

December 18, 2023

Ms. Sue Loughlin
Tribune-Star
2800 Poplar St, Ste 37A
Terre Haute, IN 47803

Re: Indiana State University Request for Public Records – received December 15, 2023

Dear Ms. Loughlin,

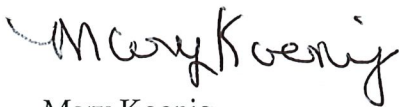
Indiana State University (“ISU”) is in receipt of your Request for Public Records submitted on December 15, 2023, for the following:

“...a copy of the retirement agreement reached with ISU President Deborah Curtis.

Attached please find the requested document.

If you have any additional questions, please contact our office via email ISU-GeneralCounsel@indstate.edu.

Sincerely,



Mary Koenig
Legal Project Manager
Indiana State University

RETIREMENT AGREEMENT

This Retirement Agreement (“Agreement”) is made and entered into by and between Indiana State University, an Indiana institution of higher education authorized under the laws of the State of Indiana (“ISU”) and Deborah J. Curtis, Ph.D. (“Dr. Curtis”), referred to collectively as “the Parties.”

RECITALS

WHEREAS, Dr. Curtis is employed as the President of ISU;

WHEREAS, the terms of the Parties’ employment relationship is set forth in that certain Employment Agreement for the President of Indiana State University with an effective date of January 1, 2018 (“Employment Agreement”), as amended by an Amendment to Employment Agreement dated May 1, 2021, and an Employment Extension for the President of Indiana State University (Second Amendment) dated May 7, 2021 (collectively referenced herein as “the Employment Agreement & Amendments”);

WHEREAS, Dr. Curtis has announced her intent to retire and resign from her position as President effective June 30, 2024;

WHEREAS, under the terms of the Employment Agreement & Amendments, Dr. Curtis is entitled to certain benefits upon resignation, as well as continued employment as a tenured faculty member;

WHEREAS, in lieu of continued employment as a tenured faculty member, Dr. Curtis agrees to accept certain compensation and benefits as set forth in this Agreement;

WHEREAS, the Parties enter into this Agreement to memorialize the terms they negotiated relating to Dr. Curtis’ retirement transition.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and mutual covenants and agreements contained herein, the Parties agree as follows:

1. RETIREMENT/RESIGNATION. Dr. Curtis is resigning from her position as President effective June 30, 2024 (“Resignation Date”), in accordance with Section 7.1 of the Employment Agreement. Dr. Curtis shall continue to receive the applicable compensation and benefits set forth in the Employment Agreement & Amendments through the Resignation Date, unless her employment is terminated earlier pursuant to Section 7.2.2 (Termination with Cause) of the Employment Agreement, in which case this Agreement shall become null, void and unenforceable. Dr. Curtis shall continue to perform her responsibilities as President in accordance with Section 5.0 (President’s Duties) of the Employment Agreement, for so long as she holds that position. It is anticipated Dr. Curtis shall continue to perform the duties of President through the Resignation Date, though the Parties may mutually agree to relieve Dr. Curtis of those responsibilities earlier if, for example, a successor for Dr. Curtis’ position is in place prior to the Resignation Date,

provided that in such event Dr. Curtis shall continue to receive her full contractual compensation through the Resignation Date.

2. LEAVE OF ABSENCE. In accordance with the terms of Section 7.6 and Section 7.6.1 of the Employment Agreement, Dr. Curtis shall be granted a one (1) year leave of absence following the Resignation Date, beginning on July 1, 2024, and continuing until June 30, 2025 (“Leave of Absence”), during which she shall be paid seventy percent (70%) of her last existing annual Base Salary. Such amount shall be subject to applicable taxes and withholdings and shall be payable in monthly installments, in accordance with the Parties’ payment practices set forth in Section 3.1 of the Employment Agreement. During the Leave of Absence, Dr. Curtis shall be eligible for all other benefits available to full-time exempt administrative staff, pursuant to the terms of Section 7.6.1 of the Employment Agreement, as well as the benefits provided for in Section 3.3 of the Employment Agreement. The Supplemental Retirement Plan Contribution shall be paid on or before on or before September 1, 2024, in accordance with the amount, allocation and vesting provisions of Section 3.10 of the Employment Agreement. On the last payroll date prior to the commencement of the Leave of Absence ISU shall pay Dr. Curtis for unused vacation time, pursuant to the terms of ISU’s general policies.

