

**Morgan State University**

**Personnel Procedures  
for  
Classified Employees**

**Effective July 1, 1995**

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**CHAPTER ONE**    Application and Definitions.

- A.    Applicability - Except as otherwise expressly provided herein, the provisions of these procedures shall be applicable to classified employees of Morgan State University and are not applicable to employees having any other status.
- B.    Terms Defined - The following terms have the meanings indicated:
1.    "Appointing authority" means a person who has the power to make appointments and to terminate employment.
  2.    "Appointment" means filling a vacant or newly created position with an eligible candidate.
  3.    "Board of Regents" means the Morgan State University Board of Regents.
  4.    "Certification of eligibles" means the referring of a list of eligibles to the President to fill a vacant or newly created position in the classified service.
  5.    "Change of assignment" means an action reassigning an employee from a position in a given class to another position in the same class within the University.
  6.    "Class" or "classification" means a grouping of one or more positions sufficiently similar with respect to duties and responsibilities that the same descriptive title may be used to designate each position in that grouping, that the same general qualifications are needed for performance of the duties, that the same tests of fitness shall be used to select employees, and that the same rates of pay shall be applied to all positions in that grouping.
  7.    "Classified service" means the sector of the University work force containing positions for which persons are selected on a competitive basis in accordance with Morgan State University procedures, and from which an employee who has completed probation may be dismissed only for cause.
  8.    "Demotion" means a change from one class to another class with a

lower maximum rate of compensation.

9. "Director" means the Director of the Morgan State University Office of Human Resources.

10. "Emergency appointment" means the appointment of a person for a maximum of 60 calendar days during an emergency for the purpose of preventing the stoppage of public business.

11. "Entrance examination" means a test or series of tests approved by the University to determine the relative fitness of applicants for initial appointment to positions in a specified class.

12. "Extra position" means a position which requires or is likely to require the employment of a person for a maximum of 6 months and for which funds have not been budgeted on a permanent basis.

13. "FLSA Exempt Employee" means an employee, usually designated as executive, administrative or professional who is not covered by the federal Fair Labor Standards Act, 29 U.S.C., §201, et seq., and consequently is not entitled to cash compensation for overtime worked.

14. "FLSA Non-exempt Employee" means an employee who by the standards set by the federal Fair Labor Standards Act, 29 U.S.C., §201, et seq., is not considered to be a salaried employee under FLSA's definition of professional, executive, or administrative and who is entitled to cash compensation at time and one half for hours worked in excess of 40 hours per week.

15. "Horizontal change" means a change from a position in one class to a position in another class for which the maximum rate of compensation is the same.

16. "Initial appointment" means the first appointment of an employee to State service in a budgeted position, and does not include employment of a person who has previously worked for the State.

17. "List of eligibles" or "eligible list", means a list of persons who are eligible for employment in a specific class within the classified service.

18. "New position" means a position in the classified service created through the authorized addition of a position to the University not previously occupied or a position in the classified service created through an authorized material change in the duties or responsibilities of an

existing position.

19. "OHR" means Office of Human Resources.

20. "Permanent position" means a position in the classified service or unclassified service which has required or which is likely to require the employment of a person without interruption for more than 6 months.

21. "Permanent status employee" or "regular employee" means an employee in the classified service who has:

a. Completed a probationary period resulting from an initial appointment;

b. Completed a probationary period, if required, following reinstatement, reemployment, promotion, demotion, horizontal change, or transfer; or

c. Transferred into a budgeted classified position which replaces the employee's contractual position.

22. "Position" means a group of duties and responsibilities requiring the full-time or less than full-time employment of one person.

23. "President" means the President of Morgan State University or the President's designated representative. Delegations by the President to the President's designated representative shall be made in writing; oral delegations shall have no effect.

24. "Probationary period" or "probation period" means a working period which follows an initial appointment to a position in the classified service or which follows reinstatement, reemployment, promotion, demotion, horizontal change, or transfer, if required, and during which period the employee does not have permanent status.

25. "Program Director" means a University employee who is not a vice president, but who is a member of the President's Management Team and has supervisory authority over certain programs to which a vice president is not assigned.

26. "Promotion" means a change from one class to another class with a higher maximum rate of compensation.

27. "Promotional examination" means a test or series of tests approved

by the University to determine the relative fitness of applicants for positions in a specific class, and which is limited to applicants who are permanent status employees or who are in the category of other probationary employees.

28. "Reclassify" means to reassign a position from one class to another class which more appropriately reflects the duties of the position, and which may be at a higher or lower level or the same salary level as the former position.

29. "Reinstatement" means employment of a person who after separation from the University's classified service has been appointed to a position in a classification in the University's classified service in which the person was a permanent status employee.

30. "Secretary" means the Secretary of Personnel.

31. "Temporary pending" means a status which is applied to an appointment of a person to prevent the stoppage of public business pending the establishment of a list of eligibles, and which is applied to an employee who is appointed under those circumstances.

32. "Title" or "class title" means the designation given under these provisions to a class, to each position in the class, and to the incumbent of each position in the class.

33. "Transfer" means a change in place of employment from one State department to another State department.

34. "Unclassified service" means all budgeted positions specifically excluded from the classified service by the Annotated Code of Maryland or by action of the Secretary under State Personnel and Pensions Article, Title 1, Subtitle 4, Annotated Code of Maryland.

35. "University" means Morgan State University.

CHAPTER TWO - Classification of Positions.

The President shall classify all positions. The classifications so established shall be based upon the duties, responsibilities, and qualification requirements of the positions. Each position in the classified service shall be designated by the title of the classification to which the position is allocated. The classification of any position may be changed from one class to another by action of the President, except that this change may not be final until the employee's immediate supervisor and the employee concerned have had an opportunity to be heard if either so desires.

A. Classification Audit.

1. As used in this provision, the following words have the meanings indicated:

a. "Classification audit" means the study of the duties and responsibilities of a position for the purpose of assigning the position to a class.

b. "Director" means the Director of Human Resources or the Director's designated representative.

c. "Unit" means any office or operating component within the University.

2. Audit Procedure.

a. The President shall periodically audit a random sample of positions.

b. The President shall notify the unit of any positions to be audited.

c. The unit shall notify any employee whose position has been scheduled for a classification audit.

d. During the conduct of a classification audit, the President may inspect all files, records, procedures, and other supporting documents used by the unit to support the present classification of the position being audited.

3. At the conclusion of the classification audit, the President shall send the unit preliminary findings and recommendations. The President shall meet with a representative of the unit to attempt to resolve differences and to explain the findings and recommendations.
4. Final Classification Audit Report.
  - a. The unit shall implement a final classification audit report by submitting to the President the University's prescribed form on which the following certification shall be included: "This action is being taken as a result of a final classification audit report no.---- dated ---- conducted by (classification analyst)----of the Office of Human Resources."
  - b. The Director shall monitor the implementation of the final classification audit report.
  - c. If the final classification audit report finds that a position is underclassified, the unit shall reclassify the position to the recommended classification immediately or not later than the beginning of the next fiscal year following the date of the final classification audit report.
  - d. If the final classification audit report finds that a position is overclassified, the unit shall reclassify the position to the recommended classification at the end of the second fiscal year following the date of the final classification audit report and shall reduce in rank any employee holding a position which has been determined to be overclassified.
  - e. If the final classification audit report finds that a vacant position is underclassified or overclassified, the unit shall keep the position vacant and reclassify the position to the recommended classification not later than 30 calendar days following the date of the final classification audit report.
5. The unit shall notify any employee whose position is reclassified and who is reduced in rank that the employee has a right to file a grievance.
6. When a reclassification grievance is appealed to step three in accordance with the classified employee grievance procedure, the



Secretary shall require an audit of the position that is the subject of the grievance, provided that a classification audit has not been performed within 1 year from the date that the employee presented the grievance to the University.

**B. Statement of Duties and Responsibilities of Positions.**

1. The President may at any time secure a new statement of the duties and responsibilities of the incumbent of any position in the classified service. In these cases, each employee shall state his duties and responsibilities in his own words and the employee's immediate supervisor and the Vice President or Program Director may make written comments on the employee's statement.

2. As used in this section the following words have the meanings indicated:

a. "Qualified candidate" means a permanent classified employee who meets all requirements of the job specification and has satisfactorily demonstrated the ability to perform the duties of the requested higher level classification.

b. "Organizational unit" means a group of employees, within a given work setting, who are rated for efficiency by the same supervisor.

c. "Documentation" means a written instrument signed by the organizational unit supervisor and by the appointing authority evidencing the justification for assigning additional duties under provision C of this section or evidencing the basis for reclassification of a filled position and for promoting a particular qualified candidate in the position. This documentation shall be retained by the University for 5 years.

3. Documentation.

a. When additional duties are assigned to a filled position that may warrant its reclassification and there is more than one employee in an organizational unit who meets all requirements of the job specification for the prospective higher class, documentation shall be retained indicating the reasons for assigning these additional duties to the employee holding the position.

- b. An appointing authority may promote from within an organizational unit a qualified candidate who is the incumbent in a position that is reclassified without requiring that the qualified candidate be on an eligible list for the particular classification, provided pertinent documentation is retained.
- c. Documentation for compliance with this section shall include:
  - (1) Position identification number;
  - (2) Existing classification (code number and title);
  - (3) Higher classification (code number and title);
  - (4) Name of organizational unit;
  - (5) Unit supervisor's name and title;
  - (6) Name of the individual selected;
  - (7) Justification for assignment of additional duties or request for promotional reclassification for the specific individual (justification may include experience, training, work performance, seniority, or the fact that no other competition exists for the job);
  - (8) Signatures of the organizational unit supervisor and the appointing authority or designee.

**C. Effective Date of Position Reclassification.**

- 1. The effective date of a position reclassification shall be the date on which the duties and responsibilities warranting the reclassification were assigned to the position. However, the effective date may not be earlier than 1 year before the date on which the reclassification is authorized.
- 2. A position reclassification which is the result of the adoption of a new or revised classification title or new or revised standards shall be effective on the date determined by the President.

CHAPTER THREE - Employee Medical Evaluation.

- A. The President may authorize the Director to have a medical investigation made for an employee who loses excessive time from employment due to illness or for the purpose of determining whether an employee has any disability that would prevent the employee from properly performing the employee's position responsibilities. An employee directed to obtain a medical investigation evaluation by the University's designated physician is required to comply with that directive.
  
- B. If the medical investigation reveals the employee is unable to continue active employment, actions must be taken in accordance with guidelines established for voluntary separation, the filing of written charges for removal, or disability retirement, if eligible.
  
- C. An employee may be referred to a physician selected by the University for periodic examinations to determine the nature and extent of the illness, the employee's progress to recovery, the length of time necessary for recovery, and an estimated date of return to work. If there is a conflict in the prognosis and/or diagnosis of the employee's condition between the employee's physician and the physician designated by the University, the University shall consider the recommendations of the University's designated physician in determining the date on which to terminate any employee advances sick leave or extended sick leave.

CHAPTER FOUR - Contractual Employees

A. Definitions. As used in this provision, the following terms have the meanings indicated:

1. "Contract" means a personal services agreement between the University and an individual.
2. "Contractual employee" means a person providing personal services to the University for remuneration. Contractual employees are in neither the classified service nor the unclassified service. The following conditions must exist in order for an instance of contractual employment to exist:
  - a. The services and remuneration are specified in a written agreement;
  - b. The individual is not employed as a classified, unclassified, or temporary extra employee.
3. "Employer-employee relationship" means that all of the following conditions of employment exist:
  - a. The University has the right to control and direct the performance of services not only as to results but also as to details and means;
  - b. The University has the right to discharge the employee; and
  - c. The University furnishes necessary tools and a place to work.
4. "Funds identified and available" means funds which, at the time the contract is initiated, are to the credit of the University and which are approved by the Department of Budget and Fiscal Planning and by the General Assembly or the Board of Public Works for contractual employment purposes.

B. Guidelines.

1. All contracts shall be submitted for review, approval, and if approved, execution, by the President before the University authorizes

payment. Generally, unless the following conditions should exist in order for the President to approve such contracts:

- a. The employment of the contractual employee is for services that could not be rendered by assignment of an existing classified or unclassified employee or the establishment of a new permanent position in the classified or unclassified service;
- b. The rate of remuneration for the contractual employee is comparable to the rate paid for positions in the classified or unclassified service involving comparable duties, responsibilities, experience, and authority; or
- c. The contractual employment is exempt from prior review according to Sec. C.

2. The President may not approve such contracts if it is determined that the services performed by a contractual employee:

- a. Encompass permanent functions;
- b. Do not have a specific expiration date; and
- c. Are regularly performed on a basis that is the equivalent of at least 50 percent of the work responsibility of a full-time permanent employee.

C. Exceptions - The President may approve the following even where they do not meet the guidelines set forth in section B above:

1. Contracts for Employment of Student Labor. For a contract to be approved, the student shall be officially enrolled and regularly attending classes throughout the period of employment.
2. Contracts for direct emergency services calling for immediate action due to unforeseen circumstances threatening health, injury, loss of life, or property loss or damage.
3. Contracts for University faculty.
4. Exemptions. Contracts which meet all of the following conditions are exempt. This exemption may not be used to award successive contracts to the same individual.

- a. The person is not employed under any other contract with the University;
  - b. The hourly or daily rate of remuneration specified in the contract does not exceed the comparable hourly or daily rates for the maximum salary of grade 15; and
  - c. The total contract cost does not exceed the maximum annual salary of Grade 15.
5. Contracts for one of the following:
- a. When any statute authorizes contracts for employment by State agencies who have authority to appoint or fix the compensation of these employees without regard to the Merit System Law; or
  - b. For the employment of persons by those State agencies exempted by statute from control agency review and approval of contractual employment.
- D. Payment and Funds.
1. Funds shall be identified and available in order for the University to authorize the Central Payroll Bureau to make payment. The initial authorization for payment on any contract shall include a statement by the President certifying availability of funds, and identifying the source of those funds in the University's budget.
  2. Contracts which extend beyond the current fiscal year are subject to the availability of funds.
- E. One person, One Contract - Only one person may be employed under one contract.
- F. Contract Amendments - Contract amendments are not permitted. If a change in a contract is necessary, the original contract shall be terminated and a new contract shall be issued to reflect the new contract terms.
- G. Legal Review - Each contract or standard contract form shall be approved by the Office of the Attorney General.
- H. Recruitment - Recruitment and selection of any contractual employee shall be conducted, to the extent feasible, as follows:

1. A reasonable effort shall be made by the contracting authority to publicly solicit applicants for the contractual employment;
  2. A reasonable effort shall be made by the contracting authority to screen and select contractual employees by methods and criteria which are uniformly applied to all applicants with emphasis on affirmative action programs which promote equal employment opportunity; and
  3. Valid selection criteria shall be used for contractual employees. These criteria may not include political or religious opinion or affiliation, marital status, race, color, creed, national origin, sex, physical or mental disability, or age, except when sex, disability, or age involves a bona fide job requirement.
- I. Overtime, Shift Differential, and Expenses.
1. If expressly stated in the employment contract, a contractual employee may be compensated for overtime and shift differential. Shift differential, may not be a part of the rate of pay for the employee, but may be included in the contract maximum.
  2. Expenses incurred by a contractual employee may be paid in accordance with the Standard Travel Regulations in the same manner and at the same rates as for classified and unclassified employees.
- J. Fringe Benefits - Fringe benefits are not applicable to contractual employees.
- K. Voluntary Deductions - Voluntary deductions are permitted for deferred compensation, savings bonds, and authorized charitable contributions.
- L. Exceptions - When it is in the interest of the University, the President may grant exceptions to these regulations. Exceptions shall be obtained before the contract is awarded.

#### CHAPTER FIVE - Pre-employment, Promotional and Reinstatement Matters.

A. Applications

1. Procedure and Timing - A person seeking appointment to a position in the classified service shall file with the Director an application for

examination on the University's prescribed form. These applications may be filed only when applications for the classification in which the applicant is seeking appointment are being accepted by the University .

2. Rejection of Applications - The University may reject an application for cause before the date of establishment of the eligible list for the class for which it is filed. Any of the following shall be deemed sufficient cause for rejecting an application, though rejection may be made for other causes permitted by law:

- a. That the applicant is found to lack any of the preliminary requirements;
- b. That the application was not filed before the advertised closing date for receiving applications;
- c. That the applicant is physically, mentally, or morally unfit for the performance of the duties of the position to which the applicant seeks appointment;
- d. That the applicant is addicted to the habitual or excessive use of drugs, narcotics, or intoxicating beverages;
- e. That the applicant has been dismissed from public or private service for delinquency or misconduct;
- f. That the applicant has intentionally made a false statement in the applicant's application, or in a previous examination, or has withheld any material fact;
- g. That the applicant is not within the prescribed age limit;
- h. That the applicant was previously removed for cause or did not resign in good standing;
- i. That in the case of a promotional examination, the applicant has not satisfactorily completed his probationary period, or his efficiency rating or his attendance record have not been satisfactory.

3. The University shall notify in writing any applicant whose application is rejected under this provision, specifying the cause for the rejection of the application, and shall, upon the request of the applicant, give him an opportunity to show cause why his application should not be rejected.



B. Parts of Examination - Examinations held to establish lists of eligibles for any class may consist of one or more of the following parts but may also include or consist of any proper evaluation of fitness other than those enumerated:

1. Education and Experience. These parts, when required, shall consist of a written or oral statement of previous education and previous experience or employment of the competitor, with such added description of the responsibilities exercised or special investigations or other work carried on as the President may require. Statements of education and experience may be, in the discretion of the President, submitted with or as a part of the application, submitted orally or in writing at assembled examinations, or prepared in written form by candidates at their convenience and submitted on or before some subsequent date.
2. Duties. This part, when required, shall include tests, written or oral, designed to show the ability of candidates to perform the duties of the positions to which they seek appointment and shall include any tests of manual skill or technical knowledge or the actual doing of typical tasks which are required of employees in the class.
3. Thesis. This part, when required, shall consist of the preparation of a formal thesis upon one or more subjects so chosen as to bring out the organizing, administrative, or research ability of candidates and their ability to comprehend technical problems and present their ideas on them in logical form in good English. This part may include or consist of the submission of technical articles, publications, or addresses by the candidates.
4. Personal Interview. This part, when required, shall include a personal interview with candidates for classes of positions where executive, administrative, or organizing ability, ability to direct the work of others, ability to meet the public, or other personal qualifications are to be tested.
5. Intelligence and Aptitude Test. This part, when required, shall include any tests to determine the special aptitude or general intelligence of competitors candidates seeking appointment to positions requiring the performance of tasks involving a good memory, quickness of hand or eye, mental alertness, ability to follow a prescribed routine, calmness in emergencies, or other special aptitudes.
6. Educational Test. This part, when required, shall include written or oral demonstrations, other than a formal thesis as described in Sec. B of

this provision, of the ability of candidates in the use of English, including spelling, penmanship, and composition, mathematics, general information, or any or all of these, depending upon the educational attainments and general knowledge which candidates should possess properly to fill the positions to which they seek appointment.

7. Performance Tests. This part, when required, shall include such tests of performance as to determine the ability of the candidates to perform the duties of the position sought or some typical mechanical, manual, or technical part of it.

8. Physical Tests. This part, when required, shall consist of tests of the bodily condition, muscular strength, agility, and physical fitness of competitors candidates. This part need not be given a weight in examinations, but, in the discretion of the University, may be used only to determine whether candidates have the physical attributes to enable them to perform satisfactorily the duties of the positions to which they seek appointment, consistent with the provisions of State Personnel and Pensions Article, Sec. 3-501, Annotated Code of Maryland.

9. Seniority. This subject may be used in promotional examinations only, and when used shall consist of a rating for each individual competitor based on the length of his previous service in the classified or unclassified service.

10. Efficiency Rating. This subject may be used in promotional examinations only, and when used, may consist of a rating determined for each individual competitor according to the University's records of efficiency ratings, or according to investigations as prescribed in provision I.

**C. Preliminary Qualifications for Examinations.**

1. If no minimum or maximum age limit is specified in class specifications or in test notices, candidates in entrance tests shall comply with all federal and State laws.

2. The University may require applicants to furnish proof of minimum physical, educational, and experience qualifications, including licensure or other certification required by law, and may appoint medical personnel to determine the physical fitness of candidates.

3. The University may permit open and promotional candidates who will possess the minimum education, license, or certificate qualifications

within 6 months after the examination date to participate in the examination. These competitors candidates may not be eligible for selection until they meet the full education, license, or certificate qualifications.

4. The University shall administer promotional examinations only when an employee possesses the minimum qualifications of the position and has completed an original probationary period. The President may permit promotional employees who will possess the minimum experience qualifications within 6 months after the examination date to participate in the promotional examination. These promotional employees may not be eligible for selection until they meet the full experience qualifications.

**D. Service Credits.**

For the purpose of computing sick leave, salary credit, and service credit, a permanent classified employee of the State Personnel Management System or the University of Maryland who is appointed to a classified position at Morgan State University shall receive full service credit for time employed, provided that the appointment to the classified position at the University occurs within two (2) years from the date of separation from the State Personnel Management System or the University of Maryland.

**E. Preparation of Lists of Eligibles.**

From applications and/or the results of an examination, the University shall prepare a list of eligibles for the class showing the names of candidates. Candidates who fail to meet any required minimum qualifications shall not be certified for eligibility for employment and shall not be placed on the appropriate eligibility list.

**F. Reinstatement.**

**1. Eligibility**

a. Persons who have been previously employed as permanent employees in the University's classified service may apply to the University for reinstatement to classifications in which they have satisfactory work records if they return to University service within two (2) years from the time of separation from active duty. An individual eligible for reinstatement may be considered for, but is not guaranteed, employment for future job vacancies.

- b. The following persons are not eligible for reinstatement: persons who have separated from the University with unsatisfactory work records, employees who have resigned but not in good standing, and persons removed from University service for cause.
2. Benefits - A former permanent University employee who returns to University employment with an authorized status of reinstatement:
  - a. shall receive credit for time employed before separation for the purpose of determining the employee's:
    - b. step in the pay grade applicable to the employees classification;
    - c. rate of annual leave accrual; and
    - d. seniority rights; and
  - e. shall have unused accumulated sick leave restored.
3. New Probation - A person who is reinstated to University service shall serve a new probation period.
4. Credits - A reinstated employee shall receive full credit for prior University service. However, the employee is not entitled to salary or service credits for the period of separation from the service, with the exception of employees reinstated in accordance with the reinstatement provision for persons on military duty.
5. Eligibility Expiration - Eligibility for reinstatement expires two (2) years from the date of separation from active University service.
6. No Priority - Persons eligible for reinstatement shall have no priority for appointment over other candidates for available positions.
7. Reinstatement of Veterans
  - a. Definition of "returning veteran". A "returning veteran" is an individual who left University service to perform military service in the armed forces of the United States and who seeks reinstatement to University employment. This definition does not include an individual who left University employment while serving as a temporary extra or emergency employee.

b. Eligibility Criteria

(1) Inducted veteran - A returning veteran who was inducted into the armed forces is eligible for reinstatement if the veteran performed military service of a nature and length that meet the criteria for eligibility under 38 U.S.C. § 4301(a), received a certificate of satisfactory completion of military service and (except for the provisions for applications for hospitalized veterans, below), submits an application for reinstatement within 90 days after the veteran is discharged from that military service.

(2) Enlisted veteran - A returning veteran who enlisted in the armed forces is eligible for reinstatement if the veteran performed military service of a nature and length that meet the criteria for eligibility under 38 U.S.C. § 4304(a). was released from service under honorable conditions, and (except for the provisions for applications for hospitalized veterans, below), submits an application for reinstatement within 90 days after the end of the enlistment period.

