



USM Board of Regents  
Committee on Organization and Compensation  
April 9, 2019  
USM Office, Chancellor's Conference Room

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**AGENDA FOR OPEN SESSION**

**9:00 a.m.**

**Call to Order**

**Regent Rauch**

1. [Approval of Public and Closed Session Minutes from February 21, 2019 Meeting \(action\)](#)
2. [Shared Governance Participation in High Level Administrator Searches \(discussion\)](#)
3. [Update on Faculty Salary Report \(discussion\)](#)
4. [Proposed Policy on Approval of Commission Costs \(information\)](#)
5. [Revision to USM Policy On Grievances for Nonexempt and Exempt Staff Employees VII- 8.00 \(information\)](#)
6. [Convene to Closed Session \(action\)](#)



USM Board of Regents  
Committee on Organization and Compensation  
Minutes from Public Session  
February 21, 2019  
USM Office

**Minutes of the Public Session**

Regent Gossett called the meeting of the Organization and Compensation Committee of the University System of Maryland Board of Regents to order in public session at 8:30 a.m. on Thursday February 21, 2019 in the Chancellor’s Conference Room, Elkins Building, USM Office, Adelphi, MD.

Those in attendance: Regents Gossett, Attman, Dennis, Gourdine, Johnson, Neall, and Wood; Chancellor Caret; Vice Chancellor Herbst; Ms. Wilkerson, AAG Bainbridge, AAG Langrill, Ms. Skolnik, and Ms. Beckett.

1. **Reconvene to closed session.** There was a motion to convene in closed session to discuss the topics set forth in the closing statement, matters exempted from the Open Meetings Act, under the General Provisions Article, §3-305(b) (1) (i): the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation or performance evaluation of appointees, employees or officials over whom it has jurisdiction; (1) (ii) any other personnel matter that affects one or more specific individuals; (9) to conduct collective bargaining negotiations or consider matters that relate to the negotiations; and §3-103(a)(1)(i) administrative matters. (Moved by Regent Gossett, seconded by Regent Gourdine; unanimously approved). The Committee convened in closed session beginning at 8:31 a.m.

The Committee reconvened in public session beginning at 10:22 a.m.

2. **Policy Reviews: Policy on Government Relations – IX-1.0.** The regents approved minor grammatical edits to the Policy on Government Relations (Moved by Regent Gossett, seconded by Regent Gourdine; unanimously approved).
3. **Presidential Search Guidelines.** The regents approved revisions to the presidential search guidelines to more accurately reflect the current procedures and processes that the USM follows when conducting a presidential search (Moved by Regent Gourdine, seconded by Regent Neall; unanimously approved).
4. **Post-Presidential Leave.** The regents discussed post-presidential leave benefits for USM presidents including current practices, changing trends in higher education, and whether changes should be made moving forward.
5. **Sibson Presentation.** Sibson Consulting presented information on presidential performance evaluation, succession planning, and leadership development. Sibson presented information on best practices for comprehensive performance evaluation, what our peers are doing, the state of

the marketplace for leadership development in higher education, optimal leadership development program elements, and challenges we may face as we move forward on these topics.

Meeting adjourned at 11:33 a.m.



USM Board of Regents  
Committee on Organization and Compensation  
Minutes from Closed Session  
February 21, 2019  
USM Office

**Minutes of the Closed Session**

Regent Gossett called the meeting of the Organization and Compensation Committee of the University System of Maryland Board of Regents to order in closed session at 8:31 a.m. on Thursday February 21, 2019 in the Chancellor’s Conference Room, Elkins Building, USM Office, Adelphi, MD.

Those in attendance: Regents Gossett, Attman, Dennis, Gourdine, Johnson, Neall, and Wood; Chancellor Caret; Vice Chancellor Herbst; Ms. Wilkerson, AAG Bainbridge, AAG Langrill, Ms. Skolnik, and Ms. Beckett. Mr. Hoffacker and Mr. Page from USM, Mr. Colella, Vice President for Administration and Finance at UMCP, Ms. Washington, Chief Human Resources Officer at UMCP, Mr. Jones, Chief Human Resources Officer and Associate Vice President at TU, and Ms. Slaff, Vice President and General Counsel from TU were present for a portion of the meeting.

1. **Mid-Negotiation Briefing by the University of Maryland, College Park re MOU with the Fraternal Order of Police (FOP) for Sworn Police Officers.** The regents were briefed on the status of negotiations between UMCP and the FOP for Sworn Police Officers.
2. **Mid-Negotiation Briefing by Towson University re MOU with the Fraternal Order of Police (FOP) for Sworn Police Officers.** The regents were briefed on the status of negotiations between TU and the FOP for Sworn Police Officers.
3. **Collective Bargaining Update.** The regents were provided with the status of collective bargaining negotiations at each USM institution.
4. **Presidential Succession.** The regents discussed presidential succession planning at UMCP and CSU.
5. **Coach contracts.** AAG Langrill provided information and advice about coach contracts from BSU, FSU, and UMCP that are subject to review under BOR Policy VII-10.0.
6. **Discussion of an Individual’s Employment Contract.** The regents discussed certain provisions of an individual’s employment contract.

Meeting adjourned at 10:10am.



**BOARD OF REGENTS**

SUMMARY OF ITEM FOR ACTION,  
INFORMATION OR **DISCUSSION**

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**TOPIC:** Shared Governance Participation in High Level Administrator Searches

**COMMITTEE:** Organization and Compensation

**DATE OF MEETING:** April 9, 2019

**SUMMARY:** The Chair of the University System of Maryland Student Council requested a discussion with the Committee on Organization and Compensation regarding more formal student participation from shared governance groups in selection and hiring committees of high-level administrators at USM institutions

**ALTERNATIVE(S):** The Committee could choose not to discuss the topic.

**FISCAL IMPACT:** There

**CHANCELLOR'S RECOMMENDATION:** The Chancellor recommends that the Committee hear from the Chair of the University System of Maryland Student Council.

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COMMITTEE ACTION: DATE: April 9, 2019

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BOARD ACTION: DATE:

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SUBMITTED BY: Denise Wilkerson, [dwickerson@usmd.edu](mailto:dwickerson@usmd.edu), 301-445-1906 or 410-576-5734

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**Proposal to Amend BoR Policy I-3.00  
Policy on University System Student Council**

March 27, 2019

**Background & Context**

The aim of the below proposal is to afford the Student Council the ability to nominate student appointees to the Chancellor for inclusion on Presidential selection committees.

The USMSC fully acknowledges that (1) the Chancellor has never failed to include students in presidential search committees; and (2) there have existed USM Guidelines for the Selection of Presidents in some form since 1991 and have included students as campus stakeholders.

Nonetheless, the Student Council is seeking a formal role in the nomination of student members to these search committees. The Student Council hopes that such a role will serve to make the process of student appointments more transparent system-wide while also ensuring that the most well-informed students are able to help in the search for the strongest possible candidates.

**Action**

To achieve this, the Student Council proposes to modify the BoR Policy I-3.00 (Policy on University System Student Council). This is the same policy that dictates the core membership of the Student Council and its responsibility to collaboratively nominate a set of Student Regent candidates. The below language could be included immediately following the paragraph on the Student Regent process.

