

**WESLEYAN UNIVERSITY
SALARY REDUCTION PLAN
FOR
DEPENDENT CARE ASSISTANCE
SUMMARY PLAN DESCRIPTION**

Revised October 18, 2004

Effective October 1, 1987, the University implemented a Salary Reduction Plan for Dependent Care Assistance (the Plan). Under the Plan, you have the option of reducing the amount of your regular cash compensation and having the amount of the reduction used to pay for Dependent Care Assistance. Any amounts that you choose to set aside for Dependent Care Assistance are not subject to federal income tax or FICA tax. Therefore, by participating in the Plan, you may pay for Dependent Care Assistance with pre-tax rather than after-tax dollars.

It is entirely up to you whether to make contributions to this Plan by reducing your regular compensation. There will be no contributions made to the Plan other than the funds employees choose to contribute. Therefore, unless you elect to make contributions, Dependent Care Assistance will not be provided for you under the plan.

This summary plan description is a non-technical summary of the important parts of the Plan. The Plan itself is set forth in a legal document. In cases where this summary may differ from the Plan, the terms of the Plan will determine the results.

The Plan Administrator will be glad to let you examine a copy of the Plan, and should you have any questions, will discuss the Plan provisions with you. Information identifying whom to contact for further information concerning your questions is located in the final section of this booklet.

1. PARTICIPATION. The Plan covers you if you are a faculty member with at least a half-time appointment or a non-faculty employee who is to work at the rate of at least 17 1/2 hours each week during at least 6 months of the year. You become a participant on the first day of the month on which you are employed on this basis. You will automatically continue to be a participant unless your employment status changes so that you are not employed under the conditions described above. Even though you are covered under the Plan, no contributions will be made on your behalf unless you choose to make contributions by reducing your regular cash compensation. It is up to you to decide whether to make contributions. You will not want to reduce your regular cash compensation by making Plan contributions unless you incur expenses that qualify for Dependent Care Assistance.

2. DEPENDENT CARE ASSISTANCE.

(a) Qualifying Expenses. Expenses that qualify for Dependent Care Assistance under this Plan are incurred in order to permit you to continue your employment. If you are married, Dependent Care Assistance may not ordinarily be provide under this plan unless your spouse is also employed, and the assistance permits him or her to continue employment. An exemption from this spousal employment requirement applies if your spouse either is a full-time student or is incapable of self-care.

Dependent Care Assistance must be provided to one of the following individuals:

- (i) a child who is your dependent and who is under age 13;
- (ii) an individual who is your dependent for income tax purposes and who is physically or mentally incapable of self-care or;
- (iii) your spouse if he or she is physically or mentally incapable of self-care.

If you are divorced or legally separated, a special rule will apply in determining whether Dependent Care Assistance may be provided under this Plan for the benefit of your child. In order for assistance to be provided, your child must be either under age 13 or incapable of self-care, must receive more than one-half of his or her financial support from one or both parents for more than 6 months of the year, and must be in your custody for a longer period than the period spent in the custody of the other parent.

Revised October 18, 2004

(b) Specific Types of Services. Dependent Care Assistance may be given for services provided in your household. Assistance may also cover services provided outside of your household for a child described in Section 2(a)(i) above. However, in order for assistance to be provided outside of your house on behalf of an individual described in Section 2(a)(ii) or 2(a)(iii) above, that individual must spend at least 8 hours each day in your house.

Dependent Care Assistance may be provided for services involving the care of your house if the same services also deliver care for an individual described in Section 2(a) above. Amounts paid for food, clothing or education do not usually qualify for Dependent Care Assistance. However, food, clothing, or education may be eligible for Dependent Care Assistance if provided in connection with qualifying services. For example, the entire amount of nursery school tuition, covering meals, education, and day care, will be eligible for Dependent Care Assistance. Any transportation costs for a child do not qualify for Dependent Care Assistance.

If you utilize a dependent care center that provides services for at least 7 individuals, your expenses will qualify for Dependent Care Assistance only if the center complies with all applicable laws and regulations. However, if your dependent care center provides services for less than 7 individuals, your expenses may be eligible for Dependent Care Assistance irrespective of whether there is compliance with any applicable laws and regulations.

