Participant's required beginning date to the designated beneficiary after the Participant's death shall not at any time exceed the applicable percentage of the annuity payment for such period that would have been payable to the Participant using the table set forth in Q&A-2 of Section 1.401(a)(9)-6 of the United States Treasury regulations.

(2) The period certain for an annuity distribution commencing during the Participant's lifetime shall not exceed the applicable distribution period for the Participant under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations for the calendar year that contains the annuity starting date. If the annuity starting date precedes the year in which the Participant reaches age seventy, the applicable distribution period for the Participant shall be the distribution period for age seventy under the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the United States Treasury regulations plus the excess of seventy over the age of the Participant as of the Participant's birthday in the year that contained the annuity starting date.

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

(1) If there is a designated beneficiary, the Participant's entire interest shall be distributed, beginning no later than the time described in Section 11.3, over the life of the designated beneficiary or over a period certain not exceeding:

(i) Unless the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Participant's death; or

(ii) If the annuity starting date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the annuity starting date.

(2) If there is no designated beneficiary as of September thirtieth of the calendar year following the calendar year of the Participant's death, distribution of the Participant's entire interest shall be completed by December thirty-first of the calendar year containing the fifth anniversary of the Participant's death.

(3) If the Participant's surviving spouse is the Participant's sole designated beneficiary, and the surviving spouse dies before distributions to the surviving spouse begin, this subdivision shall apply as if the surviving spouse were the Participant; except that, the time by which distributions shall begin shall be determined without regard to Section 11.3(b).

11.5 DEFINITIONS

(a) The Designated Beneficiary is the individual who is designated as the Beneficiary under Section 1.7 and for purposes of Code Section 401(a)(9) and Regulation Section 1.401(a)(9)-1, Q&A-4.

(b) The "distribution calendar year" is a calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar

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

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

(d) "Life expectancy", life expectancy as computed by use of the Single Life Table in Section 1.401(a)(9)-9 of the United States Treasury regulations.;

(e) "Required beginning date" is the later of (1) the April 1 of the calendar year following the calendar year in which the Participant attains age 70 ½ or (2) the April 1 of the calendar year following the calendar year in which the Participant terminates employment with all Participating Employers.

IN WITNESS WHEREOF, this Plan has been executed this 29th day of October, 2015, to be effective as of January 1, 2016.

WASHINGTON STATE BOARD
FOR COMMUNITY AND TECHNICAL COLLEGES

By _____

Appendix A: List of Participating Employers

The Participating Employers in this Plan, as of January 1, 2016, are as follows:

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