

**MOREHEAD STATE UNIVERSITY  
2014 VOLUNTARY BUYOUT PROGRAM**

**WAIVER AND RELEASE AGREEMENT**

This Waiver and Release Agreement ("Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2014, by and between \_\_\_\_\_ (referred to in this Agreement as "I", "me", "my") and Morehead State University, its respective Regents, officers, agents, employees, affiliates, and successors, past and present, and each of them (collectively referred to in this Agreement as "University" or "Releasees"):

WHEREAS, Morehead State University has determined to offer the 2014 Voluntary Buyout Program to those of its employees approved for such pursuant to certain criteria as set forth in the Voluntary Buyout Program (hereinafter "VBP");

NOW THEREFORE, it is agreed by and between the University and myself as follows:

1. **Separation from Employment.** I understand that my last day of employment (Voluntary Separation Date) for staff shall be June 30, 2014, July 31, 2014, August 31, 2014 or September 30, 2014 (Option #1 or #2) OR for faculty May 13, 2014 (Option #1), December 16, 2014 (Option #2), or May 13, 2014 Voluntary Separation Date-Retirement and December 16, 2014 Phased Retirement End Date (Option #3). I acknowledge and agree that I have decided to voluntarily separate my employment with the University, having made that decision myself of my own free will, and after having had forty-five (45) calendar days to make that decision and consider the consequences thereof, including, but not limited to, those set forth below.
  
2. **Consideration.**
  - (a) I specifically acknowledge and agree that the benefits payable to me, defined as Separation Pay and Separation Benefit in the VBP, and specifically applying to me, exceed any amounts otherwise due to me upon my voluntary separation from employment with the University.
  
  - (b) I understand that pay and benefits normally payable to an employee upon voluntary separation from employment with the University shall be paid in accordance with the terms of established policies, plans and procedures, except as provided for in the VBP. This includes such items as payout of accumulated vacation leave.
  
  - (c) I further acknowledge, understand and agree that the benefits payable to me, defined as Separation Pay and Separation Benefit in the VBP are the only consideration I will receive for my participation in the VBP and for entering into this Agreement.
  
  - (d) I specifically acknowledge that Separation Pay payable to me will be \_\_\_\_\_ and funds in the amount of one thousand five hundred (\$1,500.00) will be placed in a Health Reimbursement Account, for a total maximum of \_\_\_\_\_, less applicable federal, state and local taxes and other applicable withholdings.
  
  - (e) I choose to receive the Separation Pay described in section 2(d) above. My initials below signify my irrevocable choice of one of the following:

\_\_\_\_\_ lump sum payable for STAFF on the 15<sup>th</sup> of the following month after Separation Date (Option #1), with Separation Date being \_\_\_\_\_ and the reason being \_\_\_\_\_

\_\_\_\_\_ (indicate Resignation or Retirement for separation reason); **OR**

\_\_\_\_\_ lump sum payable for STAFF on the 15<sup>th</sup> of the following month after Separation Date (Option #2), with Separation Date being \_\_\_\_\_ and the reason being

\_\_\_\_\_ (indicate Resignation or Retirement for separation reason); **OR**

\_\_\_\_\_ lump sum payable for FACULTY on June 13, 2014 (Option #1) with Separation Date being May 13, 2014 and the reason being \_\_\_\_\_ (indicate Resignation or Retirement for separation reason); **OR**

\_\_\_\_\_ lump sum payable for FACULTY on January 15, 2015 (Option #2) with Separation Date being December 16, 2014 and the reason being \_\_\_\_\_ (indicate Resignation or Retirement for separation reason); **OR**

\_\_\_\_\_ lump sum payable for FACULTY on January 15, 2015 (Option #3) with Separation Date being May 13, 2014 and the reason being retirement. Phased Retirement End Date will be December 16, 2014.

