



Faculty/Classified Employee Severance Plan Participant Contract

WHEREAS, Pursuant to the findings, directive, goals and objectives of the West Virginia Legislature set forth in W. Va. Code §18B-1-1a, and the provisions concerning retirement and separation incentives set forth in §18B-1-1d, Marshall University (hereinafter “MU”) has determined that a program offering severance options to eligible employees is necessary to effectively implement programmatic changes; and

WHEREAS, In consideration of the aforementioned Legislative provisions, MU has created a Faculty/Classified Employee Severance Plan which has been approved by the MU Board of Governors and the Legislative Joint Committee on Pensions and Retirement and has been adopted as part of the institution’s Strategic Plan; and

WHEREAS, _____ (hereinafter “Participant”) has submitted a formal application to participate in the MU Faculty/Classified Employee Severance Plan (hereinafter “Plan”) which is incorporated herein by reference; and

WHEREAS, Because the President and administration of MU have determined that acceptance of Participant into the Plan would help to implement programmatic changes pursuant to the expressed intent of the West Virginia Legislature set forth in the above-referenced statutory provisions, and has deemed such acceptance to be in the best interest of MU, the President has approved Participant’s application to participate in the Plan. Participant understands that there is no entitlement or right to participate in such Plan until approval of the institutional President.

WHEREAS, MU and Participant have reached an agreement to allow Participant to participate in the Plan, this Faculty/Classified Employee Severance Plan Participant Contract between the University and the Participant embody the terms and conditions upon which the Participant shall participate in the Plan; and

WHEREAS, This Faculty/Classified Employee Plan Contract expressly incorporates herein the definitions, terms and conditions set forth in the Plan, Section 1.

THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Marshall University and Participant agree as follows:

Election. In consideration of the benefits that Participant will receive under the Plan, Participant hereby accepts and agrees to participate in the Plan subject to all of the terms, conditions and limitations contained therein. Participant hereby acknowledges receipt of Participant’s copy of the Plan, and acknowledges/confirms that Participant’s Plan Entry Date is the ___ day of _____ in the year 2017.

Voluntary Agreement and Financial/Legal Advice. Participant acknowledges that s/he is over the age of eighteen (18) and is acting voluntarily of his/her own free will in executing this Participant Contract.

Participant’s Initials: _____

Participant acknowledges that s/he has read and fully understands the terms and conditions of this Participant Contract and the Plan and has had an adequate opportunity to ask questions about the Plan and this Participant Contract. Because important legal and financial rights are being given up in exchange for participation in the Plan, MU encourages Participant to discuss the terms and consequences of participation in the Plan and the Participant Contract with Participant's tax advisor or financial planner and to seek the advice of legal counsel. Participant understands that if s/he has not consulted with legal counsel, s/he may contact the West Virginia Bar at 304-553-7220 or <http://www.wvlawyerreferral.org/> for lawyer referral assistance.

Waiver of Reemployment: Participant agrees that by participating in the Plan, Participant shall be ineligible for reemployment of any kind by MU that exceeds five-thousand dollars per fiscal year, during the Plan payment period or after his/her incentive payments conclude. Participant agrees that by participating in the Plan the Participant has contracted to receive specified payments for severing his/her employment status prior to the Participant's Plan Entry Date.

Annual Leave or Other Payroll Balance: Participant understands and acknowledges that any annual leave balance or other payroll balance or payment due him/her will be paid in a lump sum payment at the end of regular employment. The employee may not remain on payroll to exhaust annual leave. Further, this payment will not be eligible for a retirement deduction or employer match.

Release and Waiver of All Claims and Covenant Not To Sue: Participant agrees that in consideration of the terms set forth in this Participant Contract and the Plan, s/he and his/her assigns/successors hereby forever and fully releases MU, the State of West Virginia, the MU Board of Governors, the West Virginia Higher Education Policy Commission, and all of the aforementioned's respective assigns, officers, successors, attorneys, agents, employees, and all persons, firms and corporations having an interest in them, from any and all claims and demands of any nature, or description whatsoever, foreseen or unforeseen, known or unknown and from any and all liabilities, damages, injuries, actions or causes of action, either at law or in equity, foreseen or unforeseen, known or unknown arising from Participant's employment with MU.

This release of claims applies to any and all claims arising before, up to and including, the date Participant receives this Participant Contract.

