

# **Administrative Policies**

## **ADA Policies and Procedures for Faculty**

### Policy on Compliance with Disability Discrimination Laws (PN 3.073)

Frostburg State University is committed to compliance with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act of 1990. It is a priority of the University to ensure full participation in programs, employment and activities for all individuals.

Reasonable accommodations shall be provided, upon request, to employees, students and visitors to the University who are eligible to receive them. All University publications and events announcements shall contain a statement informing persons with disabilities of the procedure for requesting accommodations. New construction projects and renovations shall comply fully with all federal, state and local codes, including the Americans with Disabilities Act Accessibility Guidelines and the Uniform Federal Accessibility Standards.

The University is committed to ensuring non-discrimination and to resolving any complaints related to disability in a prompt and equitable manner. The Director of ADA/EEO Compliance shall attempt to resolve complaints following the University's internal grievance procedure.

### Reasonable Accommodation Request Procedure for Current Employees

The University has instituted a procedure for handling requests for accommodations for current employees with disabilities. Under the Americans with Disabilities Act, the University must provide a reasonable accommodation requested by an employee to perform essential job duties, unless it would present an undue hardship to the University. The following procedure should be followed for handling accommodation requests.

1. The employee first obtains a Request for Accommodation Form from the Office of Human Resources.
2. The employee completes Section I of the form describing their disability, the accommodation being requested, and how the accommodation will assist the individual in performing the essential functions of the job. The employee then returns the form to the supervisor for review.
3. The supervisor reviews the request and determines what impact it will have on the following areas:
  - a) Operations - If providing the accommodation would be unduly disruptive to the department/Library or the University's ability to conduct business, then the supervisor may indicate their opinion that the accommodation would be an undue hardship. For example, flexible scheduling may not be able to be accomplished without negatively affecting the operation of a particular department/the Library.
  - b) Staffing - If the accommodation will create a heavier workload for other employees in the department/Library, the supervisor may indicate on the form that this would pose an undue hardship.

- c) Budget - When determining whether the cost of the accommodation may be an undue hardship, the focus should be on the financial resources available to the University. If the supervisor feels that the cost of providing the accommodation would be an undue hardship, they can indicate this on the request form.
4. If the supervisor feels that the accommodation request is reasonable based on the established criteria, the supervisor indicates approval of the accommodation and forwards the form to the Director of ADA/EEO Compliance. If the supervisor feels that the accommodation may present an undue hardship they must provide a suggestion for an alternative accommodation. The supervisor then forwards the form to the Director of ADA/EEO Compliance.
  5. The Director of ADA/EEO Compliance consults with the employee, the supervisor, and the Director of Human Resources about the request. Based on these consultations, the Director of ADA/EEO Compliance makes a recommendation on the effectiveness of the accommodation for the employee to perform job duties and whether an undue hardship is created for the University. The Director of ADA/EEO Compliance forwards this recommendation to the appropriate Vice President.
  6. The Vice President approves the final accommodation and the funds, and sends the decision to the Director of ADA/EEO Compliance.
  7. The Director of ADA/EEO Compliance notifies the Director of OHR, the employee, and their supervisor of the final approved accommodation.
  8. The supervisor then consults with the employee to ensure that the accommodation is adequate for the employee to perform their essential job duties.

All Requests of Accommodation forms and related documentation are filed in the Office of ADA/EEO Compliance for a period of five (5) years.

#### Requests for Transfer as a Reasonable Accommodation

Employees with disabilities who are unable to perform their existing jobs even with accommodation may request a transfer to another position within the University. When such a request is made, the Office of Human Resources will identify positions that are vacant or soon to be vacant that the individual is qualified to perform.

The University will make every effort to reassign the employee to a position of the same grade, salary level, and job status. If there are no equivalent positions vacant for which the employee is qualified, the University will offer reassignment to a lower graded position as an accommodation, if a position is available for which the individual is qualified.

#### Off-Campus Loans of Equipment to Employees with Disabilities

Frostburg State University has established a procedure for employees with disabilities to request off-campus loans of equipment. An off-campus loan is defined as the removal of equipment to a personal residence, residence hall, or for purposes of travel related to university business.

The following procedure will be followed for handling loan requests:

- 1) An employee wishing to take equipment off-campus must contact the Director of ADA/EEO Compliance to obtain written approval. The employee is asked to complete a loan form, detailing the request.
- 2) The Director of ADA/EEO Compliance approves the request in writing, indicating a return or renewal date for the loan. This date is always three months from the date of the loan.
- 3) The borrower then signs the form, acknowledging responsibility for loss, theft, or damage to the equipment due to negligence. The borrower also agrees to contact the Director of ADA/EEO Compliance by the specified date to return the equipment or renew the loan for another three-month period.

#### ADA Grievance Procedure

Frostburg State University has established an internal grievance procedure providing for prompt and equitable resolution of complaints of violations of Title III of the Americans with Disabilities Act. Title II states, in part, the "no qualified individual with a disability shall, by reason of such disability, be excluded from the participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity."

This grievance procedure may be implemented by a student, employee, or visitor of Frostburg State University alleging a violation of the Americans with Disabilities Act.

Complaints may be registered by contacting the University's Director of ADA/EEO Compliance. To be considered for handling by Frostburg State University, a complaint must be filed within 120 days of reasonable knowledge of the alleged violation.

Although individuals are encouraged to utilize the University grievance procedure first, any person(s) with a complaint of an ADA violation has a right to register the complaint with the appropriate state or federal agency within 180 days of the alleged violations.

#### Registering Complaints with the Director of ADA/EEO Compliance

- \* A student, employee or visitor of the University may contact the Director of ADA/EEO Compliance by telephone (voice or TDD) to discuss an alleged violation of the ADA.
- \* The Director of ADA/EEO Compliance will arrange a meeting with the Complainant. At this time, the Director of ADA/EEO Compliance will provide the Complainant with a copy of University procedures for handling ADA grievances and discuss these procedures to be sure that the Complainant understands

the process.

- \* The Director of ADA/EEO Compliance will discuss the grievance with the Complainant to gain an understanding of the concern being registered.
- \* The Director of ADA/EEO Compliance may request that the alleged violation be described in writing by the Complainant, or the Director of ADA/EEO Compliance may develop a written statement of the complaint for review and validation by the Complainant.

#### Notification of President

- \* The Director of ADA/EEO Compliance will immediately inform the President of the University of any ADA grievance filed.

#### Attempt at Resolution by the Director of ADA/EEO Compliance

- \* The Director of ADA/EEO Compliance will attempt to resolve allegations of ADA violations independently as a first step in the resolution process. The Director of ADA/EEO Compliance will act as a mediator and assist the Complainant in seeking resolution through the appropriate faculty and/or administrative channels. This should not take more than 30 working days, except in unusual and unavoidable circumstances.