A special allocation rule applies if an expense covers both qualifying and non-qualifying services. If the non-qualifying expense is more than minimal, it is necessary to determine the portion of the expense attributable to qualifying services. Only that amount will be eligible for Dependent Care Assistance.

3. MAKING PLAN CONTRIBUTIONS AND RECEIVING BENEFIT PAYMENTS.

(a) Procedures for Electing Contributions. Prior to the date on which you first become a Plan Participant, the Plan Administrator (see Section 8) will provide you with an election form pursuant to which you may choose to make Plan contributions. As long as you continue to be eligible under the Plan pursuant to the rules described in Section 1, you will have the opportunity to elect contributions as of the beginning of each Plan year (the

calendar year). The election period will be the 30 days preceding the beginning of the year. Any forms that are required for purposes of making Plan contributions must be completed and returned in accordance with whatever procedures are established at the discretion of the Plan Administrator.

Contributions are made on a Plan year basis. Therefore, if you do not elect to make contributions upon becoming a participant or upon a subsequent January 1st, you will not ordinarily be able to begin making contributions until the next January 1st.

Similarly, once you elect to make contributions for a Plan year, your election may not ordinarily be revoked and, therefore, your contributions must continue throughout the year. However, if you have an unexpected change in your family circumstances (divorce, death of your spouse, termination of your spouse's employment, or birth of a child) you may immediately revoke your election for the year and make a new election.

(b) Payment of Dependent Care Assistance. If you elect to make contributions, the elected amounts are withheld by the University from your paycheck and credited to a Dependent Care Reimbursement Account. This Reimbursement Account is the property of the University. Dependent Care Assistance is provided to you from the account when you submit claims for reimbursement of expenses that you have incurred for qualifying services. When making a claim for reimbursement, you must submit whatever supporting information is required by the Plan Administrator. At any time during the Plan Year, the Administrator may only reimburse you for expenses that do not exceed the current amount credited to your account.

Any amounts that are not reimbursed for a Plan Year are **FORFEITED BY YOU** at the end of the year. Thus, if your contributions for a year exceed your expenses during the year that qualify for Dependent Care Assistance, you will forfeit the excess amount to the University. For purposes of this rule, an expense qualifies for reimbursement with respect to a Plan Year if it pertains to a qualifying service that is actually provided during that year. This is the case even if the expense is billed after the end of the Plan Year in which the service is provided. You will want to be very careful when you make an election to contribute so that any amounts that you have the University withhold from your pay under this plan are actually used to provide Dependent Care Assistance.

The tax laws impose limitations upon the amounts that may be contributed to the Plan and then used to reimburse you for a particular Plan Year. Your contributions for a year may not exceed your taxable income. If you are married and your spouse earns less than you do, the contributions for a year may not exceed your spouse's income. For purposes of this rule, if your spouse is a full-time student or is incapable of self-care, he or she is deemed to have monthly income. This deemed income is \$200.00 if you want to contribute for one of the individuals described in Section 2(a) above, or alternatively, \$400.00 if you want to contribute for two or more of such individuals. In addition, if you are single or you are married and file a joint income tax return with your spouse, your maximum contributions for a year may not exceed \$5,000.00. However, if you are married and file a separate income tax return, your annual contributions may not exceed \$2,500.00.

The Plan Administrator must also be sure that the Plan meets certain nondiscrimination requirements that are imposed under the tax laws. Therefore, it may be necessary for the Administrator to impose special limitations for a particular Plan Year upon the contributions made by highly compensated employees and officers of the University.

4. TAX CONSEQUENCES OF PLAN CONTRIBUTIONS. Any contributions that you make to the Plan are not subject to federal income tax or FICA tax. In addition, you will not be subject to federal income taxes or FICA taxes when you receive reimbursements from your account. Therefore, you will be able to pay for your Dependent Care expenses from pre-tax dollars. This should be compared to receiving your regular cash compensation, paying income and FICA taxes, and then using your after-tax income to pay for these same Dependent Care expenses. You must keep in mind that, to the extent that your FICA taxes are reduced, there may be a reduction in the amount of Social Security benefits you will ultimately receive.

