

USM Bylaws, Policies and Procedures of the Board of Regents

Annotated version 7/2/15

USM HR Policy Review Sheet

Policy Number: VII – 8.00

New Policy Title: Policy on Grievances for ~~Non~~Exempt and ~~None~~Exempt Staff Employees

Old Policy Title: USM Policy on Grievances for Exempt and Nonexempt 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Terminology outdated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: VII – 8.10 Policy on Special Action Appeals for Classified Employees

Clarifications: _____

Transfer to another policy or chapter: _____

Updates to reflect changes in law

Incorporate USM-wide existing practice into policy: Incorporates BOT Appendix M on Exempt
Grievance process

Incorporated Pre-USM Policy:

Fills gap in policy:

Added definitions

Other revisions: _____

VII - 8.00 - ~~USM~~ POLICY ON GRIEVANCES FOR NONEXEMPT AND ~~NON~~EXEMPT STAFF EMPLOYEES

(Approved by the Board of Regents, February 28, 1992; Amended February 21, 2003; AMENDED, 2015)

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I. PURPOSE AND APPLICABILITY

This policy establishes the employee's right to file a grievance or special grievance, and applies to Regular Status Exempt ~~Staff employees (applies only to UMB, UMBC, UMBI, UMCS, UMCP, UMES, UMUC, AND USM Office)~~, and ~~Regular Status~~ Nonexempt Staff employees

(Systemwide). The policy fully incorporates the requirements of Maryland Annotated Code, Education Article, Section 13-201 et seq. (VII-8.00, Section I)

II. DEFINITIONS

The following terms and definitions shall apply for purposes of this policy:

A. **“Grievance”** - ~~means a~~Any cause of ~~dispute complaint~~ arising between an employee and employer on a matter concerning ~~certain levels of~~ discipline, alleged discrimination, promotion, assignment, or interpretation or application of ~~I~~ Institution or University System policies, rules or departmental procedures over which ~~i~~ Institution or University System management has control except that:- (VII-8.00, Section II)

1. -If, ~~however,~~ the complaint pertains to the general level of wages, wage patterns, fringe benefits or to other broad areas of financial management and staffing, it is not a grievable issue-

2. Disputes regarding certain major personnel actions shall be treated as special grievances, as defined below. (New)

B. **Special Grievance** – A dispute involving a major personnel action, for which special timelines and other procedures that provide for more timely review are required. Such major personnel actions include: (from VII-8.10)

1. Suspension

2. Demotion

3. Separation from employment, including disciplinary separations (also referred to as Charges for Removal)

4. Notice terminations

5. Rejections on probation

C. **Former Board of Trustees (BOT) Institutions** – Bowie State University (BSU), Coppin State University (CSU), Frostburg State University (FSU), Salisbury University (SU), Towson University (TU), and University of Baltimore (UB). (New)

D. **Former University of Maryland (UM) Institutions** – University of Maryland, Baltimore (UMB), University of Maryland, Baltimore County (UMBC), University of Maryland Center for Environmental Science (UMCES), University of Maryland College Park (UMCP), University of Maryland Eastern Shore (UMES), University of Maryland University College (UMUC), and University System of Maryland (USM) Office. (New)

~~E.~~ **“Working Day”** - ~~means~~ Monday through Friday, regardless of any employee’s actual work schedule, and excluding days on which the institution is closed, regardless of the employee’s work schedule. *(VII-8.00, Section II)*

III. PRINCIPLES AND GENERAL RULES

A. Need for Grievance Process

The University System of Maryland (USM) recognizes that legitimate ~~problems, differences of opinion, complaints, disputes~~ and grievances may exist in the daily relationship between the USM as an employer and its employees. It is the responsibility of all supervisors, administrators, managers, faculty and employees to establish and maintain a work climate within which an employee ~~dispute or grievance problem or complaint~~ will be promptly identified, presented, discussed and given fair, timely consideration. *(VII-8.00, Section III.A.)*

B. General Obligations

The institution's management and each employee have an obligation to make every effort to resolve employee relations ~~disputes problems~~ as they arise. *(VII-8.00, Section III.B.)*

~~B.1.~~ 1. In any case where this effort fails, ~~an grievance or appeals~~ special grievance may be ~~submitted taken to a~~ higher authority for adjudication, including neutral advisory arbitration or the Office of Administrative Hearings in Step 3 Grievances where applicable, consistent with the procedures of this policy. *(VII-8.00, Section III.B.)*
~~Decisions shall be both prompt and definitive.~~

~~1.2.~~ 2. ~~If a grievance or special grievance is submitted, the parties shall make~~ every effort to resolve the grievance or special grievance at the lowest possible level of the process. *(VII-8.00, Section V.N.)*

~~C.3.~~ 3. Decisions shall be both prompt and definitive. *(VII-8.00, Section III.B.)*

4. It is the responsibility of the head of each organizational unit to provide employees with information regarding ~~assure that each employee understands~~ the channels of communication and appeal for the exercise of grievance or special grievance rights in that unit. ~~specifically who is the dean, department head or chairperson or their designees.~~ *(VII-8.00, Section V.B.)*

~~D.C.~~ Retaliation Prohibited

Each ~~University System~~ employee utilizing the grievance or special grievance process~~procedure~~ shall have the right to make known a problem or dispute ~~complaint~~ without the fear of coercion or reprisal. *(VII-8.00, Section III.C.)* An employee who violates the provision of this subsection shall be subject to disciplinary action, up to and