#### Reporting by Director of ADA/EEO Compliance of Attempts at Resolution

- \* The Director of ADA/EEO Compliance will inform the President of the University and the ADA Committee of whether or not the initial attempt at resolution was successful.

#### Request of ADA Committee Hearing, If Resolution Is Unsuccessful

If the Director of ADA/EEO Compliance is unable to achieve a satisfactory resolution of the grievance, the Complainant may then request a hearing of the complaint by the ADA Committee. The request must be made in writing within 10 days after the Director of ADA/EEO Compliance completed the attempt at resolution.

The following procedures will be implemented when a hearing request is received:

- \* The Director of ADA/EEO Compliance will immediately notify the University President of the request.
- \* The Director of ADA/EEO Compliance will notify members of the hearing panel of the request. The hearing panel will consist of the ADA Committee members and the Director of ADA/EEO Compliance. The Director of ADA/EEO Compliance will participate in all proceedings but may not vote. The Chair of the ADA Committee will oversee all hearing proceedings.
- \* The Chair of the ADA Committee, in consultation with Committee members, will establish a hearing date and time. Except in extraordinary circumstances, the date of the hearing will be within 15 days of the filing of the request.

- \* The Chair of the ADA Committee will notify the Complainant of the date, time and place of the hearing in writing at least 10 working days prior to the hearing date. The Complainant will also be notified of their right to produce witnesses and present documentation supporting the grievance at the hearing. The Complainant will be asked to submit the names of any witnesses to appear at the hearing at least 7 working days prior to the hearing date.

#### Hearing Proceedings

- \* During the hearing, the Complainant will first present their grievance either orally or in writing to the Committee. Any persons appearing on behalf of the Complainant may then present supporting statements. At the conclusion of these presentations, the Committee will have an opportunity to discuss the grievance with the Complainant in detail.

#### Report and Recommendations

Following the hearing, the Committee will discuss the information presented by the Complainant and prepare a report of the Committee findings and recommendations. The report will be submitted to all members of the hearing panel for review and consensus. The report will then be finalized by the Chair and forwarded to the Complainant within 5 working days of the hearing.

#### Notification of President

- \* The Chair will forward a copy of the ADA Committee's final report and recommendations to the President of the University.

#### Further Options for Resolution

- \* The report of the ADA Committee which is sent to the Complainant will include a notice of other options available if the Complainant is not satisfied with the Committee's recommendations. At this point, the Complainant may file a grievance with the appropriate federal or state agency, or they may choose to file a formal complaint of discrimination with the University's Office of ADA/EEO Compliance. All complaints filed with the Office of ADA/EEO Compliance will be fully investigated following the "Allegation of Discrimination/Harassment Procedures" published in the Employee Handbook and the Faculty Handbook, and available from the Office of Compliance.

## **Advertising by Off-Campus Individuals or Organizations**

PN 4.021

Frostburg State University does not distribute through its mailroom, or in any other way, flyers, advertisements, leaflets, etc., from off-campus individuals or organizations. Such individuals or organizations who wish to distribute information and/or any product, providing it is lawful under local, state, and federal laws, may reserve a table to make such distributions in the Lane Center lobby for a maximum of three consecutive days. No more than eight tables will be scheduled at any one time.

The President and/or the Executive Committee will make any exceptions to this policy.

## **Advertising for Employment**

PN 3.037

1. The Director of Human Resources or designee will ensure best use of position advertisements in relevant publications at the least cost practicable.
2. Consistent with the University's commitment to equal employment opportunity, position advertisements will include the name of an Office of Human Resources contact person, with telephone number, to assist applicants who request reasonable accommodation in the employment process. Position advertisements will also identify the Search Chair for faculty positions and may identify the Search Chair for other vacancies.
3. All applications will be received in the Office of Human Resources.
4. The Office of Human Resources will ensure minority publication advertising for all faculty and unclassified vacancies.
5. The Director of Human Resources or designee will ensure that minimum qualifications, primary duties and salary range identified for reference by a job description, a Position Information Questionnaire (PIQ), the Appointment, Retention and Tenure (ART) document and other information provided by the department/Library are consistent with classification/compensation standards for the position to be advertised.
6. All positions will be advertised or posted for at least 30 days to comply with advertising and posting requirements of the Immigration Act of 1990.
7. Advertisements for employment under emergency conditions will be reviewed by the Director of Human Resources and must be approved by the President prior to initiation.

## **Alcoholic Beverages**

PN 4.001

The possession and/or consumption of alcoholic beverages at Frostburg State University is permitted subject to the laws of the State of Maryland, and in accordance with the following sections:

Section 1. Consumption of alcoholic beverages will be allowed in the following instances:

- a) Residence hall student rooms, if all the students occupying each room consent and conform to the state, local and university ordinances.
- b) Lane Center events in accordance with university regulations and student guidelines for implementation.
- c) The Roper Art Gallery and the Library, Room 237, in accordance with university regulations and student guidelines for implementation.

Section 2. Consumption or possession of alcoholic beverages will not be allowed in university buildings not so stated above, on the grounds of the university property, or in areas of buildings not so stated. For instance, consumption may take place in residence hall rooms, but may not take place at any time or for any reason in hallways, lounges, bathrooms, or any public areas of the buildings, or athletic games.

Section 3. On-campus sale, purchase, and/or serving of alcoholic beverages at university functions is prohibited, except as stated above, unless approved by the Office of the President or his designee.

Section 4. Organizations and/or individuals sponsoring events off-campus are subject to compliance with the alcoholic beverages law of the State of Maryland.

Section 5. No rule of the university or of the Alcohol Policy shall be construed to permit the sale, purchase, possession or consumption of alcoholic beverages by anyone under legal age.

Section 6. On-campus violations of any part of the policy will be referred to the appropriate judicial body for action. Violators of the State laws are subject to prosecution by local law enforcement authorities.

Section 7. Beer and/or wine shall be the only alcoholic beverages available at student sponsored functions on campus. Off-campus groups composed predominantly of participants age 21 or over may, when licensing the use of a university facility, request the availability of liquor in addition to the above alcoholic beverages.

Section 8. Sale of alcoholic beverages is permissible on campus only in a university facility covered by the university's liquor license, in accord with university regulations.



Section 9. Residence hall activity fees which are collected by the Residence Life office and used for programs, activities and equipment purchases by the individual hall/house council and Residence Hall Association are not to be used for the purchase of alcohol.

Section 10. Campus alcohol advertising must include a statement regarding proper ID for age and must not focus on the consumption of alcoholic beverages.

## **Children in the Workplace at Frostburg State University**

PN 1.011

The University is sensitive to the fact that, on occasion, it may be necessary or desirable for staff members or faculty to bring young children to campus. Emergencies may arise when regular childcare is unavailable, or there may be times when children accompany their parents on national "bring a child to work" days or simply to be introduced to professional colleagues.

