

AGREEMENT AND GENERAL RELEASE

This Agreement and General Release (“Agreement”) is made and entered into by and between Rutgers, The State University of New Jersey (“Rutgers” or “University”) and _____ (“Participant”) (collectively, “Parties”).

WHEREAS, Participant was employed by the University as a faculty member with tenure; and

WHEREAS, Participant is/was a member of the collective negotiations unit represented by the AAUP-AFT (formerly represented by the AAUP-BHSNJ which is now part of the AAUP-AFT) and the University’s Faculty Transition to Retirement Program (“FTTRP”), and its requirements including the execution of this Agreement, was negotiated with that collective negotiations unit consistent with applicable New Jersey law and regulations; and

WHEREAS, Participant is eligible to participate in the FTTRP, as of July 1, ____ (the “Effective Date”); and

WHEREAS, Participant has submitted to the University (a) a FTTRP Application and Election Form and (b) an Application for Retirement Allowance form; and

WHEREAS, the University has accepted Participant’s application and agreed to reemploy Participant under the FTTRP and its terms and conditions; and

WHEREAS, under the FTTRP, Participant has agreed to execute and provide to the University this Agreement, effective on the Effective Date, as a condition for participation in and re-employment under the FTTRP; and

WHEREAS, Participant is willing to enter into this Agreement to facilitate participant’s participation in the FTTRP and resolve finally and completely any and all claims, whether or not arising under Participant’s employment relationship with the University, that Participant has or may have against the University;

NOW THEREFORE, in consideration of the promises and the mutual covenants set forth below, the adequacy of which are acknowledged, and intending to be legally bound, the Parties agree as follows:

1. General Release. Participant, on behalf of Participant and Participant's heirs, executors, administrators and assigns, does irrevocably and unconditionally release and discharge the University and its boards, board members, officers, directors, trustees, employees, agents, attorneys, independent contractors, insurers, representatives, and assigns, and all of its or their parent, subsidiary, predecessor, successor, or affiliate entities (collectively, "Releasees") of and from any and all debts, obligations, grievances, claims, demands, suits, judgments, or causes of action of any kind whatsoever, whether known or unknown, foreseen or unforeseen, in law or in equity, that could be or have been raised against any of the Releasees in tort, in contract, by statute, or on any other basis for injunctive relief or compensatory, punitive, or other damages (including, but not limited to, emotional distress damages, pain and suffering, loss of enjoyment of life, loss of salary or wages, and all attorneys' fees and costs), expense reimbursements, disbursements, and interest or costs of any kind, including, but not limited to, all rights and claims, whether in law or in equity, which Participant, any assignee, or anyone acting through Participant, Participant's estate, or on behalf of participant or otherwise, could assert, including, but not limited to, claims under the Age Discrimination in Employment Act of 1967, as amended by the Older Workers Benefit Protection Act of 1990, 29 U.S.C. § 621, et seq.; Federal False Claims Act, 31 U.S.C. §§3729, et seq.; Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§2000e, et seq., ("Title VII"); the Reconstruction Era Civil Rights Act, as amended, 42 U.S.C. §§1981, et seq., ("Civil Rights Act"); the Civil Rights Act of 1991, as amended, 42 U.S.C. §§1981a, et seq. ("CRA of 1991"); the Civil Rights Act of 1866; the Employee Retirement Income Security Act of 1974,

as amended, 29 U.S.C. §§1001, et seq.; the Americans With Disabilities Act; Executive Orders 11246 and 11141; the Family and Medical Leave Act, 29 U.S.C. §§2601, et seq. (“FMLA”); the Fair Labor Standards Act, 29 U.S.C. §§201, et seq. (“FLSA”); the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1, et seq. (“LAD”); New Jersey Family Leave Act, N.J.S.A. 34:11B-1, et seq. (“FLA”); the New Jersey Conscientious Employee Protection Act, N.J.S.A. 34:19-1, et seq. (“CEPA”); the Equal Pay Act, 29 U.S.C. §§201 et seq. (“EPA”); the Rehabilitation Act, 29 U.S.C. §§701, et seq. (“RA”); Whistleblower Protection Statutes, 10 U.S.C. §2409, 12 U.S.C. §1831; 31 U.S.C. §5328, 41 U.S.C. §265 (collectively as “WPS”); the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1, et seq., the New Jersey Wage and Hour Law, N.J.S.A. 34:11-56a, et seq., (“WHL”); the New Jersey Discrimination in Wages Laws, N.J.S.A. 34:11-56.1, et seq. (“DWL”); the New Jersey Wage Payment Law, N.J.S.A. 34:11-4.1, et seq. (“WPL”); any and all federal or New Jersey education laws; the New Jersey Constitution; the U.S. Constitution; and/or any and all other federal, state and local law claims, whether statutory or common law, including, but not limited to, *qui tam* claims, whistleblower claims, and claims of personal injury, breach of contract, unlawful discharge from employment, defamation, tortious interference with economic advantage, tortious interference with contract, discrimination on the basis of age, ancestry, atypical hereditary cellular or blood trait, liability for service in the Armed Forces of the United States, color, creed, handicap, marital status, national origin, nationality, sex, race, sexual orientation, veteran’s status, or any other protected category, or breach of a collectively negotiated agreement.

