

SEPARATION AGREEMENT

This Agreement is entered into by Kent State University ("University"), the American Association of University Professors, Kent State Chapter ("Association") and Dr. Jesse Leyva ("Dr. Leyva"), an Associate Professor in the School of Music in the College of the Arts at the University (jointly the "Parties" and individually a "Party").

WHEREAS, Dr. Leyva is a full-time tenured Associate Professor in the School of Music in the College of the Arts;

WHEREAS, Dr. Leyva is a member of the collective bargaining unit represented by the Association;

WHEREAS, the University and the Association have negotiated and executed a *Collective Bargaining Agreement* which governs the terms and conditions of employment for members of the bargaining unit, including Dr. Leyva; and

WHEREAS, the University, the Association and Dr. Leyva are desirous of ending Dr. Leyva's tenured faculty appointment with the University, with finality;

NOW THEREFORE, the University, the Association and Dr. Leyva, in consideration of the premises stated above and the covenants and commitments set forth below, the sufficiency and receipt of which are hereby acknowledged by the Parties, agree as follows:

1. From August 18, 2019 through May 13, 2020 ("Academic Year 2019-2020"), the following terms and conditions of employment apply to Dr. Leyva:
 - a) Through Academic Year 2019-2020, Dr. Leyva will continue as a full-time tenured Associate Professor in the School of Music in the College of the Arts at the University.
 - b) Dr. Leyva will continue to receive his 2019-2020 contract salary and all benefits currently available to full-time faculty members at the University.
 - c) During the Fall semester of Academic Year 2019-2020, Dr. Leyva will remain on suspension with pay as described in the letter from the Interim Provost dated August 7, 2019. The letter is attached hereto as Exhibit A.
 - d) During the Spring semester of Academic Year 2019-2020, Dr. Leyva's workload assignment will be twelve (12) hours of research. Dr. Leyva's workload statement for Spring semester 2020 is attached hereto as Exhibit B.

- e) On October 7, 2019, the Interim Provost requested a hearing on persona non grata status for Dr. Leyva. A copy of that request is attached hereto as Exhibit C.
- f) A temporary Notice of Persona Non Grata Status was issued on October 8, 2019 and will remain in full force and effect until May 13, 2020 or until such earlier date that Dr. Leyva or the University terminates his employment with the University pursuant to Section (j) below. A copy of that notice is attached hereto as Exhibit D.
- g) Dr. Leyva agrees to remain off Campus for the duration of his employment with the University except as stated in Section (h) below. He agrees not to attend department meetings, schedule office hours, or participate in department, college or university events. Dr. Leyva further agrees not to contact or communicate with Kent State University students in person, by email or through social media.
- h) Dr. Leyva will have thirty (30) days to vacate his current office after the execution of this Agreement.
- i) Dr. Leyva is free to seek and accept employment elsewhere. While employed by the University, Dr. Leyva may engage in employment outside the University provided such employment is approved pursuant to the *University Policy Regarding Outside Enterprises Including Employment of Faculty and Academic Administrators* (University Policy Register 6-24).
- j) While employed by the university before May 13, 2020, if Dr. Leyva resigns, retires or otherwise leaves his employment with the University; the University terminates his employment for cause or for violation of this Agreement; or, Dr. Leyva is employed full-time by another employer, any applicable salary and benefits will be prorated for the period of his employment as a full-time tenured faculty member at the University. For the purposes of this provision "employed full-time by another employer" means a full-time position that is commensurate with Dr. Leyva's experience, professional credentials, salary, and employee benefits currently provided by the University.
- k) Dr. Leyva agrees to irrevocably resign his tenured full-time faculty position at the University no later than May 13, 2020. Dr. Leyva will submit his resignation to the Dean of the College of the Arts. A copy of that letter is included in this Agreement as Exhibit E.

- l) Dr. Leyva's use of his faculty title will cease on May 13, 2020 or at such time as he leaves his employment with the University.

 - m) Prior to his separation from the University and consistent with University policy and procedure, Dr. Leyva will return all university property, including but not limited to computer(s) and other equipment, keys, parking permits and identification cards which may be in his possession.

 - n) Dr. Leyva agrees to comply with
 - 1) all relevant University Policies and Procedures as such apply to Dr. Leyva as a full-time, tenured faculty member.,
 - 2) the terms and conditions of the *Collective Bargaining Agreement*,
 - 3) all federal, state and local laws as such may relate to his employment at the University; and
 - 4) the provisions of this Agreement.
2. Any violation by Dr. Leyva of the list in Section 1, above, would be treated as a breach of this Agreement. In such event, Dr. Leyva will be subject to immediate termination and will forfeit any further benefits of this Agreement. If the University terminates Dr. Leyva's employment for a breach of this Agreement, the only issue that he or the Association can grieve and/or arbitrate is whether Dr. Leyva engaged in the act(s) for which he was terminated. If the University terminates Dr. Leyva pursuant to this Agreement, neither he nor the Association can grieve and/or arbitrate whether the University had just cause to terminate his employment, or any other issue relating to the termination. The termination will be reversed and Dr. Leyva's rights under this Agreement will be restored only if he is found not to have engaged in the act(s) for which he was terminated. The reasonableness of this Agreement and/or the treatment of Dr. Leyva as compared to other University faculty will not be grievable and/or arbitrable.
3. Dr. Leyva, on behalf of himself, his descendants, ancestors, dependents, heirs, executors, administrators, assigns, and successors, and each of them, hereby agrees not to sue and fully releases, acquits, and discharges the University, including its past, present and future trustees, officers, employees, and students ("Releasees") with respect to and from any and all claims, wages, demands, assistance, support, rights, liens, agreements, contracts, covenants, actions, suits, rights to appeal, entitlements and notices, causes of action, obligations, debts, costs, expenses, interests, attorneys' fees, contributions, damages, judgments, orders and liabilities of whatever kind or nature in law, equity or otherwise, whether known or unknown, suspected or unsuspected, which he has at any time heretofore owned or held against the