When young children are brought to the campus by their parent or guardian, it is important that they be monitored for their own safety and that their presence not be disruptive or inappropriate in a professional setting. Accordingly, these provisions will apply when children of faculty or staff are present:

1. Children may not be brought to the workplace on a regular basis in lieu of off-campus childcare. If a child is brought to the campus on an emergency basis, the child may not be ill. The University's leave policies are quite liberal; both in the number of days allowed and, in our desire, to assist employees with occasional special or emergency family needs. Supervisors are encouraged to accommodate working parents with such occasional needs by allowing flexibility in work schedules.
2. Children present in the workplace must be accompanied by or under the direct supervision of the parent or guardian at all times. This policy is intended to avoid disruption, maintain a professional work environment, prevent property damage, and, most importantly, ensure the safety of the children.

## **Computer Use Policies**

PN 2.046

Frostburg State University has joined the National Information Infrastructure through its newly installed campus fiber optic network. Your campus network now connects computers on campus with thousands of other computers within the University of Maryland System as well as with millions of computers in the Internet. As you explore your campus network and the Internet beyond, you will discover the many advantages of network connectivity. This connectivity also requires that you understand your responsibilities as a member of this community of electronic learners so that you, as "user," will be able to protect the integrity of the system as well as the integrity of other users. In this case, a "user" is any individual who uses, logs in, attempts to use, or attempts to log in to the FSU computer system, whether by direct connection or through one or more networks, or who attempts to connect to or traverse a network, whether via hardware, software or both. Therefore, the term "user" includes all students, faculty, and staff affiliated with FSU.

Use of your campus network and all components of the network is not a right, but rather a privilege you gain through the University. Remember, your campus network and many of the components that make up, or are attached to the network, are the property of the State of Maryland. When accessing the systems of other institutions, you are subject to the rules of use for that particular institution as well as those for FSU.

The following Rules of Use are intended to help you use your campus computing and network facilities responsibly and safely. Complying with them will help assure that all of us use the system responsibly, legally, and with respect for the privacy of others. The University and its offices are concerned chiefly with identifying and responding to violations by members of the University community that directly affect the University community and that are defined by the Student Code of Conduct, the Faculty Handbook, Personnel Policies and Rules for Classified Employees, and/or other applicable administrative policies and procedures. Should any violations of this policy originate in the University's network, extend beyond the University community, and be drawn to our attention by outside authorities, the University reserves the right to take appropriate actions (as described in Section 13) against the violator.

By establishing these guidelines for responsible computing, the University is not undertaking the responsibility to screen or control the content of messages or other electronic data transmitted through the University system. The University specifically denies any responsibility for the accuracy or quality of information obtained through its computing and electronic communications facilities and services. Further, the University makes no warranties of any kind, whether expressed or implied, for the service it is providing. The University will not be responsible for any damages you suffer through the use of FSU computing and electronic communications facilities and services, including, but not limited to, loss of data resulting from delays, nondeliveries, or service interruptions caused by its own negligence or by your error or omissions. Use of any information obtained via the Internet is at your own risk.

The University's Office of Networking and Telecommunications shall be responsible for implementing this policy. If you have questions regarding this policy or if you need assistance with someone you believe is violating the policy, please contact the Office of Networking and Telecommunications at (301) 687-4317.

## **Responsible Computing at FSU**

### **1. Use the Campus Network Responsibly**

Each individual user is responsible for understanding and complying with the guidelines contained in this document. In addition, users assume personal responsibility for the content of their accounts, their electronic transmissions, and their overall activities while using the campus network and attached devices, including communication that would be deemed a violation of institutional sexual harassment and/or other harassment or discrimination policies, but that occurs in an electronic environment.

### **2. Do Not Violate the Intended Use of Your Campus Network**

The University considers an e-mail message as a business correspondence; therefore, you should use and respond to e-mail in a manner consistent with other business communications.

The purpose of the campus network is to support research, education, service, and administrative activities, by providing access to computing resources and the opportunity for collaborative work. All use of your campus network must be consistent with this purpose. E-mail communications made or received by University employees using University facilities are presumed to be made in the course of University employment and are subject to rules, regulations and laws pertaining to University records and policies. Occasional and incidental social communications using e-mail are not prohibited; however, such messages should be limited and must not interfere with an employee's job function. In particular, your campus network may not be used to transmit threatening, obscene, or harassing materials. The campus network is never to be used for commercial purposes without authorization from proper University officials.

### 3. Do Not Let Anyone Know Your Password(s)

Your computer account "user ID" identifies you to the whole Internet user community. Anyone who knows your password can use your account. If they do anything that affects the system, it will be traced back to your user ID. If your user ID or your computer account is used in an inappropriate manner, you can be held responsible for the consequences.

### 4. Do Not Copy Copyrighted Material

Many software programs, images, sounds, text, and related materials such as documentation are protected by copyright and other laws and by licenses and other contractual agreements. You must abide by these restrictions. To do otherwise is a crime or a violation of legal rights for which you may be personally liable.

Such restrictions include prohibitions against copying data, images, sounds, or programs, the resale of this material or the use of this material for non-educational purposes or for financial gain, and public disclosure of information about programs (e.g., source code) without the owner's authorization.

Users must abide by all software licenses, FSU and USM copyright and intellectual property policies, and applicable Federal and State laws.

### 5. Do Not Violate the Privacy of Other Users

Federal law protects the privacy of users of wire and electronic communications. You should ensure that your use of your campus network and other computing facilities does not violate the privacy of other users, even if unintentionally. Specifically, unless otherwise allowed by law or University policies and procedures:

Do not try to access the files or directories of another user without clear authorization from that user. Typically, this authorization is signaled by the other user's setting file access permissions to allow public or group reading of the files. If you are in doubt, ask.

Do not try to intercept or otherwise monitor any network communications not explicitly meant for you. These include e-mail and user-to-user dialog, as well as a user's password input.

Do not use the system to store personal information about individuals that they would not normally disseminate freely about themselves.

Do not create programs that secretly collect information about other network users. You may not collect information about individual users without their consent.

#### 6. Do Not Impersonate Other Individuals

Misrepresentation of yourself as another individual is not allowed on the FSU campus network or in any electronic communication with other parties.

#### 7. Do Not Misrepresent Yourself

The campus network may not be used to express a personal opinion or belief that may be interpreted as an expression of the University's viewpoint.

