



UMBC

AN HONORS UNIVERSITY IN MARYLAND

MEMORANDUM OF UNDERSTANDING

-between-

**AMERICAN FEDERATION OF STATE, COUNTY AND
MUNICIPAL EMPLOYEES (AFSCME), COUNCIL 92**

-and-

UNIVERSITY OF MARYLAND BALTIMORE COUNTY

NON-EXEMPT BARGAINING UNIT

June 22, 2005 through and including June 21, 2008

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AFSCME, Council 92 and the UNIVERSITY OF MARYLAND BALTIMORE
COUNTY
NON-EXEMPT BARGAINING UNIT

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PREAMBLE

This Memorandum of Understanding ("MOU") is made and entered into by and between the University of Maryland Baltimore County (hereinafter, "UMBC" or "the University") and the American Federation of State, County and Municipal Employees, AFL-CIO and its Council 92 (hereinafter collectively referred to as "AFSCME" or "the Union"). It has as its purpose the promotion of harmonious relations between the University and the Union; the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of pay, hours of work, and other conditions of employment.

The University and the Union mutually recognize that the laws of the State of Maryland, including the provisions contained in the State Personnel and Pensions Article of the *Annotated Code of Maryland* governing collective bargaining, and the Policies of the Board of Regents of the University System of Maryland, authorize agreements arrived at through the process of negotiations.

ARTICLE 1 – RECOGNITION

Section 1. Recognition.

UMBC recognizes AFSCME and its Council 92 as the exclusive bargaining representative for all employees in the non-exempt bargaining unit on all matters related to wages, hours, and working conditions. This recognition is granted in accordance with the provisions of Section 3-202 *et seq.* of the State Personnel and Pensions Article of the *Annotated Code of Maryland*.

Section 2. Bargaining Unit Composition.

For purposes of this MOU, the bargaining unit exclusively represented by the Union includes all full-time and regular part-time non-exempt administrative, clerical, and support employees, including probationary employees employed by UMBC whose classifications are incorporated into the formal Certification issued by the Maryland State Higher Education Labor Relations Board on February 22, 2002.

Section 3. Creation of New Positions or Classifications.

In the event that the University hires or assigns employees to positions or classifications not previously covered by the Certification issued by the State Higher Education Labor Relations Board, the parties hereto agree to meet and discuss the appropriateness of including such classifications into the bargaining unit represented by the Union herein. Any disagreements concerning the inclusion or exclusion of such new classifications in the bargaining unit represented by the Union shall be promptly submitted to the State Higher Education Labor Relations Board for unit clarification and disposition.

Section 4 :

Disputes that may arise concerning questions over the appropriate inclusion or exclusion of specific jobs and/or classifications that presently exist as of the date of execution of this MOU shall be discussed between the parties. Any disagreements concerning the continuing inclusion or exclusion of existing classifications or positions in the bargaining unit represented by the Union

shall be promptly submitted to the State Higher Education Labor Relations Board for unit clarification and disposition. The University shall provide AFSCME with a list of existing non-exempt bargaining unit classifications at the beginning of every semester.

ARTICLE 2 – SCOPE OF AGREEMENT

This MOU in all respects supersedes and replaces all particular policies and practices previously established by the University with respect to the issues herein incorporated covering the employment relationship between the University and bargaining unit employees. All other Board of Regents (BOR) policies shall remain in force and effect. In the event of any changes in policies or procedures made by the BOR that would affect any terms and conditions of employment that are covered by this MOU, the University agrees to notify the Union and afford the Union the opportunity to bargain over such changes.

No addition to, alteration, modification, or waiver of any term, provision, covenant or condition or restriction in this agreement shall be valid, binding or of any force or effect unless mutually agreed to, in writing, by the University and AFSCME.

ARTICLE 3 – MANAGEMENT RIGHTS

Recognizing the right of employees to be treated with dignity and respect by management in all respects in the operations of the University, and in recognition of the other rights employees may enjoy under the terms of this MOU, including the right to utilize the grievance procedure provided herein, the parties to this MOU recognize that UMBC is entitled to exercise certain inherent and statutorily granted management rights, as recognized in Section 3-302 of the State Personnel and Pensions article of the *Annotated Code of Maryland*, and as limited by specific sections of this Memorandum, including (but not limited to) the right to determine the purpose and mission of the University; to determine its budget; to alter the composition and size of the workforce, including the right to relieve employees from duty because of lack of work or for other legitimate reasons; to hire, assign, and transfer employees as the needs of the University require, and to direct their work; to set standards of conduct, including the right to discipline employees for just cause; to determine the location, methods, means, personnel and equipment by which its operations are to be conducted; to establish and adjust the University calendar, including the date on which holidays recognized under this Agreement are to be celebrated; and to set minimum standards and qualifications for employees.

ARTICLE 4 – EMPLOYEE RIGHTS

Section 1. Access of Employees to Union Representatives.

All employees covered under this MOU shall be allowed access to their respective authorized Union representative during work time for the purpose of conducting appropriate Union business, provided, however, that such business does not interfere with the operations of the University. For those employees requesting access to Union representatives during work time, prior approval from the employee's immediate supervisor shall be required. Such supervisory approval shall not be unreasonably withheld.

Section 2. Non-Discrimination.

The University agrees that it shall not discriminate against any employee with respect to salaries, wages, hours, or other conditions of employment on the basis of age, marital status, race, color, creed, national origin, gender, sexual orientation, political or religious affiliation or beliefs, mental or physical disability, or Union activities.

Section 3. Non-Retaliation for Filing Grievances.

The University further agrees that it shall not retaliate against employees because of the filing of any grievance, complaint, or proceeding under this Agreement.

Section 4. Compliance with the Americans with Disabilities Act.

In order to comply with their respective obligations under the Americans With Disabilities Act, the parties hereby agree that in the event that necessary and reasonable accommodations are required so as to allow employees covered by this MOU to perform the essential functions of their job, the parties will meet and confer with the object of allowing for such accommodations which may require the modification and/or relaxation of some provisions of this MOU; provided, however, that such accommodations do not constitute an undue hardship either for the University and/or for the affected department(s). Measures that may be required under this provision may include transfers, reassignments, shift changes, and job-sharing, as required by law.

Section 5. Prevention of Sexual Harassment.

The parties hereto understand and acknowledge that sexual harassment in the workplace is a serious matter that will not be tolerated. Such matters shall be governed by the University's Sexual Harassment Policy (Revised) July 1, 2004.

ARTICLE 5 – UNION RIGHTS

Section 1. Access to Facilities.

Union representatives who are not employees of the University may enter the campus for such things as the delivery of items or short conferences. Such representatives shall inform the Department of Human Resources of their presence on campus prior to or at the time of arrival.

Section 2. Union Business Conducted on UMBC Premises.

Duly authorized representatives of the Union and their respective affiliates shall be permitted to transact official Union business such as local job steward representation, distributing Union literature, and posting Union notices on University property, provided that such transactions do not interrupt normal campus operations or employee work requirements; and provided further that, except where otherwise prescribed by the terms of this MOU, the Union shall at all times comply with all University posting and distribution policies.

Section 3. Union Bulletin Boards.

The University shall provide space for a lockable bulletin board, provided by the Union, in conspicuous, high traffic areas at the following locations: (1.) in the lunchroom located in the lobby of the Administration Building (Staff Lounge), (2.) in the Human Resources Department area located on the fifth floor of the Administration Building, (3.) under the overhang at the rear entrance of the Physical Plant Building, (4.) in the staff lunchroom located in the Library, (5.) immediately adjacent to the door identified as 3.004A leading into the entrance to the cafeteria on the third floor of the Tech Center, South Campus, (6.) in the ECS Building on the ground floor adjacent to room 011, and (7.) in the new Public Policy Building, adjacent to the vending machines to the right of the elevator in the basement of the building.

These bulletin boards shall be for the exclusive use of the Union. The Union shall be responsible for the posting of all items on the bulletin board. Each item posted shall be dated and initialed by the Union official approving the posting. The Union shall ensure that posted items are not illegal, defamatory, factually inaccurate, partisan, or political and that no item is detrimental to the safety and security of the University. At the time of posting, the Union shall provide an informational copy of all items to the employer. The Union may also, subject to the aforementioned limitations and in accordance with University policies on distribution of information and solicitation, display information on any other University bulletin boards used for the dissemination of public information.

Section 4. Right to Information.

A. The Union has the right to information that is relevant and necessary for AFSCME to represent its members. Such information may be relevant to the administration of any part of this contract, disciplinary action against an employee, allegations of employee misconduct, information related to negotiations and any other subject that AFSCME may need to represent its bargaining members.

B. Quarterly Information Reports.

Additionally, the Employer shall provide the Union with the following information:

a quarterly report listing all newly hired bargaining unit employees, including newly converted contractual and contingent employees. The report shall include the name, job title, assigned salary grade, office and department, daily hours of work, and telephone extension. This quarterly report shall also include the names, job classifications, of all bargaining unit employees retired, resigned, or otherwise separated from employment during the reporting period. The report will also be submitted on floppy disk, CD ROM, electronic data file via e-mail, or paper copy format and shall be mailed to an address designated by the Union. This report is to be submitted no later than five (5) working days after each quarter.

Section 5. Mail Service.

The Union shall be permitted to use the internal UMBC mail system for mailings and other communications intended to be delivered to bargaining unit members. These mailings to members by internal campus mail, which shall be of reasonable length and weight as determined by the University, will be limited to four (4) times per calendar year. The Union shall give the University at least forty-eight (48) hours' notice in advance of such mailings. The Union and the University shall jointly develop a system for such mailings.

Section 6. Union Participation in Orientation.

One (1) representative of the Union will be given a place on the agenda of such orientation for new employees who are members of the bargaining unit, up to a maximum of twenty (20) minutes. In the event the University does not conduct a formal orientation session, a Union steward will be allowed twenty (20) minutes to meet with the new employee during his/her work time. Such meeting will be for the purpose of informing the new employee about his/her rights and obligations under the MOU as well as other benefits provided by AFSCME.

Section 7. Job Stewards.

The University shall recognize the local Union job stewards as authorized representatives of the Union at work areas designated in writing by the Union to the President of the University or his/her designee. The Union will notify the President or his/her designee of the identity of such stewards, as well as any changes in the identity of such stewards. The Union shall have the right to designate up to one (1) shop steward for every twenty (20) employees in the bargaining unit, and the University will not interfere with the right of such shop stewards to conduct appropriate Union business; provided, however, that such business does not interfere with the operations of the University.

Section 8. Union Office on Campus.

The Employer agrees to provide the Union a designated office on campus for use of Union business. The designated office shall be secured and furnished with a telephone extension, and appropriately wired and activated for a desktop computer. The Union will be responsible for furnishing the office and providing the necessary equipment. The Employer and the Union shall consult as to the specific location of the Union office.

Section 9. Meeting Space.

The University recognizes AFSCME's right to use UMBC space for meetings as a sponsored user. A Sponsored User, as defined in the UMBC Policy on Facilities Use, is an organization or group whose affiliation with UMBC derives primarily from participation of a UMBC employee in the organization leadership and whose organizational purpose advances or supports education, research or public policy mission of UMBC.

A. Reservation Process

The on-campus representatives must:

1. contact the Coordinator for Campus Information and Guest Services to determine the availability of the requested space.
2. request the meeting room no fewer than fifteen (15) working days before the intended date of the event by completing an Events Registration-Facilities Request Form and any other forms or contacts required for ancillary services.
3. determine if liability insurance requirements must be met.
4. provide required deposits, when applicable.

The Director of Human Resources recommended and the Vice President of Student Affairs has agreed to waive fees for space usage for meeting rooms up to two times a month. The waiver does not include any additional services (such as equipment, room set-up, etc.). Additional Services will be paid by the Union in accordance with the UMBC Policy on Facilities Use.

Section 10. Union Web Page.

The University shall provide an internet link from the following web address (<http://www.umbc.edu/collectivebargaining/>) to an AFSCME Local 1459 web page. The link to the website will inform the public that UMBC neither sponsors nor endorses its content.

ARTICLE 6 – WORK SCHEDULES AND BREAKS

Section 1. Workweek.

The standard workweek for full-time employees consists of five (5) consecutive days with eight (8) hours per day. The starting and ending times shall remain consistent throughout the workweek unless overtime, flextime, or any other schedule has been agreed upon between the employee and his/her supervisor or in the event that operational needs require changes. In the case of such changes in the starting and ending times, the employee will be given as much notice as is possible. Changes in the regular scheduled starting and ending time for employees shall be communicated to the employee in writing two (2) weeks prior to the changes in such times becoming effective. Except in circumstances beyond the control of the Employer a shorter notice may be permitted, but in no event less than two (2) days advance notice. The University shall not initiate changes to an employee's scheduled workweek for the purpose of avoiding overtime or compensatory time opportunities.

