# AUBURN UNIVERSITY

# 457(b) DEFERRED COMPENSATION PLAN

# SUMMARY EXPLANATION OF THE PLAN

Effective September 6, 2012

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## INTRODUCTION

**AUBURN UNIVERSITY** (the "Employer") adopted the AUBURN UNIVERSITY 457(b) DEFERRED COMPENSATION PLAN (the "Plan") effective January 1, 2002. This Summary Explanation describes the Plan as amended and restated effective January 1, 2012.

This 457(b) Deferred Compensation Plan is in addition to our Tax Deferred 403(b) and 403(b)(7) Plan in which you may also be eligible to participate.

This revised Summary Explanation of the Plan supersedes all previous Summary Explanations. Although the purpose of this document is to summarize the more significant provisions of the Plan, the Plan document will prevail in the event of any inconsistency.

## ELIGIBILITY FOR PARTICIPATION

<u>Who is eligible to participate?</u>

In general, if you are a full-time or part-time employee, you are eligible to make Elective Deferrals under the Plan out of your own compensation.

<u>Who are excluded employees?</u>

Excluded employees are not eligible to participate in the Plan. Under the Plan, an excluded employee is a former employee, an independent contractor, or a student-employee who is enrolled and regularly attending classes at the Employer.

<u>When can you participate?</u>

You are eligible to participate in the Plan and elect to make Elective Deferrals under the Plan upon becoming employed by the Employer.

<u>Will you be notified by your Employer?</u>

Yes, you will be notified by your Employer that you are eligible to make Elective Deferrals and become a participant under the Plan.

<u>How do you enroll in the Plan?</u>

To participate in the Plan, you must complete the necessary electronic enrollment procedures or enrollment forms. If you do not enroll immediately, you may enroll at any future date.

## CONTRIBUTIONS TO THE PLAN

<u>How do you make Elective Deferrals under the Plan?</u>

You may elect to reduce your compensation (defined below) and make a contribution to the Plan on a pre-tax basis by completing a Voluntary Salary Deferral Agreement with the

Employer. In general, your election will become effective on the first day of the month following our receipt thereof, or as soon thereafter as is administratively practicable. If you are a new employee, your election to defer will become effective on the first day of the month following commencement of employment if the Payroll and Benefits Office receive your election on or before the first day of such month, or as soon thereafter as is administratively practicable. These pre-tax contributions are known as Elective Deferrals. You may elect to defer, in whole percentages, up to 100% of your compensation on a pre-tax basis. You must contact the Auburn University Payroll & Employee Benefits Office if you make an election of 50% or more of your compensation to confirm that you have adequate income remaining to pay for all of your benefits each pay period. Federal law, however, limits the amount you may elect to defer under this Plan during any calendar year ($18,000 in 2016). If you are age 50 or over, you may defer an additional amount, known as age 50 catch-up contributions, up to $6,000 (in 2016). These amounts may be modified in future calendar years due to cost-of-living adjustments. The percentage amount of your Elective Deferrals will be sent to one vendor at a time, such vendor to be designated by you.

After your initial election to make Elective Deferrals, you may elect to increase, reduce or totally suspend your elections to contribute to the Plan at any time. Your election will become effective as of the first day of the next following month or as soon thereafter as is administratively practicable.

The special Section 457 catch-up deferral election available to participants during the three calendar years prior to Normal Retirement Age expires after the calendar year ending December 31, 2011.

<u>What other rules affect your elections to make Elective Deferrals?</u>

The Plan Administrator may establish rules regarding the manner in which your elections are made. The rules may also require that certain advance notice be given of any election. Your election regarding Elective Deferrals is only effective for compensation you will receive in the future. The Plan Administrator may also reduce or totally suspend your election if the Plan Administrator determines that your election may cause the Plan to fail to satisfy any of the requirements of the Internal Revenue Code.

<u>What happens if you are granted a paid leave of absence?</u>

Unless your election is otherwise changed, during a paid leave of absence, your Elective Deferrals will continue to be made for you.

<u>Can this Plan accept a Rollover Contribution from another eligible plan?</u>

The Plan may accept a Rollover Contribution made in the form of cash on behalf of any participant who is currently employed by the Employer from another eligible plan. However, the Plan does not accept rollovers from a Roth account or a Roth IRA, or a rollover that includes after-tax employee contributions. The Plan Administrator may establish procedures that regulate the method by which Rollovers will be accepted.

What if your employment is interrupted by military service?

If you serve in the United States armed forces and must miss work as a result of such service, you may be eligible to make additional Elective Deferrals upon resumption of your employment with the Employer. If your employment is interrupted by military service, you should contact the Employer.

What is your compensation under the Plan?

"Compensation" means your regular salary or wages, overtime pay, bonuses, shift differential, supplemental pay, and paid time off to the extent that the amounts are includible in your gross income. Compensation will also include any amount you elect to defer on a tax-preferred basis to any Employer benefit plan.

**VESTING**

Are your Elective Deferrals and Account Balance always fully vested?