This Release is intended by the Parties to be construed to release any and all claims and rights arising on or before the date of the execution of this Agreement, including any claim for

attorneys' fees and costs, to the fullest extent permitted by law. This Release does not apply to claims of breach of this Agreement.

This Release does not state, admit, suggest or imply that Releasees are in any way liable to Participant. To the contrary, (a) Releasees specifically state that they have not violated or abridged any federal, state, or local law or ordinance, ethical obligation, or any right or obligation that they may owe or may have owed Participant, contractual or otherwise, and (b) by making this Agreement, Participant acknowledges that the Releasees do not admit that they have done anything wrong.

2. Retirement; Express Waiver of Tenure Rights. Participant acknowledges that under the FTTRP, application to participate in the FTTRP included as a condition that Participant (a) formally retire from Participant's tenured faculty position and (b) relinquish any and all rights which Participant may have by virtue of Participant's having acquired tenure during the course of Participant's employment. Participant acknowledges that, as part of the application process to participate in FTTRP, Participant formally retired from such tenured faculty position and Participant relinquishes any and all such rights, and expressly waives any tenure claim, whether known or unknown, which Participant may have in relation to or against the Releasees, or any of them, which existed prior to, or may exist subsequent to, the Effective Date.

3. Agreement To Refrain From Filing Claims. Participant represents that there are no pending lawsuits, charges, grievances, or other claims of any nature whatsoever by or on behalf of Participant against any of the Releasees in any state or federal court or any agency or other administrative body or arbitration setting. Further, Participant agrees, to the fullest extent permitted by law, that Participant will not institute any lawsuit, charge, or other claim of any nature whatsoever against any of the Releasees in any forum, based upon any events, whether known or

unknown, occurring prior to the date of the execution of this Agreement, including, but not limited to, any event related to, arising out of, or in connection with Participant's employment with the University or the termination of that employment. Further, Participant agrees, to the fullest extent permitted by law, that Participant will not request, authorize or direct the filing or prosecution of any grievance or other claim based upon representation of Participant by a collective negotiations representative, Participant's membership in a collective negotiations unit, or any collectively negotiated agreement, based upon any events, whether known or unknown, occurring prior to the date of the execution of this Agreement. Participant further hereby assigns to the University any right Participant may have to recover monetary relief of any kind in any grievance or other proceedings brought on Participant's behalf by any collective negotiations representative. This Agreement does not affect whatsoever rights, if any, Participant may have to file charges with any governmental agency. However, Participant hereby assigns to the University any right Participant may have to recover monetary relief of any kind in any lawsuit or other proceedings brought on Participant's behalf with respect to any such administrative charges.

4. Consideration. In consideration for Participant's acceptance of and agreement to be bound by the terms of this Agreement, including, but not limited to, paragraphs 1 and 2 above, the University agrees to employ Participant under the terms and conditions of the FTTRP ("Consideration").

5. No Further Payments or Other Benefits Due. The payments and benefits provided to Participant under the FTTRP are the only payments or benefits to which Participant is entitled from the University. Participant acknowledges that the University has no obligation to make any other payments or provide any other benefits of any kind.

6. No Future Employment. Except for Participant's employment under the FTTRP, the University shall have no obligation to employ Participant in any capacity presently or at any time in the future. Except for Participant's employment under the FTTRP, Participant shall be prohibited from applying for or otherwise seeking or accepting any employment at the University or any of its divisions, units, departments, or other entities, and Participant agrees that Participant will not engage in such conduct. Participant covenants not to bring any action, suit, administrative or other legal proceeding against the University or any of the other Releasees on account of a refusal to consider Participant for employment or to employ Participant in any capacity whatsoever in the future except for Participant's employment under the FTTRP, and waives any and all such rights or claims to the fullest extent permitted by law. Participant further agrees that should Participant inadvertently apply for or obtain employment by the University or any of its divisions, units, departments, or other entities, Participant will immediately withdraw any such application or resign such employment upon learning that Participant has applied for such employment or has become so employed.

7. Confidentiality of this Agreement.

a. Participant agrees that the existence and terms of this Agreement are to be kept strictly confidential by Participant to the fullest extent permitted by law. In the event that Participant receives a subpoena or other formal or informal request for such information or if Participant believes disclosure is required by law, Participant shall notify David A. Cohen, Vice President for University Labor Relations and Special Counsel for Labor Affairs, promptly and prior to any such disclosure as follows: The notice must be delivered by email to [Mr. Cohen](mailto:d.cohen@oulr.rutgers.edu) at d.cohen@oulr.rutgers.edu.

b. Release of this Agreement by the University shall not negate or impact in any way the obligations set forth in subparagraph a. above.

