

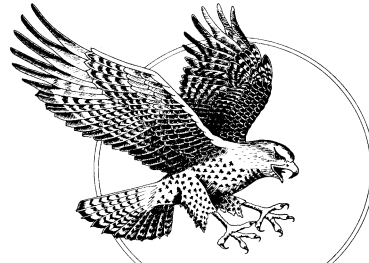


AFSCME Local
1833

Memorandum of Understanding between the
American Federation of State County and Municipal Employees
& University of Maryland Eastern Shore

Effective July 1, 2016 through June 30, 2019

Non-Exempt



**UNIVERSITY OF MARYLAND
EASTERN SHORE**

MEMORANDUM OF UNDERSTANDING

-between-

**UNIVERSITY OF MARYLAND
EASTERN SHORE**

-and-

**AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES**

NON-EXEMPT BARGAINING UNIT

7/1/16 THRU 6/30/19

TABLE OF CONTENTS
UNIVERSITY OF MARYLAND
EASTERN SHORE and AFSCME
MEMORANDUM OF UNDERSTANDING
NON-EXEMPT BARGAINING UNIT

<u>ARTICLE</u>	<u>PAGE NO.</u>
PREAMBLE	1
1 RECOGNITION	1
Section 1. Exclusive Representative	1
Section 2. Definition of Nonexempt Bargaining Unit	1
Section 3. New or Changed Classifications	1
2 NON-DISCRIMINATION	2
3 MANAGEMENT RIGHTS	2
Section 1. Scope of Rights	2
4 UNION RIGHTS	3
Section 1. Right of Access	3
Section 2. Representation Rights	3
Section 3. Means of Communication	3
Section 4. Bulletin Boards	3
Section 5. Right to Information	3
Section 6. New Employee Orientation	4
Section 7. Union Job Stewards	4
Section 8. Meeting Space	4
Section 9. Union Office	5
5 EMPLOYEE RIGHTS	5
Section 1. In General	5
6 WORKING RELATIONS	5
Section 1. Professional Working Relations	5
Section 2. No Verbal Abuse or Overzealous Suspicion	5
7 SCOPE OF AGREEMENT	5
8 HOURS OF WORK AND OVERTIME	7
Section 1.A. Workweek and Work Schedules	7
Section 1.B. Work Schedule Changes	8
Section 2. Timesheets	8
Section 3. Work Breaks	8
Section 4. Lunch Break	8
Section 5. Copy of Job Description	9
Section 6. Overtime	9
Section 7. Distribution of Overtime	9
Section 8. Payment for Overtime Worked	9

	Section 9. Advance Notice	9
	Section 10. Compensatory Time Off	9
9	PROBATIONARY PERIOD	10
	Section 1. New Employees and Converted Contractual and Temporary Employees	10
10	RECLASSIFICATION REQUESTS	10
	Section 1. Reclassification Requests	10
	Section 2. Written Requests	10
	Section 3. Timeline for Processing	10
	Section 4. Decision and Salary Adjustment	10
	Section 5. Denial of Request and Appeal Rights	11
11	WAGES and COMPENSATION [USM Coalition (Non-Exempt Units/ AFSCME MD MOA)]	11
	Section 1. FY 2017 Cost of Living Adjustment and Merit Pay Adjustments	11
	Section 2. Compensation Reopener for FY2017	11
	Section 3. MOA Limited COLA and Merit Pay Adjustment Reopeners FY2018 and FY2019	11
	Section 4.	11
12	WAGES (MOU)	12
	Section 1. FY2017 Cost of Living Adjustment and Merit Pay Adjustments	12
	Section 2. Compensation Reopener for FY2017	12
	Section 3. Limited Reopeners FY2018 and FY2019	12
	Section 4.	12
13	OTHER COMPENSATION	13
	Section 1. Shift Differential	13
	Section 2. Acting Capacity Pay	13
	Section 3. On Call	13
	Section 4. Call Back	14
14	HOLIDAYS	14
	Section 1. Recognized Holidays	14
	Section 2. Day of Observance	15
	Section 3. Holiday Pay for Regular Operations	15
	Section 4. Holiday Pay for 24/7 or Other Special Operations	15
	Section 5. Form of Payment	16
	Section 6. Use of Holidays	16
	Section 7. Holiday Termination Payment	16
15	LEAVES	16
	Section 1. Annual Leave	16
	Section 2. Personal Leave	16
	Section 3. Leave Reserve Fund	17
	Section 4. Family and Medical Leave ("FMLA" Leave)	18
	Section 5. Jury Service and for Legal Actions Leave	32
	Section 6. Educational Leave and Professional Improvement Leave	32
	Section 7. Administrative Leave	32
	Section 8. Military Leave With Pay	32

	Section 9. Call-up to Active Military Duty During a National Or International Crisis or Conflict	33
	Section 10. Leave of Absence Without Pay	33
	Section 11. Leave for Disaster Service	33
	Section 12. Accident Leave	33
	Section 13. Parental Leave	33
16	SICK LEAVE	34
	Section 1. Purpose and Applicability	34
	Section 2. General	35
	Section 3. Directed Use of Sick Leave/Medical Examinations	37
	Section 4. Verification of Absences Charged to Sick Leave	38
	Section 5. Advanced Sick Leave for the Employee's Own Illness	40
	Section 6. Extended Sick Leave for the Employee's Own Illness	41
17	UNION LEAVE	42
18	PERFORMANCE EVALUATIONS	43
	Section 1. Performance Ratings	43
	Section 2. Expectations Meeting (Establish Goals and Objectives)	44
	Section 3. Probationary and Mid-Year Performance Evaluations	44
	Section 4. Year End Performance Evaluation	45
	Section 5. Deficient Performance	45
	Section 6. Evaluation of the Department Head or Designee	46
	Section 7. Performance Evaluation Pay Adjustment	46
19	DISCIPLINARY ACTIONS	46
	Section 1. Progressive Discipline	46
	Section 2. Disciplinary Actions	46
	Section 3. Right to Union Representation	46
	Section 4. Disciplinary Action Records	46
	Section 5. Personnel Files	46
20	GRIEVANCE PROCEDURE	48
21	MISCELLANEOUS	56
	Section 1. Access to Recreation Centers	56
	Section 2. Release Time for Campus Sponsored Committees	56
	Section 3. Attendance at Job-Related Trainings	56
	Section 4. Attendance at Job Interviews	56
22	UNIFORMS AND EQUIPMENT	56
	Section 1. Uniformed Job Classifications	56
	Section 2. Replacement of Uniforms	56
23	INSURANCE AND BENEFITS	57
24	RETIREMENT	57
25	TUITION REMISSION	57
26	HEALTH AND SAFETY	58
	Section 1. General Duty	58
	Section 2. Safety Concerns	58
	Section 3. Joint Health and Safety Committee	58
	Section 4. Duties of the Health and Safety Committee	58
	Section 5. Investigative Reports	59

	Section 6. No Loss of Compensation	59
	Section 7. Personal Protective Equipment	59
	Section 8. Communicable Diseases	59
	Section 9. Hepatitis B	59
	Section 10. Cardiopulmonary Resuscitation (CPR) Training	59
	Section 11. Asbestos	60
	Section 12. Physical Examinations for Agricultural Technicians	60
	Section 13. Medical Monitoring	60
	Section 14. Inspection by Governmental Agencies	60
27	CONTRACTING OUT	60
	Section 1. Bargaining Unit Work	60
28	PARKING	60
29	ESSENTIAL EMPLOYEES	61
30	LABOR MANAGEMENT COMMITTEE	61
	Section 1. Purpose of the Committee	61
	Section 2. Composition of the Committee	61
31	NO STRIKE AND NO LOCKOUTS	62
32	SEVERABILITY	62
33	LAYOFF AND RECALL	62
	Section 1. Layoff Notice	62
	Section 2. Order of Layoff	63
	Section 3. Seniority Points	63
	Section 4. Displacement Rights	63
	Section 5. Recall List	63
	Section 6. Severance Package	64
34	DURATION [USM COALITION (NON-EXEMPT UNITS)/AFSCME MD MOA]	65
	Section 1. Duration	65
	Section 2. MOA New Matters of Negotiations Reopener	65
35	DURATION, RENEWAL (MOU)	66
	Section 1. Duration	66
	Section 2. Renewal	66
	Section 3. New Matters of Negotiations Reopener	66
	Section 4. Fair Share Reopener	66
	SIGNATURE PAGE	67

PREAMBLE

This Memorandum of Understanding (MOU) is entered into by the University of Maryland Eastern Shore (Employer or University) and the American Federation of State, County, and Municipal Employees (Union or AFSCME). It is understood that the Board of Regents of the University System of Maryland (USM) must approve this MOU and that agreements on issues requiring funding or approval by the General Assembly of Maryland are tentative pending approval and funding by the General Assembly of Maryland. The provisions of this MOU shall in no way diminish or infringe any rights, responsibilities, powers or duties conferred by the Constitution of the State of Maryland, or the Annotated Code of Maryland, including State Personnel and Pensions Article (SPP), Title 3, Annotated Code of Maryland. In the event of an inconsistency between this MOU and the law, the law shall prevail.

ARTICLE 1 - RECOGNITION

Section 1. Exclusive Representative

The University recognizes the Union as the exclusive representative of the employees, as defined in Section 2 of this Article, for the purpose of negotiating collectively with the University pursuant to SPP, Title 3, with respect to wages, hours, and other terms and conditions of employment. For employees covered by this MOU, the University will not negotiate with any other union or employee organization on matters recognized by the State Higher Education Labor Relations Board as required subjects of bargaining.

Section 2. Definition of Nonexempt Bargaining Unit

The term "employees", "bargaining unit employees" and "employees covered by this MOU" as used in this MOU shall mean all nonexempt employees in the Nonexempt Employees Bargaining Unit at UMES, exclusive of managerial, supervisory and confidential employees as certified by the SHELRB.

Section 3. New or Changed Job Classifications

Should any new nonexempt job classification(s) be created, the Employer shall notify the Union at least thirty (30) days prior to the intended date of implementation. If it is believed that the bargaining unit status of a classification has changed, the University or the Union, whichever is proposing the change, shall notify the other. In either event (i.e., new classification(s) or change in status), if the parties are in disagreement over whether or not the classification(s) at issue should be included in the unit and covered by this MOU, they will meet and attempt to resolve the matter. Where they are unable to resolve the matter, either party may elect to pursue the matter in a timely fashion before the SHELRB. The decision of SHELRB shall be final and binding on both parties subject to any appeal rights provided by law.

ARTICLE 2 – NON-DISCRIMINATION

It is the policy of the parties to prohibit discrimination in employment against any employee because of race, age, color, religion, creed, gender, sexual orientation, country of national origin, disability, marital status, veteran status, labor organization affiliation or lack of affiliation, and to promote and implement a positive and continuing program of equal employment opportunity.

ARTICLE 3 – MANAGEMENT RIGHTS

Section 1. Scope of Rights

The Employer retains the sole and exclusive authority for the management of its operations and may exercise all rights, powers, duties, authority and responsibilities conferred upon and invested to it by all laws including, but not limited to, Title 3, SPP. It is agreed by the parties that any section of this MOU that conflicts with current law, in particular Title 3, SPP, can be changed by the Employer after providing the Union with an opportunity to bargain over the proposed change. It is understood and agreed by the parties that the Employer possesses all other rights, powers, duties, authority and responsibilities to operate and manage all aspects of its operations including but not limited to its departments, agencies and programs and carry out constitutional, statutory and administrative policy mandates and goals, including but not limited to the right to:

1. Determine the mission, budget, organization, numbers, types and grades of employees assigned, the work projects, tours of duty, methods, means and personnel by which its operations are to be conducted, technology needed, internal security practices, relocation of its facilities;
2. Maintain and improve the efficiency and effectiveness of operations;
3. Determine the services to be rendered, operation to be performed, and technology to be utilized;
4. Determine the overall methods, processes, means and classes of work or personnel by which governmental operations are to be conducted;
5. Hire, direct, supervise, and assign employees;
6. Promote, demote, discipline, discharge, retain, and layoff employees;
7. Terminate employment because of lack of funds, lack of work, under conditions where the employer determines continued work would be inefficient or nonproductive, or for other legitimate reasons;
8. Set the qualifications of employees for appointment and promotion, and set standards of conduct;
9. Promulgate and/or implement State, USM, University or department rules, regulations, policies or procedures;
10. Provide a system of merit employment according to the standard of business efficiency; and
11. Take actions, not otherwise specified in this Article necessary to carry out the mission of the Employer.

ARTICLE 4 - UNION RIGHTS

Section 1. Right of Access

Union representatives shall have reasonable access to areas in which employees work with prior notice and approval by the Employer for the purpose of administration of this MOU. It is understood that such representatives will not disturb the work of employees while visiting the Employer's facilities. Approval for access described in this section will not be unreasonably denied.

Section 2. Representation Rights

Upon request, a bargaining unit employee may have union representation in the processing of a complaint, as provided in Article 17, or in a disciplinary matter as provided in Article 16.

Section 3. Means of Communication

The Union shall be permitted to use internal University mail systems, including computer/electronic mail/fax, or mailings to the employees covered by this MOU, provided that such use does not interfere with the Employer's operations and is for legitimate Union business purposes. If the Employer can illustrate that the Union is not using equipment or services in a manner consistent with this Section, the Employer shall notify the Union and provide the specific usage(s) it finds in violation of this Section. A meeting between the Employer and the Union shall take place within two (2) business days in which the parties shall attempt to resolve the matter. If no agreement is reached, the Employer may revoke the Union's use of the equipment and services. The Union may submit to the Grievance Procedure outlined in this MOU the issue of whether the Employer's revocation is in compliance with this Article. Confidentiality shall be maintained subject to the Employer's security needs. Mass mailings through the Employer's mail processing department, shall be limited to **six (6)** per calendar year.

Section 4. Bulletin Boards

The Employer shall provide space for a lockable bulletin board, provided by the Union, at the Physical Plant, Frederick Douglass Library, Richard A. Henson Building, Office of Residence Life Maintenance Building, J. T. Williams Administration Building, and the Student Services Center. These bulletin boards shall be for the exclusive use of the Union. The Union shall be responsible for the posting of all items on the bulletin board. The Employer shall designate reasonable conspicuous space in work or break areas for the placement of the bulletin boards, and the bulletin boards must be consistent with the interior design and furnishings of the particular building. Each item posted shall be dated and initialed by the Union official approving the posting. The Union shall ensure that posted items are not illegal, defamatory, factually inaccurate, partisan, or political and that no item is detrimental to the safety and security of the University. At the time of posting, the Union shall provide an informational copy of all items to the Employer (Human Resources Director).

Section 5. Right to Information

The University shall provide the Union with the following information three (3) times yearly on January 1st, July 1st, and October 1st, a listing of all bargaining unit employees. The report shall include the name, job title, assigned salary, department, office/work location, work email, if

available, and work phone number. The report shall be submitted both electronically, preferably in Excel format, and paper format. The University shall also provide to the Union a list of all new hires in the preceding months, a list of all employees who retired, resigned or otherwise separated from the University in the preceding half year and a list of all contingent employees due for conversion within 6 months. The University shall assign a unique identification number for all bargaining unit employees. All lists submitted to the Union shall include said unique identifier for each employee listed.

Upon request by the Union, the Employer will also provide, in accordance with the Maryland Public Information Act, any other relevant and necessary information that the Union is entitled to as the exclusive representative of bargaining unit employees.

Section 6. New Employee Orientation

One Local union officer or job steward, shall be granted twenty (20) minutes during the new employee orientation sessions organized by the Employer to meet with new bargaining unit employees and to make a presentation on behalf of the Union. In the event the Employer does not provide for an employee orientation, a Local 1833 union officer or job steward and the new bargaining unit employee will be allowed twenty (20) minutes, with notification to and approval of their respective supervisors, without loss of compensation, to meet during work time to discuss information pertaining to the role of the Union. The Union Officer or job steward will coordinate the twenty (20) minute information meeting through the Human Resources Director or designee. The Human Resources Director will arrange the meeting within a reasonable time.

Section 7. Union Job Stewards

The Union may appoint or elect certain bargaining unit employees to serve as union job stewards. There will be a total of six (6) job stewards representing employees covered by this MOU. Consistent with operational needs, the Employer will allow reasonable release time as defined in Article 17 of this MOU, without loss of compensation, to job stewards for the purpose of presenting grievances to the Employer on behalf of an employee. Typically, a grievance will have no more than one union representative (President or job steward) in attendance at a grievance hearing. Exceptions may be granted by mutual agreement of the parties. This limitation does not apply to non-university employee staff representatives. The Union will submit a list of job stewards to the employer within ninety (90) days after the ratification of this MOU, and thereafter will notify the Employer in writing as to any changes to the job stewards' list. No employee may serve or act as a job steward until officially designated by the Union.

Section 8. Meeting Space

The Employer agrees to provide, at no cost to the Union, meeting space to conduct six union related meetings per year provided that the Union submits a written request for the use of facilities a minimum of two weeks in advance of the date of the meeting and complies with University reservation procedures. The University will respond to a written request within three (3) business days. When a request for use of meeting space is denied, the Employer will state the reasons for the denial in writing. The Employer shall not discriminate against the Union or its members when assessing the feasibility of providing meeting space for Union business, nor shall the Employer unreasonably deny a request.