"The Student Council will recommend two students to the Chancellor who will, upon approval by the Chancellor, serve on any thorough search for a President of any constituent institution—hereafter the Institution. These two students must be either (1) the Council representatives from the Institution or (2) be appointed by (1). If no representatives exist for this institution, the Council will work with the Chancellor to ensure student consultation in the search for a President, consistent with the principles of shared governance."

**USM Bylaws, Policies and Procedures of the Board of Regents**

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**I-3.00-UNIVERSITY SYSTEM STUDENT COUNCIL**  
(Approved by the Board of Regents, August 30, 1988;  
amended July 13, 2001; amended April 13, 2012)

Section 12-201 of Education, Annotated Code of Maryland, calls for the Board of Regents to establish a University System Student Council that "shall serve in an advisory capacity to the Chancellor" and "may from time to time make reports and recommendations to the Board." Such a Council will provide a mechanism for the consideration of matters of System-wide concern to students within the System and enable the students to speak on such matters with unity and visibility. Consistent with the principles of shared governance, the University System of Maryland Student Council and the Chancellor jointly will develop for submission to the Governor a list of at least three nominees, each from a different USM institution, for the Student Regent position.

The Student Council will recommend two students to the Chancellor who will, upon approval by the Chancellor, serve on any thorough search for a President of any constituent institution—hereafter the Institution. These two students must be either (1) the Council representatives from the Institution or (2) be appointed by (1). If no representatives exist for this institution, the Council will work with the Chancellor to ensure student consultation in the search for a President, consistent with the principles of shared governance.

The Council shall include two representatives from each degree-granting institution and regional center in the System, selected in a manner determined by each institution and regional center. The Council will vote on a one institution, one vote basis. In addition to the 26 Council representatives, there will be a chair elected by the membership. The Student Regent shall also serve on the council ex officio. The representatives shall serve one-year terms; they may be re-appointed for subsequent terms as long as they remain students in good standing.

The Student Council shall, from time to time, present reports to the Board of Regents at regular meetings.

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**BOARD OF REGENTS**

SUMMARY OF ITEM FOR ACTION,  
INFORMATION OR DISCUSSION

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**TOPIC:** Update on Faculty Salary Report

**COMMITTEE:** Organization and Compensation

**DATE OF MEETING:** April 9, 2019

**SUMMARY:** The Organization and Compensation Committee will discuss the most recent faculty salary report, as well as oversight of faculty salaries, implementation, monitoring, and advocacy for funding.

**ALTERNATIVE(S):** This is an information item.

**FISCAL IMPACT:** No direct fiscal impact at this time.

**CHANCELLOR'S RECOMMENDATION:** This is an information item.

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COMMITTEE ACTION: DATE: April 9, 2019

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BOARD ACTION: DATE:

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SUBMITTED BY: Denise Wilkerson; [dwilkerson@usmd.edu](mailto:dwilkerson@usmd.edu); 301-445-1906 or 410-576-5734

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**Council of University System Faculty (CUSF)  
A Report on  
BOR Policy II-1.21 and Maintaining Faculty Salaries at the 85<sup>th</sup>  
Percentile of the Institution's Classification Group  
Prepared by  
CUSF Finance Committee  
to the USM BOR**

**Approved CUSF Resolution  
January 17, 2019**

The University System of Maryland (USM) is a major economic engine within the Maryland economy. In a competitive marketplace, it is important for USM to maintain faculty salaries that are competitive in order to remain an economic engine. A significant difference with USM and other state agencies that receive funding from the Legislature is that the other agencies are consumers rather than producers of revenues to the State. In an effort to remain competitive, the USM Board of Regents adopted policy II-1.21 which seeks to maintain faculty salaries at the 85<sup>th</sup> percentile of its classification group. In terms of maintaining the 85<sup>th</sup> percentile, USM is not maintaining parity with other institutions. At the request of the previous chair of the BOR, this report outlines the problem associated with maintaining faculty salaries at the 85<sup>th</sup> percentile and recommends possible solutions.

### **History of This Report**

Originally, the salary issue and the 85<sup>th</sup> percentile was raised at the April 2018 CUSF Council meeting as part of the discussion with Chairman Brady. The issue was briefly raised again at the May 2018 Chancellor's Council. Although the group didn't have the data in Tables 1 and 2, the group at the Chancellor's Council indicated that it was an issue that needed further investigation and action. Given the financial situation of the surrounding states, there was some surprise that Maryland has become less competitive even without any COLA or merit increases. The issue was addressed again at the May 2018 AAAC meeting of Provosts. The Provosts were presented with extensive tables of data. The analysis in Table 1 and 2 was gleaned from these tables and from additional information provided by USM. Included as part of the May Chair's Report, the CUSF chair, Robert Kauffman, included the information in the two tables in a commentary

attached to the report.<sup>1</sup> The report and commentary were distributed to the BOR, System and CUSF Council members. At the request of the chair of the BOR, Trish Westerman, CUSF Chair for 2018-2019 requested the Finance Committee of CUSF to prepare a report on the issue to the BOR. She indicated that the report should include a discussion of “salary compression” along with potential solutions. This is the requested report.

## **BOR II-1.21 Policy on Compensation for Faculty**

The BOR II-1.21 Policy on Compensation for Faculty was approved in December 1993 and updated with technical amendments in December 2014. Presented below in Section I of the policy, the primary purpose of the policy is to maintain the competitiveness of USM and its ability to fuel Maryland’s economic engine. To maintain competitiveness and economic advantage in a technological age, USM needs to recruit and retain a faculty in what appears to be a competitive market nationally.

I. GENERAL POLICY – The University System of Maryland seeks to provide salaries for faculty that are adequate to attract and retain individuals with the qualifications and level of performance necessary for the USM and each of its constituent institutions to reach and to maintain the highest levels of excellence in education.  
(BOR II-1.21)

Toward this end, the second paragraph of the policy indicates that it is a goal of USM to seek increases in funding that will keep it competitive nationwide. The metric used is the 85<sup>th</sup> percentile of that institution’s classification group.

To this end, the USM shall seek increases in funding to attain and to maintain a faculty salary structure for each of its constituent institutions which is merit-based and in which the average faculty salary is at or above the 85th percentile of that institution’s classification group.

## **The Problem**

There is evidence that many of the USM institutions are not maintaining their competitiveness in terms of faculty salaries. Two summary tables are presented. Table 1 presents the combined percentiles for nine USM institutions excluding UMB, UMCES, UMUC and UB’s law school. It provides the overall or general trend over time. The analysis is based on full-time tenure track faculty (i.e. assistant, associate and full-professors) and uses data for constituents institutions collected from AAUP annual survey of salaries for instructional faculty of 958 institutions.

In general, the percentiles were in the 70 percentile range until FY12 and FY13 when they dropped to 68 and 67 percentiles respectively. In FY14 and FY15, the overall percentile increased to 80 and 81. This was due to COLA and merit raises received during this period. In

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<sup>1</sup> See the May 11, 2018 Chair’s Report to CUSF Council. The report is available on the CUSF website.