3. WAIVER OF CONTINUED EMPLOYMENT AS TENURED FACULTY MEMBER. Pursuant to Section 7.6.2 (Option to Return to University) of the Employment Agreement, following the Leave of Absence Dr. Curtis has the option to return to ISU as a tenured faculty member and to continue in that role indefinitely, in accordance with the terms of Section 4.2 (Continuation of Employment as a Faculty Member with Tenure) of the Employment Agreement. Dr. Curtis is waiving her rights under Section 7.6.2 and Section 4.2 of the Employment Agreement, and agrees she will not return nor seek to return as a faculty member of ISU following the Leave of Absence in exchange for ISU providing the following: (a) payment of seventy percent (70%) of her last existing annual Base Salary, less applicable taxes and withholdings, to be paid in lump sum on June 30, 2025; (b) a Supplemental Retirement Plan Contribution to be paid on or before June 30, 2025, in accordance with the amount, allocation and vesting provisions of Section 3.10 of the Employment Agreement; and (c) a lump sum payment in the gross amount of \$12,000 (less applicable taxes and withholdings) payable on June 30, 2025 to offset the cost of other benefits. Dr. Curtis understands and agrees that she shall be entitled to no other employment benefits, including health insurance (other than through COBRA), following the end of the Leave of Absence, except as specifically set forth in this Paragraph 3 of the Agreement.

4. Compliance with Section 409A. This Agreement is intended to comply with the requirements of IRC Section 409A of the Internal Revenue Code of 1986, as amended (the “Code”) and its related regulations (“Section 409A”). Accordingly and notwithstanding anything to the contrary contained in this Agreement, any distribution under this Agreement shall be made in accordance with the requirements of Section 409A, and all interpretations of this Agreement will be made so as to insure such qualification under Section 409A. For purposes of this Agreement, the words “termination,” “cessation,” “separation,” “resignation,” “retirement” from employment and similar phrases, mean a “separation from service” as defined in Treasury Regulation Section 1.409A-1(h). Notwithstanding any provision of this Agreement to the contrary, if, at the time of Dr. Curtis’ termination of employment with ISU, she is a “specified employee” as defined in Section 409A, and one or more of the payments or benefits received or to be received by Dr. Curtis pursuant to this Agreement would become subject to the additional tax under Section

409A(a)(1)(B) of the Code or any other taxes or penalties imposed under Section 409A (the “Section 409A Taxes”) if provided at the time otherwise required under this Agreement, no such payment or benefit will be provided under this Agreement until the date which is six months after Employee’s separation from service for any reason, other than death or “disability” (as such terms are used in Section 409A(a)(2) of the Code) or such shorter period that, as determined by ISU is sufficient to avoid the imposition of Section 409A Taxes. The provisions of this Section 4 shall only apply to the minimum extent required to avoid Dr. Curtis’ incurrence of any Section 409A Taxes. In addition, if any provision of this Agreement would cause Dr. Curtis to incur any penalty tax or interest under Section 409A, ISU may reform such provision to maintain to the original intent of the applicable provision, to the extent permitted by Section 409A. Each payment and benefit payable under this Agreement, including any payment or benefit that is required to be aggregated with such payment and benefits under Section 409A, is hereby designated as a separate payment, and will not collectively be treated as a single payment, as provided in Treasury Regulation Section 1.409A-2(b)(2)(iii). ISU makes no representations whatsoever regarding the tax implications, if any, of the payment and provision of compensation and benefits pursuant to this Agreement. Dr. Curtis is advised to consult a tax professional or attorney regarding any such tax implications.

5. COMPLETE PAYMENTS. After receiving the payments and benefits set forth in Paragraphs 1 - 3 of this Agreement, Dr. Curtis agrees ISU will have paid all wages, salary, bonuses, paid time off benefits and other amounts due and owing in connection with her employment, the separation of her employment, and the terms of this Agreement.

