

**ADOPTION AGREEMENT  
FOR THE ELIGIBLE  
457(b) DEFERRED COMPENSATION  
PLAN OF  
SAINT MARY'S COLLEGE OF  
CALIFORNIA,  
A NON-GOVERNMENTAL  
TAX-EXEMPT  
ORGANIZATION**



**Financial Services**

Non-Governmental Tax-Exempt 457(b) Deferred Compensation Plan  
Adoption Agreement

06/2013

1. General Information

- (A) Name of Tax-Exempt Employer: Saint Mary's College of California
- (B) Address of Tax-Exempt Employer: 1928 St. Mary's Road, PMB 3554  
Moraga, CA 94575
- (C) Name of Plan: Saint Mary's College 457(b) Plan
- (D) Federal Tax ID Number of Tax-Exempt Employer: 94-1156599
- (E) Plan Administrator's Name and Address: Saint Mary's College of California  
1928 St. Mary's Road, PMB 3554  
Moraga, CA 94575

2. Effective Date / Restated Effective Date (Article I - Definitions)

(Select one)

- (A)  The Plan is a new plan. The Effective Date is July 1, 2019.
  - (B)  The Plan is a restated plan. The Restated Effective Date is \_\_\_\_\_.
- The Plan's initial Effective Date was \_\_\_\_\_.

3. Plan Year (Article I - Definitions)

(Select all that apply)

Plan Year means:

- (A)  The calendar year.
- (B)  The Plan Year is a twelve (12) month period beginning on \_\_\_\_\_ and ending on the following \_\_\_\_\_.
- (C)  The initial Plan Year is a short Plan Year beginning on July 1, 2019 and ending on December 31, 2019. Thereafter, the Plan Year will be the twelve (12) month period selected in Box 3(A) or Box 3(B) above.

4. Definition of Compensation (Article I - Definitions)

(Please make a selection in (A) and (B))

- (A)  Compensation is defined as W-2 wages (including differential wage payments).
- Compensation will be defined as W-2 wages exclusive of the following: \_\_\_\_\_
- Compensation will be defined as follows: \_\_\_\_\_

(B) If so selected, this amount also includes pay for accrued bona fide sick, vacation or other leave pay (but not severance pay). (Note: Any such pay must be paid within the later of 2 ½ months following Severance from Employment or the end of the calendar year which includes the date of Severance from Employment.)

Yes, include. If yes, select which types of accrued leave pay will apply to the Plan.

(1)  Accrued bona fide sick pay

(2)  Accrued vacation pay

(3)  Other accrued leave pay (describe): \_\_\_\_\_.

No, do not include.

**5. Eligible Employee (Article I - Definitions)**

*(Select all that Apply)*

(A) Eligible Employees shall be limited to a select group of management or highly compensated employees ("Top Hat group") which will be defined as follows:

**Employees who are full time tenured faculty, full time members of the President's Cabinet or full time staff employees, to the extent that the employee earns an annual salary equal to or in excess of the then current salary associated with the Tenure Track Faculty Salary Scale for Professor at Step 10 (e.g., \$124,890 for 2018-2019).**

(B) Employees identified as independent contractors will be included as Eligible Employees if selected below.

Yes, apply.

No, do not apply.

(C) Employees identified as directors/trustees will be included as Eligible Employees if selected below.

Yes, apply.

No, do not apply.

**6. Contract Selection and Alternate Investment Sponsors (Article I - Definitions)**

(A) Investment Options are any investments made available by either TIAA-CREF under its contracts (including the use of TIAA-CREF or non-proprietary mutual funds) or any other Investment Sponsor and selected for use under this Plan by the Employer, or its designee. All the Investment Options shall be owned by the Employer. The contracts that will be offered by TIAA-CREF under the Plan are: *(Select all that apply)*



- TIAA Retirement Choice Plus Annuity Contract ("TIAA RCP") and a CREF Retirement Choice Plus Annuity Contract ("CREF RCP").
- TIAA Retirement Choice Annuity Contract ("TIAA RC") and a CREF Retirement Choice Annuity Contract ("CREF RC").
- TIAA Stable Value Annuity Contract ("TIAA Stable Value") in conjunction with the Retirement Choice Contract. If this option is selected, the RC Contract will also be included in the selection.
- For plans in existence prior to January 1, 2013, TIAA Group Annuity Contract ("TIAA GA") and a CREF Group Annuity Contract ("CREF GA").

