

USM Bylaws, Policies and Procedures of the Board of Regents

USM HR Policy Review Sheet

Policy Number: VII – 1.40

New Policy Title: Policy on Contingent Status Employment for Nonexempt and Exempt Staff Employees

Old Policy Title: USM Policy on Contingent Status Employment for Nonexempt and Exempt Staff Employees

1. Policy Application: Nonexempt Staff Exempt Staff Faculty Contingent Staff
 All Other: _____

2. Proposed Revisions

Terminology outdated

Re-Formatting

Title Change

Obsolete provisions deleted

Merge with other policy: _____

Clarifications: _____

Transfer to another policy or chapter: _____

Updates to reflect changes in law: Add language to Section III.A.6 on consideration of Contingent Employees for regular status positions, required by new MD statute (HB 1025) and Section V.A.2 on health benefit eligibility impacted by federal rules and regulations.

Incorporate USM-wide existing practice into policy

Incorporated Pre-USM Policy:

Fills gap in policy:

Added definitions

Other revisions: _____

**VII - 1.40 - ~~USM~~ POLICY ON CONTINGENT STATUS EMPLOYMENT FOR
NONEXEMPT AND EXEMPT STAFF EMPLOYEES**

(Approved by the Board of Regents December 13, 1996; Amended, February 9, 2001; Amended, July 10, 2002; Amended, October 22, 2004; Amended, 2015)

I. PURPOSE

Establishes a USM policy on the appointment and compensation of individuals for Contingent Status employment including, in some instances, the provision of certain benefits.

II. DEFINITIONS

A. Contingent Category I - Any Contingent Status employee whose written agreement (contract) is for a term of six months or less regardless of the percentage of time worked and regardless of whether it is seasonal or intermittent in nature (works “if and when needed”).

B. Contingent Category II - Any Contingent Status employee whose written agreement (contract) is for more than six months, but no more than 12 consecutive months; and is on a fulltime basis or on a part-time basis of 50% or more of fulltime employment; and is not seasonal or intermittent in nature

C. Contingent Status Employment - ~~is a~~ Non-Regular Status of employment for Nonexempt, or Exempt Staff positions in the USM.

~~Categories of Contingent Status Employment – Category I and Category II (See Section IV. below).~~

D. Contingent Status Employee - ~~is defined as a~~ person (non-faculty employee) who (1) pursuant to a written agreement, provides personal services to an institution for pay; (2) is not employed as a Regular Status employee in a budgeted position; (3) whose compensation, terms and conditions of employment are governed by this policy and a written contract and not by the USM policies generally applying to Regular Status Nonexempt and Exempt staff; and (4) has an employer-employee relationship with the institution in which the institution furnishes necessary supplies and equipment, and a place to work; has the right to control and direct the details, means and results of the performance of the services; and has the right to discharge the person from employment.

III. TERMS AND CONDITIONS

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- A. All Contingent Status employees:
1. must meet the minimum qualifications for the position;
 2. shall be paid at a rate that at least meets the minimum of the pay range for the position's job class. ~~If contract is renewed, Cost of Living Adjustment (COLA) as provided for Regular Status employees and a salary increase may be considered by the employing institution; Other compensation changes must be made in accordance with the Chancellor's Salary Guidelines.~~
 3. shall not have any grievance rights under any State, University System of Maryland, or Institutional policy, unless such policy specifically provides otherwise;
 4. shall not be entitled to participate in the State Pension System or the USM Optional Retirement Program; ~~and~~
 5. shall be covered by applicable Federal and State of Maryland Equal Employment Opportunity and Affirmative Action laws and other applicable USM employee protection policies; ~~and~~
 - ~~5-6.~~ will be considered for a regular status vacancy in the same or a similar classification, if they should decide to apply.
- B. Each written agreement (contract) for a Contingent Status employee shall specify:
1. the appropriate contingent category: Category I or Category II. If it is a Category I appointment, it shall specify whether it is Seasonal or Intermittent; or percentage of time worked;
 2. the salary/hourly rate of pay;
 3. the duration of the contract, including a provision that both the employee or employer have the right to terminate the agreement for any reason following notice as specified in the agreement;
 4. the duties to be performed; and
 5. the specific benefits and rates of leave accrual provided.