8. Entire Agreement. This Agreement constitutes the entire agreement between the Parties concerning the matters addressed herein; provided, however, that the statements, certifications and representations contained in the Application and Election Form submitted by Participant are incorporated into this Agreement. There are no other agreements, promises, understandings, obligations, covenants, or representations between the Parties. This Agreement may not be amended, revoked, changed or modified except upon a written agreement signed by Participant and the University's Faculty Affairs Manager, Office of the Executive Vice President for Academic Affairs. No waiver of any provision of this Agreement will be valid unless it is in writing and signed by the Party against whom the waiver is asserted.

9. Governing Law and Forum Selection. This Agreement shall be governed and interpreted in all respects in accordance with the laws of New Jersey without regard to conflicts of laws provisions. Any dispute, controversy, or claim arising out of or related to this Agreement shall be submitted to and decided by binding arbitration to be conducted within the State of New Jersey. Unless the Parties agree otherwise in writing, arbitration shall be administered exclusively by a retired New Jersey Supreme Court Justice, a retired New Jersey Superior Court Judge, or a retired federal court of appeals, district or magistrate judge and shall be conducted consistent with the rules, regulations, and requirements imposed by the State of New Jersey. Any arbitration award shall be final and binding upon the Parties. In any such proceeding, each party shall be responsible for its own attorneys' fees and costs. In the event any party challenges any arbitration award in court, said challenge shall be venued in the Superior Court of New Jersey, Middlesex County and

shall be determined in accordance with the laws of New Jersey without reference to conflicts of laws.

10. Severability. Participant agrees that if any provision of this Agreement is determined by a court to be illegal, invalid, or unenforceable, that provision shall not be a part of this Agreement. The legality, validity and enforceability of the remaining provisions shall not be affected by a determination that a provision of this Agreement is illegal, invalid or unenforceable.

11. BY SIGNING THIS AGREEMENT, PARTICIPANT STATES THAT:

PARTICIPANT HAS BEEN ADVISED TO CONSULT WITH AN ATTORNEY OR COLLECTIVE NEGOTIATIONS REPRESENTATIVE PRIOR TO EXECUTING THIS SEPARATION AGREEMENT AND GENERAL RELEASE, AND HAS BEEN AFFORDED A FULL AND ADEQUATE OPPORTUNITY TO REVIEW WHETHER TO APPLY TO THE FTTRP AND EXECUTE THIS SEPARATION AGREEMENT AND GENERAL RELEASE WITH AN ATTORNEY OF THE PARTICIPANT'S CHOICE;

PARTICIPANT UNDERSTANDS THAT UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967, AS AMENDED, AND THE OLDER WORKERS BENEFIT PROTECTION ACT, AS AMENDED, PARTICIPANT IS ENTITLED TO A PERIOD OF AT LEAST 21 DAYS WITHIN WHICH TO REVIEW AND CONSIDER THIS AGREEMENT BEFORE SIGNING IT;

PARTICIPANT UNDERSTANDS THAT IF PARTICIPANT SIGNS THIS AGREEMENT PRIOR TO THE END OF THE 21-DAY TIME PERIOD, PARTICIPANT CERTIFIES THAT, IN ACCORDANCE WITH 29 C.F.R. § 1625.22(e)(6), PARTICIPANT KNOWINGLY AND VOLUNTARILY DECIDED TO SIGN THE AGREEMENT AFTER CONSIDERING IT FOR LESS THAN 21 DAYS AND PARTICIPANT'S DECISION TO DO SO WAS NOT INDUCED BY THE UNIVERSITY THROUGH FRAUD, MISREPRESENTATION, OR A THREAT TO WITHDRAW OR ALTER THE OFFER PRIOR TO THE EXPIRATION OF THE 21-DAY TIME PERIOD;

PARTICIPANT UNDERSTANDS THAT PARTICIPANT MAY REVOKE THIS AGREEMENT ONLY WITH RESPECT TO ANY POSSIBLE CLAIMS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT AND THE OLDER WORKERS BENEFIT PROTECTION ACT, BY DELIVERING WRITTEN NOTIFICATION TO DAVID A. COHEN, SPECIAL COUNSEL TO THE PRESIDENT AND VICE PRESIDENT FOR UNIVERSITY LABOR RELATIONS AND SPECIAL COUNSEL FOR LABOR AFFAIRS, AT D.COHEN@OULR.RUTGERS.EDU NO LATER THAN THE CLOSE OF BUSINESS SEVEN DAYS AFTER PARTICIPANT SIGNS THE AGREEMENT, AND PARTICIPANT UNDERSTANDS AND AGREES THAT IF PARTICIPANT REVOKES THIS AGREEMENT AS TO ANY POSSIBLE CLAIMS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT AND THE OLDER WORKERS BENEFIT

PROTECTION ACT, THE UNIVERSITY MAY TERMINATE PARTICIPATION BY PARTICIPANT IN THE FTTRP AND PARTICIPANT'S RE-EMPLOYMENT UNDER THE FTTRP; AND

PARTICIPANT HAS SIGNED THIS SEPARATION AGREEMENT AND GENERAL RELEASE KNOWINGLY AND VOLUNTARILY.

RUTGERS, THE STATE UNIVERSITY
OF NEW JERSEY

By: _____

Participant

Witness: _____

Date: