

# **Hartwick College 403(b) Retirement Plan**

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## Summary Plan Description

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# INTRODUCTION

Hartwick College (the “College”) recently restated the Hartwick College 403(b) Retirement Plan (the “Plan”), by signing a complex legal document – the Plan document - which contains all of the provisions that the Internal Revenue Service (IRS) requires. The Plan document must follow certain federal laws and regulations that apply to retirement plans. The Plan document may change as new or revised laws or regulations take effect. The College also has the right to modify certain features of the Plan from time to time.

This Summary Plan Description (“SPD”) summarizes the important features of the Plan document, including your benefits and obligations under the Plan. If you want more detailed information regarding certain plan features or have questions about the information contained in this SPD, you should contact the College’s Human Resources Office. Certain terms in the SPD have a special meaning when used in the Plan. These terms are capitalized throughout the SPD and are defined in more detail in the DEFINITIONS section of the SPD.

All dollars contributed to the Plan will be invested either in annuity contracts or in mutual funds held in custodial accounts. The agreements constituting or governing the annuity contracts and custodial accounts (the “Individual Agreements”) explain your rights under the contracts and accounts and the unique rules that apply to each Plan investment which may, in some cases, limit your options under the Plan. For example, the Individual Agreement may contain a provision which prohibit loans, even if the Plan generally allows loans. If this is the case, you would not be able to take a loan from the accumulation in an investment option governed by that Individual Agreement. You should review the Individual Agreements along with this SPD to gain a full understanding of your rights and obligations under the Plan. Contact the College’s Human Resources Office or the investment vendor to obtain copies of the Individual Agreements or to receive more information regarding the investment options available under the Plan.

## ELIGIBILITY

### **Am I eligible to participate in the Plan?**

If you are classified by the College as a common law employee of the College, you will be eligible to contribute a portion of your pay to the Plan as a pre-tax Deferral, unless you fall into one of the following categories of excluded employees:

- You are a nonresident alien and you received no income from within the United States; or
- You are a student enrolled and attending classes offered by the College.

You will be eligible to participate in the Plan and receive matching contributions made by the College after meeting certain requirements described below, unless you fall into one of the following categories of excluded employees.

- You are a nonresident alien and you received no earned income from within the U.S.
- You are a student enrolled and attending classes offered by the College.
- You normally work less than 17.5 hours per week or you are scheduled to complete less than 910 hours of service in a Plan year, provided that you shall not be excluded on either basis if you actually complete more than 910 hours of service in a Plan year.

**What requirements do I have to meet before I am eligible to participate in the Plan?**

Unless you fall into one of the categories of excluded employees, you will be immediately eligible to defer a portion of your pay as a pre-tax Deferral into the Plan.

Unless you are part of an excluded class of employees, you must reach age 21 and complete 12 months of consecutive service and 910 Hours of Service in a Plan year before you are eligible to receive matching contributions made by the College. Hours of service with a predecessor employer will be credited toward the eligibility service requirement if the predecessor employer is an institution of higher education and the employee participated in a 403b Plan with the employer.

**When can I enter the Plan?**

Deferral Contributions

You will be able to contribute a portion of your pay into the Plan as a pre-tax Deferral as soon as administratively feasible after your hire date.

Matching Contributions

Once you have met the age and service requirements listed above, you will enter the Plan on the first day of the next payroll period and will become eligible to receive Matching Contributions from the College.

**What happens to my Plan eligibility if I terminate my employment and am later rehired?**

Once you satisfy the eligibility requirements and become a participant in the Plan, you will continue to participate while you are still employed by the College in an eligible position, even if you have a break in eligibility service. A break in service occurs when you do not work more than 500 hours in a Plan year. If you had not yet satisfied the eligibility requirements and had a break in eligibility service, periods before your break in service will not be taken into account and you will have to satisfy the eligibility requirements following your break in service. Periods during which you have a break in eligibility service will not count against you if you were absent because you were pregnant, had a child or adopted a child, were serving in the military, or provided service during a national emergency and re-employment is protected under federal or state law, and you return to employment within the time required by law.

