



Board of Trustees of The City University of New York

RESOLUTION TO Authorize The City University of New York To Adopt Certain Amendments to its Optional Retirement Plan, Tax Deferred Annuity Plan, and Frozen ORP Allowed By Certain Provisions of the Federal CARES Act Legislation Adopted In March 2020

April 27, 2020

WHEREAS, The Coronavirus Aid, Relief and Economic Security Act (or “CARES Act”) was signed into law March 27, 2020 and provides for, among other things, voluntary relief options from retirement plans that employers can elect to include as options for their employees, by amending such existing plans to include such options; and

WHEREAS, The City University of New York (the “University”) Office of Human Resources Management has determined that such provisions relating to such voluntary relief options under the CARES Act should be included in the University retirement plans and it believes that it would be in the best interest of plan participants and their beneficiaries, and the University to adopt such voluntary relief provisions provided for under the CARES Act; and

WHEREAS, In accordance with the CARES Act, the University’s Tax Deferred Annuity Plan (“TDA Plan”), The City University of New York Optional Retirement Plan (“ORP”), and the frozen City University of New York ORP (“frozen ORP”) (a 403(b) Plan) should be amended to allow qualified plan participants (i) to take distributions or make withdrawals in calendar year 2020 of up to \$100,000; (ii) to increase personal loan amount limits on or before September 23, 2020, to double the current maximum amount to the lesser of \$100,000, or one hundred percent (100%) of the plan participant’s vested account balance in the plan, and (iii) to defer such loan repayments under such plans for one year.

NOW, THEREFORE, BE IT

RESOLVED, That the Board of Trustees of The City University of New York authorizes the Vice Chancellor for Human Resources Management to amend The City University TDA Plan, ORP, and the frozen ORP to allow qualified plan participants (i) to take

distributions or make withdrawals in calendar year 2020 of up to \$100,000; (ii) to increase personal loan amount limits on or before September 23, 2020 to double the current maximum amount to the lesser of \$100,000, or one hundred percent (100%) of the plan participant's vested account balance in the plan, and (iii) to allow such plan participant defer such loan repayments under such plans for one year.

BE IT FURTHER

RESOLVED, That the Board of Trustees of The City University of New York authorizes the Vice Chancellor for Human Resources Management and she hereby is authorized to make such amendments to the aforementioned retirement plans, together with any and all agreements, documents, and other instruments related thereto, and to take any and all such other actions, as such officer so acting may deem necessary or appropriate, and that such execution by such duly authorized officer of the University shall be conclusive evidence of her authority to perform all such acts and to execute and deliver all such amendments and documents and instruments on behalf of the University;

EXPLANATION: The provisions under the CARES Act.

1. Coronavirus-Related Distributions for Qualifying Individuals
Penalty free (but not tax-free) distributions in 2020 of up to \$100,000 for individuals self-certifying that they meet one of the following conditions:
 - Diagnosed with COVID-19
 - Spouse or dependent diagnosed with COVID-19
 - Experience adverse financial consequences as a result of being quarantined, furloughed, laid-off, reduced work hours, inability to work due to lack of child care because of COVID-19, the closing or reducing hours of a business owned or operated by the individual due to COVID-19, or other factors, as determined by the Treasury Secretary

Coronavirus-Related Distributions are not subject to the 10% penalty for early withdrawal that would otherwise apply to individuals under age 59 ½. Additionally, unless the participant elects otherwise, this amount is not subject to the 20% withholding for payment of taxes.

Tax on the income from the distribution can be paid in equal installments over a three-year period. Individuals also have the ability to repay the amount into the Plan over the next three years (without impacting the amount that the participant may contribute to the Plan).

2. Increase Loan Limits for Qualifying Individuals
Increased loan limits for loans made on or before September 23, 2020 of up to double the current maximum in place, to the lesser of \$100,000 or 100% of the participant's vested account balance in the plan (current limit, which is the

maximum allowed by law, is \$50,000 or 50%). Limited to individuals affected by COVID-19 as described above. Note that the loan limit will still be reduced by the highest outstanding loan balance over the prior year and may be limited by the terms of the funding vehicle.

3. Loan Repayment Suspension for Qualifying Individuals

Existing retirement plan loan repayments can be deferred for one year, for individuals affected by COVID-19, as described above. This applies to payment due dates that are between March 27, 2020 and December 31, 2020. When the extension expires, the missed loan payments and interest will be re-amortized with an additional year added to the loan payoff date.

The City University of New York (“CUNY”) Optional Retirement Plan (“ORP”) does not currently allow for distributions to active employees, and current federal tax law only allows active employees who are age 59 ½ or older to take distributions from that plan. Though CUNY could amend the ORP to allow all active employees to take distributions upon the attainment of age 59 ½, it is proposed to permit such distributions at age 59 ½ or older only for individuals who are eligible for a COVID-19-related distribution under the CARES Act.

For many employees the ORP represents a significant portion of their savings. Receiving distributions from the ORP may be the only option some of CUNY employees have to meet their financial obligations related to COVID-19.

All changes to the ORP, TDA Plan, and frozen ORP must be approved by the Board; and, in light of the ever changing circumstances and the likelihood of additional guidance on these provisions from the IRS, this resolution grants the Vice Chancellor for Human Resources Management the authorization to ensure administration of these approved CARES Act provisions can be applied in a timely fashion, as conditions warrant.

Required Minimum Distribution rules have been suspended for 2020. Participants have the option to suspend their Required Minimum Distributions in 2020 or to continue receiving them. The requisite Plan amendments will be made to reflect this suspension. No action is required by the Board at this time.