Section 9. Union Office on Campus

The Employer agrees to provide the Union a designated office on campus for use for Union business. The designated office shall be secured and furnished with a telephone extension, and appropriately wired and activated for a desktop computer. The Union will be responsible for furnishing the office and providing the necessary equipment. The Employer and the Union shall consult as to the specific location of the Union office. The Office will be made available within 60 days following the date of ratification by the USM Board of Regents.

Since the union for all bargaining units is the same, there will be one office for all covered units – Exempt, Non-exempt, and Sworn Police Officers.

ARTICLE 5 – EMPLOYEE RIGHTS

Section 1. In General

In addition to all rights granted under this MOU, all employees in the bargaining unit shall enjoy the protections and rights codified in Section 3-301, Title 3, of the State Personnel and Pensions Article, Annotated Code of Maryland.

ARTICLE 6 – WORKING RELATIONS

Section 1. Professional Working Relations

The University and the Union agree that all employees, regardless of bargaining unit or union membership standing, shall treat each other with dignity and respect during the course of performing their professional duties for the University.

Section 2. No Verbal Abuse or Overzealous Supervision

The University and the Union agree that supervisory employees must demonstrate exemplary conduct. Such conduct includes, but is not limited to restraining from verbal or physical attacks on employees, threatening employees, and humiliation or harassment in any form prohibited by law. We also expect employees to maintain the same rules of professionalism.

ARTICLE 7 -- SCOPE OF AGREEMENT

The specific provisions of this MOU supersede the corresponding specific terms of the previously established policies and procedures maintained by the University at the time this MOU is ratified. This MOU may be modified only by the written agreement of the University and the Union. All Board of Regents (BOR) and University policies and procedures shall remain in full force and effect unless modified specifically by this MOU or as provided below.

The University and the Union acknowledge and agree that during the negotiations that resulted in this MOU, each had the unlimited right and opportunity to make demands and proposals with respect to any subject of bargaining as provided in SPP, Title 3, and applicable SHELRB regulations and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this MOU. The University and the Union agree that for the term of this MOU, each waives the right to bargain collectively, and neither shall be obligated to bargain collectively with respect to: 1) any subject specifically referred to in this MOU unless such bargaining is initiated by the University pursuant to this MOU's savings clause or because of an emergency condition or legislative mandate; 2) subjects on which the Union made, or could have made, proposals during bargaining, but about which no agreement was reached, so long as the Union was aware or reasonably should have been aware of the subject during the bargaining process; and, 3) subjects on which the University made specific proposals but about which no agreement was reached, unless any such subject is raised by the University pursuant to this MOU's savings clause or because of a legislative mandate or emergency condition. The parties further agree and intend that the waiver set forth in the sentence above ("Waiver") shall be construed as consistent with the provisions of the Preamble to this MOU and enforceable.

Except as provided in the Waiver, the University and the Union acknowledge their mutual obligation to negotiate as defined and limited by law and this MOU over University proposed changes in wages, hours and other terms and conditions of employment which affect bargaining unit employees and which are not reserved to the University as a management right or otherwise allowed by this MOU. In such circumstances, the obligation to bargain is limited to those changes that will affect the wages, hours and other terms and conditions of employment of bargaining unit employees and that are subject to bargaining under applicable law.

The University must provide thirty (30) calendar days notice prior to the implementation of any such proposed change in wages, hours and other terms and conditions of employment, to the Union, provided however, that if the proposed change is to meet a legislative mandate or an emergency situation (including an emergency fiscal management issue) the University may provide the Union with less than thirty (30) days notice but such shorter notice must be as soon as reasonably possible prior to the implementation of the proposed change. In such circumstance the notification must indicate the legislative mandate or emergency situation as well as any known timeframes in conjunction with the mandate or emergency.

In circumstances where the proposed change is not required because of an emergency situation or legislative mandate and the thirty (30) days notice is given, the Union, within ten (10) days of receipt of the University's notice, may request bargaining in connection with the proposed change by notifying the University in writing and may also submit a written request to the University for information which is relevant and necessary to the proposed change. Where the Union does not request bargaining during the ten (10) day period, the University is free to implement the change immediately. Where the Union does request bargaining but does not request information, the Union shall submit its written proposals in response to the University's proposed change(s) within ten (10) days of the University's notice of proposed change, and the parties will meet promptly to discuss the change(s) and any proposals submitted by the Union. This ten (10) day time limit may be extended by written agreement of the parties.

In the event the Union requests information relevant and necessary to the proposed change(s), any such information request must be submitted to the University within ten (10) days of receipt of the University's notice, and the Union must submit its written bargaining proposals to the University within five (5) days of the Union's receipt of the University's good faith response to the Union's information request. The Union agrees that it will tailor its information request so as not to delay the bargaining process.

In circumstances where the proposed change is required to meet a legislative mandate or an emergency situation, and the proposed change implementation date is less than thirty (30) days, the University may provide the Union with less than thirty (30) days notice, and the Union may request bargaining within a proportionate amount of time (request for bargaining is to ten (10) days as shorter University notice is to thirty (30) days). The Union must also submit to the University its written proposals within this proportionate time period (where shorter notice is given) or the ten (10) day period, whichever is applicable. Where the Union does not request bargaining, the University is free to implement the change. When the Union does request bargain and submits its proposals within the required timeframe, the parties will meet promptly. The Union may also request information relevant and necessary to the proposed change. The Union will tailor its information request so as not to delay the bargaining process. The University will provide its good faith response to the Union's information request as soon as reasonably possible.

The Union's ability to negotiate under this Article does not provide the Union with a "veto" power over the University's proposed changes, and it shall not delay the implementation of such changes. The University may implement the proposed changes that are subject to this bargaining process as scheduled even if after good faith negotiations there has not been mutual agreement.

Where bargaining is requested by the Union over changes necessary to meet a legislative mandate or emergency condition, the parties will negotiate in good faith, and the University may implement any changes necessary to meet the legislative mandate or emergency condition, including any applicable timeframes, regardless of whether an agreement has been reached. The parties understand and agree the University's implementation of the proposed change(s) within the time frame identified to meet the emergency condition or legislative mandate is paramount. Failure of the Union to submit a timely information request, or failure of the University despite good faith efforts to respond to any such request, or the failure of the parties to complete bargaining shall not be deemed as a failure to discharge any obligations under the law or this MOU, and the University may implement any proposed change within the identified time frame.

This Article is also subject to Article 31 Severability.

ARTICLE 8 – HOURS OF WORK AND OVERTIME

Section 1.a. Workweek and Work Schedules.

A work schedule is defined as the employee's assigned work hours, including starting and ending times during the day, and the days included in the employee's standard workweek. Unless modified by the Employer, the normal standard workweek is forty (40) hours per week, and runs from Monday through Friday. It is understood that there may also be workweeks other than

Monday through Friday in 24/7 or other special operations. The administrative workweek for purposes of reporting work time begins at 12:00 a.m. on Sunday and ends at 11:59 p.m. on Saturday. All overtime pay is based on the administrative workweek and the Fair Labor Standards Act (FLSA). There is no guarantee of the number of hours of work in a day or week.

Section 1.b. Work Schedule Changes.

The Employer has the right to implement any work schedule change it deems appropriate so long as the work schedule and employee compensation comports with the Fair Labor Standards Act (FLSA) and this MOU. Where the workweek schedule is changed, the University will provide the employee with as much advanced notice of the schedule change as reasonably possible. An employee who does not receive notice of a workweek schedule change before reporting for work as regularly scheduled will not be deprived of the opportunity to work his/her regularly scheduled hours that day because of the schedule change. The number of hours in an employee's regularly scheduled work week will not be changed to avoid paying overtime pay resulting from an employee working on the day the employee was scheduled to observe a holiday. In the event the Employer implements a permanent change in an employee's work schedule, the Employer will provide the affected employee with seven (7) calendar days advance notice. The notice period may be shorter where the permanent schedule change relates to an emergency situation.

Employees may request and, in accordance with operational needs and with the approval of the supervisor, be approved temporary changes in their regular work schedule including flextime, "make-up" time and shift changes.

Section 2. Timesheets.

Employees are required to record all hours worked and absences (paid and unpaid) on their time sheets.

Section 3. Work Breaks.

There shall normally be two paid duty-free rest periods of fifteen (15) minutes each for full-time assignments. Rest periods shall be scheduled towards the mid point of the first and second parts of the daily schedule. Rest periods begin and end at the employee's work location, with prior notification to the appropriate supervisor. (For this section only, work location shall mean the building/area where an employee is assigned on a particular day.) During a break period, the employee is free to move about the campus.

Section 4. Lunch Break.

There shall be a duty-free unpaid lunch break of at least thirty (30) minutes for employees working on assignments of eight (8) hours or more. Lunch breaks should normally be scheduled at approximately the mid point of the employee's regular work shift. Employees, with prior approval of the supervisor, may choose a daily schedule encompassing nine (9) hours, which allows a sixty (60) minute duty-free unpaid lunch break.

Due to the nature of the operation, employees serving as stationary engineers are to take up to a thirty (30) minute paid meal break while on duty with notification to or approval of the supervisor. While attending training, such employees will take an unpaid meal break that coincides with the training schedule, except that application of this unpaid meal provision shall not result in an employee receiving less than eight hours pay for that day. Stationary engineers who are on paid

lunch break may not leave campus while on duty without supervisor approval and must be available to return to their job duties immediately where necessary.

Section 5. Copy of Job Description.

The Employer retains the right to change an employee's job-related duties. Upon initial employment and upon each significant change in the employee's duties and/or job classification thereafter, the affected employee shall be furnished a copy of his/her revised job description.

Section 6. Overtime.

The amount of overtime shall be determined by the Employer. Employees shall receive 1-1/2 times their regular rate of pay for hours worked in excess of forty (40) hours per week in accordance with the FLSA. All hours worked and paid in excess of forty (40) in a week must be pre-approved by the employees supervisor. Hours worked shall include paid sick, annual, holiday, administrative, and personal leave.

Section 7. Distribution of Overtime.

The Employer will make reasonable efforts to distribute overtime opportunities as equally as possible among all qualified employees within a specific job classification in their respective department/office on a semi-annual calendar year basis. Refusal of overtime work will be taken into account for overtime distribution purposes. Management will maintain a list containing the name and the number of hours of overtime offered, worked, and refused for each employee in his/her department/office. The Employer may assign mandatory overtime work without regard to the foregoing to meet operational needs.

Section 8. Payment for Overtime Worked.

Payment for overtime hours worked under this MOU shall be paid to the employee in accordance with the FLSA and this MOU and in accordance with University and Central Payroll procedures.

Section 9. Advance Notice.

The Employer shall normally provide notice of required scheduled overtime work at least twenty-four hours in advance of such overtime. Notice of emergency or unscheduled overtime work will be given as soon as reasonably possible. Refusal of scheduled overtime work by employees on the basis that management did not provide advance notice within the time limits (24 hours) shall not be charged against those employees as an overtime opportunity refused. The Employer retains the right under any circumstances to require the least senior qualified employees to perform the overtime work.

Section 10. Compensatory Time Off.

At the request of the employee and subject to management approval, overtime may be compensated in the form of compensatory time off. Where compensatory time off is granted, it is earned at the rate of one and one-half (1 ½) hours for each hour of employment for which overtime compensation is required. Subject to management approval, earned compensatory time off shall be used within the twelve-month period following when it was earned. Compensatory time not used within this time period will be paid to the employee. Compensatory time off in excess of forty (40) hours will be automatically paid.

ARTICLE 9 - PROBATIONARY PERIOD

Section 1. New Employees and Converted Contractual and Temporary Employees

Probationary periods shall be administered per provisions of USM Policy VII – 1.21 Policy on Probation for Nonexempt Employees, except that extensions of original and status change probationary periods are limited to ninety (90) days rather than six (6) months. The Employer agrees to provide the Union with an opportunity to comment on any proposed changes to the aforementioned policy before implementing the changes.

ARTICLE 10 – RECLASSIFICATION REQUESTS

Section 1. Reclassification Requests

Reclassification requests may be made by members of the nonexempt job group when the job class to which a position is assigned is changed by raising it to a higher class, reducing it to a lower class, or changing it to another class at the same level. Reclass actions are based upon significant and substantial changes that evolve in the position's primary duties, when structured changes occur in the position's duties and responsibilities that were unforeseen at the time of hire and are crucial to the mission and/or organizational effectiveness of the university, or as a result of changes in the job evaluation program. Employee initiated requests may occur no more than once per year.

Section 2. Written Requests

The employee shall submit his/her request to the appropriate supervisor and concurrently to the Office of Human Resources. The employee shall prepare the request on the appropriate Reclassification Request Form along with attachments of relevant materials such as the employee's approved job description.

Section 3. Timeline for Processing

The Office of Human Resources shall have appropriate personnel conduct a desk audit to determine the need for reclassification action within 6 months of the filing of the request or as soon as practicable following the submission of the request.

Section 4. Decision and Salary Adjustment

- a. Salary upon lateral reclassification shall remain the same.
- b. Salary upon promotional reclassification shall be 6% of the base salary at the time of the filing of the reclassification request.
- c. Salary upon demotion shall be placed within the range of the new classification. In no case shall it exceed the range of the new position.

Section 5. Denial of Request and Appeal Rights

The denial of a reclassification request shall be provided to the employee by the Vice President of Administrative Affairs in writing with an explanation of the reasons for denial. The employee may appeal a denial pursuant to the grievance policies contained in this MOU at Article 17.

ARTICLE 11 – WAGES AND COMPENSATION [USM Coalition (Non-Exempt Units)/AFSCME MD MOA]

Section 1. FY2017 Merit Pay Adjustments

Effective July 1, 2016, a Merit Pay Adjustment of 2.5% shall be added to the base pay of each employee who has achieved “meets standards” or better on his/her last performance rating. If the merit adjustment would cause an employee’s pay rate to exceed the maximum pay rate for the employee’s pay grade range, the employee’s pay rate will be adjusted to the maximum of the pay range and the remainder of the merit adjustment shall be provided in the form of a one-time, lump sum payment which shall not be included in the employee’s base pay. The lump sum shall be paid as soon as practical following July 1, 2016.

Section 2. Compensation Reopener for FY2017

The Parties agree to reopen negotiations concerning the FY2017 Merit Pay Adjustment at the request of either the USM Coalition or AFSCME, if negotiations are reopened between AFSCME and the State of Maryland as to the amount and/or effective date of the FY2017 salary increments provided for in the applicable collective bargaining between AFSCME and the State.

Section 3. MOA Limited Reopeners FY2018 and FY2019

The Parties will reopen negotiations under this MOA beginning in the first week of September 2016 and 2017, respectively, for the sole purpose of seeking to reach agreement as to what COLA, if any, and what Merit Pay Adjustments, if any, and what funding conditions and requirements for both items shall be included in the USM budget request submitted to the Governor for FY2018 and FY2019. All other terms and conditions of the MOA covering the period July 1, 2016-June 30, 2019, shall remain in full force and effect, except as otherwise provided herein.

Section 4.

Any bonus, COLA or Merit Pay Adjustment provided for above shall be subject to the General Assembly’s prior approval and funding and all controlling directions or restrictions imposed by the Governor or General Assembly.

ARTICLE 12 - WAGES (MOU)

Section 1. FY2017 Merit Pay Adjustments

Pursuant to the terms of the current MOA between the USM Coalition (Non-Exempt Units) and AFSCME MD, each bargaining unit employee will receive the following:

Merit Pay Adjustment: Effective July 1, 2016, a Merit Pay Adjustment of 2.5% shall be added to the base pay of each employee who has achieved "meets standards" or better on his/her last performance rating. If the merit adjustment would cause an employee's pay rate to exceed the maximum pay rate for the employee's pay grade range, the employee's pay rate will be adjusted to the maximum of the pay range and the remainder of the merit adjustment shall be provided in the form of a one-time, lump sum payment which shall not be included in the employee's base pay. The lump sum shall be paid as soon as practical following July 1, 2016.

Section 2. Compensation Reopener for FY2017

The Parties agree to reopen negotiations concerning the FY2017 Merit Pay Adjustment at the request of either the USM Coalition or AFSCME, if negotiations are reopened between AFSCME and the State of Maryland as to the amount and/or effective date of the FY2017 salary increments provided for in the applicable collective bargaining between AFSCME and the State.

Section 3. Limited Reopeners FY2018 and FY2019

Pursuant to the terms of the current MOA between the USM Coalition (Non-Exempt Units) and AFSCME MD, that MOA will be subject to reopening for the sole purpose of negotiating an agreement as to what COLA, if any, and what Merit Pay Adjustment, if any, and what funding conditions and requirements for both items shall be included in the USM budget request submitted to the Governor for Fiscal Years 2018 and 2019 respectively. Subject to approval and funding by the General Assembly and controlling directions or restrictions imposed by the Governor or General Assembly, COLA and/or Merit Pay Adjustments for FY2018 and/or FY2019 agreed upon by the USM Coalition (Non-Exempt Units) and AFSCME MD pursuant to the aforementioned reopener provisions shall be incorporated into this MOU.

Section 4.

Any bonus, COLA or Merit Pay Adjustment provided for above shall be subject to the General Assembly's prior approval and funding and all controlling directions or restrictions imposed by the Governor or General Assembly.

