



USM Board of Regents
Committee on Organization and Compensation
May 15, 2019
USM Office, Chancellor's Conference Room

AGENDA FOR OPEN SESSION

8:00 a.m.

Call to Order

Regent Rauch

1. Policy Reviews
 - a. [Policy on Institutional Advisory Boards – Commission Costs Language \(action\)](#)
 - b. [Revision to USM Policy On Grievances for Nonexempt and Exempt Staff Employees VII- 8.00 \(action\)](#)
2. [Convene to Closed Session \(action\)](#)



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Policy on Institutional Boards - Commission Costs

COMMITTEE: Organization and Compensation

DATE OF MEETING: May 15, 2019

SUMMARY: The Organization and Compensation Committee will discuss proposed revisions to the Policy on Institutional Boards to address the approval of commission costs. The additional language outlines the processes for establishing a commission and says that commission members shall not receive compensation other than reimbursement for reasonable out-of-pocket expenses.

ALTERNATIVE(S): The Committee could choose not to approve the proposed revisions.

FISCAL IMPACT: No direct fiscal impact at this time.

CHANCELLOR'S RECOMMENDATION: The Chancellor recommends that the Committee approve the proposed revisions to the Policy on Institutional Boards.

COMMITTEE ACTION: DATE: May 15, 2019

BOARD ACTION: DATE:

SUBMITTED BY: Denise Wilkerson; dwickerson@usmd.edu; 301-445-1906 or 410-576-5734

I-4.00 POLICY ON USM AND INSTITUTIONAL BOARDS AND COMMISSIONS

(Approved by the Board of Regents February 1, 1989 and March 1, 1989; revised April 16, 2004; revised June 17, 2011; revised June 21, 2019)

A. Institutional Board of Visitors

1. Each President may establish an institutional advisory board, to be called a Board of Visitors, as authorized in Section 12-109(E)(16) of the Education Article, to provide advice, assist in community relations, assist in institutional development, or provide other assistance requested by the President to enhance the institution.
2. Prior to the establishment of a Board of Visitors, each President shall submit to the Chancellor for approval by the Board of Regent a proposal for such a Board, to include the proposed role of the Board and the number and composition of its membership.
3. Members of a Board of Visitors may be drawn from the general public and from the campus. Because such a Board may advise the President on institutional policies, membership may not include members of the University System of Maryland Board of Regents or the Maryland Higher Education Commission, elected State officials, or appointed State officials of cabinet rank. Members serve at the pleasure of the President or for a term as established in the proposal or in the bylaws. The names of the member shall be submitted to the Chancellor.
4. Once approved, the proposal may be amended on the recommendation of the President and the approval of the Board of Regents. Proposals to amend may include changes in the number and composition of the membership, the role of the Institutional Board, or its abolition.
5. The President shall call the meetings of the Board and shall set the agenda.
6. Members shall serve without compensation but shall be entitled to reimbursement for expenses in accordance with the State Standard Travel Regulations.
7. Members shall not take any actions which conflict with their roles as a member of the Board of Visitors.

8. Presidents shall inform members of their responsibilities and of the requirement to avoid conflicts.
9. Presidents may remove any member who, in the judgment of the President, has a conflict of interest.

B. Advisory Boards to Departments, Schools or Colleges, Centers or Institutes

1. Deans, Department Chairs and Directors of Centers and Institutes affiliated with USM institutions may establish Advisory Boards to provide advice, assist in community relations and fund-raising, or provide other assistance requested by the Dean, Chair or Director to benefit or enhance the specific unit.
2. Members of such advisory boards may be drawn from the general public, the alumni base or from the institution. Members serve at the pleasure of the head of the unit or for a pre-determined term of office. Unlike boards advising Presidents directly, these advisory boards may include members of the USM Board of Regents or other public officials since they do not advise on institutional policy. The members of these boards shall be approved by the institutional President. The President shall inform the Chancellor of any members who are Regents or public officials.
3. The Dean, Chair or Director shall call the meetings of the Board and shall set the agenda.
4. Members of these Boards will be expected to be advocates for the unit they advise and will be expected to be supportive of the unit, the institution and the USM.
5. Members shall serve without compensation but shall be entitled to reimbursement for expenses in accordance with the State Standard Travel Regulations.
6. Members shall not take any actions which conflict with their roles as Advisory Board members. Presidents may remove any member who, in the judgment of the President, has a conflict of interest.

