

**SETTLEMENT AND GENERAL RELEASE AGREEMENT
BETWEEN FACULTY MEMBER AND
THE UNIVERSITY OF SOUTH FLORIDA BOARD OF TRUSTEES
FOR EARLY RETIREMENT INCENTIVE PROGRAM**

This **Settlement and General Release Agreement Between Faculty Member and The University of South Florida Board of Trustees for Early Retirement Incentive Program** (“Early Retirement Agreement”) will detail the respective obligations by and between _____ **(print Faculty Member’s name)**, hereafter “Faculty Member”, and the University of South Florida Board of Trustees, a Public Body Corporate of the State of Florida, (“University”), regarding Faculty Member’s participation in the University’s Early Retirement Incentive Program for Employees in the Faculty Pay Plan (“Program”).

The University has developed and is offering the Program to benefit long-serving faculty-members who may be contemplating retirement and to balance the University’s recurring salary expenses as necessitated by a challenging budgetary environment. In balancing its base recurring budget through the Program the University intends to be able to respond, at least in part, to anticipated budget cuts and reinvest limited financial resources in accord with the University’s strategic plan.

The parties to this Early Retirement Agreement acknowledge that the Program is voluntary and optional for university employees in the faculty pay plan.

In exchange for the mutual promises contained below and the opportunity to participate in the Program and realize the benefits contained in the Program the parties agree to the following terms.

1. Incorporated by reference herein and attached is the University’s written Program Description and Guidelines, dated February 3, 2012. (See Attachment 1) FAQ documents associated with the Program are not intended to bear upon the legal effect or meaning of this Early Retirement Agreement.

Before entering the Program, Faculty Member acknowledges that he/she had the opportunity to consult with appropriate professionals and advisers of his/her choosing. Entry into the Program represents an end of employment with the University. If the employee elects to retire in conjunction with this Program, then in addition to USF Policy limitations on return to University employment, there are statutory limitations on return to employment with any State of Florida Employer as well as limitations on the Faculty Member’s future eligibility to participate in the Florida Retirement System. The University makes no representations and extends no assurances as to the effect of any applicable statutory limitations other than to identify these issues among the several issues that Faculty Member must carefully consider before entering the Program. **To the extent Faculty Member wishes to end employment with the University as a retirement, Faculty Member must still complete the requisite application through the University Human Resources’ Offices.**

2. Faculty Member agrees and understands that there are two options available to end employment with the University under the Program. These are set at 2.1 and 2.2. **Regardless of the option selected, the obligations of paragraph 4 below remain applicable.**

2.2

Option 1 Retirement: Faculty Member agrees and acknowledges that retirement under the Program constitutes retirement as that term is defined under Chapter 121, Florida Statutes. Faculty Member further agrees and acknowledges that he/she is aware of the limitations on re-employment after retirement contained in Chapter 121, Florida Statutes and under USF Regulations. Faculty Member also agrees and acknowledges that the decision to receive a disbursement of retirement funds and/or rollover/transfer of retirement funds may impact the Faculty member's future participation in the Florida Retirement System.

FACULTY MEMBER'S ELECTION:

I am voluntarily **RETIRING** as that term is defined under Chapter 121, Florida Statutes.

Faculty Member's Signature

Date

2.3

Option 2 Resignation: Faculty Member agrees and acknowledges that entry into the Program constitutes an end of employment with the University as a resignation with no implication or intent to retire.

FACULTY MEMBER'S ELECTION:

I am voluntarily **RESIGNING**.

Faculty Member's Signature

Date

3. Faculty Member agrees and understands that any payments made under the Program will be less statutory deductions. Faculty Member shall bear all costs, fees, fines or amounts found owing arising from his/her characterization of payments made under the Program for tax purposes. Before making the decision to accept funds under the Program, Faculty Member acknowledges that he/she has been advised to consult with appropriate professionals of his/her choosing.

4. Faculty Member agrees and understands that the decision to enter the Program once final under Paragraph 10 below is irrevocable and legally binding. Consistent with the foregoing, Faculty Member agrees and understands that he/she is not entitled to reinstatement or re-employment with the University. In the event Faculty Member is inadvertently or without sufficient approval extended an offer of employment subsequent to Faculty Member's entrance into the Program, Faculty Member agrees and understands that the University may immediately end Faculty Member's employment regardless of any notice or just cause requirement contained in University Regulations,

Policies or Labor Agreements. It is the intent of the parties that this paragraph is interpreted as broadly as possible to extend to any type of employment with the University.