ARTICLE 13 -- OTHER COMPENSATION

Section 1. Shift Differential

- A. An employee who regularly works a qualifying shift is eligible for shift differential pay for hours actually worked subject to the conditions set forth below. A qualifying shift means a full-time or permanent part-time shift that starts at or after 2:00 P.M. and at or before 3:00 A.M. The rate of shift differential pay is one-dollar (\$1.00) per hour. Shift differential will be included in the regular rate calculation for the computation of overtime. The following provisions establish eligibility:
1. To qualify for shift differential, an employee must be employed on a fifty percent (50%) or more basis of full-time employment.
 2. Shifts and eligibility for shift differential pay are not established by the time the employee begins to work, but rather by when an established shift starts.
 3. An employee who works any part of a qualifying shift is eligible for shift differential pay on a prorated basis.
 4. Shift differential is authorized for an employee who is permanently assigned to a qualifying shift while on approved leave with pay. An employee who is on a permanent schedule of rotating shifts is eligible to claim the shift differential only for leave taken while scheduled for a qualifying shift. However, such payment of shift differential will cease after ten (10) full workdays of continuous paid leave for which there has been a shift payment.
- B. In an overtime situation where the employee continues working from a non-qualifying shift into a qualifying shift, the employee is eligible for a prorated shift differential for the portion of the qualifying shift they work.

Section 2. Acting Capacity Pay

- A. When an employee is appointed to a higher level position on a temporary basis, the employee is in acting capacity and shall be eligible for acting capacity pay beginning on the 31st consecutive calendar day of work in the acting capacity, retroactive to the first day that the employee served in the acting capacity.
- B. The employee is eligible for a salary increase of not less than six percent (6%). Upon conclusion of the acting appointment, the employee's salary reverts to the employee's last regular salary rate in effect prior to the acting appointment, subject to adjustment for any intervening salary adjustments, other than acting capacity pay, that have occurred. An employee who is in acting appointment status must meet the minimum qualifications of the position to which he or she is appointed.

Section 3. On Call

- A. Employees may be placed in an on-call status at the direction of the University. The following guidelines apply:

1. An employee assigned to on-call status is eligible to receive compensation in the amount of twenty-four dollars (\$24) per day, plus appropriate wages for all hours worked. On-call pay shall be included in the computation for overtime wages.
2. The employee must be accessible at all times and must immediately notify his/her supervisor if inaccessible. If inaccessible, on-call pay will be forfeited.
3. An employee cannot be designated on-call for more than seven (7) consecutive days, however he/she may be on-call for 24 hours on each of those days.
4. An employee who is assigned to on-call status and cannot be reached, or does not report within two (2) hours of being contacted, will face disciplinary action and will not receive on-call pay for that day.
5. Employees will not receive on-call compensation if performance of the duties is an extension of the regular workday or workweek.
6. Essential employees are not automatically assigned to on-call status.
7. The University will make reasonable efforts to allocate on-call assignments among qualified eligible employees on a rotating basis.

Section 4. Call Back

The University may, at its discretion, require an employee(s) to report to work in “call-back” capacity. Employees who are required to return to work on a regularly scheduled on-duty day after going off-duty, or are required to work on a regularly scheduled off-duty day are eligible for call-back compensation, a guaranteed minimum of two (2) hours of pay at the applicable rate of pay even if the time spent on duty is less than two hours. This circumstance does not apply to the employee who may be working overtime as a continuation of the employee’s normal hourly schedule. Normally, travel between home and work is not work time. However, where employees have gone home after completing a day’s work or are on scheduled off duty days and subsequently are required to return to the normal place of work or any other location in order to perform a necessary task, travel time is included as work time. Additionally, such hours spent in travel shall be considered as hours worked and count toward the accumulation of overtime hours. Travel time counts toward the two-hour minimum call-back time. An employee who is called back during a qualifying shift will receive a pro-rata shift differential.

ARTICLE 14 – HOLIDAYS

Section 1. Recognized Holidays

All employees in the bargaining unit are eligible to earn holiday leave for the following recognized holidays:

Holiday

New Year’s Day
 Dr. Martin Luther King Jr.’s Birthday
 President’s Day
 Memorial Day
 Independence Day

Date Earned

January 1
 3rd Monday in January
 3rd Monday in February
 Last Monday in May
 July 4

Labor Day	1 st Monday in September
Columbus Day	2 nd Monday in October
Election Day (General and/or Congressional)	1 st Tuesday in November (even-numbered years)
Veterans' Day	November 11
Thanksgiving Day	4 th Thursday in November
Friday after Thanksgiving Day	4 th Friday in November
Christmas Day	December 25

In addition, employees are eligible to earn holiday leave for three (3) University holidays, which shall be observed at the discretion of the University President or designee. The actual dates of observance for paid holidays and University holidays vary from year to year. The current year's listing of observed dates for holidays may be found on the University personnel web page and in the campus directory.

To earn holiday leave, employees must be in a paid employment status on the date the holiday is earned. To earn holiday leave for University holidays, employees must be in paid employment status on the calendar date the holiday is observed.

Part-time employees on at least fifty (50) percent basis of fulltime employment shall earn holiday leave on a prorated basis.

Employees covered by this MOU shall also earn holiday leave for any other holiday that the President of the University determines will be observed by the University.

Section 2. Day of Observance

When a holiday falls on a Saturday, it is observed the Friday before, and when a holiday falls on a Sunday, it is observed on the following Monday. The Employer reserves the right to determine when holidays are observed.

Section 3. Holiday Pay for Regular Operations

Employees shall receive holiday leave at their regular hourly rate for every holiday the employee is entitled to observe. If an employee is required to or authorized to work on the day the employee is entitled to observe a holiday, the employee will be paid at the applicable rate of pay under the FLSA for all hours worked and will receive earned holiday leave for that day.

Section 4. Holiday Pay for 24/7 or other Special Operations

Holidays in 24/7 or other special operations are prescheduled based upon the workweek schedule rotation. The Employer reserves the right to assign holidays in accordance with this schedule rotation and shall make best efforts to grant the employee the day off requested, subject to operational needs. Management will work with 24/7 employees to allow them to take their pre-scheduled holidays; however, due to operational needs, an employee may be required to work on the employee's prescheduled holiday. When this occurs, the employee will be paid at the applicable rate of pay under the FLSA for all hours worked on the day the employee was prescheduled to observe the holiday and will receive earned holiday leave for that day.

Section 5. Form of Payment

When an employee earns overtime compensation during a week in which the employee worked on a day the employee was scheduled to observe a holiday, the employee will be paid for the overtime on a cash basis, provided however, that the supervisor and the employee may mutually agree to compensatory time in lieu of cash payment as outlined in Article 7, Hours of Work and Overtime.

Section 6. Use of Holidays

Holiday and University holiday leave may not be carried on the books for use at other times.

Section 7. Holiday Termination Payment

Employees who leave their employment at the University for any reason are entitled to be paid for any unused holiday leave that has been earned as of the date of separation. If a holiday is taken and the employee severs employment before the holiday is earned, the employee will pay back the holiday upon severance.

ARTICLE 15 – LEAVES

Section 1. Annual Leave (USM Policy VII-7.00)

Annual Leave for employees covered by this MOU is governed by USM Policy on Annual Leave (VII-7.00 approved by the Board of Regents April 25, 1991) and is subject to all the terms and conditions set forth therein with the following modification:

Annual leave for full-time employees in the bargaining unit is earned on a prorated basis and can be used to the extent it is accrued and available. Leave will be earned according to the following schedule. (Part-time employees in the bargaining unit working 50% or more will earn annual leave on a pro-rated basis.)

From 0 to 6 months: Leave is earned on a prorated basis and can be used to the extent it is accrued and available during an employee’s first six months of service up to a maximum of: 5.5 days.

Beginning with the 1 st month through the completion of the 1 st year:	11 days
Beginning with the 2 nd year through the completion of the 2 nd year:	12 days
Beginning with the 3 rd year through the completion of the 3 rd year:	13 days
Beginning with the 4 th year through the completion of the 4 th year:	14 days
Beginning with the 5 th year through the completion of the 10 th year:	15 days
Beginning with the 11 th year through the completion of the 20 th year:	20 days
Beginning with the 21 st year and thereafter:	25 days

Section 2. Personal Leave (USM Policy VII - 7.10)

Personal Leave for employees covered by this MOU is governed by USM Policy on Personal Leave (VII - 7.10 approved by the Board of Regents, December 3, 1999). Full-time employees shall receive three days (not to exceed 24 hours) of personal leave in each calendar year. Part-time employees working 50% or more shall receive personal leave on a pro-rated basis.

Personal leave must be used by the end of the first pay period which ends in the new calendar year. Any personal leave that is unused as of that time shall be forfeited by the employee and shall be contributed to the USM Leave Reserve Fund in accordance with the then current USM Policy on Leave Reserve Fund. No employee shall be paid for unused personal leave.

The use of personal leave shall require prior notification to the employee's supervisor.

Section 3. Leave Reserve Fund (USM Policy VII - 7.11)

Request for leave under the LRF will be in accordance with USM Policy VII – 7.11 Policy on Reserve Fund (LRF) and the terms described below.

Personal leave unused by an employee shall be remitted to the Leave Reserve Fund available for University employees. The Leave Reserve Fund provides paid leave to full time and part-time employees who become temporarily medically disabled. A person authorized to act on the employee's behalf may make the leave request on behalf of the employee when the employee is unable to do so.

An employee wishing to receive leave under this policy shall submit a request directly to the Office of Human Resources at the Institution where the employee works. The request may be submitted by using the "USM Leave Reserve Fund Request," attached to this MOU, or by a written request containing the following information:

- Employee's name;
- Name of Institution;
- Employing department;
- Employee's position title, USM service date and number of months of creditable service;
- Amount of leave and specific dates requested; and

Physician's certification of temporary disability which includes the physician's judgment as to when the employee may reasonably be expected to return to work – a prognosis, not diagnosis, or appropriate documentation of the birth or adoption of a child, if the employee is requesting parental leave. (This information should be kept confidentially at the Institution and not forwarded to the USMO-HR.)

If the Institution's Department of HR determines that the employee is eligible to apply for leave from the LRF, it will forward the request for leave to the USMO-HR within five (5) working days following receipt of the request from an employee. The USMO-HR office will issue a response within five (5) working days after its receipt of a request for leave.

An employee who is determined to be ineligible for leave from the LRF by his/her Institution's Department of HR, or whose request for leave is denied by the USMO-HR, shall have the right to file a grievance concerning that determination in accordance with Section 13-201 et seq., of the Annotated Code of Maryland Education Article. Such a grievance shall be initiated at Step Two of that grievance procedure within five (5) days after receipt of the written determination of the

Institution's Department of HR or the USMO-HR which is the subject of the grievance. In the case a grievance concerning the denial of a request for leave by the USMO-HR, the written decision by the President or President's designated representative shall be rendered after consultation with the Chancellor or the Chancellor's designated representative.

Beginning in March, 2016, upon written request from AFSCME MD, the USM (USMO-HR) on behalf of the USM Coalition will furnish the Union annually a report containing the following information for the preceding Calendar Year:

1. For each Coalition Institution, the number of FLSA classified Non-Exempt employees whose requests for LRF usage were approved and the total number of hours and minutes approved.
2. For each Coalition Institution, the number of FLSA classified Non-Exempt employees whose requests for LRF usage were denied.

Section 4. Family and Medical Leave ("FMLA" Leave)

This type of leave is based on federal law as described in the Family and Medical Leave Act of 1993 (FMLA). The University shall make FMLA leave available to employees in accordance with the FMLA and USM policies.

FMLA leave is not a separate form of accrued leave, like sick or annual leave. FMLA leave allows a qualifying employee to take employment-protected leave (by first using available sick and annual leave and then unpaid leave) for up to twelve (12) weeks for any of the following reasons.

- 1) To care for the employee's child after birth, or placement for adoption or foster care;
- 2) To care for the employee's spouse, son, daughter, or parent who has a serious health condition;
- 3) For a serious health condition of the employee, including pregnancy and recovery time, that renders an employee unable to perform his or her job; or
- 4) Any other reasons stated in USM Policy VII-7.50.

The National Defense Authorization Act requires the USM to provide additional FMLA leave benefits for Staff employees with family members in the military.

1. Certain family members may use up to twenty-six (26) weeks in a twelve (12) month period to care for an ill or injured service member under certain conditions.
2. Certain family members may use their twelve (12) week FMLA entitlement for certain qualifying exigencies.

To qualify for FMLA Leave:

- 1) The employee must have worked for the University for at least twelve (12) months, and
- 2) The employee must have worked at least 1040 hours in the twelve (12) months immediately preceding the date the leave is to commence.

In addition to USM Policy VII-7.50, the Sick Leave Article contains specific provisions dealing with Family and Medical Leave.

I. TERMS AND DEFINITIONS

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

A. Accrued Leave - Earned and unused annual leave, certain holiday leave, sick leave available for use under the sick leave article, compensatory leave, and unused personal leave.

B. Alternative Position - A position to which an eligible employee may be temporarily reassigned during a period of intermittent Family and Medical leave (FML) and/or working a reduced schedule. The alternative position shall have equivalent benefits and pay as the position from which the eligible employee was reassigned.

C. Care - "to take care of" or "to care for". The term care is intended to be read broadly to include both physical and psychological care. The language applies to the period of inpatient care and home care as well.

D. Child (except for military FML requests) - A person who is the son or daughter of an eligible employee and who is under eighteen (18) years of age; or, eighteen (18) years of age or older and incapable of self-care because of a mental or physical disability during the period of the serious illness. The son(s) and/or daughter(s) may be the biological, adopted, step or foster child(ren) of the eligible employee. The term "child" shall also include someone who is the legal ward of the eligible employee or someone for whom the eligible employee has provided sufficient, notarized affidavit(s) and proof of financial dependence that he/she is standing in loco parentis.

E. Covered Active Duty - in the case of a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; and in the case of a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a call or order to active duty under a provision of law referred to in Section 101(a)(13)(B) of title 10, United States Code.

F. Covered Family Members of Covered Servicemembers (Military Leave Only) - Care by an USM employee, for a Covered Servicemember who becomes ill or injured as a result of service in the military, who is a:

1. Spouse; and/or
2. Parent; and/or
3. Child (including adult children); or
4. if none of the above is available, the Next Of Kin.

G. Covered servicemember –

1. a current member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in

outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

2. a covered veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves), and was discharged or released under conditions other than dishonorable at any time during the 5-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran.

H. Eligible Employee - An employee who has been employed for a total of at least twelve (12) months as a USM or a State of Maryland employee; and who has worked for at least one thousand and forty (1,040) hours during the twelve (12) month period immediately prior to the beginning date of the leave as a USM or State of Maryland employee. For part-time employees on at least a 50% basis, the minimum number of hours required for eligibility shall be prorated. For convenience, within the text of this policy the term "employee" instead of "eligible employee" shall be used.

I. Equivalent Position - A position at the institution to which an employee may be restored upon the completion of the FML. The equivalent position shall have equivalent benefits, pay, and other terms and conditions of employment as the position from which the employee took leave.

J. Exigency Leave - There are eight different circumstances that will qualify as an "exigency" for military FML:

1. Issues arising from a military member's short notice deployment [call to covered active duty on seven (7) or fewer calendar days notice prior to the date of deployment];

2. Military events and related activities (official ceremonies, programs or events sponsored by the military), or family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or the American Red Cross that are related to the covered active duty or call to covered active duty of a military member;

3. Childcare and related activities arising from the covered active duty or call to covered active duty status of a military member (including but not limited to arranging for alternative childcare, providing childcare on a non-routine, urgent, immediate need basis, enrolling or transferring a child in a new school or day care facility, and attendance at certain meetings at a school or a day care facility if they are necessary due to circumstances arising from the covered active duty or call to covered active duty) of a covered military member;

4. Financial and legal arrangements (to make or update legal and/or financial arrangements for the covered military member's absence or act as his/her representative before a government agency);

5. Attending counseling provided by someone other than a health care provider for oneself, for the covered military member, or for a child of the covered military member, the need

for which arose from the covered active duty or call to covered active duty of the covered military member;

6. Rest and recuperation leave of up to fifteen (15) days to spend with a covered military member (for each instance of short-term temporary leave rest and recuperation during a deployment);

7. Attending Post-deployment activities (including arrival ceremonies, reintegration briefings and other official ceremonies or programs sponsored by the military for a period of 90 days following the termination of the covered military member's covered active duty status, and issues arising from the death of a covered military member);

8. Providing parental care necessitated by the absence of the covered active duty of a military member whose parent is incapable of self-care.

9. Additional activities (provided that the institution and employee agree that such activities shall qualify as an exigency and agree to both the timing and duration of leave).

K. Health Care Providers - Are Doctors of Medicine or Osteopathy, Podiatrists, Dentists, Clinical Psychologists, Optometrists, Chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist), nurse practitioners and nurse midwives, clinical social workers and physician assistants who are authorized to practice by the State of Maryland, Christian Science Practitioners listed with the First Church of Christ Scientist in Boston; and Licensed Clinical Professional Counselors.

L. Immediate Family Member – Is the employee's parent(s), spouse, or child (ren), or legal dependent(s).

M. In Loco Parentis - "In the place of a parent; instead of a parent; charged, factitiously, with a parent's rights, duties and responsibilities." Any employee claiming an in loco parentis relationship with a child, or any employee claiming to be the child of an in loco parentis relationship may be requested to provide documentation of such relationship.

N. Institution – Is the employing USM institution; the USM institution from which the employee is taking leave.

O. Key Employee - A salaried employee who is among the highest paid ten (10) percent of all the employees employed by the institution within 75 miles of the employee's workplace.