Section 2. Work Breaks.

There shall be two (2) paid duty-free rest periods of fifteen (15) minutes each for all full-time assignments. Rest periods shall normally be scheduled towards the mid point of the first and second parts of the daily schedule. Employees working at least four (4) hours but less than six (6) hours shall receive one paid duty-free rest period of fifteen (15) minutes. These rest breaks are the only breaks authorized by the University.

Section 3. Lunch Break.

There shall be an unpaid duty-free lunch break of at least thirty (30) minutes for employees working on assignments of six (6) hours or more. Lunch breaks should normally be scheduled at the mid point of the employee's regular work shift. Bargaining unit employees currently receiving a paid lunch break shall continue to receive this benefit under this MOU.

Section 4. Copy of Job Description

Upon initial employment and upon each change in job classification thereafter, each full-time or part-time bargaining unit employee shall be furnished a copy of his/her job specification, applicable salary, assigned work location, and assigned standard workweek.

Section 5. Combination of Breaks.

Work areas shall be allowed to continue the practice of allowing employees to combine work breaks and/or lunch breaks.

ARTICLE 7 – OVERTIME

Section 1. Overtime.

All work performed by an employee beyond forty (40) hours after his/her regular workweek which is pre-approved by, or which is suffered or permitted by the employee's immediate supervisor shall be compensated at the rate of one and one-half (1 1/2) times his/her current hourly rate. All hours associated with every type of paid leave shall be considered as hours worked for the purposes of computing overtime.

Section 2. Distribution of Overtime.

Overtime shall be distributed as equally as possible among all employees within a specific job classification and department/office for which overtime is needed. Every supervisor or management representative responsible for the assignment of overtime shall maintain a list containing the name and the number of events of overtime assignment made to each employee in his/her department /office. The list shall be updated every six (6) months and posted at a location where all employees in the department have access to it. Upon request, the Union will be provided with a report of overtime worked during the preceding year.

Section 3. Overtime List.

For non-emergency situations, overtime shall be assigned on a rotating basis from an existing list containing the names of all employees who have volunteered for overtime work. The list shall be established within thirty (30) days after the ratification of this contract and shall be revised every six (6) months by both the Employer and the Union. Initial distribution of overtime shall be on the basis of seniority within the class, with the first opportunity being offered to the bargaining unit member with the highest seniority in the class. Thereafter, it shall be administered on a rotating basis depending on employee acceptance or rejection of overtime work. When an employee rejects an overtime opportunity, his or her name shall be placed at the bottom of the list. For emergency situations, overtime shall be assigned on a rotating basis from an established on-call list containing the names of all employees who have volunteered or who have been designated for overtime work. In emergency situations, employees may not refuse to work overtime.

Section 4. Payment of Overtime.

All hours worked under the overtime provisions of this contract shall be paid to the employee at the next regularly scheduled pay-day provided that such hours of overtime were pre-approved and recorded on the employee's time sheet before the payroll reporting deadlines in effect at that time.

Section 5. Compensatory Time Off.

At the discretion of the employee, overtime work may be compensated in the form of compensatory time off (referred to hereinafter as "comp time"). When such form of compensation is chosen, the employee shall receive compensation in the form of compensatory time off at the rate of one and one-half (1-1/2) hours for every hour of overtime as defined in this MOU in his or her regular workweek. Earned compensatory time off may be used within the ensuing 12-month rolling calendar period, provided that the employee informs his/her supervisor and obtains approval for such time off at least forty-eight (48) hours before using comp time. The supervisor's decision to approve or reject the employee's request shall be made and communicated to the employee by no later than the end of the next business day after the employee's immediate supervisor receives the employee's request. Supervisory approval shall not be unreasonably denied or delayed. If the employee cannot use or is denied the use of comp time during the 12-month rolling calendar period following its having been earned, the University shall compensate the employee at the overtime

rate of pay, or time and one-half (1-½) for each overtime hour earned but either not paid or taken in the form of comp time during the previous 12-month rolling calendar period. Up to 240 hours of comp time may be earned and accumulated, and is expected to be taken, in any given calendar year. All hours in excess of the two-hundred and forty (240) hour cap shall be paid at the overtime rate listed herein.

Section 6.a. Advance Notice – Non-Emergencies.

The Employer shall provide notice to employees of scheduled overtime work at least forty-eight (48) hours in advance of such overtime. Refusal of scheduled overtime work by employees on the basis that management did not provide advance notice within the time limits shall not be charged against said employees, and their place on the overtime list shall remain as if no rejection of overtime existed.

Section 6.b. Advance Notice – Emergency Situations Beyond the Control of the Employer.

During the course of an employee's regularly scheduled shift, emergency situations beyond the control of the Employer may arise which may require overtime to be worked with less than forty-eight (48) hours' notice. In such situations, notice shall be given to employees as soon as possible.

Section 7. On-Call Duty.

For emergency situations beyond the control of the University, "on call" duty shall be assigned by seniority on a rotating basis from an existing list containing the names of all employees who have been designated for such "on-call" duty.

Employees assigned to on-call duty are required to be accessible if it is necessary for them to return to work. If, during the on-call period, unforeseen circumstances arise whereby the employee cannot be reached or is no longer able to respond, the employee must notify his/her supervisor immediately. The employee shall be removed from on-call status for that day for pay purposes unless he/she had previously responded during that same day.

Designated employees shall normally be assigned to on-call duty for a period of not more than seven (7) consecutive days (including holidays). On-call status may extend to the maximum of twenty-four (24) hours for each day, as determined by each department manager. An employee normally should confirm receiving an on-call page within fifteen (15) minutes from the time paged with a report time within two (2) hours of being paged, unless there are demonstrated reasons why he/she cannot respond within that time. An employee who is assigned to on-call status and cannot be reached or does not respond within fifteen (15) minutes of being contacted may be subject to disciplinary action and shall be removed from on-call status for that day for pay purposes unless the employee had previously responded during that same day. In instances where designated on-call employees cannot be reached or are unable to respond, the supervising authority may obtain the next senior available qualified substitute from the list of on-call employees.

Employees shall be notified five (5) workdays in advance of their assignment to on-call status. Essential employees will not automatically be assigned to on-call status.

Employees shall be compensated one dollar (\$1.00) for every hour in "on-call" status beyond their normal work shift.

Section 8. Call-Back Pay.

On Call employees who are required to return to work or those other employees who are authorized to return to work on a regularly scheduled on-duty day after going off-duty, or who are required to work or are otherwise authorized to work on a regularly scheduled off-duty day, are eligible for call-back compensation. This applies to employees who are called back to work whether or not such employees are in on-call status. The University will not use these call-back pay provisions of the MOU to undermine or circumvent the distribution of overtime or the provisions governing placement of employees on the overtime list, as prescribed in Article 7, Section 2 of this MOU.

Employees called back to work shall be credited with a minimum of three (3) hours of overtime, even if the time spent on duty is less than three (3) hours. This circumstance does not apply to employees who may be working overtime as a continuation of his/her normal hourly schedule.

Normally, travel between home and work is not work time. However, where employees have gone home after completing a day's work or are on a scheduled off-duty day and are subsequently required to return to their normal place of work or any other location in order to perform a necessary task, travel time is included as work time. Additionally, such hours spent in travel shall be considered as hours worked and counted towards the accumulation of overtime hours and any minimum guarantees listed herein.

ARTICLE 8 – PROBATION

Section 1.a. New Employees.

The original probationary period for newly hired employees shall be six (6) months.

Section 1.b. Employees Seeking a Change in Position.

Employees who have completed a probationary period in any position shall not be required to serve a new probationary period when transferring to the same job classification/specification in the same department, if an employee transfers to the same job classification in a different department the employee shall only be required to serve a probationary period of up to three (3) months.

A Contingent II employee who is appointed as a regular employee without a break in service to the same position held during the Contingent II appointment will have the time spent as a Contingent II employee apply towards the completion of the probationary period.

Section 2. – Original and Status Change Probationary Periods.

A. Probationary Period: is a trial period of work in a job class covered under this agreement in order to demonstrate the employee's ability to perform the duties and responsibilities of their job class.

B. Original Probationary Period: is a trial period of work following original appointment to a non-exempt job class at UMBC covered under this agreement.

C. Status Change Probationary Period: is a trial period of work as a result of rehire/reinstatement, promotion, or voluntary lateral transfer.

Original and Status change probationary periods, shall be six (6) months. Upon request by the appropriate administrator, the institution's University President or designee may extend an original probationary period for up to an additional six (6) months. Upon request by the appropriate administrator, the institution's University President or designee may with substantiated reasons extend a status change probationary period for up to an additional three (3) months.

Section 3. Rejection During Probationary Period.

A. Original Probationary Period.

1. The employee's supervisor may separate an employee on original probation without cause. Two weeks written notice prior to the expiration date of the probationary period shall be provided to an employee who is rejected on original probation.
2. The written notice shall advise the employee of the right to appeal or grieve the rejection.

B. Status Change Probationary Period.

1. An employee serving a status change probationary period may only be separated for just cause.
2. The employee's supervisor or departmental designee shall provide the employee and the University President or designee written notice of the rejection at least thirty (30) calendar days prior to the end of the probationary period. The notice shall state the reasons for and effective date of the rejection and shall advise the employee of the right to appeal.
3. An employee whose job class has been changed as a result of a promotion and is rejected during a status change probationary period shall be restored to his/her former position, if it is vacant or held by a temporary employee, or if such position is no longer vacant, the employee may fill any vacant position which he/she previously held and/or which he/she is qualified to fill, provided that the job in question is at or below the job classification in the same job family as the employee's immediately previous position.

C. Exception to Period of Notice.

The period of notice for original and status change rejection on probationary period may be shortened as necessary in the event of the employee's incompetence or gross misconduct which jeopardizes essential services. At the employee supervisor's discretion an employee's probationary period may be shortened, due to demonstrated satisfactory job performance. However, in such cases an employee must serve at least thirty (30) calendar days of the probationary period.

D. Merit Increases While on Probation.

Merit increases shall not be granted while the employee is serving an original probationary period. Upon completion of the original probationary period the employee shall receive the appropriate merit increases.

Section 4. Appeal of Rejection on Probationary Period.

A. Original Probationary Period.

An employee rejected during an original probationary period may appeal within five (5) working days of written notice of the rejection based solely on grounds of procedural deficiency or violation of law.

B. Status Change Probationary Period.

An employee rejected during a status change probationary period may appeal or grieve as outlined in the dispute resolution/grievance procedure (Article 18) outlined in this MOU, within five (5) working days of written notice of the rejection.

Section 5. Persons Not Subject to Probation.

A. An employee who has satisfactorily completed an original probationary period in a non-exempt job class who is reinstated to the same non-exempt job class shall not serve a probationary period. If a probationary period has not been completed, the remainder of the probationary period shall be served.

B. A regular employee who has completed an original probationary period and whose position is reclassified, involuntarily transferred, or demoted shall not serve a probationary period.

C. A regular employee who has been placed on temporary assignment/reassignment shall not be subject to a probationary period.

ARTICLE 9 – INTEGRITY OF THE BARGAINING UNIT

Unless otherwise provided by law, the University recognizes the integrity of the bargaining unit and will endeavor to use bargaining unit employees to perform bargaining unit functions in preference to contracting out with the private sector. In the event the University proposes to use non-bargaining unit individuals to permanently displace bargaining unit employees, it will provide the Union with notice at the earliest opportunity, but normally at least sixty (60) days in advance and will be available to meet upon written request from the Union within ten (10) days after the request is made.

However, it shall not be considered a violation of this MOU for non-bargaining unit employees to perform duties traditionally and customarily performed by bargaining unit members in accordance with present practice provided that said work does not directly result in the layoff of bargaining unit members.

ARTICLE 10 – UNION LEAVE

- A. AFSCME may request that bargaining unit employees be released from their normal duties for the purpose of participating in approved Union activities.
- B. The total amount of Union leave granted at any institution during a fiscal year may not exceed one day for every 30 of its bargaining unit employees of that institution as of July 1 of the current fiscal year, provided that a minimum of seven (7) days Union leave will be granted by the University/College each fiscal year covered by this MOU. No employee outside of the bargaining unit will be counted in the leave calculation under this Article.
- C. All requests for Union leave shall be submitted to the institution Director of Human Resources/Personnel in writing by Council 92 15 working days in advance of the day on which the leave is to begin and shall include:
 - 1. A general description of the activity and its purpose;
 - 2. The date and location of the activity;
 - 3. The name(s) of the employee(s) for whom Union leave is being requested.

