

# THE UNIVERSITY OF TEXAS SYSTEM

*Office of Employee Benefits*

## POLICY AND PROCEDURES MEMORANDUM

**DATE:** January 1, 2008

**TO:** System Administration Officials  
Institutional Chief Business Officers  
Institutional Chief Human Resources Officers

**SUBJECT:** UTSaver Deferred Compensation Plan

### **1. Purpose**

This policy is intended to summarize the key provisions of The University of Texas System (U.T. System) Amended and Restated UTSaver Deferred Compensation Plan (UTSaver DCP) along with applicable federal and state laws, and policies consistent with the *Rules and Regulations* of the U.T. System Board of Regents. It shall be interpreted in a manner so that it is consistent with the *Internal Revenue Code of 1986*, as amended (the Code), and its regulations thereunder, including, but not limited to, Section 457(b) thereof and Subchapter D, Chapter 609 of the *Texas Government Code*. This policy will not in any manner reduce, restrict, or make forfeitable any participant's vested rights or accrued UTSaver DCP benefits.

### **2. Policy**

Employee salary reduction policies and procedures will be in effect at all U.T. System institutions for the effective administration of the UTSaver DCP. Policies and procedures will also be in place to comply with deferral limits concerning the maximum amount of income which can be tax-sheltered during any given tax year.

#### **2.1 Implementation Date**

Each U. T. System institution will establish the date on which its respective eligible employees may begin participation in the UTSaver DCP.

#### **2.2 Eligibility**

All employees of the U. T. System are eligible to participate in the UTSaver DCP at their respective U.T. System institution on the implementation date. Eligibility is not dependent upon the number of hours appointed or whether or not the employee is considered to be eligible for other employment benefits. An employee may not, however, participate in the UTSaver DCP if there is not sufficient salary available to cover mandatory deductions from gross pay for other benefits.

### 2.3 Participation

Initial enrollment in the UTSaver DCP may begin at any time during the period of employment. Election to participate is contingent upon the completion of required enrollment materials. An employee electing to participate in the UTSaver DCP must designate a UTSaver DCP vendor to which contributions will be sent. No election to participate is considered to have taken place and no contributions will be deducted from the employee's salary until this selection is made.

Unless a participant specifies a later effective date, enrollment in the UTSaver DCP will become effective as soon as administratively practicable after receipt of the properly executed enrollment materials but not earlier than the first pay period in the following month.. A new employee may enroll in the calendar month in which they first become an employee if an election is made on or before the first day on which the employee performs services for the institution.

### 2.4 Effective Date

Before an agreement to begin UTSaver DCP deferrals is considered effective, all necessary enrollment materials must be completed and accepted by the appropriate institutional official or UTSaver DCP vendor charged with processing UTSaver DCP enrollment materials. Each U.T. System institution will determine the effective date for applications based on institutional payroll procedures and the deadline for receipt of UTSaver DCP applications at each institution.

### 2.5 UTSaver DCP Contributions

The UTSaver DCP is a voluntary, supplemental retirement savings plan authorized by Section 457(b) of the Code, and by Subchapter D, Chapter 609 of the *Texas Government Code*. All employee contributions to UTSaver DCP accounts are made on a tax-deferred (before tax) basis and are withheld by the institution from a participant's salary. There are no state matching contributions associated with this program.

2.5.1 Minimum Deferral. The minimum amount that may be deferred is

\$20 per pay period.

2.5.2 Maximum Annual Deferrals. The normal maximum annual amount of deferral is equal to \$15,500 in 2008 , as periodically adjusted in accordance with Code Section 457(e)(15) or 100% of the employee's includible compensation for the plan year.

2.5.3 Age 50 and Over Catch-Up. An employee age 50 or over by the end of the 2008 calendar year may contribute an additional \$5,000 (adjusted each year for cost-of-living to the extent provided under the Code). The Age 50 and Over Catch-Up option does not apply for any plan year for which a higher limit applies under the Special Catch-Up provision in Section 2.5.4.

