

University of Nebraska-Lincoln Separation Agreement and General Release for Voluntary Separation Incentive Program For Retirement-Eligible Tenured Faculty

The Board of Regents of the University of Nebraska (“the University”) and _____ - _____ (“Faculty Member”), who holds a continuous appointment (i.e. tenured) with the University, agree that this Separation Agreement and General Release (“Agreement”) sets forth their complete agreement and understanding regarding Faculty Member’s voluntary separation of employment with the University pursuant to the University’s Voluntary Separation Incentive Program (“VSIP”) For Retirement-Eligible Tenured Faculty, attached hereto as Exhibit A, and incorporated herein by this reference.

1. Separation Date. Faculty Member’s employment with the University will terminate effective on one of the two dates below (“Separation Date”) (check one):

- June 30, 2015, for year-round, twelve-month appointments
- August 15, 2015, for nine-month academic year appointments

Faculty Member will receive base salary and accrued benefits earned through the Separation Date. Accrued and unused leave, determined as of the Separation Date, shall be paid or not in accordance with the law and the University’s established policies, plans and procedures. Any other pay and benefits (e.g. health insurance plan and related contributions) will terminate or cease upon separation in accordance with the terms of those established laws, policies, plans and procedures.

2. VSIP Payment and Other Consideration. In consideration for Faculty Member’s releases and promises as set forth in this Agreement, and following Faculty Member’s Separation Date, the University will pay Faculty Member, in a lump-sum cash payment, the total gross amount of \$_____, representing an amount equal to 90% of Faculty Member’s annual base academic salary as of October 1, 2014, less required payroll deductions, e.g. federal and state withholding tax (“VSIP Incentive Payment”). As of the first day of the month immediately following Faculty Member’s Separation Date, Faculty Member will be eligible to continue coverage under the University’s group insurance plans, pursuant to federal law commonly referred to as COBRA. If Faculty Member elects COBRA coverage, Faculty Member will be solely responsible for timely payment of all applicable premiums to insure continued insurance coverage following the Separation Date. Further details regarding COBRA continuation rights will be delivered separately to Faculty Member. The VSIP Incentive Payment set forth in this paragraph is in addition to any money or other benefits Faculty Member would have received if Faculty Member had voluntarily resigned from employment with the University without participating in the VSIP. Faculty Member acknowledges that the VSIP Incentive Payment is offered to Faculty Member by the University, freely and without obligation, in consideration for this Agreement, including Faculty Member’s release of all potential claims. In the event of Faculty Member’s death following execution of this Agreement but prior to receiving the VSIP Incentive Payment, Faculty member designates

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_____ (“Beneficiary”), as Faculty Member’s primary beneficiary and authorizes the University to pay Beneficiary the VSIP Incentive Payment.

3. Release. Except as otherwise provided herein, Faculty Member hereby waives, releases and discharges the University, the members of its governing board, officers, employees, agents, members, successors and assigns, from any demand or claim, of whatever kind or nature, at law or in equity, arising out of Faculty Member’s employment or separation from employment with the University, that Faculty Member has or might have against the University, including but not limited to: (a) claims under any federal, state, or local, labor, employment, discrimination, human rights, civil rights, pension, or tort law, statute, order, rule, regulation, or public policy, including but not limited to those arising under the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Americans With Disabilities Act of 1990, the Civil Rights Acts of 1964 and 1991, the Civil Rights Act of 1866, the Employee Retirement Income Security Act of 1974, the Rehabilitation Act of 1973, the Equal Pay Act of 1963, the Nebraska Fair Employment Practice Act, and the Nebraska Age Discrimination in Employment Act; and (b) claims arising under common law, including but not limited to claims or suits for intentional interference with contractual relations or business relationships, breach of an implied covenant of good faith and fair dealing, breach of contract, wrongful termination, negligent supervision, intentional or negligent infliction of emotional distress, defamation, libel, and slander.

4. Claims Not Waived or Released. By signing this Agreement, Faculty Member does not waive claims that may arise after the date this Agreement is signed and that are based upon the University’s acts or omissions after that date. Furthermore, by signing this Agreement, Faculty Member understands that this Agreement may not affect the rights and responsibilities of the Equal Employment Opportunity Commission (“EEOC”) to enforce the ADEA or prohibit the Faculty Member from exercising Faculty Member’s protected right to file a charge or participate in an investigation or proceeding conducted by the EEOC under the ADEA; provided, however, that Faculty Member waives his or her right to recover any damages or other personal relief based on any claim, cause of action, demand or lawsuit asserting a claim described above brought by Faculty Member or on Faculty Member’s behalf by any third party. Faculty Member further does not waive any claims relating to social security, workers’ compensation, or unemployment insurance benefits.

5. No Admission of Liability. Faculty Member understands and acknowledges that this Agreement does not constitute any admission by the University, and the University specifically denies, that any action taken with respect to Faculty Member was unlawful or wrongful, or that such action constituted a breach of contract or violated any federal, state, or local law, policy, rule, or regulation.

6. Return of Property. Unless otherwise agreed to in relation to the grant of emeritus status, Faculty Member agrees to promptly return to the University all property belonging to the University, including, but not limited to, credit cards, keys, security cards, lap tops or other hardware, software, and any documents or other confidential information belonging to the University.

7. Nondisclosure. Faculty Member understands and agrees that Faculty Member may not use or disclose any proprietary information belonging to the University including, but not limited to, confidential information, know how or trade secrets regarding the business of the University, which are valuable to the University and constitute non-publicly available confidential information. Any previously signed confidentiality agreements or confidential information policies

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shall continue to be in full force and binding upon Faculty Member after the Separation Date, and such agreements or policies are hereby ratified and confirmed in all respects.

8. Forfeiture of Continuous Appointment (Tenure). Faculty Member acknowledges that if Faculty Member executes and does not later revoke this Agreement in accordance with section 12 below, then effective as of the Separation Date, Faculty Member voluntarily relinquishes his or her continuous appointment (tenure) along with any rights to continued employment and other benefits appertaining to such tenured appointment.

9. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

10. Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and fully supersedes any and all prior agreements or understandings between the parties.

11. Severability. In the event that any provision of this Agreement is deemed unenforceable, Faculty Member agrees that a court of competent jurisdiction shall have the right to reform such provision to the extent necessary to cause it to be enforceable to the maximum extent by law. The provisions in this Agreement are severable, and if any provision is determined to be prohibited or unenforceable in any jurisdiction, the remaining provisions shall nevertheless be binding and enforceable.

12. Knowing and Voluntary Waiver; Revocation Rights. By signing this Agreement, Faculty Member acknowledges the following:

- (a) that before signing this Agreement, Faculty Member was advised in writing to consult with an attorney of Faculty Member's own choice about the Agreement;
- (b) that Faculty Member has been provided with a copy of this Agreement for purposes of review with an attorney of Faculty Member's own choice before signing this Agreement;
- (c) that Faculty Member has had no less than forty-five (45) calendar days in which to consider, accept, and sign this Agreement from the time Faculty Member received it;
- (d) that Faculty Member will have up to seven (7) calendar days after signing this Agreement in which to revoke the Agreement, and that Faculty Member must revoke the Agreement by hand-delivering or mailing via U.S. Postal Service written notice of such revocation to the following:

Office of the Senior Vice Chancellor for Academic Affairs
Voluntary Separation Incentive Program
208 Canfield Administration Building
Lincoln, NE 68588-0420

and

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- (e) that if Faculty Member does not revoke the Agreement during the seven-day revocation period, this Agreement will take effect on the eighth (8th) calendar day after Faculty Member signs the Agreement.

Faculty Member further acknowledges by signing and entering into this Agreement that Faculty Member has carefully reviewed and considered this Agreement, that the Agreement is written in a manner that Faculty Member understands, that Faculty Member understands all of the provisions of the Agreement and the Agreement's binding legal effect, that Faculty Member is voluntarily entering into this Agreement, and that the University has made no promises or representations to Faculty Member, other than as set forth in this Agreement.