If you terminate employment and are later rehired, you will be able to defer a portion of your Compensation as a Deferral as soon as administratively feasible after being rehired. If you had met the eligibility requirements for College Matching Contributions and were a Participant in the Plan before terminating employment or having a break in eligibility service, and are later rehired

in an eligible position, you will enter the Plan immediately. If you were not a Participant before the break in eligibility service, and are rehired, you will need to again satisfy the Plan's eligibility requirements for Matching Contributions.

## CONTRIBUTIONS & VESTING

### What amount can I contribute to the Plan?

#### Deferrals

You will be able to contribute a portion of your Compensation as a pre-tax Deferral unless you are a member of one of the excluded classes listed previously. The maximum dollar amount that you can contribute to the Plan each year is \$16,500 for 2011 (\$17,000 for 2012) and includes contributions you make to certain other deferral plans (e.g., other 403(b) tax-sheltered annuity plans, salary deferral SEP plans, and 401(k) plans). This amount will increase as the cost of living increases. Deferrals (and the related earnings) are always fully vested and cannot be forfeited. So if you were to leave employment with the College, you would be entitled to the full Deferral balance (plus any earnings).

The amount of your Compensation that you decide to defer into the Plan generally will be contributed on a pre-tax basis. That means that, unlike the compensation that you actually receive, the pre-tax contribution (and all of the earnings accumulated while it is invested in the Plan) will not be taxed at the time it is paid by the College. Instead, it will be taxable to you when you take a payout from the Plan. These contributions will reduce your taxable income each year that you make a contribution but will be treated as compensation for Social Security and Medicare taxes.

**EXAMPLE:** Assume your Compensation is \$25,000 per year. You decide to contribute \$1,250 of your Compensation into the Plan. The College will pay you \$23,750 as gross taxable income and will deposit \$1,250 into the Plan. You will not pay federal income taxes on the \$1,250 (plus any earnings on the \$1,250) until you withdraw it from the Plan.

#### Catch-up Contributions

**Age 50 Catch-up Contributions** - If you are eligible to make Deferrals and you turn age 50 before the end of any calendar year, you may defer up to an extra \$5,500 each year (for 2011 and 2012) into the Plan as a pre-tax contribution once you meet certain Plan limits. The maximum catch-up amount may increase as the cost of living increases.

**Special 403(b) Catch-up Contributions** – If you have worked at least 15 years for the College, you may be able to make a special catch-up contribution equal to the smallest of the three amounts listed below:

1. \$3,000;
2. \$15,000, minus the aggregate amount of Special 403(b) Catch-Up Contributions made in all prior years; or

3. (\$5,000, times the number of years you have worked for the College), minus (the total amount of Deferrals made while you worked for the College).

If you are eligible, these catch-up contributions will be eligible for Matching Contributions.

If you qualify for both the age 50 catch-up contributions and the special 403(b) catch-up contributions, your catch-up contributions will be allocated first as special 403(b) catch-up contributions. Catch-up contributions (and any related earnings) are considered Deferrals and are always fully vested. When you terminate employment with the College, you are entitled to the full catch-up balance (plus any earnings).

### **How do I start making contributions?**

To begin deferring a portion of your Compensation into the Plan, you must follow the procedures established by the College.

### **What if I don't make a specific election to contribute some of my Compensation into the Plan?**

You are not required to defer a portion of your Compensation into the Plan. If you elect zero percent or you simply fail to follow the procedures established by the College for making a Deferral election, you will not be enrolled in the Plan as a deferring Participant (i.e., zero percent of your Compensation will be deferred into the Plan).

### **Can I change my contribution rate or stop making Deferrals after I start participating in the Plan?**

You may change the amount you are deferring into the Plan or stop making Deferrals altogether at the times determined by the College.

