

**VII –9.01 - POLICY ON VESTING OF CERTAIN RIGHTS UPON  
IMPLEMENTATION OF PHASE II-EXEMPT OF THE USM PAY  
PROGRAM**

(Approved by the Board of Regents on December 3, 1999, EFFECTIVE January 2, and  
January 12, 2000; Amended October 9 , 2015)

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Classified-Exempt employees at the time of implementation of Phase II-Exempt of the USM Pay Program shall continue to be covered by the USM BOR VII-8.00 Policy on Grievances.

**IV. VESTED POLICIES**

**THIS SECTION CONTAINS PERTINENT POLICIES THAT HAVE BEEN TRANSFERRED FROM OTHER SOURCES FOR REFERENCE PURPOSES. THE PRINT TYPE AND SIZE HAVE BEEN CHANGED TO PROVIDE A DISTINCTION.**

**A. Separation**

**1. Associate Staff**

UM Personnel Policies and Rules for Associate Staff, Section G, pages 13-15, June 1989

3. Requirements of Notice

Employees who have completed the probation period may be removed from University employment by action for just cause, or notice as described below.

a. Removal by Notice

Employees may be removed from University employment by written notice without the right of appeal. The period of notice required will be dependent upon length of service. To determine the period of notice required for termination, other than rejection on probation or layoff, the length of service will be equivalent to creditable University service as a faculty, Associate Staff and/or classified employee.

The entire period of notice must be provided. Failure to provide timely notice before the end of year seven will result only in an extension of employment through the required period of notice.

However, this does not preclude rejecting Associate Staff on probation under section G.1.b. above, even though the employee may have completed seven years of University service.

Period of Notice Table\*

<u>Length of Service</u>	<u>Period of Notice</u>
Less Than One Year	One Month
One Year But Less Than Four Years	Three Months
Four Years But Less Than Seven Years	Six Months
Seven Years or More	Cause Only

b. Removal for Cause

(1) Cause

An Associate Staff member can be removed for cause including, but not limited to, immorality, misconduct in office, incompetency, failure to perform assigned duties, willful

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- c. That the employee has some permanent or chronic physical or mental ailment or defect that incapacitates him for the proper performance of his duties.
  - d. That the employee has violated any lawful official regulation or order or failed to obey any lawful and reasonable direction given by his superior officer when such violation or failure to obey amounts to insubordination or serious breach of discipline which may reasonably be expected to result in a lower morale in the organization or to result in loss or injury to the University or the public.
  - e. That the employee has been wantonly offensive in his conduct toward fellow employees, users of University facilities or the general public.
  - f. That the employee has taken for personal use a fee, gift, or other valuable thing in the course of his work or in connection with it when such fee, gift, or other valuable thing is given him by any person in the hope or expectation of receiving a favor or better treatment than that accorded other persons.
  - g. That the employee is engaged in a private business or in a trade or occupation where the duties of his position as prescribed by law or regulation require his entire time for their performance.
  - h. That the employee has been guilty of a violation or violations of Section 40 of the Merit System Law, referring to dishonest or fraudulent actions regarding examinations and acts of coercion against other employees.
  - i. That the employee has been convicted of a criminal offense or of a misdemeanor involving moral turpitude.
  - j. That the employee, through negligence or willful conduct, has caused damage to public property or waste of public supplies.
  - k. That the employee has been guilty of a violation or violations of the provisions of Chapter 122 of the Acts of 1908, commonly known as the Corrupt Practices Act, or using, threatening to use, or attempting to use political influence or the influence of any State employee or officer in securing promotion, transfer, leave of absence, or increased pay.
  - l. That the employee has willfully made a false official statement or report.
  - m. That the employee has been guilty of conduct such as to bring the classified service into public disrepute.
2. Unless otherwise determined by the campus Director of Personnel, no employee who has been discharged from the University shall be eligible for future employment at the University.

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When an employee is to be informed of his suspension pending charges for removal, the notification to him must be in writing, stating the reasons for the suspension and advising the suspension may be appealed. If immediate personal delivery is not possible, such notice should be immediately mailed to the employee's last known address advising of the nature of the suspension and the effective date. In addition, the employee is to be advised that formal charges for removal will be forwarded to the campus Director of Personnel and then to the employee within a short period of time and, further, that information regarding his rights will accompany the formal charges.

