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§13-201.

(a) In this subtitle the following words have the meanings indicated.

(b) “Day” means, except as otherwise provided, a working day, Monday through Friday, regardless of work schedule, weekend work, or midweek days off.

(c) (1) “Grievance” means any cause of complaint arising between a regular full-time or part-time employee and the University 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.

(2) “Grievance” does not include:

(i) Complaints on the general level of wages, wage patterns, fringe benefits, or other broad areas of financial management and staffing; or

(ii) Any cause of complaint by any employee who is not represented by an exclusive representative under Title 3 of the State Personnel and Pensions Article.

(d) “University”, unless the context requires otherwise, means a constituent institution of the University System of Maryland.

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§13-202.

(a) If authorized by the Board of Regents or its designee, nurses and graduates of registered nurse education programs assigned to positions in the medical system of the Baltimore City campus may be scheduled to work flexible biweekly schedules with the normal biweekly work period of 80 hours; however, nursing personnel may not be required to work a flexible biweekly schedule.

(b) If authorized by the Board of Regents or its designee, the campuses of the University System of Maryland may enter into agreements or understandings with employees who are eligible for overtime compensation under federal law that the employees will receive voluntarily compensatory time off in accordance with the federal Fair Labor Standards Amendments of 1985.

(c) The University's policy regarding compensatory time off awarded under the provisions of subsection (b) of this section shall be in accordance with regulations regarding compensatory time off adopted by the Department of Budget and Management, where appropriate.

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§13-203.

(a) 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 of this subtitle. Appeals within the grievance procedure shall be timed from receipt of the written opinion of management or from when such opinion is due, whichever comes first. An aggrieved employee or the employee's designated representative may present the grievance in writing to the department head or chairman or designee for formal consideration. If the grievance is presented to the department head or chairman or designee, within 5 days after the receipt of the written grievance a conference shall be held with the aggrieved or the employee's designated representative and within 5 days after the conclusion of the conference a decision shall be rendered in writing to the aggrieved or the employee's designated representative. If the aggrieved employee is not satisfied with the decision rendered at this step, the employee or the employee's designated representative may appeal in writing to step two within 5 days.

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

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

grievance appeal and render a written decision within 15 days after the conclusion of the conference.

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

(e) 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) (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.

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§13–204.

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 System of Maryland 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.

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§13–205.

(a) 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) 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) (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) (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) (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 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.

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§13-205.1.

(a) This section applies only to a regular full-time or part-time employee who is represented by an exclusive representative under Title 3 of the State Personnel and Pensions Article.

(b) The University may remove, suspend, or demote a regular full-time or part-time employee who is not on probation only:

- (1) For cause;
- (2) On written charges; and
- (3) In accordance with this subtitle.

(c) The University may not remove, suspend, or demote a regular full-time or part-time employee for any reason prohibited by § 2-302 of the State Personnel and Pensions Article.

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§13–206.

(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.

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§13–207.

(a) 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 regular full-time and part-time 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) 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 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) If the University has sufficient funds available to satisfy any award under this section at the time the award is rendered, the award shall be satisfied as soon as practicable but not more than 20 days after the award becomes final.

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