IV. CATEGORIES OF CONTINGENT STATUS EMPLOYMENT

Agreements for contingent status employment shall not be offered on terms which are not included in one of the two categories of contingent status employment as follows:

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~~A. Contingent Category I—defined as any Contingent Status employee whose written agreement (contract) is for a term of six months or less regardless of the percentage of time worked and regardless of whether it is seasonal or intermittent in nature (works “if and when needed”).~~

A. Contingent Category I Employees:

1. shall not be required to be hired through competitive recruitment or selection;
2. shall not be entitled to receive fringe benefits except as required by the Patient Protection and Affordable Care Act (PPACA);
3. may have their contract renewed indefinitely by executing new contracts of up to six months at a time for 49% or less of fulltime employment. However, if they have contracts of 50% or more of fulltime employment lasting for a period of six consecutive months, they shall be eligible for contract renewal to a lifetime maximum of 12 months under Contingent Category I in that position.
4. shall not be entitled to receive service credit for the time served in this category unless they have worked 50% or more of fulltime, on a consecutive basis, immediately preceding appointment to a Regular Status position through a competitive process. The term “service credit” is not applicable to any retirement rights;
5. shall have the mandatory payroll deductions and mandatory employer paid subsidies as described in Sections V.A.6.and 7. below.

~~B. Contingent Category II—is defined as any Contingent Status employee whose written agreement (contract) is for more than six months, but no more than 12 consecutive months; and is on a fulltime basis or on a parttime basis of 50% or more of fulltime employment; and is not seasonal or intermittent in nature.~~

B. Contingent Category II Employees:

1. are required to be hired through competitive recruitment and selection;
2. shall be entitled to receive at least the minimum benefits as specified in this policy (Section V.A.);
3. subject to paragraph IV.B.6., may have their contract renewed by executing new contracts of up to one year at a time;

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~~3.4.~~ shall be entitled to service credit for the time served in this category, if appointed, without a break in service, as a Regular Status employee. The term “service credit” is not applicable to any retirement rights;

~~5.~~ shall be given a written performance evaluation under the USM’s Performance Management Program guidelines (USM-BOR VII-5.20).

~~4.6.~~ may be eligible for employment status conversion:

~~a.~~ after three consecutive years of service in the Contingent Category II at the same institution, Contingent Category II employees who remain employed by the institution shall be converted to a Regular Status position, subject to all the policies and procedures of Regular Status employees.

~~b.~~ This provision does not apply to employees in positions funded through a Research/Service Grant or Contract, or through Clinical Revenue; Athletic Coaches; employees on internships; and those employees who have chosen not to be converted to Regular Status employment.

~~For Contingent Category II employees on the payroll as of October 22, 2004, and who remain employed by the institution, the following conversion timeline shall apply:~~

~~a. Employees with 6 or more consecutive years of service shall be converted by July 1, 2005;~~

~~b. Employees with less than 6 but at least 3 years of consecutive service shall be converted by July 1, 2006; and,~~

~~c. Employees with less than 3 years of service shall be converted by July 1, 2007.~~

~~Each institution shall develop a schedule for the conversions to be placed on file with the institutional office of Human Resources. Progress toward full conversion shall be included in the report required by section VI of this policy.~~

~~5.~~ shall be entitled to service credit for the time served in this category, if appointed, without a break in service, as a Regular Status employee. The term “service credit” is not applicable to any retirement rights;

~~6.7.~~ who are converted to Regular Status without a break in service will have contingent time served in the current position counted toward probationary period. before occupying their current position for a period equal to an

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~~applicable probationary period shall be in probationary status until the position has been occupied, as a Contingent Status employee and a Regular Status employee, for the full probationary period; and~~

~~7.8. shall be given a written performance evaluation under the USM's Performance Evaluation Program guidelines (USM BOR VII 5.20).~~

V. BENEFITS

A. The minimum benefits to be provided to ~~all~~ Contingent ~~Status Category II~~ employees, on an annual basis, are listed below. These benefits shall be pro-rated for contracts of less than one year and for less than fulltime employment.