6. NOTICE OF RIGHTS, REVIEW PERIOD AND RELEASE OF CLAIMS. Dr. Curtis understands and agrees that because she is at least 40 years of age, she is covered by the provisions of the Age Discrimination in Employment Act of 1967, as amended (“ADEA”) and the Older Workers Benefit Protection Act (“OWBPA”). In conformance with these Acts, Dr. Curtis acknowledges:

- a. Review by Counsel. ISU advises Dr. Curtis of her right to consult with an attorney prior to executing this Agreement.
- b. Review Period. Dr. Curtis acknowledges she has a period of 21 days from the date of receipt of this Agreement in which to review and execute this Agreement (“Review Period”). Dr. Curtis’ signature shall constitute and be considered a waiver of any days remaining in the Review Period. Any modifications made to this Agreement, whether material or non-material, do not restart or affect in any manner the original 21-day review period. Dr. Curtis understands if she fails to sign and return this Agreement within 21 days of receipt of the Agreement, this Agreement will be unenforceable by either Dr. Curtis or ISU.
- c. Revocation Period. Dr. Curtis is also advised that, after executing this Agreement, she has an additional seven days in which to revoke this Agreement (“Revocation Period”). Any revocation must be submitted, via e-mail to Christopher J. Bayh at Barnes & Thornburg

(Chris.Bayh@btlaw.com) within seven days after the execution of this Agreement. The terms of this Agreement will become effective upon the expiration of the Revocation Period (“Effective Date”).

- d. Effect of Revocation. Dr. Curtis understands if she revokes this Agreement, the consideration and benefits agreed to by ISU in this Agreement will be forfeited. If Dr. Curtis revokes this Agreement, it will become null and void and unenforceable by either Dr. Curtis or ISU.
- e. No Consideration Absent Execution of this Agreement. Dr. Curtis understands and agrees she is not entitled to and would not receive the benefits set forth in this Agreement, except for her execution of this Agreement, the Supplemental Release and the fulfillment of the promises she has made in this Agreement.
- f. Release of Claims Under the ADEA. Dr. Curtis understands that by signing this Agreement, she is releasing ISU from all claims, whether known or unknown, that she may have under the ADEA, in addition to the claims released in Paragraph 7, below.

7. **GENERAL RELEASE.** In exchange for the above-described and other consideration, which Dr. Curtis acknowledges is in addition to anything to which she is otherwise entitled, Dr. Curtis (for herself, her agents, assigns, heirs, executors and administrators) releases and discharges ISU and the “Released Parties” (which includes Indiana State University, its affiliates, and their current or former officers, directors, trustees, agents, faculty, employees, insurers, representatives, and employee benefit or welfare programs or plans) from any claim, demand, action, or cause of action, known or unknown, which arose at any time from the beginning of time to the date she executes this Agreement, and waives all claims relating to, arising out of, or in any way connected with her interactions with ISU, her employment with ISU, the planned resignation of her employment, and the compensation or benefits payable in connection with that employment or the cessation of that employment, based on but not limited to: the Age Discrimination in Employment Act, as amended; Title VII of the Civil Rights Act of 1964, as amended; the Americans With Disabilities Act of 1990; the Civil Rights Act of 1866; the Civil Rights Act of 1991, as amended; the Employee Retirement Income Security Act (“ERISA”); the Family and Medical Leave Act of 1993; Indiana Civil Rights and wage payment laws; any existing or potential entitlement or benefit under any program or plan unless forbidden by ERISA; any agreement, contract, or representation (whether oral or written), including the Employment Agreement & Amendments; or any other federal, state, or local law whether emanating or arising from statute, executive order, regulation, common law or other source, including all suits in contract or tort, including claims of wrongful termination and breach of contract. Dr. Curtis understands and agrees she is releasing the Released Parties from any and all claims by which she is giving up the opportunity to recover any compensation, damages, or any other form of relief in any proceeding brought by her or on her behalf. Notwithstanding the foregoing, this Agreement is not intended to operate as a waiver of any retirement or pension benefits that are vested, the eligibility and entitlement to which shall be governed by the terms of the applicable plan. Nor shall this Agreement operate to waive or bar any

claim or right which, by express or unequivocal terms of law, may not under any circumstances be waived or barred.

Since the release set forth in this Paragraph 7 does not waive claims that arise after the date Dr. Curtis executes this Agreement, she agrees to sign the Supplemental Release, attached as Exhibit A, within 21 days of the Resignation Date. The Supplement Release releases all claims against ISU and the Released Parties that may have arisen between the date Dr. Curtis executes this Agreement and her Resignation Date.