P. Military Member – An eligible employee's spouse, son, daughter, or parent who is on Covered Active Duty.

Q. Next of Kin – Is the nearest blood relative other than the covered service member's spouse, parent or child in the following order of priority:

1. A blood relative who the covered service member has specifically designated in writing as his or her nearest blood relative for purposes of military caregiver leave under the FMLA;
2. Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provision;
3. Brothers and sisters;
4. Grandparents;
5. Aunts and uncles;
6. First cousins.

R. Parent – Is the employee's biological, adoptive, step or foster mother or father, or someone who stood in loco parentis to the employee when the employee was a child. This term does not include parents “in law.”

S. Parent of a covered service member – Means a covered service member’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the covered service member. This term does not include parents “in law.”

T. Parental Care – Care provided to the military member’s parent, who must be incapable of self-care and must be the military member’s biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the military member when the member was under 18 years of age.

U. Restoration - As used within the FMLA and used within this policy, restoration is an institutional guarantee that at the conclusion of the FML the employee will be returned either to the same position from which he/she took leave, or to an equivalent position within the same job classification.

V. Serious Health Condition - Is an illness, injury, impairment, or physical or mental condition of the employee or an immediate family member, or that involves either inpatient care as defined in 29 CFR §825.114 or continuing treatment by a health care provider. With respect to the employee, a serious health condition means that the employee must be incapacitated from performing the essential functions of his/her position.

W. Examples of serious health conditions applicable to the employee or the employee's immediate family member include, but are not limited to: heart conditions requiring heart bypass or valve operations; most types of cancer; back conditions requiring extensive therapy or surgical procedures; severe respiratory conditions; appendicitis; emphysema; spinal injuries; pneumonia; severe arthritis; severe nervous disorders; injuries caused by serious accidents; ongoing pregnancy, miscarriages, complications or illnesses related to pregnancy, such as severe morning sickness, the need for prenatal care, childbirth, and recovery from childbirth. Additional examples are an employee or immediate family member whose daily living activities are impaired by such conditions as Alzheimer's disease, stroke, or clinical depression, who is recovering from major surgery, or who is in the final stages of a terminal illness. It also includes chronic medical conditions such as asthma, epilepsy which may cause episodic periods of incapacity.

X. Serious Injury or Illness -

1. In the case of a current member of the Armed Forces (including a member of the National Guard or Reserves), means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty in the Armed Forces) and that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating; and

2. In the case of a covered veteran, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

Y. Spouse – A husband or wife as defined or recognized under state law for purposes of marriage in the state where the employee resides, including common law marriage and same sex marriage.

Z. Twelve- (12-) Month Period - Shall be defined in the institution's implementation procedures to indicate whether the twelve (12) months are based on a calendar year or a "rolling twelve month period" for uniform treatment of all employees at that institution.

II. REASONS FOR LEAVE

A. Employees are entitled to take FML for the following reasons:

1. the birth of the employee's child,
 2. the placement of a child with the employee for adoption or foster care,
 3. the need to take care of the employee's child within a twelve (12) month period from birth or placement,
 4. the need to take care of the employee's immediate family member who has a serious health condition,
 5. the serious health condition of the employee, that makes the employee unable to perform any one of the essential functions of the employee's job,
 6. the need to take care of a covered service member's serious injury or illness,
- and
7. exigencies arising out of covered military active duty and call-up to covered active duty of a military member (the employee's spouse, son, daughter, or parent)

B. Additionally, requests for leave to take care of the employee's school-age child under the age of fourteen (14) during school vacations may be granted to the extent that the leave does

not create a hardship with respect to the operational needs and work schedules of the applicable institutional unit.

III. FAMILY AND MEDICAL LEAVE ENTITLEMENT

A. Employees are entitled to a maximum of twelve (12) workweeks (60 days) of FML within a twelve- (12-) month period. FML can be taken continuously or, under certain circumstances, on a reduced FML work schedule, or intermittently over the course of a twelve- (12-) month period. FML entitlement shall not be carried over from a twelve- (12-) month period to the subsequent twelve- (12-) month period.

B. The actual FML entitlement shall be based on the employee's percentage of full time work for the twelve- (12-) month period immediately prior to the beginning date of the FML; and shall be integrated with the amount of other leave taken for FML -related reasons during the twelve- (12-) month period within which the FML is to begin.

C. Employees who regularly worked full-time (40 hours per week) are entitled to a maximum of twelve (12) workweeks (60 days/480 hours) of FML in a twelve- (12-) month period. Employees who worked part-time (less than 40 hours per week), on at least a 50% basis, are entitled to a prorated share of the twelve (12) week/sixty (60) day/480 hour maximum.

IV. MILITARY FML ENTITLEMENT

A. Military Caregiver Leave - An employee who is the spouse, child, parent or next of kin of a covered service member may use up to 26 workweeks of unpaid leave in a single 12-month period to care for a covered service member with a serious injury or illness.

B. Exigency Leave - An employee with a spouse, child or parent who is a military member on Covered Active Duty or notified of an impending call or order to covered active duty status may use up to 12 workweeks of unpaid leave to address certain qualifying exigencies arising out of the fact that the employee's spouse, child, or parent is on Covered Active Duty or notified of an impending call or order to covered active duty status. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, attending post-deployment reintegration briefings, and providing parental care necessitated by the absence of the covered active duty of a military member whose parent is incapable of self-care.

V. INTEGRATION OF OTHER LEAVE TAKEN WITH FAMILY AND MEDICAL LEAVE ENTITLEMENT

A. Actual FML entitlement shall be based on the employee's use of other leave during the twelve- (12-) month period within which the FML begins. The employee's use of the following types of leave shall be deducted from the actual FML entitlement:

B. Any prior FML taken within the applicable year

C. Sick leave withdrawn from the USM Leave Reserve Fund within the applicable year

D. Accrued, Advanced and/or Extended sick leave used within the applicable year

E. Accident leave used within the applicable year

F. Any type of paid or unpaid leave for reasons related to family and medical circumstances taken within the applicable year.

VI. INTERMITTENT OR REDUCED LEAVE

A. In the case of a documented medical necessity, an employee shall be entitled to intermittent leave and/or a reduced schedule that reduces regular hours per workday or workweek for purposes of the employee's or the immediate family member's serious health condition. The employee shall make a reasonable effort to schedule intermittent leave or leave on a reduced schedule so as not to disrupt the operations of the institution's applicable unit.

B. Employees may be granted leave that reduces regular hours per workday or workweek for reasons of child birth, placement with the employee of a child for adoption or foster care, or care for a newborn child to the extent that the intermittent or reduced leave does not represent an undue hardship to the operations and work schedules of the applicable institutional unit.

C. The President or designee may temporarily reassign an employee on intermittent or reduced FML to an alternative position that better accommodates planned reduced work schedules or intermittent periods of leave.

VII. SPOUSES EMPLOYED BY THE SAME USM INSTITUTION AND UNIT

A. If spouses work at the same USM institution or in the same institutional unit, each spouse shall be entitled to a separate, individual, maximum family and medical leave eligibility amount.

B. The amount of leave for which one spouse may be eligible, or the amount of leave used by one spouse shall not limit or enhance the leave amount or the leave usage of the other spouse.

C. Spouses shall be entitled to take leave simultaneously or in succession and in any portion of their respective individual maximum for reasons of a serious health condition of the employee and for the serious health condition of the employee's immediate family members. Requests for simultaneous FML by spouses employed by the same institutional unit may be granted for reasons of child birth, placement with the employee of a child for adoption or foster care, or care for a newborn child, to the extent that simultaneous leaves do not create a hardship with respect to the operational needs and work schedules of the applicable institutional unit.

VIII. COMPENSATION DURING LEAVE

FML is an unpaid leave. However, an employee shall not be granted unpaid FML unless the employee has first exhausted all of the employee's paid leave available for use under USM leave policies and procedures.

IX. JOB PROTECTION

A. Except as provided in X. B., C., D., and F., employees returning to work at the conclusion of a FML shall be restored to their former position with the pay, benefits and terms and conditions of employment that they enjoyed immediately prior to the FML.

B. An employee is not entitled to restoration if the President or designee determines that the employee had been hired for a specific term or only to perform work on a specific project defined in writing and the term or project is over and the institution would not otherwise have continued to employ the employee.

C. 1. If at any point prior to or during the FML the President or designee determines that the employee's former position cannot be held available for the duration of the leave, the President or designee, at the conclusion of the leave, shall restore the employee to an equivalent position.

2. If the determination of an inability to hold the former position available occurs after the FML begins, the President or designee shall immediately notify the employee in writing of details associated with the decision and the details of the equivalent position to which the employee will be restored. The employee shall have the right to return within fifteen (15) working days from receipt of such notice to keep his/her former position.

D. If there are reductions in the work force while the employee is on FML and he/she would have lost his/her position had he/she not been on leave, then except as provided under USM Policy on Layoff and USM Policy on Reinstatement, there is no obligation to restore the employee to his/her former or equivalent position.

E. If there are increases or decreases in pay, benefits, or other terms and conditions of employment while the employee is on FML and he/she would have had his/her pay, benefits, or other terms and conditions of employment changed were he/she not on leave, then except as provided under applicable USM policy, the employee shall be restored consistent with current, applicable, appropriate pay, benefits and other terms and conditions of employment.

F. Restoration of Key Employees

1. If it is necessary to prevent substantial and grievous economic injury to the employing USM institution, the President may deny restoration to a key employee, provided that the employee was notified of his/her status as a key employee at the time the FML was requested or commenced, whichever was earlier.

2. If the President or designee believes that restoration may be denied to a key employee, then at the time the FML is requested (or when leave commences, if earlier) or as soon as practicable thereafter, the President or designee shall provide the key employee with written notification of the potential terms, conditions and consequences of the leave. Notification shall include at least the following: a) notification of the fact that he/she qualifies as a key employee; and b) potential consequences with respect to restoration and maintenance of health benefits. Failure to provide such timely written notice shall result in the loss of the right to deny restoration to a key employee even if substantial and grievous economic injury will result from such restoration.

3. As soon as the President or designee makes a good faith determination, based on the facts available, that substantial and grievous economic injury to the institution will result if the key employee who has requested or who is using FML is restored, the employee shall be given written notice either in person or by certified mail of the following: a) that FML cannot be denied; b) notification of the President /designee's intention to deny restoration upon completion of the FML; and c) an explanation of why restoration will result in substantial and grievous economic injury.

4. When practicable, the President shall provide the notice described in X. F. 3. at least one calendar week prior to the employee starting the leave. If such notice is provided after the leave commences, then the President also shall provide the employee a period of at least fifteen (15) working days from receipt of the notice to return to his/her position.

5. If a key employee does not return to work in response to the notification of intent to deny restoration, the employee continues to be entitled to maintenance of health benefits through the scheduled leave and the institution cannot recover its share of premiums unless and until the employee gives notice that he/she does not wish to return to work or the institution actually denies restoration at the conclusion of the leave.

6. After notice to a key employee has been given that substantial and grievous economic injury will result if the employee is restored to employment, an employee is still entitled to request restoration at the end of the leave period even if the employee did not return to work in response to the President /designee's notice. Based on the facts at that time, the President or designee must then determine whether there will be substantial and grievous economic injury from restoration. If it is determined that substantial and grievous economic injury will result, the President or designee shall notify the employee in writing (in person or by certified mail) of the denial of restoration.

X. STATUS OF BENEFITS WHILE ON FAMILY AND MEDICAL LEAVE

A. An employee who is granted an approved FML under this policy shall continue to be eligible for all employment benefits that he/she enjoyed immediately prior to the FML.

B. An employee on FML for reasons noted in Section III. A. may elect to continue institution-subsidized health care benefits during the period of leave. The President or designee shall provide advance written notice to the employee of the terms and conditions under which premium payments are to be made by the employee. The subsidy shall cease if an employee gives notice that he/she no longer wishes to return to work. The institution shall recover its share

of health premiums during unpaid FML if the employee fails to return to work, or returns to work but fails to stay thirty (30) calendar days, unless the reason for not returning or staying is due to the continuation, recurrence or onset of a serious health condition or other circumstances beyond the employee's control.

C. An employee on FML for reasons noted in Section III. B. may elect to continue health care and other benefits, as permitted by law or regulation, by paying the full cost of the benefits, including the share ordinarily paid by the institution.

D. Except as noted in Section X., Job Protection, upon return from leave an employee shall be restored with all the rights, benefits and privileges enjoyed prior to the leave.

E. While on any unpaid portion of an FML, an employee shall not earn or accrue any additional leave or seniority credits.

F. An employee may elect to purchase service credit at the time of retirement for prior leaves without pay that are qualified by the Maryland State Retirement and Pension Systems. Upon approval of a leave without pay, an employee shall follow the institution procedure to assure that this option may be exercised.

XI. EMPLOYEE NOTICE REQUIREMENTS

Regardless of the reason for the FML an employee shall give at least thirty (30) calendar days notice and provide the appropriate medical certification or legal certification of adoption (as soon as practicable) or foster child placement, before taking FML. When the need for leave is not foreseeable, an employee shall give notice as soon as practicable but no less than two (2) working days of learning of the need for leave. If this is not possible due to a medical emergency, then the employee or the employee's designee shall give written notice and provide the appropriate certification as soon as practicable.

XII. INSTITUTION NOTICE REQUIREMENTS

A. Eligibility Notice

When an employee requests FML, or when the institution acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the institution must notify the employee of the employee's eligibility to take FMLA leave within five (5) business days, absent extenuating circumstances. Notification of eligibility may be oral or in writing.

B. Rights and Responsibilities Notice

Institutions shall provide written notice detailing the specific expectations and obligations of the employee and explaining any consequences of a failure to meet these obligations. This notice shall be provided to the employee each time the eligibility notice is provided.

C. Designation Notice

1. When the institution has enough information to determine whether the leave is being taken for an FMLA-qualifying reason (e.g., after receiving a certification), the institution must

notify the employee in writing whether the leave will be designated and will be counted as FMLA leave within five business days absent extenuating circumstances. If the institution has sufficient information to designate the leave as FMLA leave immediately after receiving notice of the employee's need for leave, the institution may provide the employee with the designation notice at that time.

2. If an institution does not designate leave as required in XII.C.1., the institution may retroactively designate leave as FMLA leave with appropriate notice to the employee provided that the institution's failure to timely designate leave does not cause harm or injury to the employee.

XIII CERTIFICATION

A. Medical Certification For Serious Health Conditions of Employee or Family Member

1. For leaves related to serious health conditions and to child birth, the employee shall provide medical certification(s) from the employee's or family member's health care provider. The employee shall have fifteen (15) calendar days to obtain the medical certification unless not practicable to do so despite the employee's diligent good faith efforts. Such certification shall include but not be limited to:

a. The name, addresses, telephone number, and fax number of the health care provider and type of medical practice/specialization.

b. A diagnosis of the nature and extent of the condition giving rise to the use of FML.

c. Approximate date condition commenced and its probable duration.

d. A statement or description of appropriate medical facts regarding the patient's health condition for which FML is requested, including a regimen of continuing treatment to be prescribed.

e. The duration of absence from work,

f. In the case of the employee's serious health condition, certification that the employee is unable to perform the essential functions of his/her position and prognosis of the employee's ability to return to his/her position,

g. In the case of the employee's need to care for a seriously ill family member, information sufficient to establish that the family member is in need of care and an estimate of the frequency and duration of the leave required to care for the family member.

h. In cases of a request for intermittent leave, information sufficient to establish the medical necessity for such intermittent reduced schedule leave and an estimate of the dates and duration of such treatments and any periods of recovery.

2. The President or designee may require a second medical opinion at the institution's expense. In the case of conflicting opinions, the opinion of a third health care provider, agreed upon by both employee and the President or designee and obtained at the institution's expense, shall be final. The second and third opinions shall not be provided by individuals who are employed on a regular basis by the institution.

3. The President or designee may require reasonable recertification as the FML continues, and may require an employee to provide periodic progress reports as to the serious health condition for which he/she is taking leave and the employee's ability to return to work at the end of the leave. Recertification shall not be requested more often than every thirty (30) calendar days unless the employee requests an extension of FML, changed circumstances occur during the illness or injury, or the institution receives information that casts doubt upon the continuing validity of the most recent certification. Medical certification of fitness to return to work that includes medical limitations and their expected duration shall be requested in writing by the President or designee prior to the employee's return to work.

B. Medical Certification for a Covered Servicemember

For military leave to care for a covered servicemember, the Department of Defense (DOD) healthcare providers, a healthcare provider from the U.S. Department of Veterans Affairs (VA), and DOD Tricare Network and non-network authorized healthcare providers are considered "authorized healthcare providers." The USM may not utilize the second opinion or recertification process for this leave entitlement. Should an extension of leave be required, additional certification may be requested.

C. Consistent with FMLA and other applicable laws, all medical-related documentation will be kept confidential and maintained in a file separate from the employee's official institutional personnel file.

XIV. SCHEDULING OF TREATMENT IN INSTANCES OF SERIOUS HEALTH CONDITIONS

A. In instances of the serious health condition of a family member or of the employee himself or herself, and in keeping with the requirements of the appropriate health care provider, the employee shall make reasonable efforts to schedule any medical treatments so as not to disrupt unduly the operations of the applicable institutional unit.

B. During the course of the treatment and as the President or designee deems appropriate, the employee may be requested to provide certification from the appropriate health care provider of the unavailability of treatment during non-work time, or at times that are less disruptive to the operations of the employee's unit.