(3) Veteran called to active duty - A returning veteran who was called to active military duty in the armed forces is eligible for reinstatement if the veteran performed military service of a nature and length that meet the criteria for eligibility under 38 U.S.C. § 4304(a), was relieved from active duty under honorable conditions, and (except for the provisions for applications for hospitalized veterans, below), submits an application for reinstatement within 90 days after the veteran is relieved from that duty.

c. Application by Hospitalized Veteran - An otherwise eligible returning veteran who was hospitalized at the time of discharge, end of enlistment, or relief from active duty may apply for reinstatement if the application is submitted within 90 days after the returning veteran is discharged from the hospital and the hospitalization does not last more than 1 year from the date of discharge, end of enlistment, or relief from active duty.

d. Right to reinstatement - A returning veteran who meets the requirements for being reinstated shall be reinstated to the class previously held by the returning veteran within the University; or to a position of equal responsibilities, qualifications, and rate of pay.

e. Disability - If, because of a disability sustained during military service, a returning veteran is not qualified to perform the duties of the position that the veteran previously held, the returning veteran shall be reinstated to a position that:

(1) has duties that the veteran is qualified to perform; and

(2) provides the rate of pay, seniority, and status that are the same as or as similar as the circumstances of the case allow to those of the position previously held by the veteran.

(3) Subsections 1 and 2 of this section need not be implemented if the circumstances at the University have changed to the extent that implementation is impossible or unreasonable.

f. Reinstatement benefits

(1) Salary and leave accrual - A returning veteran who is reinstated is entitled to start at the salary and rate of leave accrual that the veteran would have attained if employment with the University had been continuous.

(2) Seniority - In calculating seniority, status, and length of University employment of a returning veteran who is reinstated, the period from the day the veteran entered military service to the day that the veteran is reinstated shall be added to the period of the veteran's University employment.

g. Other entitlements - A returning veteran who is reinstated is entitled to all benefits and privileges, including rate of pay, that result from the additional seniority and status credited under f of this section; pension and retirement benefits and any classified service status that the veteran had when the veteran entered military service, with adjustments to reflect the additional seniority credited under section d.

8. Discharge - A returning veteran who is reinstated to a position may not be discharged from that position within 1 year after reinstatement without substantial cause and only for the reasons and in the manner provided for classified service employees.

G. Reinstatement of Reservist

1. Eligibility Criteria - A member of a reserve component of the armed forces of the United States is eligible for reinstatement rights and benefits if the reservist performed active duty for training of a nature and length that meet the requirements under 38 U.S.C. § 4304(c), was released from that duty after satisfactory service, and (except for the provisions for applications for hospitalized reservist, below), submits an application for reinstatement within 31 days after the reservist was released from that duty.
2. Application by hospitalized reservist - An otherwise eligible member of a reserve component who was hospitalized at the time the reservist was scheduled to be released from duty for training may apply for reinstatement if the application is submitted within 31 days after the reservist is discharged from the hospital and the hospitalization is connected to the reservists active duty for training and does not last more than 1 year from the date on which the reservist was scheduled to be released from that duty.
3. Discharge - A member of a reserve component who is reinstated to a position may not be discharge from that position within 6 months after reinstatement without substantial cause and only for the reasons and in the manner provided for classified service employees.

H. Background Investigations.

1. The President shall make a determination regarding the necessity of investigating the background of an eligible person for purposes of verification of suitability for employment. When appropriate and job-related, areas of investigation may include, but are not limited to, employment history, academic credentials, military records, criminal conviction records, and personal references.
2. In conducting the background investigation, the President shall:
  - a. Provide written notification to the eligible person that:
    - (1) A background investigation may be conducted, and
    - (2) Consequences for fraudulent or irregular information may include, but are not limited to, nonselection, decertification, termination of employment in situations where employment has begun, notification to the University, and criminal prosecution;

(3) Obtain a release of information form signed by the eligible person;

(4) Take any other appropriate action.

b. The University may investigate the qualifications and background of a person who has been offered or appointed to a position. If it is discovered that the person provided fraudulent or irregular information in taking an examination or in any part of the appointment process, the President may take any of the following actions before the person begins work:

c. Withdraw the offer; or

d. Withdraw the appointment.

3. Two full-time permanent employees may occupy one position at the same time for reasons relevant to the efficient and effective operation of the University, provided that the University has obtained budgetary approval of the Department of Budget and Fiscal Planning. This situation, which is known as an appointment overlap, may not exceed 90 calendar days. For periods of more than 14 calendar days, a written request for approval must be obtained from the President for the appointment overlap. The University shall assure that the request contains the following information:

a. Names of both employees;

b. Position identification number;

c. Classification title;

d. Beginning and ending dates of the appointment overlap;

e. Reason for the appointment overlap;

f. Evidence of budgetary approval of the Department of Budget and Fiscal Planning.

**I. Promotions.**

An appointing authority may fill a vacancy by selection of promotional candidates from a list of eligibles. The President may select from a list consisting



of:

1. Employees of the University; or
  2. All other employees certified as promotional.
- J. Waiver of Certification and Removal of Names from Eligible Lists.
1. The President may delete from an eligible list the name of any person who:
    - a. Willfully misrepresented a material matter in an application for University employment;
    - b. Fails to satisfy any required minimum qualifications enumerated in the current classification specifications;
    - c. Fails to meet reasonable requirements as to physical condition in accordance with provision B.8 of this chapter;
    - d. Declines or fails to respond to a notice for an interview or declines an offer of appointment.
  2. The President shall notify a person whose name is to be deleted from an eligible list in accordance with Sec. J.1. of this provision, and shall give the person the opportunity to present a written response explaining why the deletion should not occur.

CHAPTER SIX - Rates of Compensation.

A. Salaries and Wages. Classified employees shall be paid salaries not less than those paid in similar classifications in other state agencies.

B. Shift Differential.

1. The University shall pay shift differential to designated employees who work a qualifying shift, except those employees in classifications specifically established for evening or night work and employees who are on paid leave.

2. A qualifying shift means a full-time or permanent part-time shift which starts between 2 p.m. and 1 a.m.

3. The University shall pay shift differential on a prorated basis to employees who work any part of a qualifying shift.

4. The University shall pay a separate shift differential to employees who work overtime from a qualifying shift into another qualifying shift, in addition to any overtime payment or compensatory time to which the employee may be entitled.

5. The University shall pay a separate shift differential to employees who work overtime from a non-qualifying shift into a qualifying shift, provided that the employees work at least 1/2 of the qualifying shift, in addition to any overtime payment or compensatory time to which the employee may be entitled.

6. The rate of shift differential pay shall be as follows:

a. For classifications in Salary Grades 1--6: \$40 bi-weekly (\$4 per shift);

b. For classifications in Salary Grades 7--17: \$50 bi-weekly (\$5 per shift);

c. For registered nurses through Salary Grade 17 in State institutions: \$1.25 per hour.

C. Nursing Differentials.

1. In addition to shift differentials and any other differential paid, the University shall pay a differential of \$1.50 per hour to registered nurses

through Salary Grade 17 who work weekend shifts.

2. The University shall pay registered nurses who work at the University time and one-half their regular rate for any shift worked on any of the following holidays:

- a. New Year's Day;
- b. Memorial Day;
- c. Independence Day;
- d. Labor Day;
- e. Thanksgiving Day; or
- f. Christmas Day.

3. Compensatory Leave Instead of Overtime Cash Payment for Nonexempt Employees.

a. An Vice President or Program Director may designate an employee to perform temporary duties in a classification for which the rate of pay is higher than that of the employee's classification for any of the following reasons, and shall submit to the President forms as prescribed by the President. The following reasons apply:

- (1) The temporary absence of an incumbent;
- (2) A vacancy for which normal recruitment procedures have been unsuccessful; or
- (3) An increased workload which necessitates assignment of duties at a level higher than that of the employee's classification. The effective date of acting capacity for this reason may not be earlier than 1 year before the date on which the acting capacity pay is authorized.

b. A Vice President or Program Director may not designate an employee to perform temporary duties in a classification for which the rate of pay is higher than that of the employee's classification if:

- (1) The reason is to replace an employee who is using annual leave, unless the employee is using that annual leave

because of illness or imminent retirement;

(2) The reason is to replace an employee who is attending a training program; or

(3) Both the employee's classification and the higher classification are within the same interchangeable classification series.

c. Payment for acting in a higher classification shall be made as follows when the employee's normal rate of compensation is:

(1) Between grades 1 and 6, additional compensation shall be paid for the period in excess of 10 continuous work days;

(2) Between grades 7 and 12, additional compensation shall be paid for the period in excess of 20 continuous work days;

(3) For grade 13 or above, additional compensation shall be paid for the period in excess of 30 continuous work days.

d. Employees Who Perform Emergency Operations.

(1) The President shall maintain a list of classifications in which employees shall receive extra pay for each hour worked during emergency situations. A supervisor may designate an employee to perform temporary duties in one of those classifications which has a rate of pay higher than that of the employee's classification.

(2) Payment for acting in a higher classification shall be made when the duties are performed for a period of at least 1 hour in each assignment.

4. Overtime Pay; Exceptions.

a. Employees to Receive Overtime Payments. The President shall determine the classifications for which overtime payments are mandatory.

b. Computation of Overtime Payments.

(1) The President shall assure that overtime payments are made at straight time for time worked up to and including 40 hours per week.

(2) The President shall assure that overtime payments are made at time and one-half the regular hourly rate for time worked in excess of 40 hours per week. The regular hourly rate is determined by dividing total straight time earnings, including shift differential, by the total number of hours worked.

(3) The President may adopt alternate work schedules as permitted by the Fair Labor Standards Act, 29 U.S.C., § 201, et seq., for the purpose of determining overtime compensation for the University's law enforcement employees.

(4) A law enforcement employee shall be compensated at 1-1/2 times the employee's regular hourly rate for overtime worked when the employee is required to work:

(a) On a regularly scheduled off-duty day; or

(b) In excess of the employee's normal 8-hour day.

c. Date Received - An employee who earns overtime pay shall receive that overtime pay not later than the day of payment of the second pay period following the pay period during which the overtime pay is earned.

D. Certification of Payrolls - An auditing, disbursing, or other officer of this State, or of any State office, department, commission, board or institution may not hereafter pay, or cause or permit to be paid, any salary, wage, or other compensation to any State employee except in the manner authorized by governing laws and regulations of the Secretary of Personnel, the State Comptroller, or as may be provided for by a specific statutory provision.

E. Temporary Appointment Pending Examination - Whenever the President receives a request for the certification of eligibles and no eligible list for the classification exists, the President shall allow a temporary appointment pending the establishment of an eligible list only.

F. Temporary Employment in Extra Positions

1. When from pressure of work an extra temporary (TE) employee is required, an appointment shall be authorized for a period which may not exceed 6 months.

2. A temporary (TE) employee may not be reappointed in the same status within the University for at least 30 days. A temporary (TE) employee may not be employed within the University for a total period in excess of 6 months during any fiscal year.

**G. Emergency Employment.**

1. Whenever an emergency arises such that time will not permit the certification of an eligible by the President without the stoppage of the public business, a any qualified person may be appointed during the emergency for a period not exceeding 60 days; provided, however, that employment conditions of which the appointing authority had previous knowledge, or of which by the exercise of due diligence he might have had previous knowledge, may not be considered an emergency and that a vacancy in a permanent position caused by resignation of which the appointing authority has had reasonable notice, may not be considered an emergency.

2. Emergency appointments may not continue for more than 60 days and may not be renewed.

**H. Probation.**

1. **Persons Subject to Probation.** Any person appointed to a position in the classified service with permanent appointment status (PA), or by an action of horizontal change (HORZ), demotion (DEM), promotion (PA-PROM), transfer (TRANS), reemployment (REEMP) or reinstatement (RNST), except for those cases listed below, shall serve a probation period.

2. **Persons Not Subject to Probation.**

a. Any employee who is reinstated in the same classification at the University in which the employee had previously served a satisfactory probation is not subject to a new probation period. If the employee did not complete probation, upon reinstatement, the employee will serve the remainder of the employee's probation.

b. Any employee whose position is reclassified, and who has served an original probation, is not subject to a new probation

period. If the employee has not completed an original probation and is reclassified, the employee will serve the remainder of his probation in the other class.

c. Any person appointed to a position on a temporary (TE or TP), or emergency (EM) basis is not subject to a probation period.

d. Any person appointed to a position in the unclassified service is not subject to a probation period.

e. A contractual employee who transfers into the budgeted position that replaces his contractual position.

**3. Length of Probation Period.**

a. Any person appointed to a position with permanent status in the classified service which has a salary grade of 1 through 6 shall serve a probation period of 3 months.

b. Any person appointed to a position with permanent status in the classified service which has a salary grade of 7 or above shall serve a probation period of 6 months.

c. For the purposes of determining the length of the probation period only, the following shall be applicable:

(1) Flat Rate Salary. Those classifications compensated at a flat rate of pay at or below the minimum of salary grade 6, shall be considered the same as classes in salary grades 1 through 6. Those classifications compensated at a flat rate of pay above the minimum of salary grade 6, shall be considered the same as classes in salary grades 7 and above.

(2) Hourly Rate of Pay. Those classifications compensated at an hourly rate of pay shall be considered the same as classes in salary grades 1 through 6, providing that their regular hourly rate of pay when multiplied by 2080 hours is less than the minimum of salary grade 6. Hourly rates, which when multiplied by 2080 hours exceed the minimum of salary grade 6, shall be treated the same as those classes in salary grade 7 and above.

**4. Termination of Probation. For exceptional reasons the probation**

period may be shortened to a period of not less than 1 month upon approval by the President.

5. Extension of Probation.

a. A Vice President or Program Director may request the President to approve an extension of the period of probation, and in conjunction with this extension, may recommend a denial of the employee's next salary increment. A request for extension of probation must be received in the Office of Human Resources before the probation completion date in order to be considered.

b. Any probationary employee whose classification has a salary grade of 1 through 6 may have his probation extended for an additional period not to exceed 3 months. The maximum period of probation including extension may not exceed 6 months.

c. Any probationary employee whose classification has a salary grade of 7 or above may have his probation extended for an additional period not to exceed 6 months. The maximum period of probation including extension may not exceed 1 year.

d. Denial of Salary Increment. An employee who has had his probationary period extended may be denied an automatic increase in salary during the period of extended probation.

6. Rejection on Probation.

a. New Probationary Employees.

(1) A Vice President or Program Director may reject on probation a new employee.

(2) A Vice President or Program Director shall notify the President in writing of the rejection and the reason for it on a rejection form available from Office of Human Resources. The Vice President or Program Director shall notify the employee at least 2 weeks before the effective date of the rejection and shall assure that the 2-week period is included within the probation period. The rejection form shall state the reasons for and effective date of the rejection, and shall inform the employee of the appropriate appeal route. If the rejection is due to a breach of discipline or gross incompetence which jeopardizes essential services, the



President may disregard the requirement for 2 week's notice, and immediately shall submit a written report and the rejection form to the President.

(3) The employee may appeal the rejection in accordance with policies adopted by the Board of Regents.

b. Other Probationary Employees.

(1) For purposes of this provision, the category of other probationary employees includes an employee who has satisfactorily completed a probation period, and currently is serving another probation period as a result of a promotion, demotion, horizontal change, transfer, or reinstatement.

(2) A Vice President or Program Director may, for cause, including but not limited to those causes set forth in provision P, reject on probation other probationary employees.

(3) A Vice President or Program Director shall submit the rejection to the President and to the employee on a form provided by Office of Human Resources at least 30 calendar days before the effective date of the rejection, and shall assure that the 30-day period is included within the probation period. The rejection form shall state the reasons for and effective date of the rejection, and shall inform the employee of the appropriate appeal route.

(4) If the position from which the employee was promoted is vacant or is held by a temporary employee, the President shall assure that the Vice President or Program Director immediately restores the employee to that position.

(5) The employee may appeal the rejection in accordance with policies adopted by the Board of Regents.

c. Rejection on Probation by Order of the President.

(1) The President may investigate the qualifications and background of a probationary employee. This investigation may include or be based upon information received by the President as a result of an investigation by a Vice President or Program Director.

(2) If the President discovers that the employee provided fraudulent or irregular information in taking an examination or in any part of the appointment process, the President may direct that the employee be rejected on probation.

(3) Except in the case of fraud, the statute of limitations for the President's action shall be 3 years from the employee's date of hire.

I. Standards of Performance.

1. The President may establish standards for the evaluation of attendance, work quantity, work quality, or any other pertinent factor of employee performance, and may amend or revoke these standards as may be necessary from time to time.

2. The President shall cause an evaluation of the performance of all employees working under the President's authority to be made not less than once each year. Any overall unsatisfactory evaluation is to be reported to the President at the times and in the form that the President prescribes. The initial evaluation shall be made by the immediate supervisor of the employee whose services are rated and, whenever practicable, shall be reviewed by a higher supervisory authority. The supervisor shall discuss the final rating with the employee who is rated.

3. When evaluating an employee's performance, the employee's use of sick leave shall be considered, with the exception of sick leave used because of death in the employee's immediate family.

J. Change of Assignment.

1. The University may reassign an employee to another position in the same or a different classification within the University if the change does not affect the employee's salary or grade. The employee must meet the minimum qualifications of the new position or classification.

2. Any change from a position in one class to a position in another class, for which the same maximum rate of compensation is prescribed, may be granted by the President and this action, when granted, shall be considered a horizontal change.

K. Reassignment

1. The President may move an employee from one position in a

classification to another position in the same classification, or move the position and incumbent within the University. The movement shall not result in a change in salary grade.

2. The President may move an employee from a position in one classification to another position in a different classification with the same salary grade.

3. The employee must meet the minimum qualifications of the new position or classification.

4. The supervisor, within the limits of the supervisor's assigned responsibility, initiate a change in the work hours, work shift, work location, work assignment, work supervisor, etc. of an employee that is not a change in classification.

5. An employee may make a request to the President to be reassigned. The President shall give appropriate consideration to the request.

L. Demotion.

1. Involuntary Demotion.

a. A Vice President or Program Director may submit to the President a written recommendation for the demotion of an employee, and shall provide the employee with a copy.

b. The recommendation shall include:

(1) The specific reasons for the proposed demotion;

(2) The position and rate of compensation to which the employee is to be demoted; and

(3) A statement informing the employee of the appropriate appeal route.

c. The employee may appeal the proposed demotion to the President or to the Office of Administrative Hearings where the President has delegated to the Office of Administrative Hearings the authority to conduct a hearing and issue a propose decision for approval by the Secretary. See Section 14-1A-03 of the Maryland Annotated Code, Education Article. The employee shall use appeal

forms available in the Office of Human Resources.

d. The President shall enforce the decision of the Secretary.

2. Voluntary Demotion. A voluntary demotion without prejudice may be granted by the President, upon the recommendation of the Vice President or Program Director together with the voluntary written consent of the employee.

M. Disciplinary Action.

1. Disciplinary action shall include official reprimand, disciplinary suspension without pay, involuntary demotion, rejection on probation, removal under charges from a position in the classified service, and permanent disqualification from future employment in the classified service.

2. Disciplinary actions shall be taken only in accordance with these guidelines. Disciplinary actions may not be allowed because of the religious or political opinions or affiliations of any employee or because of his failure to contribute to any fund.

N. Disciplinary Suspension.

1. A Vice President or Program Director May Suspend an Employee; Time Limits. A Vice President or Program Director may suspend an employee for disciplinary purposes. Each suspension shall be without pay. Saturdays, Sundays, legal holidays, and authorized leave days are excluded from the calculation of the time by which the suspension begins. Suspension days shall be consecutive working days. A Vice President or Program Director shall assure that the suspension begins not later than 2 working days after the close of the employee's next shift following the alleged infraction or not later than 2 working days after the close of the employee's next shift following the Vice President or Program Director acquiring knowledge of the alleged infraction. Saturdays, Sundays, legal holidays, and authorized leave days are excluded when determining the day of the employee's next shift and from the calculation of the 2 working days for imposing a timely suspension.

2. Written Notice. A Vice President or Program Director shall notify the employee in writing of the suspension, its duration, and the reasons for it.

3. Appeal. The employee may appeal the suspension according to

Section 14-1A-07 of the Education Article of the Annotated Code of Maryland.

O. Disciplinary Suspension of Fair Labor Standards Act (FLSA) Exempt Employees.

1. Disciplinary suspension of an FLSA exempt employee shall be imposed for a workweek or multiple workweeks.

2. An FLSA exempt employee may be suspended for less than a workweek for infractions of safety rules of major significance, as permitted by the Fair Labor Standards Act.

P. Causes for Removal - Any employee in the classified service may be permanently removed from the classified service only for cause and, except in the case of rejection on probation, only upon written charges and after an opportunity to be heard in the employee's own defense, and not because of the employee's religious or political opinions or affiliations or for refusing to contribute to a political fund or render political services. The following shall be sufficient cause of removal, though removal may be for causes other than those enumerated:

1. That the employee is incompetent or inefficient in the performance of the employee's duty;

2. That the employee has been wantonly careless or negligent in the performance of his duty or has used unwarrantable or excessive force in the employee's treatment of public charges, fellow employees, or other persons;

3. That the employee has some permanent or chronic physical or mental ailment or defect that incapacitates the employee for the proper performance of the employee's duties;

4. That the employee has violated any lawful official regulation or order or failed to obey any lawful and reasonable direction given by the employee's superior officer when the violation or failure to obey amounts to insubordination or serious breach of discipline which may reasonably be expected to result in a lower morale in the organization or to result in loss or injury to the State or the public;

5. That the employee has been wantonly offensive in the employee's conduct toward fellow employees, wards of the State, or the public;

6. That the employee has taken for personal use, a fee, gift, or other valuable thing in the course of his work or in connection with it when the fee, gift, or other valuable thing is given to the employee by any person in the hope or expectation of receiving a favor or better treatment than that accorded other persons;
7. That the employee is engaged in a private business or in a trade or occupation when the duties of the employee's position as prescribed by law or regulation require the employee's entire time for their performance;
8. That the employee has been guilty of a violation or violations of State Personnel and Pensions Article, Title 13, Subtitle 1;
9. That the employee has been convicted of a criminal offense or of a misdemeanor involving moral turpitude;
10. That the employee, through negligence or willful conduct, has caused damage to public property or waste of public supplies;
11. That the employee has been guilty of a violation or violations of the provisions of Chapter 122 of the Acts of 1908, commonly known as the Corrupt Practices Act, or using, threatening to use, or attempting to use political influence or the influence of any State employee or officer in securing promotion, transfer, leave of absence, or increased pay;
12. That the employee has willfully made a false official statement or report;
13. That the employee has been guilty of conduct such as to bring the classified service into public disrepute;
14. That the University has investigated the employee's qualifications and background and has discovered that fraudulent or irregular information resulted in the employee's appointment.

**CHAPTER SEVEN - SEPARATION FROM UNIVERSITY SERVICE NOT FOR CAUSE  
AND EXTRA-UNIVERSITY EMPLOYMENT**

**A. Layoff**

1. As used in this section, job series means a group of two or more classes in the same occupational area that requires the application of the same knowledge, skills and abilities at varying levels of proficiency or responsibility.
2. As used in this section, "department" means a University unit identified in the "Morgan State University Department List for Layoff and Reinstatement." This List, approved by the President, may be revised periodically. A copy of the list is to be made available in Office of Human Resources.
3. Whenever a position is to be abolished, discontinued, or vacated due to a change in departmental organization, a lack of work, a lack of funding or a material change in duties serving to abolish the existing position and to create a new position, the Vice President or Program Director shall notify the Director in writing of the classifications and the number of positions to be abolished, discontinued, or vacated, together with the reasons therefor. Upon receipt of such notice and with the concurrence of the President, the Director shall certify that the order of layoff is appropriate.
4. These layoff provisions apply to all full-time and part-time classified employees and to classified employees on approved leaves of absence without pay, except for the following:
  - a. Contractual employees;
  - b. Persons who are employed on a temporary basis; and
  - c. Employees who are serving an original probationary period upon first entering University service or returning to University service other than by reinstatement, and who are in the classification in which the layoff is to occur.
5. Sequence of Layoff - Permanent employees who have completed an original probationary period, and who are in the classification 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.

