

THE UNIVERSITY OF AKRON

RESOLUTION 3-1-19

**Pertaining to Approval and Implementation of Voluntary Separation or Retirement Program
("VSRP")**

WHEREAS, The University of Akron (the "University") has implemented a number of cost reduction initiatives over the past several years and continues to pursue ways to control costs and make investments; and

WHEREAS, many institutions of higher education seek to save money, while at the same time strategically investing in specific academic programs, by offering separation or retirement incentives to certain current faculty members; and

WHEREAS, the VSRP will provide eligible full-time faculty members with additional incentives upon separation from service with the University, and provide the University with greater flexibility to respond to current budgetary priorities and to continue to move forward with implementing strategic initiatives; and

WHEREAS, the provisions of the VSRP have been reduced to writing in the VSRP Plan Document. Now, Therefore,

BE IT RESOLVED, that Effective March 18, 2019, the VSRP Plan Document is hereby adopted in the form substantially similar to the form attached hereto as Exhibit A; and

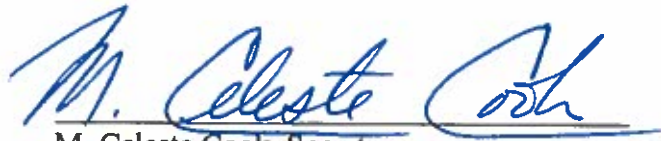
BE IT FURTHER RESOLVED, that the Administration, in carrying out this Resolution, is hereby authorized to execute the VSRP Plan Document and any other instruments, documents or conveyances necessary to effectuate and implement the same; and

BE IT FURTHER RESOLVED, that the Administration, in carrying out this Resolution, is hereby authorized to take any actions necessary to effectuate the VSRP and any acts of the Administration in effectuating the VSRP or in carrying out the terms or conditions of this Resolution are hereby ratified, approved and confirmed; and

BE IT FURTHER RESOLVED, that the Board affirms the extension of the special educational privileges through reduction of fees as authorized in University Rule 3359-20-04.3 and the Collective Bargaining Agreement between the University and the American Association of University Professors, The University of Akron Chapter, to all of the employees who participate in the VSRP and their dependents for a period through May, 2025, so long as the student meets the applicable eligibility requirements; and

BE IT FURTHER RESOLVED, that employees who retire under the VSRP shall be entitled to Retiree Benefits, and the opportunity to seek the title of emeritus faculty, consistent with Article 7, Section 8 and Article 21, respectively, of the Collective Bargaining Agreement; and

BE IT FURTHER RESOLVED, that the Board finds and determines that all formal actions of the Board relating to the enactment of this Resolution were taken in an open meeting of the Board, and that all deliberations of the Board and any of its committees that resulted in those formal actions were in meetings open to the public in compliance with all legal requirements, including ORC Section 121.22.



M. Celeste Cook, Secretary
Board of Trustees



EXHIBIT A

**THE UNIVERSITY OF AKRON
2019 VOLUNTARY SEPARATION OR RETIREMENT PROGRAM**

EXHIBIT A

INTRODUCTION

This Voluntary Separation or Retirement Program (“Program”) document reflects the intent of The University of Akron (the “University”) to offer a program to its Eligible Employees under which a qualifying employee, in consideration for voluntary separation from service under the terms provided herein, may receive payments or other incentives.

Under the Program, the University promises to pay the benefits described herein to, or on behalf of an Eligible Employee (defined herein) who agrees to separate from service with the University on May 31, 2020 and fulfills his or her contractual obligations as set forth in the Separation Agreement and Release Form signed by the Eligible Employee. Failure to fulfill contractual obligations set forth in the Separation Agreement and Release Form will result in forfeiture of benefits under the Program. Disability or death is not considered a lack of fulfillment of contractual benefits and does not preclude the Employee or beneficiary from receiving benefits under the Program.

This Program is not itself a retirement plan and is not intended to provide retirement income. This Program is intended to qualify as a severance pay plan as defined under Code Section 457(e)(11) and as a “window program” under Code Section 409A and Treasury Regulation Section 1.457-11(d)(3). It does not replace or alter the retirement plans sponsored by the University. Thus, an election to separate from service with the University and to receive payments under this Program will not change benefits provided under a University retirement plan which an electing Eligible Employee may be eligible to receive.

EXHIBIT A

1. Definitions

The following words and phrases, when capitalized, shall have the following meaning unless a different meaning is clearly implied by the context:

- (a) “Base Rate of Pay” means annual base rate of pay for the 2019-2020 academic year. Stipends, overload, summer, temporary adjunct assignment pay, one-time payments, or any other similar payment not included in an employee’s normal base rate of pay are not included.
- (b) “Cause” means the following: (i) conviction of a felony or any other crime involving dishonesty; (ii) commitment of an act of fraud; (iii) any conduct of the Eligible Employee that constitutes moral turpitude, or that would tend to bring public disrespect, contempt, or ridicule upon the University; and (iv) a material violation by the Eligible Employee of any law, rule, regulation, constitutional provision or by-law of the University, or local, state, or federal law, which reflects adversely upon the University.
- (c) “Code” means the Internal Revenue Code of 1986, as amended, and the regulations and guidance thereunder.
- (d) “Election Form” means the form the Eligible Employee submits to the University to indicate agreement to participate in the Program.
- (e) “Eligible Employee” means a full-time permanent (non-visiting) faculty member who is not in a Strategic Investment Area of the University.