Faculty Member

Signature

Print/Type Name

Date

Chair/Department Head

Signature

Print/Type

Date

Dean

Signature

Print/Type

Date

**Senior Vice Chancellor, Academic Affairs
or Vice President and Vice Chancellor,
IANR**

Signature

Print/Type Name

Date

**The Board of Regents,
University of Nebraska**

Christine A. Jackson

Vice Chancellor, Business & Finance

Date

Exhibit A
Voluntary Separation Incentive Program For
Retirement-Eligible Tenured Faculty

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University of Nebraska-Lincoln Voluntary Separation Incentive Program For Retirement-Eligible Tenured Faculty

October 1, 2014

INTRODUCTION

Effective October 1, 2014, the University of Nebraska offers to its qualified tenured faculty, who are retirement-eligible under the University's policies, the Voluntary Separation Incentive Program ("VSIP"). VSIP provides eligible faculty, who voluntarily elect and are approved to separate employment from the University, with the separation benefits described herein.

VSIP is intended to provide the University with savings over the long-term. Savings is most likely achieved through the separation of eligible faculty in state-funded¹ positions. However, the University may also consider eligible faculty in positions funded from other sources, if doing so meets its goals.

Please refer to this document for information concerning any rights and obligations faculty may have under the VSIP, as it shall govern the terms of the program, including eligibility, obligations and benefits.

DESCRIPTION

The opportunity for faculty to apply for participation in the VSIP is limited. The application period begins on October 6, 2014, and ends November 24, 2014. Approved faculty will be required to separate from their University employment on June 30, 2015 for annual twelve-month appointments and August 15, 2015 for nine-month academic year appointments ("Date of Separation"). Approved faculty will be required to sign a Separation Agreement with a release of claims. Additional information, including a template of the Separation Agreement, can be reviewed online at <http://go.unl.edu/vsip2014>.

In general, faculty who separate from University employment pursuant to the VSIP will each receive a lump-sum cash payment equal to 90% of the faculty member's annual base salary as of October 1, 2014, less federal and state withholding taxes and any other legally required reductions. Base salary is the annual budgeted salary for the faculty member, not including summer sessions, overloads or other one-time payments, such as professorships, or administrative or other stipends.

The VSIP is not an entitlement and any approvals under the VSIP must be consistent with the University's goals, including cost savings. Therefore, not every eligible faculty member's application to participate in the VSIP will necessarily be approved.

¹ Includes faculty positions funded from Programs of Excellence (POE) funds.

1. VOLUNTARY PROGRAM

If eligible, faculty are encouraged to consider the program and determine if it is right for them; no one at the University may require a member of the faculty to apply, or prohibit faculty from applying, for the VSIP. The VSIP is completely voluntary. Nor are there any adverse consequences to one's University employment should a member of the faculty decline to participate; non-participating faculty will be treated in the same manner as other similarly situated faculty with respect to future terms and conditions of employment.

2. ELIGIBILITY

A member of the faculty is eligible for VSIP only if he or she:

- a) has a continuous appointment (tenure);
- b) is 62 years of age or older at the Date of Separation; and
- c) has completed at least ten (10) years of service upon the Date of Separation, as determined by the University's Human Resources offices.

3. INELIGIBILITY

The following faculty are ineligible for VSIP:

- a) Pre-tenure specific term/tenure track faculty;
- b) Non-tenured faculty, e.g. Lecturers, Senior Lecturers, Extension Educators, Professors of Practice, Research faculty;
- c) Medical, Veterinary or similar professional residents/interns;
- d) Postdoctoral Research Associates;
- e) Faculty already party to a phased retirement agreement; and
- f) Retirees.

4. VSIP APPLICATION PROCEDURE

Eligible faculty, who wish to separate employment and receive the payment and other consideration available under the VSIP, must download a VSIP Application Form at <http://go.unl.edu/vsip2014>. The application period for the VSIP begins on October 6, 2014, and ends on November 24, 2014. Applications submitted later than 5:00 p.m. on November 24, 2014, will not be considered.

Receipt of applications will be acknowledged by the Office of the Senior Vice Chancellor for Academic Affairs for the applicant's campus. An applicant may withdraw his or her Application Form at any time before an executed Separation Agreement is submitted by the applicant. To withdraw an application, submit the Withdrawal Form, located at <http://go.unl.edu/vsip2014>. Withdrawal Forms must be hand-delivered or date stamped and mailed via US Postal Service on or before February 4, unless prior arrangements have been made with the SVCAA:

Office of the Senior Vice Chancellor for Academic Affairs
Voluntary Separation Incentive Program
208 Canfield Administration Building
Lincoln, NE /68588-0420

A Withdrawal Form for an application sent by any other delivery method will not be accepted.