6. The University will maintain a list of classifications by job series.
7. Seniority Points
  - a. Formula for Establishing Seniority Points
    - (1) One point shall be given for each complete month of credited service for the following:
      - (a) Service in the department in which the layoff is to occur;
      - (b) University and State service; and,
      - (c) Service in job classification and its job series where the layoff is to occur.
    - (2) For creditable service of less than a complete month, the employee shall be credited with .032 points for each day of creditable service.
    - (3) For part-time employees, creditable service shall be determined by the funded percentage of the position.
  - b. The combined totals of all points shall determine the order of layoff. If two or more employees in the same classification have the same number of seniority points, they shall take their standing in the order of layoff based upon the following criteria:
    - (1) The Director shall compute each employee's total length of employment in State service (University and State service combined). The employee having the shortest service shall be laid off first.
    - (2) If two or more employees have the same standing after the application of provision 7.b.1. of this section, the President will decide the employees to be retained based upon a written evaluation of the skills, knowledge, or abilities of each employee. The written evaluation is to be prepared by the Vice President or Program Director and submitted to the President. The evaluation shall set forth in detail the superior specific, knowledge, and abilities that the retained



employee possesses.

8. An employee in a position that is to be abolished, discontinued, or vacated shall be allowed to displace another employee with the least seniority points in the same job classification, or, if not available either:

- a. Progressively to each lower level classification in the same job series; or
- b. In any other job classification in which the employee has successfully completed a probationary period.

9. The displacement as applied in section 8 of this regulation shall be limited to the department where the employee is currently employed.

10. An employee who is displaced under the provisions of section 8 and 9 of this section shall be subject to the general provisions of this section.

11. An employee who elects not to displace another employee in accordance with sections 8 and 9 of this regulation shall be laid off.

12. Nothing in these procedures shall be interpreted to prevent the voluntary layoff of an employee who is not lowest in seniority points in the class when the employee to be laid off files a written request with the Director.

13. When individuals are informed of layoffs, they will be certified to the eligible list for the classification in which the layoff occurred. They will also receive notification that they must contact the Director to have their names entered on reinstatement lists.

14. Nothing in this section shall allow a classified employee the right to displace a professional administrative staff position.

**B. Resignation.**

1. Any employee in the classified service wishing to resign in good standing shall give the Vice President or Program Director, in writing, at least 2 weeks' notice of resignation unless the Vice President or Program Director requires a longer period of notice, not to exceed 30 days, or consents to the employee leaving on shorter notice. Any employee who leaves the classified service without giving the required notice shall have that fact entered on the employee's record in the office of the Director and

may be denied the right to future University employment.

2. Any employee who is absent from duty without leave from the supervisor without notifying the supervisor of the reasons for the employee's absence and of his intention to return, shall be considered to be absent without leave. Within a period not to exceed 5 working days from the first day of absence, the Office of Human Resources shall advise the employee of the employee's status by certified letter. The letter shall notify the employee that if the employee does not respond in writing to the supervisor within a period of 3 working days after receipt of the notice, the employee shall be considered to have resigned effective as of the employee's last day of work. Failure to respond as described above shall be treated as a resignation without notice.

3. Any employee who does not notify the Vice President or Program Director in writing of the employee's desire to return to duty within 5 days after the expiration of a leave of absence without pay shall be considered to have resigned from the classified service.

**C. Secondary Employment Within State Service.**

1. There will be no payment for services rendered for secondary employment for work hours which coincide with work hours of the individual's University employment. Payment for secondary employment is allowed during authorized periods of paid leave, other than sick leave.

**CHAPTER EIGHT - APPEALS**

- A. Appeal of Denial of Automatic Annual Salary Increment.
  - 1. An employee who is denied an automatic annual salary increment in conjunction with a disciplinary suspension may appeal that denial concurrent with the appeal of the suspension, according to procedures for disciplinary suspensions.
  - 2. An employee who is denied an automatic annual salary increment not in conjunction with a disciplinary suspension may appeal that denial according to the Grievance Procedures.
  - 3. In the written decision, the Secretary may:
    - a. Restore the employee to his position without loss of pay;
    - b. Suspend the employee without pay for a specified period of time;
    - c. Demote the employee;
    - d. Remove the employee from the position and the classified service;
    - e. Require that other action be taken as indicated by the findings in the case.
  - 4. The finding and decision of the Secretary shall be certified to the President. The President shall enforce the finding and decision.
  - 5. An employee who has been removed from University service is not eligible for future employment at the University.
- B. Appeal of Charges for Removal of a Classified Employee.
  - 1. Procedures Associated with Removal for Cause
    - a. Written Charges - Written charges for removal are submitted to the President, with a copy provided to the employee:
      - (1) By the Vice President or Program Director; or
      - (2) Subject to the approval of the President, by any

resident of the State.

b. Appeal - If the employee wishes to appeal the charges for removal, the employee shall file, within ten (10) days after receiving the charges, a written appeal with the Office of Administrative Hearings.<sup>1</sup> If the classified employee fails to appeal within ten (10) days of receipt of the charges for removal, the removal is final.

**C. Suspension Without Pay of a Classified Employee Pending Disposition of a Charge for Removal**

1. A vice president or program director may suspend a classified employee without pay pending final disposition of charges for removal.
2. The vice president or program director shall notify the employee in writing of the suspension and the reasons for the suspension.
3. Appeal - Within five (5) workdays after receiving a notice of suspension, a classified employee may request in writing that the Office of Administrative Hearings<sup>2</sup> conduct a preliminary hearing to determine whether the employee may continue to work with pay pending disposition of the charge. The preliminary hearing is limited to the issues of :
  - a. Whether suspension without pay is necessary to protect the interests of Morgan State University or the employee pending final disposition of the charges; and
  - b. Whether other employment and status alternatives should be considered.
4. At the preliminary hearing, the employee may:
  - a. Rebut the reasons given for the suspension;

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<sup>1</sup>The President has delegated to the Office of Administrative Hearings the authority to conduct a hearing and issue a proposed decision for approval by the Secretary of Personnel.

<sup>2</sup>The President has delegated to the Office of Administrative Hearings the authority to conduct a hearing and issue a proposed decision for approval by the Secretary of Personnel.

- b. Assert mitigating circumstances; and
- c. Offer alternatives to the suspension, including:
  - (1) a return to the employee's position with pay;
  - (2) a transfer to another position with pay; or
  - (3) a suspension with pay.

D. Suspension for Disciplinary Purposes (does not apply to a suspension pending the disposition of charges for removal).

1. A vice president or program director may suspend a classified employee for disciplinary purposes.
2. The vice president or program director shall notify the classified employee in writing of the suspension and the reasons for it.
3. A suspension for disciplinary purposes under this section shall be without pay.
4. A suspension for disciplinary purposes :
  - a. shall be served on consecutive work days; and
  - b. Shall begin within two (2) days from the close of the employee's next shift after:
    - (1) the alleged infraction occurred; or
    - (2) the vice president or program director learned of the alleged infraction.
5. The time limits in paragraph 4. of this subsection do not apply to a classified employee whose duties include mandatory appearances before a court, regulatory unit or administrative body if the limits:
  - a. would conflict with a scheduled appearance of the employee before a court, regulatory unit, or administrative body; and
  - b. would thereby hamper the effective administration of the University's business.

6. Appeals

- a. The vice president or program director may authorize a designee to receive appeals under this subsection.
- b. A suspended classified employee or a representative of the employee may submit a written appeal of a disciplinary suspension:
  - (1) Within three (3) workdays after receipt of a notice or suspension, to the vice president or program director, or
  - (2) Within five (5) workdays after receipt of a notice of suspension, to the Office of Administrative Hearings.<sup>3</sup>
- c. If the employee submits a written appeal to the vice president or program director, the vice president or program director may authorize a designee to hear the appeal. If an appeal is made to the vice president or program director, the vice president or program director shall:
  - (1) Hold a hearing within three (3) workdays after receiving the appeal; and
  - (2) Issue a written decision within the time established in policies adopted by the Board of Regents
  - (3) If, as a result of management delay, the appeal to the vice president or program director, or their respective designee, is not heard and decided within the times established in policies adopted by the Board of Regents, the vice president or program director shall reinstate the suspended classified employee with full back pay.
  - (4) A classified employee who appeals to the vice president or program director may not further appeal the suspension except in accordance with Step Three of the Classified Employee Grievance Procedure.

E. Demotion - Involuntary Transfer to a Different Class that has a Lower

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<sup>3</sup>The President has delegated to the Office of Administrative Hearings the authority to conduct a hearing and issue a proposed decision for approval by the Secretary of Personnel.

Maximum Rate of Pay

1. A transfer that is a demotion under this Section 5 may be made only for cause, on written charges to the President.
2. The classified employee may appeal the proposed demotion to the Office of Administrative Hearings.<sup>4</sup>

F. Appeal of Report of Unsatisfactory Work or Conduct.

1. A classified employee who has been separated from or transferred within the University may file with the President a written answer to a report of unsatisfactory work or conduct. The President shall assure that the written answer becomes part of the employee's employment record, and that the written answer is used to determine suitability for future employment.
2. A classified employee who has satisfactorily completed a probation period and who has separated from or transferred within the University may pursue either of the following routes:
  - a. The employee may file with the President a written answer to a report of unsatisfactory work or conduct in accordance with provision F.1; or
  - b. The employee may appeal a report of unsatisfactory work or conduct in accordance with appeals procedures for removal of a classified employee. The President or another official whose duties and responsibilities are unrelated to the hearing process shall determine whether none, all, or part of the report shall remain on the employee's official University employment record to determine suitability for future employment.

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<sup>4</sup>The President has delegated to the Office of Administrative Hearings the authority to conduct a hearing and issue a proposed decision for approval by the Secretary of Personnel.

**CHAPTER NINE - CLASSIFIED EMPLOYEES GRIEVANCE PROCEDURES**

A. In General - Morgan State University recognizes that legitimate problems, differences of opinion, complaints, and grievances may exist in the daily relationship between the University as an employer and its employees. It is the responsibility of all supervisors, administrators, managers, faculty, and employees to establish and maintain a work climate within which an employee's problem or complaint may be promptly identified, presented, discussed, and given fair and timely consideration. Each supervisor, administrator, and employee has an obligation to make every effort to resolve employee relations problems as they arise. An employee with a grievance may present that grievance in accordance with the grievance procedures free from coercion, discrimination, interference, reprisal, or restraint. A grievant may be represented at any time by any person that the grievant chooses.

1. Definitions

a. Grievance

(1) A grievance is a dispute between an employee and the employee's employer about the interpretation of and application to the employee of :

(a) A personnel policy or procedure adopted by the University; or

(b) Any other policy or procedure over which the University management has control.

(2) Even if a complaint otherwise meets the definition of grievance, the Classified Employees Grievance Procedures shall not apply to the following:

(a) A student employee,

(b) An employee, including a member of a faculty, who is subject to a contract or regulations governing teacher tenure, or

(c) A member of the faculty , an executive staff member, or a professional administrative staff member of the University.

b. Days - Days shall mean calendar days, excluding Saturday,



Sunday and days on which the University is officially closed.

2. General Provisions

a. Economy in Processing Grievances - Each step of the grievance procedure shall be processed as quickly as practicable within the specified time limitations. The full time limits should not be used if the grievance can be adequately processed in a shorter period. By mutual agreement of the parties, any time limitations and/or steps specified in the grievance procedure may be waived. Each party to a grievance shall make every effort to resolve the grievance at the lowest possible level. Failure of the University to answer is a denial to which an appeal can be made.

b. Copies of Decisions - On conclusion of each step of a grievance proceeding, a copy of the grievance and its disposition shall be given to the parties and their representatives.

c. Consolidation - Similar grievances may be consolidated and processed in a single proceeding.

d. Representation

(1) An employee may be represented at every step of the grievance procedure. A grievant may be represented at any time by any person that the grievant chooses. On the informal presentation of a grievance or the initiation of a grievance proceeding, an employee designated as a grievant's representative may not lose pay for investigating, processing, or testifying at any stage of the grievance proceeding. At any point in the grievance procedure, the employee may elect to obtain, change, or dismiss a representative by providing a written notice of same to the person hearing the grievance. However, such action in no way allows the grievant to return to previous steps in the procedure.

(2) The President, a Vice President, or a Program Director may be represented at any time by an individual designated for that purpose. The President, each Program Director, and each Vice President shall submit to the Secretary of Personnel a list of individuals designated to

represent the President, Program Director, or Vice President at each stage of the grievance proceeding.

e. Employee Release from Work - An employee shall be granted release time from the employee's normal work schedule to attend a grievance conference or hearing as a witness. No employee shall leave the employee's post of duty to engage in grievance activity without the knowledge of and permission from the designated supervisor. Within the sole discretion of the University, reasonable expenses incurred in connection with attendance by a University employee at grievance conferences or hearings, whether as a grievant, as a grievant's representative, or as a witness, shall be borne by that employee's unit.

f. Conflicts with Board Policies, or Delegated Authority - Statutes, regulations and 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, with any applicable statute, 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.

g. Evidence - The formal rules of evidence shall not apply to this grievance procedure. The hearing officer may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence or witnesses.

h. Grievance Not Decided at Any Step - If a grievance is not decided at any step in the grievance proceeding, the grievance is considered as denied and the grievant may appeal to the next step.

i. Failure to Respond or Appeal - Failure of the University to respond to a grievance appeal within the time limits set forth in F constitutes a denial which the employee may appeal. Failure of the employee to appeal a decision within the time limits set forth in F constitutes acceptance. Failure of a party to appear at a scheduled conference or hearing may be grounds for a decision adverse to that party. The employee shall assure that an appeal is presented in writing and shall forward the original written appeal signed by the employee, to the next step. If a grievant fails to appeal a decision in accordance with the grievance procedure to the next step in the grievance proceeding, the grievant is considered to have accepted the decision.

j. Final Disposition - Any party who elects to use this procedure for resolution of a problem shall agree to abide by the final disposition.

3. Time for Initiating a Grievance Proceeding - A grievance proceeding must be initiated by a classified employee within 30 days after:

a. The occurrence of the alleged act that is the basis for grievance, or

b. The employee first knew or reasonably should have known of the alleged act that is the basis for the grievance.

The grievance shall be filed with the Office of Human Resources using forms available from that office.

4. Informal Discussion

Before initiating a grievance proceeding, a classified employee shall present the matter orally to the employee's supervisor for informal discussion.

5. Formal Grievance Procedure

a. Step One - Vice President or Program Director

(1) Within the time specified above in 3. Time for Initiating a Grievance Proceeding, the grievant may initiate a grievance proceeding by filing a written grievance with the Vice President or Program Director.

(2) Within 10 days after the grievance is received, the Vice President or Program Director shall hold a conference with the grievant.

(3) The Vice President or Program Director shall issue a written decision to the grievant within 15 days after the conference.

b. Step Two - President or President's Designee

(1) Within 10 days after receiving a decision under Step

One of this Formal Grievance Procedure, a grievant or a grievant's representative may appeal in writing to the President or the President's designee.

(2) Within 10 days after the appeal is received. The President or the President's designee shall hold a conference with the grievant.

(3) The President or the President's designee shall issue a written decision to the grievant within 15 days after the conference.

c. Step Three - Secretary of Personnel

(1) Within 15 days after receiving a decision under Step Two of the Formal Grievance Procedure, a grievant or a grievant's representative may appeal in writing to the Secretary of Personnel. The appeal shall designate whether the grievant elects the appeal to be heard by the Secretary of Personnel or submitted to arbitration. In a reclassification grievance proceeding, the Secretary of Personnel shall order an audit of the position if it has not been audited within the last year.

(a) Appeal Heard by the Secretary of Personnel.

The Secretary of Personnel shall issue a decision in writing within 45 days after the later of:

- i) The conclusion of the hearing, or
- ii) The day when all briefs or memoranda have been submitted.

(b) Appeal Heard by an Arbitrator

- i) If the grievant elects arbitration, the parties shall mutually select an arbitrator.
- ii) If the parties are unable to agree on an arbitrator, an arbitrator shall be selected through the American Arbitration Association in accordance with its procedures.

iii) The arbitrator shall assess all fees that result from the arbitration equally between the parties.

iv) The arbitrator shall issue an advisory decision to the Secretary of Personnel and additional appeals or hearings may not be considered or held.

v) Within 15 days after the decision of the arbitrator is received, the Secretary of Personnel shall issue a decision in writing.

(2) A decision of the Secretary of Personnel is final and binding on all parties.

d. If an initial determination is rescinded by the Secretary of Personnel, further action may not be taken against the grievant with respect to any charge that was considered at the hearing.

e. Back Pay

(1) The Secretary of Personnel may order the University to grant back pay to a classified employee in any grievance proceeding.

(2) In a reclassification grievance proceeding in which the Secretary of Personnel determines that the grievant is working outside of classification or in a position that is improperly classified, the Secretary of Personnel, in the Secretary's discretion, may order back pay for period not exceeding 1 year before the grievance proceeding was initiated,

(3) The University shall carry out a back pay order issued under this section.

CHAPTER TEN - Training

A. Purpose of Training.

Training is provided to employees in order to:

1. Develop employees according to their capabilities;
2. Train employees to perform their official duties with maximum efficiency; and
3. Increase and enhance the retention of employees in University service and meet the University's personnel needs.

B. Definitions.

1. In this chapter, the following terms have the meanings indicated.
2. Terms Defined.
  - a. "Appointing authority" means a person who has the power to make appointments and to terminate employment.
  - b. "Career development plan" means a plan approved by the appointing authority which describes a combination of experience and training designed to prepare an employee to perform the duties of a classification or position.
  - c. "Director" means Director of the Office of Human Resources (OHR) or the Director's designated representative.
  - d. "In-service training" means training designed for State employees, which is arranged, offered, and supervised by or with the approval of the Secretary and conducted at State-operated facilities or locations chosen or approved by the Secretary.
  - e. "Job-related training" means a course or program directly related to an employee's job duties.
  - f. "Long-term training" means job-related training which

requires an employee's release from duty for more than 6 weeks within a 6-month period.

g. "Out-service training" means job-related training which is approved by the President and provided to employees by universities, colleges, and organizations outside of State government.

h. "President" means the President of Morgan State University or the President's designated representative.

i. "Release time" means time off with pay during an employee's working hours for training.

j. "Remedial education" means a full spectrum of basic skills relative to mathematics, reading, writing, and the language arts.

k. "Secretary" means the Secretary of Personnel or the Secretary's designated representative.

l. "Short-term training" means job-related training which requires an employee's release from duty for a maximum of 6 weeks.

m. "Training" means the process of making available to and enrolling an employee in a program of instruction designed to increase the employee's skills, knowledge, and abilities in the performance of current duties or in areas of work which will be related to the employee's job responsibilities in State service.

n. "Work-study program" means a planned program of an educational institution which is designed to supplement the employee's on-the-job experience with formal academic training.

**C. In-Service Training.**

1. Public funds may be used to supplement and subsidize in-service training.

2. The President shall determine whether the Office of Human Resources can provide the training in the most cost-efficient and effective way. If the President determines that the Office of Human Resources cannot provide the training in the most cost-efficient and effective way, the President shall authorize the acquisition of the training from a source other

than the Office of Human Resources.

3. If the training is obtained from a source other than the Office of Human Resources, the procurement of the training services shall comply with State procurement regulations and procedures when the selection of a consultant is necessary to develop or conduct the training.

4. The Vice President or Program Director may grant release time to an employee to participate in in-service training.

5. The Vice President or Program Director may approve payment of expenses associated with participation in in-service training, including, but not limited to, tuition or course fees, travel, board, and lodging.

**D. Out-Service Training.**

1. For purposes of this chapter, out-service training includes long-term training, short-term training, and work-study programs.

**2. Eligibility.**

a. An employee shall have satisfactorily completed an original probationary period in order to be eligible for release time or reimbursement for out-service training, except for short-term training. An employee who is not required to serve an original probationary period shall have completed an amount of service equal to that required to complete a probationary period in a position at a comparable salary grade in the classified service.

b. Provision D.2.a. of this section does not apply to an employee who is required to participate in out-service training as part of the employee's job responsibilities or as a condition of employment.

**3. Payment and Tuition Reimbursement.**

a. The President may approve the payment or reimbursement of funds for out-service training specifically related to the employee's work or career development plan if the training has been approved by the employee's immediate supervisor and the request for payment or reimbursement is submitted on a form prescribed by the President at least 5 working days before the beginning of the training. The President may not approve payment or reimbursement of funds for training designed primarily as



general education, except for basic remedial education.

b. The President may approve the expenditure of public funds for an employee to pursue an academic degree which is in accordance with the employee's career development plan. The employee's immediate supervisor may approve release time for the employee to pursue that academic degree.

c. The President shall limit tuition reimbursement for out-service training to the tuition costs of accredited schools, universities, and colleges. The President shall approve tuition reimbursement at a rate not to exceed the maximum per credit hour charge at the University, and shall limit reimbursement to a maximum of 18 credit hours in a calendar year.

d. The employee shall submit to the employee's immediate supervisor the original grade report together with the original receipt for tuition within 30 calendar days after the employee has satisfactorily completed a course (grade C or above for undergraduate studies or grade B or above for graduate studies, except for those graduate professional schools, such as law, medicine, and dentistry, that accept a grade C as satisfactory completion of a course) previously approved by the President.

e. When an approved course is offered only during an employee's working hours, the President may authorize payment or reimbursement for and the President may grant release time for a maximum of 6 hours a week.

f. The President may limit clerical and paraprofessional out-service training in schools where credit hours are not applicable to the maximum allowed in accordance with Provision D.3.c. of this section.

g. An employee may not request payment or reimbursement for any portion of the cost of out-service training which is available to the employee from private organizations or institutions or other public sources, such as Veterans Education Benefits.

4. A Vice President or Program Director may withdraw an employee from out-service training if the Vice President or Program Director has documentation that the employee is not making satisfactory progress in the out-service training (below grade C for undergraduate studies or below grade B for graduate studies, except for those graduate professional

schools, such as law, medicine, and dentistry, that accept a grade C as satisfactory completion of a course).

E. Long-Term Training.

1. The President may approve a request for an employee to participate in long-term training if the President receives the request on a form prescribed by the President at least 10 work days before the beginning of the long-term training. The President may grant an exception to this time limit if a statement of extenuating circumstances satisfactory to the President is submitted by the employee's supervisor in writing to the President.

2. The President may limit long-term training to employees who are pursuing advanced instruction at the graduate level and are carrying at least 12 credit hours within a 6-month period. The President may waive this graduate requirement if the employee's supervisor submits to the President a written request for a waiver, which includes a statement of the reason for the request.

3. The President may limit long-term training to a maximum of 18 months in any 3-year period. An employee is not eligible for release time for a period of more than 18 months within any 5-year period.

4. While an employee is on release time to participate in long-term training, the employee receives full pay, earns annual leave and sick leave, and retains all benefits. The annual leave earned by the employee while on release time to participate in long-term training shall be used by the employee during the training period. The employee shall report to the employee's supervisor training time lost because of the employee's use of sick leave and accident leave, and the supervisor shall indicate the use of sick leave or accident leave on the employee's leave record.

5. During a school closing, an employee who is on release time to participate in long-term training at that school:

- a. Shall report for duty to the employee's supervisor; or
- b. May request approval of the employee's supervisor to use available leave.

