

Bowdoin College

ATP Number: 764023-A

Salary Continuation Plan for Faculty

Benefits under the Short-Term Disability Salary Continuation Plan described in the following pages are provided and funded by the Employer.

The Employer has full responsibility for payment of any benefits due according to the terms and conditions of the Plan.

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The Bowdoin College (the “College”) established the Bowdoin College Salary Continuation Plan for Faculty (the “Plan”) to provide income to eligible faculty employees during periods of short-term disability. Benefits under the Plan are provided at no expense to eligible employees. However, benefits when received will be subject to all applicable taxes.

The Plan is not an “employee benefit plan” subject to the Employee Retirement Income Security Act of 1974, as amended (“ERISA”). Rather, the Plan is intended to satisfy the requirements of the payroll practice exemption under 29 C.F.R. § 2510.3-1(b).

DEFINITIONS

The following are the definitions of terms as used in the Plan:

“*Disabled*” or “*Disability*” means that an employee is unable to perform the material and substantial duties of their regular occupation due to a sickness, injury, mental illness, substance abuse, or pregnancy, and there is a loss of 20% or more of their Pre-Disability Earnings due to the sickness, injury, mental illness, substance abuse, or pregnancy.

“*Elimination Period*” means, unless precluded by law, the 14 calendar day period of time that an employee must be Disabled before benefits under the Plan will be paid.

“*Physician*” means:

- 1) a doctor of medicine, osteopathy, psychology or other legally qualified practitioner of a healing art that the Disability Administrator recognizes or is required by law to recognize;
- 2) licensed to practice in the jurisdiction where care is being given;
- 3) practicing within the scope of that license; and
- 4) not an employee or related to an employee by blood or marriage.

“*Pre-Disability Earnings*” means an employee’s contracted annual rate of pay, including pay increases while on disability, from the College divided by 12, and does not include commissions, bonuses, overtime, or other extra compensation paid by the College.

“*Disability Administrator*” means the Standard Insurance Company.

ELIGIBILITY

The following faculty may be eligible for benefits under the Plan. The coverage eligibility date is the date you complete 30 days of continuous service with your employer.

- ✓ Full-time and part-time benefits eligible Faculty (Exempt Employees) that work at least 50% of the normal faculty course load (an FTE of .50 or greater).

Otherwise eligible employees who do not follow the claims initiation processes outlined in the “Claims” section, will not be eligible for benefits.

BENEFITS

When Benefits Begin

Benefits will begin to be paid as of the date of the Disability and may continue up to the lesser of 26 weeks or when the employee is no longer Disabled.

Benefit Amount

The benefit amount received is as follows:

- Employees will be paid 100% of their Pre-Disability Earnings

Benefit Reduction

The amount paid may be reduced by Other Income Benefits that an employee receives for this disability.

Other Income Benefits means the amount of any benefit for loss of income, provided to an employee, as a result of the period of Disability for which an employee is claiming benefits under the Plan. This includes any such benefits for which an employee is eligible or that are paid to an employee, or to a third party on employee's behalf, pursuant to any:

- 1) temporary, permanent disability, or impairment benefits under a Workers' Compensation Law, the Jones Act, occupational disease law, similar law or substitutes or exchanges for such benefits;
- 2) governmental law or program that provides disability or unemployment benefits as a result of an employee's job with the College;
- 3) plan or arrangement of coverage, whether insured or not, which is received from the College as a result of employment by or association with the College or which is the result of membership in or association with any group, association, union or other organization;
- 4) mandatory "no-fault" automobile insurance plan;
- 5) disability benefits under:
 - a) the United States Social Security Act or alternative plan offered by a state or municipal government;
 - b) the Railroad Retirement Act;
 - c) the Canada Pension Plan, the Canada Old Age Security Act, the Quebec Pension Plan or any provincial pension or disability plan; or
 - d) similar plan or act;that an employee is eligible to receive because of their Disability; or
- 6) disability benefit from the Department of Veterans Affairs, or any other foreign or domestic governmental agency:
 - a) that begins after an employee becomes Disabled; or
 - b) that an employee was receiving before becoming Disabled, but only as to the amount of any increase in the benefit attributed to their Disability.