#### 8. Do Not Abuse Your Email Privileges

Guidelines on the use of E-mail are not based on etiquette alone. As provided in Paragraph 11 below, any e-mail generated by University employees on the on-campus network is presumed to be University property and therefore may be subject to disclosure. E-mail may be and has been used as a source to support litigation claims. Furthermore, E-mail sent with the intent of disrupting communication or other system services is not allowed. The proliferation of electronic chain letter is abusive to the mail system and the network. Chain letters waste valuable computing resources, and may be considered harassing. You may lose your network privileges by creating or forwarding chain letters.

#### 9. Do Not Use Your Campus Network to Harass Anyone in Any Way

Harassment is any verbal or physical conduct, on or off campus, which has the intent or effect of unreasonably interfering with an individual's or group's educational or work performance or which creates an intimidating, hostile, or offensive educational or work environment.

Harassment on the basis of race, color, gender, disability, religion, national origin, sexual orientation, or age includes harassment of an individual in terms of a stereotyped group characteristic, or because of that person's identification with a particular group. With reference to sexual harassment, the definition also includes unwelcome sexual advances and requests for sexual favors that might be perceived as explicitly or implicitly affecting educational or employment decisions concerning an individual.

Sending offensive, unsolicited, or unwanted e-mail or messages may constitute harassment and is in violation of the intended use of the system. Use appropriate language. Obscenity will not be tolerated on your campus network. Avoid offensive or inflammatory speech. Personal attacks are an unacceptable use of the network.

#### 10. Unlawful Activities Are Not Allowed

Use of your campus network for unlawful or criminal purposes will result in immediate suspension of your privileges on the network and components attached to the network and may result in referral to the appropriate University, State, and/or Federal authority for possible disciplinary and/or legal action.

## 11. Introduction of Computer Viruses

The deliberate introduction of a computer virus into an FSU computer or computing system is against both federal and state law as well as a violation of FSU policy. Attempts to introduce such viruses may result in suspension of computing privileges as well as other legal and/or University action depending upon the severity of the damage such activity causes.

## 12. System Administrators, Whenever Possible, Will Respect Your Privacy

The general right of privacy should be extended to the extent possible to the electronic environment. Consistent with applicable law and University policies and procedures, including those pertaining to University records, the University and all users should treat electronically stored information in individual files as confidential and private. Contents should be examined or disclosed only when authorized by the owner, approved by an appropriate University official, or required by law, and attempts by unauthorized individuals to read or access another person's e-mail or other protected files will be treated with the utmost seriousness. However, the University reserves the right to monitor its computing resources to protect the integrity of its computing system workstations, and lab facilities. More specifically:

System Administrators may conduct periodic security checks of your campus network and attached components, including password checks, to determine if security violations or other violations of this policy have occurred or are occurring. Any user with a "bad password" will be notified via e-mail. If you do not change the password in a timely manner, you will be "locked out" of the account until you contact Academic Computing.

FSU is an agency of the State of Maryland and therefore subject to the Maryland Public Records Law (Maryland Annotated Code, State Government Article, 10-611 et seq.). Stored electronic information and e-mail may be considered public records, just as are paper records. Such records, unless subject to a specific privilege, may be subject to review and/or release under the Public Records Law. Further, electronic information, including e-mail messages, when relevant, are subject to production through discovery in civil litigation.

Administrative files of the University are generated as part of the process of managing the University. Files that employees create or maintain as well as e-mail can be reviewed by supervisors within this administrative context. Generally, faculty research files and files relating to scholarly endeavor will not be subject to such a review.

In the normal course of system administration, system administrators may have to examine activities, files, electronic mail, and printer listings to gather sufficient information to diagnose and correct problems with system software or hardware. In this case, the user should be notified as soon as practical. Computer systems and stored data are subject, by authorized personnel, to review for audit purposes or when a violation of University policy or law is suspected.

### 13. Responsibility for Compliance with Law

All users of University computing resources must comply with all federal, Maryland, and other applicable law; all generally applicable University rules and policies; and all applicable contracts and licenses. Examples of such laws, rules, policies, contracts, and licenses include the laws of libel, privacy, copyright, trademark, obscenity, and child pornography; the Electronic Communications Privacy Act and the Computer Fraud and Abuse Act, which prohibit "hacking", "cracking", and similar activities; the University's Code of Student Conduct; the University's Sexual Harassment and Racial Discrimination policy; the University's personnel policies; and all applicable software licenses. Users who engage in communications with persons in other states or countries or on other systems or networks should be aware that they may also be subject to the laws of those other states and countries and the rules and policies of those other systems and networks. Users are responsible for ascertaining, understanding and complying with the laws, rules, policies, contracts and licenses applicable to their particular uses.

### 14. Disciplinary Actions for Abuse of Privileges

Users who violate this policy may be denied access to University computing resources and may be subject to other penalties and disciplinary action, both within and outside of the university. The University may temporarily suspend or block access to an account, prior to the initiation or completion of such procedures, when it reasonably appears necessary to do so in order to protect the integrity, security or functionality of university or other computing resources or to protect the university from liability. Violations will be handled through University disciplinary procedures applicable to the relevant user. Policy violations by students will be handled in accordance with the Code of Student Conduct. Policy violations by University employees, including faculty, will be handled in accordance with the University System of Maryland's Personnel Policies and Rules for Classified Employees, the Faculty Handbook and other applicable administrative policies and procedures. The University may also refer suspected violations of applicable law to appropriate law enforcement agencies.

If you have any questions regarding this policy, please contact the Office of Academic Computing and Instructional Technologies in Pullen Hall (687-7090) or the Office of Networking and Telecommunications in Lowndes Hall (687-4317).

## **Electronic Accessibility Policy**

PN 3.107

### 1.0 PURPOSE

The purpose of this policy is to ensure accessibility to all users of Frostburg State University (FSU) web sites, including those with disabilities in accordance with State of Maryland Information Technology Policy.

### 2.0 SCOPE

This policy applies to the web development efforts of all FSU offices, departments, programs, and outsourced web site development and administration.

### 3.0 POLICY

Universal electronic access to web sites is provided for the purpose of conducting the business of higher education at Frostburg State University. Because the technologies that allow publishers to design, create, and access the World Wide Web are constantly evolving, current Electronic Accessibility Guidelines are posted on the University web site.

### 4.0 RESPONSIBILITIES

#### 4.1 Executive-Level Responsibilities

The Administration and Finance division and the ADA Compliance Office will ensure compliance with this policy.

#### 4.2 Webmaster Responsibilities

The FSU Webmaster is responsible for monitoring official FSU web pages and sites to ensure accessibility to all users. The FSU Webmaster must be familiar with relevant state policies and standards and communicate this information to University web page managers as appropriate.

#### 4.3 Office, Department, and Program Web Page Managers' Responsibilities

Office, department, and program web pages are managed by an appointed web page manager, who is responsible for ensuring that all web pages in the unit's web site follow accessibility specifications. Current web accessibility specifications are available on the University web site or by contacting the FSU Webmaster.