2.5.4 Special Catch-Up Provision. For one or more of the employee's last three calendar years ending before the year in which the employee attains Normal Retirement Age, the employee may elect to defer double the annual maximum contribution limit, provided the employee has not deferred the maximum annual amount in previous years when eligible for a 457(b) plan. The special catch-up amount is \$15,500 for 2008 and thereafter, adjusted for cost-of-living to the extent provided under the Code. However, the deferred amount cannot be more than the employee's compensation for the year or the amount computed under 2.5.4(3) below. The Special Catch-Up provision may not be used simultaneously with the Age 50 and Over Catch-Up option.

(1) "Normal Retirement Age" for any participant means the range of ages beginning with the earliest age at which the participant has the right to receive retirement benefits under the Teacher Retirement System of Texas (TRS) or ERS basic pension plan, without actuarial reduced (early) retirement, and ending at age 70½. Each participant is allowed to designate his/her normal retirement age within this range of ages.

If a participant works beyond age 70½, the normal retirement age for the participant is the age designated by the participant which, in this instance, may not be later than the participant's separation from service.

(2) The Special Catch-Up provision applies only if the participant has not previously used the Special Catch-Up provision with respect to a different normal retirement age under the UTSAver DCP or another deferred compensation plan governed by the Code.

(3) The Special Catch-Up provision shall be calculated based on the participant's unused elective deferrals for any prior plan year if:

(i) that year began after December 31, 1978; and

(ii) the participant was eligible to participate in the UTSaver DCP or an eligible 457 plan sponsored by another entity.

#### 2.5.5 Unused Annual Leave Elective Deferral

A participant may elect to defer to the UTSaver DCP receipt of unused annual leave otherwise payable upon severance from employment. The agreement must be entered into before the beginning of the month in which the unused annual leave would otherwise be paid or made available and the participant is an employee in that month. In the case of unused annual leave that is payable before a participant has a severance from employment, the requirements of the preceding sentence are deemed to be satisfied if the agreement providing for the deferral is entered into before the unused annual leave is currently available for payment.

#### 2.6 Changing Amount of Deferral or Selection of Designated UTSaver DCP

Vendor. A participant may change the amount of deferral and/or UTSaver DCP vendor once per month. Employees may participate with more than one currently authorized UTSaver DCP vendor through the selection of investment products from more than one UTSaver DCP vendor. A change of UTSaver DCP vendor does not constitute termination of participation. A change of UTSaver DCP vendor will become effective as soon as administratively practicable but not earlier than the first pay period in the following month. Unless a participant specifies a later effective date, a change of deferral amount will become effective as soon as administratively practicable after receipt of the properly executed forms but not earlier than the first pay period in the following month.

2.7 Termination of Participation. A participant may cancel an ongoing UTSaver DCP agreement with respect to future earnings at any time during a calendar year through UTRetirement Manager. If the participant did not consent to use UTRetirement Manager by accepting the Terms of Use on UTRetirement Manager, he or she may send written notice to the institution's benefits office. Termination of deferrals shall take effect as soon as administratively practicable, but not earlier than the first pay period in the following month. A participant may reinstate participation in UTSaver DCP at any time.

2.8 Coordination with Other Plans. If a participant participates in more than one

Code Section 457(b) plan during the current plan year, the maximum deferral under all such plans shall not exceed the maximum annual deferral described in 2.5.2 above (subject to modification by the catch-up limitations described in 2.5.3 and 2.5.4 above). Participation in another such plan will be taken into account when calculating the amount eligible for deferral, as long as sufficient information concerning participation in another such plan is provided by the participant.

## 2.9 Transfers and Rollovers into the UTSaver DCP

2.9.1 Transfers of Funds from Another Plan. To the extent permitted by law, a participant may elect to make, subject to the rules of his/her UTSaver DCP vendor, contributions to the UTSaver DCP that are transferred directly from any other eligible governmental plan.

2.9.2 Acceptance of Rollover Contributions. If a participant is actively employed, he/she can elect to receive an eligible rollover distribution from another eligible deferred compensation plan, subject to the rules of his/her UTSaver DCP vendor, provided that the rollover to the UTSaver DCP is made either directly from another such plan or by the participant within sixty days of the receipt of the distribution. However, in no event does the UTSaver DCP accept a rollover contribution from a Roth elective deferral account or a Roth IRA.