XV. PROVIDING INFORMATION ABOUT FML

Regardless of the reason for the leave, an employee shall provide complete, accurate and timely information related to a request for, continuation of, modification(s) to, and return from an FML.

XVI. ABUSE OF FML

The President or designee shall review, investigate and resolve suspected cases of bad faith, fraud or abuse of the FML program. Cases of bad faith, falsification of documents, or fraudulent information related to the FML provided to the institution, or other abuses of the FML program, may result in but are not limited to: revocation of the leave, refusal to restore, recovery of institutional costs for paid-time leave and insurance benefits premiums, and disciplinary action up to and including termination.

XVII. EARLY RETURN FROM LEAVE

An employee interested in returning to work from a FML prior to the agreed upon end of the leave date shall provide the President or designee with a written request at least thirty (30) calendar days prior to the date on which the employee is interested in returning. The President or designee shall make a good faith effort to restore the employee to his/her former or an equivalent position as soon as possible at the employee's request but no later than the thirty (30) calendar day notice provided by the employee.

XIII. EXTENSIONS OF LEAVE

Employees may extend the date of return from an FML to the extent that they have FML entitlement available. A request for an extension of FML shall be considered under this policy as if it was an initial request.

XIX. FAILURE TO RETURN FROM LEAVE

A. An employee who will not be returning to the institution at the conclusion of a leave shall notify the President or designee in writing as soon as practicable. In the absence of written notification, failure to return from leave shall be interpreted as a resignation.

B. If applicable, any benefit entitlements based upon length of service shall be calculated as of the employee's last paid day.

C. Institution costs of any payments made to maintain the employee's benefit coverage when on unpaid FML shall be recovered if an employee fails to return to work as described in Section IX.B.

The President or designee may request certification of reasons for the employee's failure to return to work.

XX. MISCELLANEOUS

A. The President or designee is under no obligation to immediately restore an employee whose return from leave does not coincide with the normal operating schedule of the institution or the normal work schedule of the employee's unit, or restore an employee whose return date is inconsistent with the terms and conditions of the employee's appointment.

B. Entitlement to begin FML for reasons of child birth, placement with the employee of a child for adoption or foster care, or care for a newborn child expires by no later than the 364th day after the date of birth or placement. Any such FML must be concluded within this one-year period.

C. When FML is taken by an employee on probation status, the probationary period shall be adjusted upon the return of the employee by the length of time used for FML.

D. Either the employee or the institution may initiate a period of FML.

E. Reasonable documentation relating to an employee's request for FML may be requested.

Section 5. Jury Service and Legal Actions Leave (USM Policies VII-7.21 and VII-7.22)

Jury service and legal actions leave for employees covered by this MOU are governed by USM Policy on Jury Service (VII-7.21 approved by the Board of Regents, February 28, 1992; Amended May 7, 1993) and USM Policy on Leave for Legal Actions (VII-7.22 approved by the Board of Regents, February 28, 1992) and is subject to all the terms and conditions set forth therein with the following modification to USM Policy VII-7.21:

Employees who are dismissed from jury duty will be expected to return to work for the balance of their scheduled workday if the amount of time left in the employee's workday exceeds three (3) hours.

Section 6. Educational Leave and Professional Improvement Leave (USM Policy VII-7.12)

Employees may be granted educational or professional leave for up to two years pursuant to USM Policy Leave of Absence without Pay (VII-7.12 approved by the Board of Regents May 1, 1992; Amended November 12, 1993), subject to all of the terms and conditions therein.

Section 7. Administrative Leave (USM Policy VII-7.20)

Administrative Leave for employees covered by this MOU is governed by USM Policy on Administrative Leave (VII-7.20, approved by the Board of Regents, February 28, 1992).

Administrative Leave may be granted when emergency conditions exist.

The institution Chief Executive Officer (CEO) may approve a request for administrative leave or may require an employee to take administrative leave for any purpose considered to be in the best interests of the Institution.

Section 8. Military Leave With Pay (USM Policy VII-7.23)

Military Leave for employees covered by this MOU is governed by USM Policy on Military Leave (VII-7.23 approved by the Board of Regents, February 28, 1992; Amended December 6, 2002; Amended October 17, 2003; Amended September 10, 2004; Amended June 18, 2010) and is subject to all the terms and conditions set forth therein.

An employee is entitled to Military Training Leave With Pay for military training purposes for a period of not more than fifteen (15) workdays (pro-rated for part time employees) in any calendar year. Military Training Leave applies to employees who are members of the organized militia or the Army, Navy, Air Force, Marines or Coast Guard Reserves.

Section 9. Call-Up to Active Military Duty During a National or International Crisis or Conflict (USM Policy VII-7.24)

Military leave for call up to Active Duty during a national or international crisis or conflict for employees covered by this MOU is governed by USM Policy VII – 7.24 (Approved by the Board of Regents, October 5, 2001; Amended December 6, 2002; Amended October 17, 2003; Amended September 10, 2004; Amended June 18, 2010) and is subject to all the terms and conditions set forth therein.

Section 10. Leave of Absence Without Pay (USM Policy VII-7.12)

Leave of Absence Without Pay for employees covered by this MOU is governed by USM Policy on Leave of Absence Without Pay (VII-7.12 approved by the Board of Regents, May 1, 1992; Amended November 12, 1993) and is subject to all the terms and conditions set forth therein.

Employees may request full or partial leave without pay for a two-year (24-month) period in accordance with the provisions of the USM Policy VII – 7.12. Approval of unpaid leave will be at the discretion of the University President or designee. No employee shall be denied unpaid leave unreasonably.

Section 11. Leave for Disaster Service (USM Policy VII-7.26)

Disaster Service Leave for employees covered by this MOU is governed by USM Policy on Leave for Disaster Service (VII-7.26 approved by the Board of Regents, October 11, 2002) and is subject to all terms and conditions set forth therein.

Section 12. Accident Leave (USM Policy VII-7.40)

Accident Leave for employees covered by this MOU is governed by USM Policy on Accident Leave (VII-7.40 approved by the Board of Regents, May 1, 1992; Amended November 12, 1993; Amended December 13, 1996) and is subject to all the terms and conditions set forth therein.

Section 13. Parental Leave (USM Policy VII-7.49)

To support employees in balancing professional and family demands during and after the birth or adoption of a child, each eligible employee is assured a period of up to eight (8) weeks (i.e., forty work days) of paid parental leave to care for a new child, as follows:

- A. Nature of Leave: The parental leave period will consist of any form of annual, sick, personal, holiday or leave reserve fund leave accrued or otherwise available to the employee under this Agreement and USM policies, to be supplemented as necessary by the Institution with additional paid leave days to attain an eight (8) week period of paid parental leave.
- B. Applicability: The eight (8) week paid leave assurance is available during a six (6) month period surrounding:
 - 1. The birth of a newborn;
 - 2. The recent adoption of a child under the age of six (6); and
 - 3. At the discretion of the Institution's President or designee and subject to any limitations established by the Institution, the assumption of other parenting responsibilities, such as foster parenting or legal guardianship of a child under the age of six (6).
- C. Eligibility: The paid leave assurance will apply as follows:
 - 1. Leave shall be pro-rated for eligible .50 or greater Full Time Equivalent staff.
 - 2. If a child's parents are employed by the same Institution, both may be eligible for paid parental leave up to the eight (8) week maximum as follows:
 - a. Both parents may use accrued annual, sick or personal leave concurrently with the birth of a child or adoption of the child under age six (6);
 - b. A parent may use additional guaranteed paid leave under this policy only during a period when that parent is the child's primary caregiver.
 - 3. An employee shall be eligible for assured minimum paid parental leave after one (1) year of employment with the Institution, except to the extent that Institution's policies permit a lesser eligibility period.
 - 4. An employee may be eligible for paid parental leave under this policy on one occasion in a given 12-month period, and on two separate occasions during the duration of the staff member's employment within the USM. Any additional periods of paid parental leave require the approval of the President, or the President's designee.
 - 5. The employee must have a satisfactory record of sick leave usage and work performance.

ARTICLE 16 – SICK LEAVE

I. Purpose and Applicability

This Article governs the accrual and use of sick leave for all employees covered by this MOU. When a provision of this Article provides an employee with the eligibility to use sick leave that is also covered by the Family and Medical Leave Act (FMLA), the sick leave and the leave under the FMLA run concurrently. Also, employees must use their accrued sick leave in accordance with the specific provisions of this Article and exhaust all accrued annual leave and personal leave prior to using unpaid FMLA leave.

II. General

- A. Sick leave is paid leave granted to employees in an effort to provide some protection against the loss of earnings due to absences for health reasons.
- B. A full-time employee shall earn sick leave at the rate of fifteen (15) workdays per year. Employees who are appointed at least 50% time shall earn sick leave on a pro rata basis. Sick leave is accumulated and carried forward from year to year without limit.
- C. An employee may use on a continuous basis earned leave (sick, annual and personal leave), advanced sick leave, extended sick leave, leave granted through the leave reserve fund, or unpaid family medical leave, as needed for personal illness or for parental leave, subject to the requirements and criteria of the USM “Policy on Parental Leave and other Family Supports for Staff” (VII-7.49) (“Parental Leave Policy”).
- D. An employee may request that his/her illness, injury, or disability occurring during a period of annual or personal leave be charged to sick leave. Verification of such illness, injury, or disability may be required by the Office of Human Resources as provided in Section IV of this article.
- E. Sick leave shall be granted by the President or designee when an employee is absent because of:
 - 1. Illness, injury, or disability of the employee.
 - 2. A pre-scheduled and approved, or emergency medical appointment, examination, or treatment for the employee with an accredited, licensed or certified medical provider listed in Section IV.C. of this article that cannot be scheduled during non-work hours.
 - 3. Illness or injury in the employee's immediate family and medical appointments, examinations or treatments for the immediate family member with an accredited,

licensed or certified medical provider listed in Section IV.C. of this article that cannot be scheduled during non-work hours.

- a. Immediate family as used in this section of this article shall mean a spouse, child, step-child, grandchild, mother, father, mother-in-law, father-in-law, brother, sister, grandparent, brother-in-law, sister-in-law, or legal dependent of the employee irrespective of residence. Use of sick leave shall also be granted to care for any other relative who permanently resides in the employee's household for whom the employee has an obligation to provide care.
- b. The President or designee may require an employee to provide certification by a medical provider listed in Section IV.C of this article to demonstrate this obligation or to authenticate the need for the employee to care for the ill family member.

4. Death of a relative.

- a. For the death of a close relative, the President or designee shall grant the use of up to three (3) days of accrued sick leave. If the death of a close relative requires an employee to travel requiring staying away from home overnight, upon request the President or designee shall grant the use of up to a maximum of five (5) days of accrued sick leave for this purpose.
- b. Close relative as used in this section of this article shall mean a spouse, child, stepchild, mother, father (or someone who took the place of a parent), mother-in-law, father-in-law, grandparent of the employee or spouse, grandchild, son-in-law, daughter-in-law, brother, sister, brother-in-law, sister-in-law, or other relative who permanently resided in the employee's household.
- c. The President or designee shall grant the use of up to a maximum of one (1) day of sick leave for reasons related to the death of the employee's or his/her spouse's aunt, uncle, niece, nephew.

5. Pregnancy-related disabilities, childbirth, and immediate recovery there from.

- a. A female employee may request the use of accrued sick leave for any period of time related to temporary disability during pregnancy or related to childbirth and immediate physical recovery there from.
- b. A female employee planning to request the use of sick leave for the purposes listed in this subsection shall be governed by the provisions of this article.
- c. The employee shall keep the President or designee informed of any changes to her condition which affect the length of time that she will need to be away from work.

6. Birth of a child or placement of a child with the employee for adoption. Accrued sick leave may be used to care for a child following the birth of a child or placement of the child with the employee for adoption, subject to the provisions of the USM Parental Leave Policy.
- F. An employee who returns to regular USM service within three (3) years of separation shall have the unused sick leave earned during the prior service restored, provided the employee returns to a position eligible to earn sick leave.
- G. The order of leave exhaustion will be: 1) accrued sick, annual, personal and holiday leave; 2) advanced sick leave; 3) leave reserve fund; and 4) extended sick leave (for the illness of an eligible employee only).

III. Directed Use of Sick Leave/Medical Examinations

- A. The President or designee, in accordance with the provisions of this MOU dealing with Family and Medical Leave, may direct an employee to use accrued sick leave if he/she determines that an employee is unable to perform the essential responsibilities of his/her position due to illness, injury or disability.
- B. While either in active work status or on any type of employee-related sick leave, an employee may be required to undergo a medical examination(s) and evaluation(s), and may be required to provide verification of fitness for duty, as directed by the President or designee to ascertain whether the employee is able to regularly and routinely perform the responsibilities of his/her position.
 1. If the examination is conducted by a certified medical provider selected by the USM Institution, the Institution shall bear the costs of such medical examination. The employee may, however, see his/her own physician at the employee's own cost.
 2. If the examination(s) reveal(s) that an employee is unable to regularly and routinely perform the responsibilities of his/her position, action may be taken by the President or designee in accordance with policies on voluntary separation, termination, reasonable accommodation, modified duty or disability retirement, if applicable.
 3. In cases where there is a conflict between the evaluation, prognosis, diagnosis or recommendation of the employee's personal health care provider and the certified medical provider selected by the USM Institution, the President or designee may choose which health care provider's report to follow or may require subsequent medical examinations and evaluations in deciding what steps should be taken regarding the employee's sick leave status or continued employment. If subsequent medical examinations and evaluations are required, the expense of such shall be borne by the USM institution the employee's medical provider and the University's medical provider shall by agreement

select the third medical provider who will render an opinion. In the event they are unable to reach agreement on a third medical provider, the third provider will be selected by the University. In selecting the third provider, the University shall not select a provider that has been under contract, or that at the present time is under contract with the University. The decision of the President or designee regarding the employee's fitness for duty will take into account the medical opinions rendered. The decision of the President or designee is final.

IV. Verification of Absences Charged to Sick Leave

A. In order to verify that the employee's use of sick leave is in accordance with this Section, to assure medical attention for an employee or to prevent the abuse of sick leave usage, the University President or designee may require an employee to submit verification of the reason for the use of accrued sick leave, advanced or extended sick leave.

B. Verification of Illness for Absences of Five (5) or More Consecutive Days may include but may not be limited to:

The University may require an employee to provide an original certificate of illness or disability in cases where an absence is for five (5) or more consecutive workdays. The certificate required by this Section shall be signed by a certified medical provider as defined in Section IV.F below.

C. Verification of Illness for Absences of Less than Five (5) Consecutive Days

The University may require an employee to submit an original certificate of illness or disability for absences of less than five (5) consecutive days on the following conditions:

1. Where an employee has a consistent pattern within a twelve (12) month period of maintaining a zero or near zero sick leave balance without documentation of the need for such relatively high utilization.
2. Where an employee has unusual absence patterns such as Monday/Friday, or the day before and/or the day after a holiday.
3. Where an employee has five (5) or more occurrences of undocumented sick leave usage within a twelve (12) month period.
4. Where an employee has three (3) or more occurrences of undocumented sick leave usage of two (2) or more consecutive days in a twelve (12) month period.

D. Procedures for Certification Requirement

Prior to imposing a requirement on an employee for documentation of sick leave use, under Section C above, the University shall orally counsel the employee that future undocumented absences may trigger a requirement for certification of future occurrences of sick leave. If the employee has another undocumented absence after such counseling, the University may, subject to the concurrence of the Office of Human Resources, then put the employee on written notice that he/she must certify all sick leave usage for the next six (6) months if the undocumented absence accumulated in accordance with this Section IV. At the conclusion of the six (6) months, the certification requirement will be rescinded provided the employee has complied with the certification requirement and is in compliance with this Article. If the employee has not complied with the certification requirement and is not in compliance with this Article, the requirement shall be extended for six (6) months from the date of the lack of compliance with the requirement. Although a requirement for certification is not a disciplinary action, an employee may grieve allegations of misapplications of this procedure. Failure of the employee to provide certification as described in this Section may subject the employee to disciplinary action.

E. Verification may include but may not be limited to:

1. A written statement from the medical provider (as listed in Section IV.F. of this Article) indicating that the employee is required to be absent from work due to illness;
2. The duration of absence from work;
3. Prognosis of employee's ability to return to work;
4. Title and original signature of an accredited, licensed or certified medical provider;
5. Documentation of the birth or adoption of a child, if sick leave is requested under the Parental Leave Policy, and
6. Any other information necessary to verify that the employee's use of sick leave is in accordance with this Article. Such information does not need to include information about the specific illness or health condition of the employee.

F. Medical verification as outlined in this Article may be obtained from an accredited Christian Sciences practitioner, or by the appropriate of any of the following licensed or certified medical providers:

1. Physician;
2. Physical Therapist;

3. Clinical Psychologist;
4. Dentist;
5. Oral Surgeon;
6. Chiropractor;
7. Podiatrist;
8. Certified Nurse Practitioner;
9. Certified Nurse-Midwife; or
10. Licensed Certified Social Worker-Clinical.

