

Non-ERISA Specimen 403(b) Plan - Deferral Only Adoption Agreement

FINANCIAL SERVICES

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EMPLOYER INFORMATION

Name of Adopting Employer Western Kentucky UniversityAddress 1906 College Heights BlvdCity Bowling GreenState KYZip 42101-1001Telephone 270-745-5360Adopting Employer's Federal Tax Identification Number 616055628Adopting Employer's Tax Year End (specify month and day) 12/31Name of Plan Western Kentucky University Tax Deferred Annuity PlanPlan Sequence Number 002 Account Number 102643

Related Employers – If the Adopting Employer is part of a group of Related Employers, then such Related Employers will participate in this Plan only if listed on Attachment B, *Related Employer Participation Form*. Additions to or deletions from Attachment B, *Related Employer Participation Form*, do not constitute amendments to this Plan.

NOTE: This Adoption Agreement and the related Basic Plan Document are designed to comply with the safe harbor described in Labor Regulation 2510.3-2(f) and related guidance, and therefore, is intended to not be covered by ERISA. If an Employer desires or determines that it must perform activities beyond those covered by such safe harbor, it should adopt a plan that meets the requirements of ERISA.

SECTION ONE: EFFECTIVE DATES

*Complete Part A or B***Part A.** **New Plan Effective Date**

This is the initial adoption of a 403(b) plan by the Adopting Employer.

The Effective Date of the Plan is _____.

NOTE: The Effective Date is usually the first day of the Plan Year in which this Adoption Agreement is signed and may not be earlier than such date. Elective Deferrals cannot be made available before the later of the date this Adoption Agreement is signed or the Effective Date for such contributions.

Part B. **Existing Plan Amendment or Restatement Date**

This is an amendment or restatement of an existing 403(b) plan (a Prior Plan).

The Prior Plan was initially effective on 07/01/1996.The Effective Date of this amendment or restatement is 01/01/2009.

NOTE: The restatement Effective Date is generally the first day of the Plan Year in which this Adoption Agreement is signed. Elective Deferrals cannot be made available before the later of the date this Adoption Agreement is signed or the Effective Date for such contributions.

SECTION TWO: ELIGIBILITY

*Complete Part A***Part A. Exclusion of Certain Classes of Employees**

All Employees shall be eligible to become a Participant in the Plan for purposes of making Elective Deferrals except those Employees who are (select all that apply):

- Eligible to participate in a Code Section 401(k) plan maintained by the Employer in which Employees may make elective deferrals.
- Eligible to participate in another Code Section 403(b) plan maintained by the Employer in which Employees may make elective deferrals.
- Eligible to participate in a Code Section 457(b) eligible governmental plan (a deferred compensation arrangement of a governmental entity described in Code Section 457(e) that satisfies the requirements of Code Section 457(b)) maintained by the Employer in which Employees may make elective deferrals.
- Non-resident aliens (within the meaning of Code Section 7701(b)(1)(B)) who received no earned income (within the meaning of Code Section 911(d)(2)) from the Employer which constitutes income from sources within the United States (within the meaning of Code Section 861(a)(3)).
- Students performing services described in Code Section 3121(b)(10) (generally, this refers to students who are enrolled and regularly attending classes offered by the Employer where the Employer is a school, college or university).
- Employees who normally work fewer than 20 hours per week (within the meaning of Treasury Regulation 1.403(b)-5(b)(4)(iii)(B)).

SECTION THREE: CONTRIBUTIONS

*Complete Parts A and B***Part A. Elective Deferrals**

Pre-Tax Elective Deferrals (including the ability to make Age 50 Catch-up Contributions) will be permitted under this Plan, in addition to any Plan provisions selected below.

1. Authorization of Roth Elective Deferrals

Will Roth Elective Deferrals be permitted under this Plan in addition to Pre-Tax Elective Deferrals (select one)?

Option 1: Yes.Option 2: No.**NOTE:** If no option is selected, Option 2 will apply.

2. Special Code Section 403(b) Catch-up Contributions

Will eligible Contributing Participants be permitted to make Special Code Section 403(b) Catch-up Contributions pursuant to Plan Section 3.01(D)(2) if they have 15 years of service (as defined in Plan Section 3.01(D)(2)) with a qualified organization described in Code Section 402(g)(7) (select one)?

Option 1: Yes.

Option 2: No.

NOTE: If no option is selected, Option 2 will apply.

Part B. Other Contributions

1. Rollover Contributions

Participants may make rollover contributions from other Code Section 403(b) tax-sheltered annuity plans pursuant to Plan Section 3.02. In addition, rollover contributions from the following plan types will also be permitted (select all that apply):

A qualified retirement plan that meets the requirements of Code Section 401(a).

A qualified annuity plan that meets the requirements of Code Section 403(a).

An eligible governmental plan that meets the requirements of Code Section 457(b).

