HRCR 1

Office of the President
June 8, 2010

Members, Board of Trustees:

PROPOSED REVISION TO ADMINISTRATIVE REGULATION: UNIVERSITY OF KENTUCKY RETIREMENT PLAN

Recommendation: that the Board of Trustees approve changes to the University of Kentucky Administrative Regulation (AR) 3:1, University of Kentucky Retirement Plan. Changes to this AR include elimination of the old "Group I, II, and III" personnel language, which is no longer relevant to any current employees, and further clarification of procedures for contributions for employees on leave. These changes will also reduce the AR to the "basic" tenets for the retirement plan by removing items that are now included in the official "plan documents" for each retirement plan and that are governed by the plan carriers and federal law.

Background: The University retirement plan has been defined in AR 3:1 and has been updated at least annually to reflect changes in Internal Revenue Code (IRC) regulations and other minor plan modifications (e.g. retirement plan loans) that are normally documented in "plan documents." Now that the law has changed, each retirement plan has a separate plan document; thus, the AR can be edited to reflect the higher-level tenets of the plans, which will not require continuous AR approval. The only substantive change in this revision is the inclusion of language which permits employees on scholarly leave to make-up retirement contributions and receive the university match when they return from leave. All other changes are in structure or form to reflect the current practice and administration of the retirement benefits.

Notable revisions include:

- Section II.A.1 and 2. Groups I, II, and III are being consolidated and the terms are being dropped since contributions are the same for all employees who are not on Civil Service retirement plans. The College of Agriculture has a number of employees who participate in federal retirement plans (Civil Service Retirement System (CSRS) or the Federal Employee Retirement System (FERS)).
- Section III.A consolidates the contributions for all eligible employees (former Groups I, II, III, and IV).
- Section III.B is existing language in the AR; it is being moved into this section.
- Section III.D describes how employees over a certain salary move from one plan to another as they reach IRC plan limits under each plan. This is not a change, but it was previously not described in the AR.

- Section X adds “Scholarly Fellowship Leave” to the current language for Uniformed Services Leave. Employees with these leave statuses will be allowed to make-up contributions and receive the university match when they return from leave.
- Section XI further clarifies the re-employment of faculty and staff after retirement.

The revision to the Retirement Plan has been reviewed and endorsed by the Senate Council. The provost of the University supports this recommendation. A revised copy of AR 3:1 is attached. Proposed additions are underlined; proposed deletions are lined through.

Action taken: ☑ Approved ❑ Disapproved ❑ Other ________________

UNIVERSITY OF KENTUCKY **ADMINISTRATIVE REGULATIONS**	IDENTIFICATION AR 3:1		PAGE 1
	DATE EFFECTIVE 6/8/10~~1/22/08~~	SUPERSEDES REGULATION DATED 8/21/90, 6/16/92, 12/12/95, 6/11/96, 3/4/97, 7/1/98, 9/19/00, 8/13/02, 3/1/03, 1/27/04, 9/21/04, 10/10/06, 6/12/07, 12/11/07, 1/22/08	

UNIVERSITY OF KENTUCKY RETIREMENT PLANS
(Approved by the Board of Trustees)

I. Introduction

It is the Board's intention that University employees be given a wide range of investment options during the years in which contributions are being made on the employees' behalf as well as multiple withdrawal options at the time of retirement. The policies governing the University of Kentucky Retirement Plan are set forth in this administrative regulation and in the respective plan documents. The ~~University of Kentucky~~ Board of Trustees has authorized two retirement plan carriers (hereafter "carriers") to provide retirement plan administrative services for University of Kentucky employees: Teachers Insurance and Annuity Association/College Retirement Equities Fund (TIAA-CREF) and Fidelity Investment Tax-Exempt Services Company (Fidelity). ~~Additionally, American Century Investors, Inc. (American Century) funds shall be provided through Fidelity's administrative platform. It is the Board's intention that University employees be given a wide range of investment options during the years in which contributions are being made on the employees' behalf as well as a wide range of withdrawal options at the time of retirement. The term "retirement plan carrier," as used throughout this administrative regulation, includes both TIAA-CREF and Fidelity and~~These carriers may be modified from time to time by the Board of Trustees pursuant to section XI herein.