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

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

ARTICLE 11 – LEAVES

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

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

Annual leave for full-time employees in the bargaining unit will be earned according to the following schedule. (Part-time employees in the bargaining unit working 50% or more will earn annual leave on a pro-rated basis.)

From 0 to 6 months: Leave is earned but can not be used until the employee completes six months.

Beginning with the 7 th month through the completion of the 4 th year:	10 days
Beginning with the 5 th year through the completion of the 10 th year:	15 days
Beginning with the 11 th year through the completion of the 20 th year:	20 days
Beginning with the 21 st year and thereafter:	25 days

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

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

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

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

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

Leave Reserve Fund for employees covered by this MOU is governed by USM Policy on Leave Reserve Fund (VII - 7.11 – approved by the Board of Regents, April 25, 1991; Amended December 6, 2002; Amended January 1, 2003) and is subject to all the terms and conditions set forth therein with the following clarification:

Section III C. should read as follows

used all available sick leave, advanced sick leave, extended sick leave, annual leave, personal leave, and compensatory leave; and

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

Section 4. Family and Medical Leave (“FMLA” Leave). (USM Policy VII – 7.50)

Family and Medical Leave for employees covered by this MOU is governed by USM Policy VII-7.50 (Approved by the Board of Regents, August 27, 1993) and is subject to all terms and conditions set forth therein with the following modification:

The University/College may implement Family and Medical Leave on a calendar year basis.

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

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

- 1) To care for the employee's child after birth, or placement for adoption or foster care;
- 2) To care for the employee's spouse, son, daughter, or parent who has a serious health condition;
- 3) For a serious health condition of the employee, including pregnancy and recovery time, that renders an employee unable to perform his or her job; or
- 4) Any other reasons stated in USM Policy VII-7.50 as of February 18, 2004.

To qualify for FMLA Leave:

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

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

Section 5. Jury Service and for Legal Actions Leave. (USM Policies VII-7.21 and VII-7.22)
Jury service and legal actions leave for employees covered by this MOU is governed by USM Policy on Jury Service (VII-7.21 Policy on Jury Service approved by the Board of Regents, February 28, 1992; Amended May 7, 1993) and USM Policy on Leave for Legal Actions (VII-7.22 approved by the Board of Regents, February 28, 1992) and is subject to all the terms and conditions set forth therein with the following modification to USM Policy VII-7.21:

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

Section 6. Educational Leave and Professional Improvement Leave. (USM Policy VII-7.12)
Employees may be granted educational or professional leave for up to two years pursuant to USM Policy VII-7.12 Leave of Absence Without Pay, subject to all of the terms and conditions therein.

Section 7. Administrative Leave. (USM Policy VII-7.20)
Administrative Leave for employees covered by this MOU is governed by USM Policy on Administrative Leave (VII-7.20, approved by the Board of Regents February 28, 1992)

Administrative Leave may be granted when emergency conditions exist.

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

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 12 – SICK LEAVE

Section 1. Purpose and Applicability.

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

Section 2. General.

- A. Sick leave is paid leave granted to employees in an effort to provide some protection against the loss of earnings due to absences for health reasons.
- B. A full-time employee shall earn sick leave at the rate of 15 workdays per year. Employees who are appointed at least 50% time shall earn sick leave on a pro rata basis. Sick leave is accumulated and carried forward from year to year without limit.
- C. An employee may request that his/her illness, injury, or disability occurring during a period of annual or personal leave be charged to sick leave. Verification of such illness, injury, or disability may be required by the Department of Human Resources as provided in Section 4 of this Article.
- D. An employee may use on a continuous basis, subject to the terms and conditions of this MOU dealing with such leaves, earned leave (sick, annual and personal leave), advanced sick leave, extended sick leave, leave granted through the leave reserve fund, or unpaid family medical leave, as needed for personal illness.
- E. Earned sick leave is granted by the Department Head or designee (normally the immediate supervisor) pursuant to the terms and conditions of this Article when an employee is absent because of:
 - 1. Illness, injury, or disability of the employee.
 - 2. A pre-scheduled medical appointment, examination, or treatment for the employee with an accredited, licensed or certified medical provider listed in Section 4.F. of this Article that cannot be scheduled during non-work hours. Employees will provide three (3) working days' advance notice if possible, but in no event less than one day's advance notice. Employees shall make every effort to schedule the appointment either at the beginning or the end of the scheduled workday in order to reduce time away from work. However, the University/College shall not unreasonably deny medical appointments when the time available overlaps with the employee's regular work hours.
 - 3. Illness or injury in the employee's immediate family and medical appointments, examinations or treatments for the immediate family member

with an accredited, licensed or certified medical provider listed in Section 4.F. of this Article that cannot be scheduled during non-work hours and are not taken pursuant to Family and Medical Leave Article of this MOU

- a) Immediate family as used in this Section means a spouse, child, step-child, foster child, grandchild, mother, father, mother-in-law, father-in-law, brother, sister, grandparent, or legal dependent of the employee irrespective of residence. Use of sick leave may also be granted to care for any other relative who permanently resides in the employee's household for whom the employee has an obligation to provide care. The Department of Human Resources may require an employee to provide certification by a medical provider listed in Section 4.F. of this Article to demonstrate this obligation or to authenticate the need for the employee to care for the ill family member. Certification from a medical provider does not need to include information about the specific illness or health condition of the family member or relative.
- b) Up to fifteen (15) days of accrued sick leave shall be granted by the Department of Human Resources pursuant to the terms and conditions of this Article during any one (1) calendar year for medical care of a family member when the need for such care is not pursuant to Family and Medical Leave, as defined in Article 11 of this MOU. When the need for such leave is pursuant to Family and Medical Leave, sick leave may be used to the extent it is accrued and available.

4. Death of a relative

- a) For the death of a close relative, the Department Head or designee (normally the immediate supervisor) may grant the use of up to five (5) days of accrued leave. If the death of a close relative requires an employee to travel requiring staying away from home overnight, upon request the Department Head or designee (normally the immediate supervisor) may grant the use of up to a maximum of seven (7) days of accrued leave for this purpose.
- b) Close relative as used in this Section means a spouse, child, step-child, foster child, mother, father (or someone who took the place of a parent), mother-in-law, father-in-law, grandparent of the employee or spouse, grandchild, son-in-law, daughter-in-law, brother, sister, brother-in-law, sister-in-law, or other relative who permanently resided in the employee's household.
- c) The Department Head or designee (normally the immediate supervisor) may grant the use of up to a maximum of one (1) day of sick leave for reasons related to the death of the employee's or his/her spouse's aunt, uncle, niece, or nephew.

5. Integration of Sick Leave and Family and Medical Leave

When an employee requests and is granted leave for reasons defined as “qualifying events” under the Family and Medical Leave Act (FMLA), the employee may use accrued sick leave, to the extent it is available, for any portion of that leave pursuant to the provisions of this MOU on FMLA. In all instances where leave is granted pursuant to the FMLA, employees must exhaust all accrued paid leave, including sick, personal, and annual, prior to moving to unpaid Family and Medical Leave. Advanced sick leave shall only be granted for the illness of the employee. Leaves under FMLA will not be considered when determining if any employee has a satisfactory attendance record.

6. Pregnancy, Childbirth and Adoption

Pregnancy, childbirth and adoption are considered “qualifying events” under the FMLA and as such are governed by #5 above. Advanced sick leave shall only be granted for the portion of leave during which the employee is incapacitated.

Section 3. Directed Use of Sick Leave/Medical Examinations.

- A. The Department of Human Resources, in accordance with the provisions of this MOU dealing with Family and Medical Leave, may direct an employee to use accrued sick leave if it believes that an employee is unable to perform the essential responsibilities of his/her position due to illness, injury or disability.
- B. While either in active work status or on any type of employee-related sick leave, an employee may be required to undergo a medical examination(s) and evaluation(s), and may be required to provide verification of fitness for duty, as directed by the Department of Human Resources to ascertain whether the employee is able to regularly and routinely perform the responsibilities of his/her position. Such determination will be made in writing by a certified medical provider as defined in Section 4. F of this Article, with a copy provided to the Department of Human Resources and to the employee.
 1. If the examination is conducted by a certified medical provider selected by the USM institution, the institution shall bear the costs of such medical examination. The employee may, however, see his/her own physician at the employee's own cost.
 2. If the examination(s) reveal(s) that an employee is unable to regularly and routinely perform the responsibilities of his/her position, action may be taken by the Department of Human Resources in accordance with policies on voluntary separation, termination, reasonable accommodation, modified duty or disability retirement, if applicable.
 3. In cases where there is a conflict between the evaluation, prognosis, diagnosis or recommendation of the employee's personal health care provider and the certified

medical provider selected by the USM institution, the President or designee may choose which health care provider's report to follow or may require subsequent medical examinations and evaluations in deciding what steps should be taken regarding the employee's sick leave status or continued employment. If subsequent medical examinations and evaluations are required, the employee's medical provider and the University's/College's medical provider shall by agreement select the third medical provider who will render an opinion. In the event they are unable to reach agreement on a third medical provider, the third provider will be selected by the University/College. In selecting the third provider, the University/College shall not select a provider that has been under contract, or that at the present time is under contract with the University/College. The decision of the President or designee regarding the employee's fitness for duty will take into account the medical opinions rendered. The decision of the President or designee is final. The expense of obtaining the third medical provider's opinion will be borne by the University/College.

Section 4. Verification of Absences Charged to Sick Leave.

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

B. Verification of Illness for Absences for Five (5) or More Consecutive Days.

The University/College may require an employee to provide an original certificate of illness or disability in cases where an absence is for five (5) or more consecutive workdays. The certificate required by this Section shall be signed by a certified medical provider as defined in Section 4. F. below.

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

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

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

D. Procedures for Certification Requirement.

Prior to imposing a requirement on an employee for documentation of sick leave use, under Section C above, the University/College shall orally counsel the employee that future undocumented absences may trigger a requirement for certification of future occurrences of sick leave. If the employee has another undocumented absence after such counseling, the University/College may, subject to the concurrence of the Department of Human Resources, then put the employee on written notice that he/she must certify all sick leave usage for the next six (6) months if the undocumented absence accumulated in accordance with this Section 4. At the conclusion of the six (6) months, the certification requirement will be rescinded provided the employee has complied with the certification requirement and is in compliance with this Article. If the employee has not complied with the certification requirement and is not in compliance with this Article, the requirement shall be extended for six (6) months from the date of the lack of compliance with the requirement. Although a requirement for certification is not a disciplinary action, an employee may grieve allegations of misapplications of this procedure. Failure of the employee to provide certification as described in this Section may subject the employee to disciplinary action.

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

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

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

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

Section 5. Advance Sick Leave for the Employee's Own Illness.

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

The employee shall:

1. have completed six months of continuous USM service;
 2. have completed an original probation period, if applicable;
 3. have exhausted all other types of accrued leave; and
 4. has performed at a "meets standards" or better level of performance and has not been placed on a sick leave certification requirement as provided in Section 4 or been disciplined for a sick leave related offense during the past 12 months.
- B. Advanced sick leave is not an entitlement. The granting of requests for advanced sick leave is at the discretion of the Department of Human Resources.
- C. Advanced sick leave shall not be granted in instances where the illness or injury or disability occurred on the job, and the employee has been granted accident leave or temporary total disability benefits by the Workers' Compensation Commission.
- D. Written requests for advanced sick leave shall be submitted to the Department of Human Resources and shall be supported by written verification by an accredited, licensed, or certified medical provider as outlined in Sections 4.A and 4.F of this Article.
- E. Sick leave may be advanced at the rate of fifteen (15) working days per year of service to a maximum of sixty (60) working days in any one calendar year.
- F. The use of advanced sick leave constitutes a debt for which payment shall be enforceable upon the employee's return to work or upon the employee's separation from employment, whichever is earlier. Upon return to work the minimum rate of payback for advanced sick leave shall be at one-half the rate that sick leave and annual leave is earned. An employee may elect to pay back advanced sick leave by applying any earned leave or by reimbursing the USM with cash.
- G. Annual, sick and holiday leave earned, and personal leave credited while on advanced sick leave shall be applied as earned/credited.
- H. Additional requests for advanced sick leave will not be granted until all previously granted advanced sick leave has been repaid. The only exception to this provision is in cases where the maximum amount of advanced sick leave had not been requested originally and additional advanced sick leave, consecutive to that already granted, is needed to cover the employee's continued absence arising from the original illness, injury or disability.

