

**PHASED RETIREMENT AGREEMENT AND RELEASE
between**

**The University of Arizona (University)
on behalf of the Arizona Board of Regents (ABOR)**

and

Employee: _____

Employee status at University (check one): ___ Tenured faculty member
 ___ Non-tenured faculty member
 ___ Continuing Professional
 ___ Year to Year Professional

This Agreement is subject to the Phased Retirement Program (Program) under Arizona Board of Regents Policy 6-602, *Optional Retirement Program*. The enforcement of this Agreement is subject to Arizona law and University and ABOR policy. Employee will remain subject to ABOR and University policies during phased retirement.

SECTION I

By signing below, Employee certifies that s/he

- a. is eligible to participate in the ABOR Phased Retirement Program, and
- b. is a vested participant in the ABOR Optional Retirement Program (ORP),
and
- c. is age 62 or older.

SECTION II

A. Term of appointment:

1. Under this Agreement, Employee will begin phased retirement on _____ / _____ / _____ [date] and will terminate employment, relinquish tenure/continuing appointment, if applicable, and retire on _____ / _____ / _____ [no more than three years after the first date]. Employee understands that his/her retirement, if accepted, is irrevocable. The termination date can be accelerated upon mutual written agreement of the University and Employee, but the termination date cannot be extended.

2. During this period of phased retirement, Employee's appointment will be on a reduced FTE for the following periods (insert dates as applicable):

a. _____ to _____ at [50 to 95%] time.

- b. _____ to _____ at [50 to 95%] time.
- c. _____ to _____ at [50 to 95%] time.

[NOTE: This section allows for different percentages for different portions of the phased retirement period, and can have as few as one line or as many as the number of semesters covered by the phased retirement period. ABOR 6-602.C.3 also allows for less than 50% FTE if requested by the participant. This will be decided on a case-by-case basis by the appropriate administrator at each University.]

B. Compensation:

Employee’s compensation during phased retirement will be based on the above designated percentage of the full-time base annual salary that Employee was earning immediately prior to the beginning of this phased retirement, based on Employee’s last 9- or 12-month contract term of regular benefits-eligible employment at University. If a member of the faculty or professional holds a fiscal year administrative appointment in the year preceding phased retirement, the University will first establish an academic year base faculty or professional salary in accordance with ABOR 6-103 and relevant University policies, and then the reduced FTE percentage will be applied against that base. During phased retirement, Employee will continue to be subject to performance reviews and annual evaluations. Employee will be eligible to receive proportionate salary and merit pay increases allocated by the legislature or University, and approved pursuant to ABOR and University policies, based on annual evaluations.

C. Duties and Responsibilities:

The specific duties to be performed by employee under this Agreement are as follows:

D. Employee Benefits and Voluntary Retirement Programs:

During the phased retirement period Employee may continue or elect to participate in all state, ABOR, or University sponsored employee benefit and voluntary retirement programs for which s/he is eligible based on established eligibility standards and subject to the benefits provisions for all University employees.

E. Optional Retirement Plan Contributions:

- 1. Both Employee and employer contributions to the Optional Retirement Plan will continue until the participant’s retirement date as required by Arizona Revised

Statutes § 15-1628C and the Optional Retirement Plan document. Both the University's and the Employee's contributions to the ORP account will be based on the employee's reduced salary, subject to contribution limits imposed by applicable section(s) of the Internal Revenue Code.

2. Employee may elect to start receiving the benefits accrued under the Optional Retirement Plan, but is not required to do so. Furthermore, all retirement benefits for which Employee is eligible shall be determined in accordance with the Optional Retirement Plan and Employee's selected investment company(s).

F. Post-Retirement Employment:

After Employee completes the phased retirement period, neither ABOR nor the University has any obligation to offer Employee additional employment.

SECTION III

A. General Release:

By entering this Agreement, Employee releases the State of Arizona, the Arizona Board of Regents, University, and their board members and employees from all claims, causes of action, costs, and attorney fees that may have arisen prior to Employee's signing of this Agreement and that are related to Employee's University employment, including the conclusion and resignation of Employee's present employment status, the voluntary relinquishment of tenure rights or continuing status (if applicable), or entering into this Agreement.