Yes, you will have a fully vested and nonforfeitable interest in your Elective Deferral and Rollover Contribution Account.

**DISTRIBUTIONS**

When can you receive distributions under the Plan?

You are entitled to receive a distribution or distributions from your Account Balance upon your retirement or other termination of employment. This includes a distribution or distributions from any Rollover Contribution Account. If applicable distributions shall be made in accordance with the terms of your vendor’s contract provisions.

If you are still employed by Auburn, you may also elect to receive in-service distributions of all or part of your Account Balance any time on or after the date you reach age 70½.

How are your account balances distributed in the event of your death?

Death benefits are paid to a beneficiary or beneficiaries on file with your vendor. How the proceeds are distributed depends upon the age of the participant upon death, beneficiary's relationship to you, and the vendor’s contract provisions.

Can I receive a distribution based on a disability?

Unlike the 403(b) Plan, under the 457(b) Plan disability itself is not a distributable event. However, it may be considered an unforeseeable event and you may be able to withdraw money, subject to certain rules and restrictions.

What is the timing and form of payment?

If you elect to receive your benefit due to retirement or other termination of employment, payment of your Account Balance will be processed as soon as administratively practicable, after a notice filed by you with the Employer at least 30 days before the date payment is to begin, unless the 30 day period is waived by the Employer. The payment of your accounts will be made using distribution options available under your vendor's contract provisions.

Is there a mandatory cash out of a small Account Balance?

Upon termination of employment, if the vested amount of your accounts (including Rollover Contributions) does not exceed $1,000, your vested account balance will be paid in a lump sum, without the consent of you or your beneficiary.

If the amount of your Account Balance exceeds $1,000, you must consent to any distribution of your account. However, the Plan Administrator may commence distribution of your Account Balance without consent at the time that payments must begin under applicable federal law -- generally the April 1 following the later of the calendar year in which you attain age 70½ or you terminate employment.

Can you name your beneficiary?

Yes, you have the right to designate one or more primary and one or more secondary beneficiaries to receive any benefit becoming payable upon your death. You may change your beneficiaries at any time and from time to time by filing written notice of such change with your vendor.

If you fail to designate a beneficiary, or in the event that all designated primary and secondary beneficiaries die before you, the death benefit will be payable to your spouse or, if there is no spouse, to your estate.

What are the tax rules when you receive a distribution of your Account Balance?

Any distribution paid directly to you will be subject to mandatory Federal income tax withholding of 20% of the taxable distribution and the remaining amount will be paid to you. You cannot elect out of this tax withholding but you can avoid it by electing a direct rollover distribution as described below. This withholding is not a penalty but a prepayment of your Federal income taxes.

You may rollover the taxable distribution you receive to an individual retirement account (IRA) or another eligible plan, if it accepts rollover contributions and you roll over this distribution within 60 days after receipt. You will not be taxed on any amounts timely rolled over into the IRA or another eligible plan until those amounts are later distributed to you. Any amounts not rolled over may also be subject to certain early withdrawal penalties prescribed under the Internal Revenue Code.

Can you request a direct rollover of your Account Balance?

Yes, as an alternative to a non-rollover distribution paid directly to you, you may request a rollover distribution of your entire Account Balance directly into an individual retirement account (IRA) or another eligible plan, if it accepts your rollover contributions. Federal income taxes will not be withheld on any direct rollover distribution. Special rules also permit your surviving spouse and non-spousal beneficiaries to engage in a direct rollover of distributions. Direct rollovers shall otherwise be made in accordance with the terms of your vendor's contract.

Can you request a combination non-rollover distribution and direct rollover distribution?

You may request that part of your distribution be paid directly to you and the balance rolled into an IRA or another eligible plan. Any part of the distribution paid directly to you will be subject to the Federal income tax withholding rules referred to above and any direct rollover distribution will be made as described above. Direct rollovers shall otherwise be made in accordance with the terms of your vendor's contract.

You will pay income tax on the amount of any taxable distribution you receive from the Plan. A 10% premature distribution penalty tax may also apply to your taxable distribution.

## INSERVICE DISTRIBUTIONS AND LOANS

Can you receive a distribution due to an unforeseeable emergency?

You may receive an inservice distribution on account of an unforeseeable emergency. Emergency distributions are administered by the Plan Administrator.

You may receive an emergency distribution only if the Plan Administrator finds that you have a severe financial hardship where you lack other available resources, such as compensation from insurance, the liquidation of assets, by your cessation of deferrals to the Plan, or by obtaining a nontaxable loan from the Plan. The following are the only financial hardships considered to be severe:

(1) An illness or accident of you or your spouse or dependents;

(2) Loss of your property due to casualty;

(3) The need to prevent the eviction of you from your principal residence (or a foreclosure on the mortgage on your principal residence);

(4) Payments for funeral expenses of your deceased spouse or dependents; or

(5) Other similar extraordinary and unforeseeable circumstances arising as a result of events beyond your control.

The distribution cannot exceed the amount reasonably necessary to satisfy the emergency (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution). Your Elective Deferrals will be suspended for six months after your distribution has been processed on account of an unforeseeable emergency

Can you receive a distribution after you reach age 59½?