FY16 and FY17, it dropped to the 75<sup>th</sup> percentile and for FY18 to the 69<sup>th</sup> percentile. In conclusion, at no time since FY 06 has USM been able to achieve the goal laid out in the policy, and at no time since FY06 has USM been in compliance with the BOR II-1.21 Policy on Compensation for Faculty. It should be noted that the 85<sup>th</sup> percentile is a goal and not a mandate. With a new analysis for FY18, USM has dropped to the 69<sup>th</sup> percentile.

FY	FY06	FY07	FY08	FY09	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18
Percentile <sup>(1)</sup>	77	77	79	79	76	71	68	67	80	81	75	75	69

<sup>(1)</sup> Weighted averages for professor, associate professor and assistant professor for nine institutions are used in calculating percentiles. Calculations are performed in accordance with BOR Policy II-1.21 Policy on Compensation for Faculty. The percentile represents where each institution stands against its respective Carnegie Classification-based comparison group. UMB, UMCES and UMUC are excluded as is UB law faculty.  
<sup>(2)</sup> Source: USM

Table 2 presents the weighted average percentiles for all ranks of tenured and tenure track faculty at each USM institutions for FY18 compared to their respective Carnegie-based comparison group. In accordance with the BOR II-1.21 Policy, the calculation of overall percentiles includes the weighted averages of full, associate and assistant tenure-track positions. Also, from a methodological perspective, the analysis is the same consistent analysis utilized by USM regarding the BOR policy over time. Currently, all of the schools included in the analysis are below the 85<sup>th</sup> percentile (Table 2). In FY17, UMCP and UB were both above the 85<sup>th</sup> percentile. Frostburg is lowest at the 45 percentile.

School	BSU	CSU	FSU	SU	TU	UB <sup>(1)</sup>	UMES	UMBC	UMCP
Percentile <sup>(1)</sup>	69	52	45	58	57	80	76	67	81

<sup>(1)</sup> FY18 weighted averages for professor, associate professor and assistant professor ranks combined. Calculations are performed in accordance with BOR Policy II-1.21 Policy on Compensation for Faculty. UMB, UMCES and UMUC are excluded as is UB's law faculty.  
<sup>(2)</sup> Source: USM

## Salary Compression

Salary compression results when the salaries of existing employees do not keep pace with the external market demand or inflation. There are several common reasons for salary compression. The first is that internal mechanisms for compensation do not keep pace with the market or inflation. This tends to affect long term employees. Even with COLA, merit, and enhancement funds for promotion, faculty salaries can easily fall behind the salaries at comparable institutions.

Typically, the employee can seek employment elsewhere at a higher salary. The university loses a valuable employee and now has the cost of searching for a new employee to replace the lost employee. In addition, new hires with less skills are often hired at a salary that is comparable to or higher than the long term under-paid employee. The result is that salaries tend to be compressed within a narrow range.

A second source of salary compression is when demand for faculty services outstrips supply. This is particularly true in new or growing professions like nursing, cyber security, IT, and engineering. It is also a factor in seeking faculty for inclusion and diversity. The result is that institutions pay a premium for faculty in these high demand areas. Again, there is salary compression or a disparity in salaries between new hires and existing faculty.

RECOMMENDATION: The recommendation for this section is generic. Returning to the purpose of the II-1.21 Policy for Faculty Compensation, USM is a producer of revenues, not merely a consumer of tax dollars. This differentiates it from other State agencies. It is an economic engine that contributes significantly to Maryland's economy. Maintaining competitive faculty salaries is an important component in maintaining this economic engine and for contributing to the future growth and development of the State. The issue of maintaining competitive faculty salaries is important for USM to remain competitive. Addressing salary compression at both the campus and state levels is important in addressing this issue.

## **Existing System and State Mechanisms to Reduce Salary Compression**

Addressing the salary issue is a bifurcated approach. The first thrust involves measures that System can take to work with the Governor's office and the Legislature in affecting change. Suggested recommendations include those listed below but are not limited to these suggestions.

**Retention Funds.** In the past, funding has been made available to System from the State for retention purposes. Although this funding is not currently budgeted, this funding was made available to System even during years without COLA and merit funds. These are targeted funds of a limited nature that do not involve across the board based COLAs or merit raises.

RECOMMENDATION: It is recommended that System work with the Governor's Office and the Legislature to reinstate the retention funding program.

**COLAs and Merit Raises.** Since COLAs and merit raises require the action of the Governor and Legislature they are grouped together. Unlike most of the other recommendations which tend to be specific recommendations, COLA and merit raises tend to be across the board. Like a rising tide that raises all ships, COLA and merit raises tend to raise everyone's salaries, including those that are already near the 85 percentile. From Table 2, these include UB (80 percentile) and UMCP (81 percentile).

Based on this analysis and discussions with System personnel, it is suggested that it takes a four to six percent increase in faculty salaries to have a significant impact on raising the percentiles. A review of Table 1 reveals what it may take to raise the percentiles significantly. For FY13, the overall USM percentile was at the 67<sup>th</sup> percentile. In FY14, there was a significant jump to the 80<sup>th</sup> percentile and a slight increase in FY15 to the 81<sup>st</sup> percentile. This was due to a series of salary increases around that time. In FY12, there was a \$750 bonus or COLA. In FY13, there was a 2% COLA and in FY14 there was a 5.5% increase (i.e. 3% COLA and 2.5% merit). The net effect was a significant raise in faculty salaries from the 67<sup>th</sup> percentile to the 80<sup>th</sup> percentile.

**RECOMMENDATION:** It is recommended that System work with the Governor's Office and the Legislature to provide COLA and merit raises in the 4% to 6% range.

**Enhancement Funds.** Examination of Table 2 reveals that the inequity is unequal. Frostburg is at the 45<sup>th</sup> percentile while UMCP is at the 81<sup>st</sup> percentile. Other institutions are somewhere in between the high of UMCP and low of Frostburg. Although Frostburg has a greater discrepancy, it has fewer faculty affected by the discrepancy than UMCP. The COLAs and Merit raises discussed in the previous section are across the board enhancements. Unfortunately, there are unequal needs to bring the institutions into compliance. Based on its analysis used to determine the percentiles, System has estimated that enhancement funds of 26 million dollars are necessary to raise all the affected institutions to the 85<sup>th</sup> percentile. The enhancement would be a one-time enhancement from the State that could be split over one or two years if needed.

**RECOMMENDATION:** It is recommended that System work with the Governor's Office and Legislature to obtain one-time enhancement funds estimated at 26 million dollars. This recommendation dovetails with the next recommendation regarding the consultant's report.

**Consultant Report.** During 2018, the BOR hired a consulting firm to help determine presidential salaries. Based on the study, the salaries of the presidents were adjusted to maintain their competitiveness within the marketplace. Similarly, it may be prudent to hire a consulting firm to address this issue. Topic areas may include but are not be limited to the following areas.