Other Income Benefits also means the amount of any payments that are made to an employee , or to a third party on employee's behalf, pursuant to any:

- 1) disability benefit under the College's Retirement plan;
- 2) temporary, permanent disability or impairment benefits under a Workers' Compensation Law, the Jones Act, occupational disease law, similar law or substitutes or exchanges for such benefits;
- 3) portion of a judgement or settlement of a claim or lawsuit that represents or compensates for an employee's loss of earnings, less the College's pro rata share of any associated reasonable attorneys' fees and court costs; or

- 4) retirement benefit from a Retirement Plan that is wholly or partially funded by employer contributions, unless:
 - a) an employee was receiving it prior to becoming Disabled; or
 - b) an employee immediately transfer the payment to another plan qualified by the United States Internal Revenue Service for the funding of a future retirement.

(Other Income Benefits will not include the portion, if any, of such retirement benefit that was funded by after-tax contributions of an employee.)

The amount of any increase in Other Income Benefits will not be included as Other Income Benefits if such increase:

- 1) takes effect after the date benefits become payable under the Plan; and
- 2) is a general increase which applies to all persons who are entitled to such benefits.

Each employee receiving benefits under this Plan shall immediately report to the Disability Administrator any income the employee receives for his or her disability. Failure to report such income may result in an employee's ineligibility for benefits under the Plan.

When Benefits Terminate

- Benefits under the Plan will terminate at the earliest of the following dates.
- The date indicated by the employee's Physician as the employee's return-to-work date;
- The date that the employee exhausts the available benefit period provided by the Plan;
- The date the employee fails to provide requested documentation or to comply with other terms of the Plan;
- The date the employee is no longer under the regular care of a Physician;
- The date the employee refuses the request to submit to an examination by a Physician or other qualified medical professional;
- The date of the employee's death;
- The date the employee refuses to receive recommended treatment that is generally acknowledged by Physicians to cure, correct or limit the disabling condition;
- The date the employee informs the College that they will not be returning to work, or following the employee's termination of employment with the College; or
- The date that is 24 weeks from the date short-term disability benefits commenced.

BENEFIT EXCLUSIONS

Benefits will not cover Disability:

- 1) unless an employee is under the regular care of a Physician;
- 2) caused or contributed to by war or act of war, whether declared or not;
- 3) caused by an employee's commission of or attempt to commit a felony;
- 4) caused or contributed to by an employee being engaged in an illegal occupation;
- 5) caused or contributed to by an intentionally self-inflicted injury;
- 6) for which Workers' Compensation benefits are paid; or
- 7) sustained as a result of doing any work for pay or profit for another employer, including self-employment.

Payment of benefits may be made to an employee on a provisional basis pending resolution of a claim for Workers' Compensation benefits, and may be subject to recovery or offset. Payment of benefits

under the Plan may be more than the amount an employee is ultimately entitled to under Workers' Compensation Law, and an employee may be required to repay the difference.

EMPLOYMENT TERMINATION

The provision of the Plan does not limit the College's discretion to take employment action in accordance with the College's applicable policies and procedures.

PERIODS OF DISABILITY / RECURRENT DISABILITY

Employees are eligible to receive benefits for up to 24 weeks for any single period of disability. If an employee returns to their normal work schedule for a period of more than one month and becomes Disabled again due to the same or related condition(s), the reoccurrence will be considered a new disability.

OTHER BENEFITS

While Disabled under the Plan, employees will continue to receive covered benefits on the same basis that they had (medical, life, 401(a), etc.) prior to when their Disability began, subject to the terms, conditions, and legal requirements applicable to such covered benefits. Employees will continue to pay any amounts they had previously designated to be contributed for the covered benefits (see the College's *MEDICAL ABSENCES AND LEAVE POLICY FOR FACULTY*).

In general, except as provided under the terms and conditions of other plans, programs or policies of the College, any period for which an employee is Disabled and is eligible for benefits under the Plan shall be treated as a period of continued employment with the College. If an employee exhausts their benefits under the Plan, any benefits that can be continued will be offered in accordance with any applicable law or insurance contract including, but not limited to, COBRA, waiver of premium provisions, conversion provisions, etc.