3. **Release.** I agree that through the terms of this Agreement I am receiving sufficient consideration beyond anything to which I am already entitled from the University and that, for the full consideration, as paid by the University, for myself, my descendants, ancestors, dependents, heirs, executors, administrators, trustees, assigns, and successors, and each of them, hereby fully release and discharge the University, and its present and past Regents, officers, agents, employees, directors, attorneys, affiliates, assigns, administrators, predecessors and successors, in both their individual and official capacities, from any and all claims, causes of action, demands, fees, costs, rights, expenses, or claims of whatsoever nature and kind, known or unknown, whether presently discoverable or undiscoverable, whether suspected or claimed, which I have ever had, now have, or may discover in the future against the University arising out of or relating to my employment and separation, including, but not limited to, any and all claims of alleged discrimination; defamation; breach of contract, express or implied, written or oral; constructive discharge; or any and all other such tort claims, and any claims under all applicable University policies and regulations governing these procedures, retaliation, fraud, misrepresentation, contract, fiduciary duty, negligent or intentional interference with business opportunity, and outrage, as well as any rights under University policy, the Kentucky Revised Statutes Chapter 344, Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, The Age Discrimination in Employment Act as amended by the Older Worker's Benefit Protection Act, Family and Medical Leave Act, and/or any federal statutory or common law claim or remedy of any kind whatsoever, including, but not limited to, claims for damages for front pay, back pay, wage loss, attorneys' fees, costs, waiver, medical bills, non-economic loss (including, but not limited to, pain, suffering, humiliation, embarrassment, and loss of reputation) (hereinafter "Released Claims").
4. To the extent permitted by law, I am waiving any claim that I might have for unemployment compensation through the Commonwealth of Kentucky, Office of Employment and Training, Unemployment Insurance Division arising out of my voluntary separation from University employment.
5. Notwithstanding the above Released Claims contained in Paragraph 3, I am not waiving or releasing:
  - (a) claims for workers' compensation;
  - (b) claims for medical conditions caused by exposure to hazards during my employment of which I was not aware before or at the time I signed this Agreement;
  - (c) claims arising after the date on which I sign this Agreement;
  - (d) claims for vested or accrued benefits under a state employee benefit plan.

- (e) My rights to file a charge with the U.S. Equal Employment Opportunity Commission (“EEOC”) or any other federal or state fair employment practices agency and to participate in an agency investigation. I am, however, waiving all rights to recover money or other individual relief in connection with any charge filed by myself, EEOC, or any other person or entity.
6. **No Re-employment**. I also agree, for a period of three (3) years from my Voluntary Separation Date/Phased Retirement End Date, not to seek or accept employment in a benefits-eligible or grant-funded position at the University or any of its affiliates, and further agree that the University is under no obligation to employ me or re-employ me or to consider me for employment or re-employment during that period. I understand that if I retire in conjunction with the VBP, I will not be eligible for re-employment in a benefit-eligible position at MSU.
7. **Return of University Property**. On or before my Voluntary Separation Date/Phased Retirement End Date, I must return to my immediate supervisor all University property in my possession or control, whether at work or elsewhere, including, but not limited to, keys, uniforms, mobile devices, laptop computer, identification card, credit cards, calling cards, parking permit, University documents or recordings, and any other property of the University.
8. **Employee Acknowledgements**. I also acknowledge and agree that I: (i) have been paid for all hours worked, including overtime, up through the last pay period for which I was paid before signing this Agreement; and (ii) have not suffered any on-the-job injury for which I have not already filed a claim.
9. **Additional Taxes**. To the extent that any additional taxes may be due on the Separation Pay and/or Separation Benefit payout, I agree to pay the taxes myself, and to indemnify and hold the Releasees harmless for any tax claims, assessments or penalties resulting from such payment. I further agree to provide any and all information pertaining to myself such as any new address, upon request, as necessary for University to comply with applicable tax laws.
10. **Confidentiality / Non-Disclosure**. I agree to keep and maintain the confidentiality of any and all information that I acquired during my employment with the University that is treated as confidential and non-discloseable under state and/or federal law. I agree that I have had access to certain confidential and/or proprietary information and documents that pertain to, among other things, personnel, financial, student, intellectual property, and/or donor information relating to the management of University functions and activities (hereinafter referred to as “Confidential Information”). I understand and agree that all such Confidential Information is the sole property of University and constitutes proprietary information of the University. Except as required by law, I agree (i) not to discuss or disclose to any person any Confidential Information arising out of or in connection with my employment with University and (ii) not to remove, transfer, disclose or utilize any Confidential Information. I further agree that any breach of this confidentiality clause shall be specifically enforceable by a court of law or equity and I further agree to indemnify and hold harmless the University for any costs, including attorneys’ fees, incurred in the enforcement of this Agreement.
11. **Cooperation with University**.  
(a) I agree to reasonably cooperate with University to the extent that such cooperation and assistance is requested by University officials regarding issues that may arise that were related to my responsibilities at the University or upon which I may have knowledge. While this assistance will be governed by the particular facts and the principles of honesty and integrity, it is expected that such assistance will be provided in a cooperative spirit and will further the University’s interest in the matter(s) involved.

