

**Frostburg State University ("FSU")**

**and**

**the Maryland Classified Employees Association  
("MCEA")**

**SWORN POLICE OFFICERS' BARGAINING UNIT**

**Effective September 9, 2011  
to September 14, 2014**



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## **PREAMBLE**

This Memorandum of Understanding (MOU) is entered into by Frostburg State University (Employer or University) and the Maryland Classified Employees Association (Union), and has as its purpose the promotion of harmonious relations between the Employer and the Union; the establishment of an equitable and peaceful procedure for the resolution of differences without disruption in the workplace; and includes the agreement of the parties on the standards of wages, hours and other terms and conditions of employment for Sworn Police Officers. It is understood that the Board of Regents of the University System of Maryland (USM) and the employees covered by this MOU must approve this MOU. It is understood that agreements on issues requiring approval by the General Assembly of Maryland are tentative pending approval and funding by the General Assembly of Maryland. The provisions of this MOU shall in no way diminish or infringe any rights, responsibilities, power or duties conferred by the Constitution of the State of Maryland, or the Annotated Code of Maryland, including Title 3, State Personnel and Pensions Article (SPP), Annotated Code of Maryland, or the Law Enforcement Officers' Bill of Rights (LEOBR). In the event of a conflict between this MOU and the law, the law shall prevail.

## **ARTICLE 1. RECOGNITION AND UNIT DESCRIPTION**

### **1.1. Exclusive Representative**

The University recognizes the Union as the exclusive representative of the employees, as defined in Section 1.2 of this Article, for the purpose of negotiating collectively with the University pursuant to Annotated Code of Maryland, SPP, Title 3 (1997 Replacement Volume and 2001 Supplement) with respect to wages, hours, and other terms and conditions of employment. The University will not negotiate with any other union or employee organization on matters pertaining to wages, hours, and other terms and conditions of employment.

### **1.2. Description of Bargaining Unit; Inclusion/Exclusion of Classifications**

The term “employees” and “bargaining unit employees” as used in this MOU shall mean all Sworn Police Officers in the Sworn Police Officers (SPO’s) bargaining unit in the University Police Department at Frostburg State University as certified by the State Higher Education Labor Relations Board.

### **1.3. Classification and Pay Plan**

- A. The University agrees to furnish the Union, on an annual basis (July 1), a complete list of names, titles, classifications and rates of pay of all employees in the bargaining unit and to provide appropriate additions and deletions to said list on a current basis.
- B. If it is believed that the bargaining unit status of a classification has changed, the University or the Union, whichever is proposing the change, shall notify the other. Following such notice, the parties shall meet and attempt to resolve the issue.

### **1.4. Contracting Out**

- A. The Employer retains the right to contract out services that are performed or that could be performed by employees covered by this MOU including but not limited to the right to contract out to a private security agency or agencies overtime assignments that would otherwise be performed by employees. The University understands that the Union opposes the contracting out of public services. Where the Employer decides to contract out a service that is performed by employees covered by this MOU, the Employer will provide the Union with written notice of its decision no less than sixty (60) days before the effective date of the service contract. The notice shall include the following:
  - 1. A statement of what efforts, if any, will be made by the University to place affected employees in University positions that are vacant at the time of notice;
  - 2. A statement of what employment possibilities are available with the contractor; and
  - 3. A statement of which employees, if any, will be laid off as a result of the contracting out of services. Employees who are laid off are subject to Article 37 - Lay-offs, of this MOU.
- B. The parties specifically agree that this Section is intended to state the complete obligation of each party with regard to bargaining over the effects of a decision by the Employer to contract out.

## **ARTICLE 2. NON-DISCRIMINATION**

### **2.1. Prohibition Against Discrimination**

It is the policy of the parties to prohibit discrimination against any employee because of race, age, color, religion, creed, sex, sexual orientation, country of national origin, disability, marital status, veteran status, labor organization affiliation or lack of affiliation, and to promote and implement a positive and continuing program of equal employment opportunity.

### **2.2. Union Membership/Activity**

The parties recognize that employees shall have the right to join the Union, and while off work or on official release time, assist the Union freely.

### **2.3. Representation**

The Union recognizes its responsibility as the exclusive bargaining representative for the unit and agrees to fairly represent all employees in the bargaining unit.

## **ARTICLE 3. MANAGEMENT RIGHTS**

The Employer retains the sole and exclusive authority for the management of its operations and may exercise all rights, powers, duties, authority and responsibilities conferred upon and invested to it by all laws including, but not limited to, Title 3, SPP, except as specifically modified by this MOU. It is agreed by the parties that any section of this MOU that conflicts with current law, in particular Title 3, SPP, can be changed by the Employer after providing the Union with an opportunity to bargain over the proposed change. It is understood and agreed by the parties that the Employer possesses all other rights, powers, duties, authority and responsibilities to operate and manage all aspects of its operations including but not limited to its departments, agencies and programs and to carry out constitutional, statutory and administrative policy mandates and goals, including but not limited to those rights enumerated in Title 3, SPP 3.302.

## **ARTICLE 4. UNION RIGHTS**

### **4.1. Bulletin Board**

The Employer shall provide space for a lockable bulletin board, provided by the Union, at the University Police Building and the Lane Center. This bulletin board shall be for the exclusive use of the Union. The Union shall be responsible for the posting of all items on the bulletin board. Each item posted shall be dated and initialed by the Union official approving the posting. The Union shall ensure that posted items are not illegal, defamatory, inaccurate, partisan, or political endorsements and that no item is detrimental to the safety and security of the University. At the time of posting, the Union shall provide an informational copy of all items to the Employer.

#### **4.2. Meeting Space**

Union representatives may request, and the University will, where available, provide meeting space in buildings owned or leased by the University or the University System of Maryland at no cost to the Union. The University shall make space available for Union representatives to have confidential discussions with employees on an as needed basis subject to availability.

#### **4.3. Access to Employees**

The University agrees that representatives, officers, and Union staff shall have reasonable access to the premises of the University for the purpose of administration of this MOU. In addition, the Union shall have access to the police facility for the purpose of membership recruitment of SPO's. Approval for the access described in this section shall not be unreasonably denied.

#### **4.4. Administrative Leave for Union Activities**

- A. In each contract year the Employer shall credit the Union's release time account with forty-eight (48) hours to be allocated among individuals serving as union representatives. Release time must be approved by the supervisor and be consistent with operational needs. Release time may be used for Union business such as state or area-wide committee meetings or state or Union international conventions and Union sponsored labor relations training provided such representative provides reasonable notice to his/her supervisor of such absence. Reasonable notice for Union sponsored meetings and conventions listed above is at least thirty (30) days, and the Employer shall respond within ten (10) days of receiving the representative's notice. Such time off will not be detrimental in any way to the employee's record and will be specifically taken into account when applying performance standards relating to quantity and timeliness of work. Time may be used in one (1) hour increments.
- B. Time off with pay will not be unreasonably withheld. Time spent by employees participating in collective bargaining negotiations, including any meetings as may be necessary to supplement or amend the MOU, will not be considered administrative leave, but will be handled in accordance with the negotiation ground rules between the parties.
- C. In accordance with University policy, Employees shall be entitled to be either reimbursed by the University for mileage or be entitled to use of a fleet vehicle for transportation to and from University-approved Union activities attended under this Subsection.

#### **4.5. Routine Office Supplies**

Union representatives are authorized to make reasonable and responsible use of copiers and fax machines, provided that such use does not interfere with the Employer's operations and is used for legitimate business purposes. If such equipment is not used consistent with these requirements, the Employer may revoke such privileges after notifying the Union of its intent to revoke such privileges and identifying in writing for the Union the specific usage(s) which is that basis for the revocation of such privileges. The Employer reserves the right to charge a reasonable fee of \$.15 per copy.

#### **4.6. Mail Service and Computer Mail**

The Union shall be permitted to use internal University mail systems, including computer/electronic mail/fax, for mailings to the employees covered by this MOU. The use of computer/electronic

mail/fax is subject to the same rules of use as described in subsection 4.5. Confidentiality shall be maintained subject to the Employer's security needs.

**4.7. Union Activity During Working Hours**

Except as provided in Section 4.8, the Employer may grant Union representatives time off with pay during work hours, the total of which on a daily basis shall not exceed an employee's normally scheduled workday, for attendance at grievance meetings, labor/management meetings, committee meetings and activities if such meetings or activities have been jointly established by the Union and the Employer, or meetings called or agreed to by the Employer, if such Union representatives are entitled and required to attend the meeting. For this purpose, Union representatives shall be defined as the Chapter President or designee. Other than in cases of emergency, the Union representative must provide notice of no less than ten (10) workdays to his/her supervisor in advance of such absences, provided these absences are in no way detrimental to the staffing needs of the employee's department. Release time must be approved by the supervisor and be consistent with operational needs.

**4.8. Informal Union/Management Meeting**

In addition to the circumstances described in Section 4.7 above, when a Union meeting has been scheduled with the Chief of Police or designee, the Union representative and the affected employee, if applicable, shall be paid for the actual meeting time.

**4.9. Union Filing Cabinet**

The Union shall be permitted to have a lockable Union-provided filing cabinet at the Public Safety Building.

**4.10. Distribution of Information**

The Union shall be permitted to place and distribute material at the break room in the police department and in all public forums, before and after work and during breaks and meal periods.

**4.11. Employee Orientation**

The University will notify the Union of all formal monthly orientation meetings. The Union will be advised of the time and location of orientation meetings as soon as such meetings are scheduled. In the event a formal orientation meeting is not given, the University shall allow the Union representative and the employee(s) to meet during duty hours for thirty (30) minutes at a mutually agreed time and location. Immediately at the conclusion of all formal orientations, the Union will be permitted to give a thirty (30) minute presentation that may include an enrollment in supplemental Union benefits.

**4.12. Information Provided to Union**

A. The University shall provide to the Union the following information: new hires, including contractual employees hired into a permanent position, separations, promotions, transfers and reclassifications, disciplinary actions, and grievances for all bargaining unit employees. New hire information shall be provided at the beginning of each month and will include actions processed during the preceding month. Other personnel actions listed above will be provided to the union on a quarterly basis. The above information shall be provided electronically.

- B. Upon request by the Union, the Employer will also provide, in accordance with the Maryland Public Information Act, any other relevant and necessary information that the Union is entitled to as the exclusive representative of bargaining unit employees.

**4.13. Exclusivity**

The provisions of this Article shall apply exclusively to the Union except that other unions or employee organizations may continue to receive access to facilities, services, or information as required by Federal and State laws, rules, regulations, and orders.

## **ARTICLE 5. HOURS OF WORK**

**5.1. Workweek and Work Schedules**

A work schedule is defined as the employee's assigned work hours, including starting and ending times during the day, and the days included in the employee's workweek. Unless modified by the Employer, the normal workweek is forty (40) hours per week. The regular hours of work each day shall be consecutive. The administrative workweek for purposes of reporting work time begins at 12:00 a.m. on Wednesday and ends at 11:59 p.m. on Tuesday. There is no guarantee of the number of hours of work in a day or week, provided, however, that an employee's weekly hours will not be arbitrarily reduced. Nothing in this Article affects the University's right to discipline, furlough, or layoff employees.

**5.2. Work Schedule Changes**

- A. The Employer has the right to implement any work schedule change it deems appropriate so long as the work schedule and employee compensation comports with the Fair Labor Standards Act (FLSA) and this MOU. In the event the Employer implements a permanent change in an employee's work schedule, the Employer will provide the affected employee with fourteen (14) calendar days' advance notice.
- B. Employees may request and, in accordance with operational needs and with the approval of the supervisor, be approved temporary changes in their regular work schedule including flextime, "make-up" time and shift changes.

**5.3. Meals**

Employees may take up to a thirty (30) minute paid meal break while on police duty with notification to and approval of the supervisor during which the employee(s) shall remain available to respond to departmental needs. While attending training, employees will take an unpaid lunch break that coincides with the training schedule except that application of this unpaid meal provision shall not result in an employee receiving less than eight (8) hours of pay for that day. Employees must adhere to established police protocol when leaving campus, for meals or otherwise, while on duty.

**5.4. Shifts**

A. Unless changed by the Employer, the normal work schedule for employees covered by this MOU is:

1. 7:00 a.m. to 3:00 p.m.
2. 3:00 p.m. to 11:00 p.m.
3. 11:00 p.m. to 7:00 a.m.

B. At present, Employees work a schedule of rotating shifts. If the decision is made to return to permanent shifts, bargaining unit employees may bid for the shift of their choice. Requests shall be submitted by August 1 and selection shall be made on September 1 of each year. While reasonable effort shall be made to award employees the shift of their choice, final assignment will be based upon operational needs and will be at the discretion of the Chief of Police or designee.

**5.5. Timesheets**

Employees are required to record all hours worked and absences (paid and unpaid) on their time sheets.

**5.6. Court Time**

Employees who are required to attend court on behalf of the University for work-related reasons during their scheduled tour of duty will be paid for their normal duty unless overtime is required by the FLSA. Employees who are required to attend court on behalf of the University for work-related reasons during their off duty hours are paid pursuant to call-back pay.

**5.7. Schedule Change**

The University agrees that, except in cases of emergency, it will not make an involuntary schedule change that affects an employee's previously scheduled and approved leave.

**5.8. Work Time**

Work time includes all time defined as work time under the Fair Labor Standards Act (FLSA).

**5.9. Cancellation of Compensation**

**With the exception of weather-related closures**, if an employee is scheduled to work a University function, or any other University special event, and is informed with less than twelve (12) hours notice, that he/she is not needed to work the function or event, the employee may be eligible for cancellation compensation under the following terms:

If less than twelve (12) hours of notice                      two (2) hours pay

If the employee receives no notice                              four (4) hours pay

**5.10. Minimum Staffing**

The University shall insure that there will be a minimum of two (2) officers on the road working patrol duties during all shifts at all times when students are in residence and classes are in session, excluding intersession and summer school.