(B) Alternate Investment Sponsors. (*Select one*)

- No, alternate Investment Sponsors are **not** available under the Plan. TIAA-CREF is the sole Investment Sponsor under the Plan.
- Yes, alternate Investment Sponsors are available under the Plan. (List alternate Investment Sponsors) \_\_\_\_\_

**7. Investment Allocation (Section 8.4)**

(*Select one*)

- (A)  A Participant will have the ability to initially select an investment allocation from the Investment Options available under the Plan. Participants are also permitted to change their investment allocation and transfer existing accumulations among the Investment Options offered under the Plan by submitting a written or electronic request to the Employer or its designee pursuant to the administrative practices required by the Employer or its designee. However, notwithstanding this provision, the Employer retains sole discretion and authority to invest all assets.
- (B)  Only the Employer will have the ability to initially select an investment allocation from the Investment Options available under the Plan. The Employer will also be permitted to change the investment allocation and transfer existing accumulations among the Investment Options offered under the Plan by submitting a written or electronic instruction to the Investment Sponsor, as required or permitted by each Investment Sponsor.

**8. Normal Retirement Age (Article I - Definitions)**

(*Select one*)

**General Rule.** Normal Retirement Age ("NRA") can be defined as any age that is on or after the earlier of age 65 or the age at which a Participant can retire and receive an unreduced benefit under the Employer's defined benefit plan (or if there is no defined benefit plan or if Participants cannot participate in that plan, a money purchase pension plan in which Participants also participate), and that is not later than age 70 ½. Alternatively, an Eligible Plan may choose or

permit participants to choose any NRA that is within those ages.

- (A)  Normal Retirement Age will be age 65.
- (B)  Normal Retirement Age will be age \_\_\_\_\_.
- (C)  Normal Retirement Age will be the age selected by each Participant.
- (D)  Normal Retirement Age is defined as follows: \_\_\_\_\_

**9. Annual Deferrals (Section 3.1)**

*(Select one)*

- (A)  Annual Deferrals may be made to the Plan up to the maximum amount permitted by law.
- (B)  Annual Deferrals may be made to the Plan up to a maximum amount equal to \_\_\_\_\_ provided that in no event may such deferrals exceed the maximum amount permitted by law.
- (C)  Annual Deferrals may only be made to this Plan up to the maximum permitted by law after maximizing Elective Deferrals to the Employer's 403(b) plan.
- (D)  Annual Deferrals may **not** be made to the Plan.

**10. Deferral of Special Pay (Section 3.3)**

*(Select one)*

If selected below, a Participant may elect to defer accumulated sick pay, accumulated vacation pay, and other leave pay provided that in no event shall such deferrals to the Plan exceed the maximum amount permitted by law.

Yes, apply. (Question 4.(B) must also be checked, Yes.)

No, do not apply.

**11. Special Section 457 Catch-up Limitation (Section 3.7(b))**

*(Select one)*

If selected below, the special Section 457 catch-up contributions may be made to the Plan up to the maximum amount permitted by law.

Yes, apply.

No, do not apply.

**12. Employer Non-Elective Contributions (Section 3.5)**

Note: Any Employer contribution will reduce, dollar for dollar, the amount the Participant can defer



to the Plan and in no event shall the combined total of Participant and Employer contributions exceed the maximum amount permitted by law.

(Select one)

- The Employer will make non-elective contributions to the Plan on behalf of all Active Participants in an amount equal to \_\_\_\_\_% of the Participant's Compensation.
- The Employer will make non-elective contributions to the Plan as follows (include a description of the class(es) of Active Participants receiving the contribution and the amount or if the contribution will be discretionary and only made to certain Active Participants as designated by the Employer in its discretion):

**At the discretion of the Employer/Plan Sponsor**

- The Employer will **not** make any non-elective contributions to the Plan.

**13. Employer Matching Contributions (Section 3.6)**

Note: Any Employer contribution will reduce, dollar for dollar, the amount the Participant can defer to the Plan and in no event shall the combined total of Participant and Employer contributions exceed the maximum amount permitted by law.

