

REVISED

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Proposed Amendment to USM Policy VII-8.05—Policy on Professional Conduct of Nonexempt and Exempt Staff Employees

COMMITTEE: Finance

DATE OF COMMITTEE MEETING: June 8, 2017

SUMMARY: The proposed amendment to current USM policy would require all institutions to provide training regarding the Maryland Public Ethics law. All staff at the level of director and above would be required to receive training at least once every five years. (A similar amendment to faculty policy is also being proposed to the Committee.)

The Public Ethics Law establishes certain obligations and prohibitions applicable to state employees and, in some cases, to former state employees. The law addresses employee conflicts of interest, outside employment, acceptance or solicitation of gifts, and use of the prestige of an official position for personal gain, among other issues. Failure to comply with the law can result in an investigation and employee discipline, including termination.

The State Ethics Commission is responsible for interpreting the Ethics Law and administering a program that requires certain employees to file a financial disclosure statement annually. Those employees must complete a one-time on-line ethics training course administered by the Commission. However, this requirement does not ensure periodic training, nor does it cover all employees at the director level or above.

USM Policy on Professional Conduct of Nonexempt and Exempt Staff Employees establishes general standards of conduct for staff employees and summarizes the requirements of the Public Ethics law. It provides that each institution must develop procedures to implement the policy and communicate it to employees. While most institutions are providing some type of ethics training to some employees, the purpose of the proposed amendment is to ensure that all employees who are classified as directors or above will receive training regarding the specific provisions of the Public Ethics Law when they are first employed in such position, and will receive additional training every five years thereafter.

The amendment will permit institutions flexibility to establish training protocols that (1) are likely to be most successful given the individual academic culture of the institution and (2) will mesh with the institution's other training programs. The on-line training currently provided by the State Ethics Commission may be used to satisfy the policy's training requirement. In addition, upon request, the Ethics Commission currently supplies qualified individuals to provide on-campus training on the law to groups identified by the institution, providing another avenue for satisfying the new policy requirement. Alternatively, institutions may choose to develop their own training programs or continue any existing programs.

A red-lined copy of the policy is attached. This proposed policy amendment has been reviewed by the Systemwide Human Resources Committee, CUSS, the institution vice presidents for finance and administration and presidents. It will be presented to the Chancellor's Council for review at its June 6th meeting. The Attorney General's Office has reviewed and approved it.

ALTERNATIVE(S): The Committee could choose to recommend that the Board not approve the proposed policy amendment or could recommend alternatives to the proposed amendment.

FISCAL IMPACT: There is no estimated fiscal impact.

CHANCELLOR'S RECOMMENDATION: That the Finance Committee recommend that the Board of Regents approve the proposed policy amendment.

COMMITTEE RECOMMENDATION: _____ DATE: _____

BOARD ACTION: _____ DATE: _____

SUBMITTED BY: Joseph F. Vivona (301) 445-1923

VII-8.05 POLICY ON PROFESSIONAL CONDUCT OF NONEXEMPT AND EXEMPT STAFF EMPLOYEES

Approved by the Board of Regents on October 9, 2015; amended)

I. PURPOSE AND APPLICABILITY

This policy establishes expectations for the conduct of Regular and Contingent Nonexempt and Exempt staff employees.

II. GENERAL STANDARDS OF CONDUCT

- A. Employees shall exhibit integrity and exemplary conduct and use honest efforts in the performance of their duties.
- B. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Institution.
- C. Employees shall act impartially and not give preferential treatment to any private organization or individual.
- D. Employees shall protect and conserve State property and shall not use it for other than authorized activities.
- E. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, including federal, State, or local taxes that are imposed by law.
- F. Consistent with all applicable laws, all employees shall be treated with dignity and respect and shall not be discriminated against on the basis of race, ethnicity, color, religion, sex, national origin, age, disability, gender identity, or sexual orientation.
- G. Employees shall conduct intra-agency and interagency relations predicated upon civility, collaboration, cooperation. These same principles shall apply to interactions with officials and employees of the legislative and judicial branches.

III. CONFLICTS OF INTEREST

Consistent with State Ethics laws, Md. Code Ann., State Government Article, Title 15:

- A. Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- B. An employee shall not, except as permitted by applicable law or regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

- C. Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
- D. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, which conflict with official Government duties and responsibilities.
- E. Employees shall endeavor to avoid any actions creating the appearance that they are violating applicable law or the ethical standards in applicable regulations.
- F. Upon leaving state service, USM employees shall be bound by the restrictions of the Annotated Code of Maryland, State Government Article §15-504, with respect to lobbying and other forms of representation.
- G. Each institution shall provide training regarding all applicable provisions of the Maryland Public Ethics Law (1) to all staff and administrators appointed at the level of director or above within six months of such appointment; and, (2) to all existing staff or administrators serving at the level of director or above at least once every five years. Online training provided by the State Ethics Commission for individuals who file financial disclosure statements may be substituted for the initial training required under this Policy.

IV. POLITICAL ACTIVITY

Consistent with Md. Code Ann., State Personnel and Pensions Article, Section 2-304:

- A. Employees have the right to participate freely in any political activity and express any political opinion.
- B. Employees may not be required to provide any political service or make a political contribution.
- C. An employee may not:
 - 1. Engage in political activity on the job during working hours;
 - 2. Use institution resources to advance the employee's political activities; or
 - 3. Advocate the overthrow of the government by unconstitutional or violent means.

IV. REPORTING REQUIREMENTS

- A. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities. To make such reports, employees may access the resources and procedures for confidential disclosure of misconduct set forth in the following USM policies:
 - 1. VII-2.30 Policy on Employee and Applicant Disclosure of Misconduct
 - 2. VIII-7.10 Policy on Reporting Suspected or Known Fiscal Irregularities
 - 3. VIII-7.11 Policy on the Communication of Suspected Fraud, Unethical & Illegal Business Activities

- B. All institutions shall immediately refer to the Institution's Assistant Attorney General or to the Deputy Attorney General with supervisory responsibility for the Attorney General's Criminal Investigations Division, any instance of possible criminal or unethical conduct by any employee or contractor of this State, for such actions as the Office of the Attorney General deems appropriate.
- C. Employees are required to report to their department or unit head as to any arrest of the employee and as to each legal proceeding in which an employee is involved, as a party or otherwise, if the arrest or legal proceeding affects, or reflects on, the employee's job fitness or performance.

IMPLEMENTATION PROCEDURES

Each President shall identify his/her designee(s) as appropriate for this policy, develop procedures as necessary to implement this policy, communicate this policy and applicable procedures to his/her Institutional community, and post it on its institutional website.

REFERENCE:

Governor's Executive Order 01.01.2007.01 Standards of Conduct for Executive Branch Employees