## **ARTICLE 6. OVERTIME, SHIFT DIFFERENTIAL ON-CALL AND CALL-BACK COMPENSATION**

### **6.1. Overtime**

- A. Unless the Employer implements an alternative schedule, employees shall receive 1-1/2 times their regular rate of pay for hours worked in excess of forty (40) hours per week in accordance with the FLSA. All hours worked and paid in excess of forty (40) hours in a week must be pre-approved by the employee's supervisor.
- B. Hours worked shall include paid sick, annual, holiday, administrative, or personal leave and must be pre-approved.
  - 1. When the University determines that operational needs warrant the use of overtime, and such determination is made at least forty-eight (48) hours in advance of the need for overtime, overtime will be assigned in the following manner:
    - a. The University shall maintain a list of those employees who have expressed a preference to work overtime, and will assign overtime to qualified employees on said list on a straight rotating basis.
    - b. An employee who is offered an overtime opportunity and is unavailable or refuses the overtime, for whatever reason, shall be, for purposes of rotation only, charged the same as if the employee had accepted and worked the overtime offered and shall be placed at the bottom of the list and the next person on the list shall be offered the overtime. Employees on approved leave, military leave, layoff, long-term illness, suspension, or absent during their normal working hours shall not be eligible for overtime opportunities and shall be treated the same as employees who have refused overtime work.
    - c. After the University has exhausted efforts to assign overtime to those on the aforementioned voluntary overtime list the University shall assign overtime.
    - d. In emergency situations, or in circumstances where the determination to work overtime is made less than forty-eight (48) hours before overtime hours need to be worked, the University reserves the right to assign overtime.

### **6.2. On-Call Pay**

- A. Sworn Police Officers may be placed in an on-call status at the discretion of the Chief of Police. The following guidelines apply:
  - 1. An employee assigned to on-call status shall receive compensation in the amount of twenty-four dollars (\$24) per day, plus appropriate wages for all hours worked. On-call pay shall be included in the computation for overtime wages.

2. The employee must be accessible at all times and must immediately notify his/her supervisor if inaccessible. If inaccessible, on-call pay will be forfeited.
3. An employee cannot be designated on-call for more than seven consecutive days; however he/she may be on-call for twenty-four (24) hours on each of those days.
4. An employee who is assigned to on-call status and cannot be reached or does not report within two (2) hours of being contacted, will face disciplinary action and will not receive on-call pay for that day.
5. Overtime work does not make an employee eligible for on-call pay. An employee is only eligible for on-call pay where the employer designates the employee as "on-call", and the employee meets the other conditions set forth herein.
6. Essential employees are not automatically assigned to on-call status.
7. The Chief of Police will rotate on-call assignments among eligible employees.

### **6.3. Call-Back Pay**

- A. The Chief of Police may, at his discretion, require a Sworn Police Officer(s) to report to work in "call-back" capacity. The following criteria apply:
  1. Eligibility. Sworn Police Officers who are required to return to work on a regularly scheduled duty day after going off duty, or are called in to work on a regularly scheduled day off. Eligibility for callback pay applies whether or not employee is also on on-call status.
  2. Compensation. Employee is credited with a minimum of two (2) hours compensation at the appropriate rate. Travel time counts as time worked and counts toward overtime.
  3. If an employee is called-back on a qualifying shift, the employee receives shift differential for all qualifying hours.
  4. Shift Adjustment. An employee's regular shift will not be adjusted as a result of the employee being called back to work, unless the employee agrees to have his/her shift adjusted.

### **6.4. Shift Differential**

Subject to the conditions set forth in Section 4D below, the Employer shall pay a shift differential for hours actually worked to an employee who works a qualifying shift. A qualifying shift means a full-time or permanent part-time shift that starts at or after 2:00 P.M. and at or before 1:00 A.M. The rate of shift differential pay shall be \$1.00 per hour. Shift differential will be included in the regular rate calculation for the computation of overtime. The following provisions will establish eligibility:

1. To qualify for shift differential, an employee must be employed on a fifty percent (50%) or more basis of fulltime employment.
2. Shifts are not established by the time the employee begins to work, but rather by when an established shift starts.
3. The Employer shall pay a shift differential on a prorated basis to an employee who works any part of a qualifying shift. (Example – an employee starts work at the beginning of a qualifying shift but, for one reason or another, only works two (2) hours.)
4. Shift differential is authorized for an employee who is permanently assigned to a qualifying shift while on approved leave with pay. An employee who is on a permanent schedule of rotating shifts is eligible to claim the shift differential only for leave taken while scheduled for a qualifying shift. However, such payment of shift differential will cease after ten (10) full working days of continuous paid leave for which there has been a shift payment.
4. In an overtime situation where the employee continues working from a non-qualifying shift into a qualifying shift, the employee will receive a prorated shift differential provided the employee works at least one-half ( $\frac{1}{2}$ ) of the qualifying shift.

## **ARTICLE 7. WAGES**

### **7.1. Wages and Pay Scales**

- A. During the term of this MOU, the employees covered by this MOU will be paid in accordance with the USM's Nonexempt Pay Scale subject to the specific terms and conditions set forth in this Article with the following additional provision:
- B. Any employee whose base salary exceeds the applicable stated salary grade maximum will have applicable merit adjustments paid in the form of a non-base bonus until such time as the employee's base salary does not exceed the applicable stated pay grade maximum. Thereafter, applicable merit adjustments for any such employee will be made to the employee's base salary only to the extent that the employee's base salary after the adjustment does not exceed the stated maximum of the applicable grade. Any portion of the wage adjustments that would otherwise cause the employee's salary to exceed the stated maximum of the employee's pay grade will be paid in the form of a non-base bonus.

### **7.2 Merit Pay/Bonus for Meets Standards FY12**

For FY 2012, merit pay adjustments/bonus will be provided to eligible bargaining unit employees who meet or exceed standards at whatever amount is provided in the legislative appropriation.

### **7.3 Cost of Living Adjustment (COLA) FY12**

For FY 2012, COLA will be provided to eligible bargaining unit employees at whatever amount is provided in the legislative appropriation.

**7.4. Merit/Bonus and COLA FY 2013 and FY 2014**

Either party may reopen this MOU during the month of June in each year (2012 and 2013) for the sole and limited purpose of negotiating over the subjects of what cost of living adjustment, if any, what merit pay adjustment/bonus for "Meets Standards", if any, and what funding conditions and requirements, if any, for both items shall be included in the USM budget request submitted to the Governor for the next fiscal year. All other terms and conditions of this MOU shall remain in full force and effect during any such reopener and throughout the duration of this MOU.

**7.5. Acting Capacity**

- A. When an employee is appointed to a different position on a temporary basis that is anticipated to exceed twenty-one (21) consecutive calendar days, the employee shall be considered to be functioning in acting capacity. This appointment may result in a temporary title change not to exceed twelve (12) months and salary adjustment consistent with the policy on reclass/promotion. For assignments lasting longer than twelve (12) months, reviews will be held at three (3) month intervals.
- B. An employee who is in an acting appointment must meet the minimum qualifications of the position to which he or she is appointed. The employee shall receive a salary increase of not less than six percent (6%) for the duration of the acting appointment. Upon conclusion of the acting appointment, the employee's salary reverts to the employee's last regular salary rate in effect prior to the acting appointment, subject to adjustment for any intervening salary adjustments that have occurred.

**ARTICLE 8. HOLIDAYS**

**8.1.** Employees earn eleven (11) paid holidays per year and twelve (12) holidays during years of general and congressional elections. In addition, employees earn three (3) University holidays. One (1) day of holiday leave shall be earned for each month of the year, except for the months of January and July, when two (2) days of holiday leave shall be earned.

**8.2.** Holiday guidelines are as follows:

- A. Holidays in the Police Department are prescheduled. The Employer reserves the right to assign holidays in accordance with this Article and shall make best efforts to grant the employee the day off requested, subject to operational needs.
- B. Employees may submit, no later than the 10<sup>th</sup> of December and the 10<sup>th</sup> of June, for the following six (6) month period, a written request to schedule holidays on consecutive days for that six (6) month period. Employees who elect not to schedule holidays consecutively for that six (6) month period will submit a written request to schedule holidays by the tenth (10<sup>th</sup>) of the month for the following month. Requests will be reviewed by the Operations Officer, and granted on a first-come, first-served basis, subject to the Employer's right to assign holidays to meet operational needs, including the need to manage the department's overtime budget. If requests are not made by the aforementioned dates, the Employer shall schedule the holidays.

Holidays will continue to be earned on a monthly basis. Other than as a result of special assignment or Police Academy training, holidays may not be carried from one (1) six (6) month period to another. If a holiday is taken and the employee severs employment before the holiday is earned in the six (6) month period, the employee will pay back the holiday upon severance. If employment is severed before an earned holiday is used, the employee shall be compensated at the applicable rate.

- C. Part-time employees on at least a fifty (50) percent basis of full-time employment shall earn holiday leave on a prorated basis.
- D. Employees who are prescheduled to work on one (1) of the following holidays shall be paid a holiday stipend of one-hundred dollars (\$100) for each listed day, and will have the holiday prescheduled on a different day: 4<sup>th</sup> of July, Thanksgiving Day, Christmas Day, and New Year's Day.
- E. Management will try to work with employees to allow them to take their prescheduled holidays; however, in unforeseen circumstances, an employee may be required to work on the employee's prescheduled holiday. When this occurs, the employee shall be paid at the applicable rate of pay under the FLSA for all hours worked, including overtime if applicable, and normally be granted the holiday on a different day. At the employee's option, the employee may be paid at the applicable rate of pay for all hours worked and paid eight (8) hours holiday pay at the straight time rate in lieu of being granted another day off.
- F. Employees shall be paid for any unused holiday leave that has been earned as of the date of separation from employment.
- G. Upon request and subject to the operational needs of the department, an employee may observe a religious holiday, other than Christmas Day, provided that the time off is charged to holiday, personal or annual leave.
- H. If a prescheduled holiday occurs when an employee is on bereavement leave, the holiday will be rescheduled. If a prescheduled holiday occurs when an employee is on other approved paid leave, Management will determine in consultation with the employee whether the day will be charged as a holiday or to other leave, with the holiday rescheduled.
- I. In the event that Management fails to assign holidays in a given six (6) month period, the employee will be given the option of either being paid for the holidays or carrying the holidays over to the next six (6) month period.

## **ARTICLE 9. ANNUAL LEAVE**

### **9.1. Annual Leave Accrual**

Employees' annual leave accrual depends on the length of their University System of Maryland service. Annual leave is accrued but cannot be used during the first six (6) months of employment.

At the beginning of the seventh (7<sup>th</sup>) month, a total of five (5) days is credited to the employee's annual leave balance and is available for use. Annual leave is earned as follows:

<b>Years of Service</b>	<b>Annual Leave Accrued on a Bi-Weekly Basis</b>
Through 4 years	10 days per year
5 through 10 years	15 days per year
11 through 20 years	20 days per year
21 or more years	25 days per year

## **9.2. Annual Leave Scheduling**

Approval of all annual leave requests is at the sole discretion of the Chief of Police or designee. The Chief of Police shall ensure that a designee is available for all shifts. All annual leave must be requested and authorized on a form designated by the Chief. The Employer will use best efforts to grant each employee one (1) primary time off request per calendar year on the basis of seniority with the most senior employee given first (1<sup>st</sup>) preference. An employee who wishes to make a primary annual leave request must identify the request as such and submit it no later than January 31<sup>st</sup> of the year in which the requested leave would occur. Primary leave requests must be for consecutive days, not to exceed ten (10), and may include any combination of accrued annual leave and personal leave. All other leave requests shall be on a "first come, first served" basis.

## **9.3. Other Annual Leave Matters**

- A. Except in cases of emergency, previously approved leave shall not be revoked for the purpose of assuming the duties of Police Communication Officers.
- B. Where a University holiday falls within an approved annual leave period, it is not counted as an annual leave day except if the annual leave allowance is being paid upon resignation or death. If an employee becomes ill during five (5) or more of his/her annual leave days, he/she may request that the portion of his/her annual leave during which he/she was ill be converted from annual leave to sick leave provided that:
  1. He/she was hospitalized during his/her annual leave period; or
  2. He/she was under a doctor's care for illness other than a chronic condition during the course of his/her annual leave.
- C. In order to be eligible for such conversion of annual leave to paid sick leave, the employee must notify OHR immediately or as soon as practical, but no later than the first day back to work, and must submit acceptable evidence of hospitalization or of a doctor's attendance. When a death occurs in an employee's immediate family while the employee is on annual leave, sick leave, sub code "bereavement," may be charged.

## **9.4. Annual Leave Maximum Accrual**

- A. Employees may accumulate unused annual leave and may carry over from one (1) year to the next up to fifty (50) days, or four hundred (400) hours. If an employee is denied, in writing, the opportunity in a calendar year to use annual leave in excess of the fifty (50) days or four

hundred (400) hours maximum carry-over by his/her supervisor, the employee shall be permitted to cash out the excess annual leave if funding is available.

- B. An employee or an employee's estate will be paid for all accumulated annual leave upon termination of State service at the time that the employee or the employee's estate receives his/her paycheck for the final period of work, or the next pay period, whichever occurs first.

**9.5. Other Leave Matters**

An employee may, at his or her option, and with the approval of the Chief and the Director of Human Resources, use annual leave immediately prior to retirement, up to the total of his or her accumulated annual leave.

## **ARTICLE 10. SICK LEAVE**

**10.1. Purpose**

The purpose of this Article is to specify the details regarding the earning, accumulation, and use of sick leave by SPO's at Frostburg State University (FSU). This Article is written in compliance with USM Policy VII-7.45, Policy on Sick Leave (approved 12/5/97).

**10.2. Definition of Sick Leave**

"Sick leave" is paid leave earned by employees to provide protection against loss of earnings when an employee is absent as a result of illness or other circumstances of a medical nature that are covered by this Article.

**10.3. Rate of Earnings and Accumulation of Sick Leave**

Sick leave is earned at the rate of fifteen (15) days per year. Employees who work part-time (at least fifty (50) percent, but less than one hundred percent (100% of full-time) earn sick leave on a pro rata basis. Sick leave may be accumulated without limit, and unused sick leave may be carried over from one (1) calendar year to another. Upon retirement, accrued sick leave may be used as a service credit (if the employee's particular retirement plan so provides), in accordance with applicable laws and regulations.