### **What if I contribute too much to the Plan?**

If you contribute too much to the Plan as a Deferral, you must take the excess amount (plus any earnings on the excess) out of the Plan by April 15 of the year following the year the money was contributed to the Plan. You must notify the College, in writing, of the excess amount by March 1 and request that it be removed. The excess amount is taxable to you in the year you contributed it to the Plan. If you do not remove it by the deadline, additional taxes will apply.

### **If I make Deferrals to the Plan, will my Employer match any of those contributions?**

Each year that you contribute a portion of your Compensation into the Plan as a pre-tax Deferral, and satisfy the additional conditions outlined below, the College will make a contribution to the Plan as a Matching Contribution on your behalf based on the following formula:

- Non-exempt employee contributes 1-5%; College will match 6%.
- Exempt employee contributes 5%; College will match 6%.

History: Effective July 4, 2009, the College suspended its 9% contribution; July 3, 2010, the College began contributing 4%; July 4, 2011, the College increased its contribution to 6%.

In addition to making a pre-tax Deferral, you must also work 910 hours during the Plan Year to qualify for a Matching Contribution. The 910 hours of service requirement will not apply, however, if you die, you terminate employment after becoming disabled, or you terminate employment after reaching age 59.5.

**If I have money in other retirement plans, can I combine them with my accumulation under this Plan?**

Subject to the rules that may be imposed by the investment provider, you may be able to roll over dollars you have saved in other retirement arrangements into this Plan after you become eligible to participate in the Plan. The College and the investment provider(s) will provide you with the documents or other information you need to determine whether your prior plan balance is qualified to be rolled into this Plan.

**Are there any limits on how much can be contributed for me?**

In addition to the Deferral limit described previously, you may not have total contributions (including Deferrals) of more than \$49,000 (\$50,000 for 2012), plus any age 50 catch-up contributions, in 2011 or an amount equal to 100 percent of your Compensation, whichever is less, allocated to the Plan for your benefit each year. The \$49,000 limit (which does not apply to age-50 “catch-up” contributions) will be increased as the cost of living increases.

**Will contributions be made for me if I am called to military service?**

If you are reemployed by the College after completing military service, you may be entitled to receive certain make-up contributions from the College. If you are reemployed after military service, contact the College’s Office of Human Resources for more information about your options under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

**Will I be able to keep my College contributions if I terminate employment or am no longer eligible to participate in the Plan?**

Contributions that you receive from the College will always be fully vested and cannot be forfeited, even if you terminate employment or become ineligible to participate in the Plan.

## **INVESTING YOUR PLAN ACCOUNT**

**What investments are permitted?**

The College (or someone appointed by the College) will select the investment vendors and investment options that will be available under the Plan. The investment options will be limited to annuity contracts and mutual funds purchased through a custodial account. The list of approved investment options and vendors may change from time to time as the College considers appropriate. The investment vendors are TIAA-CREF and Fidelity Investments. You should carefully review the prospectus and other documents constituting or governing the annuity

contracts and custodial accounts, as well as any other related information, before making investment decisions.

**Who is responsible for selecting the investments for my contributions under the Plan?**

You have the right to decide how your Plan balance will be invested. The College will establish administrative procedures that you must follow to select your investments. The College will designate a list of vendors and investment options that you may select for new contributions to the Plan. You will have the ability to transfer your Plan balance among these vendors and investment options, to the extent permitted by the individual investment products. Contact the College if you are not certain whether a particular vendor or investment option is permitted under the Plan. If you do not select investments for your Plan account, your account will be invested in a default investment established under the Plan

The College intends to operate this Plan in compliance with Section 404(c) of the Employee Retirement Income Security Act (ERISA), and Title 29 of the Code of Federal Regulations Section 2550.404c-1. This means that the College and others in charge of the Plan will not be responsible for any losses that result from investment instructions given by you or your beneficiary.

**How frequently can I change my investment elections?**

You may change your initial investment selections as frequently as permitted under the individual investment products.

## **WITHDRAWING MONEY FROM THE PLAN (AND LOANS)**

**When can I take a distribution from the plan?**

You may request a distribution of Deferrals at the times listed below:

- You terminate employment;
- You become Disabled;
- You reach age 59½;
- On account of hardship; or
- At any time with respect to pre-1989 Deferrals invested in an annuity contract.