This release includes contract and tort law claims, and claims under the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. § 621 *et seq.*), including the Older Workers Benefit Protection Act of 1990; Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e *et seq.*), including the Civil Rights Act of 1991 and the Civil Rights Acts of 1866, 1870, and 1871 (42 U.S.C. § 1981 *et seq.*); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*); and the Rehabilitation Act of 1973; Arizona Civil Rights Act (ARS § 41-1461 *et seq.*) or any other federal, state, or local statutory or common laws relating to employment discrimination or employment.

Employee agrees that s/he does not have any prior or current claims and is not entitled to any compensation or other benefits arising under the Fair Labor Standards Act (29 U.S.C. § 201 *et seq.*) or Family and Medical Leave Act (29 U.S.C. § 2601 *et seq.*) that have not otherwise been paid or provided to him/her by the University.

Nothing in this Agreement prohibits Employee from filing a charge with the Equal Employment Opportunity Commission (EEOC), but this release includes a release of Employee's right to file a court action or to seek individual remedies or damages in any EEOC filed court action, and Employee's release of these rights shall apply to any proceeding arising from the EEOC charge.

B. Matters Not Released Under The General Release:

Employee does not waive or release any claims that may arise after the date that Employee signs this Agreement. Employee also does not waive or release the right to seek employee retirement benefits or to seek or continue to receive other employee group benefits to which Employee is now entitled or for which Employee will be eligible while a participant in the Program, whether eligibility for the retirement benefit or employee group benefit has been established by federal or Arizona law or by contract between Employee and the employing institution.

In addition, Employee does not waive or release: (a) any vested and accrued rights as a participant in the ABOR 401(a), Optional Retirement Plan, or State of Arizona approved contributory, defined benefit retirement plan, including but not limited to the Arizona State Retirement System and the Public Safety Personnel Retirement System; (b) Employee's right to potential indemnification or defense as a current or prior officer or employee of University under applicable law or policy; or (c) Employee's right to assert any claims relating to University's obligations under this Agreement.

SECTION IV

A. Proper Prior Notice of Certain Information:

Employee acknowledges that s/he has been provided with a notice, as required by the Age Discrimination in Employment Act of 1967 and the Older Workers Benefit Protection Act of 1990, that contains information about individuals covered under the Program, eligibility factors for participation in the Program, time limits applicable to the Program, if any, the job titles and ages of the employees in the identified job classification designated as eligible to participate in the Program, and the ages of all individuals in the same job classification who have not been designated as eligible to participate in the program.

B. Time to Consult an Attorney, to Consider Signing this Agreement, and Time to Consider Revoking the Agreement:

1. Employee acknowledges that s/he knowingly and voluntarily waives any and all rights or claims which s/he may have arising under the Age Discrimination in Employment Act of 1967 or the Older Workers Benefit Protection Act of 1990, in regard to his/her retirement from University in exchange for the valuable consideration set forth in this agreement. In signing this agreement, Employee expressly acknowledges that:

- a. Employee has been advised in writing of his/her right to consult with an attorney, at his/her own expense, prior to signing this Agreement;
- b. Employee has either consulted with an attorney or has elected not to consult, and if s/he consulted with counsel, his/her attorney has reviewed with and explained to Employee the terms of this Agreement, including the consideration and the effect of the release, and that any questions s/he had regarding this Agreement have been answered to his/her satisfaction;

- c. Employee has been provided with a period of up to 45 days to consider the terms of and whether to execute this Agreement;
- d. Employee enters into this Agreement voluntarily and with full knowledge and understanding of its significance; employee acknowledges that s/he was not induced by University through fraud, misrepresentation, or threat to withdraw or alter this Agreement prior to expiration of the 45-day period.
- e. Employee may revoke this Agreement within 7 calendar days after signing the Agreement, if s/he so chooses, by providing written notification of his/her withdrawal to the Office of the Vice President for Human Resources. **The Agreement will not be effective or enforceable until the 7-day revocation period has passed without his/her having revoked the Agreement.**

2. Employee acknowledges that s/he is entering into this Agreement in exchange for consideration, which is in addition to anything of value that s/he is otherwise entitled to receive. Employee further agrees that if a portion of this Agreement is held void, the remainder of this Agreement will remain enforceable.