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~~including termination of employment. The employee also has the right to representation at any step of the grievance procedure.~~

E.D. Consistency with Other Laws and Policies

No decision shall be made at any step of the grievance ~~or special grievance process procedure~~ which conflicts with or modifies any policy approved by the Board of Regents of the USM, with any applicable statute, with any administrative regulation issued under appropriate statutory authority, or which otherwise delimits the lawfully delegated authority of USM officials unless prior approval has been obtained from the responsible official. *(VII-8.00, Section III. D.)*

F.E. Monetary Relief *(Grievance Statute, 13-203 (e))*

1.—The Chancellor, institution President (or designee) or Step Three Administrative Law Judge appointed by the Office of Administrative Hearings, as appropriate, shall have the power to award back pay in any grievance, and the President or designee of the affected institution shall enforce such order.

2. In cases where an employee has been misclassified, back pay shall be limited to a maximum period of one (1) year prior to the filing of the grievance, as appropriate.

F. Relationship to Other Complaint Processes

1. No employee may file or continue to pursue a grievance on any matter that is the subject of:

a. A complaint under Title 5 (Employee Rights and Protections), Subtitle 2 (Equal Employment Opportunity Program) or Subtitle 3 (Maryland Whistleblower Law) of the State Personnel and Pensions Article, *(VII-8.00, Section III.E.)*

b. A special grievance before the Law Enforcement Officers' Board of Review (LEOBR), or

c. A complaint filed under another USM policy intended to protect the rights of employees. *(New)*

2. Nothing in the section shall prohibit the filing of a grievance regarding an issue not specifically decided in an earlier complaint process. *(New)*

G. Sole Remedy

Any party who elects to use this grievance ~~process procedure~~ for the resolution of a problem shall be presumed to agree to abide by the final disposition arrived at in this grievance ~~process procedure~~, and the final disposition shall not be subject to review under any other ~~policy or process procedure~~ within the USM. *(VII-8.00, Section V.S.)*

IV. GRIEVANCE FILING AND GENERAL PROCEDURES

A. Representation of the Employee

An employee may be represented at every step in the grievance or ~~appeals~~special grievance process. (*VII-8.00, Section V.C.*)

1. At any point in the grievance or ~~appeals~~special grievance process, the employee may elect to obtain, change, or dismiss a representative by providing written notice of that decision to the person hearing the grievance. (*VII-8.00, Section V.C.*)

~~2. Such a decision regarding representation in the course of the grievance or special grievance process may not allow. However, such action in no way allows~~ the grievant to return to a previous step in the ~~process procedure~~ or ~~otherwise to~~ delay the grievance ~~at the current step.~~ (*VII-8.00, Section V.C.*)

~~3. Upon the formal or informal initiation of a grievance, a~~ n employee designated as an employee representative in any informal or formal stage of the process shall not suffer any loss of pay for investigating, processing or testifying in any step of the grievance procedure. (*VII-8.00, Section V.H.*) This provision does not apply when the employee represents him/herself.

B. Documentation Requirements

1. A grievance or special grievance must be filed in writing on the institution's Employee Grievance and Special Grievance form. (*VII-8.00, Section V.D.*) ~~It is essential that the institution grievance form be used.~~

2. Employee Grievance and Special Grievance Forms shall be available in the institution Office of Human Resource/Personnel. (*VII-8.00, Section V.D.*)

3. The Employee A-gGrievance and Special Grievance form must bear the signature of the employee or the employee's representative at each step of the ~~the~~ process~~procedure.~~ (*VII-8.00, Section V.E.*)

4. It is the responsibility of each party to the grievance and special grievance appeals ~~process~~procedure, at each step of the ~~procedure~~process, to duplicate the grievance form prior to filing it with the employer or returning it to the employee, and to retain one copy of the form for possible future reference. (*VII-8.00, Section V.F.*)

5. Copies of the record of each grievance or special appeal-grievance and its disposition shall be (*VII-8.00, Section V.G.*):

a. Furnished to the employee involved; ~~;~~ and

b. Maintained at the institution Human Resources Office; and

c. Made available to the employee or the employee's representative upon request.

6. Any employer communications or decisions shall be delivered to the employee(s) in person or to the employee's last known address via a delivery method that allows for delivery confirmation.

C. Rules and Standards for Proceedings

1. Similar grievances may be consolidated and processed together as a single issue. Where a number of individual grievances have been reduced into a single grievance, not more than three employees selected by and from the group may be excused from work to attend a grievance meeting called by the responsible administrator at Step One, and not more than five (5) such employees at Steps 2 Two and 3 Three unless, at any step, prior permission is granted by the person hearing the grievance. *(VII-8.00, Section V.J.)*

2. Each step of the grievance or appealspecial grievance procedure shall be processed as quickly as practicable within the specified time limits. *(VII-8.00, Section V.O.)*

3. Failure to appeal request that a grievance or special grievance proceed to the next step of the process at any step constitutes acceptance of the decision. An institution's failure to answer timely respond to a grievance constitutes is a denial of the grievance at that step. to which request that a grievance or special grievance proceed to the next step of the process an appeal can be made. By mutual agreement of the parties, the time limits and/or steps may be waived. *(VII-8.00, Section V.O.)*