**10.4. Use of Sick Leave**

A. Earned sick leave may be granted if an employee is absent for any of the following reasons:

1. Illness, injury, or disability of the employee.
2. An emergency medical appointment, or a pre-scheduled and approved medical appointment for the employee with a practitioner or provider listed in Section 10.5 of this Article that cannot be scheduled during non-work hours.
3. Illness or injury of a member of the employee's immediate family, or pre-scheduled and approved medical appointment for members of the employee's immediate family with a

practitioner or provider listed in Section 10.5 of this Article that cannot be scheduled during non-work hours.

- a. Immediate family, as used in this Article, includes the following: employee's spouse, child, step-child, grandchild, mother, father, mother-in-law, father-in-law, brother, sister, grandparent, brother-in-law, sister-in-law, other relative who is a permanent resident of the employee's household, or legal dependent regardless of residence. The Chief of Police or designee may require an employee to provide certification by a medical provider as listed in Section 10.5 of this Article, to verify the need for the employee to care for the ill family member and that the employee did so.
- b. A maximum of fifteen (15) days of the employee's earned and accumulated sick leave may be used per calendar year for medical care of an immediate family member when the need for such care is not pursuant to Family and Medical Leave, as defined in Article 11 of this MOU and USM Policy VII-7.50, Policy on Family and Medical Leave (approved 8/27/93; amended 4/16/04 and 10/22/04).
- c. Advanced and extended sick leave cannot be used for the medical care of an immediate family member.

4. Death of a relative.

- a. A maximum of three (3) days may be charged to earned sick leave in the event of the death of any of the following family members: spouse, children, step-children, parents of employee or spouse or others who took the place of parents, brothers and sisters of employee or spouse, grandparents of employee or spouse, grandchildren of employee or spouse, son-in-law, daughter-in-law, or other relative who was a permanent resident of the employee's household. If travel requiring the employee to stay away from home overnight is involved, a maximum of five (5) days may be charged to earned sick leave upon request of the employee.
- b. A maximum of one (1) day may be charged to earned sick leave for reasons related to the death of the employee's or his/her spouse's aunt, uncle, niece, or nephew.

F. Integration of Sick Leave and Family and Medical Leave

When an employee requests and is granted leave for reasons defined as "qualifying events" under the Family and Medical Leave Act (FMLA), the employee may use accrued sick leave, to the extent it is available, for any portion of that leave. (See Article 11 of this MOU and USM Policy VII-7.50, Policy on Family and Medical Leave. In all instances where leave is granted pursuant to the FMLA, employees must exhaust all accrued paid leave including sick, personal, and annual prior to moving to unpaid Family and Medical Leave. Advanced sick leave shall only be granted for the illness of the employee. Leaves under FMLA will not be considered when determining if the employee has a satisfactory attendance record.

## 10.5. Verification of Absences Charged to Sick Leave; Definitions

- A. In order to insure that sick leave is used in accordance with the provisions of this Article, the Chief of Police or designee may, in accordance with Section 10.6 of this Article, require an employee to submit written documentation of an illness, injury, or disability. Such a requirement shall be imposed for not more than six (6) consecutive months, with the ability of the Chief of Police or designee to extend the requirement for cause. If the Chief of Police or designee determines that written documentation will be required, the employee must be notified in writing in advance of the requirement. The documentation must be signed personally by an accredited Christian Science practitioner or by any of the following licensed or certified medical providers:
1. Physician;
  5. Physical therapist;
  6. Clinical psychologist;
  7. Dentist;
  8. Oral surgeon;
  9. Chiropractor;
  10. Podiatrist;
  11. Certified nurse practitioner;
  12. Certified nurse-midwife;
  13. Licensed certified social worker-clinical; or
  14. Optometrist.
- B. The verification documentation must include but is not limited to:
1. The duration of absence from work;
  2. A prognosis of the employee's ability to return to work;
  3. Title and original signature of the medical provider; and
  4. Any other information necessary to verify that the employee's use of sick leave is in accordance with this Article.
- C. Illness or injury of or medical appointment for members of the employee's family.

When the employee has been placed on notice of the need for verification of sick leave, the employee must submit written documentation of the need for the employee to be absent because of the illness or injury of or a medical appointment for a member of the employee's immediate family as defined in Section 10.5 of this Article. The verification documentation must include the dates of the employee's absence and must be signed personally by a practitioner or provider listed in Section 10.5 of this Article.

## **10.6. Documentation and Abuse of Sick Leave**

- A. Excessive use and/or abuse of sick leave may result in progressive disciplinary action up to and including termination from employment. Prior to imposing a requirement on an employee for documentation for sick leave use, under Section 10.6.C below, the University shall orally counsel the employee that future undocumented absences may trigger a requirement for certification of future occurrences of sick leave.
- B. Upon direction of the Chief of Police or designee and with the concurrence of the Director of Human Resources or designee, an employee who uses excessive amounts of or otherwise abuses sick leave must provide a medical certificate signed by a qualified medical practitioner to verify the use of sick leave.
- C. When considering whether to require a medical certificate for use of sick leave as provided herein and in Section 10.5.A, the Chief of Police or designee should base the action on documentation of one or more of the following:
  - 1. The employee has been absent for more than five (5) consecutive days;
  - 2. The employee has had more than five (5) undocumented absences of more than four (4) hours of sick leave use in a calendar year which begins January 1;
  - 3. The employee has provided medical certification for past absences but the certification has not provided accurate information;
  - 4. There is a pattern to the employee's absences (e.g. consistent absences on a particular day of the week, the day before or after a scheduled holiday, or on days when projects or assignments are due.);
  - 5. Based upon observation or other relevant evidence, there are reasonable grounds to believe that the employee is not sick;
  - 6. The employee uses more sick leave than is needed for a medical appointment (verified and documented);
  - 7. The employee's absences are having a negative impact on his/her ability to accomplish work tasks (i.e. assignments are not completed); and/or
  - 8. The employer has other reasonable grounds to suspect that the employee is abusing sick leave.

## **10.7. Fitness for Duty**

- A. When considering whether to require a medical examination and evaluation in regard to fitness for duty, the Chief of Police or designee should base his/her action on documentation of at least one of the following indicators:

1. The employee appears unfit for duty (demonstrates some limitation of his/her ability to perform some or all of the job tasks due to illness, injury, or other disability);
  2. The employee complains of a medical condition(s) and indicates that he/she has not sought medical attention; and/or
  3. The employee indicates that he/she cannot perform job tasks due to a medical condition.
- B. If the Chief of Police or designee concludes that an employee is unable to regularly and routinely perform the duties and handle the responsibilities of his/her position, the Chief of Police or designee may notify the Director of Human Resources or designee, in writing, of the circumstances surrounding the matter and request a medical examination and evaluation of the employee to determine fitness for duty. The Chief of Police or designee must provide the Director of Human Resources or designee with supporting documentation and a job description. The Chief of Police or designee will inform the employee, in writing, that this action is being taken.
- C. The Director of Human Resources or designee will determine whether to refer the employee to a physician for a medical examination and evaluation. If the determination is to refer the employee to a physician, the Director of Human Resources or designee will direct the employee to visit a physician selected by FSU. The examination will be paid for by FSU. The employee may also visit the employee's personal physician at the employee's expense.
- D. If the medical examination reveals that the employee is unable to regularly and routinely perform the duties and handle the responsibilities of the employee's position, the Director of Human Resources or designee will place the employee on sick leave or will take action in accordance with FSU/USM policies and/or procedures on reasonable accommodation; modified duty; demotion; disability retirement (if applicable); resignation; or termination of employment (USM Policy VI – 7.41, Policy on Modified Duty (approved 11/12/93), and USM Policy VII-9.40, Policy on Salary Upon Transfer or Reclass (approved 6/9/95; effective 7/1/96) Guidelines – MD State Retirement & Pension System, Americans with Disabilities Act).
- E. If there is a conflict between the evaluation, diagnosis, prognosis, or recommendation of the employee's personal physician and the physician selected by FSU, the Director of Human Resources or designee may require further medical examinations and evaluations of the employee by a third physician selected by FSU in order to make a determination concerning the appropriate action to be taken regarding the employee's employment status at FSU. FSU will pay the costs of those further examinations and evaluations ordered by the Director of Human Resources or designee.

#### **10.8. Advanced Sick Leave**

- A. An employee who sustains a temporary, recoverable illness, injury, or serious disability may be eligible to borrow up to sixty (60) days of sick leave in any one (1) calendar year. This advanced sick leave may be granted by the Director of Human Resources or designee at the rate of fifteen (15) days for each year of the employee's completed USM/State service. The employee must have completed at least six (6) months of continuous USM service and, if

applicable, completed an original probation period. In addition, the employee must have a satisfactory record of work performance and sick leave usage and must have exhausted all available paid leave.

- B. Advanced sick leave is not an entitlement. Each case shall be judged on an individual basis, and granting of advanced sick leave shall be at the discretion of the Director of Human Resources or designee.
- C. The employee or someone on the employee's behalf must submit to the Director of Human Resources or designee a written request for advanced sick leave as far in advance of the first requested day of leave as possible. If there is an emergency situation, the request must be made as soon as possible. The request must include written documentation personally signed by the appropriate practitioner or provider listed in Section 10.5 of this policy. The Director of Human Resources or designee will notify the Chief of Police or designee of the employee's request and the Director of Human Resources or designee will approve or deny the request. Advanced sick leave will be granted in increments of at least one (1) day.
- D. An employee who is on advanced sick leave continues to earn sick leave and annual leave, which are applied to the employee's absence as they are earned. Personal leave and holiday leave are credited while the employee is on advanced sick leave and are applied to the employee's absence as they are credited. If a holiday occurs during a period of advanced sick leave, the day is considered a holiday and not an advanced sick leave day. Worksite closures because of weather or emergency conditions do not reduce advanced sick leave usage.
- E. The Director of Human Resources or designee will not approve a request for advanced sick leave if the illness, injury, or disability occurred on the job and the employee has been granted accident leave or temporary total disability benefits by the Workers' Compensation Commission.
- F. The Director of Human Resources or designee will not approve a request to use advanced sick leave for illness or death in an employee's family.
- G. The Director of Human Resources or designee may require an employee who is on advanced sick leave to undergo periodic examinations conducted by a physician selected by FSU in order to determine the nature and extent of the illness, injury, or disability and the length of time necessary for recovery and an estimated date of return to work. If there is a conflict between the employee's personal physician and the physician selected by FSU, the Director of Human Resources or designee will choose which report to use as a basis for action. FSU will pay the costs of examinations ordered by the Director of Human Resources or designee. The decision of the Director of Human Resources or designee concerning the appropriate action to be taken will be the final decision on the issue.
- H. Advanced sick leave is a debt that must be paid back to FSU/USM upon the employee's return to work or upon the employee's separation from employment, whichever occurs first. Upon returning to work, the minimum rate of repayment is one-half of the rates at which the employee earns sick leave and annual leave. The employee may also elect to repay the FSU/USM by applying any earned leave to the debt or by reimbursing the FSU/USM with cash.

## 10.9. Extended Sick Leave

- A. An employee who sustains a temporary, recoverable illness, injury, or serious disability and has completed at least five (5) years of USM and/or State service may request extended sick leave, which may be granted by the Director of Human Resources or designee. The cumulative total of extended sick leave that may be approved throughout an employee's entire USM/State service is twelve (12) work months (fifty-two (52) workweeks). The employee must have a satisfactory record of work performance and sick leave usage and must have exhausted all available paid leave, including advanced sick leave.
- B. Extended sick leave is not an entitlement. Each case shall be judged on an individual basis, and granting of said leave shall be at the discretion of the Director of Human Resources or designee.
- C. The employee or someone on the employee's behalf must submit to the Director of Human Resources or designee a written request for extended sick leave as far in advance of the first requested day of leave as possible. If there is an emergency situation, the request must be made as soon as possible. The request must include written documentation personally signed by the appropriate practitioner or provider listed in Section 10.5 of this policy. The Director of Human Resources or designee will notify the Chief of Police or designee of the employee's request and the Director of Human Resources or designee will approve or deny the request. Extended sick leave will be granted in increments of at least one (1) day.
- D. An employee who is on extended sick leave continues to earn sick leave and annual leave, which are applied to the employee's absence as they are earned. Personal leave and holiday leave is credited while the employee is on extended sick leave and is applied to the employee's absence as they are credited. If a holiday occurs during a period of extended sick leave, the day is considered a holiday and not an extended sick leave day. Worksite closures because of weather or emergency conditions do not reduce extended sick leave usage.
- E. The Director of Human Resources or designee will not approve a request to use extended sick leave for illness or death in an employee's family.
- F. The Director of Human Resources or designee may require an employee who is on extended sick leave to undergo periodic examinations conducted by a physician selected by FSU in order to determine the nature and extent of the illness, injury, or disability and the length of time necessary for recovery and an estimated date of return to work. If there is a conflict between the employee's personal physician and the physician selected by FSU, the Director of Human Resources or designee will choose which report to use as a basis for action. FSU will pay the costs of examinations ordered by the Director of Human Resources or designee. The decision of the Director of Human Resources or designee concerning the appropriate action to be taken will be the final decision on the issue.
- G. Extended sick leave is leave with pay that does not have to be paid back to FSU/USM.