(Select one)

- (A)  The Employer will make matching contributions to the Plan on behalf of Active Participants who make an Annual Deferral pursuant to a Deferred Compensation Agreement in an amount equal to \_\_\_% of the Participant's Compensation that is contributed to the Plan for the Plan Year.
- (B)  The Employer will make matching contributions to the Plan on behalf of Active Participants who make an Annual Deferral pursuant to a Deferred Compensation Agreement in an amount equal to \_\_\_ of the first \_\_\_ of the Participant's Compensation that is contributed to the Plan for the Plan Year.
- (C)  The Employer will make matching contributions to the Plan as follows (include a description of the class(es) of Active Participants receiving the contribution and the amount or if the contribution will be discretionary and only made to certain Active Participants as designated by the Employer in its discretion):
- (D)  The Employer will **not** make any matching contributions to the Plan.

**14. Plan-to-Plan Transfers to the Plan (Section 3.9)**

(Select one)

Please note that, in general, direct plan-to-plan transfers to the Plan can only be made from another non-governmental tax-exempt Eligible 457(b) Deferred Compensation Plan and if the Participant is an Eligible Employee of the Employer. No transfers to the Plan can be made by a Beneficiary.

- (A)  Direct transfers may be made to the Plan from another non-governmental tax-exempt

Eligible 457(b) Deferred Compensation Plan to the extent permitted by law.

(B)  Direct transfers may be made to the Plan from another non-governmental tax-exempt Eligible 457(b) Deferred Compensation Plan, subject to the following limitations:  
\_\_\_\_\_

(C)  Direct transfers may **not** be made to this Plan.

**15. Plan-to-Plan Transfers from the Plan (Section 5.2)**

*(Select one)*

Please note that plan-to-plan transfers from the Plan can only be made to another non-governmental tax-exempt Eligible 457(b) Deferred Compensation Plan after the Participant's Severance from Employment unless the transfer is with respect to a Participant's Beneficiary.

(A)  Direct transfers from the Plan may be made to another non-governmental tax-exempt Eligible 457(b) Deferred Compensation Plan to the extent permitted by law.

(B)  Direct transfers from the Plan may be made to another non-governmental tax-exempt Eligible 457(b) Deferred Compensation Plan, subject to the following limitations:\_\_\_\_\_

(C)  Direct transfers from the Plan may **not** be made.

**16. Initial Deferral of Distribution Option for Participants (Section 4.4)**

*(Select A or B)*

Unless selected below, Participants may elect to delay the commencement of a distribution following the date of Severance from Employment ("initial election period"). Any such election must be made before distributions have commenced. In no event can the Participant's election to delay distributions be later than the date distributions are required to begin under Section 401(a)(9) of the Code.

(A)  Yes, apply. *(Select one)*

(1)  The initial election period is sixty (60) days following the date of the Participant's Severance from Employment.

(2)  The initial election period is **90 days** following the date of the Participant's Severance from Employment.

(3)  The initial election period is defined as the following: \_\_\_\_\_

(B)  No, do **not** apply.

**17. Second Deferral of Distribution Option for Participants (Section 4.4)**

*(Select one)*



If selected below, Participants may elect to further delay (but not accelerate) the commencement of a distribution if the election is made before distributions have commenced according to the initial election period. In no event can the Participant's election to delay distributions be later than the date distributions are required to begin under Section 401(a)(9) of the Code.

Yes, apply.

No, do not apply.

**18. Distribution Options Available for Participants (Section 5.1)**

*(Select all that apply)*

In general, distributions from the Plan will be made in a single lump sum payment. If selected, the following distribution options shall be available to Participants who are eligible for a distribution from the Plan:

(A)  Single Lump Sum

(B)  Fixed Period Annuity/Installments: *(select all that apply)*

(1)  2-30 years at the Participant's election

(2)  Limited to the following fixed periods: *(select all that apply)*

(a)  5 years

(b)  10 years

(c)  15 years

(d)  20 years

(C)  Lifetime Annuity (single life or joint life)

(D)  Required Minimum Distribution

(E)  Other option(s) permitted under the Investment Options offered by TIAA-CREF:

\_\_\_\_\_

**19. Initial Deferral of Distribution Option for Beneficiaries (Section 6.1)**

*(Select A or B)*

Unless selected below, Beneficiaries may elect to delay the commencement of a distribution following the date of the Participant's death ("initial election period"). Any such election must be made before distributions have commenced. In no event can the Beneficiary's election to delay distributions be later than the date distributions are required to begin under Section 401(a)(9) of the Code.