5. Except for the obligation set forth in this Early Retirement Agreement, the University finally and forever discharges Faculty Member, his/her heirs, assigns, representatives and attorney from any and all liabilities, charges, claims, demands, actions, causes of action, suits, wages, fringe benefits, liquidated or compensatory damages, punitive damages, consequential losses or damages, equitable relief, costs, expenses, or attorneys' fees, expert witness fees, interest and penalties of any kind and every nature whatsoever, known or unknown, which the University has or may have against Faculty Member from the beginning of Faculty Member's employment with the University to the date Faculty Member executes this Agreement. This general release specifically includes, but is not limited to, any claims for discrimination or retaliation under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.; the Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.; the Americans With Disabilities Act, 42 U.S.C. §12101 et seq.; the Family Medical Leave Act, 29 U.S.C. §2601 et seq.; The Fair Labor Standards Act, 29 U.S.C. §1201 et seq.; the Equal Pay Act, 29 U.S.C. §206(d); the National Labor Relations Act, 29 U.S.C. §151 et seq.; the Employment Retirement Income Security Act of 1974; 42 U.S.C. §§1981, 1981A, 1983, 1985, 1986 & 1988; the Florida Civil Rights Act, Chapter 760, Florida Statutes; Section 440.205, Florida Statutes; Chapter 448, Florida Statutes; Hillsborough County Human Rights Ordinance; City of Tampa Code Chapter 12; City of Clearwater Code Chapter 12; City of St. Petersburg Code Chapter 15; Pinellas County Ordinance 92-14; and other federal, state or local law, statute, regulation, code or ordinance; and all common law theories including under contract, quasi-contract, *quantum meruit*, tort and *estoppel*.

6. Except for the obligations set forth in this Early Retirement Agreement, Faculty Member finally and forever discharges the University from any and all liabilities, charges, claims, demands, actions, causes of action, suits, wages, fringe benefits, liquidated or compensatory damages, punitive damages, consequential losses or damages, equitable relief, costs, expenses, or attorneys' fees, expert witness fees, interest and penalties of any kind and every nature whatsoever, known or unknown, which Faculty Member has or may have against the University from the beginning of Faculty Member's employment with University to the date Faculty Member executes this Early Retirement Agreement. This general release specifically includes, but is not limited to, any claims for discrimination or retaliation under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.; the Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.; the Americans With Disabilities Act, 42 U.S.C. §12101 et seq.; the Family Medical Leave Act, 29 U.S.C. §2601 et seq.; The Fair Labor Standards Act, 29 U.S.C. §1201 et seq.; the Equal Pay Act, 29 U.S.C. §206(d); the National Labor Relations Act, 29 U.S.C. §151 et seq.; the Employment Retirement Income Security Act of 1974; 42 U.S.C. §§1981, 1981A, 1983, 1985, 1986 & 1988; the Florida Civil Rights Act, Chapter 760, Florida Statutes; Section 440.205, Florida Statutes; Chapter 448, Florida Statutes; Hillsborough County Human Rights Ordinance; City of Tampa Code Chapter 12; City of Clearwater Code Chapter 12; City of St. Petersburg Code Chapter 15; Pinellas County Ordinance 92-14; and other federal, state or local law, statute, regulation, code or ordinance; and all common law theories including under contract, quasi-contract, *quantum meruit*, tort and *estoppel*. However, this release does not affect Faculty Member's earned time in the State system, his/her retirement and any other vested benefit and, if applicable, it is agreed that Faculty Member does not waive any claims to his/her vested benefits in his/her optional retirement plan.

7. All the terms of this Early Retirement Agreement will be construed and governed according to the laws of Florida. Should a dispute arise as to the meaning or effect of this Early Retirement

Agreement, Faculty Member consents to venue and jurisdiction in a court of competent jurisdiction located in Hillsborough County, Florida. The parties agree that if any part of this Early Retirement Agreement is held to be invalid, illegal or unenforceable, that part of the Early Retirement Agreement will be dropped from the Early Retirement Agreement, and the remainder of the Early Retirement Agreement will continue to be valid and enforceable. Faculty Member understands and agrees that any disputes arising under the Program or this Early Retirement Agreement may not be grieved under University Regulations or Labor Agreements.