6. An employee who is participating in long-term training shall pay all of the employee's training expenses including, but not limited to, tuition and related fees, library and laboratory fees, travel, purchase of books and

supplies, and fees for use of facilities or service. The President may waive this requirement if the President determines that a waiver is in the best interest of the University.

7. An employee who is on release time to participate in long-term training shall enter into an obligated service agreement on a form prescribed by the President, in which the employee agrees that the compensation which the employee receives while participating in out-service training constitutes a loan to the employee by the University. The loan shall be repaid at the rate of 1 month for each 3 months of University service after the employee has satisfactorily completed the training, unless the employee is involuntarily separated from University service. If the employee resigns from University service before the employee has completed the obligated service, the employee shall be responsible for the unpaid balance of the loan. However, if the President considers the resignation of the employee to be the result of adverse, unforeseen, or extenuating circumstances which impose personal hardship upon the employee, the President may release the employee from the obligated service agreement.

**F. Short-Term Training.**

1. The President may approve a request for an employee to participate in short-term training if the President receives the request on a form prescribed by the President at least 10 work days before the beginning of the short-term training. The President may grant an exception to this time limit if a statement of extenuating circumstances satisfactory to the President is submitted by the employee's supervisor in writing to the President.

2. The President may approve the payment of an employee's tuition and related expenses for short-term training.

3. While an employee is on release time to participate in short-term training, the employee receives full pay, earns annual leave and sick leave, and retains all benefits. The employee shall report to the employee's supervisor training time lost because of the employee's use of sick leave and accident leave, and the supervisor shall indicate the use of sick leave or accident leave on the employee's leave record.

4. If any program or course is cancelled or rescheduled, an employee who is on release time to participate in the program or course:

- a. Shall report for duty to the employee's supervisor; or

b. May request approval of the employee's supervisor to use available leave.

G. Work-Study Programs.

1. When the need exists to train a group of employees in a particular skill, the Director, upon the approval of the Vice President for Finance and Management may initiate a work-study program during working hours to provide the required training.

2. The President may approve a request for an employee to participate in a work-study program if the President receives the request on a form prescribed by the President at least 10 work days before the beginning of the work-study program. The President may grant an exception to this time limit if a statement of extenuating circumstances satisfactory to the President is submitted by the employee's supervisor in writing to the President.

3. The President may not approve release time for an employee to attend a work-study program for more than 50 percent of the employee's normal workweek.

4. An employee who is participating in a work-study program shall pay all of the employee's training expenses, including, but not limited to, tuition and related fees, travel, books, and supplies. The employee's supervisor may waive this requirement if the supervisor determines that a waiver is in the best interest of the University.

5. An employee who is on release time to participate in a work-study program shall enter into an obligated service agreement on a form prescribed by the President, in which the employee agrees that the compensation which the employee receives for release time while participating in a work-study program constitutes a loan to the employee by the University. The loan shall be repaid at the rate of 1 month for each 1-1/2 months of University service after the employee has satisfactorily completed the training, unless the employee is involuntarily separated from University service. If the employee resigns from University service before the employee has completed the obligated service, the employee shall be responsible for the unpaid balance of the loan. However, if the President considers the resignation of the employee to be the result of adverse, unforeseen, or extenuating circumstances which impose personal hardship upon the employee, the President may release the employee from the obligated service agreement.

6. While an employee is on release time to participate in a work-study program, the employee receives full pay, earns annual leave and sick leave, and retains all benefits. The employee shall report to the employee's supervisor training time lost because of the employee's use of sick leave and accident leave and the supervisor shall indicate the use of sick leave or accident leave on the employee's leave record.

7. During a school closing, an employee who is on release time to participate in a work-study program at that school:

- a. Shall report for duty to the employee's supervisor; or
- b. May request approval of the employee's supervisor to use available leave.

H. Special Training Projects.

Nothing in this chapter shall be construed to prohibit the operation of employee development programs which are:

1. Legislatively mandated; or
2. Fully federally funded.

**CHAPTER ELEVEN - PERFORMANCE**

**A. Incentive Awards.**

1. Definitions - The definitions appearing here apply only to this section entitled "Incentive Awards" and not to the remaining sections of these Classified Employees Procedures.

a. "Employee" means an individual who is employed by a unit in the executive branch as a classified, unclassified, temporary pending, temporary extra, emergency, or contractual employee, but does not include an individual who holds a position in the executive pay plan.

b. "Extraordinary service" means extraordinary performance in the public interest by an employee in connection with the employee's University employment.

c. "Innovative idea" means a suggestion or invention.

d. "Outstanding service" means:

(1) Exceptional performance by an employee on a special project or over a sustained period that exceeds the knowledge, skill, or ability required by the position; or

(2) Exceptionally meritorious acts or services in the public interest by an employee in connection with the employee's State employment, on a special project or over a sustained period.

e. "Unit" means a principal department or any other independent agency in the executive branch of State government, including an independent agency with authority to set salaries, the University of Maryland System, and Morgan State University.

2. Innovative Idea Awards Program.

a. An innovative idea award may be awarded for an innovative idea which, if implemented, would result in:

(1) Monetary savings to the State;

(2) Increased revenues to the University;

- (3) An improved quality of services delivered to the public; or
    - (4) Any other significant benefit to the University.
  - b. Except under exceptional circumstances, a cash award may not be made for an innovative idea that is under active study or continual review by any unit of State government.
- 3. Unit Review Committee.
  - a. The head of each unit shall establish a review committee to evaluate innovative ideas in that unit and recommend awards to the head of the unit.
  - b. The head of each unit may give an employee in the unit a cash award for an innovative idea, not exceeding:
    - (1) \$1,000 for an innovative idea with a reasonably ascertainable monetary savings or gain to the State; or
    - (2) \$300 for any other innovative idea.
  - c. The head of a unit may refer an innovative idea affecting a second unit to the second unit for evaluation. The second unit shall be responsible for funding any award recommended.
  - d. To the extent possible, the head of the unit shall make a decision within 60 days following the submission of the proposed innovative idea to the review committee.
- 4. Governor's Award Panel.
  - a. The Governor's Award Panel consists of five members appointed by the Governor.
  - b. The head of the unit shall submit to the Governor's Award Panel each innovative idea for which an award is made under this provision, with a recommendation for any additional award by the Governor.
  - c. Submission shall be made on January 1, April 1, July 1, and September 1 of each year for awards made in the preceding 3

months.

d. Submissions shall be made in the form and manner prescribed by the Governor's Award Panel.

e. The Governor's Award Panel shall review all innovative ideas submitted to it and make recommendations to the Governor at least once a year concerning additional awards for the innovative ideas. The Panel shall recommend to the Governor either monetary or nonmonetary awards for employees with innovative ideas.

f. The Governor may give an employee an additional cash award not exceeding \$20,000 for an innovative idea.

g. The Governor may grant paid administrative leave not exceeding 20 workdays for an innovative idea.

5. Use of Innovative Idea.

a. The use of an innovative idea does not entitle the employee submitting the idea to an award under this provision nor does the use of the idea give rise to any claim by the employee.

b. An innovative idea adopted by a unit for which a cash award was granted may be implemented by other units without an additional award to the employee.

c. The State shall have the right to make full use of an innovative idea but may not pursue a patent for the innovative idea.

d. If an employee acquires a patent for the innovative idea, the employee shall permit the State to make use of it without payment.

e. The employee shall retain all rights for commercial use of an innovative idea by entities other than the State.

6. Incentive Performance Awards Program.

a. The head of each unit may give an employee in the unit a cash award not exceeding \$3,000 for outstanding service.

b. An employee may not receive more than one incentive performance award for outstanding service in any 24-month period.



c. The head of each unit may give an employee or members of a group of employees in the unit any of the following awards for extraordinary service:

- (1) Cash, not exceeding \$300;
- (2) A gift, not exceeding \$300 in value;
- (3) Time off with pay, not exceeding 3 days; or
- (4) Any combination of cash, gift, and time off with pay not exceeding \$300 in value.

d. An employee may not receive more than one incentive performance award for extraordinary service in any 12-month period.

e. Before making awards to employees in the unit, the head of the unit shall:

- (1) Establish criteria for administering the program, including standards of eligibility; and
- (2) Ensure that all employees in the unit have copies of the criteria.

f. The head of a unit may amend the criteria at any time. An amendment may not become effective until after the employees of that unit have been sent a copy of the proposed amendment.

g. The head of a unit may delegate to any subordinate supervising unit head the authority to make incentive performance awards. The delegation to make incentive performance awards shall be written and maintained subject to audit.

**7. General Provisions.**

a. An award made under this provision is in addition to the regular compensation of the recipient.

b. Determinations about any award under this provision are not subject to the State employee grievance procedures.

c. A cash award and expenses related to other awards under

this provision shall be paid:

- (1) From the increased revenue or monetary savings attributable to the innovative idea or service;
- (2) From funds of any unit that employs the employee or benefits from the innovative idea; or
- (3) As provided in the State budget.

d. Incentive award payments are wages and are subject to income and Social Security tax withholding.

8. Reporting.

a. Within 90 days following the end of each fiscal year, the President shall submit to the Secretary a report on all awards made in accordance with the provisions of this provision.

b. The reports shall be made on the forms and in the manner that the Secretary requires.

c. The Secretary shall compile a listing of all awards made under this provision and forward this listing to the Department of Fiscal Services by December 1 following the end of each fiscal year.

CHAPTER TWELVE - Hearings Practices and Procedures

A. President Defined.

As used in this chapter, "President" means the President of Morgan State University or the President's designated representative, the Office of Administrative Hearings ("OAH").

B. President to Conduct Hearings; Informal Hearings; Closed Hearings.

1. The President shall conduct all grievance hearings and appeals according to this chapter, and shall assure that these hearings are conducted informally.

2. Hearings shall be open except under either of the following circumstances:

a. The President has determined that the subject matter of the hearing is not a matter of public concern; or

b. The employee who requested the hearing has requested in writing that the hearing be closed.

C. Testimony and Evidence.

1. Both parties may call witnesses and present evidence.

2. Both parties may request that witnesses testify under oath.

3. Both parties may cross-examine witnesses, and may submit rebuttal evidence.

4. Both parties may present summation and argument.

5. The hearing officer may admit evidence which possesses probative value commonly accepted by reasonable and prudent men, and may exclude incompetent, privileged, irrelevant, immaterial, or unduly repetitious evidence. In determination of the case, the hearing officer may not consider factual information and evidence that is not part of the record of the case.

6. The hearing officer may accept documentary evidence in the form

of copies of excerpts, or by incorporation by reference.

7. The hearing officer may take notice of judicially cognizable facts and general, technical, or scientific facts within his knowledge. The hearing officer may use his or her experience, technical competence, or specialized knowledge in the evaluation of the evidence presented to him. The President shall assure that both parties are notified of the facts so noticed before or during the hearing or by reference in preliminary reports or otherwise, and that each party has an opportunity to contest the facts so noticed.

**D. Burden of Proof.**

1. Decisions shall be based upon a preponderance of the evidence.
2. The University bears the burden of proof in the following cases:
  - a. Direct appeals of classified employee suspensions;
  - b. Denial of increments;
  - c. Rejection on probation of employees who have satisfactorily completed probation periods and are serving probation periods as a result of promotion, demotion, horizontal change, transfer, or reinstatement; and
  - d. Removal of classified employee.
3. The employee bears the burden of proof in the following cases:
  - a. Grievance hearings;
  - b. Rejection on probation of employees not governed by provision D.2. of this section;
  - c. Appeal of termination of unclassified employee.

**E. Records; Transcripts.**

1. The hearing officer shall maintain a record of all testimony and evidence for 45 days after the decision and of the disposition of an appeal.
2. Oral proceedings, or any part of them, shall be transcribed or

otherwise duplicated on request of any party and upon payment by the requesting party of the costs associated with the transcription or the duplicate, including a reasonable charge for the reproduction of exhibits.

F. Assurance of a Fair Hearing - Efforts shall be made to insure that both parties receive a full and fair hearing. Witnesses may be sequestered upon request and showing of cause by either party. A postponement may be granted upon request.

G. Representation; Compensation for Representatives and Witnesses; Leaving Post of Duty; Payment of Travel Expenses - An employee may be represented by an attorney or other designated representative. Attendance at a hearing is considered work time, and each department shall assure that an employee who is required to attend a grievance hearing or an appeal hearing receives compensation. An employee may not leave the employee's post of duty to attend a hearing, without permission from the employee's supervisor. Each unit shall pay travel expenses, according to State of Maryland Standard Travel Regulations, incurred by its employees in connection with their attendance at hearings.

H. Postponement of a Hearing.

1. A hearing may be postponed upon request in writing by either party for reasons satisfactory to the hearing officer. The requesting party shall assure that the hearing officer receives the written request at least 2 weeks before the time set for the hearing, except in extreme emergencies or under unusual circumstances, which shall require acceptable written documentation to be submitted to the hearing officer by the party requesting the postponement within 10 calendar days after the date of the request. The written request shall include a statement that the requesting party is unable to attend the hearing on the scheduled date.

2. If the postponement is requested due to a medical emergency, the party requesting the postponement shall be required to submit to the hearing officer written medical documentation signed personally by an accredited Christian Science practitioner or by any of the licensed or certified medical providers designated in M.1. Failure to provide the required documentation may result in a decision adverse to that party.

I. Defense of Sovereign Immunity - The State and the University may not raise the defense of sovereign immunity in any administrative, arbitration, or judicial proceeding involving a classified employee grievance or hearing that is held under Division I of the State Personnel and Pensions Article, Annotated Code of Maryland or a regulation adopted under it; or a personnel policy or

regulation that governs classified employees of the University.

J. Appointment of Interpreter - If a party or witness cannot readily hear, speak, understand, or communicate the spoken English language, the hearing officer may, of the hearing officer's own volition, or shall, upon written application of the party or witness, appoint a qualified interpreter to provide assistance during a hearing.

K. Forms and Instructions - Forms and instructions to implement these practices and procedures are available in the Office of Human Resources.

L. Awards of Back Pay.

1. In any case in which the Secretary orders the granting of back pay, the University shall comply with the following procedure:

a. The President shall pay the award from funds appropriated for the salary of the employee's position.

b. If sufficient funds were not appropriated to satisfy the award, the President shall seek an amended schedule for disbursement of appropriations pursuant to Article 15A, Sec. 8, Annotated Code of Maryland.

c. If sufficient funds are not available under Provision L.1.a. and (2), the President shall seek funds from the General Emergency Fund as provided for in Article 78A, Annotated Code of Maryland.

d. If sufficient funds are not available under Provision L.1.a., the President shall report to the Comptroller of the Treasury as follows:

- (1) The name of the employee;
- (2) The date of the award;
- (3) The amount of the award;
- (4) The amount of the award unsatisfied; and
- (5) The efforts undertaken by the President to satisfy the award under Provision L.1.a.-c.

e. If a partial payment can be made under any provision of this section, partial payment shall be made.

f. The President shall report in writing to the Secretary, within 20 days after an award becomes final, that the President has complied with Provision L.1. The report shall include the same information required under Provision L.1.d.

**M. Motions.**

**1. When Made.**

a. Any party may make a motion seeking appropriate relief before or during a hearing.

b. If made before a hearing the motion shall:

(1) Be in writing;

(2) State concisely the question to be determined;

(3) Be filed not later than 5 days before the date of hearing;

(4) Be accompanied by a memorandum of points and authorities; and

(5) Be served upon any party affected by the motion.

c. If made in the course of a hearing, a motion may be made orally.

2. Replies to Motions - A reply to a written motion may be filed by any party not later than 15 days after the filing of the motion or on the date of hearing, whichever is sooner. A copy shall be served upon any other party.

3. Notice and Attendance - If a hearing is held, all parties shall be given written notice. Failure of a party to attend a hearing shall be grounds for a decision adverse to that party.

**4. Decision.**

a. The hearing officer may grant or deny any motion or may

postpone ruling on a motion until after the final hearing.

b. If a written motion is granted or denied, the hearing officer shall issue a written decision and order.

c. If a ruling on a written motion is postponed, the ruling may be included in the final decision.

d. A ruling on an oral motion made during the course of a hearing may be included in the final decision or stated in the record.

**N. Post-hearing Memoranda or Briefs.**

1. Any party, with the concurrence of the hearing officer, may submit a legal memorandum or brief after a hearing.

2. A party bearing the burden of proof under provision D of this chapter shall file a memorandum or brief not later than 30 days after the hearing.

3. A party not bearing the burden of proof under provision D of this chapter shall file a memorandum or brief not later than 45 days after the hearing.

4. The party filing a memorandum or brief shall send a copy to all other parties.

**O. Proposed Findings of Fact or Conclusions of Law.**

1. A party may submit proposed findings of fact and proposed conclusions of law either before, at, or after a hearing.

2. Proposed findings of fact and conclusions of law shall be submitted in writing.

3. If submitted after a hearing, the proposed findings of fact and conclusions of law shall be filed not later than 15 days after the hearing.

4. The party submitting proposed findings of fact and conclusions of law shall serve a copy upon all other parties.

5. The hearing officer shall rule on each proposed finding in the final decision.



P. Prehearing Conferences - A prehearing conference may be held before hearing any case, upon request of any party or in the discretion of the hearing officer. Prehearing conferences may be conducted by telephone. Failure of a party to participate in a prehearing conference may be grounds for a decision adverse to that party.

Q. Reconsideration.

1. Request.

a. Any party may request reconsideration of a decision and order.

b. A request for reconsideration shall be filed within 30 days of the decision upon which the request is based.

c. The filing of a request may not stay the order issued or stay the time for filing an appeal.

d. The request may be granted or denied, in whole or in part.

2. Granting of Reconsideration - If reconsideration is granted, the Secretary shall issue an order providing for reconsideration and staying or rescinding the decision or order, or both, being reconsidered.

3. Hearing - A hearing may be held pursuant to provisions of this chapter for purposes of presenting evidence or argument, or both, upon reconsideration.

4. Decision - A decision shall be rendered following the reconsideration proceedings.

R. Stays.

1. Request.

a. A party which is adversely affected by an order may request a stay of the order from the President pending judicial review.

b. A request for a stay shall be filed within 15 days of the date of the order for which the stay is sought.

c. A request shall include a statement of the reasons a stay is sought.

- d. A request shall include a copy of the petition of appeal or a statement of the grounds for the judicial appeal.
- e. A copy shall be served on all parties.
- f. A request for stay may not operate as a stay or extend the time for appeal.

2. Review - The Secretary may hold a hearing on a request for stay or rule upon the request without a hearing.

**S. Examination of Evidence.**

1. In any case in which the final decision is to be rendered by a person who did not hear the evidence, the decision may not be made until a proposal for decision, including findings of fact and conclusions of law, has been served on the parties and an opportunity has been afforded to any party adversely affected to file exceptions and present argument to the person making the final decision.

2. A proposal for decision shall be sent to all parties.

3. Any party adversely affected by the proposal for decision may file exceptions and request argument. Exceptions and request for argument on the exceptions shall be filed within 15 days of the date of the proposal for decision.

4. The person rendering the final decision in a case shall consider exceptions filed according to Provision S of this section before rendering a decision.

5. The person rendering the final decision in a case shall hear argument if requested according to Provision S of this section. The time for argument may be limited in the discretion of the person hearing argument.

6. Evidence of compliance with this provision shall be made a part of the record of any case to which this provision applies.

**CHAPTER THIRTEEN - LEAVE AND ATTENDANCE CONTROL**

**A. Leave with Pay**

**1. Scope.**

a. This section applies to classified employees.

b. Faculty and administrative employees of Morgan State University are encompassed under the existing policies and procedures established by the University and not the provisions herein.

**2. Workweek, Overtime, and Compensatory Leave.**

**a. Workweek.**

(1) The standard workweek consists of 40 hours in a 7-day period.

(2) The part-time workweek consists of at least 2 work days, and at least 20 hours up to a maximum of 32 hours.

(3) The workweek begins on Wednesday and ends on the following Tuesday, both days inclusive. The President may designate a different 7-day period for the purpose of computing overtime. The President may establish an alternate work period of not less than 7 or more than 28 consecutive days for fire protection or law enforcement employees in accordance with the Fair Labor Standards Act.

(4) The President shall designate the workweek for all positions under the President's control. The designation of workweek is effective until the President changes it.

(5) The President may designate a standard workweek which consists of fewer than 5 days, which is known as a compressed workweek.

(6) Work in excess of a position's standard workweek shall be compensated by overtime payments or may be compensated by compensatory leave.

b. Work Time.

- (1) Work time includes time during which an employee:
  - (a) Is required to be on duty;
  - (b) Is on paid leave;
  - (c) Participates in training activities as a job assignment;
  - (d) Is on the employer's premises and is on call and waiting for work;
  - (e) Is not on the employer's premises, but is on call and waiting for work, and the employee's personal activities are substantially restricted;
  - (f) Is changing into and removing program-specified clothing and equipment necessary for the performance of the job;
  - (g) Participates in activities that are job-related immediately before the beginning or immediately after the end of an assigned shift;
  - (h) Travels to and from work after being recalled to work by the employee's supervisor after the employee has completed the standard workday;
  - (i) Travels between home and a work site other than the assigned office, in accordance with the Standard Travel Provisions; and
  - (j) Any other time defined as work time under the Fair Labor Standards Act.
- (2) With the exception of those categories of employees cited in the Fair Labor Standards Act, 29 U.S.C. Sec. 201 et seq., the President may exclude meal periods and a maximum of 8 hours sleep from consideration as work time for employees who are on duty for more than 24 hours. If the employee's sleep is interrupted for the performance of work

so that the employee is not able to sleep continuously for at least 5 hours, the President shall consider the entire period of sleep up to a maximum of 8 hours as work time.

c. Authorization to Work Overtime.

(1) The President may authorize an employee to work periods of time in excess of the employee's standard workweek, dependent upon workload demands, and shall assure that the authorization is in writing.

(2) The President shall assure that the original written authorization to work overtime in accordance with Provision A.2.c.(1) of this section is retained by the University for auditing purposes.

d. Compensatory Leave.

(1) An employee may be authorized to earn compensatory time only after the employee has worked at least 1 hour beyond the employee's standard work day. Total compensatory time earned is equal to that first hour plus any time worked after the first hour.

(2) An employee may be authorized to earn compensatory time for time worked outside the employee's standard work week, for example, Saturdays, Sundays, holidays, only after the employee has worked in excess of 1 hour on the day for which compensatory time is to be earned. Total compensatory time earned is equal to the first hour worked on that day plus any time worked after the first hour on that day.

(3) Compensatory leave for employees in this section shall be forfeited if it is not used within 1 year of the date on which it was earned.

B. Eligibility for Earning Leave.

1. Leave time is earned by:

a. Full-time employees;

b. Employees who work a part-time workweek.

2. An individual who is employed on a temporary (TE) or emergency (EM) basis does not earn, and is ineligible to receive, any paid leave as provided for in this chapter. However, if the individual is appointed to an allocated position without any break in service, the starting date for earning annual and sick leave is retroactive to the beginning of the temporary (TE) or emergency (EM) status. The period for which annual and sick leave may be earned retroactively through such a change in status may not exceed 6 months.

3. An employee may not be granted provisions of leave in the establishment of official records which would exceed the maximum earnings rate and accumulation of those stipulated in the State Personnel and Pensions Article, Annotated Code of Maryland, and this chapter for any given time period.

C. Annual Leave.

1. General. When feasible, each supervisor shall arrange the work of the University so that an employee can use annual leave at times requested by the employee.