2.4. Any question concerning the timeliness of a grievance or whether a complaint is subject to the grievance procedure shall be raised and resolved promptly, unless the person hearing the grievance or appealspecial grievance determines that the decision on a motion to dismiss will be deferred pending a hearing on both the merits and the motion. *(VII-8.00, Section V.Q.)*

5. Requests to proceed to the next step of Appeals-within the grievance or special grievance process procedure shall be timed from the receipt of the written opinion of management, or from when such opinion is due, whichever comes first. *(VII-8.00, Section IV.B.)*

6. The official hearing officer the grievance or special grievance may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence or witnesses. *(VII-8.00, Section V.K.)*

3.7. All grievance or special grievance hearings shall be open hearings unless either party requests that the hearings be closed. *(VII-8.00, Section V.L.)*

4.8. At any step of the grievance ~~or special grievance process procedure~~ either party may require that witnesses be excluded from the hearing room until called. (VII-8.00, Section V.M.)

5.9. The original grievance or ~~appeals~~ special grievance that has been considered on the merits will be considered *de novo*, in its entirety, at each successive step of the grievance ~~process procedure~~. De novo review means that the decision-maker at each step in the grievance process will make an independent determination of the issues, without deference to the conclusions made at an earlier grievance step. A grievance or ~~appeals~~ special grievance going forward on a procedural issue will be remanded to the lowest appropriate step of the grievance or ~~appeals~~ special grievance process (i.e., where the procedural error is to have occurred) to be heard on the merits if the procedural dispute is found in favor of the grievant. (VII-8.00, Section V.P.)

6.10. No employee shall leave an assigned post of duty to engage in grievance activities without the knowledge of and permission from the employee's designated supervisor. (VII-8.00, Section V.I.)

11. Release time from normal work schedules is to be granted to the grievant and all witnesses to attend grievance hearings. Expenses incurred in connection with attendance by employees at grievance hearings shall be borne by the employee's department. (VII-8.00, Section V.H.)

V. PROCEDURES FOR NONEXEMPT STAFF EMPLOYEES AT ALL USM INSTITUTIONS

A. Grievance Procedures for Nonexempt Staff Employees

The following procedures apply to all grievances, except special grievances regarding major personnel actions governed by Section B.

1. If, following informal discussion with the supervisor, a dispute remains unresolved, the grievance ~~process procedure~~ is available. (VII-8.00, Section IV.C.) A grievance may start with a complaint or request by a regular status staff employee. (VII-8.00, Section V.A.)

2. Grievances must be initiated within thirty (30) calendar days of the action involved, or within thirty (30) calendar days of the employee having had reasonable knowledge of the act. (VII-8.00, Section IV.A.)

3. Steps in the Nonexempt Grievance Process for All USM Institutions

There are three steps in the grievance ~~process procedure~~: (VII-8.00, Section IV.C.)

2.4.a. Step One - Department Representative (Dean, department head or chairperson)

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~~a.i.~~ An aggrieved employee and/or the employee's designated representative (hereinafter known as the "Employee Representative") may present a grievance, in writing, to the Dean, department head, chairperson or designated representative (hereinafter known as the "Department Representative"). Within five (5) working days after receipt of the written grievance, the Department Representative shall hold a conference with the aggrieved employee and/or the Employee Representative. *(VII-8.00, Section IV.C.1.a)*

~~b.ii.~~ Within five (5) working days after the conclusion of the conference the Department Representative shall render a written decision. *(VII-8.00, Section IV.C.1.b)* ~~In the event the aggrieved employee is not satisfied with the decision, the employee may appeal in writing to the next step within 5 working days.~~

~~d.iii.~~ The ~~Institution Director of Human Resources/Personnel~~ CHRO or designee shall be available to serve as a resource to answer any questions by either the Department Representative ~~employee~~ or the employee. However, this shall not relieve the Department Representative ~~or from~~ the responsibility for issuing a written decision at Step 1 of this procedure. *(VII-8.00, Section IV.C.1.d)*

~~e.iv.~~ It is the responsibility of the Department Representative to use judgment in keeping superiors informed of the status of each grievance and, as necessary, to request guidance, advisory committees or other assistance in reaching a decision. *(VII-8.00, Section IV.C.1.c)*

~~a.b.~~ Step Two - The ~~Institution Chief Executive Officer (CEO)~~ President or Designee

If the dispute is still unresolved, the aggrieved employee or Employee Representative may appeal request, in writing, to go to the next step of the grievance process to the CEO President or designee. ~~The appeal must be submitted to the Institution Director of Human Resources/Personnel or designee within five (5) working days after the employee's receipt of the Department Representative's written decision at Step 1 One or, if no decision was issued, within five (5) days from when the decision was due to be issued (hereinafter, "Decision Date").~~ ~~The President or designee who~~ shall determine the appropriate forum for the hearing based upon the nature of the grievance as indicated below: *(VII-8.00, Section IV.C.2.a)*

~~(4)i.~~ Institution issues are issues which affect only a specific institution. These issues may include, but are not limited to, application of a department or institution policy, procedure or practice; administrative actions such as reprimands and, where applicable, suspensions, charges for removal, involuntary demotions and rejections on probation. Grievances involving institution issues will be heard by the Institution CEO President or designee. *(VII-8.00, Section IV.C.2.a.(1))*