## ARTICLE 11. FAMILY AND MEDICAL LEAVE

- 11.1. An employee may be eligible for a maximum of twelve (12) weeks (sixty 60 days) of family and medical leave during a twelve (12) month period in accordance with the Family and Medical Leave Act (FMLA) of 1993 and USM Policy VII-7.50, Policy on Family and Medical Leave for Exempt and Nonexempt Staff Employees (approved 8/27/93; amended 4/16/04 and 10/22/04). The following guidelines are observed in granting family and medical leave:
- A. The employee has at least twelve (12) months service with the USM or State of Maryland and has worked at least one thousand and forty (1,040) hours during the twelve (12) month period immediately prior to the beginning date of the leave as a USM or State of Maryland employee.
  - B. Reasons for which the leave may be used include the birth of the employee's child or placement of a child for adoption; care of one's own child or foster child less than fourteen (14) years of age; health care for the employee's parent, spouse, child or legal dependent; and the serious health condition of the employee.
  - C. Unless an emergency situation exists, an employee shall give his/her supervisor at least thirty (30) calendar days prior notice and provide documentation of the need for the leave. The Director of Human Resources or designee must review and approve all family and medical leave requests.
  - D. The employee must use accrued paid leave to the extent it is available, prior to moving to unpaid family and medical leave.
  - E. The employee may continue to receive health benefits while on leave and is responsible for his/her share of the premium only. Service credits and other leave benefits do not accrue while the employee is on unpaid family and medical leave.
  - F. Upon returning to work, except as provided in USM Policy VII-7.50, Policy on Family and Medical Leave for Exempt and Nonexempt Staff Employees, IX.B, C, D, and F (approved 8/27/93; amended 4/16/04 and 10/22/04) the employee's former position or equivalent shall be restored with the pay, benefits, and terms and conditions of employment that he/she enjoyed immediately prior to taking family and medical leave.
  - G. If the employee does not return to work and remain on the job for thirty (30) days, the portion of the health insurance premium paid by the Employer stops, and the University shall recover any Employer health insurance premiums paid for periods of unpaid leave.
  - H. The University may place an employee on FMLA when a qualifying event occurs.

## ARTICLE 12. ACCIDENT LEAVE

- 12.1. Accident leave is leave in which the employee receives two-thirds (2/3) of his/her regular pay. Accident leave is administered in accordance with USM Policy VII – 7.40, Policy on Accident Leave

*for Exempt and Non-Exempt Employees (approved 5/1/92; amended 11/12/93, and 4/16/04).* An employee who is injured while at work and is unable to return to work as a result of the work accident may be eligible to receive up to six (6) months of accident leave. Accident leave may be granted for up to an additional six (6) months if a physician selected by the University certifies that the employee continues to be disabled. In addition, an employee has the right to file a claim with the Workers' Compensation Commission. For an employee to be eligible to receive consideration for accident leave, the following criteria must be met:

- A. The injury is within the guidelines of the Maryland Workers' Compensation Act.
- B. The employee reports the injury immediately to his or her supervisor. (The employee's supervisor is responsible for submitting a report of the accident to the Director of Human Resources or designee within twenty-four (24) hours following the injury.)
- C. Within three (3) workdays of the injury, a physician must examine the employee and certify the employee is disabled.

### **ARTICLE 13. LEAVE OF ABSENCE WITHOUT PAY**

Employees may take leave of absence without pay in accordance with the provisions of USM Policy VII 7.12, Policy on Leave of Absence Without Pay (approved 5/1/92; amended 11/12/93).

### **ARTICLE 14. ADMINISTRATIVE LEAVE**

- 14.1.** The nature of the UPO position may require that the employee work on days when the University declares an administrative leave day or partial administrative leave day due to weather or other emergency conditions. Where this occurs, the employees who work during this period of declared administrative leave will be granted administrative leave for hours worked during the period of declared administrative leave. For purposes of this provision, administrative leave is considered hours worked when calculating overtime.
- 14.2.** Where the University declares an administrative leave day for other than emergency situations, UPO's who work during the period of declared administrative leave will be compensated with compensatory leave or cash payment at the straight time rate of pay for hours worked during the period of declared administrative leave.
- 14.3.** In addition to administrative leave granted for participation in Union activities as provided in Article 4, Section 4, the University may approve a request for administrative leave for any purpose considered to be in the best interest of the University.

## ARTICLE 15. MILITARY SERVICE

- 15.1. An employee who is a member of the organized militia, of the Army, Navy, Air Force, Marine or Coast Guard Reserve, shall be entitled to a leave of absence for military training for a period of not more than fifteen (15) work days (pro-rated for part-time personnel) in any calendar year without loss of pay or charge to any leave.
- 15.2. Situations involving call-up to active military duty during a national or international crisis or conflict by order of the President of the United States will be governed by existing USM Policy VII-7.24, Policy on Call-Up to Active Military Duty During A National or International Crisis or Conflict for USM Exempt and Nonexempt Staff Employees on Regular Status (approved 10/05/01; amended 12/6/02, 10/17/03 and 9/10/04).

## ARTICLE 16. OTHER LEAVE

### 16.1. Jury Duty

An employee who is on jury duty is entitled to leave with pay when the employee's jury service occurs on the employee's scheduled workday. Employees who are scheduled on other than a day shift shall be reassigned to a day shift. If, after reporting for jury duty, the employee is dismissed for the day, the employee shall return to work if time permits. An employee who is selected for jury service shall notify the Employer as soon as practical.

### 16.2. Personal Leave

- A. Employees shall be granted three (3) personal leave days with pay January 1 of each calendar year. Personal leave shall be used in the year in which it is granted. All unused personal leave as of the end of the calendar year shall be forfeited.
- B. Other than in an emergency situation, employees shall give a minimum of twenty-four (24) hours' notice of their intent to use personal leave. Use of personal leave must be recorded in hour increments on the timesheet. Personal leave may be used for any purpose.
- C. Every effort will be made to grant personal leave upon request however, in cases of extreme emergency, management reserves the right to deny a request for personal leave.

## ARTICLE 17. MODIFIED DUTY

- 17.1. The purpose of modified duty is to facilitate the early return to work of those employees recovering from an illness or injury. Modified duty applies only to those employees who are expected to return to full duty in their previously held positions.
- 17.2. In the event that an officer is deemed incapable of performing the full range of police duties on the basis of a documented, temporary medical restriction, he/she may, at the discretion of the

employer as provided herein, be placed on modified duty status, provided a suitable assignment is available.

- 17.3.** Upon being placed on modified duty status, an officer will be assigned duties as limited by the medical restriction(s) imposed. Employees on modified duty will not be required to report to work in uniform unless a determination is made by the Director or designee, in consultation with the Chief and with the employee, that reporting in uniform is appropriate.
- A. An employee on modified duty will not be assigned to perform duties of a level higher than the employee's regular classification.
  - B. Modified duty employees may experience some temporary changes from their regular assignments in the areas of daily work hours, scheduled shifts, regular days off, and holiday leave.
  - C. Modified duty assignment will not alter the employees' bi-weekly salary but may affect shift differential pay.
  - D. The assignment will be evaluated periodically, and may be adjusted based upon the employee's medical progress.
  - E. Modified duty assignments are not restricted to the employee's department or division. In the event a modified duty assignment must be made outside the Police Department, the employer will attempt to place the employee in a position that effectively utilizes the employee's knowledge, skills, and abilities.
- 17.4.** Modified duty assignments shall not become permanent assignments and shall not exceed one-hundred eighty (180) calendar days in any twelve (12) month period unless an exception is granted by the Director of Human Resources or designee. Such exception will only be granted in extreme situations and when there is a clear prognosis that the employee, upon completion of the extension, will be able to resume his/her full duties.
- 17.5.** A request for modified duty assignment evaluation may be initiated in writing by the employee, the employee's department head, or the Director of Human Resources or designee, in any instance where an employee is absent from work due to illness or injury, and is not expected to or does not return to work for at least fourteen (14) calendar days.
- 17.6.** The Office of Human Resources may require that injured or ill employees, absent or expected to be absent from work, provide written authentication for a period of illness that includes the following:
- A. The date or dates the employee was seen by the medical provider;
  - B. A diagnosis of the illness or injury;
  - C. Medical restriction to be considered by management when identifying a modified duty assignment;

- D. Whether the medical provider recommends that the employee not report to work, the period of time involved, and the reason the illness or injury prevents the employee from working even with reasonable accommodation;
  - E. A prognosis for recovery and an estimated date of the employee's return to full duty;
  - F. The authorized signature of the following licensed or certified medical providers:
    - Physician;
    - Physical Therapist;
    - Clinical Psychologist;
    - Dentist;
    - Optometrist;
    - Oral Surgeon;
    - Chiropractor;
    - Podiatrist;
    - Nurse Practitioner;
    - Nurse Midwife;
    - Physician's Assistant, or
    - An accredited Christian Science practitioner.
- 17.7.** Employees absent at least fourteen (14) calendar days may be required to provide written authentication as cited above. Such certificate may be submitted to a supervisor, the Director of Human Resources, or a designated institutional medical officer.
- 17.8.** The Director of Human Resources or designee will determine whether an appropriate modified duty assignment exists upon consultation and coordination with the employee's department head, and with consideration of the medical information provided by the employee, staffing needs, and appropriate fiscal considerations.
- 17.9.** At the expense of the University, the Director of Human Resources may seek a second medical opinion by a University named physician in the event that the medical restriction listed on the original certificate prevents the employee from performing any available modified duty assignment, to assist in determining an appropriate modified duty assignment, and/or to verify the recovering employee's need to continue modified duty.
- 17.10.** If the Director of Human Resources or designee determines that an appropriate modified duty assignment does not exist, the employee shall remain on paid leave or leave of absence without pay, as appropriate, until such time as the Director of Human Resources or designee can identify an appropriate placement or the employee's condition improves sufficiently to allow a return to work.
- 17.11.** The Director of Human Resources or designee may terminate accident or sick leave upon the employee's refusal to accept a modified duty assignment and upon three (3) work days notice to the employee of the intent to terminate accident or sick leave. The Director of Human Resources or designee may approve the use of other forms of paid leave, recommend termination of

employment, or place the employee on leave of absence without pay. Other administrative sanctions may also be applied.

- 17.12. Any employee who is injured in the line of duty and who refuses modified duty, shall be reported to the Injured Workers' Insurance Fund, and a request shall be made for a suspension of lost time benefits.

## **ARTICLE 18. PERFORMANCE EVALUATIONS**

### **18.1. Performance Ratings**

A. Employees shall receive a written performance review mid-way through the probationary period, at the end of their probationary period, every September/October (mid-year), and every March/April thereafter. Employees shall receive performance ratings that will be as follows:

1. Outstanding
2. Exceeds Standards
3. Meets Standards
4. Needs Improvement
5. Unsatisfactory

### **18.2. Expectations Meeting**

- A. Each April employees will meet with his/her immediate supervisor who will be responsible for conducting the employee's performance review for the upcoming year.
- B. At the expectations meeting, the immediate supervisor and the employee will discuss the specific performance expectations and standards applicable to the employee during the upcoming year, and employees will be informed of the objectives and factors upon which their performance will be evaluated. The immediate supervisor will review with the employee his/her written position description that properly explains the duties and responsibilities upon which the employee shall be evaluated. The employee will be given a copy of the position description. This expectations meeting will be documented in writing and signed by the immediate supervisor, the Chief of Police or designee and the employee.

### **18.3. Mid-Year Performance Appraisal**

- A. The employee's immediate supervisor will prepare a written mid-year performance appraisal. The mid-year performance appraisal shall include a self-assessment prepared by the employee, that shall address both an evaluation of his/her performance and suggestions for

ways in which the employee and the immediate supervisor can work to address issues that have arisen.

- B. Employees and their immediate supervisor will meet mid-year to discuss the mid-year performance appraisal, and will document in writing the results of the appraisal and the self-assessment, and will include in that documentation:
  - 1. Any modifications made to the employee's job description;
  - 2. Specific tasks and standards established by the employee and the the immediate supervisor which will assist the employee in accomplishing his/her overall objectives for the next appraisal period;
  - 3. Any training needs established.

#### **18.4. End-of-Year Appraisal**

- A. The end-of-year appraisal shall include the following:
  - 1. An overall performance rating;
  - 2. The specific tasks that the employee needs to achieve during the next appraisal period and performance objectives;
  - 3. Modification of the employee's job description (if applicable); and
  - 4. Recommendations for training as appropriate.
- B. The employer will not apply quota or other limitations to employee ratings.
- C. Except in cases where the former UPO III or IV to whom the employee was assigned has terminated employment or is otherwise unavailable, the UPO III or IV responsible for the end-of-year appraisal must have had the employee assigned to them for a minimum of six (6) months.
- D. An employee's end-of-year evaluation must be approved by the Chief of Police or designee. An employee's end-of-year evaluation may not be changed by the Chief of Police or designee unless written justification is provided that cites the employee performance standards and the employee's actual performance. The Chief of Police or designee shall give employees a copy of the end-of-year appraisal that will be signed by the employee and a copy will be placed in the employee's personnel file. A statement of an employee's objection to an appraisal or comment may be attached and put in their personnel file. Overall performance evaluations of "Meets Standards" or above may only be grieved through Step 2 of the grievance procedure; overall performance evaluations of "Needs Improvement" or below may be grieved through the entire grievance process.

**18.5. Appraisal of the Chief of Police or Designee**

Employees shall evaluate in writing anonymously, on an annual basis, their immediate supervisor and the Chief of Police.

**18.6. Performance Evaluation Compensation**

Performance evaluations shall provide a method for awarding merit pay adjustments or bonuses, where such bonuses or adjustments are budgeted and funds are available.

**18.7. Deficient Performance**

If at any time an employee's performance is considered to be at a level that fails to meet standards, the employee's supervisor shall notify the employee in writing as soon as possible. Unless the deficient performance occurs late in the evaluation period, the notice of deficient performance should be given sufficiently in advance of the employee's annual evaluation so that the employee is afforded the opportunity to attempt to improve performance to a meets standards level.

**18.8. Review of Appraisal Process**

The effectiveness of the appraisal process will be reviewed annually by the Special Orders Advisory Committee, which shall make recommendations to the Chief of Police and Office of Human Resources.

## **ARTICLE 19. TRANSPORTATION TRAVEL EXPENSES**

**19.1.** All travel must be documented and pre-approved by the Chief of Police or designee. All out-of-state travel must have a pre-approved travel request form.

**19.2.** Meals and mileage will be reimbursed according to the State reimbursement rates and policies in effect when travel occurs. For purposes of meal reimbursement, the "normal quitting time of the employee's place of business" is considered to be the end of the employee's scheduled shift.