COORDINATION WITH THE COLLEGE'S FAMILY AND MEDICAL LEAVE POLICY

Leave available through the Plan runs concurrent with leave available under the federal/state family medical leave laws, if applicable (see the College's *FAMILY AND MEDICAL LEAVE POLICY*).

COORDINATION WITH LONG -TERM DISABILITY (LTD) BENEFITS

The Plan does not duplicate the requirements and benefits offered under the College's insured LTD plan; therefore, eligibility to receive salary continuation under the Plan does not guarantee that benefits will be paid under the insured LTD plan. Additional information on LTD benefits is included in the LTD carrier's booklet and is available from the Human Resources Office.

CLAIMS

Notice of Claim

An employee must give the Disability Administrator telephonic notice of a claim within 30 days after Disability occurs by calling 800-378-2395 Mon-Fri 8:00 am – 8:00 pm EST. Failure to give timely notice will not invalidate or reduce any claim if the employee can prove that it was not reasonably possible to give timely notice and that notice was given as soon as was reasonably possible.

Claim Forms

Proof of Loss (described below) is typically provided by telephone; however, if forms are required, the Disability Administrator will send forms to the employee within 15 days of receiving a Notice of Claim. If the Disability Administrator does not send the forms within 15 days, the employee may submit any other written, electronic, or telephonic proof which fully describes the nature and extent of their claim.

Proof of Loss

Proof of Loss may include but is not limited to the following:

- 1) documentation of:
 - a) the date Disability began;
 - b) the cause of Disability;
 - c) the prognosis of Disability;
 - d) the employee's Pre-Disability Earnings, current weekly earnings, or any income, including but not limited to copies of employee's filed and signed federal and state tax returns; and
 - e) evidence that the employee is under the regular care of a Physician;
- 2) any and all medical information, including x-ray films and photocopies of medical records, including histories, physical, mental or diagnostic examinations and treatment notes;
- 3) the names and addresses of all:
 - a) Physicians or other qualified medical professionals the employee consulted;
 - b) hospitals or other medical facilities in which the employee was treated; and
 - c) pharmacies that have filled the employee's prescriptions within the past three years;
- 4) the employee's signed authorization for the Disability Administrator to obtain and release:
 - a) medical, employment, and financial information; and
 - b) any other information the Disability Administrator may reasonably require;
- 5) disclosure of all information and documentation required by the Disability Administrator relating to Other Income Benefits;
- 6) proof that the employee and their dependents have applied for all Other Income Benefits which are available; and
- 7) disclosure of all information and documentation required by the Disability Administrator in order to exercise subrogation or reimbursement rights.

The employee will not be required to claim any retirement benefits which the employee may only get on a reduced basis. All proof submitted must be satisfactory to the Disability Administrator.

The Disability Administrator might require additional Proof of Loss and written Proof of Loss.

CLAIMS PROCEDURES

Claim Procedures for Claims Requiring a Determination of Disability

Claims and appeals for disability benefits will be adjudicated in a manner designed to ensure the independence and impartiality of the persons involved in making the decision. Accordingly, decisions regarding hiring, compensation, termination, promotion or other similar matters with respect to any individual (such as a claims adjudicator or medical or vocational expert) shall not be made based upon the likelihood that the individual will support the denial of benefits.

If the Disability Administrator fails to adhere to the Claims Procedures with respect to a claim, the employee is deemed to have exhausted the administrative remedies available under the Plan, with certain exceptions. Accordingly, the employee is entitled to bring a civil action to pursue any available remedies in federal court on the basis that the Disability Administrator has failed to provide a reasonable claims procedure that would yield a decision on the merits of the claim. If the employee