2. Rate of Earnings.

a. Full-time and part-time employees shall earn leave in the manner specified in this section.

b. From the first through the sixth month of service no leave is earned. Upon completion of the sixth month of service, an employee shall be credited with annual leave for the first 6 months on the basis of 1 hour of leave for each 26 hours of work.

c. From the beginning of the first year through the completion of the fifth year, employees shall be credited with annual leave at the rate of 1 hour of leave for each 26 hours worked. A full-time employee may not earn more than 10 working days of leave a year.

d. From the beginning of the sixth year of service through the completion of the tenth year, employees shall be credited with annual leave at the rate of 1-1/2 hours of leave for each 26 hours worked. A full-time employee may not earn more than 15 working days of leave a year.

e. From the beginning of the eleventh year of service through

the completion of the twentieth year of service, employees shall be credited with annual leave at the rate of 2 hours of leave for each 26 hours worked. A full-time employee may not earn more than 20 working days of leave a year.

f. From the beginning of the twenty-first year of service and thereafter, employees shall be credited with 2-1/2 hours of leave for each 26 hours worked. A full-time employee may not earn more than 25 working days of leave a year.

g. For purposes of the above, paid leave is considered work time.

h. If the designated workweek for an employee changes, the supervisor shall credit the employee with annual leave that is equal to the number of days that the employee has earned at the time of the change.

3. Limitations Upon Earnings. Annual leave may not be earned for hours worked in excess of the standard workweek, as determined by the percentage of employment.

4. Availability.

a. Annual leave with pay shall be available to the employee to the extent earned if the dates for this leave are approved by the supervisor.

b. With the exception of an employee described in provision C.4.c. of this section, an employee may use up to 2 days of annual leave in increments of at least 1/2 day without obtaining prior approval, if the employee notifies the employee's immediate supervisor not later than 15 minutes after the employee's normal reporting or starting time of the employee's intended use of each period of annual leave up to the 2-day maximum. However, when appropriate, the President may adopt written procedures concerning use of this leave in less than half-day increments and notification later than 15 minutes after the employee's normal reporting or starting time.

c. An employee scheduled to work on a University holiday, or renders a service that is provided continuously on a 7-day-a-week-basis, may not use the 2 days of annual leave provided for in Provision C.4.b. of this section without obtaining

prior approval from the employee's immediate supervisor. However, approval may be denied only if the immediate supervisor determines that denial is necessary as a result of a critical shortage of staff.

5. Accumulation.

a. For full-time employees, a maximum of 45 workdays may be carried over into a new calendar year.

b. For part-time employees, annual leave may be accumulated on the basis of the percentage of 45 days of annual leave equal to the percentage of employment and carried into a new calendar year.

6. Payment for Unused Annual Leave. When funds are available, a department head may request the President to approve payment to an employee for any unused annual leave in excess of the maximum accumulation provided for under Provision c.5. of this section. The President may approve only those requests that are accompanied by written documentation signed by the Vice President identifying the unusual administrative reasons why the Vice President denied the employee the opportunity to accumulate or use leave.

7. Rate of Earnings Upon Return to University Service.

a. Reinstatement. An employee who returns to University service with an authorized status of reinstatement is entitled to the same rate of earning of leave in effect at the time of the employee's separation from active duty or at the time of the employee's return to active duty, whichever rate is higher.

b. Others. An employee who returns to University service is entitled to credit for previous service, based upon satisfactory performance and at least 180 days of continuous University service in an allocated position. In determining the rate of earnings, the amount of service credited to an employee may not exceed 6 months.

D. Sick Leave.

1. Rate of Earnings. An employee shall be credited with 1-1/2 hours of sick leave for each 26 hours worked for a maximum of 15 days of sick leave a year. Sick leave may not be earned for hours worked in excess of



the employee's standard workweek.

2. Credits - If the designated workweek for an employee changes, the employee's supervisor shall credit the employee with sick leave equal to the number of days that the employee had earned at the time of the change.

3. Accumulation. Unused sick leave may be accumulated and is available at any time.

4. Use of Sick Leave. An employee may use sick leave for the following purposes only:

a. Disability or illness of the employee;

b. A medical appointment for the employee with a practitioner or provider listed in Provision M.1. of this chapter;

c. Illness of a member of the employee's immediate family which includes those persons described in provision P of this chapter;

d. A medical appointment for a member of the employee's immediate family as described in provision P of this chapter with a practitioner or provider listed in Provision M.1. of this chapter;

e. Adoption leave in accordance with provision R of this chapter; or

f. Death in the employee's immediate family in accordance with provision P of this chapter.

E. Advanced Sick Leave.

1. Availability.

a. The President may advance up to 60 days of advanced sick leave to an employee in any calendar year for a serious disability or illness if the employee has used all leave with pay which has been credited to the employee. However, the total number of days that can be owed to the University may not exceed 60 days in any consecutive 12-month period.

b. An employee or someone on behalf of the employee shall

submit to the employee's immediate supervisor a request for advanced sick leave before the first day of leave requested. The President may accept late requests due to extenuating circumstances. The employee's immediate supervisor shall immediately review each request and forward it to the President. The request shall include the supervisor's recommendation together with supporting documentation. Upon receipt, the President shall review the request and make a determination. The President shall send a written notice of approval or disapproval of the request to the supervisor, who shall immediately notify the employee.

2. Reimbursement to the University.

a. The use of advanced sick leave by an employee constitutes a debt for which payment shall be enforceable upon the employee's return to work, and shall continue to be enforceable upon the employee's transfer from one agency to another.

b. Reimbursement to the University shall be made at the minimum rate of 1/2 of the rate of sick leave earned, and at the employee's discretion by applying credited annual leave, personal leave, sick leave, compensatory leave, or cash payments to the amount owed.

c. Written agreements outlining cash reimbursement shall be agreed upon on the employee's return from sick leave.

d. The agreement in E.2.c. of this section shall be restructured if a subsequent period of leave without pay is taken.

3. Repayment of the Debt - The President shall take appropriate action to ensure repayment of the debt.

4. Death or Illness in the Employee's Immediate Family - Advanced sick leave may not be granted to an employee for purposes of death or illness in the employee's immediate family.

5. Forms - The President shall provide appropriate forms for advanced sick leave requests.

F. Extended Sick Leave.

1. Extended sick leave is leave with pay that is granted by the

President to an employee for a disability or an illness or injury which causes the employee to be absent from work, if the employee has been in the University service for at least 5 years and, at the time of a request for extended sick leave, has used all available sick leave, advanced sick leave, annual leave, personal leave, and compensatory leave.

2. Extended sick leave may be used by an employee throughout the employee's University service until the employee has reached a cumulative total of 12 work months.

3. An employee's continuous absence while using earned leave, advanced sick leave, and extended sick leave in combination may not exceed a cumulative total of 15 months. Therefore, the amount of extended sick leave that may be used in combination with other paid leave may not be in excess of the 15-month cumulative total.

4. The employee or someone on the employee's behalf may submit to the employee's supervisor a written request for extended sick leave and a certificate signed personally by an accredited Christian Science practitioner or by any of the licensed or certified medical providers listed in provision M.1. of this chapter documenting the nature and extent of the employee's illness or injury, the prognosis for recovery, and an estimated date of return to work.

5. The supervisor shall forward to the President each written request for extended sick leave immediately after the request has been submitted by the employee or on the employee's behalf. The request shall include the supervisor's recommendation together with supporting documentation as described in provision D of this section. The supervisor shall place the employee on extended sick leave before receiving written notification of the Vice President or Program Director's approval or disapproval. If the request is disapproved by the Vice President or Program Director, the supervisor shall correct the employee's leave record to reflect a conversion of the extended sick leave to leave of absence without pay. The employee will be required to reimburse the University in a manner prescribed by the supervisor for any leave extended under this provision which the Vice President or Program Director subsequently disapproves.

G. Death or Illness in Family - Extended sick leave may not be granted to an employee for purposes of death or illness in the employee's immediate family.

H. Leave of Absence Without Pay.

1. Any employee in the classified service may apply for, and the Vice

President or Program Director may grant, a leave of absence without pay for a period not to exceed 30 calendar days.

2. Leave of absence without pay for a period exceeding 30 days shall require the additional approval of the President, and may be granted for any cause satisfactory to the President.

3. A leave of absence without pay may not exceed the 2-year period within which the employee is eligible for reinstatement, except for leave to enter the armed services, which leave shall be for the period of time of initial tour of duty in the armed services.

4. For the following conditions, the Vice President or Program Director shall automatically request the President to authorize leave of absence without pay, unless the employee wishes to resign:

a. The employee is a member of the armed forces and is called upon for active service in the forces;

b. An employee injured in the line of duty has exhausted all paid leave before he is able to return to active duty; or

c. The employee is temporarily incapacitated due to physical or mental illness.

5. Leave of absence without pay for a period greater than 30 days may not be granted until completion of original probationary appointment except in case of injury or disability, in case of the physical or mental disability of some member of the immediate family, or in case of entrance into the armed forces.

6. The granting of leave of absence without pay for a period of more than 30 days with the approval of the President may not be interpreted to mean that the employee granted the leave will, upon his return, be restored to the position he leaves or to the service upon expiration of the leave, except as provided in the Reinstatement guidelines or unless the position is vacant or filled by a temporary employee.

7. Any employee granted leave of absence without pay for more than 30 days, and who is ready to return to duty at or before the expiration of the leave, may notify the President, with a copy to the Director, of the employee's readiness to return and be restored to the employee's classification provided a vacancy exists in the department. If no vacancy exists, the employee's name will be placed on the reinstatement list as

provided in the reinstatement guidelines . An employee who does not notify the President in writing of his desire to return to duty within 5 days after the expiration of a leave of absence without pay, shall be considered resigned from the classified service.

I. Leave for Seasonal and Family Related Concerns.

1. Seasonal leave is leave without pay which is beneficial and convenient to an employee and the employee's appointing authority, and which may be granted to the employee during periods of anticipated low demand for the employee's services.

2. Leave for family-related concerns is leave without pay which is granted to an employee to care for a:

a. Newly born or newly adopted child;

b. Foster child placed with the employee;

c. Seriously ill child, spouse, parent, or legal dependent of the employee; or

d. School age child younger than 14 years old during periods of school vacation.

3. A classified employee who has completed a probationary period, or an unclassified employee who has completed a period of service equal to a probationary period for that employee's salary grade in the classified service, may be granted either seasonal leave or leave for family-related concerns, or a combination of these leaves, for a maximum of 12 weeks in a 12-month period.

4. Unless otherwise provided by State or federal laws, all benefits, including health care, shall be suspended for the period of the seasonal or leave for family-related concerns. However, the employee may continue health care and other benefits, as permitted by law or regulation, by paying the full cost of the benefits, including the share ordinarily paid by the State.

5. The employee may not receive service credit for retirement and other purposes for periods of absence on seasonal or family leave.

6. The employee may submit a request for seasonal or family leave to the President, who shall approve or disapprove the request.

7. An employee may not be required to take seasonal or family leave.
8. An employee may not be required to exhaust accrued leave before using seasonal or family leave.
9. The President shall assure that the employee's position is immediately available to the employee after the employee has used approved seasonal or leave for family-related concerns.
10. The appointing authority may adopt policies and procedures regarding the timing and granting of requests for seasonal or family leave.

J. Military Training - When an employee enters military training or service for a period of at least 16 working days up to a maximum of 4 years, the employee may choose to bank the employee's annual leave earned up to the date of departure for military training or service or to be paid for that earned annual leave up to the date of departure for military training or service. However, after the completion of 4 years, the employee shall be paid for all accumulated annual leave earned up to the date of departure for military training or service.

K. Attendance Control--Occurrences.

1. Each period of sick leave, regardless of duration, shall be considered an occurrence of sick leave if the leave is used for any of the following reasons:
  - a. Illness of the employee;
  - b. Medical appointment of the employee;
  - c. Illness of a member of the employee's immediate family; or
  - d. Medical appointment of a member of the employee's immediate family.
2. When calculating the number of occurrences of sick leave used for any of the reasons listed in Provision K.1. of this section, each occurrence shall be considered as distinct from another occurrence unless periodically updated medical certification establishes that a condition is continuing in nature.

L. Attendance Control--Performance Evaluation.

1. The number of occurrences of sick leave and the reasons for use of sick leave shall be considered by the President for implementation of attendance control measures and evaluation of an employee's performance.
2. The employee's immediate supervisor shall record occurrences of sick leave used because of illness or a medical appointment of members of the employee's immediate family separately from occurrences of sick leave used because of an employee's illness or medical appointment. The supervisor shall consider those occurrences as separate categories for implementation of attendance control measures and performance evaluation.
3. If an employee has exhausted available sick leave and uses other leave with pay or leave without pay because of the employee's illness or medical appointment, that use of leave shall be considered by the President as an occurrence for implementation of attendance control measures and performance evaluation.

**M. Attendance Control--Certification of Illness.**

1. For an illness of 5 or more consecutive work days, an employee shall submit an original certificate which authenticates the period of illness. If the certificate authenticates the employee's illness, the certificate shall include a prognosis regarding the employee's ability to return to work. The employee shall assure that the certificate is signed personally by an accredited Christian Science practitioner, or by any of the following licensed or certified medical providers:
  - a. Physician;
  - b. Physical therapist;
  - c. Clinical psychologist;
  - d. Dentist;
  - e. Oral surgeon;
  - f. Chiropractor;
  - g. Podiatrist;
  - h. Certified nurse practitioner;

- i. Certified nurse-midwife; or
- j. Licensed certified social worker--clinical.

2. If an illness of 1 day or more occurs during a period of annual leave or personal leave, the immediate supervisor shall grant sick leave for the period of illness if the employee presents a certificate which authenticates the period of illness and which is signed in accordance with Provision M.1. of this section.

3. Illness or Medical Appointment of a Member of the Employee's Immediate Family.

a. The President may request that the employee submit an original certificate to authenticate the period of illness for a member of the employee's immediate family if the employee is absent for 5 or more consecutive work days due to the illness of the family member.

b. The President may request that the State Medical Director conduct an investigation into the medical condition of a member of an employee's immediate family if the employee has used sick leave because of illness or a medical appointment of the family member.

c. The President may request the investigation only if the employee's use of sick leave does not appear to be in proportion to the severity of the family member's illness.

d. The purpose of the investigation shall be to ascertain whether the employee's absences in relation to the family member's medical condition are justified.

N. Attendance Control--Sick Leave Attendance Monitoring Program for an Employee's Illness.

1. In order to prevent the abuse of sick leave or to assure medical attention for an employee who uses 1 or more days of sick leave due to the employee's illness, the President may require the employee to submit documentation which authenticates the period of illness. The document shall be signed in accordance with Provision M.1. of this section.

2. The President may require the medical documentation specified in



Provision N.1. of this section whenever the:

- a. Employee has used sick leave for five or more occurrences within a 12-month period, excluding sick leave used for the employee's medical appointments; or
- b. The President has reason to believe the employee has abused sick leave by using it for a purpose that is not authorized in provision D.4. of this section.
- c. The President shall assure that an employee who is required to submit medical documentation is provided with a written notice that states the beginning and ending date for which a certificate will be required.
- d. The President may authorize an investigation which may include a physical examination of any employee who uses excessive time from employment because of illness or for the purpose of determining whether the employee has a disability which would prevent the employee from the proper performance of the employee's duties.
- e. The President shall assure that the maximum period of imposition of the required medical documentation is 6 months unless the employee's attendance does not improve. If the employee's attendance does not improve, the President may extend the medical documentation requirement in incremental 6-month periods as the President deems appropriate. The medical documentation requirement shall be considered invalid for any period of time not covered by a written notice in accordance with provision N.2.c. of this section.
- f. If medical documentation is required of an employee in accordance with provision N.2.b. of this section, the requirement is applicable only to occurrences of sick leave for the employee's illness.

O. Attendance Control--Sick Leave Monitoring for Illness of a Member of an Employee's Immediate Family.

1. In order to prevent the abuse of sick leave or to assure medical attention for a member of the employee's immediate family, the President may require an employee who uses 1 or more days of sick leave due to the illness of a member of the employee's immediate family, to submit to

the President documentation which authenticates the period of illness. The document shall be signed in accordance with provision M.1. of this section.

2. The President may require the medical documentation specified in provision I(1) of this section whenever the:

a. Employee has used sick leave for illness of a member of the employee's immediate family resulting in five or more occurrences within a 12-month period, excluding sick leave used for medical appointments for the family member; or

b. the President has reason to believe the employee has abused sick leave by using it for a purpose that is not authorized in Provision D(3) or (4) of this section.

c. The President shall assure that an employee who is required to submit a medical document is provided with a written notice that states the beginning and ending date for which the document will be required.

d. The President shall assure that the maximum period of imposition of the medical documentation requirement is 6 months unless the employee's attendance does not improve. If the employee's attendance does not improve, the President may extend the medical documentation requirements for incremental 6-month periods as the President deems appropriate. The medical documentation requirement shall be considered invalid for any period of time not covered by a written notice in accordance with Provision O.1.c. of this section.

e. If medical documentation is required in accordance with provision O.2. of this section, the requirement is applicable only to occurrences of sick leave for an illness of the employee's immediate family.

3. Sick leave shall be recorded as required by this chapter.

4. If an illness is caused by a third person, the University, after notice to the employee, shall be subrogated to the rights of the employee to the extent of any compensation paid or owed. If the employee fails to enforce a claim against the third person, the University may bring an action in its own name.

**P. Death in Employee's Immediate Family.**

1. Upon application of the employee to the supervisor, absence for up to 5 days leave may be charged to the employee's sick leave. The application of the leave days shall be made as specified in provisions 2 and 3 of this section.

2. A maximum of 3 working days, depending on need, may be charged to sick leave in the event of death of one of the following members of the family: spouse, children, parents of employee or spouse or others who took the place of parents, brothers and sisters of employee or spouse, grandparents or grandchildren of employee or spouse, and other relatives living as a member of the employee's household. If travel requiring staying away from home overnight is involved, a maximum of 5 days may be charged to sick leave.

3. A maximum of 1 day may be charged to sick leave in the event of the death of one of the following relatives: aunts and uncles of employee or spouse, nephews and nieces of employee or spouse, brothers-in-law and sisters-in-law of employee's spouse, sons-in-law and daughters-in-law. Additional time may not be authorized if travel is involved.

4. If additional time is required by the employee, supervisors shall make all reasonable efforts to so arrange the work that the employee may take annual leave for this purpose.

**Q. Accident Leave.**

1. Accident leave is leave with two-thirds of regular pay that is granted to an employee who, in the actual performance of the employee's job duties, sustains an injury which is determined to be compensable according to the Maryland Workers' Compensation Law. An employee receiving work-related accident leave continues leave accrual, health care benefits with the University subsidy, and seniority based on the employee's full regular pay.

2. Injury is an accidental personal injury occurring during the performance of an employee's actual job duties. Injury does not include occupational diseases.

3. Employee's Notice of Injury; Physician's Certification; Appointing Authority's Report of Injury.

- a. The injured employee or someone on the employee's behalf shall provide oral or written notice of the injury to the employee's supervisor immediately after the injury occurs.
- b. The injured employee or someone on the employee's behalf shall provide to the employee's supervisor, within 3 working days after the injury occurs, a physician's written certification that the employee is disabled by the injury.
- c. The injured employee's supervisor shall file an Employer's First Report of Injury with the Injured Workers' Insurance Fund, the Workers' Compensation Commission, and the Division of Labor and Industry immediately after receipt of the notice of the injury as set forth in provision 3.a. of this section.

**4. Employee's Claim; Medical Examinations.**

- a. The supervisor shall inform an injured employee or someone on the employee's behalf of the employee's right to file a claim with the Workers' Compensation Commission.
- b. The Injured Worker's Insurance Fund or the Director, or both, may refer an injured employee to a physician or physicians for periodic examinations to determine the nature and extent of the injury, the employee's progress toward recovery, the length of time necessary for recovery, and an estimated date of return to work. An employee may be referred to the State Medical Director only after the employee has been examined by physicians of the Workers' Compensation Commission or by physicians to whom the Injured Workers' Insurance Fund has referred the employee, and the Director shall provide the State Medical Director with copies of all medical evaluations and determinations made by those physicians. When the Director refers an employee to a physician, the Director shall file with the Injured Workers' Insurance Fund a report stating the circumstances of the referral and the physician's prognosis.

**5. Granting of Accident Leave; Notification by Injured Workers' Insurance Fund; Order of Workers' Compensation Commission.**

- a. The President shall grant accident leave to an employee beginning on the first day of absence from work because of the accidental personal injury. The accident leave ends when a physician certifies, in writing, that the employee is able to return to work. The employee's supervisor shall assure that this accident

leave does not extend beyond 1 year from the injury date.

b. The Injured Workers' Insurance Fund shall provide written notification of the noncompensability of the injury to the Director within 30 calendar days after the Injured Workers' Insurance Fund receives the Employer's First Report of Injury as set forth in Provision 3.c. of this section.

c. The President shall grant the employee accident leave, not to exceed 30 working days, in advance of the President's receipt of written notification from the Injured Workers' Insurance Fund as set forth in Provision 5.b. of this section, or a Workers' Compensation Commission order determining the compensability or noncompensability of the injury. If it is determined that the injury is compensable, the appointing authority shall continue to grant accident leave as set forth in Provision 5.a. of this section.

d. If a Workers' Compensation Commission order determines that the injury is not compensable, or, in the absence of a Workers' Compensation Commission order, if the Injured Workers' Insurance Fund makes a determination of noncompensability, the appointing authority shall correct the employee's leave record to reflect a conversion of the accident leave which was granted in advance of the notification set forth in Provision 5.c. of this section, to leave with pay, or, if the employee does not have leave with pay, to leave of absence without pay. The employee is obligated to reimburse the University for any leave advanced under this provision which is not subsequently determined to be compensable.

e. If a compensable injury is caused by a third person, the University, after notice to the injured employee, shall be subrogated to the rights of the employee to the extent of any compensation paid or owed. If the employee fails to enforce a claim against the third person, the University may bring an action in its own name.

**6. Other Leave.**

a. Other leave with pay includes sick leave, annual leave, personal leave, compensatory leave, and holiday leave.

b. After the injured employee has used all available accident leave, and does not elect to receive temporary total benefits, the employee may use other leave with pay.

- c. After the injured employee has used accident leave and other leave with pay, and does not elect to receive temporary total benefits, the employee may request extended sick leave.
      - d. After the injured employee has used accident leave and all other leave with pay, the employee may be placed on leave of absence without pay.
  - 7. Temporary Total Benefits; Medical and Hospital Expenses.
    - a. An injured employee may be entitled to temporary total benefits for loss of wages according to the Workers' Compensation Law only after all available accident leave and sick leave have been used.
    - b. Medical and hospital expenses may be paid on behalf of an injured employee who is on accident leave or leave with pay according to the Workers' Compensation Law.
  - 8. Reports; Form. The Injured Workers' Insurance Fund shall prescribe a form to be used by the President for filing periodic reports concerning injuries and the attendant use of accident leave and shall maintain pertinent statistics based upon information presented in those reports.
  - 9. Accident leave shall be recorded.
- R. Adoption Leave.
  - 1. Adoption leave is leave with pay that is granted to an employee for care of the employee's adopted child immediately following the placement of the child with the employee for adoption.
  - 2. An employee who is the person primarily responsible for furnishing the care and nurture of a child placed for adoption with the employee may request approval of the President to use up to 30 days of earned sick leave as adoption leave. The President may grant the employee's request for adoption leave, if the employee has furnished satisfactory documentation concerning an agreement of placement for adoption.
- S. Legal Holidays.
  - 1. In General - The University observes all legal holidays or special observances as provided for by the Legislature and Governor of the State.

Classified employees of the University are entitled to fourteen holidays per year, fifteen holidays during a year of general or congressional elections, and any additional holidays or special observances designated by the Legislature or Governor. Recognizing that the particular needs of the University may at times be served most effectively by the observance of a holiday on other than the calendar date set aside for it, the President schedules the observance of selected holidays on days other than the date of occurrence when, in the President's judgment, such reordering of the observance of holidays is in the best interest of the University. The University retains the right to require an employee to perform duties on a holiday when operational needs indicate that the employee's services are required.