## 2.10 Distributions.

### 2.10.1 Distributions Due to Retirement or Severance from Employment.

- (1) Upon retirement or other severance from employment with U.T. System, a participant may elect to receive a distribution of his/her UT Saver DCP account balance or rollover the account balance into a qualified plan, such as a 403(b) plan, a governmental 457(b) plan, a 401(a) plan, or an Individual Retirement Account. Rollovers from the UTSaver DCP to another qualified plan are subject to the approval of the receiving plan or vendor.
- (2) All or any part of the account balance of a participant in the UTSaver DCP may be transferred to another governmental plan if the receiving plan accepts such transfers, the participant completes the appropriate documentation and/or forms, and the participant has had a severance from employment with U. T. System and is performing services for the entity maintaining and receiving the plan.
- (3) A participant may elect to leave his/her account in the UTSaver

DCP, as long as the account balance is in excess of \$1,000 or such greater amount as adjusted by the Plan Administrator in accordance with the Code. If the participant's account balance is less than \$1,000 on the date that payments commence or on the date of the participant's death, then payment shall be made to the participant (or to the beneficiary, if the participant is deceased) in a lump sum equal to the participant's account balance as soon as practicable following the participant's retirement, death, or other severance from employment.

- (4) A participant or the beneficiary of a deceased participant (or a participant's spouse or former spouse who is an alternate payee under a domestic relations order) who is entitled to an eligible rollover distribution may elect to have any portion of an eligible rollover distribution from the UTSaver DCP paid directly to an eligible retirement plan. An eligible rollover distribution to a Roth IRA applies only to qualified rollover distributions on or after January 1, 2008. A distribution to a beneficiary who at the time of the participant's death was neither the spouse of the participant nor former spouse of the participant who is an alternate payee under a domestic relations order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (IRA) that has been established on behalf of the beneficiary as an inherited IRA

2.10.2 Distribution Due to Unforeseeable Emergency. Subject to approval by the Plan Administrator, a participant may receive a distribution due to an unforeseeable emergency prior to retirement or other severance from employment. An unforeseeable emergency is a severe financial hardship, resulting from a sudden and unexpected illness or accident of the participant, the participant's spouse, the participant's dependent, or the participant's designated beneficiary, a loss of the participant's property due to casualty, or other similar extraordinary and unforeseeable circumstance arising as a result of events beyond the participant's control. A distribution shall not be made to the extent that such hardship is or may be relieved through reimbursement or compensation by insurance or otherwise; by liquidation of the participant's assets, to the extent liquidation of such assets would not itself cause severe financial hardship; or by cessation of deferrals under the plan.

All applications for distributions due to unforeseeable emergency must be

submitted to the U.T. System Office of Employee Benefits for approval. If the request is approved, the distribution will be made within sixty days. Deferrals to the UTSaver DCP will be suspended for six months and will be automatically restarted unless the participant files the appropriate form to terminate participation in the plan.

2.10.3 Voluntary In-Service Distributions. A participant may elect to receive a lump-sum in-service distribution of all or a part of the participant's benefit under the UTSaver DCP if the following requirements are met:

- (1) The total amount of the participant's benefit, including any rollover contribution amounts, under the plan does not exceed \$5,000 or such other amount as adjusted by the Plan Administrator in accordance with the Code,
- (2) The participant has not previously received an in-service distribution of any portion of the participant's benefit under the plan, and
- (3) No amounts have been deferred under the plan with respect to the participant during the preceding two-year period ending on the date of the in-service distribution.

All applications for voluntary in-service distributions must be submitted to the U.T. System Office of Employee Benefits for approval.

2.10.4 Required Minimum Distributions. Notwithstanding any other distribution provisions, distribution to a participant must begin on or before April 1 of the calendar year following the later of (a) the calendar year in which the participant turns 70½, or (b) the calendar year in which the participant retires.

2.11 Loan Provision. Loans are available to participants who are employees and have not yet commenced benefit payments, subject to UTSaver DCP vendor terms. All applications for loans must be submitted to the U.T. System Office of Employee Benefits for approval.

2.11.1 Minimum and Maximum Loan Amounts. No loan may be less than \$1,000 or exceed the lesser of:

- (1) \$50,000, reduced by the greater of the outstanding balance on any loan from the UTSaver DCP to the participant on the date the loan is made; or the highest outstanding balance on

loans from the UTSaver DCP to the participant during the one-year period ending on the day before the date the loan is approved by the U.T. System Office of Employee Benefits; or

- (2) One-half of the value of the participant's account balance.