No, the 457(b) Plan does not allow in-service distributions at age 59 ½ while you are still employed by Auburn University.

Can you obtain a loan from your Account Balance?

Yes, you may apply for a loan from your accounts under the Plan. You may not receive a loan if the sum of your new loan and the outstanding balance of all of your other loans would exceed the lesser of:

(1) $50,000 reduced by the excess (if any) of the highest outstanding balance of loans during the one year period ending on the day before the loan is made, over the outstanding balance of loans from the Plan on the date the loan is made, or

(2) one-half the present value of your vested accounts.

Loans and the interest thereon must be repaid over a period not extending beyond five years from the date of the loan, unless such loan is used to acquire your principal residence.

The minimum loan amount is $1,000. Except for grandfathered loans made to you before January 1, 2012, the maximum number of loans outstanding at any one time is 1 per Plan. Loans must be repaid before you are eligible for a new loan. All grandfathered loans must be repaid before you are eligible for a new loan.

Loan fees may be charged against the accounts of the participant to whom the loan is granted. The Plan Administrator may adopt any administrative rules or procedures that it deems necessary or appropriate with respect to the granting and administering of loans. No loan shall be made or issued to a participant or employee who has terminated employment with Auburn University.

Can you self-direct the investment of your contributions and Account Balance?

Yes. The Plan Administrator permits you to direct the investment of your contributions and Account Balance. The Plan Administrator may establish uniform guidelines and procedures relating to Participant self-direction. You may direct the investment of all of your contributions and accounts among the investment options available at each approved vendor.

How do you make investment elections?

You may direct the percentage of your contributions and your Account Balance to be invested in one or more of the available custodial accounts or annuity contracts. Your elections will be subject to such rules and limitations as the Plan Administrator may prescribe. After your death, your beneficiary may make investment elections as if the beneficiary were the Participant.

Notwithstanding the foregoing, the Plan Administrator may restrict investment transfers to the extent required to comply with applicable law.

Can you purchase a permissive service credit?

Yes. Upon your direction, the Plan permits a direct trustee-to-trustee transfer of assets from your vested Account Balance to the defined benefit pension plans sponsored by the Retirement Systems of Alabama for the purchase of permissive service credit.

For this purpose, the term "permissive service credit" means service credit (1) recognized by the governmental pension plan for purposes of calculating your benefit under such pension plan, (2) which service credit you have not received under such pension plan, and (3) which such service credit you may receive only by directing a transfer of allowable assets to such pension plan, in an amount determined by such pension plan, that does not exceed the amount necessary to fund the benefit attributable to such service credit.

## CLAIMS PROCEDURE

Do you need to file a claim for benefits?

In general, you do not. The Plan Administrator determines the right of any person to receive a benefit.

Can you file a claim for benefits?

Yes, if you or your beneficiary does not receive a benefit to which you or your beneficiary are entitled (the "Claimant"), then the Claimant may file a written claim with the Plan Administrator. The Plan Administrator will process the claim and notify the Claimant in writing of its decision within a reasonable time, normally within 60 days after submission of the claim. If the claim is denied, the Claimant will receive written explanation of the specific findings and conclusions on which the denial is based.

## MISCELLANEOUS

Are your benefits affected by a domestic relations order?

Your benefits under the Plan may be assigned to other people in accordance with a domestic relations order issued pursuant to the domestic relations law of any state.

Can you lose your benefits?

Except as provided below, your account is not subject to any form of attachment, garnishment, sequestration or other actions of collection afforded creditors and your benefits are free from attachment, garnishment, account's process, or any other legal or equitable process. You may not alienate, anticipate, commute, pledge, encumber or assign any of the benefits or payments which you may expect to receive, contingently or otherwise, under the Plan, except that you may designate a beneficiary.

However, you may lose all or part of your Account Balance:

Under the terms of a domestic relations order.

To comply with any federal tax levy.

Can the Employer amend or terminate the Plan?

The Employer may amend or terminate the Plan at any time. However, no such action may permit any part of Plan assets to be used for any purpose other than the exclusive benefit of participants and beneficiaries or cause any reduction in the amount credited to your accounts.

What authority does the Plan Administrator have?

The Plan Administrator has the authority to make factual determinations, to construe and interpret the provisions of the Plan, to correct defects and resolve ambiguities in the Plan and to supply omissions to the Plan. Any construction, interpretation or application of the Plan by the Plan Administrator is final, conclusive and binding.

**ADMINISTRATIVE INFORMATION**

1. The Plan Sponsor and Plan Administrator is AUBURN UNIVERSITY.

   The Plan address used for the Plan is:

   Auburn University
   Payroll and Benefits
   1550 East Glenn Ave.
   Auburn, AL 36849

   The telephone number used for the Plan is: 334-844-4183

   The Employer Identification Number of the Employer is: 63-6000724

2. The Plan's assets are held in custodial accounts or annuities established under the terms of the Plan.

3. The plan year ends on December 31.