I. PURPOSE AND APPLICABILITY

This policy establishes the employee’s right to file a grievance, and applies to Regular Status Exempt Staff employees (applies only to UMB, UMBC, UMBI, UMCES, UMCP, UMES, UMUC, AND USM Office), and Regular Status Nonexempt Staff employees (Systemwide).

II. DEFINITIONS

The following terms and definitions shall apply for purposes of this policy:

"Working Day" - means Monday through Friday regardless of any employee’s actual work schedule, and excluding days on which the institution is closed, regardless of work schedule.

"Grievance" - means any cause of complaint arising between an employee and employer on a matter concerning discipline, alleged discrimination, promotion, assignment or interpretation or application of Institution or University System rules or departmental procedures over which Institution or University System management has control. If, however, the complaint pertains to the general level of wages, wage patterns, fringe benefits or to other broad areas of financial management and staffing, it is not a grievable issue.

III. GENERAL

A. The University System of Maryland (USM) recognizes that legitimate problems, differences of opinion, complaints, and grievances may exist in the daily relationship between the USM 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 problem or complaint will be promptly identified, presented, discussed and given fair, timely consideration.

B. The institution's management and each employee have an obligation to make every effort to resolve employee relations
problems as they arise. In any case where this effort fails, an appeal may be taken to higher authority, including neutral advisory arbitration. Decisions shall be both prompt and definitive.

C. Each University System employee shall have the right to make known a problem or complaint without the fear of coercion or reprisal. The employee also has the right to representation at any step of the grievance procedure.

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

E. No employee may file or continue to pursue a grievance on any matter that is the subject of a complaint under Title 5 (Employee Rights and Protections), Subtitle 2 (Equal Employment Opportunity Program) or Subtitle 3 (Maryland Whistleblower Law) of the State Personnel and Pensions Article.

IV. GRIEVANCE FILLING AND PROCEDURE

A. Grievances must be initiated within 30 calendar days of the action involved, or within 30 calendar days of the employee having had reasonable knowledge of the act. (Time limits may differ for some appeals and special actions as provided in the Policy on Appeals and Special Actions for Classified Employees.)

B. Appeals within the grievance procedure shall be timed from the receipt of the written opinion of management, or from when such opinion is due, whichever comes first.

C. If, following informal discussion with the supervisor, a dispute remains unresolved, the grievance procedure is available. There are three steps in the grievance procedure:

1. Step One - Department Representative (Dean, department head or chairperson)

   a. An aggrieved employee and/or the employee's designated representative (hereinafter known as the "Employee Representative") may present a grievance, in writing, to the Dean, department head, chairperson or designated representative (hereinafter known as the "Department Representative"). Within 5 working days after receipt of the written grievance, the Department Representative shall hold a conference with the aggrieved employee and/or the Employee Representative.

   b. Within 5 working days after the conclusion of the conference the Department Representative shall render a written decision. In the
event the aggrieved employee is not satisfied with the decision, the employee may appeal in writing to the next step within 5 working days.

c. It is the responsibility of the Department Representative to use judgment in keeping superiors informed of the status of each grievance and, as necessary, to request guidance, advisory committees or other assistance in reaching a decision.

d. The Institution Director of Human Resources/Personnel or designee shall be available to serve as a resource to answer any questions by either the employee or the employer. However, this shall not relieve the Department Representative from the responsibility for issuing a written decision at Step 1 of this procedure.

2. Step Two – The Institution Chief Executive Officer (CEO) or Designee

   a. If the dispute is still unresolved, the aggrieved employee or Employee Representative may appeal to the CEO or designee. The appeal must be submitted to the Institution Director of Human Resources/Personnel or designee within 5 working days after the receipt of the written decision at Step 1, who shall determine the appropriate forum for the hearing based upon the nature of the grievance as indicated below:

(1) Institution issues are issues which affect only a specific institution. These issues may include, but are not limited to, application of a department or institution policy, procedure or practice; administrative actions such as reprimands and, where applicable, suspensions, charges for removal, involuntary demotions and rejections on probation. Grievances involving institution issues will be heard by the Institution CEO or designee.

(2) Systemwide issues are issues which may affect more than one institution in the USM. These issues may include, but are not limited to, the general policies of the USM and broad classification issues not limited by law, regulation or policy. Grievances involving systemwide issues will be heard by the Chancellor or designee.

   b. In either case, the CEO or designee, or the Chancellor or designee, shall hold a conference with the aggrieved employee and/or employee's designated representative within 10 working days of receipt of the written grievance appeal and shall render a written decision within 15 working days after the conclusion of the conference.