You may request a distribution of the contributions you receive from the College at the times listed below:

- You terminate employment;

- You become Disabled; or
- You reach age 59½.

Notwithstanding the distribution events listed above, contributions that you receive from the College that are held in annuity contracts issued after 2008 will generally not be available to you while you are still employed unless you have participated in the Plan for at least five years.

You may elect a distribution of your rollover contributions at any time, subject to the restrictions in the individual investment products you have chosen.

### Hardship

If you experience a financial hardship, you may take a distribution from the Deferrals you have contributed to the Plan, unless restricted under the terms of the individual investment products you have chosen.

The following events qualify as a hardship distribution under the Plan:

- medical expenses for you, your spouse, your dependents, or your beneficiary;
- payment to purchase your principal residence;
- tuition and education-related expenses for you, your spouse, your dependents, or your beneficiary;
- payments to prevent eviction from your principal residence;
- funeral expenses for you, your spouse, your dependents, or your beneficiary; or
- payments to repair your principal residence that would qualify for a casualty loss deduction.

Before you take a hardship distribution, you must take all other distributions and all nontaxable loans available to you under the Plan. If you take a hardship distribution of Deferrals, you may not be eligible to make Deferrals for the next six months. If you are under age 59½, the amount you take out of the Plan as a hardship distribution may be subject to a 10 percent penalty tax. This is only required under the safe harbor method of determining hardship.

You may be able to take a penalty-free distribution from your Deferrals if you were called to active military duty after September 11, 2001. In order to qualify for these penalty-free distributions, you must have been ordered or called to active duty for a period of at least 180 days or an indefinite period and your distribution must have been taken after you were called to duty and before your active duty ended.

**The Individual Agreements, prospectuses and other documents constituting or governing the investment options that you selected for your Plan contributions may contain additional limits on when you can take a distribution, the form of distribution that may be available, as well as your right to transfer among approved investment options. Please review both the following information in this Summary Plan Description and the terms of your annuity contracts or custodial agreements before requesting a distribution. Contact the College's Human Resources Office or the investment vendor if you have questions regarding your distribution options.**

**How do I request a payout?**

You must complete a payout request form provided or approved by the College, or follow other procedures established by the College or the investment vendors for processing distributions.

If you are taking a hardship distribution, you must provide documents to verify that you have a hardship event that qualifies for a Plan distribution.

**If I am married, does my spouse have to approve my distributions from the Plan?**

If you are married, you must get written consent from your spouse to take a distribution from the Plan in any form other than a qualified joint and survivor annuity. Your spouse's consent is also needed if you want to name someone other than your spouse as your beneficiary. The annuity would need to be structured to provide a benefit while you are both alive and then to provide a survivor benefit that is equal to 50 percent of the amount you received while you were both living. You can designate a different survivor percentage subject to certain limits under the qualified optional survivor annuity regulations. The College will provide you with more information regarding your annuity options when it comes time for you to make a decision. Follow the procedures established by the College to document your spouse's consent to waive the annuity and take the payment in some other form permitted by the Plan. Your spouse must also consent to any Plan loans that you request.

**How will my money be distributed to me if I request a payout from the Plan?**

If you obtain the proper consents, you may choose from the following options for your payout:

- Lump sum;
- Partial payments;
- Installment payments; or
- Annuity contract (if assets are held in a custodial account) or converted to an income option (if your assets are invested in an annuity contract).

The Individual Agreements governing the investment options that you selected for your contributions may further restrict your payout options. Please review the annuity contracts or custodial agreements before requesting a distribution and contact the College or the investment vendor if you have questions regarding your distribution options.

If your distribution is eligible to be rolled over, you may choose to have your distribution paid to another eligible retirement arrangement. Contact the College or the applicable investment vendor for information regarding rollover procedures.