An individual retirement account or annuity described in Code Sections 408(a) and 408(b).

2. Plan-to-Plan Transfer Contributions

May an Employee make transfers to the Plan pursuant to Plan Section 3.03 (select one)?

Option 1: Yes, for current Employees only.

Option 2: Yes, for current and former Employees.

Option 3: Yes, but only if the Employee is part of a class of Employees whose assets are being transferred as a result of a merger or acquisition and the Employee's entire interest is being transferred.

Option 4: No.

NOTE: If no option is selected, Option 4 will apply.

SECTION FOUR: VESTING

Contributions made under this plan will always be 100% Vested in accordance with Plan Section Four.

SECTION FIVE: DISTRIBUTIONS

Complete Parts A and B

Part A. Hardship Distributions

Will a Participant be permitted to take a distribution of their Individual Account upon incurring a hardship described in Plan Section 5.01(C)(1) (select one)?

Option 1: Yes.

Option 2: No.

NOTE: If no option is selected, Option 1 will apply.

Part B. Loans

May a Participant request a loan pursuant to Plan Section 5.11 (select one)?

Option 1: Yes.

Option 2: No.

NOTE: If no option is selected, Option 1 will apply.

SECTION SIX: DEFINITIONS

There are no elections required for Section Six. Refer to the Basic Plan Document for information regarding this Section.

SECTION SEVEN: MISCELLANEOUS

Complete Part A

Part A. Funding Vehicle Exchanges

May Participants direct that all or a portion of their Individual Account be transferred, subject to the restrictions of the relevant Individual Agreements and Plan Section 7.01 (select one)?

Option 1: Yes, but only to approved investment options of Vendors eligible under the Plan to accept Plan Contributions.

Option 2: Yes, to investment options of Vendors eligible under the Plan to accept Plan Contributions and to investment options of other Vendors not eligible to accept Plan Contributions, but only if in accordance with the requirements of Plan Section 7.01(E).

Option 3: No.

NOTE: If no option is selected, Option 1 will apply.

SECTION EIGHT: EMPLOYER SIGNATURE

Check the applicable box if there is an attachment(s) that applies to this Plan other than a separate annuity contract or custodial agreement.

- Attachment A, Prior Plan Provisions.
- Attachment B, Related Employer Participation Form.
- Attachment C, Special Effective Dates.
- Other: (If this box is checked, please describe the attachment(s)) _____

I am an authorized representative of the Adopting Employer named above and I state the following:


1. I acknowledge that I have relied upon my own advisors regarding the completion of this Adoption Agreement and the legal and tax implications of adopting this Plan.
2. I understand that this Adoption Agreement and the corresponding Basic Plan Document are specimen documents that have not been reviewed or approved by the IRS. I further understand that TIAA-CREF cannot and does not provide legal or tax advice.
3. I have received a copy of this Adoption Agreement and the corresponding Basic Plan Document.

Signature of Adopting Employer Kari Atkins

Date Signed 12/11/08

Type Name Kari Atkins

Title Mgr. Benefits & Retirement

 12/11/08

Tony L. Gisson
Director, Human Resources

ATTACHMENT A PRIOR PLAN PROVISIONS

This Attachment may be used by an Adopting Employer to document Prior Plan provisions that apply to some or all of the assets of the Adopting Employer's Plan.

ADOPTING EMPLOYER PLAN INFORMATION

Name of Adopting Employer Western Kentucky University

Plan Name Western Kentucky University Tax Deferred Annuity Plan

Plan Sequence Number 002 Account Number 102643

PRIOR PLAN PROVISIONS

Provision 1:

Source of Provision (e.g., plan name and sequence number, amendment, etc.): _____

Provision 2:

Source of Provision (e.g., plan name and sequence number, amendment, etc.): _____

Provision 3:

Source of Provision (e.g., plan name and sequence number, amendment, etc.): _____

RESOLUTION

WHEREAS, Western Kentucky University (hereinafter, "the Employer"), previously established the WKU 403(b) Plan (hereinafter, "the 403(b) Plan") for the exclusive benefit of its employees and their beneficiaries; and

BE IT RESOLVED that the Institution amended the WKU 403(b) Plan to cover the Institution's employees to be effective January 1, 2009.

RESOLVED FURTHER, that the appropriate representatives of the Employer be, and the same hereby are, authorized and directed to: (i) execute a document memorializing the specific terms of this 403(b) Plan amendment; and (ii) execute all other documents and to do all other things as may be necessary or appropriate to make the amendment effective, including the execution of any additional 403(b) Plan amendments required by the Internal Revenue Service in order to continue and maintain the tax-qualified and exempt status of the Plan.

I, Tony Glisson, do hereby certify that the above and foregoing was adopted by Western Kentucky University, on the 1st day of January, 2009.



Signature

WITNESS:

Kari Atkins