3. Step Three – The Office of Administrative Hearings (OAH) or Arbitration
a. In the case of any unresolved grievance between an employee and the Institution or the USM, the aggrieved employee, after exhausting all available procedures provided by the USM, shall have the right to submit the grievance to either arbitration or to the Chancellor, who may delegate it to the OAH. In either case, the appeal must be submitted within 10 working days after the receipt of any written decision pertaining to that grievance and issued by the institution or USM.

b. In the event of arbitration, the parties shall select an arbitrator by mutual agreement. If the parties are unable to reach mutual agreement, an arbitrator shall be supplied by the American Arbitration Association (AAA) using AAA procedures. Any fees resulting from arbitration shall be assessed by the Arbitrator equally between the two parties.

c. In either case, the Chancellor or Administrative Law Judge, as appropriate, shall make the final decision which shall be binding upon all parties.

V. OTHER PROCEDURES

A. A grievance may start with a complaint or request by a Regular Status Staff employee.

B. It is the responsibility of the head of each organizational unit to assure that each employee understands the channels of communication and appeal, specifically who is the dean, department head or chairperson or their designees.

C. An employee may be represented at every step of the grievance procedure. At any point in the grievance procedure, the employee may elect to obtain, change, or dismiss a representative by providing written notice of same to the person hearing the grievance. However, such action in no way allows the grievant to return to a previous step in the procedure or to delay the grievance at the current step.

D. Employee grievance forms shall be available in the institution Office of Human Resources/Personnel. It is essential that the institution grievance form be used.

E. A grievance must bear the signature of the employee or the employee's representative at each step of the procedure.

F. It is the responsibility of each party to the grievance procedure, at each step of the procedure, to duplicate the grievance form prior to filing it with the employer or returning it to the employee, and to retain one copy of the form for possible future reference.

G. A record of each grievance and its disposition shall be furnished to the employee involved. A file copy of each grievance
shall be maintained at the last step at which the grievance was processed, and an additional copy shall be filed with the Institution Human Resources/Personnel Office which shall be available to the employee or the employee's representative.

H. Upon the formal or informal initiation of a grievance, an employee designated as an employee representative shall not suffer any loss of pay for investigating, processing or testifying in any step of the grievance procedure. Release time from normal work schedules is to be granted to the grievant and all witnesses to attend grievance hearings. Expenses incurred in connection with attendance by employees at grievance hearings shall be borne by the employee's department.

I. No employee shall leave an assigned post of duty to engage in grievance activities without the knowledge of and permission from the employee's designated supervisor.

J. Similar grievances may be consolidated and processed together as a single issue. Where a number of individual grievances have been reduced into a single grievance, not more than three employees selected by and from the group may be excused from work to attend a grievance meeting called by the responsible administrator at Step 1, and not more than five such employees at Steps 2 and 3 unless, at any step, prior permission is granted by the person hearing the grievance.

K. The hearing officer may exclude incompetent, irrelevant, immaterial and unduly repetitious evidence or witnesses.

L. All grievance hearings shall be open hearings unless either party requests that the hearings be closed.

M. At any step of the grievance procedure either party may require that witnesses be excluded from the hearing room until called.

N. Every effort shall be made by both parties to resolve the grievance at the lowest possible level.

O. Each step of the grievance procedure shall be processed as quickly as practicable within the specified time limits. The full time limits should not be used if the grievance can be adequately processed in a shorter period. Failure to appeal at any step constitutes acceptance. Failure to answer is a denial to which an appeal can be made. By mutual agreement of the parties, the time limits and/or steps may be waived.

P. The original grievance or appeal that has been considered on the merits will be considered de novo, in its entirety, at each successive step of the grievance procedure. A grievance or appeal going forward on a procedural issue will be remanded to the lowest step to be heard on the merits if the procedural dispute is found in
favor of the grievant.

Q. Any question concerning the timeliness of a grievance or whether a complaint is subject to the grievance procedure shall be raised and resolved promptly, unless the person hearing the grievance or appeal determines that the decision on a motion to dismiss will be deferred pending a hearing on both the merits and the motion.

R. In cases of appeal to an arbitrator, each party will be responsible for any expense incurred in the preparation and presentation of its own case, and for any record or transcript it may desire.

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

IMPLEMENTATION PROCEDURES:

Each Chief Executive Officer shall identify his/her designee(s) as appropriate for this policy; shall develop procedures as necessary to implement this policy; and shall forward a copy of such procedures to the Chancellor.

REFERENCES:

State Personnel and Pensions Article, Section 5-209, October 1, 2002.


REPLACEMENT FOR:

UM Personnel Policies and Rules for Classified Employees, Section IX, Grievances and Appeals, Page IX-1.

UM Personnel Policies and Rules for Associate Staff, Section H Employment Standards for Associate Staff, Grievances and Appeals, Page 16.
University System of Maryland Privacy Statement