- Provide a report to System that can be used to justify increasing faculty salaries. The purpose of this report is to educate the Governor and the Legislature and to justify action on their part to address the issue. In addition, a third party consultant tends to lend objectivity to the report.
- Provide assistance to the presidents affected by this policy on strategies that can be implemented on the individual campuses to address this issue. These strategies can include but are not limited to promotion and retention enhancements.

**RECOMMENDATION:** It is recommended that the BOR consider hiring a consultant firm to address this issue. The primary purpose of the prepared report is to provide the Governor and Legislature with justification for taking action on this issue. A secondary purpose would be to assist the presidents affected by this policy in developing a plan.

## **Existing Campus Mechanisms to Reduce Compression**

In the bifurcated approach, the second thrust involves measures that the individual campuses affected by the II-1.21 BOR policy can take to affect change. Suggested recommendations include those listed below but are not limited to these suggestions.

**Promotion Enhancement Funds.** Enhancement funds for promotion can be viewed as a form of merit and they can help reduce compression. Promotion indicates faculty productivity and accomplishment. Productive faculty who are most likely to seek employment elsewhere, are rewarded with an enhancement for their promotion. Currently, ten of the twelve institutions in USM provide enhancement funds for promotion to associate and full-professor (Table 3).

Relying on promotion enhancements may help in solving the compression issue, but may not be enough. As part of another proposal, a five year analysis (2009-2014) of promotion enhancements was conducted using Office of Institutional Research data at Frostburg. Over the five year period there were 13.2 promotions per year. Five promotions were from assistant to associate professor and 8.2 promotions were to full professor. For a faculty of 250, 5.3% of the faculty are receiving a promotion in any given year. With a turnover of 19 years, this provides some but not a lot of opportunity for promotion enhancements to solve the compression issue. In addition, promotion enhancements evaporate after a faculty member reaches full professor, potentially exasperating compression issues for long term employees. The number of promotions each year will vary with each institution. Regardless, the Frostburg analysis suggests that promotion enhancements by themselves may be insufficient in solving the compression issue for faculty.

**RECOMMENDATION:** It is recommended that the presidents examine their promotion enhancement policy to increase enhancements. In addition, the presidents should consider developing alternative mechanisms to compensate full-professors who are highly productive and no longer eligible for promotion enhancements.

Table 3: Salary Enhancements within the System to Associate and Full-Professor Ranked by Full-Professor Enhancements

Institution (Ranked by full-professor enhancements)	Salary Enhancement for Assistant to Associate Professor	Salary Enhancement for Associate to Full- Professor
University of Maryland, Baltimore (UMB) <sup>5</sup>	\$7,500 <sup>5</sup>	\$10,000 <sup>5</sup>
University of Maryland Center for Environmental Science (UMCES)	\$5,000	\$10,000
Towson University (TU)	\$6,000	\$7,500
University of Maryland, Baltimore County (UMBC)	\$4,000	\$6,000
University of Maryland, College Park (UMCP)	\$3,000 <sup>1</sup>	\$5,000 <sup>1</sup>
University of Baltimore (UB)	\$3,000 <sup>2</sup>	\$3,000 <sup>2</sup>
Salisbury University (SU)	\$2,500	\$3,000
Frostburg State University (FSU)	\$1,500	\$2,400
Bowie State University (BSU)	\$1,500 <sup>3</sup>	\$2,000 <sup>3</sup>
Coppin State University (CSU)	\$1,000	\$1,000
University of Maryland, Eastern Shore (UMES) <sup>4</sup>	\$0	\$0
University of Maryland, University College (UMUC) <sup>6</sup>	na	Na

<sup>1</sup> These are the base enhancements associated with promotions at UMCP. Individual units have the discretion to supplement these amounts with other funds if they choose.  
<sup>2</sup> The Provost at UB indicated that “all promotions earn a \$3000 base salary increase, regardless of rank, including professional librarians. A librarian making \$48k or a law professor making \$148k each gets \$3000. On occasion, a dean will recommend a higher amount for exceptional performance or low base, but never more than \$4500.”  
<sup>3</sup> At BSU, “These are flat, fixed rates established by the Provost’s Office. These rates have been in place for 3 years now (2011); before that, they were \$900 and \$1500.” .... They are in the process of reexamining the rates.  
<sup>4</sup> UMES does not give enhancements for promotions.  
<sup>5</sup> UMB data is reported for the School of Nursing and may not be representative of the other schools or the institution as a whole. In addition, promotions from “Clinical Instructor” to “Assistant Professor” receive a \$5,000 enhancement.  
<sup>6</sup> UMUC provided a table of salaries. There was no evidence of enhancements.

**Retention Enhancement Funds.** The literature notes that salary compression often encourages the most talented faculty to seek employment opportunities elsewhere. Often, seeking another position is the only way that faculty can obtain market price for their services. This has two effects. First, it leaves the less productive faculty behind at the institution. Second, the costs associated with replacing the lost faculty member can be substantial and can easily offset a possible enhancement.

Retention of valuable faculty has been an ongoing policy of System. Until recently, funding through the Legislature was made available to System for faculty retention purposes. These funds were made available to individual campuses to help retain valuable faculty who were threatened to being lost.

**RECOMMENDATION:** It is recommended that the presidents consider developing internal enhancement funds for retention of valuable faculty. Returning to the Frostburg promotion enhancement example, each year the Provost needs to find \$27,180 to finance the promotion enhancements. Except for UMES, the Provosts are already readjusting the salary budget line to fund enhancements for promotion. The same can be done internally for retention.

**Develop a Plan.** Section II of the II-1.21 BOR policy indicates that “The Chancellor, in consultation with the presidents, shall develop implementation guidelines for this policy, which shall be based on evaluation of faculty merit using appropriate measures of faculty productivity.” Returning to Table 2, there is considerable variance among the individual campuses. At least six of the nine institutions in the analysis are in the 40 to 60 percentile range. Working in conjunction with the consultant’s plan, the presidents on the campuses affected by this policy should develop a plan to raise their percentile. Topic areas may include but not be limited to identifying and developing institutional policies that would raise the collective average of each institution, examine salary compression differences between disciplines, work with the faculty senate or equivalent shared governance body, and examine comparative faculty salaries with similar institutions and disciplines. It should be noted that the II-1.21 BOR policy also indicates that “Salary increases for current faculty shall be based on merit, and shall be determined on the basis of exceptionally effective teaching, scholarship and public service.”

**RECOMMENDATION:** Working with the faculty senate or similar body, the presidents of the institutions affected by the II-1.21 BOR policy will develop a plan to raise their faculty salary percentile to the 85<sup>th</sup> percentile consistent with BOR policy.

## **Recommendations**

As a major economic engine within the Maryland economy, the University System of Maryland (USM) is significantly different from other state agencies receiving funding from the Legislature. USM is a producer of revenues rather than a consumer of resources. In an effort to remain competitive, the USM Board of Regents adopted policy II-1.21 which seeks to maintain faculty salaries at the 85<sup>th</sup> percentile. USM is not maintaining parity with other institutions.

This report provides the background for the forthcoming resolution from the Council. A draft of that resolution is attached to this report (see Appendix A). In addition, it contains many of the recommendations contained in this report.