### 5.0 GUIDANCE

*W3C Web Content Accessibility Guidelines:* <http://www.w3.org/TR/WAI-WEBCONTENT/>

The World Wide Web Consortium (W3C) is an international industry consortium of over 300 organizations created to ensure optimal access to web sites and their content. These Guidelines explain how to provide accessibility to a wide audience, including alternatives to auditory and visual content and designing for device independence (e.g., mouse, keyboard, voice, head wand).

*Federal Access Board Electronic and Information Technology Accessibility Standards:*

<http://www.access-board.gov/sec508/nprm.htm>.

The Access Board is an independent Federal agency devoted to accessibility for people with disabilities. The Board's standards assist the states in their efforts to provide broad access to all customers via the Internet.

*National Federation of the Blind Web Accessibility:* [http://www.nfb.org/nfb/Web\\_accessibility.asp?SnID=2](http://www.nfb.org/nfb/Web_accessibility.asp?SnID=2)

This web site provides guidance to web site developers who want to ensure that their web pages are accessible to and usable by the blind.

*Watchfire Bobby:* <http://www-01.ibm.com/software/rational/offerings/websecurity/>

Bobby is a free web-based evaluation tool that web site developers can use to analyze web pages for accessibility to people with disabilities.

## 6.0 ADDITIONAL INFORMATION

Questions regarding FSU's Electronic Accessibility Policy should be directed to the Director of ADA/EEO Compliance or the FSU Webmaster.

### **Web Site Development and Operations Policy**

PN 3.108

#### 1.0 PURPOSE

This policy provides information and guidelines to be followed by web publishers and developers at Frostburg State University (FSU). It also references other important web-related policies.

#### 2.0 SCOPE

This policy applies to the web development efforts of all FSU units and personnel (i.e., faculty, staff, and students). It applies to efforts by these entities to outsource web site or web page development and administration to contractors.

#### 3.0 POLICIES

##### 3.1 General Issues

##### 3.1.1 Electronic Accessibility Policy

The Universal Electronic Accessibility Policy sets forth required information on web site accessibility issues. This policy is posted on the FSU web site.

##### 3.1.2 Privacy Policy

The Web Site, E-mail, and Data Storage Privacy Policy sets forth required information on electronic privacy issues. This policy is posted on the FSU web site.

##### 3.1.3 Copyright Complaints

The Designated Agent to receive and respond to reports alleging copyright infringements on FSU's web site, in accordance with the Digital Millennium Copyright Act, is the FSU Webmaster ([webmaster@frostburg.edu](mailto:webmaster@frostburg.edu)). Complete agent contact information is listed on the FSU web site. The Digital Millennium Copyright Act specifies that all infringement claims must be in writing (either electronic mail or paper letter) and must include the following elements:

- a physical or electronic signature;
- identification of the infringed work;
- identification of the infringed material;
- contact information for the complaining party, e.g., address, telephone number, electronic mail address;
- a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner or the law; and
- a statement that the information contained in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the copyright owner.



### 3.1.4 Copyright Information and Resources

Unless otherwise indicated, all text and artwork appearing on the World Wide Web is protected by copyright and should not be reproduced without written permission from the copyright holder. Web developers should contact the author of that web page for permission to use specific information and/or graphics, which can be accomplished by sending an e-mail, if there is an e-mail link on that page or site, or by calling the author, again if the information is available.

Information on the Web that is prohibited by law or disallowed by licenses, contracts, copyrights, or FSU regulations may not be published. Groups or individuals are responsible for the information they publish; consequently, they should be aware of FSU policies pertaining to confidentiality and the use of computers. All FSU policies are located on the FSU web site. Contact the Information Technology Department for more information.

All departments, offices, and web publishers and developers are responsible for keeping their web pages in compliance with copyright rules and with FSU guidelines and policies.

For additional information, consult the following copyright resources on the Internet:

- United States Copyright Office – <http://lcweb.loc.gov/copyright/>
- U.S. Code – <http://www4.law.cornell.edu/uscode/>
- Digital Millennium Copyright Act – <http://www.loc.gov/copyright/legislation/hr2281.pdf>
- CCC: Copyright Clearance Center – <http://www.copyright.com/>
- University of Maryland's Project NEThics – <http://www.inform.umd.edu/NEThics/resources/online/laws.html>
- University of Texas' Crash Course in Copyright – <http://www.utsystem.edu/OGC/IntellectualProperty/cprtindx.htm#top>
- WWW Multimedia Law – <http://www.batnet.com/oikoumene/index.html>
- Copyright and Multimedia Law for Web builders and Multimedia Authors – <http://bailiwick.lib.uiowa.edu/webbuilder/copyright.html>

## 3.2 Web Development Issues and Standards

### 3.2.1 Web Accounts Policy

FSU web accounts are subject to the *Agreement of Acceptable and Responsible Use of Computing and Network Resources*, which users of FSU's network resources, including web publishing accounts, must read, agree to, and sign.

Faculty and staff web publishing accounts at FSU are administered by the Information Technology Department. Employees may request a web account by completing and returning an FSU Web Publisher Account Request to the Information Technology Department. This agreement is available on the University web site or from the FSU Webmaster.

Student web publishing accounts at the University are administered by the University Computer Club. Contact the Computer Club or the Information Technology Department to request a student web account on a University student web server.

### 3.2.2 Web Page/Site Policies

#### Official University Pages

Each academic and administrative unit at FSU will be granted space on an FSU web server for a web presence. Each unit must assign a web page manager. If the assigned web page manager changes, the unit must inform the FSU Webmaster. Newly appointed web page managers should contact the FSU Webmaster for information and guidelines on maintaining their unit's web pages.

Each unit's web presence should communicate only approved FSU information. Official pages must adhere to FSU specifications concerning, but not limited to, required content, acceptable design, update responsibility, and space restrictions. Current web development guidelines and specifications are posted on the University web site.

#### Faculty and Staff Personal Web Pages

All FSU faculty and staff may be granted space on an FSU web server for a personal web presence. Personal pages must adhere to FSU specifications concerning, but not limited to, space restrictions. Current web development guidelines and specifications are posted on the University web site. Personal pages are not endorsed by or official representations of FSU.

FSU employees may not publish information on the World Wide Web that is prohibited by state or federal laws and regulations, or disallowed by FSU policies and agreements, licenses, contracts, or copyrights. FSU does not assume responsibility or liability for any actions that may result from use of FSU web resources.

Owners of professional- or academically-related personal web sites may request links to the web site from appropriate locations on the main FSU web site. The FSU Webmaster will handle all requests for cross links.

#### Student Personal Web Pages

All FSU students may be granted space on a student web server for a personal web presence. Personal pages must adhere to FSU specifications concerning, but not limited to, space restrictions. Current web development guidelines and specifications are posted on the University web site. Personal pages are not endorsed by or official representations of FSU.