C. Other Boards, Commissions, Committees, Councils or Similar Advisory Bodies

1. From time to time, the chancellor or a USM institution president may establish an ad hoc commission, committee, council or similar advisory body ("Commission" or "Commissions") to provide advice regarding, or conduct an investigation of, a particular discrete matter. Prior to the establishment

of any Commission, the chancellor (if the chancellor will be establishing the Commission) or institution president (if such president is establishing such Commission) shall inform the Board of Regents of the charge to such body and the terms upon which members will be appointed. Members of such Commissions shall comply with all applicable laws and policies related to service on such Commissions and shall notify the chancellor or institution president, as applicable, of any real or perceived conflict of interest related to service on the Commission at the time of appointment or at such time as the conflict arises. In addition, no member of such Commission shall receive compensation for service on such Commission, other than reimbursement for reasonable out-of-pocket expenses In accordance with State Standard Travel Regulations. The preceding sentence shall not apply to the governing board of a tax-exempt organization associated with the USM or an institution which (a) was in existence as an entity described in Section 501(c)(3) prior to 2019; and (b) described its compensation arrangements in the entity's Internal Revenue Service application for Status as a tax exempt organization upon initial organization.

2. If the services of professionals are necessary to support the work of a Commission, such services shall be procured consistent with USM Procurement Policies and Procedures, BOR VII-3.00, as well as all other BOR policies and applicable law. Consistent with the principles of shared governance, the Board of Regents may modify the existing policies to require BOR approval for cumulative professional services costs to support a Commission and its members in excess of \$500,000. No remuneration for professional services may be provided to any Commission member, a member's immediate family member, or any member of the Commission member's household, or to any entity in which a Commission member, the member's immediate family members, or any member of the Commission member's household has a financial interest.

June 2019



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Proposed Amendments to Staff Grievance Policy

COMMITTEE: Organization & Compensation

DATE OF COMMITTEE MEETING: May 15, 2019

SUMMARY: The attached proposed amendments to *USM VII - 8.00 - Policy on Grievances for Nonexempt and Exempt Staff Employees* are intended to improve the current policy by addressing who has authority to implement decisions and resolutions of grievances filed against an employee’s supervisor, as well as specifying that grievances against certain classes of individuals shall not be decided by those individuals. Recommended amendments are indicated in red type on the attached copy of the policy and have been reviewed and approved by the Office of Attorney General for form and legal sufficiency.

ALTERNATIVE(S): The Committee may recommend that the proposed amendments be rejected.

FISCAL IMPACT: There is no expected fiscal impact.

CHANCELLOR’S RECOMMENDATION: The Chancellor recommends that amendments to the policy be approved.

COMMITTEE RECOMMENDATION:

DATE:

BOARD ACTION:

DATE:

SUBMITTED BY: Ellen Herbst (301) 445-1923

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

(Approved by the Board of Regents, February 28, 1992; Amended February 21, 2003; Amended October 9, 2015, Amended, 2019)

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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 and Nonexempt Staff employees. The policy fully incorporates the requirements of Maryland Annotated Code, Education Article, Section 13-201 et seq.

II. DEFINITIONS

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

- A. **Grievance** - Any cause of dispute arising between an employee and employer on a matter concerning discipline, alleged discrimination, promotion, assignment, or interpretation or application of institution or University System policies, rules or departmental procedures over which institution or University System management has control except that:
 - 1. If 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.
- 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:
 - 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).
- 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.
- E. **Working Day** - 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.

III. PRINCIPLES AND GENERAL RULES

- A. Need for Grievance Process

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The University System of Maryland (USM) recognizes that legitimate 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 will be promptly identified, presented, discussed and given fair, timely consideration.

B. General Obligations

The institution's management and each employee have an obligation to make every effort to resolve employee relations disputes as they arise.

