FCR 7

Office of the President
May 5, 2020

Members, Board of Trustees:

PROPOSED REVISION TO ADMINISTRATIVE REGULATION 3.1:
UNIVERSITY OF KENTUCKY RETIREMENT PLANS

Recommendation: that the Board of Trustees approve reducing the institution's retirement contribution, as defined in Administrative Regulation (AR) 3:1 Section IV.A., from ten percent (10%) to five percent (5%) of an eligible employee's annual salary for one year effective from July 1, 2020 through June 30, 2021.

Background: While not fully known at this time, the financial impact of COVID-19 is anticipated to include a substantial loss of revenues across the University. In response, expenses must be decreased in order to position the University to thrive in the future. The proposed change will provide significant budgetary relief and is one of many strategies being implemented for the upcoming fiscal year. The change in the institution's contribution rate will be effective from July 1, 2020 through June 30, 2021. Upon the Board's approval of this action, any University affiliated corporations with a separate retirement plan will make similar adjustments.

A revised copy of AR 3:1 is attached. Proposed additions are underlined; proposed deletions are lined through.

Action taken: ☑ Approved ☐ Disapproved ☐ Other ____________

Administrative Regulation 3:1

Responsible Office: Executive Vice President for Finance and Administration

Date Effective: DRAFT ~~9/10/2013~~

Supersedes Version: 9/10/2013 ~~5/14/2013~~

University of Kentucky Regulations

Administrative Regulation 3:1

University of Kentucky Retirement Plans (Approved by the Board of Trustees)

Index

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 Board of Trustees ~~has~~ authorized the~~two~~ retirement plan carrier(s) (hereafter “carrier~~s~~”) ~~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)~~. The~~se~~ carrier~~s~~ may be modified from time to time by the Board of Trustees pursuant to section XIV 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 insurance programs is not included in this administrative regulation.

II. Entities Affected

This regulation applies to all employees of the University.

III. Retirement Groups

A. Eligibility

Eligibility to participate in the University retirement plan is conditioned upon:

1. University Participants

(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 position not covered by the United States Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS).

2. Civil Service Retirement System (CSRS) Participants

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

(b) Occupation of a position covered by CSRS; and,

(c) Eligibility rights under CSRS.

3. Federal Employees Retirement System (FERS) Participants

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

(b) Occupation of a position covered by FERS; and,

(c) Participation rights under the FERS retirement plan.

B. Participation Requirements

Participation 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.

IV. Contributions and Vesting

A. Contribution Schedule

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 that are required to be made by the participant according to the applicable contributions schedule contained herein. 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 shall be made in accordance with the following schedules:

Contributions as a Percent of Basic Annual Salary

1. All eligible participants (other than FERS) follow this schedule unless an Exceptional Contribution Period is noted:

By the Participant	By the Institution	Total
5%	10%	15%

Exceptional Contribution Period: July 1, 2020 to June 30, 2021:

By the Participant	By the Institution	Total
5%	5%	10%

2. FERS Participants:

By the Participant	By the Institution	Total
.8~~1~~%	2%	2.8~~3~~%

Exceptional Contribution Period: July 1, 2020 to a June 30, 2021:

By the Participant	By the Institution	Total
.8%	1%	1.8%

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 for service during an interim between regular assignment periods, provided the faculty 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 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 *Administrative Regulation 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 employees identified in section III.A.

D. Plans for Excess 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), 457(f), and/or the IRC 415(m) plans may be made to provide retention incentives to certain University employees.

E. Vesting

1. Retirement benefits purchased by the employee with employee contributions become the property of individual participants immediately.

2. Retirement benefits purchased with the employer contributions become the property of the employee after an appropriate vesting period. The vesting period is:

    a. Immediate for employees who commenced employment with the University before January 1, 2010;

    b. Five (5) years of service to the University for employees who commenced employment with the University on or after January 1, 2010 but separated prior to January 1, 2013;

    c. Three (3) years of service to the University for employees who commenced employment with the University on or after January 1, 2010 and were still employed as of January 1, 2013;

    d. Three (3) years of service to the University for employees who commence with the University on or after January 1, 2013.

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.

V. Omnibus Budget Reconciliation Act of 1993 (OBRA '93) Limits

A. The University of Kentucky Retirement Plan Year begins January 1 of a calendar year and ends on December 31 of the same calendar year.

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. 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.

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 shall mean the OBRA '93 annual maximum includable compensation limit stated in this provision.

D. 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.

VI. Contribution and Investment Options

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

B. A participant may change the ratio of allocating funds with the~~among~~ retirement plan carrier(s) or change options by completing the appropriate documents. A participant may make changes in the allocations of contributions among the plan options by working directly with the retirement plan carrier.

VII. Termination of Contributions

Retirement plan contributions on behalf of employees shall terminate upon retirement or cessation of regular full-time employment.

VIII. Retirement Dates

A. Early Retirement

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 the 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 is hereby established as the date 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 shall be at the 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, 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.

IX. 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 *Administrative Regulation 3:2*, 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 carrier~~s~~. 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.

X. 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.

XI. Contributions during Scholarly Fellowship Leave, Entrepreneurial Leave, or Uniformed Services Leave

A participant on Scholarly Fellowship Leave (*Governing Regulation, Part X*), or Entrepreneurial 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.

XII. 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). Employees who have elected to retire and who have been reemployed under this provision are temporary employees.

XIII. 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 the rules established by the IRS.

XIV. Change in Retirement Plan Carrier(s)

The Board of Trustees reserves the right in its sole discretion to remove, add, or otherwise modify the number of retirement plan carrier(s) 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 sections of the IRC, 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 section of the IRC or other federal tax requirements.

XV. Plan Document Revisions

The Executive Vice President for Finance and Administration is authorized to amend the plan documents as appropriate or necessary, to the extent that such amendments do not conflict with this administrative regulation.

XVI. Retirement Plan Investment Policy Statement

The Executive Vice President for Finance and Administration is authorized to execute and amend a Retirement Plan Investment Policy Statement to provide parameters to the retirement carrier~~s~~ and consultants as it relates to adding and removing investment "fund" choices with the~~each~~ retirement carrier. The Executive Vice President for Finance and Administration may utilize an appropriate committee(s) and/or consultant(s) to assist with the development and execution of the Policy Statement.

References and Related Materials

KRS 164.225 Board's exclusive jurisdiction over appointments, qualifications, compensation, promotions and retirement programs

KRS 164.220 Appointment, salaries and retirement benefits of university personnel

GR Part X, Regulations Affecting Employment

AR3:2 Phased Retirement Policy and Program

AR 3:6 Faculty Assignment and Vacation Leave Policy

HRP&P 4.0 Employee Status

HRP&P 17 HR Temporary and Student Employment Services

HRP&P 75 Uniformed Services Leave (Military Leave)

HRP&P 87.0 Conversion of Temporary Disability Leave

HRP&P 91.0 Life Insurance

HRP&P 93.0 Health Care Plans

HRP&P 94.0 Health Care Plan Credit

Revision History

8/21/1990, 6/16/1992, 12/12/1995, 6/11/1996, 3/4/1997, 7/1/1998, 9/19/2000, 8/13/2002, 3/1/2003, 1/27/2004, 9/21/2004,10/10/2006, 6/12/2007, 12/11/2007, 1/22/2008, 10/27/2009, 6/8/2010, 6/14/2011; 5/14/2013, 9/10/2013, 5/___/2020

For questions, contact: Office of Legal Counsel