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~~(2)~~ii. Systemwide issues are issues which may affect more than one institution in the USM. These issues may include, but are not limited to, the general policies of the USM and broad classification issues not limited by law, regulation or policy. Grievances involving systemwide issues will be heard by the Chancellor or designee. *(VII-8.00, Section IV.C.2.a.(2))*

b.iii. In either case, the ~~CEO-President~~ or designee, or the Chancellor or designee, shall hold a conference with the aggrieved employee and/or employee's designated representative within ten (10) working days of receipt of the written grievance appeal and shall render a written decision within fifteen (15) working days after the conclusion of the conference. *(VII-8.00, Section IV.C.2.b)*

a.c. Step Three - The Office of Administrative Hearings (OAH) or Arbitration

a.i. In the case of any unresolved grievance between an employee and the Institution or the USM, the aggrieved employee, after exhausting all available procedures provided by the USM, shall have the right to submit the grievance to either arbitration or to the Chancellor, who may delegate it to the OAH. In either case, the ~~appeal request to go to Step Three~~ must be submitted within ten (10) working days after the employee's receipt of the Step Two decision, or if no decision was issued, within ten (10) working days from the Decision Date. any written decision pertaining to that grievance and issued by the institution or USM *(VII-8.00, Section IV.C.3.a)*

ii. ~~If the grievance is arbitrated, any arbitration award will be advisory to the Chancellor or Administrative Law Judge, as applicable.~~ In the event of arbitration, the parties shall select an arbitrator by mutual agreement. If the parties are unable to reach mutual agreement, an arbitrator shall be supplied by the American Arbitration Association (AAA) using AAA procedures. ~~Any fees resulting from arbitration shall be assessed by the Arbitrator equally between the two parties.~~ *(VII-8.00, Section IV.C.3.b)*

i.iii. ~~Any fees resulting from arbitration shall be assessed by the Arbitrator equally between the two parties.~~ *(VII-8.00, Section IV.C.3.b)* In cases ~~that of request to~~ go before an arbitrator, each party will be responsible for any expense incurred in the preparation and presentation of its own case, and for any record or transcript it may desire. *(VII-8.00, Section V.R.)*

iv. ~~In either case, t~~The Chancellor or Administrative Law Judge, ~~as as applicable appropriate~~, shall make the final decision which shall be binding upon all parties. *(VII-8.00, Section IV.C.3.c)*

B. Special Grievance Procedures for Nonexempt Staff Employees

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~~B. Grievances must be initiated within 30 calendar days of the action involved, or within 30 calendar days of the employee having had reasonable knowledge of the act. (moved to new section V.B.2.) (Time limits may differ for some appeals and special actions as provided in the Policy on Appeals and Special Actions for Classified Employees.)~~

~~C. Appeals within the grievance procedure shall be timed from the receipt of the written opinion of management, or from when such opinion is due, whichever comes first.~~

Special grievance procedures apply to disputes regarding major personnel actions involving a suspension, demotion or separation from employment, including disciplinary separations and rejections on probation. A special grievance must be initiated by the employee within five (5) working days of the employer action involved, or within five (5) working days of the employee having reasonable knowledge of the act.

1. Special Grievances for Nonexempt Staff Employees

a. Unpaid Suspensions Pending Charges for Removal for Nonexempt Employees

i. If an employee is suspended without pay pending charges for removal, the ~~Institution Director of Chief~~ Human Resources ~~Officer (CHRO) /Personnel~~ or designee shall notify the employee in writing of the reasons for the suspension at the time of the notice of suspension. *(VII-8.10, Section II.B.1)*

ii. ~~An~~ The employee who is suspended pending charges for removal may, within five (5) working days from the date on which the employee receives the notification of suspension, request in writing through the ~~Institution Director of Human Resources/Personnel~~ CHRO or designee that the ~~Institution-CEO~~ President or designee conduct a preliminary hearing to determine whether or not the employee may continue to work with pay during the disposition of the charges. The date the notification of suspension is received shall be evidenced by a return receipt or other proof of delivery of notification to the employee. *(VII-8.10, Section II.B.2)*

b. iii. The ~~Institution-CEO~~ President or designee shall conduct a preliminary hearing within five (5) working days after the ~~Institution Director of Human Resources/Personnel~~ CHRO or designee receives in writing the request from the suspended employee for the preliminary hearing. *(VII-8.10, Section II.B.3)*

e-iv. The preliminary hearing shall be limited to the issues of: *(VII-8.10, Section II.B.4)*

