

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

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

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I.

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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

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any resolution or settlement. The Board of Regents shall approve any resolution or settlement of a grievance against the chancellor.

C. Retaliation Prohibited

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

D. Consistency with Other Laws and Policies

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

E. Monetary Relief

1. The Chancellor, President, or Director of Administrative Hearings, as appropriate, shall have the power to

G. Sole Remedy

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

IV. GENERAL PROCEDURES

A. Representation of the Employee

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

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

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- 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 receipt of the Step Two decision, or if no decision was issued, within ten (10) working days from the Decision Date.
 - ii. If the grievance is arbitrated, any arbitration award will be advisory to the Chancellor or Administrative Law Judge, as applicable. In the event of arbitration, the parties shall select an arbitrator by mutual agreement. If the parties are unable to reach mutual agreement, an arbitrator shall be supplied by the American Arbitration Association (AAA) using AAA procedures.
 - iii. Any fees resulting from arbitration shall be assessed by the Arbitrator equally between the two parties. In cases that go before an arbitrator, each party will be responsible for any expense incurred in the preparation and presentation of its own case, and for any record or transcript it may desire.
 - iv. The Chancellor or Administrative Law Judge, as applicable, shall make the final decision which shall be binding upon all parties.

B. Special Grievance Procedures for Nonexempt Staff Employees

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

1. Special Grievances for Nonexempt Staff Employees

- a) Unpaid Suspensions Pending Charges for Removal for Nonexempt Employees
 - i. If an employee is suspended without pay pending charges for removal, the Chief Human Resources Officer (CHRO) or designee shall notify the employee in writing of the reasons for the suspension at the time of the notice of suspension.
 - ii. The employee who is suspended pending charges for removal may, within five (5) working days from the date on which the employee receives the notification of suspension, request in writing through the CHRO or designee that the President or designee conduct a preliminary hearing to

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- 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 tc

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- 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. 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)

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 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:

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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

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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

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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)
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

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 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 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.

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

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). T