Appendix A

**A Resolution of the  
Council of University System Faculty (CUSF)  
To the USM Board of Regents  
To Seek Increases in Funding to Attain and to Maintain  
Faculty Salaries at or above the 85th Percentile  
Of the Institution's Classification Group**

**Approved CUSF Resolution  
January 17, 2019**

**Be It Resolved:**

Consistent with the BOR II-1.21 Policy on Compensation for Faculty, the Council of University System Faculty (CUSF) requests the University System of Maryland (USM) Board of Regents (BOR) to direct the Chancellor, System and the Presidents to consider implementing but not limited to the following recommendations in an effort to obtain the goal of raising faculty salaries to the 85<sup>th</sup> percentile of the institution's classification group.

- 1) It is recommended that System work with the Governor's Office and the Legislature to provide enhancement money to raise the faculty salaries at the institutions that are furthest from the 85<sup>th</sup> percentile of their institution's classification group. System estimates these funds to be 26 million dollars. This is necessary in order not to perpetuate the current inequities between institutions when it comes to faculty salaries compared to salaries at peer institutions. Development of these enhancement funds can be a component of the plans developed by the presidents (see Item 5).
- 2) It is recommended that System work with the Governor's Office and the Legislature to reinstate the retention funding program.
- 3) It is recommended that System work with the Governor's Office and the Legislature to provide COLA and merit raises in the 4% to 6% range.
- 4) It is recommended that the BOR or System consider hiring a consultant firm to address the salary issue. The primary purpose of the prepared report is to provide the Governor and Legislature with justification for taking action on this issue. A secondary purpose would be to assist the presidents affected by this policy in developing a plan.
- 5) It is recommended that the presidents of the institutions affected by the II-1.21 BOR policy will develop a plan to raise their faculty salary percentile to the 85<sup>th</sup> percentile

of their institution's classification group. Development of the plan should include working with their faculty senate or similar body and it should be consistent with BOR policy. It is suggested but not limited to the following suggestions. Presidents should examine their promotion and retention enhancement policies and alternative mechanisms to compensate full-professors who are highly productive and no longer eligible for promotion enhancements. In addition, it can include a plan for the use of the supplemental enhancement funds described in Item 1.



**BOARD OF REGENTS**

SUMMARY OF ITEM FOR ACTION,  
INFORMATION OR DISCUSSION

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**TOPIC:** Proposed Policy on Approval of Commission Costs

**COMMITTEE:** Organization and Compensation

**DATE OF MEETING:** April 9, 2019

**SUMMARY:** The Organization and Compensation Committee will discuss a proposed policy for approval of commission costs that would apply to any commission, committee, board, council or other similar advisory body (“Commission”) established by the USM or its constituent institutions.

**ALTERNATIVE(S):** This is an information item.

**FISCAL IMPACT:** No direct fiscal impact at this time.

**CHANCELLOR’S RECOMMENDATION:** This is an information item.

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COMMITTEE ACTION: DATE: April 9, 2019

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BOARD ACTION: DATE:

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SUBMITTED BY: Denise Wilkerson; [dwilkerson@usmd.edu](mailto:dwilkerson@usmd.edu); 301-445-1906 or 410-576-5734

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### **Approval of Commission Costs**

The following standards and practices shall apply to any commission, committee, board, council or other similar advisory body ("Commission") established by the USM or its constituent institutions:

1. Except as otherwise provided in this policy, no member of a Commission shall be entitled to any remuneration other than valid and reasonable reimbursement for out-of-pocket expenses. Reimbursement for travel expenses shall not exceed that permitted under USM policies and practices or those of the establishing institution.
2. In the case of a professional providing services within the area of professional expertise to any such Commission, such person may be paid fair and reasonable compensation for services rendered, considering market rates and the level of expertise among other relevant factors. The determination of fair and reasonable compensation for services shall be determined by the President of the institution which established the Commission, or if established by the USM, by the Chancellor.
3. Compensation payable to all professionals performing services to a Commission shall not exceed \$500,000 unless all pertinent agreements and contracts have been reviewed in advance by the Board of Regents' Finance Committee and approved by the Board of Regents. The vote of the Finance Committee on recommendation of such agreements and of the Board for approval of such agreements shall take place in public session
4. To the extent that other Board of Regents' policies contain other processes, restrictions or procedures applicable to the creation or operation of a Commission, or regarding contracts or agreements relating to such Commission, the standards and practices contained do not diminish the obligations under such processes, restrictions or procedures, but may create additional obligations relating to such Commission.



**BOARD OF REGENTS**

SUMMARY OF ITEM FOR ACTION,  
INFORMATION OR DISCUSSION

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**TOPIC:** Revision to USM Policy on Grievances for Nonexempt and Exempt Staff  
Employees VII – 8.0

**COMMITTEE:** Organization and Compensation

**DATE OF MEETING:** April 9, 2019

**SUMMARY:** The Organization and Compensation Committee will discuss revising the USM Policy on Grievances for Nonexempt and Exempt Staff Employees VII – 8.0.

**ALTERNATIVE(S):** The committee could choose to not discuss this topic.

**FISCAL IMPACT:** No direct fiscal impact at this time.

**CHANCELLOR’S RECOMMENDATION:** This is an information item.

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COMMITTEE ACTION: DATE: April 9, 2019

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BOARD ACTION: DATE:

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SUBMITTED BY: Denise Wilkerson; [dwilkerson@usmd.edu](mailto:dwilkerson@usmd.edu); 301-445-1906 or 410-576-5734

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**USM Bylaws, Policies and Procedures of the Board of Regents**

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

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

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**I. PURPOSE AND APPLICABILITY**

This policy establishes the employee’s right to file a grievance or special grievance and applies to Regular Status Exempt and Nonexempt Staff employees. The policy fully incorporates the requirements of Maryland Annotated Code, Education Article, Section 13-201 et seq.

**II. DEFINITIONS**

## USM Bylaws, Policies and Procedures of the Board of Regents

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

- A. Grievance** - Any cause of dispute arising between an employee and employer on a matter concerning discipline, alleged discrimination, promotion, assignment, or interpretation or application of institution or University System policies, rules or departmental procedures over which institution or University System management has control except that:
1. If the complaint pertains to the general level of wages, wage patterns, fringe benefits or to other broad areas of financial management and staffing, it is not a grievable issue
  2. Disputes regarding certain major personnel actions shall be treated as special grievances, as defined below.
- B. Special Grievance** – A dispute involving a major personnel action, for which special timelines and other procedures that provide for more timely review are required. Such major personnel actions include:
1. Suspension
  2. Demotion
  3. Separation from employment, including disciplinary separations (also referred to as Charges for Removal)
  4. Notice terminations
  5. Rejections on probation
- C. Former Board of Trustees (BOT) Institutions** – Bowie State University (BSU), Coppin State University (CSU), Frostburg State University (FSU), Salisbury University (SU), Towson University (TU), and University of Baltimore (UB).
- D. Former University of Maryland (UM) Institutions** – University of Maryland, Baltimore (UMB), University of Maryland, Baltimore County (UMBC), University of Maryland Center for Environmental Science (UMCES), University of Maryland College Park (UMCP), University of Maryland Eastern Shore (UMES), University of Maryland University College (UMUC), and University System of Maryland (USM) Office.
- E. Working Day** - Monday through Friday, regardless of any employee’s actual work schedule, and excluding days on which the institution is closed, regardless of the employee’s work schedule.