The University shall have plan documents for each retirement plan as required by law. In the event that language in this regulation and the plan document conflict as a result of changes in state or federal law, the plan document shall govern.

The policies governing insurance benefits for University retirees are a part of the *Human Resources Policy and Procedure Administrative Regulations* (HRP&P) and are found in Numbers 91.0, 93.0, and 94.0. Information on ~~these~~ insurance programs is not included in this administrative regulation.

II. Retirement Groups

A. Eligibility

1. University Participants ~~1. Group I Personne~~

Eligibility ~~of personnel~~ to participate in the University retirement plan ~~for classification in Group I~~ is conditioned upon:

(a) regular full-time employment, as defined by HRP&P #4.0, with the University or, upon approval of the Board of Trustees, with an agency for which the University serves as fiscal and payroll agent;

~~(b) employment in a faculty position or a position otherwise specifically approved for Group I by the President; and,~~

(b~~c~~) ~~occupation of~~ employment in a position not covered by the United States Civil Service Retirement System (CSRS)~~Plan~~ or the Federal Employees Retirement System (FERS).

~~2. Group II Personnel~~

~~Eligibility of personnel for classification in Group II is conditioned upon:~~

~~(a) regular full-time employment with the University or, upon approval of the Board of Trustees, with an agency for which the University serves as fiscal and payroll agent;~~

~~(b) employment in a position classified as technical and scientific staff, office and clerical staff, or service and maintenance staff; and,~~

~~(c) occupation of a position not covered by the United States Civil Service Retirement Plan.~~

~~3. Group III Personnel~~

~~Eligibility of personnel for classification in Group III is conditioned upon:~~

~~(a) regular full-time employment with the University or, upon approval of the Board of Trustees, with an agency for which the University serves as fiscal and payroll agent;~~

~~(b) employment in a position classified as administrative staff, managerial specialist staff, or professional staff;~~

~~(c) occupation of a position not covered by the United States Civil Service Retirement Plan or the Federal Employees Retirement System; and,~~

~~(d) approval by the President or his delegate.~~

2. Civil Service Retirement System (CSRS) Participants~~Group IV Personnel~~

Eligibility of personnel to participate in the University retirement plan is conditioned upon: ~~Eligibility of personnel for classification in Group IV is conditioned upon:~~

(a) regular full-time employment with the University;

(b) occupation of a position covered by CSRS~~the United States Civil Service Retirement Plan~~; and,

(c) eligibility rights under CSRS~~the United States Civil Service Retirement Plan~~.

3~~5~~. Federal Employees Retirement System (FERS) Participants ~~Group V Personnel~~

Eligibility of personnel to participate in the University retirement plan is conditioned upon: ~~Eligibility of personnel for classification in Group V is conditioned upon:~~

(a) regular full-time employment with the University;

(b) occupation of~~in~~ a position covered by ~~the Federal Employees Retirement System (~~FERS~~) Act~~; and,

(c) participation rights under the FERS retirement plan.

B. Participation Requirements

~~1. Mandatory Participation~~

Participation ~~of Groups I, II and III personnel~~ is mandatory upon attainment of age 30, unless the position is eligible for CSRP or FERS. Participation in the University retirement plan for employees eligible for CSRP or FERS is voluntary.

Participation is voluntary for all eligible participants in the University retirement plan prior to age 30. An employee who enrolls under the voluntary provisions of this policy shall make an irrevocable, one-time salary reduction agreement when entering the plan; that employee may not withdraw from the University's retirement plan as long as that employee remains eligible for plan participation.

~~2. Voluntary Participation~~

~~Participation of Groups IV and V personnel is voluntary. An employee who enrolls under the voluntary provisions of this policy shall make an irrevocable, one-time salary reduction agreement when entering the plan; that employee may not withdraw from the University's retirement plan as long as that employee remains eligible for plan participation.~~

III. Contributions and Vesting

A. Contribution Schedule

~~A. Groups I, II, III and IV~~

~~Notwithstanding any provision to the contrary contained herein, all Groups I, II, III and IV personnel~~ Individuals who have satisfied the age and service requirements for mandatory participation shall be required to contribute on a salary reduction (pre-tax) basis all ~~contributions which are required to be made by the participant according to the applicable contributions schedule~~contributions that are required to be made by the participant according to the applicable contributions schedule contained herein. ~~; provided; however, that t~~This provision shall not apply to any participant who prior to December 22, 1986, was making contributions on a salary deduction (after-tax) basis.

