

**Phased Retirement Agreement and release
without tenure or continuing status**

**Between Arizona State University on behalf of the Arizona Board of Regents and
employee: _____**

Employee status at the university (check one):

- University staff member Administrative staff member
- Faculty member or academic professional

This agreement is subject to the Phased Retirement Program under Arizona Board of Regents Policy 6-602, *Optional Retirement Program*. The enforcement of this agreement is subject to Arizona law and university and ABOR policy. Employee will remain subject to ABOR and university policies during phased retirement.

Section I

By signing below, employee certifies the following items:

- a. He or she is eligible to participate in the ABOR Phased Retirement Program.
- b. He or she is a vested participant in the ABOR Optional Retirement Program.
- c. He or she is age 62 or older.

Section II

A. Term of appointment

1. Under this agreement, employee will begin phased retirement on _____ and will terminate employment and retire on _____.

Employee understands that his or her retirement, if accepted, is irrevocable. The termination date can be accelerated upon mutual written agreement of the university and employee, but the termination date cannot be extended. Employee understands that, as applicable, (a) his or her annual contract will continue to be subject to annual employment contract renewals during the program, or (b) his/her at- will status is unchanged and that participation in the program does not create a guarantee or implied agreement of continuous employment during the program period.

2. During this period of phased retirement, an employee's appointment will be on a reduced full-time equivalent for the following periods. Please insert dates as applicable:

a. _____

B. Compensation

Employee's compensation during phased retirement will be based on the above designated percentage of the full-time base annual salary that the employee was earning immediately prior to the beginning of this phased retirement, based on the employee's last nine or 12-month contract term of regular benefits-eligible employment at university. If a member of the faculty or professional holds a fiscal year administrative appointment in the year preceding phased retirement, the university will first establish an academic year base faculty or professional salary in accordance with ABOR 6-103 and relevant university policies, and then the reduced FTE percentage will be applied against that base. During phased retirement, Employee will continue to be subject to performance reviews and annual evaluations. Employee will be eligible to receive proportionate salary and merit pay increases allocated by the legislature or university, and approved pursuant to ABOR and university policies, based on annual evaluations.

C. Duties and responsibilities

The specific duties to be performed by employee under this agreement are as follows:

D. Employee benefits and voluntary retirement programs

During the phased retirement period an employee may continue or elect to participate in all state, ABOR, or university sponsored employee benefit and voluntary retirement programs for which he or she is eligible based on established eligibility standards and subject to the benefits provisions for all university employees.

E. Optional Retirement Plan contributions

1. Both employee and employer contributions to the Optional Retirement Plan will continue until the participant's retirement date as required by Arizona Revised Statutes § 15-1628C and the Optional Retirement Plan document. Both the university's and the employee's contributions to the ORP account will be based on the employee's reduced salary, subject to contribution limits imposed by applicable section(s) of the Internal Revenue Code.

2. Employee may elect to start receiving the benefits accrued under the Optional Retirement Plan, but is not required to do so. Furthermore, all retirement benefits for which employee is eligible shall be determined in accordance with the Optional Retirement Plan and employee's selected investment company(s).

F. Post-retirement employment

After employee completes the phased retirement period, neither ABOR nor the university has any obligation to offer employee additional employment.

Section III

A. General release

By entering this agreement, employee releases the State of Arizona, the Arizona Board of Regents, University, and their board members and employees from all claims, causes of action, costs, and attorney fees that may have arisen prior to employee's signing of this agreement and that are related to the employee's university employment, including the conclusion and resignation of employee's present employment status, the voluntary relinquishment of tenure rights or continuing status (if applicable), or entering into this agreement.