**19.3.** Employees who are directed by the University to travel for official University business shall normally be provided a vehicle by the University. If a University vehicle is available, it must be used. If a vehicle is not available the employee may use his/her own vehicle and be reimbursed for mileage. When circumstances make it impractical for an employee to obtain a University vehicle on the day it will be used, the employee may request the vehicle at the end of the prior day's shift, and the University shall make reasonable accommodation, consistent with the efficient operation of the unit, to accommodate such requests.

**19.4.** The Accounts Payable Office will make reimbursement for travel. The completed travel request form must be approved by the account manager, or the Chief of Police or designee, if the employee is the account manager, and the Vice President. Itemized expense forms must be completed and submitted with the necessary receipts to Accounts Payable within thirty (30) days following travel, or within ten (10) days following travel for employees who have received travel advances. Expense forms will be reviewed by the Accounts Payable Manager for correctness and compliance with State regulations.

- 19.5. The costs of hotel accommodations are reimbursed on the basis of receipts for single-room rate.
- 19.6. Overtime as pertains to travel shall be earned and paid in accordance with the provisions of the Fair Labor Standards Act (FLSA).

## **ARTICLE 20. SAFETY AND HEALTH**

### **20.1. Duty for a Safe Work Environment**

The employer and all employees covered by this MOU shall comply with all safety rules and regulations established by the employer, as well as all applicable safety-related laws and regulations.

### **20.2. Unsafe Work Conditions**

When an unsafe condition is alleged to exist, the affected employee shall first notify his/her immediate supervisor who shall take whatever necessary corrective action the supervisor deems appropriate. Where the matter is not resolved to the satisfaction of the employee, the employee may request a review by the University's Safety Officer, who shall take all measures to promptly respond to the employee's complaint and who shall inform the employee and the employee's supervisor of the results of his findings and recommendations in writing. If the employee is not satisfied with the results of the actions taken by the University's Safety Officer, the employee may pursue his or her complaint through the grievance process.

### **20.3. Workplace Violence**

- A. The University is committed to maintaining a work environment that is as free as possible from acts or threats of violence or intimidation. The safety and security of staff, faculty, students and visitors are of vital importance. Violent or threatening behavior directed at staff, faculty, students or visitors, oneself, or property will not be tolerated. This policy applies to any acts of violence or threats made on University property, at University events, or under circumstances that would negatively affect the University's ability to conduct business and to provide a safe working environment to the employees. Included in this prohibition are such acts or threats of violence, whether made directly or indirectly, by words, gestures or symbols, that a reasonable person would perceive to be threatening, and which infringe upon the Employer's obligation to provide a safe workplace for its employees, students and visitors. This section shall not be construed to apply to an employee who uses reasonable force in the performance of his or her duties, but does not preclude the review of the use of such force under other applicable laws and regulations.
- B. The University shall take preventative measures to ensure that workplace violence does not occur and that employees are prepared to deal with it should it occur. This shall include:
  - 1. Offering workplace violence training for all employees; and
  - 2. The Office of Human Resources will ensure that employment reference checks of prospective employees are conducted. A criminal background check of candidates to

whom an offer of employment is extended will be conducted. In certain circumstances and with cause, and with notice to the employee, the Office of Human Resources will conduct a criminal background check of any employee thought to pose a threat of violence.

#### **20.4. Drug and Alcohol Use and Possession**

- A. The University is committed to maintaining a workplace free from the illegal use, possession, or distribution of alcohol and controlled substances. Employees will comply with the Governor's Executive Order on Substance Abuse. Unlawful manufacture, distribution, dispensation, possession or use of controlled substances or alcohol by employees in the workplace is prohibited under University policy.
- B. Reporting to work under the influence of controlled substances or alcohol is also prohibited.
- C. In addition to any legal penalties under federal and state law, employees found to be in violation of this provision shall be subject to appropriate proceedings as provided for under LEOBOR.

### **ARTICLE 21. PERSONAL PROTECTIVE CLOTHING AND EQUIPMENT**

The employer shall provide personal protective clothing and equipment that, as determined by the employer, is required by applicable state laws and regulations. The employer will make available non-prescription safety glasses to employees who are required to wear them as part of their job.

### **ARTICLE 22. PERSONNEL FILE**

- 22.1.** Employees who wish to view their personnel record must make an appointment with OHR. Employee requests for an appointment to view their official personnel file will not be unreasonably denied. All files shall be reviewed in the OHR in the presence of the Director of Human Resources or designee. At the time of review, employees may be required to initial and date all records in the file. Employees will be advised of any and all derogatory information that is placed in his/her personnel file, and any derogatory material shall be initialed and dated by the employee to acknowledge that he/she was provided a copy of the document in question. The employee's initials indicate only that he or she received a copy of the document, and shall not be construed as consent to its contents.
- 22.2.** Official personnel files are confidential to the employee and the University. They will not ordinarily be released to anyone outside the University unless the employee supplies a signed written authorization releasing the file (or a part of it), or unless required by law.
- 22.3.** There shall be one (1) official personnel file for each employee, which file shall be maintained in the Department of Human Resources. The official personnel file may include, but will not be limited to the following documents:

- A. Employment application and/or resume.
  - B. College transcripts.
  - C. Job description or Position Information Form (PIF).
  - D. Records relating to hiring, promotion, demotion, transfer, reassignment, layoff, compensation, education and training.
  - E. Letters of recognition.
  - F. Disciplinary documents.
  - G. Performance evaluations (PMPs).
  - H. Documents relating to separation from employment.
- 22.4.** All records in the official personnel file are available for the employee's review.
- 22.5.** After twenty-four (24) months without any further disciplinary action and upon request of the employee, counseling session memos and verbal warnings shall be expunged from the employee's official personnel file.
- 22.6.** All requests for verification of employment for current or former employees are to be directed to the Director of Human Resources or designee.
- 22.7.** Working copies of personnel files may be kept in the office of the Chief of Police or designee.
- 22.8.** The employee or the employee's authorized representative is permitted to make a copy of a document in his/her personnel file.

## **ARTICLE 23. POSITION RECLASSIFICATION**

### **23.1. Procedures**

- A. Reclassification of a position may occur where a review of the position indicates a significant change in any of the following: type of work performed; difficulty and complexity of duties; level of responsibility; or, required knowledge, skills, and abilities. An employee may not initiate a reclassification request where a job study has been completed within the past twelve (12) months, unless the job duties have significantly changed. The employee or his/her supervisor may initiate a request for a reclassification review using the following procedures:
  - 1. In the case of employee initiation of a request, the employee shall prepare a Position Information Form (PIF) and submit it to his/her supervisor to be reviewed and approved for accuracy and completeness. Within five (5) workdays, the supervisor shall review the form

and return it to the employee indicating agreement or disagreement. The supervisor and employee signatures represent an acknowledgement of the review.

2. The supervisor submits the PIF with documentation to the OHR with a request for a position review. If the supervisor disagrees with the employee about the nature of the employee's job duties, the supervisor must provide the OHR written documentation of the reasons for disagreement and sign the form.
3. In the case of a supervisor initiation of a request, the supervisor shall prepare a PIF, seeking input and feedback from the employee. The supervisor and employee signatures represent an acknowledgment of the review.
4. The OHR shall provide date of receipt acknowledgement of the request to the employee and supervisor.
5. Unless an extension is agreed to among the OHR, supervisor, and employee, the OHR shall complete the position review process within a maximum of thirty (30) days.
6. If the process supports reclassification, the OHR or its designee will provide documentation to the Vice President of Administration and Finance for approval.
7. The Director of Human Resources or designee shall provide written notification of the decision to the employee and supervisor.
8. All job reclassification decisions shall be effective retroactive to the date the OHR received the request for review.

## **23.2. Pay on Reclassification**

### **A. Reclassification Promotion**

Upon reclassification promotion, the salary for an employee shall increase at least six percent (6%) as long as it does not exceed the maximum of the new range.

### **B. Reclassification Demotion**

Upon reclassification demotion, should the maximum pay rate in the lower grade be less than the pay rate currently paid to the incumbent, the employee's current rate will remain unchanged for a period of up to twenty-four (24) months. At the end of that period, if the employee's pay rate remains above the maximum of the appropriate grade, the employee's pay rate shall be reduced to the maximum of the appropriate pay grade.

### **C. Reclassification Demotion/Disciplinary**

If reclassification/demotion is the result of disciplinary action, pay shall be reduced to the maximum of the lower grade, or by six percent (6%), whichever is the greater reduction.

## **ARTICLE 24. PROMOTIONAL OPPORTUNITIES FOR BARGAINING UNIT POSITIONS**

- 24.1.** When a promotional opportunity exists for a bargaining unit position within the Police Department, which the University intends to fill, the University will post the opportunity internally, on a bulletin board in the public safety building, and via e-mail to all employees, for a period of no less than ten (10) working days. The position announcement will identify the position by the title, pay grade and pay range and shall include the minimum qualifications and skills necessary for the position in accordance with USM Job Class Specifications. The announcement will also state how and where to file and the closing date for receipt of internal applications, which shall not be less than ten (10) working days from the date of the initial posting. Where no employee covered by this MOU applies for the promotional opportunity during the ten (10) working day period, or all who respond are precluded under the Article from eligibility or are not qualified, the position will then be advertised and filled externally. Under special circumstances, at the request of the Chief of Police, and with the concurrence of the Director of Human Resources, a position may be posted internally and advertised publicly concurrently. The Employer will notify the Union when it elects to proceed in this fashion.
- 24.2.** Any employee may submit an application for a promotional opportunity. The University shall create an eligibility list comprised of employee applicants qualified for the position. In order to be placed on the list, an employee must:
- A. Have not been required to provide verification for sick leave use, pursuant to Article 10.5.A of this MOU, within six (6) months of the date of the application;
  - B. Be in good physical condition; an employee who is currently on modified duty status or on leave must provide documentation verifying he/she will return to work on full duty status within forty-five (45) days of the posting of the notice, unless the modified duty restriction of the employee does not prohibit the employee from performing the required tasks of the job. Documentation verifying eligibility to return to work on full duty status must be attached to the employee's application materials when delivered to OHR;
  - C. Have received a rating of 'meets standards' or better on the employee evaluation immediately preceding the date of the employee's application;
  - D. Have proof of possession of the posted minimum qualifications and skills necessary for the position. Proof of qualification and skills necessary to perform the duties of a position must be evident and clearly documented for any individual applying for a promotional opportunity; and
  - E. Have successfully completed a probationary period.
- 24.3.** The University shall design the promotional process applicable to any particular promotion or promotions. Any such process used will be based upon merit principles and will be reviewed and approved by the Office of Human Resources prior to the promotional announcement. The promotional announcement will include a specific explanation of the process to be used for the particular promotion. While not all-inclusive, the promotional process shall include at a minimum the following components:

- A. An oral interview with the promotional board described below;
  - B. Work history and job performance (including prior evaluations and attendance records);
  - C. Completion of probation;
  - D. Time served working in the UPO II or UPO III classification;
  - E. Job related training/certifications.
- 24.4.** Other factors shall be considered at the discretion of and as determined by the University. Selection of the promotional candidate shall be based upon merit.
- 24.5. Promotional Board**  
The promotional board shall consist of the following persons: one sergeant, one designated representative from Student Services, one designated representative from Academic Affairs, and one designated representative from the Office of Human Resources. The promotional board shall interview qualified candidates and shall render a ranked list of qualified candidates to the Chief of Police.
- 24.6.** Prior to making the determination of a successful candidate, the Chief of Police shall consult with the UPO III or UPO IV to whom each employee applicant is assigned, who in the ordinary course of business is the individual responsible for reviewing the employee's work, signing time sheets, and approving leave.
- 24.7.** The decision on promotions shall be made by the Chief of Police with the review of the OHR and approval of the Chief of Staff/Vice President for Government Relations and Economic Development or designee.

## **ARTICLE 25. JOB SPECIFICATION AND JOB DESCRIPTION**

- 25.1.** A job specification is a statement of the essential components of a job class including a summary of the work to be performed, primary job duties and responsibilities, and the minimum qualifications and requirements necessary to perform the essential functions of the job. OHR maintains USM Job Specifications for nonexempt positions. Because these specifications are system-wide, they cannot be changed, deleted, or amended without the approval of the Chancellor of the USM. In addition to OHR, job specifications are available in the library, the facilities department, and on the USM website.
- 25.2.** A job description is a statement of the actual duties and responsibilities that an employee performs in a particular office or department. Employee job descriptions are developed in accordance with USM Job Specifications.
- 25.3.** All employees shall be provided a copy of their job description upon initial hire, at the time of their annual evaluation process and whenever the job description is changed. Job descriptions shall be updated as frequently as the employer deems necessary and appropriate to reflect current duties. Employees shall be provided an opportunity for input. Terms such as "other duties as required" shall mean job-related duties relevant to carrying out the mission of the University Police Officer.

- 25.4.** Preparation of the job description is the responsibility of the Employer. The department head shall prepare job descriptions. The employee will be provided with the opportunity to comment on the job description, but the department head shall make the final decision on content. Job descriptions are forwarded to the OHR. The Director of Human Resources or designee shall review and classify the position as appropriate per established policies of the Employer.

## **ARTICLE 26. TRAINING**

- 26.1.** The employer will determine the training needs of the employees covered by this MOU consistent with the Maryland Police Commission Training Guidelines. Employees will be paid for time spent in University required training consistent with the provisions of this MOU and the FLSA. Where an employee is scheduled for a training day, the employee will not ordinarily be scheduled to work the shift immediately before or after the training.
- 26.2.** Within sixty (60) days following the effective date of the MOU, the parties agree to convene a department training committee charged with the responsibility for assessing the training needs of departmental employees, the methods of delivering that training, to include review of opportunities for live, in-person trainings, either on campus or in conjunction with outside police agencies or training programs, and making recommendations to the Chief of Police.
- 26.3.** The committee shall consist of the following:
- A. An employee member of the bargaining unit designated by the Union,
  - B. A representative of the Union,
  - C. A representative designated by departmental management, and
  - D. A representative of the Office of Human Resources.
- 26.4.** The Committee shall complete its work and make its recommendations to the Chief of Police within six (6) months after its initial meeting. Final authority for training rests with the Chief of Police and the University.