8. STATEMENT OF PROTECTED RIGHTS. Nothing in this Agreement is intended to prohibit Dr. Curtis from assisting or communicating with others about workplace issues, from discussing or disclosing information about alleged unlawful acts in the workplace, including but not limited to harassment, discrimination, sexual assault, or any conduct that Dr. Curtis has reason to believe is unlawful, or from filing a charge or otherwise cooperating or participating in an investigation by the EEOC, NLRB, or comparable state or local agencies. Dr. Curtis agrees that she is waiving the right to recover monetary damages or other individual relief in connection with any such charge or investigation. In addition, nothing in this Agreement is intended to prohibit Dr. Curtis from making any truthful statement about any unlawful employment practice.

9. NON-DISPARAGEMENT. Dr. Curtis agrees she will not make any false statements that are maliciously disparaging or defamatory regarding ISU, its educational programs, its services, or any of its trustees, directors, officers, faculty, staff, employees, or agents. This obligation includes refraining from any such statements of any kind (*i.e.*, whether orally, electronically or via social media, Facebook, text messages, e-mail communications, blogs, tweets, or otherwise). Nothing in this paragraph or in this Agreement is intended to prohibit Dr. Curtis from engaging in activities referenced in the Statement of Protected Rights in Section 8. By like token, ISU agrees to instruct the individual members of its Board of Trustees not to make any false statements that are maliciously disparaging or defamatory regarding Dr. Curtis. This obligation includes refraining from any such statements of any kind (*i.e.*, whether orally, electronically or via social media, Facebook, text messages, e-mail communications, blogs, tweets, or otherwise). Nothing in this paragraph or in this Agreement is intended to prohibit members of ISU's Board of Trustees from providing information in an investigation or legal proceeding. The parties further agree to cooperate in preparing any public communications or announcements relating to Dr. Curtis' retirement from ISU.

10. CONFIDENTIALITY. Dr. Curtis agrees she has been provided Confidential Information (as defined below) of ISU in connection with her job responsibilities at ISU and agrees she shall not, either directly or indirectly, use, divulge, disclose or communicate, or cause or permit any other person or entity to use, divulge, disclose or communicate, to any person, firm, corporation or entity, in any manner whatsoever, any Confidential Information, with the exception that the obligations stated in this Paragraph 10 shall not be violated by disclosure or use of information that at the time of disclosure and/or use (i) is publicly available through no act or omission of Dr. Curtis, (ii) is independently ascertainable without a substantial investment of time, expense or effort, or (iii) is disclosed pursuant to a court order or as otherwise required by law, provided that Dr. Curtis provides reasonable notice of the requirement for such disclosure to the Chair of the Board of Trustees of ISU prior to making any disclosure so that ISU may act to lawfully protect against, condition, limit or restrict the scope or extent of such disclosure.

For purposes of this Agreement, "Confidential Information" means any non-public knowledge or information not subject to open records act disclosures and for which ISU employs reasonable efforts under the circumstances to protect its confidentiality about the business and activities of ISU, including, but not limited to, student information (including information covered by FERPA), donor information, strategic plans, marketing information, financial information, personnel information, information covered by the attorney-client privilege, data base designs, procedures, protocols, techniques, research data, technical data and all the other know-how and trade secrets pertaining in any respect to ISU. The foregoing covenants shall remain in effect for so long as any such information remains Confidential Information of ISU. Notwithstanding anything to the contrary in this Agreement, Dr. Curtis will never disclose or use confidential information which remains a trade secret of ISU; provided, that under the Defend Trade Secrets Act, 18 U.S.C. §1833(b), an individual shall not be held liable for disclosure of a trade secret if that disclosure (i) is made in confidence to a federal, state or local government official or to an attorney for the sole purpose of reporting or investigating a suspected violation of law; or (ii) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal. Nothing in this Agreement is intended to conflict with 18 U.S.C. §1833(b) or create liability for disclosures of trade secrets expressly allowed by 18 U.S.C. §1833(b).

11. RETURN OF PROPERTY. Dr. Curtis agrees that on or before the Resignation Date she will return all property belonging to ISU, including but not limited to electronic equipment, mobile devices, ISU credit cards, keys, badges, access cards, passwords, flash drives, and all information and documents, including but not limited to reports, student information, files, memoranda, records, software, instruction or operational manuals, written financial information, business plans, Confidential Information, or other property which Dr. Curtis received, prepared, or helped to prepare in connection with her employment with ISU. Dr. Curtis agrees she will not retain any copies, duplicates, reproductions or excerpts of the information and documents described herein.