(A)  Yes, apply. (Select one)

(1)  The initial election period is sixty (60) days following the date of the Participant's death.

(2)  The initial election period is 180 days following the date of the Participant's death.

(3)  The initial election period is defined as the following: \_\_\_\_\_

(B)  No, do not apply.

**20. Second Deferral of Distribution Option for Beneficiaries (Section 6.1)**

(Select one)

A Beneficiary may elect to further delay (but not accelerate) the commencement of a distribution if the election is made before distributions have commenced according to the Beneficiary's initial election to delay distributions. In no event can the Beneficiary's election to delay distributions be later than the date distributions are required to begin under Section 401(a)(9) of the Code.

Yes, apply.

No, do not apply.

**21. Death Benefit Payment Options Available (Section 6.2)**

(Select all that apply)

In general, distributions from the Plan will be made in a single lump sum payment. If selected, the following distribution options shall be available to Beneficiaries who are eligible for a distribution from the Plan:

(A)  Single Lump Sum

(B)  Fixed Period Annuity/Installments: (select all that apply)

(1)  2-30 years at the Participant's election

(2)  Limited to the following fixed periods: (select all that apply)

(a)  5 years

(b)  10 years

(c)  15 years

(d)  20 years

(C)  Other option(s) permitted under the Investment Options offered by TIAA-CREF:

22. **Default Distribution Type** (Section 5.5)

(Select one)

Absent a timely election for a different form of payment, distributions from the Plan will be made in a single lump sum payment. If selected below, the default distribution type will be:

- (A)  Single Lump Sum
- (B)  Fixed Period Annuity: (Select all that apply)
- 5 years
- 10 years

23. **Latest Default Distribution Date** (Section 4.4 and Section 6.1)

(Select one)

If a distribution election is not made prior to the expiration of the initial election period, the default distribution type will be paid on or within:

- 90 days following the date of the Participant's Severance from Employment or the date of death, as applicable.
- Other (describe): **30 days beyond election period**

24. **Payment of Benefits** (Section 11.7)

(Select one)

- Payments of benefits under the Plan will be made directly by the Employer to the Participant. In addition to making the distributions of benefits to Participants and Beneficiaries from the Plan, the Employer acknowledges it will remain responsible for all withholding and reporting of all federal and state income taxes due on the distributions as well as contributions to the Plan. **Note:** FICA taxes apply when the deferred amounts are earned by the Participant, FUTA taxes apply when the amounts are deferred to the Plan.
- Payment of benefits will be made by the applicable Investment Sponsor directly to the Participant. In selecting this option, the Employer is directing and authorizing TIAA-CREF to act as the Employer's tax withholding and reporting agent for the Plan. In addition, the Employer must complete and file the Withholding Agent Request Form, IRS form 2678, to enable the Investment Sponsor to act as Employer's agent for tax withholding and reporting purposes when making all benefit payments to Participants. The Employer acknowledges it will remain responsible for the withholding and reporting of all federal and state income taxes until the appointment process is complete and the Letter of Approval from the IRS has been received by TIAA-CREF. The Employer further acknowledges it will also remain responsible for all withholding and reporting of all FICA and FUTA income taxes on amounts deferred to



the Plan. Note: FICA taxes apply when the deferred amounts are earned by the Participant. FUTA taxes apply when the amounts are deferred to the Plan.

**25. Unforeseeable Emergency (Section 4.2)**  
(Select one)

If selected below, a Participant may receive a distribution due to Unforeseeable Emergency prior to Severance from Employment.

Yes, apply. If "Yes" is selected, please select who will be making the determination approving an Unforeseeable Emergency:

Employer/Plan Administrator

Other Investment Sponsor/Third Party Administrator (name):

TIAA-CREF (only Employers with prior approval may elect this option)

No, do not apply.