### 3. Librarians

USM BOR VII - 2.15 - POLICY ON LIBRARIANS (Approved by the Board of Regents, October 6, 1995)

#### PERMANENT STATUS

Permanent status is here defined as continuing employment such that a decision to remove an employee must be made by the President of the campus and must be justified by cause as defined by campus policy.

Each institution shall develop criteria and procedures for the review process leading to the granting of permanent status for librarians. Following review for form and legal sufficiency by the Office of the Attorney General, these procedures must be submitted to the Chancellor for review and approval.

One who has completed seven consecutive years of service, beginning on or after July 1, 1991, as a full-time librarian at a system institution shall be granted permanent status.

A person appointed to the position of Director shall serve in that capacity at the pleasure of the President or designee, regardless of whether the appointee has at the time of the appointment, or obtains during the appointment, permanent status as a librarian.

### B. PROBATION

#### 1.



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- c. Change of assignment.
  - d. Any employee demoted to a class in which a probation period has been completed.
  - e. Temporary and Extra Help employees are not eligible for a probation period except as provided in these rules.
3. Length of Original and Status Change Probation Period
- a. Any person appointed to a position with regular status in the classified service that has a salary grade of 1 through 6 shall serve a probation period of three months.
  - b. Any person appointed to a position with regular status in the classified service that has a salary grade of 7 or above shall serve a probation period of six months.
  - c. For the purposes of determining length of probation period only, those classifications compensated at a flat rate of pay at or below the minimum of salary grade 6 shall be considered the same as classes in salary grades 1 through 6; those classifications compensated at a flat rate of pay above the minimum of salary grade 6 shall be considered the same as classes in salary grades 7 or above.
  - d. Probation Period of Temporary Employees Appointed to a Regular Position.  
  
Time spent in Temporary Status will apply towards completion of a probation period if and when the employee is appointed to a regular position without a break in service provided the regular position is in the same department with the same classified title as was held by the individual during temporary appointment. All other persons moving from a temporary appointment to a regular appointment shall serve a probation period according to these rules.
4. Termination of Probation
- For exceptional reasons the probation period may be shortened to a period of not less than one month upon request by the Department Head or Chairperson to the institution Director of Personnel.
5. Extension of Probation
- a. For good and sufficient reasons, the Department Head or Chairperson may request the institution Director of Personnel to approve an extension of the period of probation, and in conjunction with this extension request, may recommend a denial of the employee's next salary increment. A request for extension of probation must be received in the institution Personnel Department prior to the probation completion date in order to be considered.
    - (1) Any employee on probation whose classification has a salary grade of 1 through 6 may have his/her probation extended for an additional period not to exceed three months. The maximum period of probation including extension shall not exceed six months.
    - (2) Any employee on probation whose classification has a salary grade of 7 or above may have his/her probation extended for an additional period not to exceed six months. The maximum period of probation including extension shall not exceed one year.
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a. Rejection on Original Probation

During the original probation period the Department Head or Chairperson may, at his/her discretion, reject an employee at any time before the expiration of the probation period, and shall submit a report in writing to the institution Director of Personnel and supply a copy to the employee stating the reason. The employee to be rejected shall be given at least two weeks notice of the rejection unless termination results from a breach of discipline or from such gross incompetence as to jeopardize essential services. The two weeks notice period must be included within the probation period. The notice of rejection on original probation shall also advise the employee that he/she may, within five days of the date of notification of the rejection, file a written request with the institution Director of Personnel for a hearing at Step 2 of the grievance procedure for the purpose of showing that the rejection was procedurally deficient or in violation of law.

b. Rejection on Status Change Probation

An employee who completed an original probation period and is appointed to another position at the same institution by virtue of promotion, transfer or horizontal change and who is rejected on probation with the consent of the institution Director of Personnel shall resume his/her former position if it is vacant or if it is held

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Permanent status is here defined as continuing employment such that a decision to remove an employee must be made by the President of the campus and must be justified by cause as defined by campus policy.

Each institution shall develop criteria and procedures for the review process leading to the granting of permanent status for librarians. Following review for form and legal sufficiency by the Office of the Attorney General, these procedures must be submitted to the Chancellor for review and approval.