## **ARTICLE 27. LAW ENFORCEMENT OFFICERS BILL OF RIGHTS**

- A. The parties recognize, agree, and understand that the Law Enforcement Officers Bill of Rights (LEOBOR) applies to the employees covered by this MOU and that nothing in this MOU is intended to alter, amend, or modify any rights, duties, or responsibilities that the LEOBOR provides or imposes on the Employer or the employees covered by this MOU. The parties further recognize, agree, and understand that the procedures set forth in the LEOBOR are the sole and exclusive procedures for resolving matters subject to the LEOBOR and no aspect of any matter subject to the LEOBOR is subject to the grievance procedures contained in Article 28 of this MOU. The

discipline of probationary employees shall continue to be governed by applicable Board of Regents policies except in instances of alleged brutality, which are subject to LEOBOR Section 728.4.

- B. All parties will make a concerted effort to complete internal investigations in a timely manner. Each party agrees to inform the other(s) when situations arise which may impact the timeliness of the investigative process.

## **ARTICLE 28. GRIEVANCE PROCEDURES**

### **28.1. General**

In the event of any alleged violation or disagreement over any of the provisions of this MOU except a matter covered by Article [27] Law Enforcement Officers Bill of Rights (LEOBOR), a bargaining unit employee represented by MCEA, which shall be the exclusive employee organization to represent the employees, shall have the right to file a grievance in accordance with Section 13-201 et seq., of the Annotated Code of Maryland Education Article, a copy of which is set forth below for convenient reference. All matters subject to the LEOBOR shall be handled pursuant to the LEOBOR and are not subject to this grievance procedure.

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

#### **§ 13-201. Definitions.**

- A. In general. In this subtitle, the following words have the meanings indicated.
- B. Day. "Day" means, except as otherwise provided, a working day, Monday through Friday, regardless of work schedule, weekend work, or midweek days off.
- C. Grievance. "Grievance" means any cause of complaint arising between a classified employee or associate staff employee and his Employer on a matter concerning discipline, alleged discrimination, promotion, assignment, or interpretation or application of University rules or departmental procedures over which the University management has control. However, if the complaint pertains to the general level of wages, wage patterns, fringe benefits, or to other broad areas of financial management and staffing, it is not a grievable issue.

#### **§ 13-202. (Omitted)**

#### **§ 13-203. Steps in grievance procedure.**

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

- B1. Step One. Step one is the initiation of a complaint. Grievances shall be initiated within thirty (30) calendar days of the action involved, or within thirty (30) calendar days of the employee having reasonable knowledge of the act, unless these time limits are further delimited as stated in § 13-205. Appeals within the grievance procedure shall be timed from receipt of the written opinion of management or from when such opinion is due, whichever comes first. An aggrieved employee or the employee's designated representative may present the grievance in writing to the department head or chairman or designee for formal consideration. If the grievance is presented to the department head or chairman or designee, within five (5) days after the receipt of the written grievance a conference shall be held with the aggrieved or the employee's designated representative and within five (5) days after the conclusion of the conference a decision shall be rendered in writing to the aggrieved or the employee's designated representative. If the aggrieved employee is not satisfied with the decision rendered at this step, the employee or the employee's designated representative may appeal in writing to step two within five (5) days.
- B2. Both employee and department head or chairman or designee shall continue to review the matter, either privately or with the help of others in the employee's immediate work unit who are directly involved in the grievance. Each department head or chairman or designee shall use judgment in keeping superiors informed of the status of each grievance and, if necessary, request guidance, advisory committees, or other assistance consistent with departmental policy. If either the employee or the department head or chairman or designee feels the need for aid in arriving at a solution, the campus personnel department may be requested to provide resource staff or any other available resource personnel may be invited to participate in further discussions. The addition of such participants does not relieve the department head or chairman or designee and the employee from responsibility for resolving the problem.
- C. Step Two. The appeal shall be submitted to the president of the constituent institution or the president's designated representative within five (5) days after the receipt of the written decision at step one. The president or the president's designated representative shall hold a conference with the aggrieved or the employee's designated representative within ten (10) days of receipt of the written grievance appeal and render a written decision within fifteen (15) days after the conclusion of the conference.
- D. Step Three. In the case of any still unresolved grievance between an employee and the constituent institution, the aggrieved employee, after exhausting all available procedures provided by the constituent institution, may submit the grievance to either arbitration or to the Chancellor who may delegate this responsibility to the Office of Administrative Hearings in accordance with Title 10, Subtitle 2 of the State Government Article. In either case, the appeal shall be submitted within ten (10) days after the receipt of any written decision pertaining to that grievance and issued by the constituent institution. If the grievance is arbitrated, the parties shall select an arbitrator by mutual agreement. If they are unable to reach a mutual agreement, an arbitrator shall be supplied by the American Arbitration Association by their procedures. Any fees resulting from arbitration are assessed by the arbitrator equally between the two parties. The arbitration award is advisory to the Chancellor or administrative law judge, as appropriate, and an additional appeal or hearing may not be considered. The Chancellor or administrative law judge, as appropriate, shall make the final decision that is binding on all parties.

- E. Authority of Chancellor or administrative law judge.- The Chancellor or administrative law judge, as appropriate, shall have the power to award back pay in any grievance and the president of the constituent institution shall enforce such order. In any reclassification case in which the Chancellor or administrative law judge, as appropriate, or his designated representative, determines that an employee has been misclassified, the Chancellor or administrative law judge, as appropriate, may, in his discretion, award back pay to the employee for a period not to exceed one year prior to the initial filing of the grievance.
- F. Coercion, discrimination, interference, reprisal and restraint prohibited.-
  - 1. During any stage of a complaint, grievance, or other administrative or legal action that concerns State employment by a full-time or part-time employee of an institution, or by a temporary or contractual employee of an institution, the employee may not be subjected to coercion, discrimination, interference, reprisal, or restraint by or initiated on behalf of an institution solely as a result of that employee's pursuit of a grievance, complaint, or other administrative or legal action that concerns State employment.
  - 2. An employee of an institution may not intentionally take or assist in taking an act of coercion, discrimination, interference, reprisal, or restraint against another employee solely as a result of that employee's pursuit of a grievance, complaint, or other administrative or legal action that concerns State employment.
  - 3. An employee who violates the provisions of this subsection is subject to disciplinary action, including termination of employment.

#### **§ 13-204. Decisions.**

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

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

- A. Suspensions pending removal. Within five (5) days from the date on which the employee receives the charges for removal as evidenced by the return receipt or other evidence of delivery of the charges to the employee an employee who is suspended under charges for removal may request an opportunity to be heard in his own defense. Within thirty (30) days if possible after receipt, the president or the president's designated representative shall investigate the charges and give the employee an opportunity to be heard. Testimony shall be taken under oath and both the department head or chairman or designee and the employee have the right of representation by counsel and the right to present witnesses and give evidence. Within fifteen (15) days following the conclusion of the conference, the written decision shall be rendered to the employee. In the case of appeals from charges pending removal, the department head or chairman or designee may request through appropriate

channels the Attorney General's representative to the University to serve as counsel. In case no hearing is timely requested, the Campus Director of Personnel shall act upon the charges or order such other actions as are indicated by the findings in the case. If a hearing is timely requested and the removal is upheld, step three of the grievance procedure shall be available to the removed individual. The appeal shall be submitted within ten (10) days after receipt of the written University decision.

- B. Involuntary demotions.- Within five (5) days, an employee who is notified of demotion may file a written answer with the president or the president's designated representative and request an investigation of the demotion. Within twenty (20) days, if possible, after receipt, the president or the president's designated representative shall investigate the demotion and give the employee an opportunity to be heard. Within fifteen (15) days following the conclusion of the investigation, the written decision shall be rendered to the employee. If an investigation is timely requested and the demotion is upheld, step three (3) of the grievance procedure is available to the demoted employee. The appeal shall be submitted within ten (10) days after receipt of the written University decision.
  
- C. Rejection on probation.-
  - 1. Rejection on Original Probation. Within five (5) days of the notice of rejection, an employee who is rejected on original probation may file a written request with the president or the president's designated representative for a hearing. Within twenty (20) days, if possible, after receipt, the president or the president's designated representative shall conduct a hearing. Within fifteen (15) days following the conclusion of the hearing, the written decision shall be rendered to the employee. If the hearing is timely requested and the rejection is upheld, step three of the grievance procedure is available. The appeal shall be submitted within ten (10) days after receipt of the written University decision. Rejection for cause is not required in the case of an employee rejected on original probation.
  
  - 2. Rejection on Promotional, Transfer, or Horizontal Change Probation. Within five (5) days of receipt of the recommendation of the department head or chairman to reject, an employee who is promoted and then rejected within the probationary period for the new class and for whom a vacancy in the former class is not available may file an answer with the president or the president's designated representative and request an investigation of the proposed rejection. Within twenty (20) days, if possible, after receipt, the president or the president's designated representative shall investigate the proposed rejection. The same rule applies to an employee who has completed a probationary period in one classification and makes a horizontal change to a new classification, and is rejected in the new classification or who transfers to another department in the same classification and is rejected. Within fifteen (15) days following the conclusion of the investigation, the written decision shall be rendered to the employee. If the investigation is timely requested and the rejection is upheld, step three of the grievance procedure is available to the rejected employee. The appeal shall be submitted within ten (10) days after receipt of the written University decision.

D. Disciplinary suspension.-

1. This subsection does not apply to suspensions pending charges for removal.
2. Alleged infractions shall be investigated by the responsible supervisor or administrator or designee at the earliest opportunity following knowledge of it, and the investigation shall be promptly completed. All suspensions of employees shall be implemented within three (3) days of the alleged infraction or knowledge of the alleged infraction by the responsible supervisor or administrator. All suspension days shall be consecutive.
3. The employee or the employee's designated representative may submit a written appeal on a disciplinary suspension to the president or the president's designated representative within five (5) days of notification of the suspension, or the employee or the employee's designated representative may appeal the suspension within three (3) days of notification of the suspension to the department head or chairman or designee. The department head or chairman or designee shall hear the case within three (3) days from the receipt of the written appeal. If the appeal is unheard or unanswered as a result of management delay, the employee shall be reinstated with full back pay.
4. If the suspension is upheld by the president or the president's designated representative, step three (3) of the grievance procedure is available to the employee. If the employee chooses to appeal to the department head or chairman or designee, any further appeals shall proceed through steps two (2) and three (3) of the grievance procedure.

E. Preliminary hearing.-

1. If an employee is suspended without pay pending a hearing on disposition of charges for removal, the president or the president's designated representative shall notify the employee in writing of the reasons for the suspension at the time of the notice of the suspension.
2. Within five (5) working days of the notice of suspension, the employee may request in writing that the president or the president's designated representative, in addition to conducting a hearing on the merits, conduct a preliminary hearing to determine whether or not the employee may continue to work with pay pending the disposition of the charges.
3. The president or the president's designated representative shall conduct a preliminary hearing within five (5) working days after the president or the president's designated representative receives in writing the request from the suspended employee for the preliminary hearing.
4. The preliminary hearing shall be limited to the issues of:
  - a. Whether suspension without pay is necessary to protect the interests of the University of Maryland or the employee pending final disposition of the charges; and
  - b. Whether other employment and status alternatives should be considered.

5. At the preliminary hearing, the employee may:
  - a. Rebut the reasons given for the suspension;
  - b. Allege mitigating circumstances; and
  - c. Offer alternatives to the suspension, including:
  - d. Return to the position with pay;
  - e. Transfer to another position with pay; or
  - f. Suspension with pay.
  
6. Within five (5) days after the preliminary hearing is completed, the president or the president's designated representative shall render a written decision that is conclusive as to the issue of whether or not the employee may continue to work with pay pending the disposition of the charges.

**§ 13-206. Miscellaneous provisions.**

- A. In cases of appeal to an arbitrator, each party is responsible for any expense incurred in the preparation and presentation of its own case and for any record or transcript it may desire.
  
- B. Upon the formal or informal initiation of a grievance an employee designated as a grievance procedure representative shall not suffer any loss of pay for investigating, processing or testifying in any step of the grievance procedure. Release time from normal work schedules is to be granted all witnesses to attend grievance hearings. Expenses incurred in connection with attendance by employees at grievance hearings shall be borne by the employee's department.
  
- C. Similar grievances may be consolidated and processed together as a single issue. Where a number of individual grievances have been reduced into a single grievance, not more than three employees selected by and from the group may be excused from work to attend a grievance meeting called by the responsible administrator at step one and not more than five (5) employees at steps two (2) and three (3) unless, at any step, prior permission is granted by the person hearing the grievance.
  
- D. Employee complaint forms shall be available in the campus personnel department. The University form shall be used.
  
- E. It is the responsibility of the head of each organizational unit to assure that each employee understands the channels of communication and appeal, specifically who is the department head or chairman and who acts in their absence.
  
- F. An employee may not leave the post of duty to engage in grievance handling without the knowledge of and permission from the designated supervisor.
  
- G. A formal grievance may be filed by the aggrieved employee; the request to appeal a grievance must bear the signature of the employee or the employee's representative at each step of the procedure.