- I. The Department of Human Resources may refer an employee who is on advanced sick leave as follows:
 1. The employee may be referred to a USM institution-named certified medical provider paid for by the institution for periodic examinations to determine the nature and extent of the illness, the employee's progress toward recovery, the length of time necessary for recovery, and an estimated date of return to work.
 2. If there is a conflict between the employee's physician and the USM institution-named physician, the provisions of Section 3.B.3 shall apply.

Section 6. Extended Sick Leave for the Employee's Own Illness.

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

The employee shall:

1. have been in USM and/or State service for at least five years;
 2. have exhausted all types of accrued leave and advanced sick leave; and
 3. has performed at a "meets standards" or better level of performance and has not been placed on a sick leave certification requirement as provided in Section 4 or been disciplined for a sick leave related offense during the past 12 months.
- B. Extended sick leave is not an entitlement. The granting of requests for extended sick leave shall be at the discretion of the Department of Human Resources.
- C. The maximum cumulative total of extended sick leave available to an employee in USM or State service is 12 work months (52 work weeks).
- D. Annual, sick and holiday leave earned, and personal leave credited while on extended sick leave shall be applied as earned/credited.
- E. Written requests for extended leave shall be submitted to the Department of Human Resources and shall be supported by written verification by an accredited, licensed or certified medical provider as outlined in Sections 4. A and 4.F of this Article.
- F. The Department of Human Resources may refer an employee who is on extended sick leave as follows:
 1. The employee may be referred to a USM institution-named certified medical provider paid for by the institution for periodic examinations to determine the nature and extent of the illness, the employee's progress toward recovery, the length of time necessary for recovery, and an estimated date of return to work.

2. If there is a conflict between the employee's physician and the institution-named physician, the provisions of Section 3.B.3 shall apply.

ARTICLE 13 – PAID HOLIDAYS

Section 1. Recognized Holidays.

All employees in the bargaining unit earn the following recognized paid holidays:

New Year's Day
Dr. Martin Luther King, Jr.'s Birthday
President's Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Election Day (General and/or Congressional)
Veterans Day
Thanksgiving Day
Friday after Thanksgiving Day
Christmas Day

In addition, employees shall receive three (3) University holidays to be designated at the discretion of the University. The actual dates of observation for paid holidays and paid University holidays may vary from calendar year to calendar year at the discretion of the University. The current year's listing of observed dates for holidays may be found on the UMBC Department of Human Resources Website. The Department of Human Resources will also provide copies of the calendar to each department at the beginning of each year of posting.

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

Employees covered by this MOU may also earn any other holiday that is granted by the appropriate governing authority during the term of this MOU, including days declared by the Governor of the State of Maryland as a State holiday.

Section 2. Day of Observance.

When a holiday falls on a Saturday, it is observed the Friday before, and when a holiday falls on a Sunday, it is observed on the following Monday, and those holidays observed on the actual day on which the holiday falls will be observed on that day.

Section 3.a. Holiday Pay.

To be eligible for Holiday Pay, employees must be in a paid employment status on the calendar date of the holiday. To be eligible for Holiday Pay associated with University Holidays, an employee must be in a paid employment status on the calendar date of the holiday regardless of

date observed. Employees shall receive a regular day's compensation at their regular hourly rate for every holiday the employee observes.

If an employee is scheduled or is otherwise authorized to work during his or her scheduled holiday, the employee shall have the option of (1) receiving, in addition to his/her Holiday Pay, one and one-half (1-½) times the employee's regular rate of pay for all hours worked on that day; or (2) receiving, in addition to his/her Holiday Pay, compensatory time off for all hours worked equal to the rate of one and one-half (1-½) times for all hours worked on that day.

Section 3.b. Use of Holidays.

Employees are required to use holiday leave within the 12-month period following the date the holiday was observed.

Section 3.c. Holidays for Employees Who Work in 24/7 Operations.

Holidays for employees who work in 24/7 operations are prescheduled based upon the workweek schedule rotation. The University reserves the right to assign holidays in accordance with this schedule rotation and shall make best efforts to grant the employee the day off requested, subject to operational needs. Management will work with 24/7 employees to allow them to take their pre-scheduled holidays; however, due to operational needs, an employee may be required to work on the employee's prescheduled holiday. When this occurs, the employee will be paid at the applicable rate of pay subject to the provisions of Section 3.a. above.

Section 4. Holiday Termination Payment.

Employees who leave their employment at the University for any reason, are entitled to be paid for any unused holiday leave that has been earned and not used as of the date of separation.

ARTICLE 14 – INSURANCE AND BENEFITS

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

ARTICLE 15 – EMPLOYEE ASSISTANCE PROGRAM

The University shall make available to employees covered under this MOU the State of Maryland Employee Assistance Program (EAP). This program provides a confidential service to help employees who face personal matters that adversely affect their lives and/or job performance. Participation in the program is totally voluntary and in accordance with the State of Maryland Employee Assistance Program regulations, prerequisites, and procedures. Supervisors are encouraged to refer employees to EAP when a performance and/or behavioral problem has been identified by either the supervisor or the employee. No employee shall be unreasonably denied an opportunity to this service. The initial EAP assessment is considered work time and no fee or

leave will be charged to the employee. An employee's job security and/or promotional opportunities shall not be jeopardized by an employee's participation in the EAP. No information shall be released without the expressed written consent of the employee.

ARTICLE 16 – RETIREMENT

Employees covered by this MOU who are otherwise eligible may participate in the Maryland State (Employees' and Teachers') Retirement Systems and the Maryland State (Employees' and Teachers') Pension Systems, as appropriate, subject to all of the terms and conditions of those Systems and their respective Plans, including any modifications made to those Systems and Plans during the term of this MOU. All disputes or grievances regarding the Retirement and/or Pension Systems shall be resolved in accordance with the procedures specified in the plan or by applicable law.

ARTICLE 17 – PERFORMANCE EVALUATION

Section 1. Definitions.

A. Performance Management Process – is an ongoing communication process between the employee and the employee's supervisor regarding the performance standards/expectations during the twelve-month rating period. The three-step process includes: a meeting establishing standards/expectations and performance factors/goals (held in March/April – beginning of the evaluation period); a meeting mid-year providing feedback and coaching (held in September/October); and performance review, completion of the evaluation and discussion (held in March – end of evaluation period).

B. Supervisor – for purposes of conducting the performance evaluation, the supervisor shall ordinarily be the employee's immediate supervisor who is usually responsible for assigning and reviewing the employee's work, signing time sheets, and approving leave.

Section 2. Performance Ratings.

Employees shall receive a written performance review upon successful completion of their probationary period and every March/April thereafter. The purposes of the performance evaluation are to establish a communication tool to ensure that employees are performing at acceptable levels, to provide a means by which to document performance, and to establish a procedure for correcting performance problems should they occur. An employee shall be rated on the achievement of performance factors/goals established by the employee and supervisor during the annual expectations meeting. An employee shall receive one of the following ratings at the performance review (see attached Performance Management Process "PMP" Form Appendix A):

Outstanding
Exceeds Standards/Expectations
Meets Standards/Expectations
Below Standards/Expectations
Unsatisfactory

No quotas or other limitations shall be applied to employee ratings. The University shall not allow or condone the deflation or lowering of employees' performance rating in an effort to avoid payment of performance evaluation salary increases.

Section 3. Expectations Meeting (Establish Goals and Objectives).

During March or April of each year, an employee will meet with the supervisor who will be responsible for conducting the employee's performance review for the upcoming year.

At the expectations meeting, the supervisor and the employee will discuss and establish the specific performance factors/goals for which the employee will be held accountable. Performance factors/goals should be specific, attainable and job-related. The expectations meeting will be documented in writing and signed by both the supervisor and the employee.

Section 4. Performance Evaluations Below Standards/ Expectations and Unsatisfactory.

When an employee receives a year-end performance evaluation that is *Below Standards/Expectations* or *Unsatisfactory*, the supervisor will meet with the employee to conduct a mid-year performance feedback/coaching meeting for the subsequent evaluation period and take other appropriate measures until the employee's performance *Meets Standards/Expectations* or the employee is demoted or terminated.

When an employee has been advised at a mid-year evaluation that his/her performance is *Below Standards/Expectations* or *Unsatisfactory*, the supervisor shall note those areas that need significant improvement. In such notation: (1) any modifications made to the employee's expectations; (2) tasks and standards established by the employee and the supervisor that will assist the employee in accomplishing overall objectives for the next evaluation period; and (3) any training needs established.

Section 5. Year-End Performance Evaluation.

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

- A. The overall performance rating;
- B. The employee's job description
- C. Recommendations for training/development, if applicable.

Where an employee did not have an opportunity to perform work described by a performance factor/goal, that factor/goal will not be considered in the year-end performance evaluation. All applicable performance factors/goals will be applied fairly and objectively. When applying performance factors/goals, equipment and resource problems, lack of training, frequency of work interruptions, and other matters outside of an employee's control will be considered. Time off on approved leave (sick, personal, annual, etc.) and authorized time for Union representational purposes and other authorized activities will not be considered negatively in the application of performance factors/goals. However, where an employee has been placed on notice regarding a sick leave usage problem, the employee's sick leave usage may be taken into account for failure to meet expectations.

The supervisor will meet with the employee, discuss the performance evaluation, and give the employee a copy of the end-of-year evaluation. Subsequent to the review of the end-of-year evaluation, and after the rater's supervisor's review and approval, the employee will be asked to sign the evaluation. A copy shall be given to the employee and another shall be placed in the employee's personnel file.

An employee will be permitted to attach comments and/or objections to an evaluation to be placed in the employee's personnel file. In the event that the parties reach an economic agreement during the life of this MOU which calls for merit increases based upon an evaluation that is different than "Meets Standards/Expectations," then employees will have the right to access the grievance procedure in the event that they wish to contest an evaluation that is less than that which enables them to obtain the merit increase negotiated in accordance with Article 20 Wages of the MOU. Overall performance evaluations that exceed the level of performance necessary to insure a merit increase under the aforementioned provision of the MOU shall only be grievable through Step 2 of the grievance procedure.

Section 6. Performance Evaluation Pay Adjustment.

Employees who achieve an annual rating of Meets Standards/Expectations or above will receive a merit increase in accordance with Article 20 Wages. Employees who receive ratings of Below Standards/Expectations or Unsatisfactory are not eligible for merit increases, and may be subject to other corrective measures.

ARTICLE 18 – GRIEVANCE PROCEDURE

GENERAL

In the event of an alleged violation or disagreement over any of the provisions of this MOU, a bargaining unit employee represented by AFSCME, which shall be the exclusive employee organization to represent the employees, shall have the right to file a grievance in accordance with Section 13-201 *et seq.*, of the Annotated Code of Maryland Education Article, a copy of which is set forth below for convenient reference.

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

§ 13-201. Definitions.

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

departmental procedures over which the University management has control. However, if the complaint pertains to the general level of wages, wage patterns, fringe benefits, or to other broad areas of financial management and staffing, it is not a grievable issue.

§ 13-202. (Omitted)

§ 13-203. Steps in grievance procedure.

(a) *Availability of procedure; number of steps.* - If, following informal discussion with the supervisor, a dispute remains unresolved, the grievance procedure is available. There are three steps in the grievance procedure.

(b) (1) Step One. Step one is the initiation of a complaint. Grievances shall be initiated within 30 calendar days of the action involved, or within 30 calendar days of the employee having reasonable knowledge of the act, unless these time limits are further delimited as stated in § 13-205. Appeals within the grievance procedure shall be timed from receipt of the written opinion of management or from when such opinion is due, whichever comes first. An aggrieved employee or the employee's designated representative may present the grievance in writing to the department head or chairman or designee for formal consideration. If the grievance is presented to the department head or chairman or designee, within 5 days after the receipt of the written grievance a conference shall be held with the aggrieved or the employee's designated representative and within 5 days after the conclusion of the conference a decision shall be rendered in writing to the aggrieved or the employee's designated representative. If the aggrieved employee is not satisfied with the decision rendered at this step, the employee or the employee's designated representative may appeal in writing to step two within 5 days.

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

(c) Step Two. The appeal shall be submitted to the president of the constituent institution or the president's designated representative within 5 days after the receipt of the written decision at step one. The president or the president's designated representative shall hold a conference with the aggrieved or the employee's designated representative within 10 days of receipt of the written grievance appeal and render a written decision within 15 days after the conclusion of the conference.