8. The rights and obligations of the parties under this Early Retirement Agreement shall continue to binding upon his/her respective successors and assigns.

9. This Early Retirement Agreement is the entire and final agreement between the parties regarding Faculty Member's retirement from the University. With the exception of the attached and incorporated by reference Program Description and Guidelines, the parties hereby acknowledge that there are no other understandings or obligations, oral or written, between them, including but no limited to financial and administrative arrangements.

10. Faculty Member understands that she/he has received forty-five (45) days from February 3, 2012, to consider and review this Early Retirement Agreement before signing below. Faculty Member further acknowledges that she/he has seven (7) days to revoke this Early Retirement Agreement after she/he fully executes the Early Retirement Agreement. Should Faculty Member choose to revoke this Early Retirement Agreement, the parties will return to the *status quo ante*. Faculty Member acknowledges that she/he has had the opportunity to consult an attorney of his/her choosing as to the effect and meaning of the individual provisions of the Early Retirement Agreement.

THE UNDERSIGNED STATE THAT THEY HAVE CAREFULLY READ THIS EARLY RETIREMENT AGREEMENT AND KNOW AND UNDERSTAND THE CONTENTS THEREOF AND THAT THEY EXECUTED THE SAME KNOWINGLY AND VOLUNTARILY.

IN WITNESS WHEREOF, the parties hereto set their hands and seals.

Faculty Member

Date

For the University:

Date

ATTACHMENT 1

UNIVERSITY OF SOUTH FLORIDA SYSTEM EARLY RETIREMENT INCENTIVE PROGRAM FOR EMPLOYEES IN THE FACULTY PAY PLAN

PROGRAM DESCRIPTION AND GUIDELINES February 3, 2012

Overview

Responding to a number of expressions of interest, the University of South Florida System announces is making available again an Early Retirement Incentive Program. While open to all eligible members of the faculty pay plan, subject to restrictions discussed below (see section B under Guidelines), it is likely to be of most interest to those who are contemplating retirement from the University in the near future.

There are some differences in the current program compared to that offered in Spring 2010, so those interested are urged to carefully read the following information. Additional information is available in a supplemental "Frequently Asked Questions" document.

The current program is not centrally funded, so is subject to available funding limits within each of the separate institutional budgeting units (Colleges and/or separate institutions) of the USF System. There is no guarantee that this program will be available in future years.

Authority & Restrictions

Florida Board of Governors Regulation BOG 1.001
2009 Florida Statute, Section 1001.74(5)(e)

Details of Benefits Available

Participants in the program will receive:

- The employee's annualized base salary paid in one lump sum, less applicable taxes and deductions. Calculations for this payment are as follows:

Nine-month faculty: 9-month base salary x 1.33

Twelve-month faculty and other employees: (12 month base salary x .818) x 1.33

NOTE: Any stipends associated with the salary will not be not included as part of the payment, nor will they be included in the calculation to annualize the salary.

- All eligible pay-outs for accrued sick leave and annual leave in accordance with Florida Law, the Collective Bargaining Agreement, and applicable University Regulations.
- All rights and privileges accorded a USF employee who is officially retired. (NOTE: Conferral of Emeritus status for faculty members must go through appropriate procedures.)

Guidelines

A. Eligibility

An employee must meet the following requirements to be eligible for the voluntary Early Retirement Incentive Program:

1. Have at least ten (10) years of continuous non-OPS service in the University of South Florida System as of August 6, 2011 (employed on or before August 7, 2001). A list of persons meeting this criterion will be available at the HR offices of the budgetary units.
2. Have a base salary paid from state (E&G) funds. Employees in E&G funded positions whose salary is currently bought out by external funds are also eligible to participate.
3. Employees whose salaries are, by contract, partially funded through non-E&G sources are eligible, but the annualized pay-out will be based only on the E&G component of their salaries.
4. Employees not in the final year of participation in the State's DROP program are eligible to apply. Those individuals are, however, urged to carefully consider how an early exit from participation in the DROP program might affect their benefits and retirement expectations.
5. Agree to retire or resign from the University of South Florida effective May 5, 2012.