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- ~~i.~~ 1) Whether suspension without pay is necessary to protect the interests of the institution, the ~~University of Maryland System~~ USM or the employee pending final disposition of the charges; and
- ~~ii.~~ 2) Whether other employment and status alternatives should be considered.
- ~~d.v.~~ At the preliminary hearing, the employee may: (*VII-8.10, Section II.B.5*)
 - ~~i.~~ 1) Rebut the reasons given for the suspension;
 - ~~ii.~~ 2) Allege mitigating circumstances; and
 - ~~iii.~~ 3) Offer alternatives to the suspension including:
 - (a) Return to the position with pay;
 - (b) Transfer to another position with pay; or
 - (c) Suspension with pay.
- ~~e.vi.~~ Within *five (5)* working days after the preliminary hearing is completed, the ~~Institution CEO President~~ or designee shall render a written decision that is conclusive as to the issue of whether or not the employee may continue to work with pay pending the disposition of the charges. (*VII-8.10, Section II.B.6*)
- ~~f.b.~~ Charges for Removal ~~for Nonexempt Employees (Actions for Separation from Employment)~~
 - ~~a.i.~~ An employee who is notified of charges for removal may request an opportunity to present a defense within *five (5)* working days from the date on which the employee receives the charges for removal, as evidenced by the return receipt or other evidence of delivery of the charges to the employee. An ~~appeals~~ special grievance of charges for removal shall be referred by the ~~Institution Director of Human Resources/Personnel~~ CHRO or designee to the ~~Institution Chief Executive Officer or designee (hereinafter referred to as CEO or designee)~~ President. (*VII-8.10, Section II.A.1*)
 - ~~b. ii.~~ The ~~Institution CEO President~~ or designee shall, within *thirty (30)* working days, if possible, investigate the charges and give the employee an opportunity to be heard. Testimony shall be taken under oath and both parties shall have the right of representation by counsel and the right to present witnesses and give evidence. (*VII-8.10, Section II.A.1*)

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- e.
 - iii. Within fifteen (15) working days following the conclusion of the hearing, a written decision shall be rendered to the employee. (*VII-8.10, Section II.A.2*)
- d.
 - iv. In case no hearing is requested by the employee within the prescribed time, the ~~Institution Director of Human Resources/Personnel~~ CHRO or designee shall act upon the charges or order such other actions as may be indicated by the findings in the case. (*VII-8.10, Section II.A.3*)
 - e.v. If a hearing is requested within five (5) working days and the removal is upheld, Step ~~3~~ Three of the grievance procedure, as provided ~~in the Policy on Grievances for Classified Employees and Associate Staff above~~, is available to the removed employee. The ~~appeal~~ special grievance shall be submitted within ten (10) working days after receipt of the written institution decision or from the decision date, whichever comes first. (*VII-8.10, Section II.A.4*)
 - f.vi. In cases where the employee has appealed both the Suspension Pending Charges for Removal and the subsequent Charges for Removal, both hearings can be combined in a single hearing upon at the agreement of the parties.institution's option.
- g.c. Involuntary Demotions for Nonexempt Employees
- a.
 - i. An employee who is notified of demotion may, within five (5) working days of written notification, file a written ~~answer~~ special grievance on an institution Grievance and Special grievances form with the ~~Institution Director of Human Resources/Personnel~~ CHRO or designee and request an investigation of the demotion. (*VII-8.10, Section II.C.1*)
- b.
 - ii. Within twenty (20) working days, if possible, after receipt of the ~~request special grievance~~, the ~~Institution CEO-President~~ or designee shall investigate the demotion and give the employee the opportunity to be heard. Within fifteen (15) working days following the conclusion of the investigation, the written decision shall be rendered to the employee. (*VII-8.10, Section II.C.2*)
- e.
 - iii. If an investigation is requested within five (5) working days and the demotion is upheld, Step ~~3~~ Three of the grievance and special grievance process procedure, as provided ~~in the Policy on Grievances for Classified Employees and Associate Staff above~~, is available to the employee. The ~~appeal request for Step Three~~ shall be submitted within ten (10) working days after receipt of the written Institution decision or from the Decision Date, whichever comes first. (*VII-8.10, Section II.C.3*)
- 2.d. Rejection on Probation for Nonexempt Employees

b.i. Rejection on Original Probation (See BOR VII-1.21)

- i. 1) An Nonexempt employee who is rejected on Original pProbation may within five (5) working days of the rejection, file a written ~~request~~ special grievance on an institution Grievance and Special grievances form with the ~~Institution Director of Human Resources/Personnel CHRO~~ or designee for a hearing at Step 2 Two of the grievance and special grievance process procedure, as provided ~~in the Policy on Grievances for Classified Employees and Associate Staff above~~. The appeal is limited to the procedural and legal basis for the rejection. Rejection for cause if not required in the case of an employee rejected on Original pProbation. (VII-8.10, Section II.D.1.a)
- ii. 2) Within twenty (20) working days, if possible, after receipt of the request, the ~~Institution CEO President~~ or designee shall conduct a hearing. Within fifteen (15) working days following the conclusion of the hearing, a written decision shall be rendered to the employee. (VII-8.20, Section II.D.1.b)
- iii. 3) If the rejection is upheld, Step 3 Three of the grievance process procedure is available. The appeal shall be submitted within ten (10) working days after receipt of the written institution decision or from the decision date, whichever comes first. (VII-8.10, Section II.D.1.c)

e.ii. Rejection on Status Change Probation

- i. 1) The appointing authority bears the responsibility for preparing the justification when there is a rejection on probation of an employee who has satisfactorily completed ~~probation~~ an Original Probation and is serving a status Change Probation, except as defined in this policy. (VII-8.10, Section II.D.2.d)
- ii. 2) An employee who is rejected in sStatus eChange pProbation as defined in this policy and for whom no vacancy in the former classification is available may, within ten (105) working days of receipt of the recommendation of the appointing authority to reject, appeal to the ~~Institution Director of Human Resources/Personnel CHRO~~ or designee and request an investigation of the proposed rejection. (VII-8.10, Section II.D.2.a)
- iii. 3) Within twenty (20) working days, if possible, after receipt, the ~~Institution CEO President~~ or designee shall complete an investigation of the recommended rejection. Within fifteen (15) working days following the conclusion of the investigation, the written decision shall be rendered to the employee. (VII-8.10, Section II.D.2.b)

