Faculty/Classified Employee Severance Plan

INTRODUCTION

The Faculty/Classified Employee Severance Plan has been designed to help meet continuing programmatic needs and circumstances, while providing an opportunity for eligible faculty/classified employee members to participate in the Plan during a specified, finite period.

Authority for such plans resides in West Virginia State Code § 18B-1-1d.

Participation in the Plan is totally voluntary, and no eligible faculty/classified employee member shall be required to participate or discriminated against in any way or by any means if s/he elects not to participate in the Plan. The severance payment does not imply an employment relationship between the University and the severed faculty/classified employee member; to participate, an employee must resign or retire.

The entire cost of the Plan shall be borne by Marshall University.

SECTION 1—DEFINITIONS

1.1. **"Plan"** shall mean the Marshall University Faculty/Classified Employee Severance Plan as described in the document.

1.2. **"Participant"** shall be any full-time Faculty/Classified Employee Member, as defined herein, entering into the Plan.

1.3. **"Eligible Participants"** shall be those faculty and classified employees as defined in Section 2 following.

1.4. **"Faculty/Classified Employee Member"** shall mean as follows:

a. **Faculty Member** shall be those employees who hold full-time "Tenured", "Tenure-Track, or Librarian-Track faculty appointments as defined in W. Va. C.S.R. 133-9-3.2, at Marshall University, with the exception of those employees who are employed as faculty with the Joan C. Edwards School of Medicine

b. **Classified Employee Member** shall be Full-Time Regular Employees with a 1.00 FTE position and whose job is covered by the Higher Education Classification program.

1.5. **"Intention to Enter Plan Period"** shall mean the period from November 1, 2016 through January 30, 2017, as designated by the President or his designee, during which eligible Faculty or Classified Employee Members may submit an Intention to Enter Plan form, which is binding only insofar as the employee has 30 calendar days from the date of signing to revoke the agreement in writing. Immediately following this period is the Election Window Period (see Section 1.6) during which the employee is to sign the Participation Contract. After the expiration of the Intention to Enter Plan period, there will be no further elections accepted and no retroactive considerations.

1.6. **"Election Window Period"** shall mean the 45 calendar day period following the Intention to Enter Plan Period, as designated by the President or his designee, during which eligible faculty or staff may sign a participation contract as defined in Section 1.10. After the expiration of the Election Window Period, there will be no further elections accepted and no retroactive considerations.

1.7. **"Lump Sum Payment"** shall be the equivalent of 50% of the employee's Base Salary at the time of the Participant's Plan entry date.

1.8. **"Plan Entry Date"** shall mean any date from May 17, 2017 – August 16, 2017, as established by the President or his designee (depending upon timely receipt of all necessary approvals of the Plan), the date upon which the faculty/classified employee member enters into the severance benefit Plan, unless a subsequent date is approved for an individual by the President or his designee, who retains the discretion to delay individual Plan Entry Dates.

1.9. **"Years of Service"** shall mean uninterrupted Marshall University service during which the faculty/classified employee member was benefits-eligible and actually and actively contributing into an Eligible Retirement Plan. Unpaid leaves of absences are not included as eligible service time.

1.10. **"Participant Contract"** shall mean the written contract signed by the faculty/classified employee member during the "Election Window Period," accepting all of the terms, conditions and limitations contained in the Plan, including the provisions that his/her election to enter the Plan is irrevocable after ten (10) calendar days from the Participant's signed execution date of the Participant Contract; and that the participant waives certain rights of re-employment with the University as stated in Section 5.3.

1.11. **"Base Salary"** shall mean the fiscal year contract salary in effect the day immediately preceding the faculty/classified employee member's Plan entry date. The base salary excludes additional pay associated with administrative duties, summer supplements and overloads, awards, research incentives, externally funded supplements, other one-time supplements, overtime and annual increment payments. Severance payments do not imply an employment relationship between the University and the severed faculty/classified employee member.

1.12. **"Severance Plan Payment"** is the Lump Sum Payment made to the Plan Participant at the time they enter the Plan.

1.13. **"Eligible Retirement Plan"** one of the retirement plans either, Teachers Insurance and Annuity Association, (TIAA), or Empower Retirement Services, available at Marshall University.