#### 2.11.2 Terms of the UTSaver DCP Loan and Repayment.

- (1) Payments must be made to the UTSaver DCP vendor in the frequency designated by that UTSaver DCP vendor with level amortization and payments at least quarterly
- (2) UTSaver DCP vendors may assess a loan processing fee.
- (3) Loans must be repaid within 5 years unless the loan will be used to acquire any dwelling unit which within a reasonable time is to be used as a principal residence of the participant.
- (4) The interest rate for mutual fund products is defined as one percentage point above the prime rate as published in the Wall Street Journal on the first business day of the month in which the loan is approved by the U.T. System Office of Employee Benefits.
- (5) The interest rate for annuity products will be the rate approved by the Texas Department of Insurance, established in compliance with Chapter 1110, *Texas Insurance Code*, or such other applicable regulatory agency, in effect on the first business day of the month in which the loan is approved by the U.T. System Office of Employee Benefits.
- (6) Any loan to a participant under the UTSaver DCP shall be secured by the pledge of the portion of the participant's interest in the UTSaver DCP invested in such loan.
- (7) In the case of any default on a loan to a participant, the Plan Administrator shall apply the portion of the participant's interest in the plan held as security for the loan in satisfaction of the loan on the date of severance from employment.
- (8) In the event that the participant fails to make a loan payment

within 90 days after the date such payment is due, a default of the loan shall occur. In the event of such default,

- (i) all remaining payments on the loan shall be immediately due and payable,
- (ii) effective as of the first day of the next calendar month following the month in which any such loan default occurs, the interest rate for such loan shall be (if higher than the rate otherwise applicable) the rate being charged on loans from the plan that are approved by the U.T. System Office of Employee Benefits in the month in which such default occurs,
- (iii) no contributions shall be made on such participant's behalf prior to the first payroll period that follows by 12 calendar months the date of repayment in full of such loan, and
- (iv) the participant shall be permanently ineligible for any future loans from the plan.

(9) A participant may be required, as a condition to receiving a loan, to enter into an irrevocable agreement authorizing the U.T. System institution to make payroll deductions from the participant's compensation as long as the participant is an employee and to transfer such payroll deduction amounts to the UTSaver DCP vendor as payment of such loan plus interest.

2.12 Federal Withholding and Reporting Requirements. Distributions from a UTSaver DCP account are subject to withholding for federal income tax purposes.

2.13 Administration Fees. U.T. System may assess a fee for the administration of the plan against each participant.

2.14 Authorized UTSaver DCP Vendors

2.14.1 Currently Authorized UTSaver DCP Vendor. An employee electing to participate in the UTSaver DCP must select a currently authorized UTSaver DCP vendor(s). No election to participate is considered to have taken place until the participant designates a UTSaver DCP vendor(s) to which monthly deferrals are to be made and completes the required enrollment materials with that

UTSaver DCP vendor(s).

2.14.2 Transfer of UTSaver DCP Funds. Direct transfers will only be allowed to be made to currently authorized UTSaver DCP vendors.

2.15 Qualified Domestic Relations Orders (QDRO's)

It is the responsibility of each UTSaver DCP vendor to qualify and process Qualified Domestic Relations Orders (QDRO's). All UTSaver DCP participants and alternate payees will be directed to contact the respective UTSaver DCP vendor directly to file the necessary forms to process QDRO's.

2.16 Sales Solicitation

Authorized UTSaver DCP vendors may sell UTSaver DCP products to participants subject to the following terms and conditions.

2.16.1 Compliance with Regents' Rules and Regulations Required. All UTSaver DCP vendors, participants, and advisors must adhere to the provisions of the Regents' *Rules and Regulations* and other U.T. System and U.T. System institution policies applicable to UTSaver DCP.