1. In any case where this effort fails, a grievance or special grievance may be submitted 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.
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.
3. Decisions shall be both prompt and definitive.
4. It is the responsibility of the head of each organizational unit to provide employees with information regarding the channels of communication and appeal for the exercise of grievance or special grievance rights in that unit.
5. Any grievance (not including special action appeals) filed against an institution president shall be referred to the chancellor or the chancellor's designee for decision in accordance with the procedures contained in this policy. Any grievance (not including special action appeals) filed against the chancellor shall be referred to the Board of Regents or the Board's designee for decision in accordance with the procedures contained in this policy. In either case, the grievant may appeal the decision to the Office of Administrative Hearings for a Step Three decision.
6. After a grievance against an employee's supervisor has been upheld in a final decision, the person senior to the employee's supervisor shall ensure that the grievance decision is appropriately implemented. In the case of a grievance against the president, the chancellor shall be assigned this responsibility; in the case of a grievance against the chancellor, the Board of Regents shall be assigned this responsibility.
- 4.7. Any resolution or settlement of a grievance against an employee's supervisor shall be approved by a person senior to the supervisor, in addition to any other required approvals. In the case of a grievance against a president or chancellor, the Board of Regents shall be informed when the grievance is filed and prior to any resolution or

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[settlement. The Board of Regents shall approve any resolution or settlement of a grievance against the chancellor.](#)

C. Retaliation Prohibited

Each employee utilizing the grievance or special grievance process shall have the right to make known a problem or dispute without the fear of coercion or reprisal. An employee who violates the provision of this subsection shall be subject to disciplinary action, up to and including termination of employment.

D. Consistency with Other Laws and Policies

No decision shall be made at any step of the grievance or special grievance process 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.

E. Monetary Relief

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,
 - 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.
2. Nothing in the section shall prohibit the filing of a grievance regarding an issue not specifically decided in an earlier complaint process.

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G. Sole Remedy

Any party who elects to use this grievance process for the resolution of a problem shall be presumed to agree to abide by the final disposition arrived at in this grievance process, and the final disposition shall not be subject to review under any other policy or process within the USM.

IV. GENERAL PROCEDURES

A. Representation of the Employee

An employee may be represented at every step in the grievance or special grievance process.

1. At any point in the grievance or 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.
2. Such a decision regarding representation in the course of the grievance or special grievance process may not allow the grievant to return to a previous step in the process or otherwise delay the grievance.
3. An 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. 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.
2. Employee Grievance and Special Grievance Forms shall be available in the institution Office of Human Resource.
3. The Employee Grievance and Special Grievance form must bear the signature of the employee or the employee's representative at each step of the process.
4. It is the responsibility of each party to the grievance and special grievance process, at each step of the 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.
5. Copies of the record of each grievance or special grievance and its disposition shall be:
 - a. Furnished to the employee involved;

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- 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 Two and Three unless, at any step, prior permission is granted by the person hearing the grievance.
2. Each step of the grievance or special grievance procedure shall be processed as quickly as practicable within the specified time limits.
3. Failure to 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 timely respond to a grievance constitutes a denial of the grievance at that step. By mutual agreement of the parties, the time limits and/or steps may be waived.
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 special grievance determines that the decision on a motion to dismiss will be deferred pending a hearing on both the merits and the motion.
5. Requests to proceed to the next step of the grievance or special grievance process shall be timed from the receipt of the written opinion of management, or from when such opinion is due, whichever comes first.
6. The official hearing the grievance or special grievance may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence or witnesses.
7. All grievance or special grievance hearings shall be open hearings unless either party requests that the hearings be closed.
8. At any step of the grievance or special grievance process either party may require that witnesses be excluded from the hearing room until called.

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9. The original grievance or 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. *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 special grievance going forward on a procedural issue will be remanded to the lowest appropriate step of the grievance or 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.
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.
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.

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 is available. A grievance may start with a complaint or request by a regular status staff employee.
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.

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

There are three steps in the grievance process:

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

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- ii. Within five (5) working days after the conclusion of the conference the Department Representative shall render a written decision.
 - iii. The CHRO or designee shall be available to serve as a resource to answer any questions by either the Department Representative or the employee. However, this shall not relieve the Department Representative or the responsibility for issuing a written decision at Step 1 of this procedure.
 - 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.
- b. Step Two - The President or Designee
- If the dispute is still unresolved, the aggrieved employee or Employee Representative may request, in writing, to go to the next step of the grievance process to the President or designee within five (5) working days after the employee's receipt of the Department Representative's written decision at Step 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 shall determine the appropriate forum for the hearing based upon the nature of the grievance as indicated below:
- 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 President or designee.
 - 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.
 - iii. In either case, the 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.
- c. Step Three - The Office of Administrative Hearings (OAH) or Arbitration

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- 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 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.
- 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.
- iii. Any fees resulting from arbitration shall be assessed by the Arbitrator equally between the two parties. In cases that 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.
- iv. The Chancellor or Administrative Law Judge, as applicable, shall make the final decision which shall be binding upon all parties.