### III. PRINCIPLES AND GENERAL RULES

- A. Need for Grievance Process

## USM Bylaws, Policies and Procedures of the Board of Regents

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

### B. General Obligations

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

1. In any case where this effort fails, a grievance or special grievance may be submitted to a higher authority for adjudication, including neutral advisory arbitration or the Office of Administrative Hearings in Step 3 Grievances where applicable, consistent with the procedures of this policy.
2. If a grievance or special grievance is submitted, the parties shall make every effort to resolve the grievance or special grievance at the lowest possible level of the process.
3. Decisions shall be both prompt and definitive.
4. It is the responsibility of the head of each organizational unit to provide employees with information regarding the channels of communication and appeal for the exercise of grievance or special grievance rights in that unit.

### C. Retaliation Prohibited

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

### D. Consistency with Other Laws and Policies

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

### E. Monetary Relief

1. The Chancellor, institution President (or designee) or Step Three Administrative Law Judge appointed by the Office of Administrative Hearings, as appropriate, shall have the



## USM Bylaws, Policies and Procedures of the Board of Regents

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power to award back pay in any grievance, and the President or designee of the affected institution shall enforce such order.

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

### F. Relationship to Other Complaint Processes

1. No employee may file or continue to pursue a grievance on any matter that is the subject of:
  - a. A complaint under Title 5 (Employee Rights and Protections), Subtitle 2 (Equal Employment Opportunity Program) or Subtitle 3 (Maryland Whistleblower Law) of the State Personnel and Pensions Article,
  - b. A special grievance before the Law Enforcement Officers' Board of Review (LEOBR), or
  - c. A complaint filed under another USM policy intended to protect the rights of employees.
2. Nothing in the section shall prohibit the filing of a grievance regarding an issue not specifically decided in an earlier complaint process.

### G. Sole Remedy

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

## IV. GENERAL PROCEDURES

### A. Representation of the Employee

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

1. At any point in the grievance or special grievance process, the employee may elect to obtain, change, or dismiss a representative by providing written notice of that decision to the person hearing the grievance.
2. Such a decision regarding representation in the course of the grievance or special grievance process may not allow the grievant to return to a previous step in the process or otherwise delay the grievance.

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3. An employee designated as an employee representative in any informal or formal stage of the process shall not suffer any loss of pay for investigating, processing or testifying in any step of the grievance procedure. This provision does not apply when the employee represents him/herself.

### B. Documentation Requirements

1. A grievance or special grievance must be filed in writing on the institution's Employee Grievance and Special Grievance form.
2. Employee Grievance and Special Grievance Forms shall be available in the institution Office of Human Resource.
3. The Employee Grievance and Special Grievance form must bear the signature of the employee or the employee's representative at each step of the process.
4. It is the responsibility of each party to the grievance and special grievance process, at each step of the process, to duplicate the grievance form prior to filing it with the employer or returning it to the employee, and to retain one copy of the form for possible future reference.
5. Copies of the record of each grievance or special grievance and its disposition shall be:
  - a. Furnished to the employee involved;
  - b. Maintained at the institution Human Resources Office; and
  - c. Made available to the employee or the employee's representative upon request.
6. Any employer communications or decisions shall be delivered to the employee(s) in person or to the employee's last known address via a delivery method that allows for delivery confirmation.

### C. Rules and Standards for Proceedings

1. Similar grievances may be consolidated and processed together as a single issue. Where a number of individual grievances have been reduced into a single grievance, not more than three employees selected by and from the group may be excused from work to attend a grievance meeting called by the responsible administrator at Step One, and not more than five (5) such employees at Steps Two and Three unless, at any step, prior permission is granted by the person hearing the grievance.
2. Each step of the grievance or special grievance procedure shall be processed as quickly as practicable within the specified time limits.

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3. Failure to request that a grievance or special grievance proceed to the next step of the process at any step constitutes acceptance of the decision. An institution's failure to timely respond to a grievance constitutes a denial of the grievance at that step. By mutual agreement of the parties, the time limits and/or steps may be waived.
4. Any question concerning the timeliness of a grievance or whether a complaint is subject to the grievance procedure shall be raised and resolved promptly, unless the person hearing the grievance or special grievance determines that the decision on a motion to dismiss will be deferred pending a hearing on both the merits and the motion.
5. Requests to proceed to the next step of the grievance or special grievance process shall be timed from the receipt of the written opinion of management, or from when such opinion is due, whichever comes first.
6. The official hearing the grievance or special grievance may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence or witnesses.
7. All grievance or special grievance hearings shall be open hearings unless either party requests that the hearings be closed.
8. At any step of the grievance or special grievance process either party may require that witnesses be excluded from the hearing room until called.
9. The original grievance or special grievance that has been considered on the merits will be considered *de novo*, in its entirety, at each successive step of the grievance process. *De novo* review means that the decision-maker at each step in the grievance process will make an independent determination of the issues, without deference to the conclusions made at an earlier grievance step. A grievance or special grievance going forward on a procedural issue will be remanded to the lowest appropriate step of the grievance or special grievance process (i.e., where the procedural error is to have occurred) to be heard on the merits if the procedural dispute is found in favor of the grievant.
10. No employee shall leave an assigned post of duty to engage in grievance activities without the knowledge of and permission from the employee's designated supervisor.
11. Release time from normal work schedules is to be granted to the grievant and all witnesses to attend grievance hearings. Expenses incurred in connection with attendance by employees at grievance hearings shall be borne by the employee's department.

### V. PROCEDURES FOR NONEXEMPT STAFF EMPLOYEES AT ALL USM INSTITUTIONS

#### A. Grievance Procedures for Nonexempt Staff Employees

## USM Bylaws, Policies and Procedures of the Board of Regents

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

1. If, following informal discussion with the supervisor, a dispute remains unresolved, the grievance process is available. A grievance may start with a complaint or request by a regular status staff employee.
2. Grievances must be initiated within thirty (30) calendar days of the action involved, or within thirty (30) calendar days of the employee having had reasonable knowledge of the act.
3. Steps in the Nonexempt Grievance Process for All USM Institutions

There are three steps in the grievance process:

4. a. Step One - Department Representative (Dean, department head or chairperson)
  - i. An aggrieved employee and/or the employee's designated representative (hereinafter known as the "Employee Representative") may present a grievance, in writing, to the Dean, department head, chairperson or designated representative (hereinafter known as the "Department Representative"). Within five (5) working days after receipt of the written grievance, the Department Representative shall hold a conference with the aggrieved employee and/or the Employee Representative.
  - ii. Within five (5) working days after the conclusion of the conference the Department Representative shall render a written decision.
  - iii. The CHRO or designee shall be available to serve as a resource to answer any questions by either the Department Representative or the employee. However, this shall not relieve the Department Representative or the responsibility for issuing a written decision at Step 1 of this procedure.
  - iv. It is the responsibility of the Department Representative to use judgment in keeping superiors informed of the status of each grievance and, as necessary, to request guidance, advisory committees or other assistance in reaching a decision.
- b. Step Two - The President or Designee