- (1) The Regents' *Rules and Regulations* prohibit solicitation in any building or structure on the campuses of U.T. System institutions.
- (2) UTSaver DCP vendor representatives may not make un-requested sales presentations of any kind on campus, including in-person, promotional cold-calls on employees.
- (3) UTSaver DCP vendor representatives must not interfere with the academic or institutional programs and activities of the U.T. System institution.
- (4) Individual employees may request that information be provided to them by a UTSaver DCP vendor representative during working hours provided that such presentations do not interfere or disturb the normal business of the U.T. System institution.
- (5) Any on-campus meetings to disseminate information about

UTSaver DCP products must be sponsored by the U. T. System or a U.T. System institution. Activity at such meetings is limited to the provision of information about the various U.T. System Retirement Programs. No sales activities may occur at such meetings except in compliance with the following:

- (A) Only at the Employee's Request. Individual employees may request that a UTSaver DCP vendor representative provide information about proposed plans or coverages to them during working hours. However, such presentations must not interfere or disturb the normal business of the U.T. System institution.
- (B) As A Guest of the Employee.
- (C) In Compliance with Applicable Policies. All sales activity must be in accordance with the Regents' *Rules and Regulations* related to sales solicitation and any applicable policies and procedures of the U.T. System institution.
- (D) Sales Solicitation Agreement Required. All sales representatives representing a currently authorized UTSaver DCP vendor must have completed and signed a Sales Solicitation Agreement with the U.T. System and a copy of the agreement must be on file with the currently authorized UTSaver DCP vendor and with the U.T. System Office of Employee Benefits.
- (E) Sales and Presentation Activity. All sales, presentations, and related activity must be in conformity with the U.T. System institutional policies and procedures.
- (F) Sponsorship Required. Any meetings to disseminate information about UTSaver DCP products are to be sponsored by either the U.T. System and/or U.T. System institutions.

2.16.2 Prohibited Gifts. No UTSaver DCP vendor representative shall provide gifts or monetary rewards directly or indirectly to any employee of the U.T. System for information on employees. Any

employee providing confidential information to a UTSaver DCP vendor representative without authorization may be subject to disciplinary action up to and including termination from employment. Any UTSaver DCP vendor representative found to have provided gifts or monetary rewards to employees shall be subject to suspension of sales privileges on any U.T. System property for any length of time deemed appropriate by the U.T. System.

2.16.3 Disqualification. All U.T. System institutions shall report violations of these provisions to the UTSaver DCP vendor and to the U.T. System Office of Employee Benefits. UTSaver DCP vendor representatives found to have willfully or repeatedly violated these Regents' *Rules and Regulations* may be disqualified from any sales or related activity at the U.T. System or at any U.T. System institution, at the discretion of the U.T. System Office of Employee Benefits. Multiple violations of these provisions by representatives of a UTSaver DCP vendor may result in removal of the UTSaver DCP vendor from the U.T. System currently authorized UTSaver DCP vendors list.

### **3. Procedures**

#### **3.1 Enrollment**

To enroll in the UTSaver DCP program, an employee must select a currently authorized UTSaver DCP vendor(s) and complete the enrollment process necessary to establish a deferral agreement between the participant and the U.T. System.

Enrollment is accomplished through UTRetirement Manager. If the participant did not consent to use UTRetirement Manager by accepting the Terms of Use on UTRetirement Manager, he or she must complete the following forms to effect UTSaver DCP enrollment.

3.1.1 Purchase/Change Agreement that includes provisions for a salary reduction agreement.

3.1.2 UTSaver DCP Special Catch-Up Provision Agreement, if utilizing the Special Catch-Up provision

3.1.3 Contribution Limit Formula, if utilizing the Special Catch-Up provision

3.1.4 UTSaver DCP Vendor Application

### 3.2 Changing Selection of UTSaver DCP Vendor

Changing selection of a UTSaver DCP vendor is accomplished through UTRetirement Manager. If the participant did not consent to use UTRetirement Manager by accepting the Terms of Use on UTRetirement Manager, he or she must complete the following forms to change UTSaver DCP vendors. All forms must be submitted to the U.T. System institution benefits office. No substitute form will be accepted for use in changing UTSaver DCP vendors.

Participants must complete the Purchase/Change Agreement to effect a change of UTSaver DCP Vendors.

### **4. Authority**

U.T. System Regents' *Rules and Regulations*, Series 30202 Section 6  
*Internal Revenue Code of 1986*, as amended, Section 457(b)  
Subchapter D, Chapter 609, *Texas Government Code*  
Amended and Restated UTSaver Deferred Compensation Plan effective July 22,  
2005