2. Holidays

a. University facilities will be closed except for necessary operations on the University date of observance of the following holidays:

New Year's Day \* -- January 1

Dr. Martin Luther King, Jr.'s Birthday \* -- January 15

Lincoln's Birthday -- February 12

Washington's Birthday \* -- Third Monday in February

Maryland Day -- March 25

Good Friday \* - - Friday before Easter

Memorial Day \* -- May 30

Independence Day \* -- July 4

Labor Day \* -- First Monday in September

Defender's Day -- September 12

Columbus Day -- October 12

Veterans' Day -- November 11

Thanksgiving Day \* -- Fourth Thursday in November

Christmas Day \* -- December 25

- b. All days of general and congressional elections (not primary elections) throughout the State; and
- c. All days designated as legal holidays for State employees by the Governor.

\* Except as provided below, the above holidays marked with an asterisk are customarily observed as holidays on the calendar date of occurrence. All others may be observed on a date other than its calendar date. Holidays that are thus moved are considered to be in a "University Date of Observance" category. The Director of Human Resources shall annually publish the scheduled observance of all holidays.

3. Eligibility for Holiday Leave - An eligible employee is one who has a full-time permanent appointment or a part-time employee having at least a 50% and less than 100% permanent appointment. Person having contractual, temporary or extra help positions are not eligible for holiday leave.

4. Eligible Part-Time Employees

a. Eligible part-time employees shall be entitled to prorated holiday leave based on a percentage of the total leave hours resulting from the number of holidays provided to full-time employees and the funded percentage of the part-time position. Part-time employees may be granted holidays on the dates specified earlier and the holidays taken shall not exceed or be fewer than the funded percentage of the part-time position.

b. Part-time employees who work in a unit which renders a service that is provided continuously on a 7-day-a-week basis are entitled to holiday leave based on the funded percentage of the part-time position.

5. Holidays Occurring on Weekends - If a legal holiday falls on a Saturday, the preceding Friday shall be deemed and treated as a holiday. If a legal holiday falls on a Sunday, the following Monday shall be deemed and treated as a holiday.

6. Limitations - No employee shall earn in any calendar year more than fourteen holidays, or fifteen in the case of general and congressional elections, except when the Legislature or Governor specifically designate additional days as legal holidays or special observances.



7. **Compensatory Time** - An employee who because of the nature of the employee's duties is required to work during any part of a University holiday shall receive compensatory time for that work.
8. **On Leave with Pay Status** - When a holiday date of observance occurs while an employee is on approved leave with pay status, the day of absence will be charged to the holiday and will not be charged against the employee's sick leave or annual leave. The only exception is that an employee shall be considered to be on sick leave during a single holiday date of observance only if an employee has been in a sick leave status during both the last scheduled workday before and the first scheduled workday after the holiday. In this latter case, a day off with pay will be scheduled for another day following the employee's return to work. Normal policies governing the requirement for a physician's certificate will apply.
9. **Shift Bridges** - When a shift bridges two calendar days such as the 11 p.m. to 7 a.m. shift, one of which is the University date of observance of a holiday, the shift that begins on the date of observance will be recognized as the holiday shift.
10. **Prior Approval** - The employee shall obtain approval from the employee's supervisor before taking leave.
11. **Use or Forfeit** - Leave must be used within the 1-year period from the date it was earned or it shall be forfeited.
12. **Requests for Alternative Leave Dates** - An eligible employee may request holiday leave for a day other than the scheduled holiday dates from the employee's immediate supervisor. The request may be granted by the supervisor unless the supervisor determines that the day off will unduly interfere with the conduct of University business.
13. **Compensatory Leave Transfer** - If an employee becomes separated from one unit under which the employee earned compensatory leave for a University holiday and becomes employed by another unit without a break in service, the employee's new supervisor shall assure that the employee is granted the compensatory leave in accordance.
14. **7-Day-A-Week Full Time Employees** - Full-time employees who render a service that must be provided continuously on a 7-day-a-week basis shall be entitled to 14 days holiday leave a year, or 15 days during a year of general or congressional elections. One day of holiday leave shall

be earned for each month of credited service, except that for the months of January and July, 2 days of holiday leave shall be earned. During a year of general or congressional elections, 2 days shall be earned for November.

T. Personal Leave.

1. All persons employed in an eligible status on or after January 1 of each calendar year are entitled to 3 days of personal leave and a part-time employee is entitled to the percentage of 3 days of personal leave equal to the percentage of employment.

2. An employee may not accumulate personal leave and unused personal leave credits will not be carried forward from one calendar year to the next.

3. With the exception of an employee described in provision 4 of this section, an employee may use personal leave in increments of at least 1/2 day without obtaining prior approval, if the employee notifies the employee's immediate supervisor not later than 15 minutes after the employee's normal reporting or starting time of the employee's intended use of personal leave. However, when appropriate, the President may adopt written procedures concerning use of this leave in less than half-day increments and notification later than 15 minutes after an employee's normal reporting or starting time.

4. An employee scheduled to work on a University holiday, or an employee which renders a service that is provided continuously on a 7-day-a week basis, may not use personal leave without obtaining prior approval from the employee's immediate supervisor. However, approval may be denied only if the immediate supervisor determines that denial is necessary as a result of a critical shortage of staff.

5. All classified employees appointed to permanent positions on either full-time or part-time (50% or more of full-time equivalent) appointments are eligible to use the personal leave credits even though they may still be serving a probationary period.

6. Personal leave can be used for any purpose by an employee with prior approval of the supervisor. Approval of the use of personal leave cannot be refused if the request is to observe a recognized religious holiday, provided that the employee making the request has personal leave credits available. The only exception to this provision is that the request for personal leave may be denied if the religious holiday and a

recognized legal holiday occur on the same date. The legal holiday in that instance will take precedence.

7. Personal leave credits are to be used during employment only. Unused personal leave credits at the time a person terminates employment with the University will be forfeited. No terminal payment shall be made for personal leave.

U. Military - An employee who is a member of the organized militia or the Army, Navy, Air Force, or Marine Reserve shall be entitled to a leave of absence for military training for a period of not more than 15 days annually without loss of pay or charge against any leave.

V. Jury Service - An employee who serves as a member of a jury shall be permitted to be absent from work without loss of pay and without charge against any leave. If, after reporting for jury duty, it is determined that the employee's services are not required and the employee is dismissed for the day, if time will permit, the employee is required to return to work. An employee who is selected for jury service shall notify the department head of this selection without delay. When the public interest requires that this employee should not be absent from work, the Vice President or Program Director may request the appropriate judge to excuse the employee.

W. Legal Actions - An employee who is summoned to appear in a court action, before a grand jury, before an administrative agency, or for a deposition, and is neither a party to the action nor a paid witness, may be absent from work without loss of pay or charge to any leave.

X. Time Off for Religious Observances - An employee may use annual, personal, or compensatory leave for religious observances. If an employee is scheduled to work on a University holiday which renders a service that is provided continuously on a 7-day-a week basis, the employee's supervisor shall make reasonable accommodation to the employee's request to use annual leave or personal leave for religious observances if accommodation can be made without serious interference with the efficiency of the University. If reasonable accommodation cannot be made, the supervisor may deny the leave request.

1. An employee may submit to the employee's supervisor a request to work extra time to compensate for time off for religious observances. To the extent that the modifications in work schedules do not interfere with the efficient operation of the University, the supervisor shall give the employee who elects to work extra time for time lost to meet the religious requirements the opportunity to work that extra time. This extra time worked shall be granted as compensatory time off and may not be applied

toward overtime pay.

2. An employee who is exempt from receiving overtime cash payments shall be granted equal hour for hour time off for religious observance.

3. An employee who is entitled to receive overtime payments shall be granted equal hour for hour time off for religious observance up to a maximum of 40 hours in any workweek. Time worked in excess of 40 hours in any workweek shall be granted at the rate of time and one-half for religious observance.

4. The President may adopt written procedures for the University which provide for exceptions to this section in the interest of the efficient operation of the agency.

5. The provisions of this section do not apply in a University unit which renders a service that is provided continuously on a 7-day-a-week basis.

**Y. Computation of Leave on Separation from Service.**

**1. Annual Leave.**

a. The University shall pay an employee a sum equal to 1/10 of the employee's last biweekly compensation multiplied by the number of accumulated, unused annual leave days as converted from hours.

b. An employee on leave of absence without pay due to a temporary disability resulting from mental or physical illness may elect to receive payment for all accumulated, unused annual leave or retain all accumulated unused annual leave for a period not to exceed the first 6 months of the approved leave of absence without pay. Retention of the accumulated, unused annual leave shall be requested on an established form in writing by the employee or the employee's designated representative. Upon completion of the first 6 months leave of absence without pay, payment of all accumulated, unused annual leave shall be made to the employee.

2. **Compensatory Leave.** Upon separation from University service, an FLSA-exempt employee shall be compensated in cash for up to a maximum of 2 working days. Payment to FLSA-exempt, part-time employees for unused compensatory time will be prorated on the basis of 2 working days as determined by the percentage of employment. Upon

separation from University service, an FLSA-nonexempt employee shall be compensated for accrued FLSA compensatory time at a rate of compensation equal to the greater of:

- a. The average regular rate received by the employee during the last 3 years of employment; or
- b. The final regular rate received by the employee.

3. Forfeiture. Whenever an employee is separated from University service for any cause involving moral turpitude, the employee shall forfeit all accrued annual and personal leave. A non-exempt FLSA employee shall be compensated for all accrued FLSA compensatory time in accordance with provision 2. of this section.

4. Use After Providing Notice of Separation - Once an employee has given notice of resignation, the employee may not use more than 10 days of annual leave, personal leave, or compensatory leave, or any combination of those types of leave, between the time notice is given and the effective date of resignation.

**Z. Maximum Leave With Pay During Illness.**

The formula for calculating maximum leave with pay for an employee who is ill is as follows:

1. Establish the number of days of unused earned and accumulated sick and annual leave through the last day of active duty;
2. Add any compensatory, personal, or holiday leave;
3. Add all leave earned due to being on paid leave;
4. Total establishes the last date employee is entitled to leave with pay.

**AA. Official Records.**

1. A positive timekeeping record shall be maintained for each employee regardless of the employee's status, except those employees specifically exempted by the President in accordance with provision B of this section.
2. Exemptions. Upon submission of adequate justification, certain

employees may be granted exemption from keeping positive time records. If exemption is granted, the employee shall waive all rights to payment for any unused leave upon termination of employment, and waive credit of any unused sick leave toward retirement benefits. Employees granted exemption will not be permitted to claim, at a later date, credit for leave applicable to the period of exemption. All requests for exemption shall be submitted to, and on forms provided by, the Office of Human Resources.

3. A leave record is to be established for each employee annually and kept current. Exceptions to this may be authorized by the President when the University is able to maintain its leave records by other means, if the necessary information is available.

4. Employees are required to sign their own time records as an attestation to the time record's accuracy and completeness.

5. After an employee has used sick leave or accident leave on account of sickness or injury for 6 continuous months and the employee continues to use more sick leave or accident leave immediately following that 6-month period, the sick leave or accident leave shall be recorded as sick leave with sick pay, which is exempt from Social Security taxes, on all timekeeping records beginning on the first day of that month that follows the last day of the 6-month period. Sick leave taken for any purpose other than sickness or injury shall be recorded on all timekeeping records as sick leave only.

**BB. Release Time for Attendance at Employee Organization Events.**

1. An employee organization which is permitted to collect dues by check-off may request that its member employees be released from their normal duties for the purpose of participating in approved organization activities pursuant to this provision.

2. The total amount of release time from normal duties granted to employees of an organization during a fiscal year may not exceed 1 day for every 20 employees who are on dues check-off as of July 1 of that fiscal year.

3. Release time will be available in no smaller units than half-days for conferences, seminars, conventions, orientations, and similar meetings for informative and educational purposes which are approved pursuant to Provision 5. of this section.

4. All requests for release time shall be made not less than 30 days in

advance of the event and shall include:

- a. The names of employee members to be granted release time from the University;
- b. The purpose and a general description of the event;
- c. The place and date of the event.

5. The President shall review the request and may approve it as may be appropriate.

6. If the President approves a request, the President shall notify the employee's supervisor of employee members for whom release time has been requested.

7. The supervisor may approve release time from normal duties without charge to any leave if, in the discretion of the supervisor, the employee's service can be spared without impairing the services of the unit. Employee organizations may request permission of the supervisor to substitute employee members for those previously granted release time at any time before the approved date. The employee organization may request permission of the supervisor to substitute new dates for previously approved dates of release time. The supervisor may approve the substitutions if the substitutions do not impair the services of the unit.

8. The employee organization shall submit to the President a list of all employee members attending the event within 30 days.

**CC. State Employees' Leave Donation Program.**

1. Definitions. In this provision, the following terms have the meanings indicated:

- a. "Program" means the State Employees' Leave Donation Program.
- b. "Serious and prolonged medical condition" means a health condition that requires continuing treatment by, or under the supervision of, a licensed health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity and absence from work of more than 2 work-weeks. During the period of incapacity, the employee shall be unable to perform the essential

functions of the employee's position, and there may not be reasonable accommodations that could be made that would enable the employee to continue to work.

c. "Unit" means a principal department or other independent unit in the State Personnel Management System or a principal department or other independent unit of State government with an independent personnel system.

2. Scope. This provision applies to:

a. Classified service and unclassified service employees in principal departments and other independent units in the State Personnel Management System; and

b. Employees in principal departments and other independent units of State government with independent personnel systems that allow their employees to participate in the Program.

3. Leave Donations.

a. An employee may voluntarily donate the employee's unused annual, personal, or sick leave to another employee who has exhausted all available annual, personal, sick, and compensatory leave because of a serious and prolonged medical condition.

b. An employee may voluntarily donate any amount of unused annual or personal leave to another employee.

c. An employee may voluntarily donate unused sick leave to another employee, but only to the extent that the donating employee has a sick leave balance of at least 240 hours after the donation.

d. An employee who wishes to donate leave to another employee shall complete Part I of form MS 405, which shall be supplied to appointing authorities by the Secretary, and submit the form to the donating employee's appointing authority. At the same time, the donating employee shall forward a copy of the MS 405 form to the employee to whom the leave is to be donated.

e. Within 7 days of receiving the MS 405 form, the donating employee's appointing authority shall review the sick leave balance of the donating employee and determine whether the condition



specified in Provision 3.c. of this section has been satisfied.

f. If this condition has not been satisfied, the appointing authority shall notify the donating employee who shall be given an opportunity to donate fewer hours of sick leave, if the condition specified in Provision 3.c. of this section can be satisfied.

g. Within 7 days after conducting any reviews required in Provision 3.e. and 3.f. of this section, the donating employee's appointing authority shall forward a copy of form MS 405 to the receiving employee's unit's appointing authority.

h. Within 14 days of receiving the MS 405 form from the donating employee, the employee receiving the donation shall complete Part II of the MS 405 form and submit it to the employee's appointing authority with all documentation required by the MS 405 form, unless satisfactory documentation already has been provided to the appointing authority.

i. Within 14 days of receiving the MS 405 form, the receiving employee's appointing authority shall determine if the receiving employee is eligible for receiving donated leave in accordance with the conditions specified in Provision 4 and 5 of this section and make appropriate adjustments to the leave balance of the employee receiving the donation if the employee is eligible.

j. Denied Use of Donated Leave.

(1) If the receiving employee is determined to be ineligible to receive leave, the appointing authority shall deny the receiving employee the use of the donated leave.

(2) A determination denying the use of donated leave shall be made within 14 days of the receiving employee's appointing authority's receipt of a completed MS 405 form from the receiving employee.

(3) The determination shall:

(a) Be in writing;

(b) Include the appointing authority's reason for the denial and supporting documentation; and

(c) State that the employee may appeal a denial to the Secretary.

k. The appointing authority of an employee who donates leave shall adjust the donating employee's leave balance before forwarding a copy of the MS 405 form to the receiving employee's appointing authority. If the receiving employee is denied the use of donated leave, the receiving employee's appointing authority shall notify the donating employee's appointing authority within 7 days of the denial, and the donating employee's appointing authority shall restore the leave balance of the donating employee within 14 days of notification from the receiving employee's appointing authority.

4. Conditions for Receiving Leave Donations. An employee to whom leave is donated:

a. May not receive more than a total of 2,080 hours of donated leave from the State Employees' Leave Bank and from other employees during the employee's State service;

b. May only use the donated leave for an illness or disability of the employee due to the medical condition that existed at the time the leave was donated;

c. May not use the donated leave for any continuous period that, when combined with all forms of paid leave, exceeds 16 months;

d. Shall comply with all requirements established by the employee's personnel system for the use of earned paid sick leave; and

e. May not be required to use advanced sick leave under State Personnel and Pensions Article, Sec. 7-509, Annotated Code of Maryland, or extended sick leave under State Personnel and Pensions Article, Sec. 7-510, Annotated Code of Maryland, before using donated leave.

5. Denials of Use of Donated Leave. An employee may be denied the use of donated leave if the employee:

a. Fails to provide medical documentation substantiating a serious and prolonged medical condition;

- b. Has not exhausted all available annual, personal, sick, and compensatory leave;
  - c. Otherwise fails to qualify for use of earned paid sick leave under the requirements of the employee's personnel system; or
  - d. Has, through intimidation, threat, or coercion, interfered with or attempted to interfere with the right of another employee to contribute or not to contribute, receive or use donated leave, promised to confer or conferred an appointment, promotion, compensation, or other benefit, or effected or threatened to effect a reprisal, including the deprivation of an appointment, promotion, compensation, or other benefit, in connection with the right of another employee to contribute, receive, use, or donate leave.
6. Appeals.
- a. An employee who appeals a denial of the use of donated leave shall submit a written appeal on form MS 406, which shall be supplied to appointing authorities by the Secretary, to the Secretary within 14 days of receiving notice of a denial, and shall provide a copy of the appeal to the appointing authority.
  - b. An appeal shall contain a statement of the reason the employee believes the denial should be overruled, and may include supporting documentation.
  - c. An employee's appointing authority shall have 14 days following receipt of a copy of the appeal within which to respond to the appeal.
  - d. Appeals of denials of the use of donated leave will be determined on a case-by-case basis. In determining an appeal, the Secretary shall consider the employee's medical documentation and the factors specified in Provision 4 and 5 of this section.
  - e. The Secretary's determination shall be in writing and shall be made within 30 days of receipt of the appeal and any necessary documentation. Whenever the Secretary finds it necessary to refer an employee's appeal to the State Medical Director, this period may be extended an additional 30 days.
7. Treatment of Employee Medical Documentation.

- a. Medical documentation submitted in connection with the Program shall be treated as confidential medical information and shall be disclosed only to those individuals who need to know its contents as part of the review, evaluation, and approval process.
  - b. An employee who fails to maintain the confidentiality of medical information shall be subject to disciplinary action, up to and including termination.
8. Coercion, Intimidation, and Threats Prohibited.
  - a. Leave donations by an employee shall be strictly and completely voluntary.
  - b. An employee who, through intimidation, threat, or coercion, interferes with or attempts to interfere with the right of another employee to contribute or not to contribute, receive or use donated leave, promises to confer or confers an appointment, promotion, compensation, or other benefit, or effects or threatens to effect a reprisal, including the deprivation of an appointment, promotion, compensation, or other benefit, in connection with the right of another employee to contribute, receive, use or donate leave, shall be subject to disciplinary action, up to and including termination.
9. Record Keeping. Each principal department or other independent unit in the State Personnel Management System, and each principal department or other independent unit of State government with an independent personnel system that allows its employees to participate in the Program, shall:
  - a. Maintain a record of the employee leave donated; and
  - b. On or before October 15 of each year, submit to the Secretary a report providing the following information for the preceding fiscal year:
    - c. The number of employees who donated leave;
    - d. The kind of leave and number of hours donated by each employee;
    - e. The number of employees who received donated leave; and
    - f. The number of hours of donated leave received and used by

each employee to whom leave was donated.

DD. State Employees' Leave Bank.

1. Definitions. In this provision, the following terms have the meanings indicated:

a. "Bank" means the State Employees' Leave Bank.

b. "Serious and prolonged medical condition" means a health condition that requires continuing treatment by, or under the supervision of, a licensed health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity and absence from work of more than 2 work-weeks. During the period of incapacity, the employee shall be unable to perform the essential functions of the employee's position, and there may not be reasonable accommodations that could be made that would enable the employee to continue to work.

c. "Unit" means a principal department or other independent unit in the State Personnel Management System or a principal department or other independent unit of State government with an independent personnel system.

2. Scope. This provision applies to:

a. Classified service and unclassified service employees in principal departments and other independent units in the State Personnel Management System; and

b. Employees in principal departments and other independent units of State government with independent personnel systems that elect to participate in the Bank.

3. Administration of the Bank.

a. The Secretary shall administer the Bank.

b. Leave donations to the Bank shall be made in accordance with the provisions of provision 4 of this section.

c. Leave withdrawals shall be made in accordance with the provisions of Provision 6, 7, 8, 10, and 11 of this section.

4. Leave Donations.
  - a. An employee may voluntarily donate the employee's unused annual, personal, or sick leave to the Bank.
  - b. An employee may voluntarily donate any amount of unused annual or personal leave to the Bank.
  - c. An employee may voluntarily donate unused sick leave to the Bank, but only to the extent that the donating employee has a sick leave balance of at least 240 hours after the donation.
  - d. An employee who wishes to donate leave to the Bank shall complete form MS 407, which shall be supplied to the University by the Secretary, indicating the type of leave and the number of hours of each type of leave that the employee is donating to the Bank.
  - e. The employee shall submit a copy of the completed MS 407 form to the Vice President or Program Director for the donating employee's unit.
  - f. Within 7 days of receiving the MS 407 form, the Vice President or Program Director shall review the employee's sick leave record and determine whether the condition specified in provision 4.c. of this section has been satisfied. If provision 4.c. has been satisfied, the Vice President or Program Director shall forward the MS 407 form to the Secretary and make appropriate adjustments to the employee's leave balances.
  - g. If the condition specified in provision 4.c. of this section has not been satisfied, the Vice President or Program Director shall notify the donating employee who shall be given an opportunity to donate fewer hours of sick leave, if the condition specified in provision 4.c. of this section can be satisfied.
5. Membership. An employee who donates leave to the Bank is a member of the Bank.
6. Eligibility for Withdrawals of Leave. The Secretary may transfer leave from the Bank to an employee who:
  - a. Has exhausted all forms of annual, sick, personal, and compensatory leave because of a serious and prolonged medical

condition; and

b. Is a member of the Bank, or has been exempted from the membership requirement by the Secretary for good cause.

7. Restrictions.

a. An employee may not receive more than a total of 2,080 hours of donated leave from the Bank and from other employees during the employee's State service.

b. An employee may not use leave from the Bank for any continuous period that, when combined with all other forms of paid leave, exceeds 16 months.

8. Applications.

a. If an employee wants to request leave from the Bank, the employee or the employee's authorized representative shall submit to the Secretary an MS 408 form, and shall submit a copy to the Director. The MS 408 form shall be supplied to appointing authorities by the Secretary. The MS 408 form shall be submitted to the Secretary as far in advance as possible. An employee shall make every effort to submit the request before the first day of leave requested. In extenuating circumstances, the Secretary shall accept late requests.

b. The request shall be accompanied by the medical documentation required by the MS 408 form and shall contain a certification by the employee's appointing authority that the employee's withdrawal of leave from the Bank may not violate any of the provisions of Provision 6 and 7 of this section.