(d) Step Three. In the case of any still unresolved grievance between an employee and the constituent institution, the aggrieved employee, after exhausting all available procedures

provided by the constituent institution, may submit the grievance to either arbitration or to the Chancellor who may delegate this responsibility to the Department of Administrative Hearings in accordance with Title 10, Subtitle 2 of the State Government Article. In either case, the appeal shall be submitted within 10 days after the receipt of any written decision pertaining to that grievance and issued by the constituent institution. If the grievance is arbitrated, the parties shall select an arbitrator by mutual agreement. If they are unable to reach a mutual agreement, an arbitrator shall be supplied by the American Arbitration Association by their procedures. Any fees resulting from arbitration are assessed by the arbitrator equally between the two parties. The arbitration award is advisory to the Chancellor or administrative law judge, as appropriate, and an additional appeal or hearing may not be considered. The Chancellor or administrative law judge, as appropriate, shall make the final decision that is binding on all parties.

(e) *Authority of Chancellor or administrative law judge.*- The Chancellor or administrative law judge, as appropriate, shall have the power to award back pay in any grievance and the president of the constituent institution shall enforce such order. In any reclassification case in which the Chancellor or administrative law judge, as appropriate, or his designated representative, determines that an employee has been misclassified, the Chancellor or administrative law judge, as appropriate, may, in his discretion, award back pay to the employee for a period not to exceed one year prior to the initial filing of the grievance.

(f) *Coercion, discrimination, interference, reprisal and restraint prohibited.*

(1) During any stage of a complaint, grievance, or other administrative or legal action that concerns State employment by a full-time or part-time employee of an institution, or by a temporary or contractual employee of an institution, the employee may not be subjected to coercion, discrimination, interference, reprisal, or restraint by or initiated on behalf of an institution solely as a result of that employee's pursuit of a grievance, complaint, or other administrative or legal action that concerns State employment.

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

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

§ 13-204. Decisions.

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

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

- (a) *Suspensions pending removal.*- Within 5 days from the date on which the employee receives the charges for removal as evidenced by the return receipt or other evidence of delivery of the charges to the employee an employee who is suspended under charges for removal may request an opportunity to be heard in his own defense. Within 30 days if possible after receipt, the president or the president's designated representative shall investigate the charges and give the employee an opportunity to be heard. Testimony shall be taken under oath and both the department head or chairman or designee and the employee have the right of representation by counsel and the right to present witnesses and give evidence. Within 15 days following the conclusion of the conference, the written decision shall be rendered to the employee. In the case of appeals from charges pending removal, the department head or chairman or designee may request through appropriate channels the Attorney General's representative to the University to serve as counsel. In case no hearing is timely requested, the Campus Director of Personnel shall act upon the charges or order such other actions as are indicated by the findings in the case. If a hearing is timely requested and the removal is upheld, step three of the grievance procedure shall be available to the removed individual. The appeal shall be submitted within 10 days after receipt of the written University decision.
- (b) *Involuntary demotions.*- Within 5 days, an employee who is notified of demotion may file a written answer with the president or the president's designated representative and request an investigation of the demotion. Within 20 days, if possible, after receipt, the president or the president's designated representative shall investigate the demotion and give the employee an opportunity to be heard. Within 15 days following the conclusion of the investigation, the written decision shall be rendered to the employee. If an investigation is timely requested and the demotion is upheld, step three of the grievance procedure is available to the demoted employee. The appeal shall be submitted within 10 days after receipt of the written University decision.
- (c) *Rejection on probation.*
- (1) Rejection on Original Probation. Within 5 days of the notice of rejection, an employee who is rejected on original probation may file a written request with the president or the president's designated representative for a hearing. Within 20 days, if possible, after receipt, the president or the president's designated representative shall conduct a hearing. Within 15 days following the conclusion of the hearing, the written decision shall be rendered to the employee. If the hearing is timely requested and the rejection is upheld, step three of the grievance procedure is available. The appeal shall be submitted within 10 days after receipt of the written University decision. Rejection for cause is not required in the case of an employee rejected on original probation.
- (2) Rejection on Promotional, Transfer, or Horizontal Change Probation. Within 5 days of receipt of the recommendation of the department head or chairman to reject, an employee who is promoted and then rejected within the probationary period for the new class and for whom a vacancy in the former class is not available may file an answer with the president or the president's designated representative and request an investigation of the proposed rejection. Within 20 days, if possible, after receipt, the president or the president's designated representative shall investigate the

proposed rejection. The same rule applies to an employee who has completed a probationary period in one classification and makes a horizontal change to a new classification, and is rejected in the new classification or who transfers to another department in the same classification and is rejected. Within 15 days following the conclusion of the investigation, the written decision shall be rendered to the employee. If the investigation is timely requested and the rejection is upheld, step three of the grievance procedure is available to the rejected employee. The appeal shall be submitted within 10 days after receipt of the written University decision.

(d) *Disciplinary suspension.*

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

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

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

(4) If the suspension is upheld by the president or the president's designated representative, step three of the grievance procedure is available to the employee. If the employee chooses to appeal to the department head or chairman or designee, any further appeals shall proceed through steps two and three of the grievance procedure.

(e) *Preliminary hearing.*

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

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

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

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

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

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

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

(6) Within 5 days after the preliminary hearing is completed, the president or the president's designated representative shall render a written decision that is conclusive as to the issue of whether or not the employee may continue to work with pay pending the disposition of the charges.

§ 13-206. Miscellaneous provisions.

- (a) In cases of appeal to an arbitrator, each party is responsible for any expense incurred in the preparation and presentation of its own case and for any record or transcript it may desire.
- (b) Upon the formal or informal initiation of a grievance an employee designated as a grievance procedure representative shall not suffer any loss of pay for investigating, processing or testifying in any step of the grievance procedure. Release time from normal work schedules is to be granted all witnesses to attend grievance hearings. Expenses incurred in connection with attendance by employees at grievance hearings shall be borne by the employee's department.
- (c) Similar grievances may be consolidated and processed together as a single issue. Where a number of individual grievances have been reduced into a single grievance, not more than three employees selected by and from the group may be excused from work to attend a grievance meeting called by the responsible administrator at step one and not more than five employees at steps two and three unless, at any step, prior permission is granted by the person hearing the grievance.
- (d) Employee complaint forms shall be available in the campus personnel department. The University form shall be used.
- (e) It is the responsibility of the head of each organizational unit to assure that each employee understands the channels of communication and appeal, specifically who is the department head or chairman and who acts in their absence.
- (f) An employee may not leave the post of duty to engage in grievance handling without the knowledge of and permission from the designated supervisor.

- (g) A formal grievance may be filed by the aggrieved employee; the request to appeal a grievance must bear the signature of the employee or the employee's representative at each step of the procedure.
- (h) A record of each grievance and its disposition shall be furnished to the employee involved. A file copy of each grievance shall be maintained at the last step at which the grievance was processed, and an additional copy shall be filed with the campus personnel department which shall be available to the employee or the employee's representative.
- (i) At any point in the grievance procedure, the employee may elect to obtain, change, or dismiss the representative by providing a written notice to the person hearing the grievance. However, the action does not allow the grievant to return to a previous step in the procedure.
- (j) A hearing officer may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence or witnesses.
- (k) Each step of the grievance procedure shall be processed as quickly as practicable within the specified time limits. Failure to appeal at any step constitutes acceptance. Failure to answer is a denial to which an appeal may be made. By mutual agreement, the time limits and/or steps may be waived.
- (l) It is the responsibility of each party to the grievance procedure at each step of the procedure to duplicate the grievance form prior to filing it with the employer or returning it to the employee and to retain one copy of the form.
- (m) A grievance may start with a complaint or request by a permanent or temporary employee.
- (n) An employee may be represented at every step of the grievance procedure by a party or organizational representative.
- (o) An employee shall receive a copy of this grievance procedure upon employment at the University.
- (p) Both parties shall make an effort to resolve the grievance at the lowest possible level.
- (q) All grievance hearings shall be open hearings unless either party requests that the hearing be closed.
- (r) At any step of the grievance procedure, either party may require that witnesses be excluded from the hearing room until called.
- (s) Any party who elects to use this procedure for resolution of a problem is presumed to agree to abide by the final disposition arrived at in this procedure and the final disposition may not be subject to review under any other procedure within the University.
- (t) Any question concerning the timeliness of a grievance or whether a complaint is subject to the grievance procedure shall be raised and resolved promptly, unless the person hearing the

grievance or appeal determines that the decision on a motion to dismiss will be deferred pending a hearing on both the merits and the motion.

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

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

ARTICLE 19 – DISCIPLINARY ACTIONS

Definition.

Discipline is defined as the approach used by management for modifying undesirable performance and behavior through the use of a range of disciplinary consequences that are applied depending on the employee’s misconduct (behavior and/or performance). These disciplinary actions may include, but are not restricted to, written reprimand, suspension without pay, and termination. For most misconduct problems, each step in the process will be necessary; however, for more serious problems the earlier steps may be eliminated.

Section 1. General.

Employees shall not be disciplined without just cause. Except as otherwise provided in this MOU, the University has the burden of proof in any proceeding under this Article. After taking disciplinary action against an employee, the University may not impose an additional disciplinary action against that employee for the specific incident of misconduct unless additional information is made known to the University after the disciplinary action was taken.

Section 2. Disciplinary Actions Permitted.

The University may take the following disciplinary actions against any employee:

1. give the employee a written reprimand.
2. suspend the employee from one to five days without pay;
3. deny the employee a pay increase.
4. demote the employee to a lower paying grade/classification; or
5. with prior approval of the President's designee:
 - a. terminate the employee's employment without prejudice; or
 - b. if the University finds that the employee's actions are egregious to the extent that the employee does not merit employment in any capacity with the University System of Maryland or the State, terminate the employee's employment, with prejudice.

Section 3. Right to Union Representation.

An employee shall have the right to Union representation if requested by the employee, only as provided below.

1. In any investigatory interview or discussion with an employee who is the subject of the investigation.
2. At any disciplinary hearing or discussion with the employee who is the subject of the disciplinary hearing.

Management shall allow reasonable time for the Union representative to attend said meeting.

An employee shall not have the right to a Union representative in attendance during a discussion solely related to a counseling session, performance, or during a performance review.

All employees are expected to give prompt, accurate answers to any and all questions concerning matters of official interest put to him/her by the University.

The role of the Union representative is to assist in the clarifications of questions and otherwise advise the employees of his/her rights. A Union representative shall speak on behalf of an employee only when requested to do so by the employee attending the meeting.

Section 4. Automatic Termination of Employment.

The following actions may be sufficient causes for automatic termination of employment, although automatic termination of employment may be for causes other than the below enumerated causes:

1. Intentional conduct, without justification, that:
 - a. seriously injures another person
 - b. causes substantial damage to property; or
 - c. seriously threatens the safety of the workplace.
2. Theft of University, USM, or State property;
3. Illegal sales, use, or possession of drugs on the job;
4. Conviction of a controlled dangerous substance offense by an employee in a designated sensitive classification;
5. Conviction of a felony;
6. Accepting for personal use, any fee, gift, or other valuable thing in connection with or during the course of University employment, if given to the employee by any person with the hope or expectation of receiving a favor or better treatment than that accorded to other persons; or
7.
 - a. Violation of the Fair Election Practices Act; or
 - b. Using, threatening, or attempting to use political influence or the influence of any University employee or officer in securing promotion, transfer, leave of absence, or increased pay.

Section 5. Duty of the Employer Prior to Imposing Sanctions.

A. The University agrees where appropriate to administer discipline in a fair and impartial manner as defined under the definition of discipline. Similarly situated employees will be treated similarly regarding the application of disciplinary actions, but mitigating circumstances will be considered.

B. Procedures – Before taking any disciplinary action related to employee misconduct, the University shall;

1. investigate the alleged misconduct;
2. meet with the employee;
3. consider any mitigating circumstances;
4. determine the appropriate disciplinary action, if any, to be imposed; and
5. give the employee a written memorandum or notice of the disciplinary action, if any, to be imposed and the employee's appeal rights.

C. Time Limits – The University may impose disciplinary action no later than thirty (30) days after it acquires knowledge of the misconduct for which the disciplinary action is imposed. Exceptions to the above shall apply in cases involving severe misconduct or conduct involving moral turpitude.

D. Suspension:

1. The University may suspend an employee without pay no later than three (3) workdays following the close of the employee's next shift after the University acquires knowledge of the misconduct for which the suspension is imposed.

2. Saturdays, Sundays, legal holidays, and employee leave days are excluded in calculating the three (3) workday period unless Saturday or Sunday is part of an employee's regular schedule or when the employee is required to work on a holiday.
- E. Except as authorized by law, an employee may not be required to submit to a polygraph test.
- F. Termination of probationary employees is covered separately in this MOU and does not require just cause.

