

HRCR 1

Office of the President
October 27, 2009

Members, Board of Trustees:

APPROVAL OF CHANGES TO THE UK RETIREMENT ADMINISTRATIVE
REGULATION AND AMENDMENTS TO THE RETIREMENT PLAN

Recommendation: that the Board of Trustees approve changes to University of Kentucky Administrative Regulation (AR) 3:1 to: implement a five-year “cliff” vesting schedule for the Retirement Plan for individuals who commence employment after December 31, 2009, and authorize the Executive Vice President for Finance and Administration to manage the implementation.

Background: Current employees who participate in the University’s retirement plans are entitled to all employee and employer retirement contributions regardless of the duration of their employment (i.e., they are immediately vested). Pending Board approval, individuals hired after December 31, 2009 must be employed by the University for five years before they are entitled to the employer contributions. They will be entitled to all employee contributions regardless of the duration of their employment.

Individuals who become employees of the University after December 31, 2009, but who previously worked for a company or institution that is acquired by the University, shall receive service credit towards vesting in the University’s retirement plan based on length of service with the acquired employer.

This five-year cliff vesting schedule is anticipated to reduce employee turnover and increase cash flow to the University when employees separate from the University prior to vesting.

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	AR 3:1		1
	DATE EFFECTIVE <u>10/27/09</u> 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, <u>1/22/08</u>	

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

I. Introduction

The policies governing the University of Kentucky Retirement Plan are set forth in this administrative regulation. The University of Kentucky Board of Trustees has authorized two retirement plan 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 may be modified from time to time by the Board of Trustees pursuant to section XI.

The policies governing insurance benefits for University retirees are a part of the Human Resources Policy and Procedure Administrative Regulations 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. Group I Personnel

Eligibility of personnel for classification in Group I is conditioned upon:

- (a) regular full-time employment;

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

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

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.

4. Group IV Personnel

Eligibility of personnel for classification in Group IV is conditioned upon:

- (a) regular full-time employment;
- (b) occupation of a position covered by the United States Civil Service Retirement Plan; and,
- (c) eligibility rights under the United States Civil Service Retirement Plan.

5. Group V Personnel

Eligibility of personnel for classification in Group V is conditioned upon:

- (a) regular full-time employment;
- (b) occupation 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. Participation is voluntary 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. Groups I, II, III and IV

Notwithstanding any provision to the contrary contained herein, all Groups I, II, III and IV personnel 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 contained herein; provided; however, that 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

<u>By the Participant</u>	<u>By the Institution</u>	<u>Total</u>
5%	10%	15%

B. Group V

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

Contributions as a Percent of Basic Annual Salary

<u>By the Participant</u>	<u>By the Institution</u>	<u>Total</u>
1%	2%	3%

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

D. Excess Retirement Plan

In addition to the regular contributions referenced herein, excess contributions to the plan 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, Rretirement 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. Plan Limits (Groups I, II, III, IV and V)

A. 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 for increases in the cost of living in accordance with section 401(a)(17)(B) of the Internal 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. 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 Code 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. Notwithstanding 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.

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.

2. A participant may change the ratio of allocating funds among retirement plan carriers or change options by completing the appropriate paper work. Changes in allocating contributions among the plan options 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.

V. Termination of Contributions

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

VI. Retirement Dates

A. 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 at least three months in advance of the desired retirement date.

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 in 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 law enforcement officers of the University of Kentucky shall be at the end of the University's fiscal year in 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.

VII. 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-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.

VIII. 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.

IX. Contributions under Uniformed Services Leave

A participant on Uniformed Services Leave shall have the 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.

X. 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 to perform duties for which fee schedules have been approved 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 considered temporary employees.

XI. Loans and Hardship Withdrawals

Employees may obtain loans or take hardship withdrawals from their retirement accounts 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.

XIII. 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 Section 403(b) of the Code, 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 Section 403(b) of the Code or other federal tax requirements.

XIV. Plan Document

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

Reference: KRS 164.220