



TOPIC: Proposed USM Policy on Termination with Prejudice

COMMITTEE: Finance

DATE OF COMMITTEE MEETING: January 30, 2014

SUMMARY: In the 2012 legislative session, the General Assembly enacted legislation requiring that the State implement a system for ensuring that individuals who are “terminated with prejudice” from any State agency, including the University System of Maryland, are never re-employed in State government. Codified at Section 2-801 of the State Personnel and Pensions Article of the Annotated Code of Maryland, the system is administered by the Department of Budget and Management (DBM).

DBM has defined the grounds for a termination to be designated as “with prejudice” as situations in which “the individual’s actions are found to be so egregious that the individual does not merit employment in any capacity with the State.” COMAR 17.04.04(C). DBM has implemented a secure electronic system that lists persons who have been terminated with prejudice, and each USM institution is required to ensure that it does not hire any individual who appears in that system. USM institutions may also designate employees as “terminated with prejudice” and add them to the system.

This proposed policy establishes standards for USM’s compliance with the above statute and regulations. In addition to the those requirements, the policy provides that:

- The policy is applicable to all employees hired for at least a full academic term, regardless of their job status;
- Designation of an employee as “terminated with prejudice” requires consultation with the institution’s Chief Human Resources Officer and institution legal counsel and approval by the President or designee; and
- Any employee designated as terminated “with prejudice” shall have the right to appeal that designation through appropriate institution grievance or appeal processes.

ALTERNATIVE (S): The Committee may choose not to approve the proposed policy or may recommend revisions to the proposal.

FISCAL IMPACT: There is no fiscal impact associated with this amendment.

CHANCELLOR’S RECOMMENDATION: That the Committee on Finance recommend that the Board of Regents approve the proposed USM Policy on Termination with Prejudice.

COMMITTEE RECOMMENDATION:

DATE:

BOARD ACTION:

DATE:

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

D R A F T 11-21-2013

VII - ._. – USM POLICY ON TERMINATION WITH PREJUDICE

(Approved by the Board of Regents, _____)

I. PURPOSE AND APPLICABILITY:

Under the Annotated Code of Maryland Article on State Personnel and Pensions Ch 381 2-801, Agencies of the State of Maryland are prohibited from hiring an individual who has been terminated With Prejudice from State service. This policy establishes a separation reason called Termination With Prejudice for the USM and creates a procedure for complying with the statute. This policy applies to all persons employed by an institution who are not in a temporary employment status.

II. DEFINITIONS

Temporary Employment Status – For purposes of this policy, those hired for less than a single academic term/semester.

Termination With Prejudice – Involuntary separation from USM employment for actions that are egregious to the extent that the employee does not merit employment in any capacity with the State.

III. POLICY

Through regular institutional procedures, a Department may determine that an employee must be terminated from employment.

- A. In addition to the regular review of an instance of termination, the Chief Human Resources Officer (CHRO) will determine if the case might fall under the Termination with Prejudice policy. If the case falls under the Termination with Prejudice policy, the CHRO will refer the case to the institution’s President or Designee, who shall consult with appropriate legal counsel to determine whether the reason for the discharge meets the definition of Termination With Prejudice.
- B. The institutional notification of termination to the employee shall include any specific provisions of the termination, including whether the action is considered Termination With Prejudice and specifying the appeal process available to the employee.
- C. An employee, including a Contingent Staff employee, that has received a notification of Termination With Prejudice, shall be given an opportunity to appeal the institution’s designation of Termination With Prejudice through the appropriate Grievance or Appeal Procedure of the Institution.

- D. If the determination of Termination With Prejudice is upheld through the applicable appeal process, according to statute, the name of the employee shall be entered into the State of Maryland's Pre-Offer Check (POC) Database, and the employee may not be hired by any agency of the State of Maryland, including the USM.

- E. Before an offer of employment may be made to a candidate, the designated representative of the USM Institution is required to determine whether the candidate's name appears in the State's POC Database. According to Annotated Code of Maryland, State Personnel and Pensions, Section 2-801, if the candidate's name does appear, the candidate may not be employed by any USM Institution or any Agency of the State of Maryland.

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:

Annotated Code of Maryland, State Personnel and Pensions , Section 2-801.

Incorporates changes from SHRC Meeting 10-4-12; SHRC 10-3-13; Admin VPs 11-19-13; CUSS 11-19-13.