On or before December 8, 2014, VSIP applicants will be notified in writing whether or not their applications have been approved. If approved, the notification will include instructions on how to pick-up and execute the Separation Agreement.

5. Timeline

The timeline for the VSIP program is summarized below.

October 1, 2014	VSIP Program announced
October 6 – November 24, 2014	VSIP applications received
December 8, 2014	Notification of acceptance or non-acceptance
December 15-19, 2014	Faculty can pick-up the VSIP Separation Agreements in Senior Vice Chancellor for Academic Affairs office
February 4, 2015	Last day Faculty may return signed VSIP Separation Agreements
June 30, 2015	Faculty with 12-month appointments separate
August 15, 2015	Faculty with 9-month appointments separate

6. VSIP SELECTION CRITERIA

While faculty are encouraged to consider the VSIP program, the University in its discretion reserves the right to limit the total number of participants for reasons, including but not limited to, preserving the viability of programs and services, as well as the integrity of financial resources. In the event an applicant is not accepted for the VSIP program, the University and the applicant (with the approval of the relevant Chancellor) may agree to an alternate, later Date of Separation, in order to preserve the viability of programs and services and/or the integrity of financial resources.

Decisions to fund any particular voluntary separation package, as well as the source of funds, will be made by the relevant Chancellor, in consultation with the faculty member's dean and department head.

7. VSIP INCENTIVE PAYMENT

Each approved applicant, who submits (and does not revoke) an executed Separation Agreement, will receive a lump-sum cash payment equal to 90% of his/her annual base salary as of October 1, 2014, less required deductions. The base salary is the "9 months over 12" or 12-month faculty salary in effect at October 1, 2014, and does not include any other payments such as summer sessions, overloads, or other additional payments, such as professorship or administrative stipends.

The VSIP payment will be made on or before the Date of Separation; provided that no VSIP payment will be made before the Separation Agreement's seven (7) day revocation period, described below, has passed.

8. MAXIMUM PAYMENT

The lump sum payment described above is the maximum VSIP payment available under this VSIP program. The payment may be coordinated with and reduced by the amount of any benefits related to disability benefits or any temporary total, temporary partial, or similar benefits based on a worker's compensation claim to the extent permitted by law.

9. EMERITUS STATUS

The normal process for approving emeritus status and associated privileges will be followed, in accordance with campus procedures and applicable Regents policy.

10. INFORMATION REGARDING OTHER BENEFITS

Accrued and unused leave, as of the Date of Separation, shall be paid in accordance with those applicable University policies in effect for all employees. Any other compensation and all NU Flex benefits will terminate or cease at the end of the last month in which the faculty member receives salary, in accordance with the law and the University's policies, plans and procedures.

Faculty accepting a VSIP payment will be eligible to continue insurance coverage up to 18 months under COBRA, or purchase ongoing retiree coverage from the University. Employee and Dependent Scholarship benefits for dependent children will be continued in accordance with the general policies of the University's Employee and Dependent Scholarship Program.

11. FORFEITURE OF CONTINUOUS APPOINTMENT (TENURE)

Faculty, who apply and are approved to participate in this VSIP program, shall relinquish their continuous appointment (tenure) effective upon the Date of Separation.

12. INFORMATION TO BE FURNISHED

Upon request, faculty who apply for participation in the VSIP shall furnish the University with such documents, data or other information as the University considers necessary to administer the VSIP. Failure to so cooperate may jeopardize participation in the program.