Section 6. Actions Which Do Not Constitute Disciplinary Actions.

A. Counseling Memoranda:

1. A counseling memorandum is an instructional communication and is not a disciplinary action. The counseling memorandum should indicate to the employee the problem and what the employee needs to do to correct the problem. Proposed steps for improvement shall be reasonable and within the employees' range of skills and experience.
2. Within ten (10) workdays after receiving a counseling memorandum, an employee may submit to the University a written response to the memorandum. The response shall be placed in the employee's Personnel File and attached to any record of the memorandum.
3. An employee may not take any other action in response to a counseling memorandum. A counseling memorandum is not grievable.

B. Leave Without Pay:

Placing an employee on leave without pay when the employee is absent with approval is not a disciplinary action.

C. Restitution:

1. Requiring an employee to make restitution to the University or the State for loss or damage to University or State property due to an employee's negligence is not a disciplinary action.
2. An employee who is ordered to make restitution under this subsection also may be subject to civil prosecution or criminal prosecution.

Section 7. Other Procedures.

A. Negotiations and bargaining permitted – this Article does not preclude the University and an employee from agreeing to:

- 1. holding in abeyance a disciplinary action for a period not to exceed six (6) months in order to permit the employee to improve conduct or performance; or
- 2. imposition of a lesser disciplinary action as a final and binding action.

B. Failure to appeal – if an employee fails to grieve/appeal in accordance with the procedures provided in this MOU, the employee is considered to have accepted the decision.

C. Time limits – the parties may agree to waive or extend any time limits as stated in this Article.

D. Resolution of appeal encouraged – each party shall make every effort to resolve an appeal at the lowest level possible.

E. A failure to decide an appeal in accordance with law and regulation is considered a denial from which an appeal may be made

Section 8. Excessive Absenteeism, Tardiness or Abuse of Sick Leave.

A. It is understood that excessive absenteeism, excessive tardiness, or abuse of sick leave constitutes just cause for discipline, and it is the intent of the University to take corrective action.

B. An employee who is placed on leave without pay for an unapproved absence may be subject to disciplinary action for the unapproved absence.

ARTICLE 20 – WAGES

Section 1. Merit Pay Adjustment for FY2006.

A. For FY 2006, the USM will include in its “asking” budget (which includes the current service budget request and any separate list requests) to the Governor a merit pay adjustment for “meets standards” of 2.5% for each eligible employee in the nonexempt bargaining units of the institutions forming the USM Coalition (including UMCP for purposes of this re-opener). The merit pay adjustment request will be made part of the FY 2006 “asking” budget submitted to the Governor. Subject to approval and funding, merit pay adjustments will be provided to all eligible bargaining unit members who “meet standards” pursuant to the following schedule:

1. Where there is a net increase in the State Supported appropriation of \$85 million or more *	2.5%
2. Where there is an net increase in the State Supported appropriation of at least \$50 million	1.5%
3. Where the net increase, if any, in the State Supported appropriation is less than \$50 million	0

* For purposes of this re-opener pay provision, a “net increase in the State Supported appropriation” means a combined increase in the FY06 General Fund Appropriation and the appropriation of revenue derived from tuition rate increases. Provided that taken together they are sufficient to yield, on a reasonable, good faith projected basis, the amount indicated.

Where a merit pay adjustment is due under the foregoing, but an employee who “meets standards” would otherwise not receive all or a portion of the merit pay salary adjustment because the employee’s pay rate as adjusted for the merit pay increase would exceed the maximum of the employee’s pay grade the employee will receive the amount of the merit pay adjustment that would exceed the maximum of the employee’s pay grade in the form of a one time non-base salary bonus. Any one-time bonus shall be paid as a lump sum payment as soon as practical in FY 2006.

B. Notwithstanding Section I above, any merit pay adjustment or bonus provided under Section I shall be consistent with any General Assembly controlling directions or restrictions on merit pay.

Section 2. Cost of Living Adjustment for FY2006.

Subject to approval and funding by the General Assembly, a cost of living adjustment will be provided to bargaining unit employees at whatever amount is provided in the legislative appropriation.

ARTICLE 21 – COMPENSATION STIPENDS

Section 1. Shift Differential.

A. All employees covered under this MOU who work a regular shift starting at or between 2:00 p.m. and at or before 1:00 a.m. shall receive a shift differential of \$1.00 per hour. Shift differential will be included in the regular rate calculation for the computation of overtime.

B. A bargaining unit employee who fails to work the shift, even though regularly assigned to it, by reason of leave without pay, is not eligible to claim the shift differential for such shift. Payment of shift differential is authorized for up to twenty (20) consecutive work days for an employee who is permanently assigned to a qualifying shift or is scheduled to work a qualifying shift while on an authorized or accrued leave with pay.

C. An employee who is on a permanent schedule of rotating shifts is eligible to claim shift differential only while on a qualifying shift.

D. In an overtime situation where the employee continues working from a non-qualifying shift into a qualifying shift, the employee is eligible for a prorated shift differential provided the employee works at least three (3) hours of the qualifying shift. Additionally, an eligible employee who is scheduled to work overtime from a qualifying shift into another qualifying shift shall receive the shift differential in addition to any overtime payment or compensatory time for all overtime hours worked.

Section 2. Acting Capacity Pay.

A. Acting Capacity Appointment.

An Acting Capacity Appointment may be used when an employee is appointed to a different position on a temporary basis, where there is a vacancy that is anticipated to exceed thirty (30) consecutive calendar days. Acting appointments may be made for up to six months, with one (1) additional extension of not more than six (6) months, based on the demonstrated operational needs of the University.

B. Notice.

Except in unforeseen or other circumstances beyond the control of the Employer, the University shall, provide the employee receiving the acting capacity appointment at least five (5) working days written notice prior to the effective date of such assignment and a written notice indicating the date of the conclusion of the assignment.

C. Acting Capacity Pay.

1. Acting capacity pay is paid when an employee is appointed to a different position in a higher non-exempt classification on a temporary basis. An employee who is in acting capacity must meet the minimum qualifications of the position. The effective date for acting capacity pay shall be the date that the employee began performing the higher level duties consistent with Section 2.A above.

2. The amount of acting capacity pay shall be the amount which the employee would be paid if reclassified to the higher classification as outlined in Article 32 Job Classification and Reclassification.

D. Conclusion of Acting Capacity Appointment.

At the conclusion of the Acting Capacity Appointment the employee shall be returned to the employee's former position with the same salary and status, which the employee held prior to the acting capacity appointment. Additional salary adjustments will be made if there were any pay adjustments such as merit or COLA that occurred during the acting appointment.

Section 3. Hazardous Duty Pay.

If applicable, employees who consent and are required to perform asbestos work shall receive a salary differential equal to one and a half (1 ½) times of their current salary for all time spent performing such duties. Payment of this differential shall be on an hour-by-hour basis and shall include time the employees spent removing program specified clothing and equipment.

ARTICLE 22 – PARKING

From the effective date of this MOU through June 30, 2005, the University agrees that bargaining unit employees shall not be subject to increases in the cost of on-campus parking; presently, \$232.00 per year, and if an employee has a gate card, an additional \$80.00 per year. Employees also presently have the option of paying \$2.00 per day for on-campus parking, which amount shall not be increased through June 30, 2005.

From the effective date of this MOU through June 30, 2005, the University agrees that bargaining unit employees shall not be subject to increases in the cost of on-campus parking. For the balance of the term of this MOU, any contemplated increases in the cost of parking will be negotiated with the Union.

The University agrees to manage the parking funds for the sole and limited purpose of managing and making improvements to the roads and parking facilities on campus, including supporting services such as administration and security, physical plant personnel, and shuttle bus operations. No bargaining unit employee shall be charged more for the cost of comparable parking than charged to other University employees. In the negotiation process leading to contemplated changes in the cost of parking, the University has the right to take any of the following factors into account: (1) the extent to which such increases are due to higher costs incurred by the University for parking, such as the need to fund additional parking structures or to add additional parking lots/spaces; (2) costs incurred due to the maintenance and repair of existing parking structures and/or lots, such as painting, asphalt repairs, curbing, pothole repair, outside street lighting, additional safety paraphernalia such as signs, flashing lights, and speed bumps, etc.; (3) associated costs for managing and maintaining parking and transportation services such as parking attendants and shuttle bus operations; and (4) such other criteria as directly impact the cost of providing on-campus parking.

The University agrees to take all reasonable steps to safeguard employees to cross the street between Parking Lot #18 and Parking Lot #17, and to increase the availability of designated parking for employees in Parking Lot #8 by a maximum of fifteen (15) spaces.

ARTICLE 23 – HEALTH AND SAFETY

Section 1. General Duty.

The University agrees to maintain at all times a safe and healthy work place consistent with applicable laws and regulations from Federal, State and Local Governments.

Section 2. Access to Recreation Centers.

The University shall continue with providing employees with free access to the campus recreation and fitness facilities.

Section 3. Unsafe Working Conditions.

When circumstances arise where an employee is confronted with the choice between not performing assigned tasks or subjecting him/herself to serious injury or death arising from dangerous conditions in the workplace, the employee should make a reasonable decision as to whether to perform such tasks. When an employee decides not to perform a task due to dangerous conditions, the employee shall not be subject to retaliation and/or disciplinary action. The employee shall report any unsafe or dangerous conditions to his/her supervisor immediately after confronting such condition in the workplace.

Section 4. Duties of the Labor-Management Committee.

As a way to promote and maintain safe and healthful working conditions in the workplace, the University and the Union agree that the Labor Management Committee will address these issues as needed. Safety-related issues shall have agenda priority at each meeting of the Labor Management Committee.

Section 5. Personal Protective Clothing and Equipment.

The University shall provide protective clothing and equipment where such is necessary and where required by applicable state laws and regulations. The University shall also provide safety glasses for employees working in job classifications where safety glasses are needed. The University shall provide reimbursement for employees' prescription safety glasses damaged in the course of the employee's regular duties.

Section 6.a. Health and Safety Training.

The University shall be responsible for ensuring that employees receive training in order to carry out the day-to-day functions of their job requirements safely.

Section 6.b. Cardiopulmonary Resuscitation (CPR) Training.

Employees assigned to job classifications where training in CPR may be a valuable skill, shall be offered the opportunity to attend, at the Employer's expense, CPR training provided by a certified trainer.

Section 6.c. Asbestos Training.

Any employee required to work with or around asbestos shall be provided the proper training and personal protective equipment.

Section 7. Hepatitis B.

Employees who have any contact with blood and other body fluids shall be offered Hepatitis B vaccination (s) at the University's expense.

Section 8. Asbestos.

When an asbestos hazard is discovered, all affected employees shall be immediately notified of the existence and location of the hazard and the University shall take precautionary measures to protect the employees from exposure. The University shall conduct ongoing inspections to detect the presence of asbestos or any other health hazard and shall provide updates to the Union.

Section 9. Indoor Air Quality.

The University will ensure healthful air quality in all buildings, offices and spaces where employees work. When conditions in any office, building, or work area reach an unhealthy hazardous level as determined by the Environmental Safety and Health Department, the employee(s) will be authorized to evacuate such work areas and either be relocated for the remainder of the day or released from work without loss of compensation until the Environmental Safety and Health Department has concluded that the University has corrected the problem.

Section 10. Reproductive Hazard.

Any pregnant employee assigned to work in an environment that may be harmful to the pregnancy or the fetus may request reassignment to alternate work with proper medical documentation from

an appropriate medical provider substantiating the need for a reassignment, at equal pay, within her department. For purposes of this section, harmful environment includes but is not limited to exposure to toxic substances, communicable diseases, or difficult physical demands.

Section 11. Physical Exams.

The University agrees to pay for any physical examinations and other necessary tests, as determined by a medical provider designated and/or approved by the University, when the health of an employee is adversely affected by exposure to potentially harmful physical agents, toxic materials, or infectious agents in the course of their employment. The University shall, at an employee's request, provide an annual hearing test at no cost to those employees who are regularly exposed to working conditions that include noise levels in excess of OSHA toleration levels as prescribed in the regulations of the Maryland Occupational Safety and Health Administration. Upon request, animal handlers will be given an annual physical examination by a medical provider designated and/or approved by the University, at no cost.

ARTICLE 24 – MISCELLANEOUS

Section 1. Release Time for Campus-Sponsored Committees.

Employees shall be allowed paid release time with the approval of their supervisor based upon operational needs to participate in campus sponsored ad hoc committees and work groups which are not a part of the University's Plan of Organization. Such supervisory approval shall not be unreasonably withheld.