Notwithstanding any provision to the contrary herein, Eligible Employee does not include: (i) persons who separated from service from the University prior to March 18, 2019; (ii) part-time, temporary, on-call employees; special contract employees; (iii) any employees who have previously agreed to a buy-out offer, including the 2018 VRIP; (iv) employees participating in the Transition After Retirement Program (“TARP”); (v) an employee who has received notice of separation from service prior to March 18, 2019, including notification of a nonrenewal of an employment agreement; (vi) employees with individual employment contracts; or (vii) any employees who entered into a written agreement to separate from service from the University with a tendered separation or retirement date, where such agreement was entered into on or prior to the beginning of the Window Period.

Classification as “Eligible Employee” shall be determined by the University in its sole discretion.

- (f) “Exit Date” means the date of an Eligible Employee’s separation of service from the University, which shall be May 31, 2020 subject to extension terms as detailed in Section 3.
- (g) “Separation Agreement and Release Form” means the agreement signed by the Eligible Employee accepting the contractual obligations of participation in the Program.
- (h) “Separation Payment” means the payment described in Section 4(a) of this Program.
- (i) “Strategic Investment Areas” means those academic programs identified by the University which are listed in Attachment 1. The Strategic Investment Areas shall be determined by the University in its sole discretion.
- (j) “University” means The University of Akron.

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(k) "Window Period" means the period in which an Eligible Employee may make an election to participate in this Program, as defined in Section 5 of this Program.

2. Eligibility

An Eligible Employee, as defined in Section 1 of the Program, may make an election to participate in this Program during the Window Period.

3. Date of Separation

To participate in the Program, an Eligible Employee must agree to separate from service with the University. Eligible Employees who elect to participate in the Program must have an Exit Date on May 31, 2020.

Following the Eligible Employee's Exit Date, the Eligible Employee is free to accept full or part-time employment with any other employer; provided, however, the Eligible Employee electing to participate in the Program waives any right to rehire or reinstatement with the University. Any future employment of the Eligible Employee with the University will be at the sole discretion of the University. The Eligible Employee must continue to fulfill all duties and expectations of his/her employment during the time period between when he/she elects to participate in the Program and the Exit Date.

4. Program Benefits

Eligible Employees who make an election to separate from service on May 31, 2020, shall receive the following benefits under the Program:

- (a) Financial Compensation. A payment equal to 100% of the Eligible Employee's Base Rate of Pay paid in two equal installments. The first installment shall be equal to 50% the Eligible Employee's Base Rate of Pay and shall be paid in cash during July 2020. The second installment shall be equal to the remaining 50% of the Eligible Employee's Base Rate of Pay and shall be paid in cash during January 2021.
- (b) Education Benefits.
 - i. Separating Eligible Employees and their dependents are eligible to receive education benefits through May 2025 as follows: (1) Separated employees are eligible to receive unlimited credit hours/classes at no cost; (2) Dependents of separated employees are eligible to receive unlimited credit hours/classes at no tuition cost, **but must pay any applicable fees.**
 - ii. Retiring Eligible Employees and their dependents are eligible to receive the standard education benefits, which are provided in the University Board Rule or the Collective Bargaining Agreement between the University and the Akron Chapter of the American Association of University Professors.
 - iii. The education benefits are only available to separating Eligible Employees and their dependents if the education benefits are not considered taxable to the Eligible Employees under the Code.
 - iv. For purposes of this 4(b), the term "dependent" means an Eligible Employee's spouse and individuals considered dependents under current University Rules applicable to faculty and dependency test(s) set forth in Code section 132(h).

Participation in and receipt of any and all other retirement plans and benefits offered to an Eligible Employee shall remain unchanged.

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5. Election

An Eligible Employee meeting the eligibility requirements of Section 2 may participate in this Program by making an election to do so. The election to participate in the Program is subject to the following terms and conditions.

- (a) The election is completely voluntary.
- (b) The election period shall be at least 45 calendar days and, unless determined otherwise by the University in order to provide for proper communication of the Program, shall begin as of April 1, 2019 and close on May 31, 2019 ("Window Period"). All Election Forms and Separation Agreement and Release Form must be delivered in person or postmarked via registered mail to the University's Office of Human Resources by May 31, 2019.
- (c) An election is deemed made upon receipt by the University's Office of Human Resources of a complete and signed copy of the Election Form and Separation Agreement and Release Form, provided that such election is timely made pursuant to Subsection (b) of this Section 5.
- (d) Except as provided in Subsections (e) and (f) of this Section 5, once made, the election cannot be withdrawn or modified by the Eligible Employee or the University.
- (e) The Eligible Employee shall have seven (7) calendar days from the date he or she postmarks or hand delivers the Election Form to revoke the Eligible Employee's decision to participate in the Program (the "Revocation Period"). A decision to revoke an Eligible Employee's election to participate in the Program must be made in writing to the University's Office of Human Resources and delivered in person or via registered mail to the University's Office of Human Resources no later than the last day of the Revocation Period.
- (f) An Eligible Employee who fails to submit an Election Form or a Separation Agreement and Release Form within the Window Period shall be considered to have elected not to participate in the Program.