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- iv. 4) If the rejection is upheld, Step ~~3~~Three of the grievance and special grievance process procedure, as provided ~~in the Policy on Grievances for Classified Employees and Associate Staff above~~, is available to the rejected employee. The appeal shall be submitted within ten (10) working days after receipt of the written institution decision or from the decision date, whichever comes first. (*VII-8.10, Section II.D.2.c*)
- ~~3-e.~~ Disciplinary Suspension for Nonexempt Employees (Does not apply to suspension pending Charges for Removal)
- a.i. Any alleged infraction shall be investigated by the appointing authority or designee at the earliest opportunity following knowledge of the alleged infraction, and ~~the investigation shall be~~ completed as soon as possible. All suspensions of employees shall be implemented within three (3) working days of the alleged infraction or knowledge of the alleged infraction by the responsible supervisor or administrator. All suspension days shall be consecutive. (*VII-8.10, Section II.E.1*)
- b.ii. The employee and/or the employee's designated representative may submit a written appeal on a disciplinary suspension:
- ~~i.~~ Directly to Step 2 of the grievance procedure (see Policy on Grievances for Classified Employees and Associate Staff) within 5 working days of notification of the suspension, or (*moved below to VI.A.5.b.ii*)
- 1) To Step ~~4~~One of the grievance and special grievance process procedure within three (3) working days of notification of the suspension. In such event, the Dean, department head, chairperson or designee must hear the case within three (3) working days from the receipt of the written appeal. Should the appeal be unheard or unanswered as a result of management delay, the employee shall be reinstated with full back pay. A written record of the disciplinary event shall be maintained, or (*VII-8.10, Section II.E.2.b*)
- ii. 2) Directly to Step Two of the grievance and ~~special appeals~~special grievance process procedure within five (5) working days of notification of the suspension (*VII-8.10, Section II.E.2.a*)
- a.iii. Any further ~~appeals~~special grievances must proceed through the grievance procedure within the prescribed time limits. If the suspension is upheld by the ~~Institution CEO-President~~ or designee, Step Three (3) of the grievance and special grievances process procedure is available to the employee. (*VII-8.10, Section II.E.3*)

VI. PROCEDURES FOR EXEMPT STAFF EMPLOYEES (*New*)

A. Grievance Procedures for Exempt Staff Employees

1. Procedures for Exempt Staff Employees of Former UM Institutions

Grievance Procedures for Exempt Staff Employees of Former UM Institutions are the same as Section V.A.3 of this policy.

2. Procedures for Exempt Staff Employees of Former BOT Institutions

Consistent with BOR VII-1.00 policy on the USM Human Resources Management Program, Section V.B., grievance procedures for Exempt staff employees of the former Board of Trustee institutions are governed by prior Board of Trustees policies and procedures provisions at Appendix M (Procedures Governing the Filing and Processing of Grievances for Administrative Staff Personnel in the Maryland State Universities and Colleges Under the Jurisdiction of the Board of Trustees of the State Universities and Colleges), attached as Appendix 1 to this Policy (unless otherwise specified in an institution's collective bargaining agreement).

B. Special Grievance Procedures for Exempt Staff Employees

1. Special grievances for Exempt Staff employees shall be filed under the special grievance procedures for Exempt Staff employees applicable to the institution, except as provided in 2, below.

2. Special Grievances for Exempt Staff Employees Who Have Vested Rights Upon Implementation of Phase II Exempt of the USM Pay Program (see BOR VII-9.01) Employees who were designated as "Classified-Exempt" employees at the time of implementation of Phase II-Exempt of the USM Pay Program are covered by section V.B. of this grievance policy. (Also see BOR VII-9.01)

~~V. OTHER PROCEDURES~~

~~A. A grievance may start with a complaint or request by a Regular Status Staff employee. (to new V.A.1)~~

~~B. It is the responsibility of the head of each organizational unit to assure that each employee understands the channels of communication and appeal, specifically who is the dean, department head or chairperson or their designees. (to new III.B.4.)~~

~~C. An employee may be represented at every step of the grievance procedure. (to new IV.A.) At any point in the grievance procedure, the employee may elect to obtain, change, or dismiss a representative by providing written notice of same to the person hearing the grievance. (to new IV.A.1) However, such action in no way allows the grievant to return to a previous step in the procedure or to delay the grievance at the current step. (to new IV.A.2)~~