- H. A record of each grievance and its disposition shall be furnished to the employee involved. A file copy of each grievance shall be maintained at the last step at which the grievance was processed, and an additional copy shall be filed with the campus personnel department which shall be available to the employee or the employee's representative.
- I. At any point in the grievance procedure, the employee may elect to obtain, change, or dismiss the representative by providing a written notice to the person hearing the grievance. However, the action does not allow the grievant to return to a previous step in the procedure.
- J. A hearing officer may exclude incompetent, irrelevant, immaterial, and unduly repetitious evidence or witnesses.
- K. Each step of the grievance procedure shall be processed as quickly as practicable within the specified time limits. Failure to appeal at any step constitutes acceptance. Failure to answer is a denial to which an appeal may be made. By mutual agreement, the time limits and/or steps may be waived.
- L. It is the responsibility of each party to the grievance procedure at each step of the procedure to duplicate the grievance form prior to filing it with the Employer or returning it to the employee and to retain one (1) copy of the form.
- M. A grievance may start with a complaint or request by a permanent or temporary employee.
- N. An employee may be represented at every step of the grievance procedure by a party or organizational representative.
- O. An employee shall receive a copy of this grievance procedure upon employment at the University.
- P. Both parties shall make an effort to resolve the grievance at the lowest possible level.
- Q. All grievance hearings shall be open hearings unless either party requests that the hearing be closed.
- R. At any step of the grievance procedure, either party may require that witnesses be excluded from the hearing room until called.
- S. Any party who elects to use this procedure for resolution of a problem is presumed to agree to abide by the final disposition arrived at in this procedure and the final disposition may not be subject to review under any other procedure within the University.
- T. Any question concerning the timeliness of a grievance or whether a complaint is subject to the grievance procedure shall be raised and resolved promptly, unless the person hearing the grievance or appeal determines that the decision on a motion to dismiss will be deferred pending a hearing on both the merits and the motion.

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

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

## **ARTICLE 29. SENIORITY**

### **29.1. Definition of Seniority**

Seniority is defined as length of continuous service as a sworn police officer in the department based upon date of hire.

### **29.2. Probationary Period**

- A. Employees serve a probationary period from the date of hire through a one (1) year period following satisfactory completion of mandatory police officer training conducted by the Maryland Police and Correctional Training Commission. Employees who are hired having previously completed the mandatory police officer training by the Maryland Police and Correctional Training Commission, and who are current in their mandated training and certified at the time of hire, and who served as a sworn police officer in the State of Maryland for a minimum of one (1) year immediately before hire, shall serve a probationary period from the date of hire through a six (6) month period, which may be extended an additional six (6) month period at the sole discretion of the Chief.
- B. Until an employee has completed the probationary period, he/she shall not attain seniority and shall be designated as being on probationary status. During that period, he/she may be terminated by the Chief of Police or designee, without reason, at any time; probationary employees may appeal a termination solely on the grounds that the termination is a violation of the law. Upon completion of the probationary period, an employee's seniority shall date back

to the date he/she was hired. During the probationary period, the Chief of Police or designee shall conduct a six-month performance review.

**29.3. Break in Seniority**

A Sworn Police Officer covered by this MOU who terminates employment shall lose all seniority. Approved annual leave, sick leave, injury leave, or any approved leave of absence with pay, or any authorized call to military service shall not break seniority. Employees who qualify may have certain seniority rights restored as provided in Section 29.4 below.

**29.4. Seniority Following Reinstatement**

An employee who resigns with proper notice or whose employment with the University is otherwise severed in good standing may be reinstated to a bargaining unit position with full credit for prior service within two (2) years after the date of separation from employment. Seniority shall be determined by the original date of hire.

**ARTICLE 30. RANK STRUCTURE**

**30.1. General**

A. There shall be a working title rank structure among employees, which shall be organized as follows:

UPO I – Officer	Pay Grade as of 03/29/11 - 10
UPO II – Corporal	Pay Grade as of 03/29/11 – 12
UPO II – Senior Corporal	Pay Grade as of 03/29/11 – 12
UPO III – Sergeant	Pay Grade as of 03/29/11 - 14
UPO IV – Lieutenant	Pay Grade as of 03/29/11 - 16

B. The University will provide appropriate insignia for the identification of the employees in each specific rank.

**30.2. Automatic Position Interchange**

See settled language under Article 29 – Seniority, Section 29.2 Probationary Period, and Article 23 - Position Reclassification.

**ARTICLE 31. RETIREMENT**

Employees participate in the Law Enforcement Officers Pension System, which is administered by the State Retirement and Pension System of Maryland.

## **ARTICLE 32. INSURANCE AND BENEFITS**

### **32.1. Benefits Programs**

A. Employees covered by this MOU who are otherwise eligible may participate in the benefit programs (health and other insurance plans) offered by the State of Maryland and the University System of Maryland on the same basis and subject to the same terms and conditions including the payment of all applicable premiums, co-pays, deductibles, and other fees and expenses as established for other University and State employees. At the time this MOU was negotiated, these benefits included:

1. Medical Plans
2. Vision Plans
3. Term Life Insurance
4. Personal Accidental Death and Dismemberment
5. Law Enforcement Officers Pension System
6. Death Benefits

B. In the event that the State makes any changes to the foregoing programs, including any changes to any applicable premium, co-pay, deductible or other form of employee fee or expense, the Employer reserves the right to implement those same changes and to terminate any such plan at such time as it is terminated by the State.

### **32.2. Open Enrollment**

A. The Employer will conduct an open enrollment period each year at which time eligible employees shall be able to enroll in a health plan, continue enrollment in their current plan if available, or switch to another plan. Unless there is a mandatory open enrollment, employees who take no action during open enrollment and who are otherwise eligible will automatically be re-enrolled in their current or successor plans and coverage. The University will mail open enrollment information to any employee who, on the first day of open enrollment, is scheduled to be on approved leave for more than eighty percent (80%) of the open enrollment period. Open enrollment information and forms will be available to all employees and the Union in a timely manner.

B. The Employer shall ensure that health benefit fairs are held during open enrollment, that such fairs are well publicized and scheduled to facilitate employee attendance, and that the Union be provided with space at such fairs.

### **32.3. Death Benefits**

Information concerning Death Benefits is available through the Frostburg State University Benefits Coordinator.

## **ARTICLE 33. EMPLOYEE ASSISTANCE PROGRAM**

### **33.1. General**

The Employer and the Union recognize the value of counseling and assistance programs for those employees whose personal problems affect performance of their job duties and responsibilities. Therefore, the Employer agrees, subject to available resources, to continue an Employee Assistance Program (EAP). Except as provided below, records regarding treatment and participation in the EAP shall be confidential and retained by the EAP/Health Care Provider. Information released to the University Benefits Coordinator as provided below shall be treated confidentially and maintained in a separate EAP file in the Office of Human Resources.

### **33.2. Referral in Lieu of Discipline**

In cases where the employee and the University have entered into a voluntary EAP Participation Agreement in which the University agrees to defer discipline as a result of employee participation in the EAP, the employee shall execute such releases as are necessary to enable the EAP/Health Care Provider to provide to the University Benefits Coordinator reports regarding compliance or non-compliance with the employee's treatment plan.

### **33.3. Supervisory Referrals**

In cases of supervisory referrals to the EAP/Health Care Provider, the employee shall execute such releases as are necessary for the EAP/Health Care provider to provide the University Benefits Coordinator with the information necessary to determine whether the employee can perform the job safely and effectively and/or whether the employee needs to participate in the program, and if so, the employee's compliance or non-compliance with the Employee Assistance Program.

## **ARTICLE 34. EMPLOYEE FACILITIES**

Employees will, pursuant to University rules and regulations, have access to and use of all appropriate campus facilities, including but not limited to all health and fitness facilities, sports complex, dining facilities, the library, and computer facilities that are otherwise open to employees.

## **ARTICLE 35. UNIFORMS AND EQUIPMENT**

**35.1.** The Employer shall furnish, at no cost to the employee, the following new or serviceable uniform items:

1. 3 summer shirts and 3 winter shirts
2. 4 pants
3. 1 jacket or protector coat
4. 1 Felt hat
5. 1 Straw hat
6. 2 Breast badges

7. Name bar
8. Collar brass
9. 2 ties
10. Firearm
11. Handcuff and case
12. Ammunition and ammo holder
13. Holster
14. Duty belt
15. Ballistic vest
16. Radio
17. Radio case
18. OC Spray and Holder
19. ASP
20. Gold whistle and chain
21. US Flag Pin
22. ASP holder
23. Rain cover for hat
24. Key holder
25. Rechargeable flashlight and holder
26. 4 belt keepers
27. Reflective vest
28. Winter fur hat
29. CPR mouthpiece, gloves and holder
30. Safety glasses for firing range
31. Ear protectors for firing range
32. Rank Insignia Patches
33. Three Polos with Officer's Name on Sleeve
34. 2 black chino/twill pants
35. Shooting Badges
36. Collar and Hat Pins

- 35.2.** Within sixty (60) days following the effective date of this MOU, the department will inspect each officer's uniform and equipment inventory as set forth above and provide the officer with any needed items so that the officer has a complete issue. The employer will also provide each officer with annual reimbursement of up to one-hundred dollars (\$100) upon proof of purchase that the officer has purchased an approved patrol officer uniform shoe. Proof of purchase must be submitted by May 1 of each fiscal year to ensure that the expense is charged to the appropriate fiscal year budget. Employees assigned to bike patrol will be provided an appropriate bike patrol uniform. Thereafter, at the discretion of the Chief of Police, employees may be entitled to normal wear and tear replacement of uniforms, as well as replacement of uniforms due to loss or damage while the member is acting in the line of duty or engaged in the official business of the Employer. Uniforms and equipment at all times remain the property of the University and the employees are responsible for the proper cleaning and routine maintenance of issued uniform items and equipment. Uniform items or equipment that must be replaced as a result of employee negligence or intentional misconduct must be replaced by the employee.

## ARTICLE 36. TUITION REMISSION

- 36.1.** The purpose of this benefit is to encourage regular members of the bargaining unit who have completed a probationary period, on full or part-time capacity, to enroll in academic courses for the improvement of skills or for personal development purposes and to support the ability of members of the bargaining unit to provide educational opportunities for their spouses and dependent children.
- 36.2.** This program shall be administered by FSU consistent with USM Policy VII-4.10, Policy on Tuition Remission for Faculty and Staff (approved 1/11/90; amended 5/31/90, 8/28/90, 8/24/01, 12/7/01, 8/23/02, 12/6/02, and 6/27/03) and USM Policy VII-4.20, Policy on Tuition Remission for Spouses and Dependent Children of Faculty and Staff (approved 1/11/90; amended 5/31/90, 2/28/92, 8/24/01, 12/7/01, 8/23/02, 12/6/02, and 6/27/03); and/or any successor tuition remission policies that may be adopted during the duration of this MOU.
- 36.3.** In the event that during the duration of this MOU, the Board of Regents adopts a policy which rescinds the afore-referenced tuition remission policies, the University agrees, unless prohibited by USM policy or State statute, to continue the current level of University benefits for members of the bargaining unit, at the University campuses only, under the guidelines set forth in the most recent versions of *USM Policies VII-4.10 and 4.20*, through the end of the academic semester following expiration of this MOU.

## ARTICLE 37. LAY-OFFS

**37.1. General**

The following procedures are to be used for the layoff of bargaining unit employees who are in positions that are to be abolished, discontinued, or vacated because of a lack of supporting funds, program change, change in departmental organization, stoppage or lack of work. The University retains the right to decide whether to lay off employees. The University and the Union hereby agree that all future layoffs noticed after the date of this Agreement shall be governed by the following:

**37.2. Layoff Notice**

When the University decides to layoff an employee or employees, a notice shall be given to the affected employee(s) and the Union at least ninety (90) calendar days in advance of the effective date of such layoff. Notices of layoff shall be in writing and shall be acknowledged in writing by the employee. The Employer may place an employee who receives a notice of layoff on administrative leave for any portion of the ninety (90) calendar day notice period.

During the first thirty (30) days of the above-mentioned ninety (90) day calendar day notice period, upon the request of the Union, the University shall timely meet with the Union to discuss the details of the administration of this Article to the particular layoff at issue.

### **37.3. Order of Layoff**

The University shall determine in which classifications layoffs will occur. Layoffs will occur by division. Within each classification affected, layoffs shall occur in the following order:

- A. All regular status employees serving an original probationary period in the classification and division in which the layoff is to occur; then
- B. All regular status employees who have completed an original probationary period, in the classification and division 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.

### **37.4. Seniority Points**

The formula for establishing seniority points shall be as follows:

- A. One (1) point shall be given for each complete month of credited service for the following:
  - 1. University System (and/or predecessor organizations) service including service as medical system University personnel as defined in the Education Article, Section 13-301(p).
  - 2. Service with the division where the layoff is to occur; and
  - 3. Service in the job classification and its job series where the layoff is to occur.
- B. For creditable service of less than a complete month, the employee shall be credited with .032 points for each day of creditable service.
- C. For part-time employees, creditable service shall be determined by the funded percentage of the position.
- D. The combined total of all points shall determine the order of layoff. If two or more employees in the same classification have the same number of seniority points: the Divisional Vice President, with approval of the Chief Executive Officer, will determine the employee(s) to be retained based upon a written evaluation of the specific skills, knowledge, and abilities of each employee, prepared by the Division Head or Chairperson.

### **37.5. Displacement Rights**

- A. Employees covered by this Agreement who are notified that they are being laid off may elect to exercise displacement rights as provided herein. An employee's election to exercise displacement rights must be made by giving written notice to the Office of Human Resources within fifteen (15) calendar days of the notice to the employee of the layoff.
  - 1. An employee in a position which is to be abolished, discontinued, or vacated shall be allowed to displace another employee with less seniority in the same job classification, or, if not available either

- a. Progressively to each lower classification in the same job series; or
  - b. In any other classification in which the employee held satisfactory regular status.
2. The displacement as applied in one (1) above, shall be limited to the division in which the employee is employed at the time that the notice of layoff is given.
  3. An employee who elects not to displace another employee or who is ineligible to displace another employee in accordance with this Section shall be laid off.

### **37.6. Recall List**

- A. An employee who is laid off shall be recalled for reappointment following a layoff if, within one (1) calendar year from the effective date of layoff, the specific position from which the layoff occurred is reestablished.
- B. For a period of two (2) calendar years from the effective date of the layoff the employee will be notified of job vacancies at the University and, if interested, shall be granted interviews for appointment to vacancies in the classification in which the employee was laid off, any lower classification in that job series, any classification for which the employee has completed an original probationary period, or any other position vacancy for which the employee meets the minimum qualifications.
  1. Notice of recall from a layoff shall be sent to the employee by certified mail, return receipt requested.
  2. The recalled employee shall have up to seven (7) workdays following receipt of the recall notice to notify the University of their intention to return to work.
  3. The recalled employee shall have up to twenty-one (21) workdays following receipt of the recall notice to actually return to work.