choose to bring a civil action under such circumstances, the employee's claim or appeal is deemed denied on review without the exercise of discretion by an appropriate fiduciary. However, the administrative remedies available under the Plan will not be deemed exhausted based on *de minimis* violations that do not cause, and are not likely to cause, prejudice or harm to the employee so long as the Disability Administrator demonstrates that the violation was for good cause or due to matters beyond the control of the Disability Administrator and that the violation occurred in the context of an ongoing, good faith exchange of information between the Disability Administrator and the employee. This exception is not available if the violation is part of a pattern or practice of violations by the Disability Administrator. Before filing a civil action, the employee may request a written explanation of the violation from the Disability Administrator, and the Disability Administrator must provide such explanation within 10 days, including a specific description of its bases, if any, for asserting that the violation should not cause the administrative remedies available under the Plan to be deemed exhausted. If a federal court rejects the employee's request for immediate review on the basis that the Disability Administrator met the Standard Insurance Company for the exception, the employee's claim shall be considered as re-filed on appeal upon the Disability Administrator's receipt of the decision of the court. Within a reasonable time after the receipt of the decision, the Disability Administrator shall provide the employee with notice of the resubmission.

Claims for Benefits

The Disability Administrator will make a decision no more than 45 days after receipt of the employee's properly filed claim (as explained under the "Notice of Claim" section, above). The time for decision may be extended for two additional 30 day periods provided that, prior to any extension period, the Disability Administrator notifies the employee in writing that an extension is necessary due to matters beyond the control of the Disability Administrator, identifies those matters and gives the date by which it expects to render its decision. If the employee's claim is extended due to the employee's failure to submit information necessary to decide the employee's claim, the time for decision may be tolled from the date on which the notification of the extension is sent to the employee until the date the Disability Administrator receives the employee's response to its request. If the Disability Administrator approves the employee's claim, the decision will contain information sufficient to reasonably inform the employee of that decision.

Any adverse benefit determination will be in writing and include: 1) the specific reason or reasons for the decision; 2) specific references to the Plan provisions on which the decision is based; 3) a description of any additional material or information necessary for the employee to perfect the claim and an explanation of why such material or information is necessary; 4) a description of the Disability Administrator's review procedures and time limits applicable to such procedures; 5) a statement that the employee has the right to bring a civil action in federal court after the employee appeals the decision and after the employee receives a written denial on appeal; 6) a discussion of the decision, including an explanation of the basis for disagreeing with or not following: (a) the views presented by the employee to the Disability Administrator of health care professionals treating the employee and vocational professionals who evaluated the employee, (b) the views of medical or vocational experts whose advice was obtained on behalf of the Disability Administrator in connection with the adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination, and (c) the Social Security Administration disability determination regarding the employee presented by the employee to the Disability Administrator; 7) if the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the employee's medical circumstances, or a statement that such explanation will be provided free of charge upon request; 8) either the specific internal rules, guidelines, protocols, Standard Insurance Company or other similar criteria of the Disability Administrator relied upon in

making the adverse determination or, alternatively, a statement that such rules, guidelines, protocols, Standard Insurance Company or other similar criteria of the Disability Administrator do not exist; 9) a statement that the employee is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the employee's claim for benefits; and 10) a statement prominently displayed in any applicable non-English language clearly indicating how to access the language services provided by the Disability Administrator.

Appealing Denials of Claims for Benefits

On any wholly or partially denied claim, the employee or the employee's representative must appeal once to the Disability Administrator for a full and fair review. The employee must complete this claim appeal process before employee file an action in federal court, with the exception of an action under the deemed exhausted process described above. The employee's appeal request must be in writing and be received by the Disability Administrator no later than the expiration of 180 days from the date the employee received the claim denial. As part of the appeal:

1. the employee may request, free of charge, copies of all documents, records, and other information relevant to the claim; and
2. the employee may submit written comments, documents, records and other information relating to the claim.

The Disability Administrator's review on appeal shall take into account all comments, documents, records and other information submitted by the employee relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

Before the Disability Administrator can issue an adverse benefit determination on review, the Disability Administrator shall provide the employee, free of charge, with any new or additional evidence considered, relied upon, or generated by the Disability Administrator (or at the direction of the Disability Administrator) in connection with the claim; such evidence must be provided as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination on review is required to be provided to give employee a reasonable opportunity to respond prior to that date.

Before the Disability Administrator can issue an adverse benefit determination on review based on a new or additional rationale, the Disability Administrator shall provide the employee, free of charge, with the rationale; the rationale must be provided as soon as possible and sufficiently in advance of the date on which the notice of adverse benefit determination on review is required to be provided to give the employee a reasonable opportunity to respond prior to that date.