**Do any penalties or restrictions apply to my payouts?**

Generally, if you take a payout from the Plan before you are age 59½, a 10 percent early distribution penalty tax will apply to the taxable portion of your payout. There are some exceptions to the 10 percent penalty tax. Your tax adviser can assist you in determining whether you qualify for a penalty tax exception.

If your payout is eligible to be rolled over, 20 percent of the taxable portion of your payout will be withheld and remitted to the IRS as a credit toward the taxes you will owe on the payout amount unless you do a direct rollover.

EXAMPLE: You request a \$10,000 payout from the pre-tax portion of your Plan balance. If the amount is eligible to be rolled over to another plan, but you choose not to roll it over directly, you will receive \$8,000 and \$2,000 will be remitted to the IRS.

**Can I take a loan from the Plan?**

Although the Plan is designed primarily to help you save for retirement, you may take a loan from the Plan, subject to the terms and restrictions in the Individual Agreements. Please review your annuity contracts or custodial agreements before requesting a loan. Contact your Employer or the investment vendor if you have questions regarding your loan options.

**What if I die before receiving all of my money from the Plan?**

If you die before taking all of your assets from the Plan, the remaining balance will be paid to your designated beneficiary. To designate your beneficiary, you must follow the procedures established by the College and/or the investment vendors. If you are married and decide to name someone other than your spouse as your beneficiary, your spouse must consent in writing to your designation. It is important to review your designation from time to time and update it if your circumstances change (e.g., a divorce, death of a named beneficiary).

If you do not name a beneficiary, 50% of your balance will be paid to your spouse and 50% will be paid to your estate. If you do not name a beneficiary and have no surviving spouse, your remaining balance in the Plan will be paid to your estate, unless a different alternative is provided in the individual investment product documentation.

If your Plan balance is \$5,000 or less at the time of your death, your beneficiary will generally have the same options regarding the form of the distribution that are available to you as a Participant. If the balance is greater than \$5,000, your beneficiary may be required to take the payouts in the form of a life annuity, unless the annuity has been properly waived by you and your spouse during your lifetime. Your beneficiary may also have the option of rolling their distribution into an IRA. The Individual Agreements governing the investment options that you selected for your contributions may further restrict your beneficiary's options regarding the manner in which the accumulation will be distributed.

If you die after beginning age 70½ distributions, as described in the following question, your beneficiary must continue taking distributions from the Plan at least annually. If you die before beginning age 70½ payments, your beneficiary may have the option of (1) taking annual payments beginning the year following your death (or the year you would have reached age 70½, if your spouse is your beneficiary), or (2) delaying their distribution until the year containing the fifth anniversary of your death, provided they take the entire amount remaining during that fifth year.

### **How long can I leave the money in my Plan?**

When you terminate from employment, your balance will generally not be paid out of the Plan until you request a payout from the investment vendor(s). However, when you reach age 70½ (or later retire), you will generally need to begin taking a distribution each year based on your balance in the Plan. Contributions for periods before 1987 (excluding earnings on those contributions) will generally not be subject to the required distribution rules until you reach age 75. You may also have the option to satisfy your required minimum distribution from the Plan by aggregating all your 403(b) plans and taking the required minimum distribution from any one or more of the individual 403(b) plans.

### **What if the Plan is terminated?**

If the Plan is terminated, your entire account balance will be distributed from the Plan. To the extent you are invested in an annuity contract, you may be required to receive a distribution of the contract.

## **ADMINISTRATION INFORMATION AND RIGHTS UNDER ERISA**

### **Who established the Plan?**

The official name of the Plan is the Hartwick College 403(b) Retirement Plan. The Employer who adopted the Plan is:

Hartwick College  
One Hartwick Drive  
Oneonta, NY 13820  
Telephone Number: 607-431-4315  
Federal Tax Identification Number: 15-0533561  
Fiscal Year End: 06/30

The College has assigned Number 001 to the Plan.

The Plan is a 403(b) defined contribution plan, which means that contributions to the Plan made on your behalf (and any earnings) will be separately accounted for within the Plan.