One who has completed seven consecutive years of service, beginning on or after July 1, 1991, as a full-time librarian at a system institution shall be granted permanent status.

A person appointed to the position of Director shall serve in that capacity at the pleasure of the President or designee, regardless of whether the appointee has at the time of the appointment, or obtains during the appointment, permanent status as a librarian.

### **C. SPECIAL ACTION APPEALS – CLASSIFIED-EXEMPT**

USM BOR VII - 8.10 - POLICY O217.3 0 Td(L)-7-20.133 -1.157 Td ( )Ta]a2TdO4 R [(8.f -0r8.)]TJ Ee70n5ETa]a2TSi2( (i2( .-SMCID3SS R [FT

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1. If an employee is suspended without pay pending charges for removal, the Institution Director of Human Resources/Personnel or designee shall notify the employee in writing of the reasons for the suspension at the time of the notice of the suspension.
  2. An employee who is suspended pending charges for removal may, within 5 working days from the date on which the employee receives the notification of suspension, request in writing through the Institution Director of Human Resources/Personnel or designee that the Institution CEO 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.
  3. The Institution CEO or designee shall conduct a preliminary hearing within 5 working days after the Institution Director of Human Resources/Personnel or designee receives in writing the request from the suspended employee for the preliminary hearing.
  4. The preliminary hearing shall be limited to the issues of:
    - a. Whether suspension without pay is necessary to protect the interests of the institution, the University of Maryland System or the employee pending final disposition of the charges; and
    - b. Whether other employment and status alternatives should be considered.
  5. At the preliminary hearing, the employee may:
    - a. Rebut the reasons given for the suspension;
    - b. Allege mitigating circumstances; and
    - c. Offer alternatives to the suspension including
      1. return to the position with pay;
      2. transfer to another position with pay; or
      3. suspension with pay.
  6. Within 5 working days after the preliminary hearing is completed, the Institution CEO 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.
- C. Involuntary Demotions
1. An employee who is notified of demotion may, within 5 working days of written notification, file a written answer with the Institution Director of Human Resources/Personnel or designee and request an investigation of the demotion.
  2. Within 20 working days, if possible, after receipt of the request, the Institution CEO or designee shall investigate the demotion and give the employee the opportunity to be heard. Within 15 working days following the conclusion of the investigation, the written decision shall be rendered to the employee.
  3. If an investigation is requested within 5 working days and the demotion is upheld, Step 3 of the grievance procedure, as provided in the Policy on Grievances for Classified Employees and Associate Staff, is available to the employee. The appeal shall be submitted within 10 working days after receipt of the written Institution decision.
- D. Rejection on Probation
1. Rejection on Original Probation

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- a. An employee who is rejected on original probation may within 5 working days of the rejection, file a written request with the Institution Director of Human Resources/Personnel or designee for a hearing at Step 2 of the grievance procedure, as provided in the Policy on Grievances for Classified Employees and Associate Staff

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3. Any further appeals must proceed through the grievance procedure within the prescribed time limits. If the suspension is upheld by the Institution CEO or designee, Step 3 of the grievance procedure is available to the employee.

### IMPLEMENTATION PROCEDURES:

Each Chief Executive Officer shall develop procedures as necessary and submit a copy to the Chancellor.

### DEFINITIONS:

"Original Probation" means a probation period required of any employee entering the University System by appointment to a regular position, a current employee appointed to a position at an institution other than the one at which employed, or a former employee returning to University service in a classification other than the one held at the time of separation or to a department other than the one where employed at separation.

"Status Change Probation" means a probation period required of an employee who is appointed to another position at the same institution as the result of a promotion, demotion, horizontal change, transfer or reinstatement, except that a reinstated employee appointed to a classification or department other than the one held at separation must serve an original probation and would be subject to the appeal process for original probation outlined in D.1. above.

"Working Days" are Monday through Friday regardless of work schedule, weekend work or mid-week days off.

### REFERENCES:

13-1A-01 through 06 of the Education Article, Annotated Code of Maryland, 1989 Replacement Volume.

Replacement for:

Personnel Policies and Rules for Classified Employees. Section IX, Grievances and Appeals, Appeals-Special Actions, Page IX-3, March 1988.

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conflict with this policy's purpose, applicability, or intent, that may have been overlooked and not included as a specific citation under “Replacement For.”