V. Advanced Sick Leave

- A. An employee who sustains a temporary, recoverable illness, injury or serious disability, or is eligible for parental leave, may request advance use of sick leave subject to the following two conditions:

The employee shall:

1. have exhausted all other types of accrued leave; and
 2. have performed at a "meets standards" or better level of performance and have not been placed on a sick leave certification requirement as provided in Section IV or been disciplined for a sick leave related offense during the past twelve (12) months.
- B. Advanced sick leave is not an entitlement. The granting of requests for advanced sick leave is at the discretion of the President or designee.
- C. Advanced sick leave shall not be granted in instances where the illness or injury or disability occurred on the job, and the employee has been granted accident leave or temporary total disability benefits by the Workers' Compensation Commission.
- D. Written requests for advanced sick leave shall be submitted to the President or designee and shall be supported by written verification by an accredited, licensed, or certified medical provider or appropriate documentation of the birth or adoption of a child, if the employee is requesting parental leave, as outlined in Sections IV. E and IV. F of this Article.
- E. Sick leave may be advanced as follows:
1. In the first year of service, advanced sick leave will be prorated based upon the employee's length of service at the time it is requested.
 2. Thereafter, advanced sick leave is advanced at the rate of fifteen (15) working days per year of service to a maximum of sixty (60) working days in any one calendar year.
- F. The use of advanced sick leave constitutes a debt for which payment shall be enforceable upon the employee's return to work or upon the employee's

separation from employment, whichever is earlier. Upon return to work the minimum rate of payback for advanced sick leave shall be at one-half the rate that sick leave and annual leave is earned. An employee may elect to pay back advanced sick leave by applying any earned leave or by reimbursing the USM with cash.

- G. Annual, sick and holiday leave earned, and personal leave credited while on advanced sick leave shall be applied as earned/credited.
- H. The President or designee may refer an employee who is on advanced sick leave as follows:
 - 1. The employee may be referred to a USM Institution-named certified medical provider paid for by the Institution for periodic examinations to determine the nature and extent of the illness, the employee's progress toward recovery, the length of time necessary for recovery, and an estimated date of return to work.
 - 2. If there is a conflict between the employee's physician and the USM Institution-named physician, the provisions of Section III.B.3 shall apply.

VI. Extended Sick Leave

- A. An employee who sustains a temporary, recoverable illness, injury or serious disability or is eligible for parental leave, may request extended sick leave, subject to the three following conditions:

The employee shall:

- 1. have been in USM and/or State service for at least five (5) years;
 - 2. have exhausted all types of accrued leave and advanced sick leave; and
 - 3. has performed at a "meets standards" or better level of performance and has not been placed on a sick leave certification requirement as provided in Section IV. or been disciplined for a sick leave related offense during the past twelve (12) months.
- B. Extended sick leave is not an entitlement. The granting of requests for extended sick leave shall be at the discretion of the President or designee.
 - C. The maximum cumulative total of extended sick leave available to an employee in USM or State service is twelve (12) work months (52 work weeks).
 - D. Annual, sick and holiday leave earned, and personal leave credited while on extended sick leave shall be applied as earned/credited.

- E. Written requests for extended leave shall be submitted to the Office of Human Resources and shall be supported by written verification by an accredited, licensed or certified medical provider as outlined in Sections IV. A and IV.F of this Article.
- F. The President or designee may refer an employee who is on extended sick leave as follows:
 - 1. The employee may be referred to a USM Institution-named certified medical provider paid for by the Institution for periodic examinations to determine the nature and extent of the illness, the employee's progress toward recovery, the length of time necessary for recovery, and an estimated date of return to work.
 - 2. If there is a conflict between the employee's physician and the Institution-named physician, the provisions of Section III.B.3 shall apply.

VII Pilot Program

- A. For a pilot period of two years (From July 1, 2016 to June 30, 2018), an employee may be approved for the use of advanced sick leave and up to 15 days leave from the leave reserve fund for the documented critical illness of a member's spouse, minor child, or other immediate family member who resides with the employee and for whom the employee has primary care-giving responsibilities. Critical illness will be defined as a life-threatening or disabling medical condition or injury.
- B. The expansion of advanced sick leave and leave reserve fund will be reviewed by the USM during the second year of its implementation and may be suspended by the USM if the results of that evaluation indicate that the measures have substantially impaired institution operations or been subject to significant abuse by employees.

ARTICLE 17 – UNION LEAVE

- A. AFSCME MD may request that bargaining unit employees be released from their normal duties for the purpose of participating in approved union activities.
- B. The total amount of union leave granted at any Institution during a fiscal year may not exceed one day for every twenty-five (25) of its bargaining unit employees of that Institution as of July 1 of the current fiscal year, provided that a minimum of eight (8) days union leave will be granted by the University each fiscal year covered by this MOU. No employee outside of the bargaining unit will be counted in the leave calculation under this Article.

- C. All requests for union leave shall be submitted to the institution Director of Human Resources/Personnel in writing by Council 92 fifteen (15) working days in advance of the day on which the leave is to begin and shall include:
1. A general description of the activity and its purpose;
 2. The date and location of the activity;
 3. The name(s) of the employee(s) for whom union leave is being requested.

Where the leave request is for eight (8) hours or less, the minimum notice required is seven (7) working days.

- D. After verifying the validity of the request with a staff union representative and the accuracy of the time being requested, the Institution Director of Human Resources/Personnel may approve union leave if the employee's services can be spared without impairing the services of the department(s) involved and union leave is available pursuant to Section B of this Article. Approval of leave under this section shall not be unreasonably denied.
- E. If the employee organization needs to substitute an employee or employees for those previously granted union leave, or substitute new dates, such requests will be submitted as soon as possible to the Institution Director of Human Resources for approval. Such substitutions may be approved if the substitution will not impair the services of the unit. Approval of substitutions or dates shall not be unreasonably denied.
- F. AFSCME Maryland Convention

AFSCME Maryland Convention: In years when the AFSCME Maryland local convention takes place, each Institution will provide paid leave for actual time used by one (1) bargaining unit employee to attend that convention on days which the attendee would otherwise be regularly scheduled to work their regular day. The total number of hours of paid leave time which the bargaining unit employee shall be provided for actual attendance at the AFSCME Maryland local convention shall not exceed eight (8) hours per day at the straight time rate of pay.

ARTICLE 18 - PERFORMANCE EVALUATIONS

Section 1. Performance Ratings

Employees shall receive a written performance review at the end of their probationary period and annually (normally March) thereafter. The purposes of the performance evaluation are to establish a communication tool to ensure that employees are performing at acceptable levels and to provide a means by which to document performance and to establish a procedure for correcting performance problems should they occur. An employee shall be rated on the achievement of performance goals and objectives established by the supervisor in collaboration with the employee

during the annual expectations meeting as well as employee performance related to an established set of performance factors, established by the Employer and discussed with the employee at the expectations meeting.

An employee shall receive one of the following ratings:

1. Above Standards
2. Meets Standards
3. Below Standards

Section 2. Expectations Meeting (Establish Goals and Objectives)

Annually (normally March of each year), an employee will meet with the Department Head or designee who will be responsible for conducting the employee's performance review for the upcoming year.

At the expectations meeting, the Department Head or designee and the employee will discuss the specific performance factors for which the employee will be held accountable and the supervisor, in collaboration with the employee will establish the employee's performance goals and objectives for the upcoming year. Performance factors and performance goals and objectives should be reasonably specific, attainable, measurable, and job-related. The expectations meeting will be documented in writing and signed by both the Department Head or designee and the employee.

Section 3. Probationary and Mid-Year Performance Evaluations

An expectations meeting, in accordance with Section 2 of this Article, will be held with each employee at the time of hire.

When the employee's probationary period ends, the Department Head or designee, with input if applicable from the lead worker or "supervisor" to whom the employee is assigned, will prepare a written performance evaluation of the employee. The end of probationary period performance evaluation may include a self-assessment prepared by the employee, and shall address both an evaluation of the employee's performance and suggestions for ways that the employee and the Department Head or designee can work to address issues that have arisen.

The employee and the Department Head or designee will meet to discuss the end of probationary period performance evaluation, and will document in writing the results of the evaluation and will include in that documentation:

1. Any modifications made to the employee's job description;
2. Specific tasks and standards established by the Department Head or designee, in collaboration with the employee, that will assist the employee in accomplishing the employee's overall objectives for the next evaluation period;
3. Any training needs established.

In addition, although optional, supervisors are strongly encouraged to conduct mid-year performance evaluations, according to the aforementioned protocol, for all employees. Where an employee receives a year-end performance evaluation that is "Below Standards" or is exhibiting

performance below “Meets Standards” during the first half of the evaluation period and the employee remains employed, the employer will conduct a mid-year performance evaluation and take other appropriate remedial measures until the employee’s performance meets standards or the employee is terminated or demoted.

Section 4. Year End Performance Evaluation

The end-of-year evaluation shall be based on those performance factors and goals and objectives established at the expectations meeting and shall include the following:

1. An overall performance rating;
2. Modification of the employee’s job description (if applicable);
3. Recommendations for training as appropriate

Where an employee did not have an opportunity to perform work described by a performance standard or goal and objective, that standard or goal and objective will not be considered in the year-end performance evaluation. All applicable performance factors and goals and objectives will be applied fairly and objectively. The University should take into account any equipment and resource problems, lack of training, frequency of work interruptions, and other matters outside of an employee’s control when applying performance factors and goals and objectives. Time off on approved leave (sick, personal, annual, etc.) and authorized time for union representational purposes and other authorized activities will not be considered negatively in the application of performance factors and performance goals and objectives, provided that where an employee has been placed on notice regarding a sick leave usage problem, the employee’s sick leave usage may be taken into account.

The performance evaluation requires a second signature. An individual superior to the individual preparing the performance evaluation and with knowledge of the department and the employee must review and approve the employee’s end-of-year evaluation. This approval must be secured prior to the end-of-year evaluation meeting with the employee.

The Department Head or designee shall meet with the employee, discuss the performance evaluation, and give the employee a copy of the end-of-year evaluation. The employee must sign the evaluation and a copy will be placed in the employee’s personnel file.

A statement of an employee’s comments and/or objections to an evaluation may be attached and put in the employee’s personnel file. Overall performance evaluations of Meets Standards or Above Standards may only be grieved through Step 2 of the grievance procedure; overall performance evaluations of Below Standards may be grieved through the entire grievance process.

The Employer will not apply forced distributions or any other limitation to employee ratings.

Section 5. Deficient Performance

In the event management concludes that an employee’s job performance is at a level which will result in an evaluation of Below Standards, therefore jeopardizing his/her eligibility to receive a merit increase, management will notify the employee. The employee will be given a reasonable amount of time to correct the performance deficiencies before a year-end performance evaluation

is conducted unless the deficient performance warranting the denial of the merit increase occurs late in the evaluation period. Failure to notify the employee pursuant to this provision shall not entitle the employee to a merit increase if the employee's performance does not warrant it.

Section 6. Evaluation of the Department Head or Designee

Employees may anonymously evaluate on an annual basis, in writing, on a form provided by the Employer, the Supervisor, the Department Head or designee.

Section 7. Performance Evaluation Pay Adjustment

Merit pay adjustments for employees with an annual rating of Meets Standards or Above Standards shall be governed by provisions of Article 9, Wages, of this MOU. Employees who receive ratings of Below Standards are not eligible for merit increases, and may be subject to other corrective measures.

ARTICLE 19 – DISCIPLINARY ACTIONS

Section 1. Progressive Discipline

The University subscribes to the tenets of progressive discipline, where appropriate. However, the University reserves the right to administer any discipline deemed appropriate by the University. No employee shall be disciplined without cause.

Section 2. Disciplinary Actions

Progressive disciplinary actions may include but are not limited to the following actions: counseling, verbal reprimand, written reprimand, forfeiture of leave, suspension without pay, involuntary demotion, and termination. The Employer is not required to utilize all of the above-listed actions when administering discipline.

Section 3. Right to Union Representation

Whenever the University is investigating conduct which might reasonably lead to disciplinary action against the employee, at the employee's option, the employee shall have the right to union representation at any meeting, hearings, or formal or informal discussions with the employee pertaining to the investigation or imposition of discipline relating to such conduct. This provision does not preclude an employee from discussing any matter with the University without the presence of a union representative.

Section 4. Disciplinary Actions Records

After three (3) years without any further disciplinary action, the record of any prior disciplinary action, up to and including suspensions of five (5) days shall be expunged at the employee's request. After twelve (12) months, letters of reprimand and counseling memoranda shall not be used in assessing discipline if there has been no further disciplinary action.

Section 5. Personnel Files

This policy establishes responsibility for the maintenance, access and control of employee files for all Nonexempt and Exempt Staff employees.

A. Definition and Scope

1. Employee File

A confidential business record and property of the institution that employs the employee. The file, in electronic or paper format, consists of personal demographics and information relating to the individual's employment.

2. Contents of an Employee File

a. Employee files include but are not limited to the following:

- 1). Employment application and/or resume
- 2). College Transcripts
- 3). Job descriptions
- 4.) Records relating to hiring, promotion, demotion, transfer, reassignment, layoff, compensation, education, and training.
- 5). Letters of recognition
- 6). Disciplinary documents
- 7). Performance evaluations
- 8). Documents relating to separation from employment

3. Medical records shall be maintained in a separate file and are not part of an employee file.

B. General

1. Confidentiality

All employee files are confidential and are to be secured accordingly. Anyone handling files shall maintain confidentiality of the material at all times, including during the course of file transmission electronically or via FAX or MAIL.

2. Responsibilities of the Office of Human Resources

a. Employee files are secured in the Human Resources Department at each institution, or location designated by the Chief Human Resources Officer (CHRO).

- 1). All records to be included in employee files are prepared by or delivered directly to the Human Resources Department.
- 2). All filing, removal, re-filing, and/ or processing of data electronically of employee records must be accomplished only by the Human Resources staff.
- 3). Records may not be removed from the Human Resources Department except by authorization from the Director of Human Resources or designee.

3.) **Retention of Files** - Institutions shall follow the record retention schedule prescribed by law.

C. Verification of Employment

All requests for verification of employment for current or former employees are to be directed to the designee. Non-confidential information such as dates of employment, position(s) held, and current may be released on request. Confidential information shall not be released unless the Human Resources Department is in receipt of a written release signed by the employee, court order, or subpoena.

D. Access to Employee Files

1. Persons with Authorized Access

The following persons have authorized access to individual employee files:

- 1). The Director of Human Resources or designee
- 2). the Employee
- 3). the employee's current supervisor or any individual within the organizational unit who is chain of authority above the employee or legal counsel to such person in that capacity.
- 4). Auditors (USM, Institution, Legislative auditors)
- 5). an authorized agent for an employee who has written authorization signed by the employee for access to or disclosure of a confidential employee record.

B). Employee Access

Employees shall have access to their own files and medical records during regular business hours upon such reasonable prior notice as the Human Resources Department may require.

- 1). All files shall be reviewed in the presence of the Director of Human Resources or designee.
- 2). At the time of such review, the Director of Human Resources or designee may require the employee to initial and date all records in her/his file(s).
- 3). Employees who request copies of material from their file(s) may be charged a scheduled fee.
- 4). An employee who objects to information in her/his file may place a statement to that effect in the file.

C). Anonymous Material

Other than routine personal forms, no anonymous materials shall be placed in an employee's official personnel file.

ARTICLE 20 - GRIEVANCE PROCEDURE

GENERAL

In the event of an alleged violation or disagreement over any of the provisions of this MOU, a bargaining unit employee represented by AFSCME, MD, which shall be the exclusive

employee organization to represent the employees shall have the right to file a grievance in accordance with Section 13-201 *et seq.*, of the Annotated Code of Maryland Education Article, a copy of which is set forth below for convenient reference. Grievances can be filed electronically or in print form.

Title 13, University of Maryland – General Provisions: Subtitle 2. University of Maryland Classified Employee Grievance Procedures

§ 13-201. Definitions.

- (a) *In general.*- In this subtitle, the following words have the meanings indicated.
- (b) *Day.*- "Day" means, except as otherwise provided, a working day, Monday through Friday, regardless of work schedule, weekend work, or midweek days off.
- (c) *Grievance.*- "Grievance" means any cause of complaint arising between a classified employee or associate staff employee and his employer on a matter concerning discipline, alleged discrimination, promotion, assignment, or interpretation or application of University rules or departmental procedures over which the University management has control. However, 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.

§ 13-202. (Omitted)

§ 13-203. Steps in grievance procedure.

- (a) *Availability of procedure; number of steps.*- If, following informal discussion with the supervisor, a dispute remains unresolved, the grievance procedure is available. There are three steps in the grievance procedure.
- (b) (1) **Step One.** Step one is the initiation of a complaint. Grievances shall be initiated within 30 calendar days of the action involved, or within 30 calendar days of the employee having reasonable knowledge of the act, unless these time limits are further delimited as stated in §13-205. Appeals within the grievance procedure shall be timed from receipt of the written opinion of management or from when such opinion is due, whichever comes first. An aggrieved employee or the employee's designated representative may present the grievance in writing to the department head or chairman or designee for formal consideration. If the grievance is presented to the department head or chairman or designee, within 5 days after the receipt of the written grievance a conference shall be held with the aggrieved or the employee's designated representative and within 5 days after the conclusion of the conference a decision shall be rendered in writing to the aggrieved or the employee's designated representative. If the aggrieved employee is not satisfied with the decision rendered at this step, the employee or the employee's designated representative may appeal in writing to step two within 5 days.
 - (2) Both employee and department head or chairman or designee shall continue to review the matter, either privately or with the help of others in the employee's immediate work unit who

are directly involved in the grievance. Each department head or chairman or designee shall use judgment in keeping superiors informed of the status of each grievance and, if necessary, request guidance, advisory committees, or other assistance consistent with departmental policy. If either the employee or the department head or chairman or designee feels the need for aid in arriving at a solution, the campus personnel department may be requested to provide resource staff or any other available resource personnel may be invited to participate in further discussions. The addition of such participants does not relieve the department head or chairman or designee and the employee from responsibility for resolving the problem.