**26. Small Balance In-service Distribution (Section 4.3)**  
(Select one)

If selected below, a Participant may receive an in-service distribution of all or a part of his or her benefit if the total amount of the Participant's benefit is less than \$5,000 (or the dollar limit under Section 411(a)(11) of the Code) and the requirements of Section 4.3 of the Plan are satisfied.

Yes, apply.

No, do not apply.

**27. Special Severance from Employment Definition for Independent Contractors (Section 4.1(c)(2)) (Select one):**

The special definition of "Severance from Employment" contained in Section 4.1(c)(2) of the Plan will be applied to all Participants classified as independent contractors if selected below.

Yes, apply

No, do not apply

**28. Special Payment Date Restrictions for Independent Contractors (Section 4.1(b))**  
(Select one):

If selected below, the special payment date restrictions for independent contractors contained in Section 4.1(b) will be applied.

Yes, apply

No, do not apply

**29. In-Service Distribution at Age 70 ½ (Section 4.1)**

*(Select one)*

If selected below, a Participant may receive a distribution of all or a portion of his or her benefit upon attainment of age 70 ½ prior to Severance from Employment.

Yes, apply.

No, do not apply.

**30. Special Considerations Relating to Military Service (Section 4.1(d))**

A tax-exempt 457(b) plan is not required to but may elect to provide the following benefits.

*(Please make a selection in (A) and (B))*

(A) **Death or Disability** If selected below, Participants who have died or became Disabled while performing qualified military service will be treated as if they returned to employment the day preceding the date of death or Disability and had a Severance from Employment on the date of death or Disability.

*(Select one)*

Yes, apply to both deceased and Disabled Participants.

Yes, apply to deceased Participants.

No, do not apply.

(B) **Deemed Severance from Employment.** If selected below, Participants who have been called to active duty for 30 or more days will be deemed as having a Severance from Employment for purposes of receiving a distribution under the Plan. Any distribution under this Section 4.1(d) requires a suspension of Annual Deferrals under the Plan for six (6) months.

*(Select one)*

Yes, apply.

No, do not apply.

**31. Qualified Domestic Relations Orders (Section 8.5)**

*(Select one)*

**NOTE:** A non-governmental tax-exempt Eligible 457(b) Deferred Compensation plan is not required, but may elect, to accept Qualified Domestic Relations Orders.



Under the terms of the Plan and unless selected below, distributions pursuant to Qualified Domestic Relations Orders will not be honored. If selected, Qualified Domestic Relations Orders will be honored under the Plan

Yes, apply. If Yes is selected, distributions to the alternate payee will be made as soon as administratively possible.

No, do not apply.

By executing this Adoption Agreement, the Employer adopts the 457(b) Deferred Compensation Plan described herein and in the Plan document. The selections and specifications contained in this Adoption Agreement together with the terms, provisions and conditions provided in the Plan document constitute the Plan. The provisions you select in completing this Adoption Agreement will apply to your Plan as if they were set forth in the Plan document. An improperly completed Adoption Agreement may result in the failure of your Plan to satisfy the requirements of an eligible deferred compensation plan under Section 457(b) of the Code. In completing this Adoption Agreement, you are urged to consult with your attorney or tax advisor.

Other than the limited tax reporting of distributions as agreed to in Section 24, if so elected by the Employer, it is understood that TIAA-CREF is not a party to the Plan and shall not be responsible for any tax or legal aspects of the Plan. The Employer assumes responsibility for these matters.

The Employer acknowledges that it has counseled, to the extent necessary, with its attorney or other tax advisor. The obligations of the Investment Sponsors shall be governed solely by the provisions of its contracts and policies. TIAA-CREF shall not be required to inquire into any action taken by the Employer or the Plan Administrator and shall be fully protected in taking, permitting or omitting any action on the basis of the actions of the Employer or the Plan Administrator. TIAA-CREF shall incur no liability or responsibility for carrying out actions as directed by the Employer or the Plan Administrator.

IN WITNESS WHEREOF, this Adoption Agreement has been executed this 24<sup>th</sup> day of May, 2019.

Employer: Saint Mary's College of California

By: Susan H. Collins

Printed Name: Susan H. Collins

Title: VP Finance-Admin

V4.02-4.02