Students may not publish information on the World Wide Web that is prohibited by state or federal laws and regulations, or disallowed by FSU policies and agreements, licenses, contracts, or copyrights. FSU does not assume responsibility or liability for any actions that may result from the use of FSU web resources.

### 3.2.3 Service Disclaimer

FSU makes no warranties for the service it is providing. In addition, it is not responsible for any damage an individual may suffer due to system use. Damages may include, but are not limited to, loss of data, delays, non-deliveries, misdeliveries, or service interruptions, which may cause errors or omissions. The use of

information systems is at the user's risk, since FSU specifically denies any responsibility for the accuracy of information received through electronic resources.

#### 3.2.4 Outsourcing

All standards set forth in this document apply to efforts by FSU entities to outsource web site or web page development and administration to contractors.

#### 3.3 Web Operations

The FSU web site is an extensive network of static and dynamically created information resources residing on multiple servers located across the FSU network. Web servers are maintained and administered by the Information Technology Department.

All official FSU web pages must be hosted on an official FSU web server maintained by the Information Technology Department. All servers (web, ftp, mail, dhcp, smtp, tftp) must be registered with the Information Technology Department.

#### 3.4 Establishing and Changing University Web Policies, Procedures, Standards, and Guidelines

Creation of and changes to University web policy, procedures, standards and guidelines will be facilitated by the University Web Advisory Group. This Group will make recommendations to the Executive Committee in regards to establishing new or changing existing web policy.

### 4.0 RESPONSIBILITIES

#### 4.1 Executive-Level Responsibilities

The Administration and Finance division will ensure that the FSU Webmaster and web publishers implement policy.

#### 4.2 Web Advisory Group Responsibilities

The FSU Web Advisory Group exists to assist in the making and changing of web policy, procedures, standards and guidelines at FSU. The Group will make web policy recommendations to the Executive Committee.

The Web Advisory Group is chaired by the Vice President of Enrollment Management and reports to the Vice President of Administration and Finance. Web Advisory Group membership consists of the Vice President of Enrollment Management, the FSU Webmaster, and one representative each from the Division of Academic Affairs, the Division of Student and Educational Services, and the Division of University Advancement. Division representatives will be designated by the Division vice president.

#### 4.3 Webmaster Responsibilities

The FSU Webmaster is responsible for heading redesign and enhancement efforts relating to the FSU web site. The FSU Webmaster also monitors adherence to standards, provides resources for FSU web development, coordinates FSU web resources, and maintains top-level information resources on the FSU web server. The FSU Webmaster is available to assist offices, departments, programs, and organizations with developing and maintaining a web presence.

The FSU Webmaster must be familiar with relevant State policies and standards and be aware of current guidelines and specifications endorsed by the World Wide Web Consortium. The FSU Webmaster must make this information available to web page managers as appropriate.

#### 4.4 Office, Department, and Program Web Page Managers' Responsibilities

Unit web pages are managed by appointed web page managers in each unit. Each web page manager is responsible for ensuring that all information provided on the unit's web pages is accurate and up-to-date and that no information being distributed via the Web is private, confidential, or detrimental to the FSU or the State of Maryland.

It is also the responsibility of the unit's web page managers to coordinate all web development projects, including outsourced projects with the FSU Webmaster and the Information Technology Department. Also, the unit web page managers should consult with the Information Technology Department at the beginning of any web development project to ensure that all server-related standards are followed and all server-related issues are addressed.

#### 4.5 Personal Web Page Publishers' Responsibilities

Personal faculty, staff, and student web pages are managed by the page owners. Each personal web publisher is responsible for ensuring that all information provided on their web pages is accurate and up-to-date, and that no information being distributed via the Web is private, confidential, or detrimental to FSU or the State of Maryland.

It is also the responsibility of the personal web publishers to coordinate all web development projects with the department web page manager (as appropriate) and with the FSU Webmaster and the Information Technology Department.

### 5.0 GUIDANCE

#### 5.1 Minimum Guidelines for Web Site Development and Operations

The World Wide Web Consortium was established to lead the World Wide Web to its full potential by developing common protocols that promote its evolution and ensure its compatibility around the world. W3C has developed more than 20 technical specifications for the Web's infrastructure. As Web technology emerges, the W3C is laying the foundations for the next generation of the Web to enable a robust, scalable, and adaptive infrastructure for a world of information. The W3C web site is located at <http://www.w3.org>

### 6.0 ADDITIONAL INFORMATION

Questions regarding FSU's Web Site Development and Operations Policy should be directed to the FSU Webmaster or the Information Technology Department.

# Web Site, E-mail, and Data Storage Privacy Policy

PN 3.109

## 1.0 PURPOSE

This policy ensures the protection of all personal information collected via web sites, email, and data storage. Users will be provided information that allows them to make informed choices about the collection and use of their personal information in accordance with applicable laws and regulations.

## 2.0 SCOPE

This policy speaks generally to the information collected by or submitted to official FSU web sites (see 2.1 below). The University also requires all units and programs contributing to its official web pages to post, as necessary, more specific privacy notices pertaining to the collection and use of any personal information associated exclusively with those pages.

### 2.1 Site Definitions

*Official University Web Sites.* Except as noted, this privacy notice applies to all official FSU web sites, which are defined as the web pages of University colleges, departments, divisions, or other units and programs.

*Unofficial University Web Sites.* Within the FSU domain (signified by the address <http://www.frostburg.edu> or within the Internet protocol addresses assigned to the University), site visitors may find web sites over which the university has no editorial responsibility or control. Such sites are considered unofficial and include, but are not limited to, the web pages of individual faculty members, staff members, students, and student organizations and other entities not formally a part of the University.

### 2.2 Consent

Use of the FSU web site constitutes consent to any policy then in effect.

## 3.0 POLICY

Maryland law mandates that such State agencies as FSU shall not create personal records unless the need for the information is clearly established and that personal records shall be relevant to the purposes for which they are collected, be accurate and current, and not be obtained by fraudulent means.

The following information is provided as assistance in better protecting site visitors' privacy. However, it shall not be construed as a legal contractual promise, and the University reserves the right to amend it at any time without notice.

### 3.1 Information Automatically Gathered From Site Visitors

Like virtually all other web servers, FSU's web servers automatically create access log files containing information about visitors to their sites. These files allow FSU to make the site more useful to visitors. The access logs do *not* record a visitor's name, address, phone number, credit card number, or any other personal identifying information. Rather, these log files may contain some or all of the following information:

- Date of the visit
- Time and length of the visit
- Path taken through the web site
- Internet address of the web site linked directly to the FSU web site
- Browser and operating system being used
- List of files downloaded or viewed
- Amount of time spent listening to audio files
- Internet Protocol (IP) Address of the computer accessing the FSU web site
- Any errors encountered

### 3.2 Use of Automatically Gathered Information

Frostburg State University may keep client information from our systems indefinitely after the web page is transmitted.