- (c) **Step Two.** The appeal shall be submitted to the president of the constituent Institution or the president's designated representative within 5 days after the receipt of the written decision at step one. The president or the president's designated representative shall hold a conference with the aggrieved or the employee's designated representative within 10 days of receipt of the written grievance appeal and render a written decision within 15 days after the conclusion of the conference.
- (d) **Step Three.** In the case of any still unresolved grievance between an employee and the constituent Institution, the aggrieved employee, after exhausting all available procedures provided by the constituent Institution, may submit the grievance to either arbitration or to the Chancellor who may delegate this responsibility to the Office of Administrative Hearings in accordance with Title 10, Subtitle 2 of the State Government Article. In either case, the appeal shall be submitted within 10 days after the receipt of any written decision pertaining to that grievance and issued by the constituent Institution. If the grievance is arbitrated, the Parties shall select an arbitrator by mutual agreement. If they are unable to reach a mutual agreement, an arbitrator shall be supplied by the American Arbitration Association by their procedures. Any fees resulting from arbitration are assessed by the arbitrator equally between the two parties. The arbitration award is advisory to the Chancellor or administrative law judge, as appropriate, and an additional appeal or hearing may not be considered. The Chancellor or administrative law judge, as appropriate, shall make the final decision that is binding on all parties.
- (e) **Authority of Chancellor or administrative law judge.**- The Chancellor or administrative law judge, as appropriate, shall have the power to award back pay in any grievance and the president of the constituent Institution shall enforce such order. In any reclassification case in which the Chancellor or administrative law judge, as appropriate, or his designated representative, determines that an employee has been misclassified, the Chancellor or administrative law judge, as appropriate, may, in his discretion, award back pay to the employee for a period not to exceed one (1) year prior to the initial filing of the grievance.
- (f) **Coercion, discrimination, interference, reprisal and restraint prohibited.**-
- (1) During any stage of a complaint, grievance, or other administrative or legal action that concerns State employment by a full-time or part-time employee of an Institution, or by a temporary or contractual employee of an Institution, the employee may not be subjected to coercion, discrimination, interference, reprisal, or restraint by or initiated on behalf of an Institution solely as a result of that employee's pursuit of a grievance, complaint, or other administrative or legal action that concerns State employment.

(2) An employee of an Institution may not intentionally take or assist in taking an act of coercion, discrimination, interference, reprisal, or restraint against another employee solely as a result of that employee's pursuit of a grievance, complaint, or other administrative or legal action that concerns State employment.

(3) An employee who violates the provisions of this subsection is subject to disciplinary action, including termination of employment.

§ 13-204. Decisions.

A decision may not be made at any step of the grievance procedure that conflicts with or modifies a policy approved by the Board of Regents of the University or with any applicable statute or with any administrative regulation issued under appropriate statutory authority or that otherwise delimits the lawfully delegated authority of University officials unless prior approval has been obtained from the responsible official.

§ 13-205. Suspensions pending removal; involuntary demotions; rejection on probation; disciplinary suspension.

(a) ***Suspensions pending removal.***- Within five (5) 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 employee who is suspended under charges for removal may request an opportunity to be heard in his own defense. Within thirty (30) days if possible after receipt, the president or the president's designated representative shall investigate the charges and give the employee an opportunity to be heard. Testimony shall be taken under oath and both the department head or chairman or designee and the employee have the right of representation by counsel and the right to present witnesses and give evidence. Within fifteen (15) days following the conclusion of the conference, the written decision shall be rendered to the employee. In the case of appeals from charges pending removal, the department head or chairman or designee may request through appropriate channels the Attorney General's representative to the University to serve as counsel. In case no hearing is timely requested, the Campus Director of Personnel shall act upon the charges or order such other actions as are indicated by the findings in the case. If a hearing is timely requested and the removal is upheld, step three of the grievance procedure shall be available to the removed individual. The appeal shall be submitted within ten (10) days after receipt of the written University decision.

(b) ***Involuntary demotions.***- Within five (5) days, an employee who is notified of demotion may file a written answer with the president or the president's designated representative and request an investigation of the demotion. Within twenty (20) days, if possible, after receipt, the president or the president's designated representative shall investigate the demotion and give the employee an opportunity to be heard. Within fifteen (15) days following the conclusion of the investigation, the written decision shall be rendered to the employee. If an investigation is timely requested and the demotion is upheld, step three of the grievance procedure is available to the demoted employee. The appeal shall be submitted within ten (10) days after receipt of the written University decision.

(c) ***Rejection on probation.-***

(1) Rejection on Original Probation. Within five (5) days of the notice of rejection, an employee who is rejected on original probation may file a written request with the president or the president's designated representative for a hearing. Within twenty (20) days, if possible, after receipt, the president or the president's designated representative shall conduct a hearing. Within fifteen (15) days following the conclusion of the hearing, the written decision shall be rendered to the employee. If the hearing is timely requested and the rejection is upheld, step three of the grievance procedure is available. The appeal shall be submitted within ten (10) days after receipt of the written University decision. Rejection for cause is not required in the case of an employee rejected on original probation.

(2) Rejection on Promotional, Transfer, or Horizontal Change Probation. Within five (5) days of receipt of the recommendation of the department head or chairman to reject, an employee who is promoted and then rejected within the probationary period for the new class and for whom a vacancy in the former class is not available may file an answer with the president or the president's designated representative and request an investigation of the proposed rejection. Within twenty (20) days, if possible, after receipt, the president or the president's designated representative shall investigate the proposed rejection. The same rule applies to an employee who has completed a probationary period in one classification and makes a horizontal change to a new classification, and is rejected in the new classification or who transfers to another department in the same classification and is rejected. Within fifteen (15) days following the conclusion of the investigation, the written decision shall be rendered to the employee. If the investigation is timely requested and the rejection is upheld, step three of the grievance procedure is available to the rejected employee. The appeal shall be submitted within 10 days after receipt of the written University decision.

(d) ***Disciplinary suspension.-***

(1) This subsection does not apply to suspensions pending charges for removal.

(2) Alleged infractions shall be investigated by the responsible supervisor or administrator or designee at the earliest opportunity following knowledge of it, and the investigation shall be promptly completed. All suspensions of employees shall be implemented within 3 days of the alleged infraction or knowledge of the alleged infraction by the responsible supervisor or administrator. All suspension days shall be consecutive.

(3) The employee or the employee's designated representative may submit a written appeal on a disciplinary suspension to the president or the president's designated representative within 5 days of notification of the suspension, or the employee or the employee's designated representative may appeal the suspension within 3 days of notification of the suspension to the department head or chairman or designee. The department head or chairman or designee shall hear the case within 3 days from the receipt of the written appeal. If the appeal is unheard or unanswered as a result of management delay, the employee shall be reinstated with full back pay.

(4) If the suspension is upheld by the president or the president's designated representative, step three of the grievance procedure is available to the employee. If the employee chooses to appeal

to the department head or chairman or designee, any further appeals shall proceed through steps two and three of the grievance procedure.

(e) *Preliminary hearing.*-

(1) If an employee is suspended without pay pending a hearing on disposition of charges for removal, the president or the president's designated representative shall notify the employee in writing of the reasons for the suspension at the time of the notice of the suspension.

(2) Within 5 working days of the notice of suspension, the employee may request in writing that the president or the president's designated representative, in addition to conducting a hearing on the merits, conduct a preliminary hearing to determine whether or not the employee may continue to work with pay pending the disposition of the charges.

(3) The president or the president's designated representative shall conduct a preliminary hearing within 5 working days after the president or the president's designated representative receives in writing the request from the suspended employee for the preliminary hearing.

(4) The preliminary hearing shall be limited to the issues of:

- (i) Whether suspension without pay is necessary to protect the interests of the University of Maryland or the employee pending final disposition of the charges; and
- (ii) Whether other employment and status alternatives should be considered.

(5) At the preliminary hearing, the employee may:

- (i) Rebut the reasons given for the suspension;
- (ii) Allege mitigating circumstances; and
- (iii) Offer alternatives to the suspension, including:
 - 1. Return to the position with pay;
 - 2. Transfer to another position with pay; or
 - 3. Suspension with pay.

(6) Within 5 days after the preliminary hearing is completed, the president or the president's designated representative 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.

§ 13-206. Miscellaneous provisions.

(a) In cases of appeal to an arbitrator, each Party is responsible for any expense incurred in the preparation and presentation of its own case and for any record or transcript it may desire.

(b) Upon the formal or informal initiation of a grievance an employee designated as a grievance procedure representative shall not suffer any loss of pay for investigating, processing or testifying in any step of the grievance procedure. Release time from normal work schedules is

to be granted 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.

- (c) 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 employees at steps two and three unless, at any step, prior permission is granted by the person hearing the grievance.
- (d) Employee complaint forms shall be available in the campus personnel department. The University form shall be used.
- (e) 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 department head or chairman and who acts in their absence.
- (f) An employee may not leave the post of duty to engage in grievance handling without the knowledge of and permission from the designated supervisor.
- (g) A formal grievance may be filed by the aggrieved employee; the request to appeal a grievance must bear the signature of the employee or the employee's representative at each step of the procedure.
- (h) 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 campus personnel department which shall be available to the employee or the employee's representative.
- (i) At any point in the grievance procedure, the employee may elect to obtain, change, or dismiss the representative by providing a written notice to the person hearing the grievance. However, the action does not allow the grievant to return to a previous step in the procedure.
- (j) A hearing officer may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence or witnesses.
- (k) Each step of the grievance procedure shall be processed as quickly as practicable within the specified time limits. Failure to appeal at any step constitutes acceptance. Failure to answer is a denial to which an appeal may be made. By mutual agreement, the time limits and/or steps may be waived.
- (l) 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.
- (m) A grievance may start with a complaint or request by a permanent or temporary employee.

- (n) An employee may be represented at every step of the grievance procedure by a Party or organizational representative.
- (o) An employee shall receive a copy of this grievance procedure upon employment at the University.
- (p) Both Parties shall make an effort to resolve the grievance at the lowest possible level.
- (q) All grievance hearings shall be open hearings unless either Party requests that the hearing be closed.
- (r) At any step of the grievance procedure, either Party may require that witnesses be excluded from the hearing room until called.
- (s) Any Party who elects to use this procedure for resolution of a problem is presumed to agree to abide by the final disposition arrived at in this procedure and the final disposition may not be subject to review under any other procedure within the University.
- (t) 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.

§ 13-207. Sovereign immunity; satisfaction of awards.

- (a) *Defense of sovereign immunity unavailable.*- The defense of sovereign immunity may not be available to the University, unless otherwise specifically provided by the laws of Maryland, in any administrative, arbitration, or judicial proceeding held pursuant to this section, or the personnel policies, rules, and regulations for classified employees of the University System of Maryland involving any type of employee grievance or hearing, including, but not limited to charges for removal, disciplinary suspensions, involuntary demotions, or reclassifications.
- (b) *Funds provided for satisfaction of awards.*- The Governor shall provide in the annual State budget adequate funds for the satisfaction of any final monetary or benefit award or judgment that has been rendered in favor of the employee against the University in any administrative, arbitration, or judicial proceeding.
- (c) *Awards which have not been satisfied.*- Awards under this section that have not been satisfied pursuant to subsection (d) of this section, shall be reported to the Comptroller of the Treasury, who shall maintain and report annually to the Governor an accounting of existing awards. Upon appropriation of funds by the legislature, the Comptroller of the Treasury shall satisfy existing awards in order of date of award.
- (d) *Timeliness of satisfaction.*-If the University has sufficient funds available to satisfy any award under this section at the time the award is rendered, the award shall be satisfied as soon as practicable but not more than 20 days after the award becomes final.

ARTICLE 21 – MISCELLANEOUS

Section 1. Access to Recreation Centers

Subject to University rules and regulations, employees and their dependents have access to and use of all appropriate campus facilities, including but not limited to all health and fitness facilities, sports complex, dining facilities, the library, and computer facilities that are otherwise open to employees. Employees will pay the same fees as other employees when using University facilities.

Section 2. Release Time for Campus Sponsored Committees

Employees shall be allowed paid release time with the approval of the supervisor based upon operational needs to serve as members of employment-related, campus-sponsored committees to which they are appointed or elected.

Section 3. Attendance at Job-Related Trainings

Employees will be paid for time spent in University required training consistent with the provisions of this MOU and the FLSA. The Employer will make reasonable efforts to have employees attend required training during their regularly scheduled work hours. All travel undertaken in conjunction with approved University required training must be documented by the employee and pre-approved by management. All out-of-state travel must have a pre-approved travel request form. Expenses properly incurred in conjunction with approved University required training are reimbursable to the extent allowed by and as provided by University regulations.

Section 4. Attendance at Job Interviews

Employees shall be allowed reasonable paid release time to attend job interviews on the University campus for University job opportunities.

ARTICLE 22 -- UNIFORMS AND EQUIPMENT

Section 1. Uniformed Job Classifications.

Where the Employer has determined that a specific job classification should wear a uniform, the Employer will determine the nature of the uniform (shirt, shirt and pants, etc.) and will provide that uniform. The Employer will provide appropriate uniforms to agricultural technicians and laboratory technicians beginning in FY 05. Where uniforms are provided, employees must wear them.

Section 2. Replacement of Uniforms

The Employer will replace uniforms on a department-by-department basis consistent with current practices. Replacement uniforms shall be in new condition, fit properly, and be provided at no cost to the employee. Employees are responsible for maintenance and upkeep. If a uniform is damaged or lost through the fault of the employee, replacement shall be at the employee's expense.

ARTICLE 23 – INSURANCE AND BENEFITS

Employees covered by this MOU who are otherwise eligible may participate in the health and other insurance plans as offered by the State of Maryland and the University System of Maryland, as they may exist from time to time, on the same basis and subject to the same terms and conditions including the payment of all applicable premiums, co-pays, deductibles and other fees and expenses as established for other University and State employees.

ARTICLE 24 – RETIREMENT

Employees covered by this MOU who are otherwise eligible may participate in the Maryland State (Employees' and Teachers') Retirement Systems and the Maryland State (Employees' and Teachers') Pension Systems, as appropriate, subject to all of the terms and conditions of those Systems and their respective Plans, including any modifications made to those Systems and Plans during the term of this MOU. In addition, consistent with the provisions of HB 926 (2016 General Assembly Session), employees who may become subject to this MOU as a result of amendments to regulations governing the Fair Labor Standards Act or other laws, shall continue to participate in the USM Optional Retirement Plan. All disputes or grievances regarding the Retirement and/or Pension Systems shall be resolved in accordance with the procedures specified in the plan or by applicable law.

ARTICLE 25 -- TUITION REMISSION

Section 1.

Tuition remission shall be administered by UMES consistent with UMES Procedure and *USM Policy VII-4.10, Policy on Tuition Remission for Faculty and Staff* and *USM Policy VII-4.20, Policy on Tuition Remission for Spouses and Dependent Children of Faculty and Staff*, and/or any USM successor tuition remission policies that may be adopted during the duration of this MOU.

Section 2.

In the event that during the duration of this MOU, the Board of Regents adopts a policy, which rescinds or modifies in whole or in part the afore-referenced tuition remission policies, the University may implement those changes after consultation or bargaining, if required, with the Union. The parties further agree that the University's tuition remission program must at all times comply with applicable law and that the University may implement any modifications necessary to come into compliance with applicable law. Where the modifications or changes that the University intends to implement are subject to the obligation to bargain collectively under *SPP 3-101 et. seq.*, the process outlined in Article 6 - Scope of Agreement of this MOU applies.

ARTICLE 26 -- HEALTH AND SAFETY

Section 1. General Duty

The Employer and all employees covered by this MOU shall comply with all safety rules and regulations established by the Employer, as well as all applicable safety-related laws and regulations.

Section 2. Safety Concerns

Where an unsafe condition is alleged to exist, the affected employee shall first notify his/her immediate supervisor who shall take whatever necessary corrective action the supervisor deems appropriate. Employees are encouraged to bring forth their safety concerns and are not subject to adverse actions for doing so. Where the matter is not resolved to the satisfaction of the employee, the matter will be submitted to the University's Safety Officer for review. The Safety Officer will advise the employee of the results of his investigation and any corrective action taken or proposed to be taken within thirty (30) days of receiving notice of the employee's concern or explain why additional time is needed. Nothing in this Article requires the Employer to take any specific corrective actions proposed by an employee. However, corrective actions shall be implemented in accordance with the judgment of the University.

Section 3. Joint Health and Safety Committee

As a way to promote and maintain safe and healthy working conditions in the workplace, the Employer and the Union agree to establish a campus-wide Health and Safety Committee comprised of representatives from all areas of the campus community. The Union shall select a total of four representatives (clerical staff (1), housekeeping staff (1), and trades and labor pool staff (2)) to act as representatives to the Health & Safety Committee along with other employees. The Health and Safety Committee shall be the primary advisory group on matters pertaining to accident and injury prevention, reduction, and management. The committee shall be chaired by the University Safety Officer and shall meet every other month.

