



**TOPIC:** Collective Bargaining Memorandum of Understanding – Frostburg State University (FSU) and the American Federation of State, County, and Municipal Employees Representing the Exempt Employees

**COMMITTEE:** Organization and Compensation (Executive Session)

**DATE OF COMMITTEE MEETING:** September 9, 2010

**SUMMARY:** FSU and AFSCME have concluded negotiations for a third three-year MOU that will be effective from July 1, 2010 through June 30, 2013. There are 99 Exempt Employees in the bargaining unit. The MOU was ratified by the employees on February 3, 2010. A transmittal letter from President Gibraltar and an Executive Summary of the MOU are attached.

The MOU continues the provisions of the prior MOUs approved by the Board of Regents in 2004 and 2008 with no significant changes. The changes negotiated in this MOU are noted in **bold** in the Executive Summary.

These revisions are all consistent with Board of Regents policies and are traditionally within the institution's discretion. They include:

- Providing employees who are involuntarily separated for non-disciplinary reasons with an opportunity to meet with a divisional vice president or designee to ask questions and present reasons for reconsidering the separation. Any such reconsideration remains within the discretion of the vice president.
- Clarifying institution procedures for pursuing internal promotions and other job vacancies.
- Specifying that fees for professional license renewals and certificates required for the employee to maintain job qualifications will be paid by the institution. This provision will ensure consistent practice across the campus.

It is noteworthy that this MOU was negotiated earlier in 2010 and does not reflect the salary freeze for the USM and other state employees imposed in the FY 2011 State Budget. As such, the MOU contains standard language authorizing merit increases for qualifying employees. However, the MOU also has a severability provision stating that any of its provisions made "invalid by operation of law . . . will be unenforceable and the remainder of the MOU shall not be affected." In an exchange of correspondence with the USM and FSU, AFSCME acknowledged that the merit increase clause was unenforceable in FY 2011, and the Office of the Attorney General has deemed that exchange adequate to avoid potential liability. Should the Board ratify this MOU, such ratification is with the understanding that the parties have agreed to this interpretation.

**ALTERNATIVES(S):** The Committee could elect not to approve the MOU as presented.

**FISCAL IMPACT:** The additional annual costs to the institution associated with this agreement are minimal.

**CHANCELLOR'S RECOMMENDATION:** That the Committee discuss the various components of the Memorandum of Understanding and make an appropriate recommendation to the Board of Regents.

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COMMITTEE RECOMMENDATION: Approved .

DATE: 09/17/10

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BOARD ACTION:

DATE:

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

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