SECTION 2—ELIGIBILITY TO APPLY FOR PARTICIPATION

2.1. The University intends to offer the Plan to eligible employees with the criteria of sound fiscal management of the University, utilization of instructional resources and impact on the instructional mission of the institution. The University may exercise the right to limit the number of people participating in the Plan, depending upon interest in it. Participation will be based on seniority. Nothing in this Section shall obligate the University to offer the Plan to any employee outside of or who does not meet the eligibility criteria. Employees must terminate their employment with the University to participate in the Plan, either by resignation or by retirement.

2.2. Each Faculty or Classified Employee Member, as defined in Section 1.4, shall be eligible to apply for participation in the Plan if on or before his/her selected Plan entry date s/he meets the following criteria:

a. At least sixty-five (65) year of age on the Plan Entry Date,
b. Completed ten (10) Years Of Service at Marshall University, and
c. Participated in an Eligible Retirement Plan.

2.3. The Human Resources Office shall serve as the administrator of the Plan to disseminate information about the Plan, to determine faculty/classified employee eligibility and to bring eligible employees' applications to the President or his designee for consideration; and to coordinate communications and processing of approvals.

2.4. Eligible employees with accrued sick leave or service credit may be able to use that time/credit to pay for PEIA health insurance premiums as determined by PEIA. The employee must be eligible for retirement, officially retire, and have such accrued leave/service credit on balance and available.

2.5. An employee's participation in the Plan does not prevent or preclude the employee from applying for or using those benefits which s/he has accrued and/or is entitled to (retirement, Social Security, service/sick leave credits to pay health insurance premiums, e.g.), so long as the employee meets the eligibility requirements to use or access those benefits.

2.6. Employees separated for disciplinary reasons, terminated for cause, or whose death occurs prior to entering the plan are not eligible to participate in the plan.

2.7. In some cases, faculty/classified employee members may not be eligible to participate in the plan if the source of funds for his or her appointment salary is more than 25% from an outside source or any other reimbursable source.

SECTION 3—ACCEPTANCE/APPROVAL BY THE PRESIDENT OR HIS DESIGNEE

3.1. Upon proof of eligibility, the applicant's request for acceptance into the Plan shall be presented to Human Resources for consideration by the President or his designee.

3.2. If the President or his designee finds that acceptance of an applicant into the Plan would impede programmatic changes compelling the offering of the Plan, he may, at his discretion, reject an applicant's request for admission into the Plan if he determines that the denial is in the best interests of the institution.

3.3. Approval by the President or his designee occurs when the President or his designee signs the requesting employee's completed Participation Agreement and returns it to Human Resources for further recording and processing. Nothing in this Plan shall be interpreted as vesting any right or entitlement to participation in the Plan until such acceptance and approval by the President or his designee.

3.4. The Institution reserves the right to set a limit on the number of faculty/classified employee who are approved to participate in the Plan. The President or his designee, in his sole discretion, determines the eligible interested employees who may participate. If the entry of certain eligible employees into the Plan would cause undue disruption to the operational needs of the University, the President or his designee may restrict participation in the Plan to a defined number of employees or to certain job statuses of departments or employees only; and in any other way that s/he deems necessary s/he shall maintain the operational needs of the University.

SECTION 4—PLAN ENTRY DATE

4.1. The Plan Entry Date for a faculty/classified employee member meeting the eligibility requirements shall be between May 17, 2017 – August 16, 2017, at the President or his designee's discretion, the date is dependent upon all appropriate and required approvals. The faculty/classified employee member must be actively employed on a fulltime basis up until his/her Plan Entry Date (which includes, but is not limited to, all types of paid employment such as annual or sick leave, but not unpaid leaves such as personal leave without pay,.) The employee must resign or retire to be enrolled in the Plan. Faculty employees paid over 12 months for 9, 10 or 11 month appointments will have the balance of their escrowed benefits, such as health care premiums, paid out to them upon their termination. All approved Participants will need to have made their own health care plan and/or Medicare arrangements to begin effective upon their Plan Entry Dates.