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- ~~D. Employee grievance forms shall be available in the institution Office of Human Resources/Personnel. It is essential that the institution grievance form be used. (to new IV.B.2)~~
- ~~E. A grievance must bear the signature of the employee or the employee's representative at each step of the procedure. (to new IV.B.3)~~
- ~~F. It is the responsibility of each party to the grievance procedure, at each step of the procedure, to duplicate the grievance form prior to filing it with the employer or returning it to the employee, and to retain one copy of the form for possible future reference. (to new IV.B.4)~~
- ~~G. A record of each grievance and its disposition shall be furnished to the employee involved. A file copy of each grievance shall be maintained at the last step at which the grievance was processed, and an additional copy shall be filed with the Institution Human Resources/Personnel Office which shall be available to the employee or the employee's representative. (to new IV.B.5)~~
- ~~H. Upon the formal or informal initiation of a grievance, an employee designated as an employee representative shall not suffer any loss of pay for investigating, processing or testifying in any step of the grievance procedure. (to new IV.A.3) Release time from normal work schedules is to be granted to the grievant and all witnesses to attend grievance hearings. Expenses incurred in connection with attendance by employees at grievance hearings shall be borne by the employee's department. (to new IV.C.11)~~
- ~~I. No employee shall leave an assigned post of duty to engage in grievance activities without the knowledge of and permission from the employee's designated supervisor. (to new IV.C.10)~~
- ~~J. Similar grievances may be consolidated and processed together as a single issue. Where a number of individual grievances have been reduced into a single grievance, not more than three employees selected by and from the group may be excused from work to attend a grievance meeting called by the responsible administrator at Step 1, and not more than five such employees at Steps 2 and 3 unless, at any step, prior permission is granted by the person hearing the grievance. (to new IV.C.1)~~
- ~~K.A. The hearing officer may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence or witnesses. (to new IV.C.6)~~
- ~~L. All grievance hearings shall be open hearings unless either party requests that the hearings be closed. (to new IV.C.7)~~
- ~~M. At any step of the grievance procedure either party may require that witnesses be excluded from the hearing room until called. (to new IV.C.8)~~

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~~N. Every effort shall be made by both parties to resolve the grievance at the lowest possible level. (to new III.B.2)~~

~~O. Each step of the grievance procedure shall be processed as quickly as practicable within the specified time limits. (to new IV.C.2) The full time limits should not be used if the grievance can be adequately processed in a shorter period. Failure to appeal at any step constitutes acceptance. Failure to answer is a denial to which an appeal can be made. By mutual agreement of the parties, the time limits and/or steps may be waived. (to new IV.C.3)~~

~~P. The original grievance or appeal that has been considered on the merits will be considered de novo, in its entirety, at each successive step of the grievance procedure. A grievance or appeal going forward on a procedural issue will be remanded to the lowest step to be heard on the merits if the procedural dispute is found in favor of the grievant. (to new IV.C.9)~~

~~Q. Any question concerning the timeliness of a grievance or whether a complaint is subject to the grievance procedure shall be raised and resolved promptly, unless the person hearing the grievance or appeal determines that the decision on a motion to dismiss will be deferred pending a hearing on both the merits and the motion. (to new IV.C.4)~~

~~R. In cases of appeal to an arbitrator, each party will be responsible for any expense incurred in the preparation and presentation of its own case, and for any record or transcript it may desire. (to new V.A.3.c.iii)~~

~~S. Any party who elects to use this grievance procedure for the resolution of a problem shall be presumed to agree to abide by the final disposition arrived at in this grievance procedure, and the final disposition shall not be subject to review under any other procedure within the USM. (to new III.G)~~

IMPLEMENTATION PROCEDURES:

Each ~~Chief Executive Officer~~ President shall identify his/her designee(s) as appropriate for this policy; ~~shall~~ develop procedures as necessary to implement this policy; communicate this policy and applicable procedures to his/her institutional community, and shall forward a copy of such procedures to the Chancellor post it on the institutional website.

REFERENCES:

~~VII – 9.00 Policy on Vesting of Certain Rights Upon Implementation of Phase I – Nonexempt of the USM Pay Program.~~

~~State Personnel and Pensions Article, Section 5-209, October 1, 2002.~~

~~13-1A-01 through 06 of the Education Article, Annotated Code of Maryland 1990 Cumulative Supplement (Chapter 325 of the Laws of 1990).~~

REPLACEMENT FOR:

VII – 8.10 Policy on Special Action Appeals for Classified Employees

~~UM Personnel Policies and Rules for Classified Employees, Section IX, Grievances and Appeals, Page IX-1.~~

~~UM Personnel Policies and Rules for Associate Staff, Section H Employment Standards for Associate Staff, Grievances and Appeals, Page 16.~~

APPENDIX 1

Grievance Procedures for Exempt Staff Employees of Former Board of Trustees Institutions (BSU, CSU, FSU, SU, TU and UB) (unless otherwise provided in an institution's collective bargaining agreement)

APPENDIX M - PROCEDURES GOVERNING THE FILING AND PROCESSING OF GRIEVANCES FOR ADMINISTRATIVE STAFF PERSONNEL IN THE MARYLAND STATE UNIVERSITIES AND COLLEGES UNDER THE JURISDICTION OF THE BOARD OF TRUSTEES OF THE STATE UNIVERSITIES AND

A. General.

1. The State of Maryland recognizes that legitimate problems, differences of opinion, complaints, and grievances may exist in the daily relationship between the State as an employer and its employees. It is the responsibility of all supervisors, administrators, program directors, appointing authorities, and employees to establish and maintain a work climate within which an employee problem or complaint may be promptly identified, presented, discussed and given fair, timely consideration and resolution.
2. In accordance with the above principles, therefore, these Procedures Governing the Filing and Processing of Grievances for Administrative staff Personnel (as defined elsewhere in these procedures) in the Maryland state Universities and Colleges Under the Jurisdiction of the Board of Trustees of the State Universities and colleges have been instituted in accordance with the intent of the State of Maryland Executive Order issued by Governor Marvin Mandel on July 3, 1974.
3. These Procedures Governing the Filing and Processing of Grievances may be amended from time to time by the Board, except that an employee's filing and processing of a grievance shall be determined in all cases by the procedures in force at the time of initial filing of the grievance. Wherever the male gender is used in these procedures, it shall be deemed to include the female gender.

