

VII- 1.22 – POLICY ON SEPARATION FOR REGULAR EXEMPT EMPLOYEES

(Approved by the Board of Regents, December 3, 1999; Amended, June 27, 2014)

I. PURPOSE AND APPLICABILITY

- A. The purpose of this policy is to establish separation procedures for regular Exempt USM employees.
- B. **EXCEPTION:** Regular USM employees in the following Exempt positions are excluded specifically from sections III and IV of this policy:
 - 1. Officers: Vice Chancellors, Vice Presidents, Provosts and Academic Deans.
 - 2. Associate and Assistant Vice Chancellors, Associate and Assistant Vice Presidents, Associate and Assistant Provost, Associate and Assistant Academic Deans.
 - 3. Subject to approval of the Chancellor, the Chief Executive Officer (CEO) may designate other key executive positions for this exemption. Appointees to such positions shall be notified of such designation at the time of appointment. (*Refer to implementation policy of the Exempt Pay Program for treatment of current incumbents.)

II. GENERAL

Employment for regular USM employees in exempt positions is on an at-will basis. This means that, subject to applicable laws and policies, the employment relationship may be terminated at any time by either the employee or the University, consistent with Section III of this policy.

III. TERMINATION BY PERIOD OF NOTICE

A. DETERMINATION OF PERIOD OF NOTICE

An employee may be involuntarily separated and shall be provided with a defined period of notice.

- 1. Service for determining length of notice period is based on institutional service rather than USM service, and shall include prior institutional service provided there were no breaks in service longer than three years.

2. An Exempt employee at one USM institution who is offered an Exempt position at another USM institution may, at the discretion of the offering institution, be credited with prior USM service for purposes of calculating the required period of notice upon separation. Any such decision to credit prior service at another USM institution shall be noted in the employee's personnel file at the time of appointment and becoming effective after satisfactory completion of the probation period.

B. LENGTH OF NOTICE PERIOD

The period of notice shall be as follows:

Years of Institutional Service	Period of Notice
Less than one year	One month
One Year but less than four years	Three months
Four Years but less than seven years	Six months
Seven Years but less than ten years	Nine months
Ten years or more	Twelve months

C. EMPLOYEE STATUS DURING NOTICE PERIOD

1. The President or designee may:
 - a. Assign alternate duties and responsibilities to an employee who has been notified of a period of notice separation for any part or all of the period of notice or at a level of part-time service of at least 25%; or
 - b. Continue the employee in his or her regular position during the period of notice separation.

2. At the option of the President or designee, an employee who has been notified of a period of notice separation, may be placed in an administrative leave with pay status for any part or all of the period of notice.
 - a. In this case, consistent with federal tax law requirements, the employee can no longer be deemed an employee of the institution, effective as of the beginning of the administrative leave period, and shall not be eligible for employee benefits (such as health and retirement benefits) or earn other paid leave (annual, sick, holiday, personal) during the period of administrative leave.
 - b. Under such circumstances, the institution will provide appropriate alternative compensation to the employee to compensate for the loss

of salary or benefits that the employee would otherwise have been eligible during the notice termination period. The institution will develop an appropriate compensation arrangement for the employee to be terminated that meets the goals of this Section and relevant federal tax law requirements, in consultation with the employee and the Office of the Attorney General.

D. Failure to provide notice as set forth in this section may be grieved.

IV. TERMINATION FOR CAUSE

With the approval of the President or designee, the period of notice defined in III.B. above is not required if the employee is to be terminated for any of the following reasons: moral turpitude, incompetency, willful neglect of duty, illegal actions, gross misconduct, severe safety violations, failure to accept reassignment, or medical condition causing inability to perform essential job duties with reasonable accommodations required by law.

V. PROBATION AND REJECTION ON PROBATION

- A. Each USM employee who voluntarily applies for and accepts an Exempt position is in a probationary status during the first year of appointment to that exempt position. A new hire into an Exempt position shall serve a one year probationary period. Employees shall earn and be able to use sick, annual, personal and holiday leave during the probation period.
- B. If an incumbent has completed a probationary period for a Nonexempt position and the position is changed to Exempt, the incumbent will be considered to have completed the probationary period for the Exempt staff position.
- C. If an incumbent is serving a probationary period for a Nonexempt position and the position is changed to Exempt, the incumbent will be required to serve the balance of a probationary period to equal one year.
- D. If an incumbent has completed at least one year in a faculty position and the position is changed to the Exempt category, the incumbent will be considered to have completed the probationary period for the Exempt position. If an incumbent has completed less than one year in a faculty position and the position is changed to the Exempt category, the incumbent will be required to serve the balance of a probationary period to equal one year.
- E. During the probationary period, the responsible administrator may, at his/her discretion, reject an employee. The employee to be rejected shall be given at least a 30 calendar days written notice of the rejection or, at the discretion of the responsible administrator, shall be placed on administrative leave as described in section III.C. The notice is to be provided to the employee no later than 30 calendar days prior to the expiration of the probation period. The notification period required does not apply if the rejection is the result of a breach of discipline or of such gross incompetence as to jeopardize essential services. An employee may grieve the rejection on probation for the purpose of showing that the rejection is procedurally deficient or in violation of law.

IMPLEMENTATION PROCEDURES:

Each Chief Executive Officer or designee shall develop procedures as necessary to implement this policy and shall forward a copy of such procedures to the Chancellor.

All actions taken under this policy and institutional procedures shall be review by the institution's Director of Human Resources/Personnel in advance of the action being taken.

REPLACEMENT FOR:

UM Personnel Policies and Rules for Associate Staff, G. Probation, Reassignment, Requirements of Notice, and Layoff, 1. Probation and Rejections on Probation, p. 12 and 13, Requirements of Notice, p. 13, June 1989.

Laws Relating to and Governing Policies and Procedures of the Board of Trustees of the State Universities and Colleges of Maryland, Jan. 1977, Section VI. Administrative Officers, C. Appointment, Page VI-1.

USM Policy on Librarians, VII-2.15, Permanent Status, October 6, 1995 Additionally, this policy supersedes, in whole or in part, any policy(ies) and/or procedure(s) established by the Regents, Trustees, Presidents, or their designees, of the former institutions of the University of Maryland, and of the former State Universities and Colleges, and of the Regents of the University System of Maryland that are in conflict with this policy's purpose, applicability, or intent, that may have been overlooked and not included as a specific citation under "Replacement For.