Notwithstanding anything herein to the contrary, the Eligible Employee's election to participate in the Program shall not create any contract entitling the Eligible Employee to work through the specified Exit Date, and the University continues to reserve the right to terminate or lay-off an Eligible Employee in accordance with applicable law and, for bargaining unit faculty members, in accordance with the Collective Bargaining Agreement between The University of Akron and the American Association of University Professors ("AAUP"). However, if an Eligible Employee who has elected to participate in the Program should be laid-off or otherwise terminated without Cause, he or she shall receive the same Program benefits that would have applied had he or she continued to work (or continued on approved leave) until the agreed to Exit Date under the Program.

The Election Form and Separation and Release Agreement Form will be provided to each Eligible Employee.

6. Effect of Program Election

This Program is not intended to provide retirement income, nor does it replace or alter the retirement plans sponsored by the University. The election to end employment with the University and to receive payments under this Program will not change benefits provided under the University retirement plans that an electing Eligible Employee may otherwise be eligible to receive.

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7. Death or Disability

If the Eligible Employee has filed a written election to participate in the Program and dies before receiving all benefits under Section 4 of the Program, those payments shall be made as follows:

- (a) Any unpaid Financial Compensation shall be made directly to the beneficiary named on the Eligible Employee's University-provided life insurance benefit on the same schedule that would have applied had the Eligible Employee survived under Section 4(a) of the Program.
- (b) The Education Benefits for employees' dependents will continue, consistent with the terms and conditions of Section 4(b) of the Program.

The University may condition payment pursuant to this Section upon proper proof or documentation submitted to and accepted by the University establishing the beneficiary's identity or legal entitlement to be paid.

If the Eligible Employee has filed a written election to participate in the Program and becomes disabled (so that in the opinion of a physician, acceptable to the University, the Eligible Employee will be unable to return to full-time work prior to the agreed Exit Date) then the Eligible Employee shall receive Program benefits on the same schedule that would have applied had he or she continued to work (or continued on approved leave) until the agreed Exit Date under the Program. An Eligible Employee who becomes disabled after filing an election to participate in the Program will not be able to revoke that election after the close of the Window Period and the Revocation Period have passed.

8. Divorce

Eligible Employees shall not have the right to assign, transfer, pledge, or otherwise convey the right to receive any amount or payments which may become due under this Program. Any such attempted assignment, transfer, pledge, or other conveyance shall not be recognized by the University.

9. Additional Conditions

As a condition of participation in the Program, and in consideration of benefits to be received under the Program, an Eligible Employee shall be required to sign a Separation Agreement and Release Form which waives all future employment rights and property rights, all entitlement to future wage and benefit increases, and all rights to participate in any University-sponsored benefit Plans (other than the right to payments under this Program and the right to purchase continuation of health care coverage as is required under applicable federal law). The University and/or Board of Trustees reserve the right to offer or not offer similar Programs in the future, without obligation to those electing this Program.

An Eligible Employee who wishes to elect to participate in the Program shall be required to execute and to deliver to the University's Office of Human Resources all of the required documents before the end of the Window Period. Documents will be considered delivered to the University's Office of Human Resources if they are delivered in person or sent via registered mail and postmarked before the end of the Window Period.

10. Amendment or Termination of Program

The University, at its discretion, may amend or terminate this Program, provided that such amendment or termination shall not change any rights or interests of any Eligible Employee who has made an election under it prior to such amendment or termination.

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11. Code Sections 457 and 409A

This Program is intended to qualify as a severance pay plan under Code Section 457(e)(11) and a “window program” under Code Section 409A so as to not constitute deferred compensation under Code Sections 409A, 457(b), and 457(f). In no event may the University or an Eligible Employee accelerate or delay payment or the Exit Date in a manner inconsistent with this intent. The Program shall be interpreted and administered in a manner consistent with this intent. Amounts payable under this Program upon retirement, termination, or any similar term shall be payable only when the Eligible Employee incurs a “separation from service” as defined under Code Section 409A. Each payment of benefits under this Program is intended to constitute separate payments for purposes of Code Section 409A.

EXHIBIT A

Attachment 1

List of Strategic Investment Areas

Buchtel College of Arts & Science

- Chemistry
- Communication
- Computer Science
- Criminal Justice Studies
- Dance, Theatre & Arts Admin
- Music

College of Applied Science & Technology

- Business & Info Technology (Computer Information Systems)
- Disaster Science & Emergency Services
- Engineering & Science Tech (Engineering Technology)

College of Business Administration

- Accountancy
- Finance
- Management
- Marketing

College of Engineering

- All Departments

College of Health Professions

- Nursing
- Speech-Lang Path & Audiology

College of Polymer Science & Engineering

- All Departments

School of Law

- All Departments