Section 4. Duties of the Health and Safety Committee

The Health and Safety Committee is responsible for:

- a) Recommending that adequate health and safety rules and regulations are implemented and monitored.
- b) Reviewing and monitoring potential risks and hazards that exist in the work environment, including unsafe work practices, and making recommendations for their elimination or reduction.
- c) Monitoring and evaluating the need for health and safety training for employees.
- d) Reviewing accident records and statistics in order to determine the need for corrective action.
- e) Promoting health and safety education.
- f) Reviewing the availability and adequacy of first aid supplies and equipment and recommending improvements as necessary.
- g) Maintaining and reviewing minutes of all committee meetings.

Section 5. Investigative Reports

The committee shall be entitled to copies of any investigative report produced by any State, County or Federal agency or any report prepared by any member or sub-committee of the Committee as a result of investigating any situation described under Section 4 above.

Section 6. No Loss of Compensation

Members of the Health and Safety Committee will receive paid work release time while performing approved duties associated with the responsibilities of the Committee, and/or attending training or conferences required by the Employer. All time spent by the employee on Committee Activities must be consistent with operational needs and pre-approved by the employee's supervisor.

Section 7. Personal Protective Equipment

The Employer shall provide personal protective clothing and equipment (not including safety shoes or prescription safety glasses) that, as determined by the Employer, are required by applicable state laws and regulations. In the event the Employer requires an employee to wear safety shoes on the job, the Employer, upon proof of purchase will reimburse the employee once within a twelve (12) month period during the duration of this MOU \$100.00 (but not to exceed the cost of the shoe) towards the cost of one pair of safety shoes approved by the Employer and purchased by the employee during the duration of the agreement. The Employer will provide guidelines in conjunction with what constitutes an Employer approved safety shoe (type, specifications, etc.). The Employer will make available non-prescription safety glasses to employees who are required to wear them as part of their job.

An employee may be instructed by his/her supervisor to purchase new shoes if the shoes are worn to the point they are deemed unsafe for use. The employee may be required to assume the full cost of replacement if the designated reimbursement has already been awarded for the twelve month period.

Section 8. Communicable Diseases

Employees will be provided with information on all communicable diseases to which they may have routine workplace exposure. Training by a certified entity shall be provided, at least once a year, to educate employees in the area of recognition and prevention of such diseases and blood borne pathogens. The training shall be based on the standards established by OSHA.

Section 9. Hepatitis B

Employees who have any contact with blood and other body fluids shall be offered Hepatitis B vaccination at a location designated by the Employer and at the Employer's expense. The Employer will cover any costs of the vaccination that are not covered by the employee's health insurance.

Section 10. Cardiopulmonary Resuscitation (CPR) Training

Employees assigned to job classifications where, as determined by the Employer, training in CPR may be a valuable skill, shall be offered CPR training.

Section 11. Asbestos

All employees who work with or around asbestos shall have the proper required training and personal protective equipment. When an asbestos hazard is discovered, employees shall be

immediately notified of the existence and location of the hazard, and the Employer shall take precautionary measures to protect the employees from exposure. The Employer shall conduct periodic inspection and monitoring to detect the presence of asbestos at least once a year.

Section 12. Physical Examinations for Agricultural Technicians

Agricultural Technicians will be provided the opportunity to take a physical examination annually at a location determined by the employer. The Employer will cover any costs of the routine physical examination that are not covered by the employee's insurance.

Section 13. Medical Monitoring

Medical Monitoring is according to the schedule set by the Maryland Asbestos Program.

Section 14. Inspection by Governmental Agencies

A copy of any investigation report prepared by any government agency, which conducted an investigation on the premises of the Employer, shall be furnished to the Union upon request.

ARTICLE 27 -- CONTRACTING OUT

Section 1. Bargaining Unit Work

- A. The Employer retains the right to contract out services that are performed or that could be performed by employees covered by this MOU. The University understands that the Union opposes the contracting out of public services. Where the Employer decides to contract out a service that is performed by employees covered by this MOU, the Employer will provide the Union with written notice of its decision no less than sixty (60) days before the effective date of the service contract. The notice shall include the following:
 - 1. A statement of what efforts will be made by the University to place affected employees in University positions that are vacant at the time of notice;
 - 2. A statement of what employment possibilities are available with the contractor; and
 - 3. A statement of which employees, if any, will be laid off as a result of the contracting out of the services. Employees who are laid off are subject to Article 32 – Layoff and Recall.

- B. The parties specifically agree that this Article is intended to state the complete obligation of each party with regard to bargaining over the effects of a decision by the Employer to contract out.

ARTICLE 28 – PARKING

Employees may park in the University parking lots on an as available basis provided that any employee electing to do so pays the same parking fees as applicable to all other University

employees and complies with all parking regulations, provided that the University will not raise parking fees by more than 50% a year.

ARTICLE 29 -- ESSENTIAL EMPLOYEES

Section 1.

An essential employee is an employee of a facility who has been designated as vital to the operation of the facility, whose presence is required regardless of the existence of an emergency condition, and whose absence from duty could endanger the safety and well being of the campus population and/or physical plant. The University has the sole authority to designate which employees are essential.

Section 2.

If the University is closed due to emergency conditions, essential employees must, pursuant to University policy, report to work. If an essential employee fails to report for duty after he/she has been notified by his/her supervisor to report to work, he/she will not be paid for that day/days and may face disciplinary action.

Section 3.

Employees who are required to perform duties after an emergency condition has been declared shall, in addition to pay for work performed, be compensated on an hour-for-hour straight time basis for hours worked during the period of declared emergency up to the number of hours of administrative leave granted on that day because of the emergency to non-essential employees. At the option of the Employer, the employee may be paid compensatory time, for the administrative leave portion on the same basis, but in lieu of, cash payment.

ARTICLE 30 – LABOR – MANAGEMENT COMMITTEE

Section 1. Purpose of the Committee

The University and the Union agree to create a Labor-Management Committee for the purpose of identifying issues of concern to either party and to jointly procure solutions to such concerns. The Committee shall also serve as a forum of discussion for any issues associated with the implementation of any aspect of this MOU. However, the Committee shall not serve as a substitute for formal negotiations when such is necessary and required.

Section 2. Composition of the Committee

The University and AFSCME shall appoint four (4) members each to the Labor-Management committee. The committee shall meet at least once a month for the first six months and every other month or as needed after that. Each of the parties shall alternate as chair. We will continue the current practice of allowing additional members to come to meetings to address special issues on the agenda.

ARTICLE 31 - NO STRIKE AND NO LOCKOUTS

Consistent with State Personnel and Pensions Article Section 3-303, employees are prohibited from engaging in any strike. The Employer may take disciplinary action, including termination of employment, against any employee who participates in a strike. "Strike", as defined in Section 3-303, means any concerted action to impede the full and proper performance of employment duties in order to induce, influence, coerce, or enforce demands for a change in wages, hours, terms, or other conditions of employment, and includes a total or partial refusal or failure to report to work; refusal or failure to perform employment duties; withdrawal from work; work stoppage; or, work slowdown. The Union agrees that it will not engage in or encourage any strike activity and agrees that it shall take all necessary steps to obtain immediate compliance with this Article by employees covered by this MOU. The Union is subject to all penalties and remedies under law for a violation of this Article or Section 3-303.

Consistent with State Personnel and Pension Article Section 3-304, the University may not engage in any lockout. "Lockout", as defined in Section 3-304, means action taken by the University to interrupt or prevent the continuity of the employees' usual work for the purpose and with the intent of coercing the employees into relinquishing rights guaranteed by Title 3 of the State Personnel and Pensions Article, or any action taken by the University to bring economic pressure on employees for the purpose of securing the agreement of their exclusive representative to certain collective bargaining agreement terms.

ARTICLE 32 – SEVERABILITY

This MOU is subject to all applicable laws. Should any part of this MOU be declared invalid by operation of law, the part at issue will be unenforceable and the remainder of the MOU shall not be affected but shall remain in full force and effect. In the event a provision is thus rendered invalid, upon written request of either party, the Employer and the Union shall meet promptly and attempt to negotiate a substitute for the invalid provision.

ARTICLE 33 – LAYOFF AND RECALL

Section 1. Layoff Notice

When the University decides to layoff an employee or employees, a notice shall be given to the affected employee(s) and the Union at least ninety (90) calendar days in advance of the effective date of such layoff. Notices of layoff shall be in writing and shall be acknowledged in writing by the employee. The written notice shall include the reason for the layoff (i.e., position abolished, discontinued or vacated because of a lack of supporting funds, program change, change in departmental organization or stoppage or lack of work). The Employer may place an employee who receives a notice of layoff on administrative leave for any portion of the ninety (90) calendar day notice period. Administrative leave will not be unreasonably denied.

Section 2. Order of Layoff

The University shall determine in which classifications layoffs will occur. Layoffs will occur by division. Within each classification affected, layoffs shall occur in the following order:

1. All regular status employees serving an original probationary period in the classification and division in which the layoff is to occur; then
2. All regular status employees who have completed an original probationary period, in the classification and division in which the layoff is to occur, in order of seniority, with the employee having the lowest number of seniority points being laid off first.

Section 3. Seniority Points

The formula for establishing seniority points shall be as follows:

- (A) One point shall be given for each complete month of credited service for the following:
 - (1) University System (and/or predecessor organizations) and State service including service as medical system University personnel as defined in the Education Article, Section 13-1B-01(r)
 - (2) Service with the division where the layoff is to occur: and
 - (3) Service in the job classification and its job series where the layoff is to occur.
- (B) For creditable service of less than a complete month, the employee shall be credited with .032 points for each day of creditable service.
- (C) For part-time employees, creditable service shall be determined by the funded percentage of the position.
- (D) The combined total of all points shall determine the order of layoff. If two or more employees in the same classification have the same number of seniority points: the Divisional Vice President, with approval of the Chief Executive Officer, will determine the employee(s) to be retained based upon a reasonable written evaluation of the specific objective skills, knowledge, and abilities of each employee, prepared by the Division Head or Chairperson.

Section 4. Displacement Rights

Employees covered by this MOU who are notified that they are being laid off may elect to exercise displacement rights as provided herein. An employee's election to exercise displacement rights must be made by giving written notice to the Office of Human Resources within fifteen (15) calendar days of the notice to the employee of the layoff.

- (1) An employee in a position which is to be abolished, discontinued, or vacated shall be allowed to displace another employee with less seniority in the same job classification, or, if not available either
 - a. Progressively to each lower classification in the same job series; or
 - b. In any other classification in which the employee held satisfactory regular status.
- (2) The displacement as applied in one (1) above, shall be limited to the division in which the employee is employed at the time that the notice of layoff is given.

- (3) An employee who elects not to displace another employee or who is ineligible to displace another employee in accordance with this Section shall be laid off.
- (4) An employee who is displaced under this Article is subject to the terms and conditions of this Article.

Section 5. Recall List

An employee who is laid off shall be recalled for reappointment following a layoff if, within two (2) calendar years from the effective date of layoff, the specific position from which the layoff occurred is reestablished, provided the employee continues to meet minimum qualifications of the job.

For a period of three (3) calendar years from the effective date of the layoff the employee will be notified of job vacancies at the University and, if interested, shall be granted interviews for appointment to vacancies in the classification in which the employee was laid off, any lower classification in that job series, any classification for which the employee has completed an original probationary period, or any other position vacancy for which the employee meets the minimum qualifications.

- (1) Notice of recall from a layoff shall be sent to the employee by certified mail, return receipt requested.
- (2) The recalled employee shall have up to ten (10) workdays following receipt of the recall notice to notify the University of their intention to return to work.
- (3) The recalled employee shall have up to twenty-one (21) workdays following receipt of the recall notice to actually return to work.

Section 6. Severance Package

Laid off employees who are eligible may receive the following severance package:

1. Tuition Remission:
 - a) Employees who are laid off, who have completed less than ten (10) years service with the University and who are receiving tuition remission at the time of layoff may complete the semester in which the lay-off occurs at whatever qualifying institution they are attending at that time, and they may receive tuition remission for one additional full-time semester or two additional part-time semesters, not to exceed a total of 18 credit hours, at UMES only.
 - b) Employees who are laid off, who have completed more than ten (10) years service with the University and who are receiving tuition remission at the time of layoff, may complete the semester in which the lay-off occurs at whatever qualifying institution they are attending at that time, and they may receive tuition remission for two additional full-time semester or four additional part-time semesters, not to exceed a total of 36 credit hours, at UMES only.

- c) For purposes of this Section, full-time shall be considered twelve (12) credit hours or more. Part-time shall be considered to be less than twelve (12) credit hours.
 - d) The tuition remission benefit described in this Section is for the employee only, with the exception that any employee dependent enrolled in coursework in the semester in which the employee is laid-off and receiving tuition remission may continue to receive tuition remission for the balance of that semester.
2. Employment Assistance
- The Office of Human Resources will be available to assist employees laid off with the following:
- Developing a resume
 - Composing a cover letter
 - Interviewing skills
 - Mock interviews
 - Conducting a job search
 - Employment agency contacts
 - Recommended readings
3. The Office of Career Services will be available to assist the laid off employee with the following:
- Career Counseling
 - Job/Internship Posting & Searches
 - Resource Library
 - On campus recruitment and interviews
 - Career Fairs
 - Resume and cover letter assistance

ARTICLE 34 – DURATION [USM COALITION (NON-EXEMPT UNITS)/AFSCME MD MOA]

Section 1. Duration

This MOA between AFSCME MD and the USM Coalition shall become effective when all conditions precedent to its effectiveness have been met and shall extend to June 30, 2019. When effective, the relevant terms of this MOA shall be incorporated into the respective, individual Memorandum of Understanding (MOU) between each member of the USM Coalition (Non-Exempt Units) and AGSCME MD and shall establish 11:59 p.m. on June 30, 2019 as the common expiration date for each such Agreement.

Section 2. MOA New Matters of Negotiations Reopener

No provisions of this MOA shall operate as a waiver of either Parties' right to request bargaining during the term of this Agreement over subject matters that become permissible matters of bargaining after its effective date. All other terms and conditions of the MOA covering the period July 2, 2016 – June 30, 2019 shall remain in full force and effect, except as provided herein.

ARTICLE 35 DURATION, RENEWAL (MOU)

Section 1. Duration

This MOU shall become effective when all conditions precedent to its effectiveness have been met. No portion of this MOU shall be implemented until all of its provisions are effective. No provision of this MOU has retroactive application unless required by law. This MOU expires at 11:59 p.m. on June 30, 2019. The Parties shall ensure that their respective ratification processes are completed as promptly as possible after the conclusion of negotiations.

Section 2. Renewal

Should either Party desire to renew this MOU, they may only do so by providing written notification of its intent to do so to the other Party by August 1, 2018. After notification is provided, the Parties shall then commence negotiations for a successor MOU, during the last year of this MOU at dates and times agreed to by the Parties. The Parties agree that each side will exchange their complete package of proposals for changes to the MOU no later than August 15, 2018 and that negotiations for a successor MOU will commence in the first week of September, 2018 unless otherwise mutually agreed by the Parties.

Section 3. New Matters of Negotiations Reopener

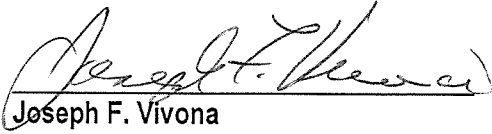
No provisions of this MOU shall operate as a waiver of either Parties' right to request bargaining during the term of this Agreement over subject matters that become permissible matters of bargaining after its effective date. All other terms and conditions of the MOA covering this period July 1, 2016 – June 30, 2019 shall remain in full force and effect, except as provided herein.

Section 4. Fair Share Reopener

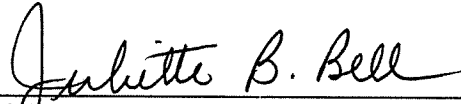
Either party may re-open negotiations on the exclusive subject of service fees "Fair Share" agreement. Negotiations shall be scheduled within 30 days of the presentation of the written request for reopener.

SIGNATURE PAGE

UNIVERSITY OF MARYLAND
EASTERN SHORE



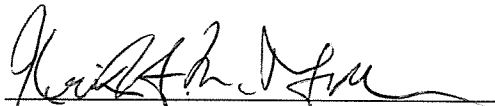
Joseph F. Vivona
Vice President for Administration, USM
USM Coalition



Juliette B. Bell
President
University of Maryland Eastern Shore

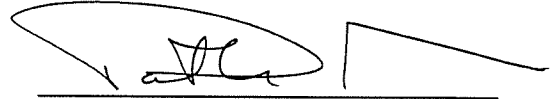


Marie H. Billie, Chief Negotiator
Assistant Vice President
University of Maryland Eastern Shore



Kristin McFarlane, Assistant Attorney General
Office of the Attorney General – Educational Affairs Division
for legal sufficiency

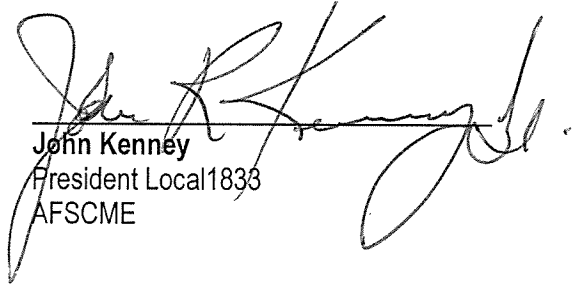
AMERICAN FEDERATION OF STATE,
COUNTY & MUNICIPAL EMPLOYEES



Patrick Moran, President
American Federation of State, County &
Municipal Employees (AFSCME)
Maryland Council 3



Jack Hughes/Stuart Katzenburg
Chief Negotiator
AFSCME MD



John Kenney
President Local 1833
AFSCME