4.2. Entry into the Plan may take effect no earlier than May 17, 2017, and no later than August 16, 2017.

4.3. A participation contract must be signed by the employee and submitted to the appropriate administrator during the "Election Window Period." The President or his designee's approval may then occur as indicated in Section 3. Ten (10) working days after s/he submits the signed participation contract to the appropriate administrator, the eligible faculty/classified employee member's election to enter the Plan will be irrevocable and final except as provided by Section 11.2.

SECTION 5—FORM, DURATION AND AMOUNT OF FACULTY/CLASSIFIED EMPLOYEE SEVERANCE PLAN PAYMENT

5.1. In condiderarion for entering into the Plan, each Participant will be paid ahe Lump Sum Payment as defined in 1.7via the appropriate payroll system upon Entry into the Plan. This payment will not be eligible for a retirement deduction or employer match.

5.2. A Participant's Severance Plan payment will not be reduced or offset due to a receipt of any other incomes, pensions, annuities, Social Security benefits or other payments from any source. The University, however, offers no opinion or guidance on whether an employee's eligibility for other benefits, pensions or annuities may be affected by participation in the Plan. The employee is responsible for seeking this guidance.

5.3. Per § 18B-1-1d(f) , a participant in the Plan "…shall be ineligible for reemployment by the institutions during or after the negotiated period of his or her incentive concludes, including contract employment in excess of five thousand dollars per fiscal year."

SECTION 6—OTHER PROGRAMS/PRIVILEGES

6.1. Participants are eligible for the same programs/privileges made available to retirees.

SECTION 7—VESTING IN SEVERANCE PLAN

7.1. A Participant shall become fully vested in the Severance Plan at 12:01 a.m. on the last day prior to his/her Plan entry date.

SECTION 8—ADMINISTRATION OF SEVERANCE PLAN

8.1. The Plan shall be administered by the institution.
8.2. Final decisions on faculty/classified employee applicant approvals shall be made solely by the President or his designee, who has delegated communications, coordination and administration of the Plan to the Human Resources Office and the SVP of Finance.

SECTION 9—FUNDING

9.1. All faculty/classified employee Severance Plan payments shall be made by the institution in accordance with Plan provisions.

SECTION 10—AMENDMENTS/CHANGES

10.1. The Plan may be amended from time to time during its implementation and payout periods; provided, however, that no such amendment, alteration or revision shall affect rights already vested in accordance with the terms of this Plan.

SECTION 11—GOVERNING LAW

11.1. The Plan shall be governed by the laws of the State of West Virginia and the United States of America.
11.2. If any provision of this Plan is determined to be unlawful, that provision shall be severed and the remainder of the Plan shall continue in force; provided, however, the total value of all benefits to the Participant will not be reduced in any case. If such changes occur prior to the Participant's entry date, the Participant may, at his/her discretion, choose to revoke his/her participation contract without prejudice.

SECTION 12—TAX CONSEQUENCES

12.1. For purposes of withholding and reporting taxes, the institution will treat severance payment as wages, paid through State payroll. They will be reported on form W-2 and will be subject to withholding of federal and state income taxes and FICA (Social Security) and Medicare taxes.

12.2. As the institution does not give tax or financial advice, it is recommended that each faculty/classified employee member who is considering participating in the Plan discuss the consequences of participation with his/her tax advisor, legal counsel and/or financial planner/advisor. In particular, any faculty/classified employee member who is eligible for Social Security benefits should discuss with his/her advisor at his/her local Social Security Office whether payments under this program are counted as earnings which could affect the payment of Social Security benefits to the Participant.

12.3. The employee will be responsible for any and all tax consequences that result from their entrance into the Plan.

SECTION 13—REPORTING

Marshall University will report on a quarterly basis to the West Virginia Higher Education Policy Commission (HEPC) and the Joint Legislative Committee on Pensions and Retirement the results of the implementation of the Severance Plan. At a minimum, the following will be provided to HEPC:

a. A listing of the faculty and staff Participants in the Plan, including their base salaries.
b. The severance payment attributed to each of the participating positions/incumbents.
c. The Plan implementation date for each of the Participants.
d. Replacement status, and cost where applicable, for each of the positions.