Contributions toward retirement benefits ~~for participating Group I, II, III and IV personnel, from FY 1997-98 forward,~~ shall be made in accordance with the following schedule:

Contributions as a Percent of Basic Annual Salary

1~~A~~. All eligible participants other than FERS:

By the Participant	By the Institution	Total

5%	10%	15%

2~~B~~. ~~Group V~~ FERS Participants:

~~Contributions to the retirement plan shall be made in accordance with the following schedule:~~

~~**Contributions as a Percent of Basic Annual Salary**~~

By the Participant	By the Institution	Total
1%	2%	3%

B. Contribution for Faculty for Interim Assignment

In addition to contributions based on basic annual salary, contributions also shall be applied on compensation paid to faculty employees~~members~~ for service during an interim between regular assignment periods, provided the faculty ~~members~~ are employed full-time by the University for at least one full month of continuous service in the interim, on a basis other than a fee schedule, without reduction in rate of earned salary per month as described in Administrative Regulation AR 3:6. An interim between regular assignment periods for a faculty member on a regular nine-month, ten-month, or eleven-month assignment basis is defined in AR 3:6.

C. University Contribution for Executives

Annual contributions to the Retirement Plan may be made on behalf of certain executives as identified and approved by the President, in an amount equal to the aggregate of employee and University contributions otherwise provided herein for ~~Group I~~ employees identified in section III.A.

D. Plans for Excess ~~Retirement Plan~~Limits or Contributions

Employees who reach the Internal Revenue Code (IRC) 403(b) Plan compensation and contribution limits (employee and employer contributions) each year shall participate in the IRC 401(a) Plan. Employees who reach the IRC 401(a) Plan compensation and contribution limits (employee and employer contributions) each year shall participate in the IRC Supplemental 403(b) Plan and/or IRC 415(m) Plan.

In addition to the regular contributions referenced herein, excess contributions to the IRC Supplemental 403(b) ~~p~~Plan and/or the IRC 415(m) may be made to provide retention incentives to certain University employees. ~~The Excess Retirement Plan document defines eligibility, contributions, and vesting and provides other information related to the plan.~~

E. Vesting

1. For employees who commenced employment with the University before Jan 1, 2010, retirement benefits purchased with the combined employee and University contributions shall become the property of individual participants immediately upon purchase. The employee is 100% vested.

2. For employees who commence employment with the University after December 31, 2009, retirement benefits purchased by the employee with employee contributions shall become the property of individual participants immediately. Retirement benefits purchased with the employer contributions shall become the property of the employee after the employee has completed five years of regular full-time service with the University.

3. After December 31, 2009, Retirement Plan participants who become employees of the University as the result of an acquisition of a company or institution shall receive service credit towards vesting in the University's retirement plans based on the employee's length of service with the acquired employer.

4. All benefits are primarily for the purpose of providing retirement and death benefits.

IV. Omnibus Budget Reconciliation Act of 1993 (OBRA '93) Limits~~Plan Limits (Groups I, II, III, IV and V)~~

A. The University of Kentucky Retirement Plan Year ~~is deemed to~~ begins January 1 of a calendar year and end December 31 of the same calendar year.

~~A~~B. Beginning July 1, 1996, the University shall withhold the contribution of the participant from regular salary payments, add its contribution, and remit the combined sum to the retirement plan carrier(s) selected by the participant for the purchase of retirement benefits.

In addition to other applicable limitations stated in the plan, and notwithstanding any other provisions of the University's retirement regulations to the contrary, for plan years beginning on or after January 1, 1996, the annual compensation of each employee taken into account under the plan shall not exceed the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) annual maximum includable compensation limit. The OBRA '93 annual limit is adjusted by the Commissioner of the Internal Revenue Service (IRS) for increases in the cost of living in accordance with section 401(a)(17)(B) of the IRC~~nternal Revenue Code (Code)~~. The cost-of-living adjustment in effect for a calendar year applies to any period, beginning in such calendar year over which compensation is determined (determination period); this period may not exceed 12 months.