13. SEPARATION AGREEMENT WITH WAIVER AND RELEASE

If a VSIP Application is approved, the applicant will receive an individual Separation Agreement for review and signature. The faculty member shall then have no fewer than 45 days to consider and review the agreement. If the faculty member decides to sign the Separation Agreement, it must be then be delivered and received by the relevant campus's Office of the Senior Vice Chancellor for Academic Affairs, either delivered by hand or by mail via US Postal Service. The last day to deliver the signed Separation Agreement is February 4, 2015. Separation Agreements must be hand-delivered or date stamped and mailed via US Postal Service on or before February 4, unless prior arrangements have been made with the SVCAA:

Office of the Senior Vice Chancellor for Academic Affairs
Voluntary Separation Incentive Program
208 Canfield Administration Building
Lincoln, NE /68588-0420

The faculty member may revoke a submitted Separation Agreement on or within seven (7) calendar days of the date the faculty member signs the agreement. Revocation of the submitted Separation Agreement will constitute automatic withdrawal of the faculty member's application for participation in the VSIP. Revocation of the Separation Agreement must be clearly stated in writing, signed by the faculty member, and received by the Office of the Senior Vice Chancellor for Academic Affairs identified below.

Revocations must be hand-delivered or date stamped and mailed via US Postal Service to, unless prior arrangements have been made with the SVCAA:

Office of the Senior Vice Chancellor Academic Affairs
Voluntary Separation Incentive Program
208 Canfield Administration Building
Lincoln, NE /68588-0420

Revocations sent by any other delivery method will not be accepted.

If the faculty member does not revoke the submitted Separation Agreement on or within seven (7) calendar days of the date the Agreement is fully executed, the faculty member's employment will end on the Date of Separation, and payment will be made in accordance with the VSIP and the Separation Agreement.

14. RECOMMENDATION OF ATTORNEY REVIEW

Pursuant to the Older Workers' Benefit Protection Act of 1990 and the Age Discrimination in Employment Act, eligible faculty are advised to contact an attorney at their own expense to discuss the VSIP and to review the Separation Agreement. Faculty may similarly contact a tax advisor, if they so desire.

15. RECOVERY OF VSIP PAYMENTS MADE BY MISTAKE

An eligible employee shall return to the University any VSIP payment or other consideration, or portion thereof, made by a mistake of fact or law or paid contrary to terms of the VSIP.

16. VSIP BENEFICIARY PAYMENTS

The Separation Agreement will provide for a beneficiary designation. If a faculty member dies prior to receiving the VSIP payment, the entire VSIP payment will be made to the beneficiary.

17. REPRESENTATIONS CONTRARY TO THE VSIP

No employee, officer, director or agent of the University has the authority to alter, vary or modify the terms of the VSIP, except by means of an authorized written amendment to the VSIP approved

by the relevant campus's Vice Chancellor for Business and Finance. No verbal or unauthorized written representations or amendments shall be binding upon the University.

18. NO EMPLOYMENT RIGHTS OR CONTRACT

The VSIP shall not confer employment rights upon any person. No person shall be entitled by virtue of the VSIP to remain employed by UNL.

If a complaint is filed, pursuant to the Bylaws of the Board of Regents and the processes established by the relevant campus to terminate the applicant's continuous appointment, prior to the VSIP Date of Separation, the VSIP payment is suspended until the complaint is finally resolved. If termination is approved, no VSIP payment will be made.

19. APPLICABLE LAW

The VSIP shall be governed and construed in accordance with the laws of the State of Nebraska, without reference to its conflicts of law provisions.

20. SEVERABILITY

If any provision of the VSIP is found, held or deemed by a court of competent jurisdiction to be void, unlawful or unenforceable under any applicable statute or other controlling law, all of the remaining provisions of the VSIP shall continue in full force and effect.

21. NONDISCRIMINATION STATEMENT

It is the policy of the University not to discriminate on the basis of sex, age, disability, race, color, religion, marital status, veteran's status, national or ethnic origin or sexual orientation in its educational programs, admissions policies, employment policies, financial aid, or other school-administered programs.

22. END OF THE PROGRAM

The University will terminate this VSIP when all VSIP payments due hereunder have been made; provided that the University in its discretion may extend the program should it determine that doing so is in its best interests.