**When did the Plan become effective?**

The Plan was originally adopted January 1, 1964. The effective date of the most recent amendment and restatement of the Plan is January 1, 2009.

**Who is responsible for the day-to-day operations of the Plan?**

The College is responsible for the day-to-day administration of the Plan. To assist in operating the Plan efficiently and accurately, the College may appoint others (including the investment vendors) to act on its behalf or to perform certain functions.

**Who pays the expenses associated with operating the Plan?**

All reasonable Plan administration expenses including those involved in retaining necessary professional assistance may be paid from the assets of the Plan, to the extent permitted by the Individual Agreements. These expenses may be allocated among you and all other Plan participants or, for expenses directly related to you, charged against your account balance. Examples of expenses that may be directly related to you include general recordkeeping fees and expenses related to processing your distributions or loans (if applicable), qualified domestic relations orders, and your ability to direct the investment of your Plan balance, if applicable. Finally, the College may, in its discretion, pay any or all of these expenses. For example, the College may pay expenses for current employees, but may deduct the expenses of former employees directly from their accounts. The College will provide you with a summary of all Plan expenses and the method of payment of the expenses upon request.

**Does the College have the right to change the Plan?**

The Plan will be amended from time to time to incorporate changes required by the law and regulations governing retirement plans. The College also has the right to amend or terminate the Plan at any time for any reason.

**Does participation in the Plan provide any legal rights regarding my employment?**

The Plan does not provide any rights to employment or constitute a contract for employment. The purpose of the Summary Plan Description is to help you understand how the Plan operates and the benefits available to you under the Plan. The Plan document is the controlling legal document with respect to the operation of and rights granted under the Plan and if there are any inconsistencies between this Summary Plan Description and the Plan document, the Plan document will be followed.

**Can creditors or other individuals request a payout from my Plan balance?**

Creditors (other than the IRS) and others generally may not request a distribution from your Plan balance. One major exception to this rule is that the College may distribute or reallocate your benefits in response to a qualified domestic relations order. A qualified domestic relations order is an order or decree issued by a court that requires you to pay child support or alimony or to give a portion of your Plan account to an ex-spouse or legally separated spouse. The College will review the order to ensure that it meets certain criteria before any money is paid from your account. You (or your beneficiary) may obtain, at no charge, a copy of the procedures the College will use for reviewing and qualifying domestic relations orders.

**How do I file a claim?**

To claim a benefit that you are entitled to under the Plan, you must file a written request with the College. The claim must set forth the reasons you believe you are eligible to receive benefits and you must authorize the College to conduct any necessary examinations and take the steps to evaluate the claim.

**What if my claim is denied?**

Except as described below, if your claim is denied, the College will provide you (or your beneficiary) with a written notice of the denial within 90 days of the date your claim was filed. This notice will give you the specific reasons for the denial, the specific provisions of the Plan upon which the denial is based, and an explanation of the procedures for appeal.

In the case of a claim for disability benefits, if the College is making a determination of whether you are Disabled, you will be notified of a denial of your claim within a reasonable amount of time, but not later than 45 days after the Plan receives your claim. The 45-day time period may be extended by the Plan for up to 30 days if the College determines that an extension is necessary due to matters beyond the control of the Plan. The College will notify you, before the end of the 45-day period, of the reason(s) for the extension and the date by which the Plan expects to make a decision regarding your claim.

If, before the end of the 30-day extension, the College determines that, due to matters beyond the control of the Plan, a decision regarding your claim cannot be made within the 30-day extension, the period for making the decision may be extended for an additional 30 days, provided that the College notifies you, before the end of the first 30-day extension, of the circumstances requiring the additional extension and the date as of which the Plan expects to make a decision. The notice will specifically explain the standards on which the approval of your claim will be based, the unresolved issues that prevent a decision on your claim, and the additional information needed to resolve those issues. You will have at least 45 days within which to provide the specified information.

The period of time within which approval or denial of your claim is required to be made generally begins at the time your claim is filed. If the period of time is extended because you fail to submit information necessary to decide your claim, the period for approving or denying your claim will not include the period of time between the date on which the notification of the extension is sent to you and the date on which you provide the additional information.