C. Effective Date and Amendments:

1. This Agreement contains the entire agreement of the parties with respect to its subject matter. No prior or contemporaneous agreement, written or oral, will be interpreted to alter these terms.

2. This Agreement must be signed by Employee and the appropriate administrators. The University must approve this Agreement and the proposed retirement date, and University approval is not effective until this Agreement is signed by the Executive Vice President & Provost.

3. This Agreement may be changed only by mutual consent of the parties. All amendments must be in writing, comply with applicable policy, be signed by the parties and reviewing administrators, and will become effective only when signed by the Executive Vice President & Provost.

Employee Signature

Date

Department Head Signature

Date

Dean or Vice President Signature

Date

Executive Vice President and Provost

Date

**The Arizona University System Optional Retirement Plan
Phased Retirement Program Age Discrimination in Employment Act Disclosure
The University of Arizona**

Of the Optional Retirement Plan participants at The University of Arizona, the following individuals were eligible to participate in the Phased Retirement Program: participants who are of at least age 62 and are fully vested in the Optional Retirement Plan.

The following is a listing of the employment categories and ages of the number of eligible Optional Retirement Plan participants and the number of ineligible Optional Retirement Plan participants as of June 1, 2008.

Administrative ¹		
Age	Eligible	Ineligible
75	1	
74	1	
73	1	
72	1	
70	3	
69	5	
67	2	
66	9	
65	9	
64	6	
63	7	
62	6	
61		9
60		9
59		12
58		15
57		11
56		11
55		8
54		7
53		11
52		7
51		9
50		7
49		4
48		4
47		4
46		4
45		2
44		3
43		1
41		6
40		2
39		2
38		2

Professional ²		
Age	Eligible	Ineligible
76		1
74	1	
73	1	
72	1	
71	2	
70	2	
69	4	
68	2	
67	2	
66	6	1
65	10	1
64	12	1
63	10	
62	24	1
61		19
60		24
59		24
58		22
57		19
56		27
55		34
54		35
53		38
52		32
51		34
50		32
49		41
48		33
47		23
46		36
45		32
44		25
43		31
42		19
41		21

Faculty ³		
Age	Eligible	Ineligible
87	1	
79	1	
76	2	
75	1	
74	4	
73	3	
72	3	
71	6	1
70	6	
69	17	
68	18	1
67	20	
66	24	
65	25	
64	30	2
63	33	2
62	36	
61		23
60		25
59		26
58		35
57		37
56		42
55		45
54		34
53		36
52		34
51		34
50		40
49		32
48		24
47		36
46		33
45		28
44		40

- 1) ABOR Policy #6-101 – Conditions of Administrative Service (http://www.abor.asu.edu/1_the_regents/policymanual/chap6/chap6_part1.htm#6-101)
- 2) ABOR Policy #6-301 – Conditions of Professional Service (http://www.abor.asu.edu/1_the_regents/policymanual/chap6/chap6_part1.htm#6-301)
- 3) ABOR Policy #6-201 – Conditions of Faculty Service (http://www.abor.asu.edu/1_the_regents/policymanual/chap6/chap6_part1.htm#6-201)

Administrative ¹		
Age	Eligible	Ineligible
37		1
36		1
34		1

Professional ²		
Age	Eligible	Ineligible
40		32
39		44
38		29
37		28
36		23
35		38
34		45
33		35
32		31
31		32
30		33
29		24
28		15
27		15
26		14
25		6
24		2
23		2

Faculty ³		
Age	Eligible	Ineligible
43		40
42		27
41		30
40		34
39		37
38		22
37		25
36		28
35		21
34		23
33		12
32		9
31		12
30		5
29		4

1) ABOR Policy #6-101 – Conditions of Administrative Service (http://www.abor.asu.edu/1_the_regents/policymanual/chap6/chap6_part1.htm#6-101)

2) ABOR Policy #6-301 – Conditions of Professional Service (http://www.abor.asu.edu/1_the_regents/policymanual/chap6/chap6_part1.htm#6-301)

3) ABOR Policy #6-201 – Conditions of Faculty Service (http://www.abor.asu.edu/1_the_regents/policymanual/chap6/chap6_part1.htm#6-201)