(b) I agree to cooperate with the University and its legal counsel in connection with any current or future investigation or litigation relating to any matter in which I was involved or of which I have knowledge, or which occurred during my employment with the University. Such assistance shall include, but not be limited to depositions and testimony, and shall continue until such matters are resolved. However, nothing in this Paragraph is intended to waive or limit rights that are excluded from the Release in Paragraph 3.

12. **Enforceability.** If any provision of this Agreement is deemed invalid or unenforceable for any reason by a court or other tribunal of competent jurisdiction, it shall not be stricken in its entirety or held void or unenforceable, but rather shall be deemed modified to make it enforceable to the maximum extent legally permissible, and the Agreement's remaining provisions shall continue in full force and effect.
13. **Prior Agreements.** I confirm that any prior agreements between myself and University are null, void and unenforceable, and that, upon the Effective Date, University has no obligations to me except as expressly set forth in this Agreement.
14. **Governing Law and Venue.** The laws of the Commonwealth of Kentucky will govern this Agreement. In the event of an action to enforce any provision of this Agreement, venue and jurisdiction shall be in Franklin Circuit Court.
15. **Terms Are Contractual.** It is agreed and understood between myself and the University that the terms of this Agreement are contractual and not merely a recital.
16. **Revocation.** I understand that I may revoke this Agreement within seven (7) calendar days after Notification of Acceptance to the VBP Administrator. Such revocation must be delivered by hand-delivery, or via FedEx; UPS; or U.S. Postal Service, certified mail, return receipt; to VBP Administrator, Human Resources, Morehead State University, 301 Howell-McDowell Administration Building, Morehead, KY 40351. Revocations will not be accepted via first class mail, electronic mail, facsimile, or campus mail. I further understand that if I timely revoke this Agreement, then: (i) I shall remain actively employed as of the Voluntary Separation Date/Phased Retirement End Date, and (ii) I will not be eligible to receive any Separation Pay or Separation Benefits under this VBP.
17. **Designated Beneficiary.** In the event I should die after entering into this Agreement and prior to the Separation Pay payable to me under the VBP, as described above and in the VBP, is paid in full, I hereby designate the following individual as my beneficiary specifically for purposes of the VBP payout:

Printed Name of Beneficiary: \_\_\_\_\_  
Relationship: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ Address: \_\_\_\_\_  
Telephone Number: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

I understand that the Separation Benefit of Tuition Assistance is non-transferrable and will not be available to my designated beneficiary and that, other than the Separation Pay benefits, no other amounts will be payable to my designated beneficiary, under the terms of this Agreement.

18. **Final Acknowledgments.** I further acknowledge and agree that:
  - (a) I have been given forty-five (45) calendar days to consider this Agreement before signing;
  - (b) I have carefully read and fully understand this Agreement in its entirety;