You will receive written or electronic notification if your claim is denied. The notification will provide the following:

- i. The specific reason or reasons for the denial;
- ii. Reference to the specific section of the Plan on which the denial is based;
- iii. A description of any additional information that you must provide before the claim may continue to be processed and an explanation of why such information is necessary;

iv. A description of the Plan's review procedures and the time limits applicable to such procedures, including a statement of your right to bring a civil action under Section 502(a) of the Employee Retirement Income Security Act (ERISA) following a claim denial on review; and

v. In the case of a Plan providing disability benefits, if the College used an internal rule or guideline in denying your claim, either 1) the specific rule or guideline, or a statement that the rule or guideline was relied upon in denying your claim, and that 2) a copy of the rule or guideline will be provided free of charge to you upon request.

### **May I appeal the decision of the College?**

You or your beneficiary will have 60 days from the date you receive the notice of claim denial in which to appeal the College's decision. You may request that the review be in the nature of a hearing and an attorney may represent you.

However, in the case of a claim for disability benefits, if the College is deciding whether you are Disabled under the terms of the Plan, you will have at least 180 days following receipt of notification of a claim denial within which to appeal the College's decision.

You may submit written comments, documents, records, and other information relating to your claim. In addition, you will be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information pertaining to your claim.

Your appeal will take into account all comments, documents, records, and other information submitted by you relating to the claim, even if the information was not included originally.

If the claim is for disability benefits:

i. Your claim will be reviewed independent of your original claim and will be conducted by a fiduciary of the Plan other than the individual who denied your original claim or any of his or her employees.

ii. In deciding an appeal of a claim denial that is based in whole or in part on a medical judgment, the appropriate named fiduciary will consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment;

iii. The College will provide you with the name(s) of the health care professional(s) who was consulted in connection with your original claim, even if the claim denial was not based on his or her advice. The health care professional consulted for purposes of your appeal will not be the same person or any of his or her employees.

iv. You will be notified of the outcome of your appeal no later than 45 days after receipt of your request for the appeal, unless the College determines that special circumstances require an extension of time for processing the claim. If the College determines that an extension is required, written notice of the extension will be provided to you before the end of the initial 45-

day period. The notice will identify the special circumstances requiring an extension and the date by which the Plan expects to make a decision regarding your claim.

You will receive written or electronic notification of the final outcome of your claim. The notification will include:

- i. A statement that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim;
- ii. A statement describing any additional voluntary appeal procedures offered by the Plan, your right to obtain the information about such procedures, and a statement of your right to bring an action under Section 502(a) of ERISA; and
- iii. If the College used an internal rule or guideline in denying your claim, either 1) the specific rule or guideline, or a statement that the rule or guideline was relied upon in denying your claim, and 2) that a copy of the rule or guideline will be provided free of charge to you upon request.

**If I need to take legal action with respect to the Plan, who is the agent for service of legal process?**

The College is the agent to be served with legal papers regarding the Plan.

**If the Plan terminates, does the federal government insure my benefits under the plan?**

If the Plan terminates, you will be entitled to take your entire balance from the Plan following termination. Benefits under the Plan are not insured by the Pension Benefit Guaranty Corporation, the government agency that insures certain pension plan benefits upon plan termination.

**What are my legal rights and protections with respect to the Plan?**

As a Participant in this Plan, you are entitled to certain rights and protections under ERISA. ERISA provides that all Plan Participants shall be entitled to do the following:

*Receive Information About Your Plan and Benefits*

1. Examine, without charge, at the College's office and at other specified locations, such as worksites and union halls, all Plan documents governing the Plan, including insurance contracts and collective bargaining agreements, and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.
2. Obtain, upon request to the College, copies of documents governing the operations of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated Summary Plan Description (SPD). The College may charge a reasonable fee for the copies.
3. Receive a summary of the Plan's annual financial report. The Employer is required by law to furnish each Participant with a copy of this Summary Annual Report.

