

**Procedure on Contingent Employment for
Nonexempt and Exempt Employees**
(Effective 7/1/01; Revised 2/9/05, 5/15/07, 4/22/08, 8/1/2009, 1/28/2010)

I. Purpose

To establish procedures that govern the employment of contingent employees. These procedures shall be implemented in accordance with USM BOR Policy on Contingent Employment for Nonexempt and Exempt Employees (USM Policy VII-1.40).

II. Definitions

Contingent Status Employment - is a Non-Regular Status of employment for Nonexempt or Exempt Staff positions in the USM, regardless of funding source.

Contingent Status Employee - is defined as a person (non-faculty employee) who (1) pursuant to a written agreement, provides personal services to an institution for pay; (2) is not employed as a Regular Status employee in a budgeted position; (3) whose compensation, terms and conditions of employment are governed by this policy and a written contract and not by the USM policies generally applying to Regular Status Nonexempt and Exempt staff; and (4) has an employer-employee relationship with the institution in which the institution furnishes necessary supplies and equipment, and a place to work; has the right to control and direct the details, means and results of the performance of the services; and has the right to discharge the person from employment.

Contingent Category I – is defined as any Contingent Status employee whose written agreement (contract) is for a term of six months or less regardless of the percentage of time worked and regardless of whether it is seasonal or intermittent in nature (works “if and when needed”).

Contingent Category II - is defined as any Contingent Status employee whose written agreement (contract) is for more than six months, but no more than 12 consecutive months; and is on a fulltime basis or on a part-time basis of 50% or more of fulltime employment; and is not seasonal or intermittent in nature.

III. Recruitment and Selection of Contingent Employees

- a. As of the effective date of these guidelines, other than in extenuating circumstances and with the approval of the President, no Contingent II employees shall be hired by Frostburg State University.
- b. There are two scenarios under which grant-funded positions may be granted an exception to the policy against hiring Contingent Category II positions: (1) The funding source will not fund a regular status PIN position; and (2) The University is unable to obtain a PIN from the Department of Budget and Management (DBM). In either case, supporting documentation must be submitted to Human Resources prior to advertising the position as Contingent II.**
- c. A contract will be used to effect all contingent employee appointments and must be approved by the Director of Human Resources. Multiple contracts may be written for one person but may not exceed one (1) Full-time Equivalency (FTE). Guidelines of the Dual Employment policies must be followed.
- d. Contingent Category I positions are not required to be hired through competitive recruitment and selection. Thus, should these positions be converted to Contingent Category II or PIN, they will

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have to be posted and advertised. Exceptions shall be granted if the Contingent Category I employee was hired through a competitive process. There must be documentation to support the request for exception.

- e. Contingent Category II Employees are required to be hired through competitive recruitment and selection. A representative of the employing department will discuss hiring a contingent employee with the Director of Human Resources, or designee, to assure compliance with Board of Regents policy. The Director of Human Resources will determine the appropriate contingent employment category. Full-time employment for contingent employees will be based on the standard hours within a fiscal year. Contracts for Exempt employment will specify an annual rate of compensation. Contracts for Nonexempt employment will specify an hourly rate of compensation. Executive Committee approval is required for all Contingent Category II hires.

IV. Leave for Contingent Category II Employees:

- a. Frostburg State University will afford minimum benefits to eligible contingent employees as identified in Board of Regents policy. When combining multiple contracts from different departments, benefit costs will be pro-rated and divided equally between each employing department.

Contingent Category II Employees are eligible for the following leave:

- Five (5) days of annual leave
 - Eight (8) holidays
 - New Year's Day
 - Martin Luther King Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Thanksgiving Day
 - The Friday after Thanksgiving Day
 - Christmas Day
 - Three (3) Days of Sick Leave
 - Jury Duty
 - Administrative Leave for Emergency Closings when granted to Regular employees
- b. Use of leave benefits by Contingent Category II employees will be managed by the employing department. Leave use will be recorded on the employee's time sheet and the Leave Record. The Leave Record will be signed by the employee's Supervisor and sent to the Office of Human Resources at the end of the contract period. A compliance audit will be conducted periodically.
 - c. Contingent Category II employees will use their eight paid holidays as the holidays occur and in the same manner as other university employees similarly employed. Employees are not eligible for holidays which occurred prior to their hire date.
 - d. Annual and sick leave will be earned consistent with the Full Time Equivalency (FTE) of the position. Full-time contingent employees earn sick leave at the rate of one day for each four months employment. Full-time contingent employees earn annual leave at the rate of 1.25 days for each three months employment.
 - e. Departments may advance leave to the extent earned through a full contract period. All leave advanced will be reimbursable on a prorated basis should the contract terminate before its

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established ending date. Any unused leave at the end of the contract period may be carried over to the next contract period.