As a general rule, FSU does not track individual visitor profiles, but does analyze aggregate traffic/access information for resource management and site planning purposes.

FSU reserves the right to use log details to investigate resource management or security concerns. In case of attempts to breach computer security, IP addresses and computer names in access logs may be analyzed to identify individual users. Also, these logs may be further analyzed or forwarded, together with any other relevant information in our possession, to law enforcement agencies.

### 3.3 Use of Cookies

FSU currently does not save "cookie" text files in the browser files of visitors' computers. However, FSU reserves the right to use "cookies" and will reveal that policy if they are used.

### 3.4 Information Visitors Give FSU

FSU collects personally-identifying information from FSU web sites only if site visitors choose to provide that information by submitting an online form or e-mail. Visitors under the age of 18 must obtain permission from their parents or guardians before sending any personally-identifying information to FSU.

FSU may ask for certain personal information when site visitors use a particular feature or service, such as admission applications, registration for contests, signing up for events, requesting information, contributing material that may be used on the web site, or submitting an FSU form.

This information may be used to verify a site visitor's identity, provide access to a specified service, manage a contest, gather editorial comments and feedback, request additional information, and fulfill requests. In some cases, it may become a public record.

If site visitors send e-mail, the University uses the information to respond to the inquiry, just as with written correspondence. E-mail correspondence to the University may therefore become a public record which could be disclosed to other parties upon their request, in accordance with Maryland's public records law.

### 3.5 Data Security

Frostburg State University is dedicated to preventing unauthorized data access, maintaining data accuracy, and ensuring the appropriate use of information. FSU strives to put in place appropriate physical, electronic, and managerial safeguards to secure the information collected online. However, site visitors supply personal data at their own risk.

### 3.6 Other Entities Collecting Personal Information

The Frostburg State University web site contains links to other sites, which may request personal information. In such instances, the privacy policy applicable to that site will govern the collection and use of personal information. FSU is in no way responsible for the collection and distribution of personal information that is collected on these sites.

### 3.7 Contacting FSU

Should site visitors have questions or concerns about these privacy policies, they should contact the Office of Administrative Computing or send an e-mail to [webmaster@frostburg.edu](mailto:webmaster@frostburg.edu). If site visitors wish to review or change information gathered by an official University web site, contact the appropriate office, department, or program web page manager.

### 3.8 Policy Changes

FSU reserves the right to change this policy. All changes to this policy will also be posted on the FSU web site.

## 4.0 RESPONSIBILITIES

### 4.1 Executive-Level Responsibilities

The Administration and Finance division will ensure that the FSU Webmaster and web publishers implement policy.

### 4.2 Webmaster Responsibilities

The FSU Webmaster is responsible for monitoring official FSU web pages and sites to see that they adhere to privacy standards. The Webmaster will be familiar with relevant state and federal policies and standards and will communicate this information to University web page managers as appropriate.

### 4.3 Office, Department and Program Web Page Managers Responsibilities

Office, department, and program web pages are managed by appointed web page managers in their unit. Web page managers are responsible for ensuring that all requests for information provided on their unit's web pages include the necessary privacy notification to allow the visitor to make informed choices about the collection and use of personal information.

More specifically, whenever a unit's web page requests personal information from the site visitor, that page (or a linked page) will advise the visitor regarding the purposes of information gathering, the consequences to the visitor for refusing to provide the personal information, the visitor's right to inspect and correct personal records, and the information's availability to the public or other entities.

## 5.0 REFERENCES

Annotated Code of Maryland, State Government Article, Section 10-624, Section 10-633:  
[http://mlis.state.md.us/cgi-win/wb\\_statutes.exe](http://mlis.state.md.us/cgi-win/wb_statutes.exe)

World Wide Web Consortium (W3C), "Platform for Privacy Preference Guiding Principles":  
<http://www.w3.org/P3P>

### **Using Email as Official Communication with Students, Faculty, and Staff**

PN 3.110

#### Policy Statement

A University assigned email account shall be used as one of the University's official means of communication with all students attending FSU as well as Faculty and Staff employed by FSU. Students and employees are responsible for all information sent to them via their University assigned email account. If a student or employee chooses to forward their University email to another account, they are responsible for all information, including attachments, sent to the other email account.

#### Reason for Policy

Increasingly, email is the primary mode of communication with students, faculty, and staff. Frostburg State University provides students with an email account upon the student's matriculation to the institution. This account is free of charge and currently is active as long as the student is enrolled at FSU. Likewise, an email account is provided for every employee and is created when the employee is initially hired. The account is deactivated when the employee leaves FSU.

Many students do not maintain accurate local address information with the Registrar's Office. This makes it difficult to contact the student in a direct and timely manner. Additionally, many of the mailings to incorrect local addresses are returned by the post office at a cost to FSU.

It is imperative that students and employees understand that a majority of information will be communicated to them via their University assigned account. Therefore, students will be informed that their University assigned email account is a primary means of communication from University offices and faculty. Additionally, employees will be informed of this policy once they are hired and their email account has been created.

#### Benefits of This Policy

- Ease of use
- Reduced postage costs
- Reduced paperwork
- A faster means of contacting students, faculty, and staff



- A more direct means of communicating with students, faculty, and staff
- The email address is more accurate than the local address

### Who Should Know of This Policy

All employees and students will be informed of this policy.

### Special Situations

Departments are encouraged to post student attachments to a web page and refer to that site within the email rather than include an attachment to each student email.

University offices are encouraged to post attachments for employees to a shared network drive or web page and refer to that site within the email.

### Definitions

#### *Student*

Any undergraduate, graduate or professional students. Student status starts upon matriculation.

#### *Student Information*

Any information related to student activities at Frostburg State University.

#### *Matriculation*

The time a student has submitted their deposit for attendance.

### Responsibilities

#### *Student*

Students will be responsible for checking their University email account and reviewing relevant information on a daily basis. Students will be given a maximum of 10 megabytes of storage on the email server. Students must purge unnecessary messages from their account to avoid exceeding their storage quota. Exceeding the quota will prevent the delivery of additional email messages.

#### *Faculty and Staff*

Employees of FSU are responsible for checking their University email account and reviewing relevant information on a daily basis. Unneeded messages should be deleted and purged on a daily basis to avoid using excess storage.

#### *Email Manager*

Create and maintain all email accounts. Send correspondence to students and employees to explain how to access their email account. Delete email accounts when students are no longer enrolled at the University and employees are no longer employed at the University.

