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MEMORANDUM

March 26, 2020

TO: C. Scott Green, President; University Leadership

FROM: Kent E. Nelson, General Counsel

A handwritten signature in blue ink, appearing to read 'Kent E. Nelson', written over the printed name.

RE: **Scope of Exemption from Stay-At-Home Order**

The Governor's order of March 25, 2020 to Stay-At-Home exempts the University from the stay at home requirement for functions necessary "for purposes of facilitating distance learning or performing essential functions..." The exemption also requires that "social distancing of six-feet or more per person is maintained to the greatest extent possible."

The University's application of this order, set out in the decision tree below, remains that those who can perform their job function from home continue to do so. This is in line with the Governor's statement that the Order "is intended to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue..."

Faculty can come to the University to engage in distance delivery of the University's curriculum, provided they are not otherwise able to do so from their home. Staff may come to campus to perform functions that are essential to support distance delivery of curriculum, provided they are unable to do so from home.

The University can also maintain other "essential functions." We define these based on what is necessary to protect the institution's property and its ability to perform its role and mission within the state both in the present as well as for the future. Examples of these include,

- a. Campus security,
- b. Food service for resident students,
- c. Facilities work necessary to protect property (including a presence on campus necessary to respond to emergencies such as broken water lines).
- d. Research functions related to:
  - a. Animal care (for teaching and research animals)
  - b. Maintaining the integrity of research facilities, specimens and data
  - c. Actions necessary to maintain ongoing research but only to the extent that the action can't be delayed and failure to take the action will result in material loss of research already performed or undue harm to human subjects.
  - d. Research related to COVID-19
- e. Maintaining IT infrastructure

f. Payroll and other daily functions necessary for ongoing operations during the term of the order  
Once again employees engaged in these functions can only come to campus if their function cannot be performed at home.

**Decision Tree and Process for Determining Essential Functions to be Performed on Campus**

- a. Can the function be performed by the employee from home
  - a. Yes – The employee remains at home to do so and the analysis stops
  - b. No – Go to next step
- b. Is the function necessary for facilitating distance learning or otherwise within the definition of an “essential function”
  - a. No – The employee remains at home<sup>1</sup>
  - b. Yes – The supervisor documents both the reason why the function can’t be performed at home and how the function facilitates distance learning or falls within the definition of “essential function”.
    - i. This analysis is transmitted up the supervisory chain for approval.
    - ii. Approvals must be at the dean or vice president level.
    - iii. Approvals must contain a requirement for maintaining social distancing.

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<sup>1</sup> Information will be coming regarding enhanced sick leave for employees who cannot work from home and who are ordered by the State to remain at home.