- V. Contingent Category II Employees shall be given a written performance evaluation under the USM's Performance Evaluation Program guidelines (USM Policy VII-5.20).
- VI. Contingent Category II Employees may participate, at their home institution only, in USM's Tuition Remission Program.
- VII. Grants' funded employment contracts will be written consistent with the grant-funded year. All other employment contracts will be written consistent with the University's fiscal year.
- VIII. Reclassification of Contingent Category II Positions
 - a. Contingent Category II positions may change in the following manner while assuring employment continuity for an incumbent.
 - 1) An employing department may request a change in job title and salary after completion of an initial contingent contract, by providing the Director of Human Resources or designee a description of the position requested, certification of funds availability to pay for related costs and the appropriate Vice President's approval in support of the requested change.
 - 2) Requests to change job title and salary should be made to the HR Director or designee no later than May 15 of any fiscal year. The HR Director or designee will provide the department written notice within 30 days that the requested change is approved or not approved.
 - b. Change in job title and salary will be affected on a FY basis only.
 - c. If a change in job title and grade is approved, the current salary rate will be increased by 6% or to the base salary of the new range, whichever is higher.
- IX. Conversion of Contingent Status Employees
 - a. Current Contingent II employees shall be converted according to the schedule reflected in USM Policy VII-1.40, *USM Policy on Contingent Status Employment for Nonexempt and Exempt Employees, Section IV. B. 4*. Positions approved for conversion shall convert at the current budgeted FTE. Current contingent positions may be converted on an accelerated basis dependent upon funds available and operational needs of the University.
 - b. As a general rule, new vacancies will be filled by regular status (PIN) positions, except as provided in section III. a.
 - c. Contingent employees converted to a regular status position shall be subject to all the policies and procedures of regular status employees, including any applicable MOUs.
 - d. Contingent employees shall be entitled to service credit for the time served as a contingent employee, if appointed without a break in service, as a regular status employee. The term "service credit" is not applicable to any retirement rights.
 - e. Contingent employees converted to a regular status position shall have time served as a contingent credit towards the six (6) month probationary period.
 - f. Provisions of this procedure do not apply to employees in positions funded through a Research/Service Grant or Contract, or through Clinical Revenue; Athletic Coaches; employees

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on internships; and those employees who have chosen not to be converted to Regular Status employment. These departments should convert or hire regular status positions if the budget/grant funds are available. If funds are not available, the funding source must notify the Office of Human Resources in writing of this lack of funding. Final authority rests with the appropriate Vice President.

X. New Positions:

- a. Requests for new positions must coincide with the fiscal year (July 1) except in unusual circumstances.
- b. New positions must coordinate with the FSU strategic plan.
- c. New positions must be approved by the appropriate Vice President and the Director of Human Resources. A written request is required and must include justification for the position based upon changes/restructuring/workload issues within the department and a complete Position Information Form (PIF). Upon approval, the position will be properly classified and an appropriate salary range will be established by the Office of Human Resources (OHR). At this point, the request shall be forwarded to the associate Vice President for Budget and Planning, for funding approval. The request shall not be complete until the signature of the President is obtained.
- d. When the aforementioned approvals are final, appropriate search documents shall be completed and returned to OHR so the position may be advertised and filled.
- e. New positions must be filled as PINs.

XI. Contingent Category I Positions

- a. Contingent I employees may have their contract renewed indefinitely by executing new contracts of up to six months at a time for 49% or less of fulltime employment. However, if the FTE calculates to 50% or more over a twelve (12) month period, they shall be considered to have been a Contingent II for the term of the contract(s) and renewal shall be at a Contingent II or PIN level.
- b. In certain circumstances and with OHR approval, a Contingent I contract may be written for a period of 12 months. However, the FTE may not exceed 49%.
- c. Temporary employment shall be defined as employment necessary to meet an immediate, short-term need. Examples shall include but are not limited to fund-raising efforts, seasonal projects, and peak periods in offices, departments and/or auxiliary enterprises, coverage for short-term disability, or instances where an employee has resigned or left service without reasonable notice and immediate coverage is needed to maintain operations.
- d. Temporary employment needs shall be addressed by Contingent I employees only. These employees shall be hired for a period not to exceed six (6) months. In instances where the need for temporary employment is the result of resignation or termination of employment, a search for a replacement to fill the position shall begin immediately.
- e. In the event a vacancy occurs during the year and funds to hire a regular status position are not available, a Contingent Category I employee may be hired for a period not to exceed six (6) months, with an option for one six (6) month renewal. A search to fill the position as a regular status position must be conducted within one year.

XII. Administration of this Procedure

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The Office of Human Resources (OHR) is designated as administrator of this procedure and all questions regarding this procedure should be referred to that office.

Exceptions to this policy shall be at the sole discretion of the President or designee.

XIII. NOTE: All Contingent employees are covered under USM Policy 1.40, *USM Policy on Contingent Status Employment for Nonexempt and Exempt Employees*.

XIV. References

USM BOR Policy VII-1.40 USM Policy on Contingent Status Employment for Nonexempt and Exempt Staff Personnel.

All policies are available on:

OHR Web Page

USM Web Page