If the dispute is still unresolved, the aggrieved employee or Employee Representative may request, in writing, to go to the next step of the grievance process to the President or designee within five (5) working days after the employee's receipt of the Department Representative's written decision at Step One or, if no decision was issued, within five (5) days from when the decision was due to be issued (hereinafter, "Decision Date"). The President or designee shall determine

## USM Bylaws, Policies and Procedures of the Board of Regents

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the appropriate forum for the hearing based upon the nature of the grievance as indicated below:

- i. Institution issues are issues which affect only a specific institution. These issues may include, but are not limited to, application of a department or institution policy, procedure or practice; administrative actions such as reprimands and, where applicable, suspensions, charges for removal, involuntary demotions and rejections on probation. Grievances involving institution issues will be heard by the President or designee.
  - ii. Systemwide issues are issues which may affect more than one institution in the USM. These issues may include, but are not limited to, the general policies of the USM and broad classification issues not limited by law, regulation or policy. Grievances involving systemwide issues will be heard by the Chancellor or designee.
  - iii. In either case, the President or designee, or the Chancellor or designee, shall hold a conference with the aggrieved employee and/or employee's designated representative within ten (10) working days of receipt of the written grievance appeal and shall render a written decision within fifteen (15) working days after the conclusion of the conference.
- c. Step Three - The Office of Administrative Hearings (OAH) or Arbitration
- i. In the case of any unresolved grievance between an employee and the Institution or the USM, the aggrieved employee, after exhausting all available procedures provided by the USM, shall have the right to submit the grievance to either arbitration or to the Chancellor, who may delegate it to the OAH. In either case, the request to go to Step Three must be submitted within ten (10) working days after the employee's receipt of the Step Two decision, or if no decision was issued, within ten (10) working days from the Decision Date.
  - ii. If the grievance is arbitrated, any arbitration award will be advisory to the Chancellor or Administrative Law Judge, as applicable. In the event of arbitration, the parties shall select an arbitrator by mutual agreement. If the parties are unable to reach mutual agreement, an arbitrator shall be supplied by the American Arbitration Association (AAA) using AAA procedures.
  - iii. Any fees resulting from arbitration shall be assessed by the Arbitrator equally between the two parties. In cases that go before an arbitrator, each party will be responsible for any expense incurred in the preparation and presentation of its own case, and for any record or transcript it may desire.
  - iv. The Chancellor or Administrative Law Judge, as applicable, shall make the final decision which shall be binding upon all parties.

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### B. Special Grievance Procedures for Nonexempt Staff Employees

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

#### 1. Special Grievances for Nonexempt Staff Employees

##### a. Unpaid Suspensions Pending Charges for Removal for Nonexempt Employees

- i. If an employee is suspended without pay pending charges for removal, the Chief Human Resources Officer (CHRO) or designee shall notify the employee in writing of the reasons for the suspension at the time of the notice of suspension.
- ii. The employee who is suspended pending charges for removal may, within five (5) working days from the date on which the employee receives the notification of suspension, request in writing through the CHRO or designee that the President or designee conduct a preliminary hearing to determine whether or not the employee may continue to work with pay during the disposition of the charges. The date the notification of suspension is received shall be evidenced by a return receipt or other proof of delivery of notification to the employee.
- iii. The President or designee shall conduct a preliminary hearing within five (5) working days after the CHRO or designee receives in writing the request from the suspended employee for the preliminary hearing.
- iv. The preliminary hearing shall be limited to the issues of:
  - 1) Whether suspension without pay is necessary to protect the interests of the institution, the USM or the employee pending final disposition of the charges; and
  - 2) Whether other employment and status alternatives should be considered.
- v. At the preliminary hearing, the employee may:
  - 1) Rebut the reasons given for the suspension;
  - 2) Allege mitigating circumstances; and
  - 3) Offer alternatives to the suspension including:
    - (a) Return to the position with pay;
    - (b) Transfer to another position with pay; or

## USM Bylaws, Policies and Procedures of the Board of Regents

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- (c) Suspension with pay.
  - vi. Within five (5) working days after the preliminary hearing is completed, the President or designee shall render a written decision that is conclusive as to the issue of whether or not the employee may continue to work with pay pending the disposition of the charges.
- b. Charges for Removal for Nonexempt Employees (Actions for Separation from Employment)
  - i. An employee who is notified of charges for removal may request an opportunity to present a defense within five (5) working days from the date on which the employee receives the charges for removal, as evidenced by the return receipt or other evidence of delivery of the charges to the employee. A special grievance of charges for removal shall be referred by the CHRO or designee to the President.
  - ii. The President or designee shall, within thirty (30) working days, if possible, investigate the charges and give the employee an opportunity to be heard. Testimony shall be taken under oath and both parties shall have the right of representation by counsel and the right to present witnesses and give evidence.
  - iii. Within fifteen (15) working days following the conclusion of the hearing, a written decision shall be rendered to the employee.
  - iv. In case no hearing is requested by the employee within the prescribed time, the CHRO or designee shall act upon the charges or order such other actions as may be indicated by the findings in the case.
  - v. If a hearing is requested within five (5) working days and the removal is upheld, Step Three of the grievance procedure, as provided above, is available to the removed employee. The special grievance shall be submitted within ten (10) working days after receipt of the written institution decision or from the decision date, whichever comes first.
  - vi. In cases where the employee has appealed both the Suspension Pending Charges for Removal and the subsequent Charges for Removal, both hearings can be combined in a single hearing upon the agreement of the parties.
- c. Involuntary Demotions for Nonexempt Employees
  - i. An employee who is notified of demotion may, within five (5) working days of written notification, file a written special grievance on an institution Grievance and Special grievances form with the CHRO or designee and request an investigation of the demotion.

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- ii. Within twenty (20) working days, if possible, after receipt of the special grievance, the President or designee shall investigate the demotion and give the employee the opportunity to be heard. Within fifteen (15) working days following the conclusion of the investigation, the written decision shall be rendered to the employee.
  - iii. If an investigation is requested within five (5) working days and the demotion is upheld, Step Three of the grievance and special grievance process, as provided above, is available to the employee. The request for Step Three shall be submitted within ten (10) working days after receipt of the written Institution decision or from the Decision Date, whichever comes first.
- d. Rejection on Probation for Nonexempt Employees
- i. Rejection on Original Probation (See BOR VII-1.21)
    - 1) A Nonexempt employee who is rejected on Original Probation may within five (5) working days of the rejection, file a written special grievance on an institution Grievance and Special grievances form with the CHRO or designee for a hearing at Step Two of the grievance and special grievance process, as provided above. The appeal is limited to the procedural and legal basis for the rejection. Rejection for cause if not required in the case of an employee rejected on Original Probation.
    - 2) Within twenty (20) working days, if possible, after receipt of the request, the President or designee shall conduct a hearing. Within fifteen (15) working days following the conclusion of the hearing, a written decision shall be rendered to the employee.
    - 3) If the rejection is upheld, Step Three of the grievance process is available. The appeal shall be submitted within ten (10) working days after receipt of the written institution decision or from the decision date, whichever comes first.
  - ii. Rejection on Status Change Probation
    - 1) The appointing authority bears the responsibility for preparing the justification when there is a rejection on probation of an employee who has satisfactorily completed an Original Probation and is serving a status Change Probation, except as defined in this policy.
    - 2) An employee who is rejected in Status Change Probation as defined in this policy and for whom no vacancy in the former classification is available may, within ten (10) working days of receipt of the recommendation of the appointing authority to reject, appeal to the CHRO or designee and request an investigation of the proposed rejection.