23. QUESTIONS REGARDING THE VSIP

The relevant Chancellor for participating campuses shall have the discretionary authority to determine eligibility for the VSIP payment and other consideration and to construe the terms of the VSIP, including the making of factual determinations. The decisions of the Chancellor shall be final and conclusive with respect to all questions concerning the administration of the VSIP on his campus. Questions or concerns regarding this program should be directed to:

Office of the Senior Vice Chancellor Academic Affairs
Voluntary Separation Incentive Program
208 Canfield Administration Building
Lincoln, NE /68588-0420

24. DISPUTES REGARDING THE APPLICATION OF THE VSIP

Faculty may request reconsideration of a VSIP decision by contacting the Office of the Senior Vice Chancellor for Academic Affairs on their campus. In order to be considered, any reconsideration request must be in writing and hand delivered or sent by the US Postal Service postmarked no later than thirty (30) calendar days from the date of the occurrence of the matter giving rise to dispute or disagreement, or within thirty (30) calendar days after the faculty member, through the use of reasonable diligence, could have obtained knowledge of the occurrence of the matter giving rise to the dispute or disagreement. Requests for reconsideration sent by facsimile, electronic mail, or campus mail will not be accepted.

R:/legal
VSIP2014. ckm

Exhibit B

Pursuant to the Age Discrimination in Employment Act and the Older Workers Benefit Protection Act, the University provides Faculty Member the following information.

The job titles and ages of all individuals eligible or selected for the Voluntary Separation Incentive Program (VSIP) are as follows:

(See Listing on Attached Page)

University of Nebraska - Lincoln

Voluntary Separation Incentive Program

Exhibit B - Eligible Faculty

Job Title	Age	# of Faculty
Professor	61	17
Professor	62	16
Professor	63	26
Professor	64	19
Professor	65	30
Professor	66	19
Professor	67	13
Professor	68	20
Professor	69	11
Professor	70	8
Professor	71	5
Professor	72	8
Professor	73	6
Professor	74	6
Professor	75	1
Professor	76	3
Professor	77	2
Professor	78	1
Professor	80	1
Associate Professor	61	5
Associate Professor	62	11
Associate Professor	63	8
Associate Professor	64	6
Associate Professor	65	1
Associate Professor	66	6
Associate Professor	67	2
Associate Professor	68	1
Associate Professor	69	1
Associate Professor	71	1
Associate Professor	73	1
Associate Professor	74	1
Associate Professor	76	1
Assistant Professor	65	1

Total Number of Eligible Faculty: 258

The job titles and ages of all individuals who were not eligible or selected for the program by job classification are as follows:

(See Listing on Attached Page)

University of Nebraska - Lincoln

Voluntary Separation Incentive Program

Exhibit B - Non-Eligible Faculty

Job Title	Age	# of Faculty
Professor	40	2
Professor	41	2
Professor	42	2
Professor	43	4
Professor	44	5
Professor	45	8
Professor	46	6
Professor	47	9
Professor	48	5
Professor	49	16
Professor	50	19
Professor	51	20
Professor	52	20
Professor	53	15
Professor	54	19
Professor	55	13
Professor	56	31
Professor	57	22
Professor	58	28
Professor	59	28
Professor	60	24
Professor	61	8
Professor	62	5
Professor	63	5
Professor	64	2
Professor	65	2
Professor	67	6
Professor	68	3
Professor	69	1
Professor	71	1
Professor	72	1
Professor	73	1
Professor	75	1
Professor	78	1
Professor	80	1
Associate Professor	34	1
Associate Professor	35	5

Job Title	Age	# of Faculty
Associate Professor	36	4
Associate Professor	37	12
Associate Professor	38	4
Associate Professor	39	14
Associate Professor	40	17
Associate Professor	41	12
Associate Professor	42	12
Associate Professor	43	20
Associate Professor	44	14
Associate Professor	45	17
Associate Professor	46	5
Associate Professor	47	9
Associate Professor	48	7
Associate Professor	49	11
Associate Professor	50	13
Associate Professor	51	9
Associate Professor	52	11
Associate Professor	53	14
Associate Professor	54	10
Associate Professor	55	8
Associate Professor	56	12
Associate Professor	57	11
Associate Professor	58	13
Associate Professor	59	7
Associate Professor	60	5
Associate Professor	61	2
Associate Professor	62	2
Associate Professor	66	1
Associate Professor	67	3
Assistant Professor	37	2
Assistant Professor	39	1
Assistant Professor	46	1

Total Number of Non-Eligible Faculty: 625