This release includes contract and tort law claims, and claims under the Age Discrimination in Employment Act of 1967, as amended (29 U.S.C. § 621 *et seq.*), including the Older Workers Benefit Protection Act of 1990; Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000e *et seq.*), including the Civil Rights Act of 1991 and the Civil Rights Acts of 1866, 1870, and 1871 (42 U.S.C. § 1981 *et seq.*); the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101 *et seq.*); and the Rehabilitation Act of 1973; Arizona Civil Rights Act (ARS § 41-1461 *et seq.*) or any other federal, state, or local statutory or common laws relating to employment discrimination or employment.

Employee agrees that he or she does not have any prior or current claims and is not entitled to any compensation or other benefits arising under the Fair Labor Standards Act of 1938 (29 U.S.C. § 201 *et seq.*) or Family and Medical Leave Act of 1993 (29 U.S.C. § 2601 *et seq.*) that have not otherwise been paid or provided to him or her by the university.

Nothing in this agreement prohibits an employee from filing a charge with the Equal Employment Opportunity Commission, but this release includes a release of employee's right to file a court action or to seek individual remedies or damages in any EEOC filed court action, and employee's release of these rights shall apply to any proceeding arising from the EEOC charge.

B. Matters not released under the general release

Employee does not waive or release any claims that may arise after the date that Employee signs this agreement. Employee also does not waive or release the right to seek employee retirement benefits or to seek or continue to receive other employee group benefits to which employee is now entitled or for which employee will be eligible while a participant in the program, whether eligibility for the retirement benefit or employee group benefit has been established by federal or Arizona law or by contract between employee and the employing institution.

In addition, the employee does not waive or release the following rights:

- a. Any of his or her vested and accrued rights as a participant in the ABOR 401(a), Optional Retirement Plan, or State of Arizona approved contributory, defined benefit retirement plan, including but not limited to the Arizona State Retirement System and the Public Safety Personnel Retirement System.
- b. His or her right to potential indemnification or defense as a current or prior officer or employee of University under applicable law or policy.
- c. His or her right to assert any claims relating to university's obligations under this agreement.

Section IV

A. Proper prior notice of certain information

Employee acknowledges that he or she has been provided with a notice, as required by the Age Discrimination in Employment Act of 1967 and the Older Workers Benefit Protection Act of 1990, that contains information about individuals covered under the program, eligibility factors for participation in the program, time limits applicable to the program, if any, the job titles and ages of the employees in the identified job classification designated as eligible to participate in the program, and the ages of all individuals in the same job classification who have not been designated as eligible to participate in the program.

B. Time to consult an attorney, to consider signing this agreement, and time to consider revoking the agreement

1. Employee acknowledges that he or she knowingly and voluntarily waives any and all rights or claims which he or she may have arising under the Age Discrimination in Employment Act of 1967 or the Older Workers Benefit Protection Act of 1990, in regard to his or her retirement from the university in exchange for the valuable consideration set forth in this agreement. By signing this agreement, the employee acknowledges the following statements:
 - a. Employee has been advised in writing of his or her right to consult with an attorney, at his or her own expense, prior to signing this agreement.
 - b. Employee has either consulted with an attorney or has elected not to consult, and if he or she consulted with counsel, his or her attorney has reviewed with and explained to employee the terms of this agreement, including the consideration and the effect of the release, and that any questions he or she had regarding this agreement have been answered to his or her satisfaction.
 - c. Employee has been provided with a period of up to 45 days to consider the terms of and whether to execute this agreement.
 - d. Employee enters into this agreement voluntarily and with full knowledge and understanding of its significance; employee acknowledges that he or she was not induced by university through fraud, misrepresentation, or threat to withdraw or alter this agreement prior to expiration of the 45-day period.
 - e. Employee may revoke this agreement within seven calendar days after signing the agreement, if he or she so chooses, by mailing written notification of his or her withdrawal to the Office of the Provost of the University, Arizona State University, P.O. Box 877805, Tempe, AZ, 85287-7805 or in person to the Fulton Center, Suite 420, 330 E. University Drive, Tempe, AZ. The agreement will not be effective or enforceable until the seven-day revocation period has passed without his or her having revoked the agreement.
2. Employee acknowledges that he or she is entering into this agreement in exchange for consideration, which is in addition to anything of value that he or she is otherwise entitled to receive. Employee further agrees that if a portion of this agreement is held void, the remainder of this agreement will remain enforceable.