Section 2. Attendance at Job Related Trainings and Continuing Educational Units (CEUs)

Employees shall be allowed paid release time to attend job related training subject to supervisory approval whether sponsored by the University or by an outside entity. Such supervisory approval shall not be unreasonably withheld. In the event an employee's duties require an employee to complete periodic Continuing Educational Units (CEUs), the University shall provide the necessary paid leave and upon receiving proof of payment shall reimburse the employee for any fee associated with the employee's successful completion such CEUs. Except with respect to apprenticeship arrangements or other programs in which bargaining unit employees may be enrolled for promotional purposes, release time will be granted to employees for the purpose of participating in required training or CEU completion.

Section 3. Release Time for Job Interviews.

Employees shall be allowed paid release time with the supervisor's prior approval to attend job interviews in a different department and/or for another position within any of the USM institutions and/or State agencies. Such supervisory approval shall not be unreasonably withheld. Employees shall submit documentation from the job interviewer on departmental letterhead confirming dates and times of interview upon returning back to work.

Section 4. Licensing, Certifications and Professional Fees.

The cost of licenses, license renewals, or certificates, for employees which are required for them to perform their respective job duties, except for drivers' licenses and commercial drivers' licenses and any required DOT endorsements, shall be borne by the University.

ARTICLE 25 – UNIFORMS AND EQUIPMENT

Section 1. Uniformed Job Classifications.

The employer shall continue providing uniforms for employees in job classifications where such is required.

Section 2. Replacement of Uniforms.

As uniforms become depreciated and are in a state of disrepair, the University shall provide replacement uniforms. Replacement uniforms shall be in new condition and fit properly.

Section 3. Safety Shoes.

Where an employee's duties require the wearing of safety shoes, the University shall provide employees with an allowance of no more than \$75.00 towards the purchase of such shoes through a vendor designated by the University. As shoes become depreciated and are in a state of disrepair due to normal wear and tear, the employee shall be eligible for replacement using the above stated guidelines.

ARTICLE 26 – STAFF PROFESSIONAL DEVELOPMENT FUND

Section 1. Purpose and Applicability.

The parties recognize the importance of enhancing employee development to meet the ever changing needs of the University. The purpose of this fund is to encourage and enable employees covered under this MOU to take advantage of professional development opportunities for which sufficient funding cannot be found in their own department budgets.

Section 2. Policy.

- A. Eligibility includes all regular full and part-time employees covered under this MOU.
- B. The applicant is required to seek funding from his/her department before applying for this award. This fund is not intended to be used in lieu of other appropriate funds.
- C. The total available funds for all regular nonexempt employees will be no less than 50% of the total staff development funds determined by the University on an annual basis for all exempt and non-exempt staff. Applications will be accepted throughout the year, but funding may become scarcer as the year progresses. Therefore, staff and their departments are encouraged to plan ahead.
- D. The fund will be administered by the Provost's Office.
- E. Applications will be reviewed by a selection committee to be composed of the following members or their designees; the Provost; the Vice President for Administrative Affairs; the Vice President for Institutional Advancement; the Vice President of Student Affairs; one representative of the non-exempt excluded employees' group; and three (3) members of the bargaining unit as selected by AFSCME. If a member of the selection committee is applying to the fund, he/she will recuse him/herself from that discussion.

- F. An employee may receive only one award per year.
- G. All applications will be given due consideration in accordance with the above procedures; however, awards shall be subject to the availability of funds, in accordance with subsection C above.

Section 3. Procedures.

- A. Fill out the Professional Development Fund Application Form (See Appendix B).
 - 1. A signed letter of endorsement from the applicant's department chair/authorized supervisor which states how the activity will benefit the applicant's department and how much funding his/her unit will contribute to the activity.
 - 2. A "proof of activity" – a document or advertisement that shows the dates and location of activity (and, if possible, a description).
- B. Return application to the Provost's Office forty-five (45) days in advance of the activity. Applications which do not meet this requirement may not be considered.
- C. The selection committee will respond within a reasonable length of time, which should not exceed three (3) weeks.
- D. If the award is approved, applicant must then follow standard University procedures for reimbursement.

ARTICLE 27 – SHARED GOVERNANCE/AD HOC COMMITTEES AND WORK GROUPS

Section 1. Plan of Organization Committees.

The University recognizes that the Union is the exclusive bargaining representative for non-exempt bargaining unit employees, and as such, is a substitute for those employees' participation in shared governance, since Plan of Organization committees and Senates engage in discussions covering a wide variety of subjects, including but not limited to wages, hours, and other terms and conditions of employment. Members of the bargaining unit represented by the Union shall not participate as members of the Non-Exempt Excluded Staff Senate or any other current committees created under the University's Plan of Organization.

Section 2. Ad Hoc Committees and Work Groups Outside the Plan of Organization.

Bargaining unit members shall be equally afforded the opportunity to participate in ad hoc committees and work groups that do not engage in discussions concerning wages, hours, or other terms and conditions of employment, other than the Professional Development Committee, the Employee-of-the-Quarter Committee, and the Parking Committee.

Members of the bargaining unit shall be entitled to have two (2) representatives on the Parking Committee.

ARTICLE 28 – TUITION REMISSION GUARANTEE

The University and the Union agree that during the duration of this MOU, employees in the bargaining unit and their eligible dependents will continue to receive tuition benefits as currently provided and as stated in the Board of Regents Policies on Tuition Remission for Employees and Dependents. Such benefits shall be available to employees and their dependents at UMBC and at any other University System of Maryland institution that honors the reciprocity commitments prescribed in the aforesaid Board of Regents Policies. Should the Board of Regents implement any changes in the tuition benefits policies presently in place, the University and the Union agree to negotiate over such changes before their implementation and impact on the employees in the bargaining unit.

ARTICLE 29 – LABOR MANAGEMENT COMMITTEE

Section 1. Purpose of the Committee.

The University and the Union agree to create a Labor-Management Committee for the purpose of identifying issues of concern to either party and to jointly recommend solutions to such concerns. The Committee shall also serve as a forum of discussion for any issues associated with the implementation of any aspect of this MOU. The Committee may not discuss employee grievances that are pending resolution. The Committee shall not serve as a substitute for formal negotiations when such are required.

Section 2. Composition of the Committee.

The University and AFSCME shall appoint three (3) members each to the Labor-Management committee. The committee shall meet at least once a quarter and shall be chaired alternatively by both parties. Issues to be discussed shall be submitted to all members of the Committee one week before the meeting. If there is no agenda the committee will not meet. Employees serving on the Labor-Management Committee shall be granted, upon 48 hours' notice to their supervisor, up to two (2) hours paid release time to attend such meetings.

ARTICLE 30 – LAYOFF AND RECALL

Section 1.a. Layoff Notice.

When the University determines that layoffs or job abolishments are necessary, a written notice shall be given to the affected employee(s) and the Union at least ninety (90) calendar days in advance of the effective date of such layoff. The written notice shall include the reason for the layoff (i.e., position abolished, discontinued or vacated because of a lack of supporting funds, program change, change in departmental organization or stoppage or lack of work). The University may place an employee who receives a notice of layoff on administrative leave for any portion of the ninety (90) calendar day notice period. Administrative leave shall not be unreasonably withheld; however, an employee's leave may be shortened in circumstances where an employee may be required to complete an ongoing project or other work demonstrated by the University to be critical.

Section 1. b. Grant Funded Employees.

In cases in which grant funds are reduced or terminated, such as to affect bargaining unit members, with less than ninety (90) days' notice to the University, the University shall notify the affected employees and the Union within five (5) working days following the University's receipt of the notice, and shall specify the period which shall coincide with the date of fund termination or reduction. In such cases, notice to affected employees, including placement on administrative leave, may be reduced accordingly. Grant funded employees shall be defined as those employees whose salary is majority funded by grants.

Section 2. Order of Layoff.

The University shall determine in which positions layoffs will occur. Within each classification affected, layoffs shall occur in the following order:

(A) All regular status bargaining unit employees serving an original probationary period in the classification and department in which the layoff is to occur; then

(B) All regular status bargaining unit employees who have completed an original probationary period, in the classification and department in which the layoff is to occur, in order of seniority, with the employee having the lowest number of seniority points being laid off first.

Section 3. Seniority Points.

The formula for establishing seniority points shall be as follows:

(A).A point shall be given for each complete month of credited service for the following:

- (1) University System (and/or predecessor organizations) and State service including service as medical system University personnel as defined in the Education Article, Section 13-1B-01(r);
- (2) Service with the department where the layoff is to occur; and
- (3) Service in the job classification and its job series where the layoff is to occur.

(B) For creditable service of less than a complete month, the employee shall be credited with .032 points for each day of creditable service.

(C) For part-time employees, creditable service shall be determined by the funded percentage of the position.

(D) The combined total of all points shall determine the order of layoff in the job classification designated for layoff within a department. If two or more employees in the same classification within a department have the same number of seniority points, they shall take their standing in the order of the layoff based upon the following:

- (1) The University shall compute each employee's total length of employment in combined State and University System service;
- (2) The employee with the shortest length of service shall be laid off first; and
- (3) If two or more employees have the same standing after the application of Section D (1), the Divisional Vice President, with approval of the Chief Executive Officer or

designee, will determine the employee(s) to be retained based upon a reasonable written evaluation of the specific objective skills, knowledge, and abilities of each employee, prepared by the Division Head or Chairperson.

Section 4. Displacement Rights.

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

- (A) An employee in a position which is to be abolished, discontinued, or vacated shall be allowed to displace another employee with less seniority in the same job classification within the same Department, or, if not available either:
 - 1. Progressively to each lower classification in the same job series within the same department; or
 - 2. In any other classification within the same department in which the employee held satisfactory regular status.
- (B) The displacement as applied in one (1) and two (2) of the above, shall be limited to the department in which the employee is employed at the time that the notice of layoff is given.
- (C) An employee who elects not to displace another employee or who is ineligible to displace another employee in accordance with this Section shall be laid off.
- (D) An employee who is displaced under this Agreement is subject to the terms and conditions of this Agreement.

Section 5. Recall List and Priority Reinstatement.

An employee who is laid off shall be recalled for reappointment following a layoff if, within three (3) calendar years from the effective date of layoff, the specific position from which the layoff occurred is reestablished, provided the employee continues to meet minimum qualifications of the job.

- (A) Notice of recall from a layoff shall be sent to the employee by certified mail, return receipt requested.
- (B) The recalled employee shall have up to ten (10) workdays following receipt of the recall notice to notify the University of their intention to return to work.
- (C) The recalled employee shall have up to fourteen (14) workdays following receipt of the recall notice to actually return to work.

For a period of up to three (3) calendar years from the effective date of the layoff the employee will be eligible for priority reinstatement in the classification of layoff or any lower level classification in that job series or any classification for which the employee has completed an original probationary period at the University. For consideration of priority appointment the employee must submit a completed UMBC application to include all University positions successfully held by the employee as soon as notified of the layoff but no later than fifteen (15) calendar days after the effective date of the layoff. Based upon seniority, employee applications will be submitted directly to the department for an interview and consideration for priority reinstatement. If the department should reject the employee, the hiring department must provide a letter of justification to the Director of Human Resources, indicating why the employee would be unable to perform the essential

functions of the position. If the department's justification is accepted, the employee would be referred to the next available vacancy for which he/she qualifies.

Section 6. Re-employment Notifications.

In the event the employee is given an offer for re-employment under Section 5 above:

- (a) Notice of the offer of re-employment from a layoff shall be sent to the employee by certified mail, return receipt requested.
- (b) The employee shall have up to seven (7) calendar days from the date of the first delivery attempt of the offer of re-employment to notify the University in writing of his/her intention to accept the position.
- (c) The employee shall have up to fourteen (14) calendar days following acceptance of the position to report to work.
- (d) If an employee accepts a position at the same or higher level within the University System of Maryland (USM), all priority reinstatement rights end.
- (e) If an employee accepts a position at a lower level than the layoff title within the USM, the employee will lose priority reinstatement rights for the lower level title but retain priority rights for higher titles up to and including the layoff title.
- (f) If the employee refuses a comparable position at the same level as the layoff title, all priority reinstatement rights end.
- (g) If the employee refuses a position at a lower level all reinstatement rights will end for that level and below.

Section 7. Severance Package

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

A. Tuition Remission:

- 1. Employees who have completed less than ten (10) years service with the University and who are receiving tuition remission at the time of layoff may complete the semester in which the lay-off occurs at whatever qualifying institution they are attending at that time. Laid off employees shall be eligible to receive tuition remission for one additional full-time semester or two additional part-time semesters, not to exceed a total of 18 credit hours, at UMBC only within the three (3) year reinstatement period following layoff.
- 2. Employees who are laid off, who have completed more than ten (10) years service with the University and who are receiving tuition remission at the time of layoff, may complete the semester in which the lay-off occurs at whatever qualifying institution they

are attending at that time. Laid off employees shall be eligible to receive tuition remission for two additional full-time semesters or four additional part-time semesters, not to exceed a total of 36 credit hours at UMBC only, within the three (3) year reinstatement period following layoff.