9. Treatment of Medical Documentation.

a. Medical documentation submitted with the request for leave from the Bank shall be treated as confidential medical information and shall be disclosed only to those individuals who need to know its contents as part of the review, evaluation, and approval process.

b. An employee who fails to maintain the confidentiality of medical information shall be subject to disciplinary action, up to and including termination.

10. Criteria for Reviewing Requests for Leave.

a. Leave from the Bank shall be granted only to employees with serious and prolonged medical conditions who have provided satisfactory medical documentation.

b. Leave from the Bank shall only be granted to an employee who provides the certification of illness required by State Personnel and Pensions Article, Sec. 7-505, Annotated Code of Maryland.

c. Approval for an eligible employee is discretionary, and denial may be based on any reason which is consistently applied and that is not illegal or unconstitutional. In denying a request, the Secretary may consider the following factors:

(1) A record of sick leave abuse by the employee;

(2) Insufficient medical documentation of a serious and prolonged medical condition;

(3) Unsatisfactory employee performance ratings;

(4) The amount of leave previously received from the Bank;

(5) Whether the employee qualifies for use of earned paid sick leave under the requirements of the employee's personnel system; and

(6) Whether the employee has, through intimidation, threat, or coercion, interfered with or attempted to interfere with the right of another employee to contribute or not contribute, receive or use donated leave, promised to confer or conferred an appointment, promotion, compensation, or other benefit, or effected or threatened to effect a reprisal, including the deprivation of an appointment, promotion, compensation, or other benefit in connection with the right of another employee to contribute, receive, use, or donate leave.

d. An employee may not be required to use advanced sick leave under State Personnel and Pensions Article, Sec. 7-509, Annotated Code of Maryland, or extended sick leave under State Personnel and Pensions Article, Sec. 7-510, Annotated Code of



Maryland, before using leave from the Bank.

11. Determinations by the Secretary.

a. Within 30 days of receiving the MS 408 form, the Secretary shall issue a written determination approving or denying the request. Whenever the Secretary finds it necessary to refer the request to the State Medical Director, this period may be extended an additional 30 days.

b. The employee's Vice President or Program Director may submit a recommendation that the Secretary grant or deny the request. A recommendation that the request be denied shall be accompanied by a statement of the reasons for the recommended denial and supporting documentation.

c. An employee whose request for leave is granted by the Secretary shall have the employee's leave balance adjusted within 14 days of the Secretary's determination.

d. If an employee runs out of leave before the Secretary makes a determination, the employee shall automatically be granted leave until the Secretary makes a determination.

e. If the application of an employee automatically granted leave is subsequently denied, any leave used is converted to leave without pay, and the employee shall reimburse the University at the minimum rate of 1/2 of the sick leave earned, and, at the employee's discretion, by applying credited annual leave, personal leave, additional sick leave, compensatory leave, or cash payments.

12. Reconsideration.

a. An employee whose request for leave from the Bank is denied by the Secretary may appeal the denial within 14 days of the denial by submitting form MS 409 to the Secretary and requesting reconsideration.

b. The request for reconsideration shall state the reasons the employee believes the Secretary's denial should be reconsidered and may be accompanied by supporting documentation.

c. Within 14 days of receipt of the request for reconsideration,

the Secretary shall issue a written decision granting or denying leave from the Bank. If the Secretary decides to grant leave from the Bank, a copy of the determination shall be forwarded to the requesting employee's appointing authority.

13. Coercion, Intimidation, and Threats Prohibited.
  - a. Leave donations to the Bank by an employee shall be strictly and completely voluntary.
  - b. An employee who, through intimidation, threat, or coercion, interferes with or attempts to interfere with the right of another employee to contribute or not contribute, receive or use donated leave, promises to confer or confers an appointment, promotion, compensation, or other benefit, or effects or threatens to effect a reprisal, including the deprivation of an appointment, promotion, compensation, or other benefit in connection with the right of another employee to contribute, receive, use, or donate leave shall be subject to disciplinary action, up to and including termination.
14. Record Keeping. The President shall:
  - a. Maintain a record of the employee leave donated; and
  - b. On or before October 15 of each year, submit to the Secretary a report providing the following information for the preceding fiscal year:
    - (1) The number of employees who donated leave;
    - (2) The kind of leave and number of hours donated by each employee;
    - (3) The number of employees who received donated leave from the Bank; and
    - (4) The number of hours of donated leave received and used by each employee from the Bank.

**CHAPTER FOURTEEN - State Employees' Health Benefits**

Pensions Article, Sec. 2-106 and Title 8, Subtitle 1, Annotated Code of Maryland

**A. Definitions.**

1. The following terms used in this chapter have the meanings indicated.

2. Terms Defined.

a. "Beneficiary" means an employee, teacher, or member of the optional retirement system who receives a retirement allowance in accordance with Article 73B or Article 88B, Annotated Code of Maryland.

b. "Creditable service" means service credited toward a retirement allowance:

(1) In accordance with Article 73B, Annotated Code of Maryland; or

(2) In accordance with Article 88B, Annotated Code of Maryland.

c. "Designated beneficiary" means a spouse or dependent child of an employee or retired employee receiving a retirement allowance.

d. "Health Benefits Administrator" means the administrator of the State employees' health benefits program of the Department of Personnel.

e. "Normal retirement age" means the age at which a vested retirement allowance shall begin.

f. "Political subdivision" means any of the following:

(1) A county;

(2) Baltimore City; or

(3) A municipal corporation as defined in Article 23A, Sec. 9, Annotated Code of Maryland.

g. "Secretary" means the Secretary of Personnel.

h. "Spouse" means either a husband or wife who is joined in marriage to an employee or retired employee by a ceremony recognized by the laws of the State of Maryland.

i. "State service" means service with the State as an employee, teacher, or member of the optional retirement system.

**B. Eligibility.**

1. Eligible Persons. The following persons are eligible for health insurance coverage, with the exception of those persons listed in provision B of this section:

a. Employees who are regularly paid salary or wages through an official State payroll center, including but not limited to Central Payroll Bureau.

b. Employees whose status is temporary pending an examination.

c. Elected officials.

d. Designated beneficiaries of persons eligible for health insurance benefits.

e. Retired employees who have:

(1) Retired directly from State service with a State retirement allowance beginning July 1, 1984, provided that the employee had at least 5 years of creditable service;

(2) Terminated State service with 16 years or more of creditable service;

(3) Terminated State service before July 1, 1984; or

(4) Terminated State service with 10 years of creditable service and within 5 years of normal retirement age.

- f. Dependents of eligible persons are the following:
  - (1) Spouse of an employee or retired employee.
  - (2) Unmarried children of an employee or retired employee until the end of the calendar year in which the child becomes 19 years old. These children include:
    - (a) A blood descendent of the first degree;
    - (b) A legally adopted child (including a child living with the adopting parents during the period of probation);
    - (c) A step-child residing in the household of the employee or retired employee; and
    - (d) A child permanently residing in the household of which the employee or retired employee is the head, and who is being supported solely by the employee or retired employee, provided that the employee or retired employee is related to the child by blood or marriage or is the child's legal guardian.
  - (3) An unmarried child 19 years old or older, who is incapable of self-support because of mental or physical incapacity that began before the end of the calendar year of the child's 19th birthday, and who is residing with the employee or retired employee and is dependent for support upon the employee or retired employee.
  - (4) An unmarried child who is a full-time student attending an accredited educational institution for not less than 12 credit hours a semester, and who is dependent upon the employee or retired employee for support, until the end of the calendar year in which the child becomes 25 years old, or any unmarried child 25 years old or older who is incapable of self-support because of mental or physical incapacity that began while the child was a full-time student and before the child's 25th birthday.
- g. Surviving spouse of an eligible person.

- h. Part-time employees working less than 50 percent of a normal workweek and their designated beneficiaries provided the full cost is paid by the employee.
        - i. Contractual employees and their designated beneficiaries.
- 2. Ineligible Persons. The following persons are ineligible for health insurance coverage:
  - a. Temporary extra employees.
  - b. Emergency employees.
  - c. Employees and retired employees participating in any hospital insurance program provided or sponsored by any local political subdivision of Maryland.
  - d. Dependents.
    - (1) Dependents of persons who are ineligible in accordance with Provision 2.a.-b. of this section.
    - (2) Dependents of retired employees participating in the Optional Retirement System, in accordance with Article 73B, Sec. 110, Annotated Code of Maryland.
    - (3) When both husband and wife are covered as employees, neither shall be eligible to be enrolled as a dependent under their spouse's coverage. Dependent children of these employees may be enrolled under either parent's coverage, but not both.
    - (4) Dependent children of employees who are also employees are not eligible to be enrolled as dependents under their parent's coverage if they have enrolled as individuals.
  - e. Contractual employees.
  - f. A designated beneficiary as defined under provision A.2.c. of this chapter who is in receipt of a retirement allowance under Option 1 or Option 4 as defined in Article 73B or Article 88B, Annotated Code of Maryland, is not eligible. However, beginning January 1, 1987, each employee who is applying for retirement and

each retired employee shall indicate by signature on a form provided by the Retirement and Pension Systems of the State that the employee or retired employee understands that selection of an Option 1 or Option 4 benefit will render the designated beneficiaries of the employee or retired employee ineligible for health insurance coverage as provided for in provision D.1. of this chapter.

**C. Effective Dates for Eligible Persons.**

1. Eligibility. Each employee is eligible for coverage on the first scheduled working day. Each retired employee is eligible for coverage on the first day of retirement or the first day of election in accordance with Provision C.2.a. of this section. Dependents of covered employees or retired employees are eligible on the date the employee or retired employee becomes eligible. Later acquired dependents become eligible on the date they become dependents of a covered employee or retired employee.

2. Coverage.

a. Eligible Employees Listed in provision B of this chapter.

(1) An eligible employee or retired employee shall apply for coverage for himself and eligible dependents within 60 days of the employment or retirement date by submitting to the appointing authority an application and payroll deduction authorization form for the coverage desired, or shall wait for the annual open enrollment period unless otherwise indicated in Provision 2.a.(4) of this section. Coverage shall be effective on the first scheduled working or retirement date or the date the application and payroll deduction authorization form is submitted, whichever is later.

(2) Coverage for later acquired dependents of a covered employee or retired employee is obtained by submitting, in the case of an active employee, to the appointing authority or, in the case of a retired employee, to the Department of Personnel, an application and payroll deduction authorization form within 60 days of the change in status. Coverage for that dependent shall be the date the dependent was acquired, except that when a change in membership is necessary, the effective date of coverage is the ending date of the next available pay period from which the necessary health insurance payroll deduction can be made following

the submittal of the completed application and payroll deduction authorization form, but not later than 30 days following the submittal.

(3) A newborn child may be covered from birth when maternity benefits are provided to any female member. The newborn child shall be added to a family or a parent and children membership at birth. However, for all other memberships, the employee shall make application within 60 days from the date of the child's birth to convert to an appropriate membership to provide coverage for the newborn child. The effective date for the change in coverage is the ending date of the next available pay period from which a health insurance deduction can be made following the employee's submittal of the completed application and payroll deduction authorization form, but not later than 30 days following the submittal. However, if retroactive coverage is necessary, the employee shall contact the Health Benefits Administrator.

(4) Permissible Changes in Enrollment of Employees. Changes in enrollment of eligible employees other than those defined in the following table are not permissible except through a case review by the Secretary or the Secretary's designated representative. Case review requests for an enrollment change shall be filed with the Secretary within 60 days of the change in status. If an individual case involves overlapping events, as provided by the State Department of Personnel, the President shall determine which event prevails.

b. Part-Time and Contractual Employees Listed in provision B.1.h. and i. of this chapter.

(1) A part-time or contractual employee may apply for coverage for the employee and eligible dependents within 30 calendar days of employment by submitting to the appointing authority an application for the coverage desired, or shall wait for the annual open enrollment period. The part-time or contractual employee shall pay the total cost of the premium in accordance with the direct billing procedures of the Department of Personnel, and may not receive a State subsidy. Coverage shall be effective on the beginning date



of the next available monthly billing cycle for premium payment following the submittal of the application to the appointing authority.

(2) A part-time or contractual employee may obtain coverage for later acquired dependents by submitting to the appointing authority an application for the coverage desired, or shall wait for the annual open enrollment period. The effective date of coverage for that dependent shall be the date the dependent was acquired, except that when a change in membership is necessary the effective date shall be the beginning date of the next available monthly billing cycle for premium payment following the submittal of the application to the appointing authority.

(3) A newborn child may be covered from birth when maternity benefits are provided. The newborn child shall be added to a family or a parent and children membership at birth. However, for all other memberships, the employee shall make application within 30 calendar days from the date of the child's birth to convert to an appropriate coverage level to provide coverage for the newborn child. The effective date for the change in coverage shall be the beginning date of the next available monthly billing cycle for premium payment following the submittal of the application to the appointing authority. However, if retroactive coverage is necessary, the part-time or contractual employee shall contact the Health Benefits Administrator in Office of Human Resources.

**D. State Subsidy of Retired Employees Who Are Eligible for Health Insurance Benefits in Accordance with provision B of This Chapter.**

1. A retired employee and the designated beneficiaries of a retired employee are eligible to receive the subsidy provided by the State for the cost of the health insurance benefits program on the following basis:

a. If an employee retired directly from State service before July 1, 1984, the retired employee and the designated beneficiaries of the retired employee shall receive the same subsidy that is provided to a State employee;

b. If an employee retired from State service on or after July 1, 1984 and had at least 5 years of creditable service, the retired employee and the designated beneficiaries of the retired employee

shall receive 5/16 of the subsidy provided to a State employee;

c. If an employee retired from State service on or after July 1, 1984 and had more than 5 but less than 16 years of creditable service, the retired employee and the designated beneficiaries of the retired employee shall receive 1/16 of the subsidy for each year of creditable service that is more than 5 but less than 16 years;

d. If an employee retired from State service on or after July 1, 1984 and had 16 years or more of creditable service, the retired employee and the designated beneficiaries of the retired employee shall receive the same subsidy that is provided to a State employee;

e. If a retired employee is in receipt of a State disability retirement allowance, the retired employee and the designated beneficiaries of the retired employee shall receive the same subsidy that is provided to a State employee;

f. A person in receipt of a special death benefit under Article 88B, Sec. 53(9), Annotated Code of Maryland, shall receive the same subsidy that is provided to a State employee.

2. A retired employee and the designated beneficiaries of the retired employee shall pay the remainder of the cost of the health insurance benefits premium that is not provided for under provision A of this section.

**E. Conversion or Continuation of Health Insurance Benefits.**

Conversion or continuation of health insurance benefits for eligible persons listed in provision B.1. of this chapter shall be in accordance with all applicable state and federal laws.

**F. Direct Billing and Payment of Health Insurance Premiums.**

Under certain circumstances, participants in the State employees' health insurance benefits program may arrange for direct billing and payment of health insurance premiums in accordance with Department of Personnel procedures.

**G. Supplemental Benefits Under Medicare.**

1. **Definitions.** As used in this provision, the following terms have the meanings indicated:

a. "Medically necessary" means those services and supplies provided by a hospital, practitioner, or other provider of health care services to identify or treat an illness or injury which has been diagnosed or is reasonably suspected, and which are:

- (1) Consistent with the diagnosis and treatment of the member's condition;
- (2) In accordance with standards of good medical practice;
- (3) Required for reasons other than the convenience of the member, practitioner, or other provider; and
- (4) The most appropriate supply or level of service which can safely be provided for the member.

b. "Reasonable cost" means the lowest of the following costs:

- (1) The fee usually charged by a health care provider to all patients for a particular service or supply;
- (2) The fee customarily charged by health care providers for the same service or supply in the same general area; or
- (3) The actual fee charged by a health care provider to a patient for a particular service or supply.

2. Benefits - The Medicare Supplemental Program shall provide benefits as follows:

a. Benefits or payments under the Medicare Supplemental Program shall be provided in accordance with the reasonable cost of a medically necessary service or supply.

b. Benefits or payments under the Medicare Supplemental Program may not duplicate any benefits payable by Medicare.

c. With respect to members eligible for Medicare, whether those members are enrolled under Part A (Hospital Insurance) or Part B (Medical Insurance) of Title XVIII of the Social Security Amendments of 1965 (Title I of Public Law 89--97), the benefits provided under the Medicare Supplemental Program shall be reduced by the amount of benefit or payment that would have been

furnished the member under Title XVIII, if that member had been enrolled. Benefits furnished under Title XVIII, or that would have been furnished under Title XVIII, shall be charged against the maximum benefits provided for under the Medicare Supplemental Program.

3. Eligible Persons. Retired employees and their spouses and dependents who are eligible for Medicare benefits and who are eligible for retired employee health benefits in accordance with provision B.1.e. of this chapter are eligible for benefits provided under the Medicare Supplemental Program.

4. Effective Dates.

a. Eligibility. At the start of the calendar month in which age 65 is reached or Medicare eligibility is otherwise established, a retired employee and eligible spouse and dependents are eligible for benefits under the Medicare Supplemental Program.

b. Coverage. At the start of the calendar month in which age 65 is reached or Medicare eligibility is otherwise established, the retired employee's membership shall be automatically converted to an appropriate membership level under the Medicare Supplemental Program.

5. Election of Coverage of Employees 65 Years Old or Older, and Employees' Spouses 65 Years Old or Older.

a. Eligibility. Not later than the calendar month in which age 65 is reached, the following persons shall designate their election of coverage of the State employees' health insurance program or Medicare as their primary health insurance carrier:

(1) Eligible employees 65 years old or older, who are eligible for health benefits in accordance with provision B of this chapter;

(2) Eligible spouses 65 years old or older, of employees who are any age, and who are eligible for health benefits in accordance with provision B of this chapter.

b. Coverage.

(1) An employee 65 years old or older, or an employee's

spouse 65 years old or older, shall designate coverage under the State employees' health insurance program or Medicare. Those employees and spouses who elect coverage under the State employees' health insurance program shall receive coverage under the applicable membership as would be applicable to all other State employees and their dependents without Medicare.

(2) In accordance with applicable federal law, those employees and spouses who elect coverage under Medicare are ineligible for benefits under the Medicare Supplemental Program or other health insurance coverage available to all other State employees.

(3) Upon retirement from State service by the employee 65 years old or older, the retired employee and spouse are eligible for benefits under the Medicare Supplemental Program as applicable to all other State retired employees.

## CHAPTER FIFTEEN - Maintenance and Inspection of Records

### B. General.

These provisions are promulgated pursuant to State Government Article, Sec. 10-613, Annotated Code of Maryland, to establish procedures for control and inspection of records under the custody and control of the University. It is the policy of the University to facilitate public access to the records of the University when this access is allowed by law, by minimizing costs and time delays to persons requesting information. It is also the policy of the University to safeguard the privacy of University employees by restricting access to records when access is denied or restricted by law.

### C. Definitions.

The following terms used in this chapter have the indicated meanings:

1. "Act" means the Public Information Act, State Government Article, Sec. 10-601--10-630, Annotated Code of Maryland.
2. "Applicant" means any person requesting disclosure of public records.

3. "Custodian" means a person or unit which is responsible for the maintenance, care, and keeping of the requested records.
4. "Personnel Record" means any record, regardless of physical form, indexed by name or the employee's identification number.
5. "Public records" means any paper, correspondence, form, book, photograph, photostat, film, microfilm, sound recording, map, drawing, or other written document, regardless of physical form or characteristics, and including all copies, that have been made by the University or received by the University in connection with the transaction of public business, except as set forth in provisions G-M of this chapter.
6. "Working day" means every day except Saturdays, Sundays, and State holidays.
7. "Written documents" means all books, papers, maps, photographs, cards, tapes, recordings, computerized records, or other documentary materials, regardless of physical form or characteristics.

**D. Applications to Inspect or Copy.**

1. Any person may request to inspect any public record in the custody and control of the University. The University custodian may require that the request be in writing.
2. An applicant may request in writing a copy of a record.
3. In a written request, the applicant shall show his or her name and address, shall sign the request, and shall reasonably identify by brief description the record sought.
4. The applicant shall address a written request for a record in the custody and control of the University to the University custodian of the record, or if the custodian of the record is unknown to the applicant, the request may be addressed to the Director.

**E. Response to Applications.**

The custodian shall respond to the applicant in accordance with the Act.

**F. Fees.**

1. The custodian shall provide copies, printouts, or photographs only upon payment of the applicable fee by the applicant.
2. The fees to be charged for any copies, printouts, or photographs shall be established by the University.
3. Before obtaining the reproduction of a record, the custodian shall estimate the cost of reproduction and obtain agreement of the applicant that the cost shall be paid. The custodian may require pre-payment of any estimated fee before reproducing the record.

**G. Records Not in the Custody and Control of the Custodian.**

If a requested public record is not in the custody or control of the person to whom written application is made, this person shall notify the applicant of this fact, and, if known, the custodian of the record and the location of the record.

**H. Personnel Records.**

1. Any current or former University employee may inspect and request copies of the personnel record maintained by the University for that employee.
2. Any elected or appointed official or employee who supervises an employee may inspect and request copies of the personnel record maintained by the University for any employee actually supervised by that official.

**I. Medical Records.**

Records maintained by the State Medical Director with respect to any employee, including but not limited to Forms MS-401 and MS-405, shall be available only to that employee or an authorized representative and to University officials.

**J. Testing Records.**

1. Any person who has taken a written promotional examination may inspect but not copy or reproduce that examination and the results of it within 60 days following the conduct and scoring of the examination.
2. Test questions, scoring keys, test research and evaluation data, rating forms, work sheets, and answer sheets, not available under Provision 1, except for blank copies of any forms which do not reveal

questions or answers, may not be inspected or copied.

**K. Trade Secrets and/or Confidential Data.**

A person may not inspect or copy any information which constitutes a trade secret or confidential commercial or financial data in the custody and control of the University.

**L. Privileged Information.**

A person may not inspect or copy any information which is privileged by law.

**M. Letters of Reference.**

A person may not inspect or copy letters of reference in the custody and control of the University.

**N. Disclosure Against Public Interest.**

If, in the opinion of the University custodian, disclosure of any public record which is otherwise required to be disclosed would do substantial injury to the public interest, the custodian may temporarily deny this request in writing. In these cases, the custodian, after obtaining approval from the President, shall apply to the appropriate circuit court for an order permitting the custodian to continue to deny or restrict this disclosure. Notice of the application filed with the circuit court shall be served upon the applicant by the custodian in the same manner provided for service of process by the Maryland Rules of Procedure.

**O. Protection of Privacy and Confidentiality.**

Any person entitled by law to inspect or have copies of any records set forth in provisions G-M of this chapter shall, before inspection:

1. Specify, in writing, the basis for the request;
2. Agree, in writing, not to release any information derived from the inspection to any third party without the express prior agreement, in writing, of the custodian;
3. Agree to the entry of an appropriate protective order in a court of competent jurisdiction ensuring that information may not be disclosed generally.

**P. Certification of Copies.**



The custodian shall provide a certified copy of a record only when a certified copy has been requested and the applicable fee paid.

Q. Salary Information.

The custodian shall provide a certified statement of the current salary of any University employee upon application and payment of the applicable fee.

R. Notification of Persons Who May Be Affected by Disclosure.

Unless prohibited by law, the custodian, in his discretion, may notify any person who could be adversely affected by disclosure of a record to the applicant that a request for inspection or copying of the record has been made. The custodian may consider the views of these persons before deciding whether to disclose the record to the applicant.

S. Denial of Applications Review - Any person whose application is denied may seek review in accordance with the Act.

T. Maintenance of Records; Relevance of Material.

1. All records which are not subject to public inspection pursuant to this chapter shall be maintained by the custodian in a manner which assures that the right to privacy of the person who is the subject of the record is maintained.

2. Only information which is relevant and necessary to accomplish the purpose of the University may be maintained in any records of the University.