C. Effective date and amendments

1. This agreement contains the entire agreement of the parties with respect to its subject matter. No prior or contemporaneous agreement, written or oral, will be interpreted to alter these terms.
2. This agreement must be signed by employee and the appropriate administrators. The university must approve this agreement and the proposed retirement date, and university approval is not effective until this agreement is signed by the provost of the university.
3. This agreement may be changed only by mutual consent of the parties. All amendments must be in writing, comply with applicable policy, be signed by the parties and reviewing administrators, and will become effective only when signed by the provost of the university.

Employee signature Date

Printed name of employee

Chair or director signature Date

Printed name of chair or director

Dean or vice president signature Date

Printed name of dean or vice president

Provost of the university Date

Printed name of provost of the university

**The Arizona University System Optional Retirement Plan
Phased Retirement Program Age Discrimination in Employment Act Disclosure
Arizona State University**

Of the Optional Retirement Plan participants at Arizona State University, the following individuals were eligible to participate in the Phased Retirement Program. Eligible participants are at least age 62 and fully vested in the Optional Retirement Plan.

Below is a listing of the employment categories and ages of the number of eligible Optional Retirement Plan participants and the number of ineligible Optional Retirement Plan participants **as of August 31, 2022**.

Age:	University Staff ¹		Academic Administrator ²		Academic Professional ³		Faculty ⁴		Classified	
	Eligible	Ineligible	Eligible	Ineligible	Eligible	Ineligible	Eligible	Ineligible	Eligible	Ineligible
94							1			
89							2			
87							1			
86							2			
85							3			
84							1			
83							1			
82			1				3			
81							2			
80							7			
79			1				4			
78	1		1				10			
77	1						5			
76			1				4			
75	3						9			
74	2		3		1		19			
73	2		1				14			
72	2		7		2		18			
71	6		3		1		29			
70	5		5		1		23			
69	3		9		1		30			
68	8		4		4		33			
67	7		5		1		34			
66	15		4		6		34			
65	17		12		4		41		1	
64	16		13		1		39		1	
63	16		6		5		52			
62	17		5		2		50			
61		21		10		3		50		
60		22		16				44		
59		24		8		1		28		
58		18		8		2		36		
57		20		10		1		54		
56		14		12		4		36		
55		12		10		5		52		
54		26		13		5		60		
53		22		10		6		55		
52		20		16		4		43		
51		23		10		3		41		
50		28		11		4		41		
49		29		11		2		48		
48		30		10		4		48		
47		23		7		3		50		
46		30		9		6		47		
45		31		10				50		
44		35		5		5		51		
43		23		10		4		57		
42		37		9		2		58		
41		35		2		2		48		
40		24		8		1		56		
39		38		4		3		38		
38		43		3				38		
37		30		4		3		37		
36		33		2		1		28		
35		49				2		21		
34		30		1				20		
33		32				2		10		
32		22				1		6		
31		23						2		
30		16						2		
29		22								
28		15								
27		7								
26		2								
24		1								

1) ABOR Policy #6-510 - University Staff (<https://public.azregents.edu/Policy%20Manual/6-510%20University%20Staff.pdf>)
2) ACD Policy #504 - Conditions of Administrative Service (<https://www.asu.edu/aad/manuals/acd/acd504.html>)
3) ABOR Policy #6-302 - Conditions of Service for Academic Professionals (<https://public.azregents.edu/Policy%20Manual/6-302%20Conditions%20of%20Service%20for%20Academic%20Professionals.pdf>)
4) ABOR Policy #6-201 - Conditions of Faculty Service (<https://public.azregents.edu/Policy%20Manual/6-201-Conditions%20of%20Faculty%20Service.pdf>)