B. Special Grievance Procedures for Nonexempt Staff Employees

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 Chief Human Resources Officer (CHRO) or designee shall notify the employee in writing of the reasons for the suspension at the time of the notice of suspension.
 - ii. 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 CHRO or designee that the 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.

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- iii. The President or designee shall conduct a preliminary hearing within five (5) working days after the CHRO or designee receives in writing the request from the suspended employee for the preliminary hearing.
 - iv. The preliminary hearing shall be limited to the issues of:
 - 1) Whether suspension without pay is necessary to protect the interests of the institution, the USM or the employee pending final disposition of the charges; and
 - 2) Whether other employment and status alternatives should be considered.
 - v. At the preliminary hearing, the employee may:
 - 1) Rebut the reasons given for the suspension;
 - 2) Allege mitigating circumstances; and
 - 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.
 - vi. Within five (5) working days after the preliminary hearing is completed, the 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.
- b. Charges for Removal for Nonexempt Employees (Actions for Separation from Employment)
- 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. A special grievance of charges for removal shall be referred by the CHRO or designee to the President.
 - ii. The 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.
 - iii. Within fifteen (15) working days following the conclusion of the hearing, a written decision shall be rendered to the employee.

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- iv. In case no hearing is requested by the employee within the prescribed time, the CHRO or designee shall act upon the charges or order such other actions as may be indicated by the findings in the case.
 - v. If a hearing is requested within five (5) working days and the removal is upheld, Step Three of the grievance procedure, as provided above, is available to the removed employee. The 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.
 - 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 the agreement of the parties.
- c. Involuntary Demotions for Nonexempt Employees
- i. An employee who is notified of demotion may, within five (5) working days of written notification, file a written special grievance on an institution Grievance and Special grievances form with the CHRO or designee and request an investigation of the demotion.
 - ii. Within twenty (20) working days, if possible, after receipt of the special grievance, the 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.
 - iii. If an investigation is requested within five (5) working days and the demotion is upheld, Step Three of the grievance and special grievance process, as provided above, is available to the employee. The 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.
- d. Rejection on Probation for Nonexempt Employees
- i. Rejection on Original Probation (See BOR VII-1.21)
 - 1) A Nonexempt employee who is rejected on Original Probation may within five (5) working days of the rejection, file a written special grievance on an institution Grievance and Special grievances form with the CHRO or designee for a hearing at Step Two of the grievance and special grievance process, as provided 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 Probation.

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- 2) Within twenty (20) working days, if possible, after receipt of the request, the 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.
 - 3) If the rejection is upheld, Step Three of the grievance process 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.
- ii. Rejection on Status Change Probation
- 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 an Original Probation and is serving a status Change Probation, except as defined in this policy.
 - 2) An employee who is rejected in Status Change Probation as defined in this policy and for whom no vacancy in the former classification is available may, within ten (10) working days of receipt of the recommendation of the appointing authority to reject, appeal to the CHRO or designee and request an investigation of the proposed rejection.
 - 3) Within twenty (20) working days, if possible, after receipt, the 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.
 - 4) If the rejection is upheld, Step Three of the grievance and special grievance process, as provided 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.
- e. Disciplinary Suspension for Nonexempt Employees (Does not apply to suspension pending Charges for Removal)
- i. Any alleged infraction shall be investigated by the appointing authority or designee at the earliest opportunity following knowledge of the alleged infraction, and 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.
 - ii. The employee and/or the employee's designated representative may submit a written appeal on a disciplinary suspension:

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- 1) To Step One of the grievance and special grievance process 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
- 2) Directly to Step Two of the grievance and special grievance process within five (5) working days of notification of the suspension
- iii. Any further special grievances must proceed through the grievance procedure within the prescribed time limits. If the suspension is upheld by the President or designee, Step Three (3) of the grievance and special grievances process is available to the employee.

VI. PROCEDURES FOR EXEMPT STAFF EMPLOYEES

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 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)

IMPLEMENTATION PROCEDURES:

VII-8.00 - 13

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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 the institutional website.