Releasees, including, without limitation, those arising out of or in any way connected with his employment relationship with the University or his resignation of his tenured faculty position or any other transactions, occurrences, acts of omissions or any loss, damage or injury whatever, known or unknown, suspected or unsuspected, resulting from any of them, committed or omitted prior to the date of this Agreement, and including, without limitation, claims for breach of contract, libel, slander, wrongful discharge, intentional infliction of emotional harm, or other tort, or discrimination or harassment based upon any federal, state, or municipal statute or local ordinance relating to discrimination in employment. Dr. Leyva acknowledges that he has carefully read this provision, knows and understands the contents thereof.

4. The Association agrees that it will not file any grievance and/or request for arbitration concerning Dr. Leyva's employment based on an event which occurred prior to the date of this Agreement.
5. This Agreement is governed by and subject to the laws and exclusive jurisdiction of the courts of the State of Ohio.
6. In the event that one or more of the provisions of this Agreement shall for any reason be held to be illegal or unenforceable, this Agreement shall be revised only to the extent necessary to make such provision(s) legal and enforceable.
7. In the event that one or more of the provisions of this Agreement conflict with the Collective Bargaining Agreement ("CBA") negotiated, ratified and implemented by the University and the Association in effect at this time, the Parties agree that the terms of this Agreement supersede the CBA. Moreover, the terms and conditions of this Agreement set no precedent concerning future matters between the Parties.
8. This Agreement may not be amended or modified except in a writing that is signed by all Parties with a specific reference to this Agreement.
9. This Agreement shall be maintained by the University's Office of General Counsel, the University's Office of Faculty Affairs and shall be maintained separate and apart from Dr. Leyva's Personnel File. The University shall keep this Agreement confidential to the fullest extent permitted under Ohio Law.
10. This Agreement sets forth the Parties' entire agreement concerning its subject matter and fully supersedes all prior agreements or understandings between the Parties regarding the terms and conditions set forth in this Agreement, whether written or verbal. The Parties acknowledge that they have not relied on any representations,

promises or agreements of any kind made to them in connection with their decision to accept this Agreement, except for those set forth in this Agreement.

11. The Parties acknowledge and agree that this Agreement is solely for the purpose of ending, with finality, Dr. Leyva's employment with the University under the terms and conditions of this Agreement.
12. The University delivered this Agreement to Dr. Leyva on or about 12-4-2019 and Dr. Leyva, pursuant to federal law, has twenty-one (21) days to consider its terms. Dr. Leyva has the option, also pursuant to federal law, to revoke his acceptance of this Agreement within seven (7) days after he signs it. As such, this Agreement shall not become enforceable until this seven-day revocation period expires. Accordingly, no payments will be made or other consideration provided pursuant to this Agreement until this seven-day period expires.
13. DR. LEYVA UNDERSTANDS THAT BY SIGNING THIS AGREEMENT HE WILL BE WAIVING HIS RIGHTS UNDER FEDERAL, STATE, MUNICIPAL AND LOCAL LAW TO BRING ANY CLAIMS HE NOW HAS AGAINST THE UNIVERSITY AND THE OTHER RELEASED PARTIES, INCLUDING RIGHTS AND CLAIMS UNDER THE FEDERAL AGE DISCRIMINATION IN EMPLOYMENT ACT (ADEA) AND THE OHIO CIVIL RIGHTS ACT, AND THAT DR. LEYVA IS MAKING SUCH WAIVER KNOWINGLY AND VOLUNTARILY. THE UNIVERSITY IS REQUIRED BY FEDERAL LAW TO ADVISE AND IS HEREBY ADVISING DR. LEYVA TO CONSULT WITH AN ATTORNEY PRIOR TO SIGNING THIS AGREEMENT. DR. LEYVA ACKNOWLEDGES THAT HE HAS THOROUGHLY READ AND UNDERSTANDS THE TERMS OF THE AGREEMENT, HAS REVIEWED THIS AGREEMENT WITH HIS ATTORNEY, AND BY SIGNING DR. LEYVA IS VOLUNTARILY ENTERING INTO THE AGREEMENT TO RESOLVE ANY LEGAL CLAIMS HE MAY HAVE AGAINST THE UNIVERSITY AND THE OTHER RELEASED PARTIES.

WHEREFORE, by their signatures below, the Parties acknowledge that they have read the foregoing Agreement, understand its contents, and accept and agree to the provisions it contains and hereby execute it voluntarily and knowingly and with full understanding of its consequences.

KENT STATE UNIVERSITY

By Melody Tankersley

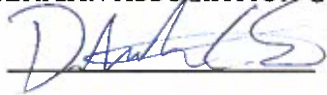
Date December 2, 2019

Dr. Melody Tankersley

Interim Senior Vice President for Academic Affairs and Provost

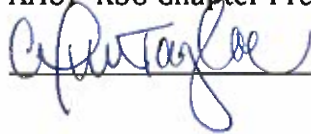
[Signature] Witness

AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS - KENT STATE CHAPTER

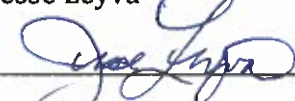
By  Date Nov. 22, 2019

Dr. Deborah Smith

AAUP-KSU Chapter President

 Witness

Dr. Jesse Leyva

By  Date 22 NOV 2019

Associate Professor, Kent State University

 Witness