You should be aware that, within certain prescribed limitations, it is possible to obtain an income tax credit for the same expenses that qualify for Dependent Care Assistance under this Plan. The credit may be taken on your personal tax return with respect to payments that you have made from your regular income. You may not take the tax credit for expenses which are reimbursed under this Plan. Therefore, the credit is an alternative to making

contributions under this Plan. You should analyze your own tax situation and consult with a tax advisor in order to determine whether you will derive a tax

benefit by contributing to this Plan. Before making contributions to the Plan, you should determine whether Dependent Care Assistance is more beneficial to you than the income tax credit. Specific questions about your tax situation or your retirement benefits should be addressed to your own professional advisor.

5. AMENDMENT OR TERMINATION OF THE PLAN BY THE UNIVERSITY; OTHER TERMINATION OF PLAN PARTICIPATION. The University reserves the right to amend or terminate this Plan. Upon a Plan amendment or a termination of the Plan, you would remain entitled to reimbursements for Dependent Care Assistance with respect to amounts already credited to your account. If you terminate your participation in the Plan as a result of not maintaining the employment status required for coverage, you will be entitled to submit claims for Dependent Care Assistance with respect to expenses incurred prior to your change in status. Of course, if you cease to be a Plan participant or if the Plan terminates, you may make no further contributions to the Plan.

6. ACTION BY PLAN ADMINISTRATOR REGARDING A REQUEST FOR BENEFITS. The Plan Administrator is required to notify you in writing and tell you what action will be taken regarding any request for benefits. You will be notified within a reasonable period of time following the receipt of your request. If benefits are denied to you, the Plan Administrator will give you a written notice to that effect, including the reasons why your request has been denied and specific references to the provisions of the Plan on which the denial is based. The notice will also describe any additional material or information which is necessary to correct or complete the request, including an explanation of why such material or information is necessary.

If the Plan Administrator denies your request for benefits, you can appeal that denial. You must file a written request for review with the Plan Administrator within 60 days after you receive the written denial of your request. You have a right to review all pertinent documents and you may submit requests, issues or comments in writing. The Plan Administrator will, based upon your request and any materials you may submit, review the denial and notify you of a final determination within 60 days following the receipt of the request for review. You also have rights under the Employee Retirement Income Security Act of 1974 which are discussed in the next section.

7. YOUR RIGHTS UNDER ERISA. As a participant in the Plan you are entitled to certain rights and protection under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that you are entitled to:

- Examine, without charge at the Plan Administrator's office and at other specified locations, all Plan documents, and copies of all documents filed by the University with the U.S. Department of Labor, such as detailed annual reports and Plan descriptions.

- Obtain copies of all Plan documents and other Plan information upon written request to the Plan Administrator. There will be a reasonable charge for making the copies.

- Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish you with a copy of this summary annual report.

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one may fire you or otherwise discriminate against you in any way to prevent you from obtaining plan benefits or exercising your rights under ERISA. If your claim for benefits is denied in whole or in part you must receive a written explanation of the reason for the denial. You have the right to have the Plan Administrator review and reconsider your claim. Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request materials from the Plan Administrator and do not receive them within 30 days, you may file suit in a federal court. In such a case, the court may require the Plan Administrator to provide the materials and pay up to \$100.00 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator. If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or federal court. If you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim frivolous. If you have any questions

Revised October 18, 2004

about your Plan, you should contact the nearest office of the U.S Labor-Management Services Administration, Department of Labor.

8. PLAN INFORMATION.

The name of the Plan:

**Wesleyan University Salary Reduction Plan
for Dependent Care Assistance
Plan Number 512**

The name and address of the employer whose employees are covered by the Plan:

**Wesleyan University
Middletown, Connecticut 06459**

The employer identification number (EIN) assigned by the Internal Revenue Service to the Plan sponsor and the Plan number assigned by the Plan sponsor:

06-0646959

The type of administration of the Plan:

Benefits are paid from the general assets of the University.

The plan year on which fiscal records are kept:

Calendar Year

The name and business address of the Plan Administrator:

**Wesleyan University
70 Wyllys Avenue
Middletown, Connecticut 06459**

The name and business telephone of the Plan Administrator's representative:

**Mr. Nathan Peters
Associate Vice President for Finance
Wesleyan University
Middletown, Connecticut 06459**

Revised October 18, 2004

(860) 685-2833

Revised October 18, 2004