12. REASONABLE ASSISTANCE & COOPERATION. In partial exchange for the benefits provided to Dr. Curtis under this Agreement, Dr. Curtis agrees that during the first six months of the Leave of Absence she will be available to assist with activities relating to the transition of the presidency and to call on donors, as reasonably requested by ISU. Dr. Curtis further agrees that at any time following the end of her active employment with ISU she will make herself reasonably available to assist current ISU personnel in the event assistance is needed to locate, understand or clarify work previously performed by her or other work-related issues relating to her employment. Dr. Curtis further agrees to cooperate fully with ISU in connection with any pending or future litigation, arbitration, business, or investigatory matter, specifically including cooperating with any attorney or other consultant retained by ISU in connection with such matters. The Parties acknowledge and agree that such cooperation may include but shall in no way be limited to Dr. Curtis being available to ISU and any attorney or other consultant retained by ISU, and providing to ISU any documents in her possession or under her control. "Cooperation" does not mean Dr. Curtis must provide information favorable to ISU; it means only that Dr. Curtis will, upon ISU's request, provide information she possesses or controls. ISU agrees to provide Dr. Curtis with reasonable notice of the need for assistance when feasible.

13. DISCLAIMER OF LIABILITY. The Parties expressly understand and agree this Agreement is entered into and executed for the primary purpose of severing the employment

relationship between the Parties on an amicable basis and avoiding any controversies or disputes arising out of or in connection with Dr. Curtis' employment by ISU. This Agreement is not to be construed as an admission of liability or wrongdoing of any sort by either Party.

14. SUCCESSORS. This Agreement shall apply to Dr. Curtis, as well as her heirs, agents, executors and administrators. In the unlikely event of Dr. Curtis' death before all monetary payments are paid under this agreement, any remaining payments shall be paid to Dr. Curtis' estate. No compensation shall be paid for benefits for which Dr. Curtis would otherwise not receive direct compensation, such as health insurance coverage, etc. This Agreement also shall apply to, and inure to the benefit of ISU, its successors, assigns and each employee, agent, representative, officer or director of ISU and any division, subsidiary, parent or affiliated entity of ISU.

15. SEVERABILITY. The Parties explicitly acknowledge and agree that the provisions of this Agreement are both reasonable and enforceable. However, the provisions of this Agreement are severable, and the invalidity of any one or more provisions shall not affect or limit the enforceability of the remaining provisions. Should any provision be held unenforceable for any reason, then such provision shall be enforced to the maximum extent permitted by law.

16. APPLICABLE LAW & JURISDICTION. This Agreement shall be interpreted, enforced, and governed under the laws of the State of Indiana. Any action regarding this Agreement or otherwise brought against ISU by or on behalf of Dr. Curtis shall be maintained in a court in Vigo County, Indiana. If the claim could be brought in federal court, the action shall be maintained in the United States District Court for the Southern District of Indiana. The Parties expressly consent to personal jurisdiction in Indiana.


17. ACKNOWLEDGMENT AND UNDERSTANDING. Dr. Curtis acknowledges she is fully aware of her rights, and has carefully read and fully understands all provisions of this Agreement before signing. Dr. Curtis further acknowledges she has had a reasonable amount of time to consider this Agreement and executes the Agreement knowingly and voluntarily.

18. COMPLETE AGREEMENT. Dr. Curtis represents and acknowledges that in executing this Agreement she does not rely and has not relied upon any representations or statements not set forth or referenced herein or attached hereto made by ISU or any of its employees, agents, representatives, trustees, officers or directors with regard to the subject matter, basis or effect of this Agreement or otherwise.

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Signatures on Next Page

AGREED TO BY:

“DR. CURTIS”

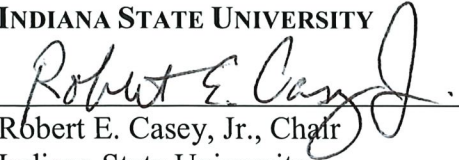


Deborah J. Curtis, Ph.D.

Date: Dec. 15, 2023

“ISU”

INDIANA STATE UNIVERSITY

By: 

Robert E. Casey, Jr., Chair
Indiana State University
Board of Trustees

Date: 15 December, 2023