The Disability Administrator will make a final decision no more than 45 days after it receives the timely appeal. The time for final decision may be extended for one additional 45 day period provided that, prior to the extension, the Disability Administrator notifies employee in writing that an extension is necessary due to special circumstances, identifies those circumstances and gives the date by which it expects to render its decision. If the claim is extended due to the employee's failure to submit information necessary to decide the claim on appeal, the time for decision shall be tolled from the date on which the notification of the extension is sent to employee until the date the Disability Administrator receives the employee's response to the request. The Disability Administrator may also toll the time for a decision to allow the employee a reasonable opportunity to respond to new or additional evidence or a new or additional rationale. Tolling will begin on the date that the Disability Administrator provides the employee with new or additional evidence or a new or additional rationale, and end when the Disability Administrator receives the response or on the date by which the Disability Administrator has requested a response, whichever comes first.

The individual reviewing the appeal shall give no deference to the initial benefit decision and shall be an individual who is neither the individual who made the initial benefit decision, nor the subordinate of such individual. The review process provides for the identification of the medical or vocational experts whose advice was obtained in connection with an initial adverse decision, without regard to whether that advice was relied upon in making that decision. When deciding an appeal that is based in whole or part on medical judgment, the Disability Administrator will consult with a medical professional having the appropriate training and experience in the field of medicine involved in the medical judgment and

Who is neither an individual consulted in connection with the initial benefit decision, nor a subordinate of such individual. If the Disability Administrator grants the claim appeal, the decision will contain information sufficient to reasonably inform the employee of that decision.

However, any final adverse benefit determination on review will be in writing and include: 1) the specific reason or reasons for the decision; 2) specific references to the Plan provisions on which the decision is based; 3) a statement that the employee is entitled to receive, upon request and free of charge, copies of all documents, records, and other information relevant to the claim; 4) a statement (a) that the employee has the right to bring a civil action in federal court, and (b) describing any applicable contractual limitations period that applies to the employee's right to bring such an action, including the calendar date on which the contractual limitations period expires for the claim; 5) a discussion of the decision, including an explanation of the basis for disagreeing with or not following: (a) the views presented by employee to the Disability Administrator of health care professionals treating the employee and vocational professionals who evaluated the employee, (b) the views of medical or vocational experts whose advice was obtained on behalf of the Disability Administrator in connection with the adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination, and (c) the Social Security Administration disability determination regarding the employee presented by the employee to the Disability Administrator; 6) if the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the employee medical circumstances, or a statement that such explanation will be provided free of charge upon request; 7) either the specific internal rules, guidelines, protocols, Standard Insurance Company or other similar criteria of the Disability Administrator relied upon in making the adverse determination or, alternatively, a statement that such rules, guidelines, protocols, Standard Insurance Company or other similar criteria of the Plan do not exist; 8) a statement prominently displayed in any applicable non-English language clearly indicating how to access the language services provided by the Disability Administrator; and 9) any other notice(s), statement(s) or information required by applicable law.

Claim Procedures for Claims Not Requiring a Determination of Disability

Claims and appeals for benefits will be adjudicated in a manner designed to ensure the independence and impartiality of the persons involved in making the decision. Accordingly, decisions regarding hiring, compensation, termination, promotion or other similar matters with respect to any individual (such as a claims adjudicator or medical expert) shall not be made based upon the likelihood that the individual will support the denial of benefits.

Claims for Benefits

The Disability Administrator will make a decision no more than 90 days after receipt of the employee's properly filed claim (as explained under the "Claims" section, above). However, if the Disability Administrator determines that special circumstances require an extension, the time for its decision

will be extended for an additional 90 days, provided that, prior to the beginning of the extension period, the Disability Administrator notifies the employee in writing of the special circumstances and gives the date by which it expects to render its decision. If extended, a decision shall be made no more than 180 days after the employee's claim was received. If the Disability Administrator approves the employee's claim, the decision will contain information sufficient to reasonably inform employee of that decision.