4. Obtain, once a year, a statement of the total pension benefits accrued and the vested benefits (if any). The Plan may require a written request for this statement, but it must provide the statement free of charge.

#### *Prudent Actions by Plan Fiduciaries*

In addition to creating rights for Plan Participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate the Plan, called “fiduciaries” of the Plan, have a duty to do so prudently and in the interest of you and other Plan Participants and beneficiaries. No one, including the College, a union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

#### *Enforce Your Rights*

If your claim for a benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules. Under ERISA, there are steps you may take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may require the College to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the College. If you have a claim for benefits which is denied, or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the Plan’s decision or lack thereof concerning the qualified status of a domestic relations order, you may file suit in Federal court. If it should happen that Plan fiduciaries misuse the Plan’s money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay the costs and fees. If you lose, the court may order you to pay these costs and fees, for example, if the court finds your claim is frivolous.

#### *Assistance with Your Questions*

If you have any questions about your Plan, you should contact the College’s Human Resources Office. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the College’s Human Resource’s Office, you should contact the nearest area office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

# DEFINITIONS

**Compensation** – The definition of Compensation under the Plan can vary depending upon the purpose (e.g., allocations, nondiscrimination testing, tax deductions).

In general, the amount of your earnings from the College taken into account under the Plan is all earnings reported to you on Form W-2. Compensation will include amounts that are not included in your taxable income that were deferred under a cafeteria plan, a 401(k) plan, a salary deferral SEP plan, a 403(b) tax-sheltered annuity plan, a 457(b) deferred compensation plan of a state or local government or tax-exempt employer, or transportation fringe benefits that you receive.

The definition of Compensation used under the Plan has been further adjusted to exclude the following amounts.

- Amounts deemed to be compensation that relate to an automatic enrollment cafeteria plan where you fail to provide proof of insurance will be excluded when determining your Compensation.

If you receive payments from your Employer within 2½ months after severing your employment, any regular pay for services you performed prior to severance will be included in Compensation. Other post-severance payments will be excluded from your Compensation for Plan purposes. Also, amounts received under a nonqualified unfunded deferred compensation program will be excluded from Compensation.

The measuring period for Compensation will be the Plan Year.

The maximum amount of Compensation that will be taken into account under the Plan is \$245,000 (for 2011). This amount increases as the cost of living rises.

**Deferrals** – Deferrals are the dollars you choose to contribute to the Plan through payroll deduction on pre-tax basis.

**Disabled** – You will be considered Disabled if you cannot engage in any substantial, gainful activity because of a medically determined physical or mental impairment that is expected to last at least 12 months.

**Hour of Service** – An Hour of Service, for purposes of determining Plan eligibility, and eligibility to receive College contributions, will be based on actual hours for which you are entitled to pay. For eligibility purposes, you also receive credit for prior service with another organization eligible to maintain an Internal Revenue Code Section 403(b) plan.

**Individual Agreements** - All contributions to the Plan will be invested either in annuity contracts or in mutual funds held in custodial accounts. The agreements between the vendor and the College or you that constitute or govern the annuity contracts and custodial accounts are

referred to as Individual Agreements. The Individual Agreements explain the unique rules that apply to each Plan investment and may, in some cases, limit your options under the Plan, including your transfer and distribution rights.

**Matching Contribution** – The College makes Matching Contributions to the Plan on behalf of eligible participants based on the amount of Deferrals contributed to the Plan and the participant’s exempt or non-exempt classification.

**Participant** – An employee of the Employer who has satisfied the eligibility requirements and entered the Plan is referred to as a Participant.

**Plan** – The Hartwick College 403(b) Retirement Plan is the plan described in this Summary Plan Description.

**Plan Administrator** –The College is responsible for the day-to-day administration of the Plan. To assist in operating the Plan efficiently and accurately, the College may appoint others (including investment vendors) to act on its behalf or to perform certain functions.

**Plan Year** – The calendar year will serve as the Plan Year.