3. Records of all official actions affecting the status of University employees shall be maintained.

U. Bulletin Board.

The Director will maintain an official bulletin board open to the public in his offices, upon which shall be posted all notices required by law or regulation and such other notices as appropriate.

V. Official Class Specifications.

1. The Director shall maintain a record of each classification which is established including the following:

- a. Class title;
- b. Duties performed and the responsibilities exercised by the incumbents of positions allocated to the class;
- c. Minimum qualifications to be required of future applicants seeking appointments to positions in the class; and
- d. Minimum and maximum rates in the schedule of compensation for the class.

#### Chapter SIXTEEN - Correction or Amendment of Personal Records

##### A. General.

These provisions set out procedures for persons in interest to request the correction or amendment of personal records located at the University under State Government Article, Sec. 10-625, Annotated Code of Maryland.

##### B. Who May Request.

A person in interest, as defined in State Government Article, Sec. 10-611(e), Annotated Code of Maryland, may request the University to correct or amend any personal records, as defined in State Government Article, Sec. 10-624(a), Annotated Code of Maryland, pursuant to State Government Article, Sec. 10-625.

##### C. Contents of Request.

The person in interest shall request the correction or amendment in writing. Each request shall:

1. Identify the personal records the person is seeking to correct or amend;
2. State the precise correction or amendment requested;
3. State the reason the correction or amendment is sought; and
4. Include a statement that the personal records are to the person's belief currently inaccurate or incomplete.

##### D. Filing the Request.

A request for correction or amendment of the records shall be filed with the University by addressing it to the custodian of the record. If the custodian is unknown to the person in interest, the request may be addressed to the Director.

**E. Return of Request.**

A request for correction or amendment will be considered filed with the University only to the extent that it reasonably complies with provision C of this chapter. If a request does not reasonably comply with provision C, it shall be returned to the person with an explanation of the reason for the return and a statement that, upon completion, it may be refiled with the University.

**F. Response to Request.**

Within 30 days after the completed request for correction or amendment that complies with provisions C and D of this chapter is received, the custodian of the record shall take one of the following actions:

1. Make the requested correction or amendment and inform the person in writing of the action;
2. Inform the person in writing of the University's refusal to make the requested correction or amendment and the reason for the refusal; or
3. Inform the person in writing that the request will not be acted on for one of the following reasons:
  - a. The person is not a person in interest;
  - b. The records sought to be corrected or amended are not personal records;
  - c. The person requesting the correction or amendment is not entitled to inspect the records under State Government Article, Sec. 10-615--10-619, Annotated Code of Maryland; or
  - d. Any other reason that is authorized by law.

**G. Refusal of Request Statement of Disagreement.**

If the University's final determination is to refuse the requested correction or amendment in accordance with provision F of this chapter, the person in interest may file with the University a concise statement of disagreement with the

University's refusal. This statement of disagreement shall meet all of the following requirements:

1. The statement shall include the reasons for both of the following:
  - a. The requested correction or amendment; and
  - b. Disagreement with the University's refusal to make the correction or amendment.
2. The statement shall contain a maximum of five pages, and only one side of each page shall be used. Each page shall be a maximum size of 8-1/2 x 11 inches.

H. Information Provided to Third Parties.

When the University discloses to a third party information from personal records about which a statement of disagreement has been filed, the University shall furnish a copy of the statement to the third party.

I. Administrative Review.

1. A person may file with the University a request for an administrative review if the person has been denied any of the following:
  - a. An amendment or correction of a record;
  - b. The right to file a statement of disagreement; or
  - c. The right to have a statement to a third party forwarded pursuant to provision H of this chapter.
2. A request for review shall be filed within 30 days of the date the person is advised of the University's action.
3. The review proceedings shall be conducted in accordance with State Government Article, Sec. 10-204--10-215, Annotated Code of Maryland, and the administrative hearing provisions of the University.

CHAPTER SEVENTEEN - Testing for Illegal Use of Drugs

Authority: Executive Order 01.01.1991.16

A. Definitions.

1. In this chapter, the following terms have the meanings indicated.

2. Terms Defined.

a. "Agency technical representative" means an employee designated by the President to ensure compliance with the requirements of this chapter and whose duties include, but are not limited to, the following:

- (1) Scheduling of urine specimen collections;
- (2) Designation of collection sites;
- (3) Assurance of integrity of collection procedures and sites;
- (4) Assurance of integrity of testing and specimen retention procedures;
- (5) Review of data and reports; and
- (6) Acting as contact person for the President's program for testing for illegal use of drugs.

b. "Applicant" means a person who is seeking an employer-employee relationship in a position in a sensitive classification or in a sensitive position.

c. "Applicant-employee" means an employee of the University who is an applicant for a position that is:

- (1) In a sensitive classification or is a sensitive position; and
- (2) Different from or in addition to the position currently held by the applicant-employee.

d. "Appointing authority" means a person who has the power to

make appointments and to terminate employment.

e. "Controlled dangerous substance offense" means:

(1) A controlled dangerous substance violation under Article 27, Annotated Code of Maryland;

(2) An offense of the law of any other jurisdiction if the prohibited conduct is a controlled dangerous substance offense if committed in this University; or

(3) Driving or attempting to drive while under the influence of:

(a) Drugs or drugs and alcohol, or

(b) A controlled dangerous substance.

f. "Employee" means a person with whom the University has an employer-employee relationship.

g. "Employer-employee relationship" means a relationship in which a person is paid for services to the University and in which:

(1) All of the following conditions of employment exist:

(a) The University has the right to control and direct the performance of services not only as to results, but also as to details and means,

(b) The University has the right to discharge the employee, and

(c) The University furnishes necessary tools and a place to work;

(2) The status of the employee is any of the following:

(a) Classified,

(b) Unclassified,

(c) Temporary extra, or

(d) Contractual; and

(3) Any of the following personnel actions resulted in employment:

(a) Open selection from an eligible list,

(b) Promotion,

(c) Demotion,

(d) Horizontal change,

(e) Transfer,

(f) Reinstatement,

(g) Reemployment,

(h) Reclassification,

(i) Unclassified appointment,

(j) Temporary appointment pending examination,

(k) Temporary extra appointment, or

(l) Contractual appointment.

h. "President" means the President of Morgan State University or the President's designated representative.

i. "Sensitive classification" means a classification in which the President has determined that any of the following conditions exist:

(1) An employee in the classification has a substantially significant degree of responsibility for the safety of others and there is a potential that impaired performance of the employee could result in death of or injury to the employee or others;

(2) An employee in the classification is required to carry a firearm;

(3) An employee in the classification is directly involved in efforts to interdict the flow of narcotics; or

(4) An employee in the classification is directly involved with narcotics law enforcement.

j. "Sensitive position" means a position for which the President has determined that any of the conditions listed in Provision B(8) of this section exists, but which is not in a sensitive classification.

**B. List of Sensitive Classifications.**

The University shall maintain a list of sensitive classifications.

**C. Designation of Sensitive Positions by President.**

1. The President is responsible for determining whether positions within the University are sensitive, and may designate those positions as sensitive positions.

2. When a position is designated as sensitive, the Director shall be responsible for all of the following:

a. Notification to the employee in the position of the designation of the position as sensitive and of requirements for testing in accordance with provision E of this chapter;

b. Maintenance of documentation of the reasons for the designation;

c. Presentation of the reasons for the designation in administrative or judicial proceedings; and

d. Provision of reports to the President, to be submitted following the end of each fiscal quarter, listing each position, as identified by position identification number, that has been designated as sensitive along with the reasons for the designation.

**D. Requirements for Applicants for Positions in Sensitive Classifications or for Sensitive Positions.**

1. In addition to applicants, Provisions 2-4 of this section apply to applicant-employees.



2. Conditions for Testing. Testing for illegal use of drugs shall be required for positions in sensitive classifications or for sensitive positions if the applicant has not been eliminated from consideration at an earlier stage of the recruitment process.
3. Notification.
  - a. Examination Announcements; Information Provided by Director. Examination announcements for positions in sensitive classifications shall include a statement that testing for illegal use of drugs is part of the selection process. The Director shall also inform applicants for positions in sensitive classifications or for sensitive positions that testing for illegal use of drugs is required and shall be conducted at some point in the selection process, including any time during the applicant's probationary period.
  - b. Refusal to be Tested. The Director shall inform an applicant for a position in a sensitive classification or for a sensitive position who refuses to be tested that refusal shall result in all of the following:
    - (1) Disqualification from that position;
    - (2) Removal from any list of eligibles for any sensitive classification; and
    - (3) Removal from the list of eligibles for all sensitive positions within the classification of the sensitive position for which the applicant refused to be tested.
  - c. Positive Test Results. The Director shall inform an applicant who agrees to be tested of the consequences of a positive test result in accordance with Provision 4 of this section.
4. Testing Protocol.
  - a. The Director shall give an applicant for a position in a sensitive classification or for a sensitive position who has not been eliminated from consideration at an earlier stage of the recruitment process a Drug Abuse Screen-Applicant Authorization form prescribed by the President to complete at the interview. The applicant shall appear at one of the designated collection sites with the completed authorization form at a time set by the Director. When urine specimen collection as provided in provision F of this

chapter is a part of the interview, the urine specimen may be collected at the time of the interview.

b. After completion of the test, the test results shall be provided to the State Medical Director, who shall inform the Director of the suitability of the applicant for further consideration.

c. If the State Medical Director has determined that an applicant is suitable in accordance with Provision 4.b. of this section, the Director shall schedule an appointment for the applicant to appear for a physical examination within 8 calendar days after the date of the interview.

d. All testing protocols shall be in accordance with provision F of this chapter.

5. Consequences of Positive Test Results.

a. An applicant for a position in a sensitive classification or for a sensitive position who tests positive shall be disqualified from University employment for a position in a sensitive classification or for a sensitive position unless the applicant submits to the Director a certificate from a physician certifying on the certificate under oath that the applicant has:

(1) Successfully participated in a drug abuse rehabilitation program of at least 6 months duration; and

(2) Been free of drugs listed in provision G of this chapter for at least 18 months immediately before reapplying for University service.

b. An applicant who is later hired in accordance with the procedure described in Provision 5.a. of this section shall be subject to periodic random testing for illegal use of drugs.

c. Positive Test Applicant-Employee.

(1) If an applicant-employee for a position in a sensitive classification or a sensitive position tests positive for use of illegal drugs, as part of a personnel selection process involving a promotion, demotion, horizontal change, transfer, or reclassification, the State Medical Director shall notify the Director of the positive test result.

(2) The Vice President or Program Director shall suspend the employee in Provision 5.c.1. of this section, without pay for 15 work days. As a condition of returning to work, the employee shall enroll in a drug abuse rehabilitation program of at least 6 months duration and shall be subject to periodic testing throughout the duration of the program. At the conclusion of the rehabilitation program the employee shall submit to the Director a certification from the attending physician, or a certified chemical dependency counselor, licensed certified social worker, or licensed psychologist associated with the rehabilitation program, certifying on the certificate under oath that the employee has successfully participated in a drug abuse program of at least 6 months duration and has not tested positive for drugs listed in provision G of this chapter at any point during the rehabilitation program. If the employee does not enroll in a drug abuse rehabilitation program during the suspension period, or if the employee fails to successfully participate in a drug abuse rehabilitation program for at least 6 months, the President shall begin proceedings to dismiss the employee.

(3) The employee who successfully participated in a drug abuse rehabilitation program of at least 6 months duration and has been free of drugs listed in provision G of this chapter for at least 18 months, including the 6-month period in which the employee participated in a drug abuse rehabilitation program, may reapply for a sensitive classification or a sensitive position.

d. A person who is later hired in accordance with the procedure described in Provision 5.c. of this section shall be subject to periodic random testing for illegal use of drugs.

e. The State Medical Director may disapprove a physician's certificate as set forth in Provision 5.a. and c. of this section if the State Medical Director determines that the drug abuse rehabilitation program does not meet standards generally recognized in the field of drug abuse treatment or therapy.

6. Appeal Rights.

a. This section applies to applicants only.

b. The Vice President or Program Director shall notify the applicant in writing of any disqualification based on test results, and shall inform the applicant of the appropriate appeal route.

c. An applicant may submit a written appeal of any positive test results to the President within 5 work days after receipt of the written notice of the positive test results. The applicant shall bear the burden of proving an irregularity in the drug testing procedure used. This appeal may not be a contested case.

d. Upon receipt of the appeal, the President shall review the documentation, and may decide to uphold the decision of the Vice President or Program Director to eliminate the applicant from consideration in accordance with Provision 5 of this section or:

(1) Conduct an investigation to obtain additional information; or

(2) Convene a conference, which may be attended by the President, the applicant, and other appropriate individuals.

e. The President shall issue a written determination within 45 calendar days after receipt of the appeal, or within 45 calendar days after an investigation or conference.

**E. Requirements for Employees.**

1. **Employee Arrest.** Each employee arrested for an alleged controlled dangerous substance offense shall report the arrest to the employee's President on the employee's next scheduled work day, or within 1 week, whichever is earlier. Failure to report the arrest shall result in disciplinary action, up to and including dismissal.

2. **Conditions for Testing for Illegal Use of Drugs.**

a. The Vice President or Program Director may require that an employee be tested if the Vice President or Program Director has reasonable suspicion to believe that the employee has illegally used drugs.

b. The Vice President or Program Director may require employees in positions in sensitive classifications or in sensitive positions to be tested for the illegal use of drugs if any of the following conditions exist:

(1) Reasonable Suspicion. This condition exists when the Vice President or Program Director has reasonable and specific grounds to believe that a drug abuse test of an employee shall produce evidence of illegal use of drugs.

(2) Incident Triggered Factor. This condition exists when an injury to the employee or another person or property damage may have been caused by human error, and the employee was directly involved in the accident or incident.

(3) Participation in Drug Abuse Rehabilitation Program. This condition exists when an employee in a position in a sensitive classification or in a sensitive position has notified the Vice President that the employee is voluntarily participating in a drug abuse rehabilitation program, including any program offered under the State Employee Assistance Program, and this participation is not the result of having tested positive in accordance with this chapter. The Vice President or Vice President's designated representative may arrange for testing of the employee at any time during the:

(a) Employee's participation in the rehabilitation program; and

(b) One-year period immediately following the employee's successful completion of the rehabilitation program.

(4) Arrest for a Controlled Dangerous Substance Offense. This condition exists when an employee in a position in a sensitive classification or in a sensitive position has notified the employee's immediate supervisor, Program Director or Vice President that the employee has been arrested for a controlled dangerous substance offense.

3. Random Testing.

a. The President shall assure that employees in positions in sensitive classifications or in sensitive positions within the University are subject to random testing for illegal use of drugs.

b. Random testing requires that statistically significant samples

of employees in sensitive classifications or in sensitive positions be tested on a periodic basis.

c. All employees in sensitive classifications or in sensitive positions have an equal chance of being tested. However, only a sample of employees in each sensitive classification or a sample of all employees in sensitive positions are tested, based upon an appropriate random sampling technique.

4. Notification.

a. The Vice President or Program Director shall give an employee who is to be tested a Controlled Dangerous Substance Test Order prescribed by the President.

b. Refusal to be Tested. The Vice President or Program Director shall inform an employee who refuses to be tested that refusal may result in disciplinary action, which may include termination from University service.

c. Positive Test Results. The Vice President or Program Director shall inform an employee who agrees to be tested of the consequences of a positive test result in accordance with Provision E of this section.

5. Testing Protocol.

a. The Vice President or Program Director shall provide an employee who is ordered to take a urinalysis for the purpose of testing for illegal use of drugs with a Controlled Dangerous Substance Test Order.

b. After completion of the test, the test results shall be provided to the State Medical Director, who shall inform the Director of whether an employee has tested positive or negative.

c. All testing protocols shall be in accordance with provision F of this chapter.

6. Consequences of Positive Test Results.

a. When, as a result of a random drug test in accordance with Provision 3 of this section, an employee in a position in a sensitive classification or in a sensitive position tests positive for use of illegal

drugs, the Vice President or Program Director shall suspend the employee without pay for 15 work days. As a condition of returning to work, the employee shall enroll in a drug abuse rehabilitation program of at least 6 months duration and shall be subject to periodic testing throughout the duration of the program. At the conclusion of the rehabilitation program the employee shall submit to the Vice President or Program Director and the Director of Human Resources a certification from the attending physician, or a certified chemical dependency counselor, licensed certified social worker, or licensed psychologist associated with the rehabilitation program, certifying on the certificate under oath that the employee has successfully participated in a drug abuse rehabilitation program of at least 6 months duration and has not tested positive for drugs listed in provision G of this chapter at any point during the rehabilitation program. If the employee does not enroll in a drug abuse rehabilitation program during the suspension period, or if the employee fails to successfully participate in a drug abuse rehabilitation program for at least 6 months, the Vice President or Program Director shall begin proceedings to dismiss the employee.

b. When, as the result of any of the conditions described in Provision 2.b. of this section, an employee in a position in a sensitive classification or in a sensitive position tests positive for use of illegal drugs, the Vice President or Program Director shall institute proceedings to dismiss the employee in accordance with the employee's status of employment.

c. When an employee not in a position in a sensitive classification or not in a sensitive position tests positive, the Vice President or Program Director shall institute whatever disciplinary action the Vice President or Program Director considers appropriate.

d. Drug Rehabilitation Program.

(1) The employee's continued employment or eligibility for reemployment, if terminated, may be conditioned on the employee's enrollment in and satisfactory completion of a drug rehabilitation program.

(2) If the employee is not terminated, the employee shall be required to enroll in a drug abuse rehabilitation program of at least 6 months duration and shall be subject to periodic testing throughout the duration of the program.

(3) At the conclusion of the rehabilitation program the employee shall submit to the Vice President or Program Director and the Director of Human Resources a certification from the attending physician, or a certified chemical dependency counselor, licensed certified social worker, or licensed psychologist associated with the rehabilitation program, certifying under oath that the employee has successfully participated in a drug abuse rehabilitation program of at least 6 months duration and has not tested positive for drugs listed in provision G of this chapter at any point during the rehabilitation program.

(4) The employee may be tested again at any point during the year following participation in the rehabilitation program.

(5) If the employee does not enroll in the drug abuse rehabilitation program, or does not successfully complete the rehabilitation program, or if the employee tests positive at any point during the 1 year following participation in the rehabilitation program, the employee shall be terminated.

e. An employee who is dismissed from University service in accordance with Provision 6.a. of this section shall be disqualified from University employment for positions in sensitive classifications or for sensitive positions unless the person submits to the President and the Director of Human Resources certificate from a physician certifying on the certificate under oath that the person has:

(1) Successfully participated in a drug abuse rehabilitation program of at least 6 months duration; and

(2) Been free of drugs listed in provision G of this chapter for at least 18 months before the person's application for the position.

f. An individual who is later hired in accordance with the procedure described in Provision 6.e. of this section shall be subject to periodic testing for illegal use of drugs. If the individual tests positive, the individual shall be terminated.

g. An individual who is later hired in accordance with the procedure described in Provision 6.e. of this section and who tests



positive for illegal use of a controlled dangerous substance shall be dismissed from University service. The individual's eligibility for future University employment shall be conditioned on whatever terms the President considers appropriate.

h. The State Medical Director may disapprove a certificate as set forth in Provision 6.a. and e. of this section if the State Medical Director determines that the drug abuse rehabilitation program does not meet standards generally recognized in the field of drug abuse treatment or therapy.

i. Nothing in this section shall be interpreted to prevent the President from taking appropriate disciplinary action, which may include termination, against an employee when the employee's conduct provides independent grounds for disciplinary action.

7. Appeal Rights. An employee or an applicant-employee may submit a written appeal in accordance with the procedure for appealing a disciplinary suspension.

**F. Urine Specimen Collection; Chain of Custody; Retention of Specimen and Test Results.**

1. The President shall assure that all aspects of urine specimen collection are controlled to ensure integrity of the specimen. This includes either observation as the specimen is provided or methods to preclude adulteration.

2. The President shall assure that a chain of custody is established consistent with forensic protocol standards. This means that the specimen is to be sealed in a special container and envelope which is signed by the individual being tested and by every other person who has custody until the specimen is delivered to the testing laboratory technician. All aspects of specimen receipt, identification, and testing shall be documented.

3. The laboratory that tests the specimen shall retain all confirmed positive test:

a. Specimens for 1 year or longer as may be required by the University; and

b. Results for at least 3 years or longer as may be required by the University.

G. Drugs to be Screened.

1. The drugs that shall be screened include, but are not limited to, the following:

- a. Marijuana/cannabinoids;
- b. Cocaine;
- c. Opiates;
- d. Phencyclidine (PCP); and
- e. Amphetamines.

2. The President may approve screening for a drug or controlled substance other than those listed in Provision A of this section.

H. Testing Methodologies.

1. The initial screening test shall use an immunoassay.

2. The confirmatory test shall be gas chromatography-mass spectroscopy (GC-MS).

I. Testing Cutoff Levels.

An initial screening test result shall be determined to be positive based upon the following cutoff levels:

Initial Test Level  
(nanograms per milliliter)

- 1. Marijuana metabolites ----- 50;
- 2. Cocaine metabolites ----- 300;
- 3. Opiate metabolites ----- 300;
- 4. Phencyclidine ----- 25;
- 5. Amphetamines ----- 1,000.

J. Confirmatory Test.

1. A confirmatory test which uses the chromatography technology specified in provision H of this chapter shall be required subsequent to each test that produces positive results for any of the drugs listed in provision .06 of this chapter or any drug which has been added to the list.
2. Protocols that double-screen are permitted only if test results which are positive on both screens are confirmed positive with GC-MS before reporting a positive test.
3. Protocols that result in one negative screening test shall be reported as a negative test.

**K. Testing Laboratory.**

1. The President may arrange for collection of urine specimens by a contractor selected by the President.
2. Selection of a Laboratory by President. The President shall arrange for testing for illegal use of drugs to be conducted by a laboratory whose services have been contracted by the President, and which is certified under National Institute of Drug Abuse Mandatory Guidelines for Federal Workplace Drug Testing Programs.

**L. Approval of Testing Procedures; Statistics.**

1. The President shall establish a procedure for testing for illegal use of drugs, provided that the procedure is in accordance with this chapter. Before implementing that procedure, the President shall develop:
  - a. A list of sensitive classifications for which random testing will be required;
  - b. A description of the testing procedure to be used; and
  - c. The name of the laboratory that will conduct the testing.
2. The President shall designate an agency technical representative.

**M. Training.**

1. The President shall assure that training is provided to all of the University's employees who are involved in the implementation of this

chapter. All training programs shall be subject to prior approval of the President.

2. Training shall include, but is not limited to, all of the following:
  - a. Conditions for testing for illegal use of drugs;
  - b. Identification of sensitive classifications or sensitive positions, which require random testing for illegal use of drugs;
  - c. Notification procedures;
  - d. Testing protocols, including specimen collection and chain of custody;
  - e. Impact of positive test results upon applicants, employees, and the appointing authority;
  - f. Appeal rights; and
  - g. Confidentiality requirements.

**N. Confidentiality.**

1. Notwithstanding any provision to the contrary, and to the extent permissible under applicable statutes, all test results shall be handled as confidential information.
2. Test results shall be considered part of the employee's personnel record and subject to the confidentiality protections of State Government Article, Sec. 10-616(h), Annotated Code of Maryland.
3. Except for those persons identified elsewhere in these provisions as having a right of access to test results, only those members of management who have a need to know of test results shall be made aware of any test results.

**O. Notice of Provisions in this Chapter.**

The President shall assure that the University's classified employees are notified of the following:

1. The existence of these provisions;

2. The circumstances under which employees may be subject to these provisions; and
3. The employees' rights to appeal any adverse action which results from the implementation of these provisions.