This release does not affect any claims or rights arising after the date Participant receives this Participant Contract; provided, however, that nothing set forth herein shall constitute a release or waiver by Participant of any claims that have been filed in a court of competent jurisdiction prior to Participant's receipt of the Participant Contract and that are formally pending in a court of competent jurisdiction as of the date of this agreement unless said claims are waived by a different agreement between Participant and MU. Any and all claims, known or unknown, that existed prior to the Participant's receipt of the Participant Contract and that have not been formerly filed or that are currently pending which have accrued or may accrue as a result of Participant's employment with MU shall be and hereby are, released and waived. By way of example only and without in any way limiting the generality of the foregoing language, this release shall include, but shall not be limited to, all claims for relief or causes of action under any policies, practices or procedures of the West Virginia Higher Education Policy Commission, the MU Board of Governors, MU, the State of West Virginia Public Employees Grievance Board, The Civil Rights Act of 1964 (including but not limited to Title VI and Title VII) and any amendments thereto, Title IX of the Education Amendments of 1972 and any amendments thereto, The Pregnancy Discrimination Act and any amendments thereto, The Equal Pay Act of 1963 (EPA) and any amendments thereto, The Age Discrimination in Employment Act of 1967 (ADEA and its 1990 amendments effected by the Older Worker Benefit Protection Act (OWBPA))

HR Office

Marshall University

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Participant's Initials: _____

and any other amendments thereto, The Americans with Disabilities Act of 1990 (ADA) (including but not limited to Title I) and any amendments thereto, Sections 102 and 103 of the Civil Rights Act of 1991 and any amendments thereto, Sections 501 and 504 of the Rehabilitation Act of 1973 and any amendments thereto, The Genetic Information Nondiscrimination Act of 2008 (GINA) and any amendments thereto, The West Virginia Human Rights Act and any amendments thereto, The West Virginia Parental Leave Act and any amendments thereto, the West Virginia Wage Payment and Collection Act and any amendments thereto.

Note: This paragraph involves important legal rights. The Participant is encouraged to consult legal counsel of his/her choice prior to signing the Participant Contract.

Revocation Period and Effective Date: Participant understands that s/he has forty-five (45) calendar days to consider the terms of this Participant Contract and the Plan and that signing this Participant Contract before the expiration of the forty-five calendar day period constitutes a waiver of said consideration period by the Participant. Participant also understands that s/he has ten (10) calendar days following his/her receipt of the Participant Contract signed by all parties to revoke the Participant Contract in writing. Said Participant Contract is not effective or enforceable until this revocation period has expired. Participant may revoke the Participant Contract by sending written notice to **Bruce Felder, HR Office, 207 Old Main, Marshall University, One John Marshall Drive, Huntington, WV 25755**. The written revocation must be postmarked on or before the tenth (10th) calendar day after his/her receipt of the Participant Contract signed by all parties. Participant understands that ten (10) calendar days after his/her execution of this Participant Contract, Participant's election to enter the Plan will be irrevocable and final.

Resignation: Within ten (10) business days following Participant's receipt of the fully executed Participant Contract, Participant agrees to submit a written letter of resignation to **Bruce Felder, HR Office, 207 Old Main, Marshall University, One John Marshall Drive, Huntington, WV 25755**, resigning his/her employment effective at the close of the first business day immediately before the Plan Entry Date.

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Participant Name (Please Print)

Participant's Signature

Date

Participant's Social Security Number

By checking here I am declaring that I do not wish to waive my 45-day waiting period. I understand that this will necessarily delay my entry into the Plan, and I understand that I must remain at work until the revocation time periods have expired, at which point, if I have not revoked my intent timely, I understand that I must enter the Plan immediately.

State of _____

County of _____

Sworn to and subscribed before me this, the _____ day of _____ 2017 by

(Print Participant Name)

My Commission Expires: _____

Notary Public Signature _____

(Stamp is REQUIRED)

Participant, please do not mark below this line, except to initial page 5 that you have seen it:

(The remainder of this page has been intentionally left blank)

Participant's Initials: _____

Marshall University Approval:

President or His Designee
Marshall University

Date

State of _____

County of _____

Sworn to and subscribed before me this, the _____ day of _____ 2017 by

_____.

My Commission Expires: _____

Notary Public Signature _____

(Stamp is REQUIRED)

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Participant's Initials: _____