1. Basic Leave Benefits:

Contingent Category II employees are eligible for paid leave, which includes five (5) days of annual leave; the following eight (8) holidays: New Year's Day, Martin Luther King Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, the Friday after Thanksgiving Day, and Christmas Day; three (3) days of sick leave (sick leave is defined as leave available to the employee when the employee is sick or is needed to care for the employee's sick spouse, child or legal dependent; and it only may be used in accordance with institutional policies that govern use of sick leave for Regular Status employees); and leave for jury duty as called to serve or other leave for which the institution has granted approval. Additionally, individual contracts shall address whether leave that is not used by the end of the contract term can be carried over to another contract; whether the institution shall pay the employee for it, with the exclusion of sick leave; or whether it is forfeited.

2. Health Insurance Program and Prescription Plan:

Certain Contingent Category I and II employees may participate in the State Health Insurance programs and Prescription Plan that are available to State employees ~~by paying 100% of the premiums directly to the State Health Benefits Division~~. Participation shall be in accordance with regulations of the State Department of Budget and Management and any applicable Federal rules and regulations.

3. USM or Institution-Sponsored Insurance Programs:

Contingent Category II employees may participate in USM or Institution sponsored insurance programs (e.g., long-term disability; life insurance; ~~auto and homeowners insurance~~; health insurance) by paying 100% of the premiums directly to the provider.

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4. Tuition Remission:

Contingent Category II employees may participate, at their home institution only, in the USM's Tuition Remission program.

5. Tax Deferred Programs:

Contingent Category I and II employees may participate in ~~employee-only-contribution Tax Deferred Investment programs~~ Supplemental Retirement plans that are approved by the State of Maryland and USM, and as permitted by law and regulations.

6. Mandatory Payroll Deductions:

Contingent Category I and II employees shall have the required mandatory deductions via payroll deduction, e.g., Maryland and Federal Income Tax withholding, and Federal Insurance Contributions Act (FICA) which includes Social Security and Medicare.

7. Mandatory Employer Paid Subsidies:

Contingent Category I and II employees shall have the required mandatory employer paid subsidies, e.g., Unemployment Insurance, Workers Compensation Insurance, and FICA contributions, which include Social Security and Medicare.

B. Negotiable Benefits:

At the discretion of the employing institution, a Contingent Category II employee may be offered benefits supplemental to the minimum benefits listed in Section V.A. above consistent with those available to Regular Status employees in a similarly situated job class and employment category.

C. Other:

Contingent Category I and II employees may participate in other programs with voluntary deductions, e.g., ~~U.S. Savings Bonds~~; charitable contributions; State Employees Credit Union (SECU).

VI. USM REPORTING REQUIREMENT

In order to monitor the use of this policy, the USM requires the ~~President CEO~~ of each institution to report on an annual basis (~~August 1~~) the usage of contingent employment at

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their institutions. The report format shall be provided by the USM-HR Office to the CEOs Presidents.

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.

~~Each Chief Executive Officer shall develop procedures, as necessary, to implement this policy and shall file said procedures in the institutional Office of Human Resources.~~

REPLACEMENT FOR

~~UM BOR Policy III—21.00: Amendment to Policy Governing Contractual Employment (Issued by the President, July 18, 1985; revised January 21, 1987; March 30, 1987 and April 8, 1988).~~

~~UM Personnel Policies and Rules for Classified Employees—Section II, Classified Employment, Appointment, 2. Temporary, pp. II-12 & 13; 3. If and When Needed Appointments, pp. II-13 & 14.~~

~~UM Personnel Policies and Rules for Associate Staff, Positions and Appointments, C. Temporary Appointment, pp. 1 & 2; D. If and When Needed Appointment, pp. 2 & 3.~~