REFERENCES:

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

REPLACEMENT FOR:

VII – 8.10 Policy on Special Action Appeals for Classified Employees

VII-8.00 - 14

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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



BOARD OF REGENTS

SUMMARY OF ITEM FOR ACTION,
INFORMATION OR DISCUSSION

TOPIC: Convening Closed Session

COMMITTEE: Committee on Organization and Compensation

DATE OF MEETING: May 15, 2019

SUMMARY: The Open Meetings Act permits public bodies to close their meetings to the public in special circumstances outlined in §3-305 of the Act and to carry out administrative functions exempted by §3-103 of the Act. The Board of Regents will now vote to reconvene in closed session. As required by law, the vote on the closing of the session will be recorded. A written statement of the reason(s) for closing the meeting, including a citation of the authority under §3-305 and a listing of the topics to be discussed, is available for public review.

It is possible that an issue could arise during a closed session that the Board determines should be discussed in open session or added to the closed session agenda for discussion. In that event, the Board would reconvene in open session to discuss the open session topic or to vote to reconvene in closed session to discuss the additional closed session topic.

ALTERNATIVE(S): No alternative is suggested.

FISCAL IMPACT: There is no fiscal impact

CHANCELLOR'S RECOMMENDATION: The Chancellor recommends that the Committee vote to reconvene in closed session.

COMMITTEE ACTION:

DATE:

BOARD ACTION:

DATE:

SUBMITTED BY: Denise Wilkerson, dwilkerson@usmd.edu, 301-445-1906



STATEMENT REGARDING CLOSING A MEETING
OF THE USM BOARD OF REGENTS
ORGANIZATION AND COMPENSATION COMMITTEE

Date: May 15, 2019
Time: Approximately 8:30 a.m.
Location: Chancellor's Conference Room
USM Office

STATUTORY AUTHORITY TO CLOSE A SESSION

Md. Code, General Provisions Article §3-305(b):

- (1) To discuss:
 - [X] (i) The appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom it has jurisdiction; or
 - [X] (ii) Any other personnel matter that affects one or more specific individuals.
- (2) [] To protect the privacy or reputation of individuals with respect to a matter that is not related to public business.
- (3) [] To consider the acquisition of real property for a public purpose and matters directly related thereto.
- (4) [] To consider a preliminary matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State.
- (5) [] To consider the investment of public funds.
- (6) [] To consider the marketing of public securities.
- (7) [] To consult with counsel to obtain legal advice on a legal matter.
- (8) [] To consult with staff, consultants, or other individuals about pending or potential litigation.
- (9) [X] To conduct collective bargaining negotiations or consider matters that relate to the negotiations.

FORM OF STATEMENT FOR CLOSING A MEETING

PAGE TWO

- (10) [] To discuss public security, if the public body determines that public discussions would constitute a risk to the public or public security, including:
- (i) the deployment of fire and police services and staff; and
 - (ii) the development and implementation of emergency plans.
- (11) [] To prepare, administer or grade a scholastic, licensing, or qualifying examination.
- (12) [] To conduct or discuss an investigative proceeding on actual or possible criminal conduct.
- (13) [] To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.
- (14) [] Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiation strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.
- (15) [] To discuss cybersecurity, if the public body determines that public discussion would constitute a risk to:
- (i) security assessments or deployments relating to information resources technology;
 - (ii) network security information, including information that is:
 - 1. related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a governmental entity;
 - 2. collected, assembled, or maintained by or for a governmental entity to prevent, detect, or investigate criminal activity; or
 - 3. related to an assessment, made by or for a governmental entity or maintained by a governmental entity, of the vulnerability of a network to criminal activity; or
 - (iii) deployments or implementation of security personnel, critical infrastructure, or security devices.

Md. Code, General Provisions Article §3-103(a)(1)(i):

- [] Administrative Matters

TOPICS TO BE DISCUSSED:

1. Ratification of collective bargaining MOU at UB.
2. Update on status of collective bargaining at USM institutions.

3. Information update regarding athletics employment contracts at UMBC and UMES subject to review under BOR VII-10.0 Policy on Board of Regents Review of Certain Contracts and Employment Agreements.
4. Annual performance review of USM presidents.
5. Annual performance review of USM Chancellor.

REASON FOR CLOSING:

1. To maintain confidentiality regarding collective bargaining negotiations (§3-305(b)(9)); and
2. To maintain confidentiality of discussion regarding specific employment agreements (§3-305(b)(1)).
3. To maintain confidentiality of discussion regarding performance evaluations of individual personnel (§3-305(b)(1)).