~~B~~C. For plan years beginning on or after January 1, 1996, any reference in this plan to the limitation under section 401(a)(17) of the IRC~~ode~~ shall mean the OBRA '93 annual maximum includable compensation limit stated in this provision. ~~The University of Kentucky Retirement Plan Year is deemed to begin January 1 of a calendar year and end December 31 of the same calendar year.~~

~~C~~D. Not withstanding the above, employees who became participants in the University's retirement plan before the first day of the plan year beginning on or after January 1, 1996, will not be subject to this annual limit.

V. Contribution and Investment Options

A. ~~1.~~ The participant will direct the portion of the combined retirement contribution that is to be remitted to each carrier, if two or more carriers are selected. The participant also must advise each retirement plan carrier of which investment options have been chosen and, if two or more options are selected with a single carrier, of the part of the retirement contribution that is to be allocated to each option.

B~~2~~. A participant may change the ratio of allocating funds among retirement plan carriers or change options by completing the appropriate documents~~paper work~~. A participant may make ~~C~~changes in the allocationsng of ~~-~~contributions among the plan options by working ~~are accomplished by the participant~~ directly with the retirement plan carrier.

~~D. In addition to contributions based on basic annual salary, contributions also shall be applied on compensation paid to faculty members for service during an interim between regular assignment periods, provided the faculty members are employed full-time by the University for at least one full month of continuous service in the interim, on a basis other than a fee schedule, without reduction in rate of earned salary per month as described in AR II-1.3-2. An interim between regular assignment periods for a faculty member on a regular nine-month, ten-month, or eleven-month assignment basis is defined in AR II-1.1-7.~~

~~E. If by applying the above-stated percentages there would be a violation of federal or state laws, as a result of the employer and employee contributions, then these percentages shall not be applied to the extent of violating applicable laws. In such cases, the amount of the employer contribution that cannot be forwarded to a retirement plan carrier shall be paid to the employee as a temporary salary increase for the balance of the calendar year.~~

VI. Termination of Contributions

~~Beginning January 1, 1988, r~~Retirement plan contributions on behalf of ~~personnel~~ employees shall terminate upon retirement or cessation of regular full-time employment.

VII. Retirement Dates

A. Early Retirement ~~Prior to Age 65~~

Retirement prior to age 65 generally is considered as early retirement. Early retirement is authorized when the combination of the employee's age and years of regular full-time service (with a minimum of 15 years of continuous service at the time of retirement) equals or exceeds the number 75. Regular part-time service will be counted on a pro rata basis. Employees taking advantage of this early retirement must provide written notification through normal administrative channels to ~~their~~ the ~~Provost or appropriate vice president~~appropriate senior administrator at least three months in advance of the desired retirement date. Early retirement may qualify eligible employees to continue participating in the University health plans as defined in HRP&P #93.0 and #94.0. Eligible staff employees may receive a payout of unused temporary disability leave upon early retirement as defined in HRP&P #87.

B. Normal Retirement

The normal retirement date for all employees ~~of the University~~ is hereby established as the ~~end of the university's fiscal year~~date ~~in~~ on which the employee attains age 65.

C. Mandatory Retirement

With the exception of a mandatory retirement date for all law enforcement officers, no mandatory retirement date is applicable to employees of the University of Kentucky. The mandatory retirement date for all University law enforcement officers ~~of the University of Kentucky~~ shall be at the ~~end of the University's fiscal year in~~date on which the employee attains age 70.

D. Disability Retirement

1. Prior to Normal Retirement Date

An employee with an extended period of service to the University may, at the discretion of the President, be permitted to retire prior to age 65, upon the employee's request if same is supported by a statement of a licensed physician certifying that the employee cannot engage in normal employment because of physical or mental disability~~. The benefit level in such a special case shall be related to the period of service and rate of compensation at retirement~~, and shall be conditioned upon continuance of the employee's total disability.

2. Subsequent to Normal Retirement Date

An employee who has elected to continue in employment beyond his or her normal retirement date, as established herein, may be required to retire in the event that the said employee's condition of health becomes such that it prevents the discharge of assigned duties and responsibilities.

VIII. Retirement Benefits

A. Benefits through Retirement Plan Carriers

Each participant is entitled, upon separation of service, at retirement or upon electing participation in the Phased Retirement Program under AR II 3:2 ~~1.6-2~~, to activate any or all retirement benefits that have been acquired under the University of Kentucky Retirement Plan in accordance with procedures and rules established by the retirement plan carriers. In addition to lump sum or partial lump sum provisions, there will be both annuitized and non-annuitized methods of withdrawal. There may be variances in the retirement withdrawal options among the carriers. All retirement plan carriers do not offer the same withdrawal options.