B. Exclusions

The following employees are excluded from participating in the Early Retirement Incentive Program:

1. Any employee who has accepted, or is in consideration for (i.e., not withdrawn from the applicant pool), full-time employment at another institution/company/agency before March 28, 2012.
2. Employees who are in their final year (typically, year 5) of participation in the DROP program.
3. Employees in the Phased Retirement program.
4. Employees who are not currently E&G funded.
5. Employees who have resigned or announced their retirement prior to the program implementation date shown above and whose resignation has already been accepted.
6. Any employee who has received notice of termination or notice of non-renewal.
7. Any employee classified as "OPS".

Should any employee who receives the benefits of the program found to be in violation of one of these exclusionary conditions, the university will seek full reimbursement of the lump sum salary and supplemental payouts.

C. Program Components

1. Completion of Enrollment

Applications for the Early Retirement Incentive Program will be accepted from **March 19, 2012 through March 20, 2012 at 4:00 p.m.** via hand delivery at the College or system institution office where one is employed. Applications will be accepted only on those days. In the event that the demand for the program exceeds available funding available in the budgetary unit, applications will be ranked ordered by years of service. Those employees with the greatest number of years of service will be given priority, but as many applicants will be accommodated as is financially feasible. Financial capacities of the budgetary units may vary; consequently, there may be differences across those units in the number of employees who can be accommodated.

Locations for delivery of the completed application are:

USF Tampa Academic Affairs (including Marine Science) and USF Health Faculty: The employee's home College office.

USF St. Petersburg Faculty: Room BAY 206.

USF Sarasota-Manatee Faculty: either Room B 112 or B 113.

USF Polytechnic Faculty: Room OPP 3112 (downtown Lakeland office)

In order to complete the enrollment process, the employee must:

- a. Submit a completed application form to the College or campus office on March 19 or 20 (4 p.m.). It is the employee's responsibility to ensure that the form is received in the appropriate office by the above referenced deadline.
- b. Review complete, and sign the Early Retirement Agreement and submit it with the application form.
- c. Retain personal copies of both documents.

2. Conditions

- a. The employee agrees to officially retire from the University of South Florida, effective **May 5, 2012**.

IMPORTANT NOTE: Official retirement from the University of South Florida requires filing for retirement with the university's Human Resources office and registering with the state of Florida to begin receiving retirement benefits, regardless of the specific retirement program in which one is enrolled. Those wishing to participate in this program, but not draw retirement benefits, will have their separation from the university categorized as a *resignation*. However, all restrictions pertaining to post-retirement employment (see the following section), as well as the restriction specified in section B.1., are in effect for employees choosing the resignation option.

- b. Commensurate with provisions of University of South Florida System Policy #0-614, there is no presumption of re-employment within and/or across USF System institutions. To reiterate, this applies to separations specified as either retirement or resignation.

- c. Retirement from a Florida State Retirement (FRS) sponsored program will entail restrictions regarding re-employment at other FRS participating institutions/agencies. There are no restrictions on employment at non-FRS institutions/agencies. (However, see again section B.1).
- d. The employee has up to seven (7) calendar days from signing to revoke the Early Retirement Agreement. After seven (7) calendar days (conclusion of business day on March 27, 2012), the agreement is binding to both parties.
- e. The lump-sum payment will be made within thirty (30) calendar days of the retirement date.
- f. After signing the Early Retirement Agreement, if the employee terminates employment with the University for any reason prior to the specified retirement date, the agreement is rendered null and void and a lump sum payment will not be made.
- g. The required Early Retirement Agreement will include a general release of liability from any existing claims against the University of South Florida.
- h. The University reserves the sole discretionary right to respond to its educational and operational needs by deferring an employee's separation date by up to one year beyond the requested date, assuming agreement by the participating employee.
- i. Beginning March 28, 2012, applicants will be notified as soon as possible (most probably within a week) if they have been selected for the program.

Additional details are available in a Frequently Asked Questions document that was sent with this program description. However, if you have questions about retirement, please contact *Ms. Donna Pepper*, USF Retirement Coordinator, at (813) 974-9357 or dpepper@usf.edu.

List of Important Dates for Early Retirement Incentive Program

February 3, 2012	Program is introduced with supporting documentation
March 18, 2012	Program consideration period is concluded
March 19-20, 2012	Applications are received at College/Regional Institution offices
March 27, 2012	Applications become binding at 5 p.m.
March 28, 2012	Program participants begin to be notified as close to this date as possible