However, any adverse benefit determination will be in writing and include: 1) specific reasons for the decision; 2) specific references to the Plan provisions on which the decision is based; 3) a description of any additional material or information necessary for employee to perfect the claim and an explanation of why such material or information is necessary; 4) a description of the review procedures and time limits applicable to such, and 5) a statement that employee have the right to bring a civil action in federal court after employee appeal our decision and after the employee receives a written denial on appeal.

Appealing Denials of Claims for Benefits

On any wholly or partially denied claim, the employee or the employee's representative must appeal once to the Disability Administrator for a full and fair review. The employee must complete this claim appeal process before employee file an action in federal court. The employee's appeal request must be in writing and be received by the Disability Administrator no later than the expiration of 60 days from the date employee received the claim denial. As part of the appeal:

1. the employee may request, free of charge, copies of all documents, records, and other information relevant to the claim; and
2. the employee may submit written comments, documents, records and other information relating to the claim.

The Disability Administrator's review on appeal shall take into account all comments, documents, records and other information submitted by the employee relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

The Disability Administrator will make a final decision no more than 60 days after it receives the employee's timely appeal. However, if the Disability Administrator determines that special circumstances require an extension, the time for its decision will be extended for an additional 60 days, provided that, prior to the beginning of the extension period, the Disability Administrator notifies the employee in writing of the special circumstances and gives the date by which it expects to render its decision. If extended, a decision shall be made no more than 120 days after the appeal was received. If the Disability Administrator grants the employee's claim appeal, the decision will contain information sufficient to reasonably inform the employee of that decision.

However, any final adverse benefit determination on review will be in writing and include: 1) specific reasons for the decision and specific references to the Plan provisions on which the decision is based, 2) a statement that the employee is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records and other information relevant to the claim, 3) a statement of the employee's right to bring a civil action in federal court, and 4) any other notice(s), statement(s) or information required by applicable law.

SUBROGATION

If an employee:

- 1) suffers a Disability caused, in full or in part, by the act or omission of any person or legal entity;
- 2) becomes entitled to and is paid benefits under the Plan in compensation for lost wages; and
- 3) does not initiate legal action for the recovery of such benefits from a third party in a reasonable period of time or notifies the Disability Administrator that the employee does not intend to do so;

then the Disability Administrator will be subrogated to any rights the employee may have against a third party and may, at the option of the Disability Administrator, bring legal action against or otherwise pursue a third party to recover any payments made by the Plan in connection with the Disability.

RECOVERY OF OVERPAYMENTS

If an error occurs and an employee is overpaid benefits due them under the Plan, the employee must reimburse the College within 30 days. If reimbursement is not made in a timely manner the College has the right to recover the overpayment, reduce or offset against any future benefits payable to the employee, refer the employee's unpaid balance to a collection agency, and pursue and enforce all legal and equitable rights in court.

MISCELLANEOUS

- The College retains the right to require an employee to submit to an independent medical examination (IME). The results of the IME will be binding on both the College and the employee. If an employee refuses to do so, benefits will be terminated under the Plan.
- Once the disability has been approved, and not before, benefits will begin to be paid in accordance with the Plan. Checks will be automatically deposited into the employee's bank account.
- Employees may have their Disability approved prior to the actual start of the Disability, *i.e.*, pregnancy, scheduled operations, etc., if all written evidence has been submitted for such approval.
- The Disability Administrator has the right to require continued evidence of Disability as often as reasonably necessary.

ADMINISTRATION

The College will be responsible for the day-to-day operation of this Plan. This includes the right to contract with third-party claims administrators for claim reviews. Standard Insurance Company is the claims administrator for benefits provided under the Plan. The Standard Insurance Company has full discretion and authority to determine eligibility for benefits and to construe and interpret all terms and provisions of the Plan, to the extent permitted by applicable state law.

The College reserves the right to amend or terminate the Plan. However, any change or termination will not affect the benefits of employees who are receiving benefits at the time of such change or termination.

Nothing in the Plan diminishes or eliminates an employee's rights and protections under the Americans with Disabilities Act or any other law, which may be applicable to an employee's disability, or any other disability benefit sponsored by the College.