3. For purposes of this Section, full-time shall be considered twelve (12) credit hours or more. Part-time shall be considered to be less than twelve (12) credit hours.
4. The tuition remission benefit described in this Section is for the employee only, with the exception that any employee dependent enrolled in coursework in the semester in which the employee is laid-off and receiving tuition remission may continue to receive tuition remission for the balance of that semester.

B. Employment Assistance

1. The Department of Human Resources or designee will be available to assist employees laid off with the following:

- Developing a resume
- Composing a cover letter
- Interviewing skills
- Conducting a job search
- Employment agency contacts
- Recommended readings

2. Laid off employees may use designated University Offices and equipment for purposes of developing a resume and conducting job searches. Employees availing themselves of these services agree to comply with all University rules and regulations.

ARTICLE 31 – PERSONNEL FILE

Section 1. Personnel File of Record.

The employee's personnel file of record shall be kept in the Department of Human Resources for each employee in the bargaining unit. Grievances shall not be kept in the employee's personnel file of record, unless it is requested by the employee. No unsatisfactory anonymous materials shall be placed in an employee's personnel file of record.

Section 2. Access.

Employees will be allowed to view their personnel file in the Department of Human Resources upon advance request during normal business hours. An employee may authorize a representative to review his/her file with written authorization to the Department of Human Resources upon

advanced request, during normal business hours. Employees have the right to copy any documents in their file. The employee may be required to assume reasonable costs of copying.

Section 3. Notification of Disciplinary Documentation.

Any documentation reflecting disciplinary action shall be placed in an employee's personnel file of record and will be initialed and dated by the employee and a copy provided to him/her. If the employee refuses to initial the documentation, the disciplinary action material(s) shall be placed in the employee's personnel file with a notation of the employee's refusal to initial the documents. The employee's initials indicate simply that he/she has received a copy of the material and are not to be construed as agreement with its content. From the effective date of this MOU, records of any disciplinary action material(s) placed in an employee's personnel file of record without following this procedure will be removed from the file and returned to the employee.

Section 4. Work Files.

Supervisors may keep working files, but records of previous discipline not in accordance with Section 3 of this Article cannot be used against an employee in any future disciplinary proceeding.

ARTICLE 32 – JOB CLASSIFICATION AND RECLASSIFICATION

Section 1. Definitions.

A. Position.

A position is a collection of tasks or duties and responsibilities that constitute the total work assignment of a single worker. A position description specifically defines that job's specific duties, responsibilities, and the position's requirements.

B. Classification.

A classification is not the same as a position description. A classification broadly defines a group of similar positions that have the same essential functions and essential qualifications and the same classification title and are assigned to the same salary range or band.

C. Classification Specification.

Each non-exempt classification shall be described by a classification specification as approved by the Chancellor. That specification shall include a list of primary duties and minimum qualifications, but not be limited to a job summary that defines the nature and purpose of the job class and the type of supervision received. It shall also include a list of primary duties that help define the general parameters of the classification, with the most important and significant duties being listed first. An employee shall not be precluded from assignment to a higher classification, if the specific position does not require performance of all the primary duties. The classification specification shall also include a list of minimum qualifications and conditions of employment.

D. Reclassification.

A reclassification is a change of a position's classification from one classification to another. If an employee is performing higher classified duties in a non-acting capacity on

an ongoing basis for more than six (6) months, or if the employee is assigned higher level duties or responsibilities indefinitely or permanently, then that employee shall be reclassified to the higher classification provided that the employee meets the minimum qualifications.

Section 2. General.

A. Qualifications for Positions.

Qualifications for positions shall be directly related to and necessary for carrying out the tasks of the position.

B. Position Assignment.

Positions must be assigned to classifications that best fit the duties being performed and the responsibilities assigned to the position.

C. The University's Department of Human Resources shall make available classification specifications, standards for classification review, assessment or analysis and classification studies.

D. The Department of Human Resources shall provide the Union with copies of all new and changed job specifications as established by the University System and subsequently approved by the Chancellor.

E. The Department of Human Resources shall give Union representatives upon request access to and copies of completed requested classification studies that are conducted with respect to bargaining unit employees.

F. At the time the University makes the decision to transfer an employee from one organizational unit to another, the University shall provide notice to the Union of the transfer.

Section 3. Classification Studies.

A. Initiation.

A classification study or audit shall be initiated whenever a supervisor or an employee requests a study of a position. The purpose shall be to determine if the position should be reclassified.

B. In all cases, the University shall be fair and objective in the assessment of classifications. In making classification decisions, the University shall consider the duties performed, responsibilities assigned, and how these match the classification specifications.

C. Timeliness in Conducting the Study.

The University shall make every possible effort to complete a classification study within forty-five (45) days of the date of the request. In the event the classification study is not completed within forty-five (45) days, the Employer shall provide the employee written feedback on the status of the classification study. The University shall send copies of the study and any associated documents to the employee and the Union immediately upon completion of the study.

Section 4. Assignment of Higher Duties.

A. Opportunity.

The University shall provide the widest possible opportunity for employees to be considered for and get assignments of higher duties. All such assignments shall be made in a fair manner. No employee shall be required to accept an assignment of higher duties, without the commensurate salary adjustment, if applicable.

Section 5. Pay on Promotion and Reclassification.

A. Promotion and Reclassification.

When an employee is promoted or reclassified to a classification with a salary range which is one pay range higher, the employee shall be given at least a six (6%) percent increase in annual salary.

When an employee is promoted or reclassified to a classification with a salary range, which is two, or more pay ranges higher, the employee shall be given at least a twelve (12%) percent increase in annual salary.

B. Processing Sequence for Simultaneous Transactions.

Subject to the University's obligation to adhere to the mandates of the Maryland Legislature and the Chancellor's salary guidelines in sequencing pay increases, whenever two or more salary transactions are effective on the same date for an employee they shall be processed in the following sequence:

- (1) Salary adjustment of the employee's classification (For example adjusting the employee's current grade to a higher grade;
- (2) Cost of Living Adjustment (COLA) and then merit increase in accordance with Article 20 (WAGES); and
- (3) All other transactions including, but not limited to, promotion, reclassification and demotion.

Section 6. Effective Date of a Reclassification.

The effective date of a reclassification shall be the date the employee's request for review was received by the Department of Human Resources.

ARTICLE 33 – VACANCIES AND JOB POSTING

Section 1. General.

Employees have a right to job advancement opportunities. The University agrees to continue to provide such opportunities by offering all employees job counseling and an equitable and open process for filing vacancies.

Section 2. Job Announcements.

A. Contents.

To recruit candidates for positions, the University shall prepare job announcements. The job announcement shall contain the position title, department, position responsibilities, minimum qualifications, starting salary, application process, and a posting date and closing date.

B. Posting.

Job announcements for vacant positions will be posted in the Department of Human Resources, on the University web site, and sent to each University department for posting within the department. Job announcements may also be posted in various print and electronic media as needed. Each job announcement will be sent to the on-campus Union president for posting on the various Union bulletin boards.

C. Notice.

The University will post job announcements according to Section B of this article and at least two weeks before the deadline for filing an application for the vacancy.

D. Records of Job Announcements.

The University will maintain within the Department of Human Resources photocopies posted job announcements for a period of one year from the date of the announcement. Upon request, the Union may receive copies.

Section 3. Selection of Applicants.

Management retains the sole right to select employees to fill any vacant position.

ARTICLE 34 – TELEWORKING

Section 1. Purpose.

The purpose of this provision is to specify criteria for eligible bargaining unit employees of the University to work from home, a satellite office, on selected workdays.

Section 2. Definitions.

- A. **Teleworking**: working at a location other than the employee's customary worksite.
- B. **Eligible employee**: an employee in a job identified by the employee's supervisor as being suitable for teleworking.
- C. **Teleworker**: a person who is regularly scheduled, for at least two day(s) per pay period, to work at home or at a satellite office to produce an agreed upon work product.

Section 3. Employee Participation.

Teleworking is not an employee's right. The Supervisor will determine which employees are in jobs suitable for teleworking. The employee's and supervisor's participation is strictly on a voluntary basis. The following criteria shall be utilized in determining position(s) and employee(s) suitable for teleworking:

A. the position has tasks, which are portable and can be performed away from the main worksite. Such tasks include, but are not limited to: data analysis, reviewing grants/contracts, writing decisions/reports, setting up conferences, data entry, word processing, or phone-intensive tasks.

B. the employee has a performance rating of “meets standards” or above in previous and current year.

C. the employee does not need close supervision, or has mandated interaction with coworkers and/or public. If public contact is required, supervisor/manager must outline how the employee can meet requirements for necessary face-to-face contact or other types of main office contact required by the job.

D. the employee possesses a high level of skill and knowledge of the job.

E. the employee is computer literate and has a designated space at the off-site location which would be necessary for the completion of tasks.

F. work of the position can be monitored with quantifiable tasks, quantity and quality should be measured as is currently being done in the office; for non-quantifiable or project-oriented tasks, measuring normally involves: establishing the nature and objective(s) of the tasks; setting a deadline or due date; and setting progress or status report/meeting dates.

Section 4. Telework Agreement.

Once a position has been identified as suitable for teleworking, the supervisor and employee shall review and sign the: UMBC Teleworking Agreement (See Appendix C); UMBC Remote Workplace Certification Checklist (See Appendix D); and UMBC Teleworker Plan (See Appendix E). These documents shall also receive the approval of the Department Head, Division Head and Department of Human Resources prior to the start of the telework project. Such approval shall not be unreasonably denied.

The telework agreement is voluntary and may be terminated by the employee and the supervisor at any time. The telework agreement is limited to the current supervisor/employee reporting relationship and it is not guarantee to continue into a new supervisory or reporting relationship.

Section 5. Employment and Discipline.

The teleworker’s duties, responsibilities, conditions of employment, salary and benefits shall be unaffected by teleworking. All work hours, overtime compensation or compensatory time (if applicable) and leave usage shall continue to conform to the established University policies and procedures and this MOU. The University’s established disciplinary procedures and drug and alcohol policies will remain in force and not be affected by the employee’s status as a teleworker. The University may take appropriate disciplinary action against the teleworker for failure to comply with the provisions of this MOU.

ARTICLE 35 – DURATION, RENEWAL AND REOPENER

Section 1. Duration.

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

Section 2. Renewal.

Should either party desire to renew this MOU, they may only do so by providing written notification of its intent to do so to the other party at any time prior to the last twelve (12) month period of its duration. After notification is provided, the parties shall then commence negotiations for a successor MOU, during the last year of this MOU at dates and times agreed to by the parties.

Section 3. Limited Re-openers for FY2007 and FY 2008.

Notwithstanding the provisions of Section 1 above (Duration), either party may reopen this MOU during the month of June in each year (2005 and 2006) for the sole and limited purpose of negotiating over the subjects of what cost of living adjustment, if any, what merit pay adjustment for “meets standards”, if any, and what funding conditions and requirements, if any, for both items shall be included in the USM budget request submitted to the Governor for the next fiscal year. All other terms and conditions of this MOU shall remain in full force and effect during any such re-opener and throughout the duration of this MOU.

SIGNATURE PAGE

**UNIVERSITY OF MARYLAND
BALTIMORE COUNTY**

**AMERICAN FEDERATION OF STATE
COUNTY & MUNICIPAL EMPLOYEES**

Dr. Freeman Hrabowski
President, University of Maryland
Baltimore County

UMBC BARGAINING TEAM

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Joe Hill
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Sally Hearn
Library, Office Supervisor III

Ron Bailey
Executive Director, AFSCME Council 92

Curt Ostrander
Chief Negotiator
American Federation of State, County &
Municipal Employees

**AFSCME LOCAL 1450 ELECTED
NON-EXEMPT BARGAINING TEAM**

Patricia D. Brown

M. Patricia Cronise

Jonathan Davies

Anthony Jackson

Catherine Kafer

Lynn G. Kennedy

Thomas M. Murphy

Emma Sellers

APPENDIX A
[PMP FORM]

APPENDIX B

[Professional Development Fund Application Form]

APPENDIX C
UMBC Teleworking Agreement

APPENDIX D
UMBC Remote Workplace Certification Checklist

APPENDIX E
UMBC Teleworker Plan