B. Definitions.

1. The following definitions shall apply for the purpose and processing of grievances in accord with these Procedures:
 - a. Administrative Staff Personnel – Permanent full-time personnel not in the classified State Merit System who occupy budgeted positions which involve duties relating to the execution of management, academic, administrative, or operational policies of the institution at which they are employed, except for those personnel categories excluded (as defined elsewhere in these Procedures).

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b. Grievance – Any matter over which management has control pertaining to discipline, promotion, suspension, duties, termination, conditions of employment, and interpretation or application of university/college rules and procedures which may arise between an administrative staff employee and his supervisor concerning the affected employee may be the source of a grievance complaint.

c. Work Day – A work day is defined as any date within the period encompassing Monday through Friday regardless of work schedule, weekend work, holiday, or work day off.

C. Personnel Categories Excluded From These Procedures.

The following categories of personnel in the employ of the Board or of the State universities and colleges under the governance of the Board are excluded from these procedures governing the filing and processing of grievances:

Category I: Executive Director and Associate Executive Director, Board of Trustees
University/college Presidents
Director, Maryland state Colleges Information Center (MSCIC)
All employees not in the classified State Merit System on the staff of the Board

Category II: Permanent full-time administrative staff personnel not in the classified State merit System occupying allocated budgeted positions either at the highest level of management responsibility or at a level requiring supervision of major programs at an institution. Included in this category are personnel performing duties and responsibilities normally associated with the following titles irrespective of whether or not the incumbent occupying the position has been designated by a budgeted title or an institutional title at variance with this listing:

Vice President	Director of Career Planning and Placement
Dean of the College	Director of College Center
Associate Dean of the College	Director of Counseling
Dean of Students	Director of Evening and/or Summer School
Associate Dean of Students	Director of Financial Aids
Director of Admissions	Director/Dean of Graduate School
Director of Business and Finance	Director of Public Relations
Director of Institutional Development/Research	Integration Coordinator
Director of Instructional Services	Registrar
Director of Library	Assistant to President
Director of Center for Educational Technology (Bowie State)	
Director of Cooperative Relations – UMES (Salisbury State)	
Dean of the School of Business (University of Baltimore)	
Dean of the School of Law (University of Baltimore)	

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Deans of the Schools of Nursing

Category III: Full-time and part-time faculty members irrespective of whether or not they may be assigned administrative duties (i.e., Director of a Program Division/Department Head) in conjunction with their “faculty” position.

Category IV: Full-time and part-time professional librarians.

Category V: Classified employees in the State merit System.

Category VI: Student employees, graduate assistants, laboratory assistants, etc. and any other part-time employees occupying positions who are not in the classified State Merit System.

Category VII: Full or part-time “emergency” or “temporary” employees (i.e., a person in an extra position that has not been allocated).

D. Filing and Processing Grievances.

1. General.

Failure by the institution to respond to a grievance at a particular step within the time limit specified for response at that step shall not affect the institution’s right to act with respect to the grievance.

2. Step One.

The aggrieved employee at this step may present his grievance either orally or in writing to his immediate supervisor for the purpose of informal discussion. It shall be the responsibility of the supervisor to investigate the grievance and attempt to resolve the matter satisfactorily at that time. The immediate supervisor, within three work days after receipt of the grievance, shall hold a conference with the aggrieved employee and, within three work days after the conclusion of the conference, shall render his decision wither orally or in writing to the aggrieved employee. In the event the aggrieved employee is not satisfied with the decision rendered at this step, he may appeal in writing to Step Two within three work days.

3. Step Two.

The aggrieved employee at this step may present his grievance in writing to the intermediate supervisor, who, within five work days after receipt of the written grievance, shall hold a conference with the aggrieved employee and, within three work days after conclusion of the conference, shall render his decision in writing to the aggrieved employee. In the event the aggrieved employee is not satisfied with the decision rendered at this step, he may appeal in writing to Step Three within three work days. In the event the president of the university/college also happens to be the intermediate supervisor, Step Two does not apply and the aggrieved employee shall proceed directly to Step Three.

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4. Step Three.

The aggrieved employee at this step may present his grievance in writing to the president of the university/college who may either:

- a. Personally consider the grievance in which case, within ten work days after receipt of the written grievance, he shall report his findings in writing to the aggrieved employee and to the employee's immediate supervisor outlining the measures, if any, to be initiated to remedy the grievance, such findings shall be final and binding upon all parties; or
- b. Determine the grievance to be one which more properly should be considered by a hearing committee. In such instances, within five work days after receipt of the written grievance, he shall appoint a hearing committee consisting of three individuals (no two of whom shall have a broad functional area of responsibility encompassing the sphere of activity engaged in by the aggrieved employee). The hearing committee, within ten work days after its appointment, shall hold a conference with the aggrieved employee and, within five work days after conclusion of the conference, shall render its advisory opinion (which must be concurred in by no less than two members) in writing to the president of the university/college who, within three work days after receipt of the advisory opinion, shall report his findings in writing to the aggrieved employee and to the employee's immediate supervisor outlining the measures, if any, to be initiated to remedy the grievance, such findings shall be final and binding upon all parties.

Adopted:
September 2, 1976