B. Benefits in Case of Death before Retirement

In the event of a University employee's death prior to the commencement of retirement benefits, an income or lump-sum benefit will be paid by the retirement plan carrier to the participant's designated beneficiary or beneficiaries according to policy established by the carrier.

~~VII~~IX. Contributions during Leave of Absence with Pay

A participant on leave with pay shall make the employee contribution and receive the University contribution based on the amount of the salary that is paid through the University payroll. Contributions to a participant's retirement plan shall be made on the actual salary paid through the University payroll, not to exceed the annual salary.

~~I~~X. Contributions during Scholarly Fellowship Leave or ~~under~~ Uniformed Services Leave

A participant on Scholarly Fellowship Leave (*Governing Regulation, Part X*) or Uniformed Services Leave (HRP&P #75) shall have the option to make up the missed employee contributions and receive the corresponding University contributions upon return from the leave. Such contributions shall be based on the employee's base salary at the time of the leave.

~~ability to continue making retirement contributions to the plan. The amount of employee contributions will be made for the entire salary not received while on leave and is eligible for the University match.~~

XI. Employment beyond Retirement

Employees who have elected to retire from University service under any of the provisions hereof shall not be eligible for reemployment except upon the specific prior action of the Board of Trustees granting approval of the appointment or to perform duties for which fee schedules have been approved. The Provost is authorized to establish fee schedules for faculty employees. Human Resources is authorized to establish fee schedules for all other employees (HRP&P #17). ~~or upon the specific prior action of the Board of Trustees granting approval of the appointment.~~ Employees who have elected to retire and who have been reemployed under this provision ~~will be~~are ~~considered~~ temporary employees.

XI. Loans and Hardship Withdrawals

Employees may obtain loans or take hardship withdrawals from their retirement accounts to the extent permitted by the applicable plan document and in conformity with ~~based on~~ the rules established by the IRS. ~~and retirement carrier.~~

~~XII. Excess Retirement Contributions~~

~~Employees who reach the Internal Revenue Code (IRC) 403(b) plan compensation and contribution limits each year are eligible for the IRC 401(a) retirement plan. Upon reaching the IRC 403(b) plan compensation and contribution limits each year, eligible employees may elect to participate in the IRC 401(a) plan, which includes required post tax contributions, or receive the employer retirement contribution as salary for the~~

~~remainder of the calendar year.~~

XII. Change in Retirement Plan Carriers

The Board of Trustees reserves the right in its sole discretion to remove, add, or otherwise modify the number of retirement plan carriers in any manner that it may determine by written notice to the affected carrier(s). In such event, the Board may direct that all accounts with the affected carrier shall be transferred to a carrier who is currently approved by the Board to accept contributions. In the event a change in the retirement plan carrier made by the University requires a participant to exchange one annuity contract/custodial account for another within the Plan, or in the event a participant voluntarily elects to exchange an annuity contract/custodial account for another within the Plan, each of the following requirements must be satisfied:

A. The participant's accumulated benefit under the annuity contract/custodial account immediately after the exchange at least equals the participant's accumulated benefit under such contract/account immediately before the change;

B. To the extent the exchanged annuity contract/custodial account is subject to distribution restrictions under applicable ~~S~~sections ~~403(b)~~ of the IRC~~ode~~, as amended, the other annuity contract/custodial account imposes distribution restrictions no less stringent than those imposed by the exchanged annuity contract/custodial account; and

C. The University enters into an agreement with the issuer of the resultant contract under which the University and the issuer will from time to time in the future provide each other with information necessary for the resulting contract to satisfy the applicable ~~S~~section ~~403(b)~~ of the IRC~~ode~~ or other federal tax requirements.

XIII~~IV~~. Plan Document Revisions

~~This administrative regulation serves as the University's retirement plan document. Should federal or state law require a more formalized document, t~~The Executive Vice President for Finance and Administration is authorized to amend the~~execute such a~~ plan documents as appropriate or necessary, to the extent that such amendments do~~it does~~ not conflict with this administrative regulation.

Reference: KRS 164.220; 164.225