### **37.7. Severance Package**

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

#### **A. Tuition Remission:**

1. Employees who are laid off, who have completed between five (5) and ten (10) years service with the University and who are receiving tuition remission at the time of layoff may complete the semester in which the lay-off occurs at whatever qualifying institution they are attending at that time, and they may receive tuition remission for one additional full-time semester or two (2) additional part-time semesters, not to exceed a total of eighteen (18) credit hours, at FSU campuses only.

2. Employees who are laid off, who have completed more than ten (10) years service with the University and who are receiving tuition remission at the time of layoff, may complete the semester in which the lay-off occurs at whatever qualifying institution they are attending at that time, and they may receive tuition remission for two additional full-time semester or four additional part-time semesters, not to exceed a total of thirty-six (36) credit hours, at FSU campuses only.
3. For purposes of this Section, full-time shall be considered twelve (12) credit hours or more. Part-time shall be considered to be less than twelve (12) credit hours.
4. The tuition remission benefit described in this Section is for the employee only, with the exception that any employee dependent enrolled in coursework at FSU in the semester in which the employee is laid-off and receiving tuition remission may continue to receive tuition remission for the balance of that semester.

## **B. Employment Assistance**

1. The Office of Human Resources will be available to assist employees laid off with the following:
  - a. Developing a resume
  - b. Composing a cover letter
  - c. Interviewing skills
  - d. Conducting a job search
  - e. Employment agency contacts
  - f. Recommended readings
2. The Office of Career Services offers:
  - a. Individual Career Counseling
  - b. Job/Internship Posting & Searches
  - c. Resource Library
  - d. On campus recruitment and interviews
  - e. Career Fairs
  - f. Resume and cover letter assistance
  - g. Mock Interviews

- h. Free access to College Central
- 3. Laid off employees may use the University's computer labs, facsimile machines and copiers for purposes of developing a resume and conducting job searches. Employees availing themselves of these services agree to comply with all University rules and regulations.

## **ARTICLE 38. MID-CONTRACT NEGOTIATIONS**

### **38.1. Existing Policies and Procedures**

All Board of Regents (BOR) and University policies and procedures shall remain in full force and effect unless modified specifically by this MOU. Nothing contained in this Section 38.1 affects whatever rights the Union otherwise may have to contest the application of any such policy or procedure.

### **38.2. Changes in Terms and Conditions of Employment**

- A. The University and the Union acknowledge their mutual obligation to negotiate as defined and limited by law and this MOU over Employer proposed changes in wages, hours and other terms and conditions of employment affecting bargaining unit employees not specifically covered by this Agreement and not reserved to the University as a management right. Where applicable, the obligation to bargain is limited to those changes that will substantially affect the working conditions of bargaining unit employees. The minimum notice to the Union of the intended change in working conditions subject to this obligation is fifteen (15) days prior to the proposed implementation of the change. If required to meet a legislative mandate or an emergency situation, Management will notify the Union as soon as possible prior to the proposed implementation of the change. The Union may request bargaining within this notice period. Where the Union does not request bargaining, the University is free to implement the changes. Where the Union does request bargaining, the Union shall submit proposals in response to the Employer's intended changes with ten (10) days of its request to bargain, and the parties will meet promptly to discuss the changes and any proposals submitted by the Union. The Employer may implement its proposed changes after meeting with, and considering any proposals submitted by, the Union.
- B. Changes or additions to Special Orders of the Police Department are handled pursuant to Article 39, Special Orders, of this Agreement.

## **ARTICLE 39. SPECIAL ORDERS**

- 39.1. There shall be a special orders committee established, which shall consist of at least one each of the following:
  - A. An employee member of the bargaining unit designated by the Union;

- B. A supervisor;
  - C. A representative of the Union; and
  - D. A representative of the Office of Human Resources.
- 39.2.** The committee shall be advisory in nature and shall be charged with meeting at least once every six (6) months to review the Special Orders and to make recommendations for updates and changes. Final authority for promulgating and/or modifying special orders rests with the Chief of Police and the University. Where the Chief intends to modify an existing Special Order or promulgate a new Special Order, and the modification or new Special Order has not been considered by the Committee, the Committee will be afforded a reasonable opportunity to review and comment on the modification or new Special Order before it is implemented.

## **ARTICLE 40. PROBATION**

### **40.1. General**

- A. Probation is a trial period of employment in which employees demonstrate their ability to perform the duties and responsibilities of their positions. Employees serve a probationary period from the date of hire through a one (1) year period following satisfactory completion of mandatory police officer training conducted by the Maryland Police and Correctional Training Commission. Employees who are hired having previously completed the mandatory police officer training by the Maryland Police and Correctional Training Commission, and who are current in their mandated training and certified at the time of hire, and who served as a sworn police officer in the State of Maryland for a minimum of one year immediately before hire, shall serve a probationary period from the date of hire through a six (6) month period, which may be extended an additional six (6) month period at the sole discretion of the Chief. Upon the successful completion of the initial hire and promotion probation, the employee will receive a salary increase of not less than two and one-half percent (2.5%), so long as it does not exceed the maximum of the grade.
- B. Other than in instances of alleged brutality, during the probationary period, the supervisor or designee, with the approval of the department head and written notification to OHR, may separate the employee without reason at any time by providing the employee with a two-week written notification. In instances of alleged brutality, the provisions of LEOBOR, Section 728.4, shall prevail. An employee has the right to appeal the rejection within five workdays of receipt of the written notification on the grounds of procedural deficiency or violation of law under *BOR Policy on Special Action Appeals for Classified Employees, 8.10*.
- C. Under certain circumstances as described in *USM Policy VII-1.21, Policy on Probation For Nonexempt Employees (approved 7/12/1996)*, a promoted, transferred, or reinstated nonexempt employee may be placed on probation. An appropriate administrator may separate an employee serving a status change probationary period for cause. The appropriate

administrator shall provide to the employee and the Chief Executive officer or designee written notice of the rejection at least thirty (30) calendar days prior to the end of the probationary period. The notice shall state the reason for and effective date of the rejection and shall advise the employee of the right of appeal under *BOR Policy on Special Action Appeals for Classified Employees, 8.10*.

- D. An employee whose job class has been changed as a result of a promotion and is rejected during a status change probationary period shall be restored to his/her former position if it is vacant or held by a temporary employee.
- E. Merit increases shall not be granted during original probationary periods.

**40.2. Persons Not Subject to Probation**

- A. An employee who has satisfactorily completed an original probationary period in a nonexempt job class who is reinstated to the same nonexempt job class in the same department shall not serve a probationary period. If the original probationary period has not been completed, the remainder of the probationary period shall be served in the new job class.
- B. A regular employee who has served an original probationary period and whose position is reclassified shall not serve a probationary period. If the employee has not completed an original probationary period and the position is reclassified, the employee will serve the remainder of the probation in the new job class.
- C. A regular employee who has been placed on temporary assignment/reassignment shall not be subject to a probationary period.
- D. An employee who has been demoted to a nonexempt job class in which a probationary period has been previously served shall not serve a probationary period.

**ARTICLE 41. STRIKES AND LOCKOUTS**

**41.1.** Consistent with State Personnel and Pensions Article Section 3-303, employees are prohibited from engaging in any strike. The employer may take disciplinary action, including termination of employment, against any employee who participates in a strike. "Strike," as defined in Section 3-303, means any concerted action to impede the full and proper performance of employment duties in order to induce, influence, coerce, or enforce demands for a change in wages, hours, terms, or other conditions of employment, and includes a total or partial refusal or failure to report to work; refusal or failure to perform employment duties; withdrawal from work; work stoppage; or work slowdown. The Union agrees that it will not engage in or encourage any strike activity and agrees that it shall take all necessary steps to obtain immediate compliance with this Article by employees covered by this MOU. The Union is subject to all penalties and remedies under law for violation of this Article or Section 3-303.

**41.2.** Consistent with State Personnel and Pensions Article Section 3-304, the University may not engage in any lockout. "Lockout," as defined in Section 3-304, means action taken by the

University to interrupt or prevent the continuity of the employees' usual work for the purpose and with the intent of coercing the employees into relinquishing rights guaranteed by Title 3 of the State Personnel and Pensions Article, or any action taken by the University to bring economic pressure on employees for the purpose of securing the agreement of their exclusive representative to certain collective bargaining agreement terms.

## **ARTICLE 42. AWARDS**

The University agrees to process as soon as possible any monetary award arising from a disciplinary appeal, grievance proceeding, or other personnel action under this MOU. However, in matters where the University is represented by the Attorney General's Office, said awards will be processed as soon possible upon receipt of written instruction from the Attorney General's Office to pay the award, and the University agrees that it will make all efforts to obtain prompt instructions from the Attorney General's Office.

## **ARTICLE 43. ADVISORY COMMITTEE**

The Employer and the Union agree to form a labor management committee consisting of two union and two management representatives. The committee will be co-chaired by one representative from each side. The committee will meet as needed as determined by the co-chairs, but in no event less than quarterly, and consider issues that the co-chairs agree to put on the agenda.

## **ARTICLE 44. DURATION, RENEWAL AND REOPENER**

### **44.1. Duration**

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

### **44.2. Renewal**

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

### **44.3. Limited Reopeners for FY 2013 and FY 2014**

Notwithstanding the provisions of Section 1 - Duration, either party may reopen this MOU during the month of June in each year (2012 and 2013) for the sole and limited purpose of negotiating over the subjects of what cost of living adjustment, if any, what merit pay adjustment/bonus for "meets standards", if any, and what funding conditions and requirements, if any, for both items shall be included in the USM budget request submitted to the Governor for the next fiscal year. All

other terms and conditions of this MOU shall remain in full force and effect during any such reopener and throughout the duration of this MOU.

#### **ARTICLE 45. SAVINGS CLAUSE**

Should any part of this Agreement be declared invalid by operation of law or by a tribunal of competent jurisdiction, the remainder of the Agreement shall not be affected but shall remain in full force and effect. In the event any provision is thus rendered invalid, upon written request of either party, the University and the Union shall meet promptly and negotiate a substitute for the invalid article, section or portion thereof.

#### **ARTICLE 46. ENTIRE UNDERSTANDING**

The Employer and the Union acknowledge that during the negotiations which resulted in this MOU, each had the unlimited right and opportunity to make demands and proposals with respect to any subject of bargaining as provided for in Title 3, SPP and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this MOU. The Employer and the Union agree that for the life of this MOU, each waives the right, and neither shall be obligated to bargain collectively with respect to: 1) any subject specifically referred to in this MOU; 2) subjects on which the Union made, or could have made, proposals during bargaining, but about which no agreement was reached. The parties further agree and intend that the waiver set forth herein shall be construed as consistent with the provisions of the Preamble to this MOU and enforceable.

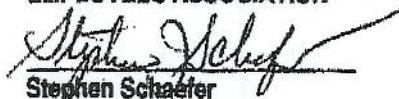
SIGNATURE PAGE

FROSTBURG STATE UNIVERSITY

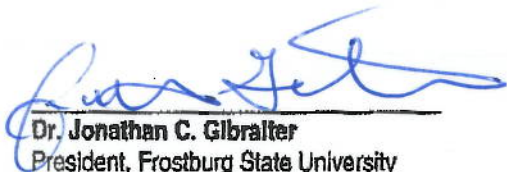


**William E. Kirwan**  
Chancellor, University System of Maryland

MARYLAND CLASSIFIED  
EMPLOYEES ASSOCIATION



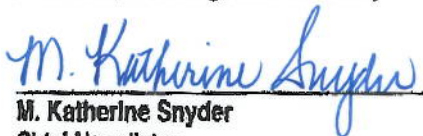
**Stephen Schaefer**  
President, MCEA



**Dr. Jonathan C. Gibraltar**  
President, Frostburg State University

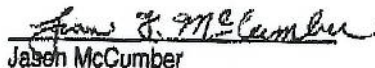


**Ronald E. Smith**  
Chief Negotiator, MCEA

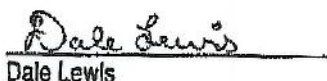


**M. Katherine Snyder**  
Chief Negotiator  
Vice President of Human Resources  
Frostburg State University

MCEA SWORN POLICE  
OFFICERS' BARGAINING UNIT



**Jason McCumber**



**Dale Lewis**

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# USM References

The full text of the USM references can be accessed at:

<http://www.usmd.edu/regents/bylaws/SectionVII/>

1. USM Policy VII-1.21, Policy on Probation For Nonexempt Employees (approved 7/12/99)
2. USM Policy VII-4.10, Policy on Tuition Remission for Faculty and Staff (approved 1/11/90; amended 5/31/90, 8/28/90, 8/24/01, 12/7/01, 8/23/02, 12/6/02, and 6/27/03)
3. Policy VII-4.20, Policy on Tuition Remission for Spouses and Dependent Children of Faculty and Staff (approved 1/11/90; amended 5/31/90, 2/28/92, 8/24/01, 12/7/01, 8/23/02, 12/6/02, and 6/27/03)
4. USM Policy VII 7.12, Policy on Leave of Absence Without Pay (approved 5/1/92; amended 11/12/93).
5. USM Policy VII-7.24, Policy on Call-Up to Active Military Duty During A National or International Crisis or Conflict for USM Exempt and Nonexempt Staff Employees on Regular Status (approved 10/05/01; amended 12/6/02, 10/17/03, and 9/10/04).
6. USM Policy VII – 7.40, Policy on Accident Leave for Exempt and Non-Exempt Employees (approved 5/1/92; amended 11/12/93 and 4/16/04)
7. USM Policy VI –7.41, Policy on Modified Duty (approved 11/12/93)
8. USM Policy VII-7.45, Policy on Sick Leave (approved 12/5/77)
9. USM Policy VII–7.50, Policy on Family and Medical Leave for Exempt and Nonexempt Staff Employees (approved 8/27/93; amended 4/16/04 and 10/22/04)
10. USM Policy VII-9.40, Policy on Salary Upon Transfer or Reclass (approved 6/9/95; effective 7/1/96)