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- 3) Within twenty (20) working days, if possible, after receipt, the President or designee shall complete an investigation of the recommended rejection. Within fifteen (15) working days following the conclusion of the investigation, the written decision shall be rendered to the employee.
  - 4) If the rejection is upheld, Step Three of the grievance and special grievance process, as provided above, is available to the rejected employee. The appeal shall be submitted within ten (10) working days after receipt of the written institution decision or from the decision date, whichever comes first.
- e. Disciplinary Suspension for Nonexempt Employees (Does not apply to suspension pending Charges for Removal)
- i. Any alleged infraction shall be investigated by the appointing authority or designee at the earliest opportunity following knowledge of the alleged infraction, and completed as soon as possible. All suspensions of employees shall be implemented within three (3) working days of the alleged infraction or knowledge of the alleged infraction by the responsible supervisor or administrator. All suspension days shall be consecutive.
  - ii. The employee and/or the employee's designated representative may submit a written appeal on a disciplinary suspension:
    - 1) To Step One of the grievance and special grievance process within three (3) working days of notification of the suspension. In such event, the Dean, department head, chairperson or designee must hear the case within three (3) working days from the receipt of the written appeal. Should the appeal be unheard or unanswered as a result of management delay, the employee shall be reinstated with full back pay. A written record of the disciplinary event shall be maintained, or
    - 2) Directly to Step Two of the grievance and special grievance process within five (5) working days of notification of the suspension
  - iii. Any further special grievances must proceed through the grievance procedure within the prescribed time limits. If the suspension is upheld by the President or designee, Step Three (3) of the grievance and special grievances process is available to the employee.

## VI. PROCEDURES FOR EXEMPT STAFF EMPLOYEES

### A. Grievance Procedures for Exempt Staff Employees

#### 1. Procedures for Exempt Staff Employees of Former UM Institutions

## **USM Bylaws, Policies and Procedures of the Board of Regents**

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

### **2. Procedures for Exempt Staff Employees of Former BOT Institutions**

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

### **B. Special Grievance Procedures for Exempt Staff Employees**

1. Special grievances for Exempt Staff employees shall be filed under the special grievance procedures for Exempt Staff employees applicable to the institution, except as provided in 2, below.
2. Special Grievances for Employees who were designated as "Classified-Exempt" employees at the time of implementation of Phase II-Exempt of the USM Pay Program are covered by section V.B. of this grievance policy. (Also see BOR VII-9.01)

### **IMPLEMENTATION PROCEDURES:**

Each President shall identify his/her designee(s) as appropriate for this policy; develop procedures as necessary to implement this policy; communicate this policy and applicable procedures to his/her institutional community, and post it on the institutional website.

### **REFERENCES:**

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

### **REPLACEMENT FOR:**

VII – 8.10 Policy on Special Action Appeals for Classified Employees

**USM Bylaws, Policies and Procedures of the Board of Regents**

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APPENDIX 1

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

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

A. General.

1. The State of Maryland recognizes that legitimate problems, differences of opinion, complaints, and grievances may exist in the daily relationship between the State as an employer and its employees. It is the responsibility of all supervisors, administrators, program directors, appointing authorities, and employees to establish and maintain a work climate within which an employee problem or complaint may be promptly identified, presented, discussed and given fair, timely consideration and resolution.

2. In accordance with the above principles, therefore, these Procedures Governing the Filing and Processing of Grievances for Administrative staff Personnel (as defined elsewhere in these procedures) in the Maryland state Universities and Colleges Under the Jurisdiction of the Board of Trustees of the State Universities and colleges have been instituted in accordance with the intent of the State of Maryland Executive Order issued by Governor Marvin Mandel on July 3, 1974.

3. These Procedures Governing the Filing and Processing of Grievances may be amended from time to time by the Board, except that an employee's filing and processing of a grievance shall be determined in all cases by the procedures in force at the time of initial filing of the grievance. Wherever the male gender is used in these procedures, it shall be deemed to include the female gender.

B. Definitions.

1. The following definitions shall apply for the purpose and processing of grievances in accord with these Procedures:

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

## **USM Bylaws, Policies and Procedures of the Board of Regents**

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

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

### C. Personnel Categories Excluded From These Procedures.

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

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

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

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

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Deans of the Schools of Nursing

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

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

Category V: Classified employees in the State merit System.

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

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

D. Filing and Processing Grievances.

1. General.

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

2. Step One.

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

3. Step Two.

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

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4. Step Three.

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

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

Adopted:  
September 2, 1976



**BOARD OF REGENTS**

SUMMARY OF ITEM FOR ACTION,  
INFORMATION OR DISCUSSION

**TOPIC:** Convening Closed Session

**COMMITTEE:** Committee on Organization and Compensation

**DATE OF MEETING:** April 9, 2019

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

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

**ALTERNATIVE(S):** No alternative is suggested.

**FISCAL IMPACT:** There is no fiscal impact

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

COMMITTEE ACTION:

DATE:

BOARD ACTION:

DATE:

SUBMITTED BY: Denise Wilkerson, [dwilkerson@usmd.edu](mailto:dwilkerson@usmd.edu), 301-445-1906



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

Date: April 9, 2019  
Time: Approximately 10:00 a.m.  
Location: Chancellor's Conference Room  
USM Office

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STATUTORY AUTHORITY TO CLOSE A SESSION

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

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



FORM OF STATEMENT FOR CLOSING A MEETING

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

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

[X] Administrative Matters

TOPICS TO BE DISCUSSED:

1. Mid-negotiation briefing of collective bargaining negotiations at SU.
2. Update on status of collective bargaining at USM institutions.

3. Information update regarding athletics employment contracts at UMES subject to review under BOR VII-10.0 Policy on Board of Regents Review of Certain Contracts and Employment Agreements.
4. Review of executive compensation.
5. Discussion of plans for interim president at CSU.

REASON FOR CLOSING:

1. To maintain confidentiality regarding collective bargaining negotiations (§3-305(b)(9)); and
2. To maintain confidentiality of discussion regarding specific employment agreements (§3-305(b)(1)).
3. To maintain confidentiality of discussions regarding specific employees' compensation (§3-305(b)(1)).
4. To discuss an administrative matter concerning appointment of an interim president. (§3-103(a)(1)(i)).