#### *Registrar*

Notify the campus of the policy. Maintain policy. Respond to unique student requests. Promote the use of email communication between University faculty/staff and students.

*Provost*

Notify the faculty of the policy. Promote the use of email communication between University faculty and students.

*Director of Human Resources*

Notify the staff of the policy. Promote the use of email communication for official announcements and notifications.

*President, Provost, Vice Presidents*

Provide executive-level support and endorsement for the policy.

## **Department Chair Policies and Procedures**

*Adopted July 1, 1987*

*Revised December 5, 2012*

### Role of Department Chairs

Department Chairs are faculty members with assigned responsibility for assuming a leadership role within their academic department/unit for a defined period of time. The key aspects of departmental leadership expected of department chairs are noted below. In brief, the key roles of department chairs are Advocate, Communicator, Facilitator, and Manager.

1. Department Chairs are the primary advocates for the department within the university community. As departmental advocate, Department Chairs:
  - a. Advance the needs of the department to the Dean, Provost, and University Advancement.
  - b. May be called upon to speak publicly before on-campus or off-campus organizations or agencies, about the department and its capabilities and needs.
  - c. Coordinate the departmental, college/library, and university strategic plan to articulate the contributions of the department in fulfilling the mission of the university.
  - d. Explain the opportunities and barriers departments face in reaching strategic goals.
  - e. Coordinate with appropriate administrative offices on department fundraising, alumni affairs, community relations, and student recruitment.
  
2. Department Chairs are essential in ensuring effective and timely communication among faculty, departments, students, staff, and administrators. As departmental communicators, Department Chairs:
  - a. Meet with departmental faculty in scheduled meetings, usually monthly during the academic year.
  - b. Meet with departmental faculty individually to foster faculty development and seek input from faculty members.
  - c. Meet with departmentally based student organizations, as needed.
  - d. Meet with students to address student concerns, as needed, and with prospective students to explain programs and procedures.
  - e. Articulate and explain university policies and procedures to faculty, staff, and students.
  - f. Promptly communicate information affecting the work of faculty and staff members.

- g. Recognize privately, and publicly as appropriate, the accomplishments of department faculty members, staff, and students.
  - h. Represent the department at official ceremonial functions of the University.
3. Department Chairs coordinate and facilitate departmental decision-making. As facilitators, Chairs are expected to engage in collegial, participatory decision-making in both the formulation and execution of departmental policies and procedures. It should be noted that collegial decision-making presupposes individual accountability for efforts undertaken and decisions made. In short, the authority vested in collegial decision-making carries with it commensurate responsibility and accountability. As departmental facilitators, Department Chairs ensure:
- a. Collegial decision-making, especially with regard to the nature and structure of departmental governance (including who is to participate in what ways in the decision-making process and how responsibility and accountability for given duties are to be delegated or assigned in addressing curricular, personnel, and budgetary issues).
  - b. Departmental recommendations on evaluation, reappointment, promotion, and tenure are completed and submitted on time.
  - c. Departmental search committees, task groups, review committees and other groups complete their work according to approved guidelines.
  - d. By working with faculty members individually and in groups, that course offerings meet student needs.
  - e. Department faculty members collectively set departmental curricular and budgetary priorities.
  - f. Department committees, in keeping with departmentally established guidelines, complete work relating to faculty hiring, selection of non-tenure-track faculty, and awarding emeritus status.
  - g. That students (including new, transfer, and continuing students) are provided appropriate academic advising.
4. Department Chairs manage departmental operations and reporting. As managers of departmental facilities and support staff, Department Chairs:
- a. Ensure communication of and compliance with policies and procedures of USM, the university, the college, and the department.
  - b. Ensure departmental budget requests and purchasing are completed in time.
  - c. Ensure timely and complete submission of essential documents, materials, and reports such as class schedules, curricular proposals, workload reports, report assessments, and other reports.
  - d. Ensure initial departmental review and completion of requests for leaves, overloads, reassigned time, and other such matters (including exceptions to policies and procedures), which commonly fall under a chair's responsibilities.
  - e. Ensure departmental recommendations on matters of student concern, such as scholarship recommendations, are submitted.
  - f. Supervise departmental staff and ensure the safe operation of departmental facilities.
  - g. Ensure completion of the annual performance evaluations for all faculty.

## SELECTION OF DEPARTMENT CHAIRS

### Preparation for Selection of a Department Chair

Universities function effectively only to the extent that those primarily responsible for the academic program (the faculty) identify with and support the goals and procedures of the institution. This support can only be gained by full faculty confidence in academic leaders, particularly Department Chairs. In order to accomplish this, faculty members need a clear understanding of the role and responsibilities of department chairs. All faculty members share responsibility for department operations along with the department chair.

The selection of a Department Chair shall follow a process of dialogue and discussion among the department members and between the department members and the Dean about the mission and goals of the department. The process by which individual faculty members are involved in discussion of departmental direction and leadership must demonstrate an institutional commitment to openness and candor as a matter of academic freedom and professional responsibility.

### Selection Process

The process for the appointment of a Department Chair follows:

1. The Department will elect the Department Chair by a simple majority vote of all of the tenured and tenure track faculty members appointed to the Department and full-time non-tenure-track faculty members who have completed at least two years of service to the Department. The vote should be by secret ballot. Ballots should be counted by two faculty members who are not candidates for Chair. It is the responsibility of the current Department Chair to communicate departmental election results to the Dean in writing.
2. If the recommendation of the department members is acceptable to the Dean, that recommendation will be sent to the Provost along with the Dean's endorsement. If the Provost concurs, that person will be appointed by the Provost.
3. If the Dean has reservations about the department's selection, the Dean will meet with the department to resolve the situation. If, after the meeting, the Dean concurs with the department, that recommendation, along with the Dean's endorsement, will be sent to the department faculty and the Provost. If the Provost concurs, that person will be appointed by the Provost.
4. If, after the meeting, the situation still remains unresolved, the election process (without said individual as a candidate) will begin anew. In no case should a Chair be appointed who is opposed by a simple majority of department members.
5. If the department fails to identify an acceptable candidate, the Provost shall appoint a chair from outside the department. The Provost's appointee shall serve a one-year term. The decision of the Provost is final.

### Timing of Selection and Appointment

Two semesters prior to the expiration of a Department Chair's three-year appointment, the department will hold an election to identify a chair for the next three years. Whenever possible, candidates for department chair should be tenured or hold tenure by the time they become department chair. The current chair may stand for re-election along with other eligible faculty members (faculty members may self-nominate). If a new Chair is elected, the incoming Chair will then serve as deputy Chair during the last semester of the current Department Chair's appointment in order to ease the transition from one Chair to another. Monies should be sought to provide compensation and training to deputy Chairs. Newly elected Department Chairs should participate in training programs for Department Chairs before they assume the position of chair. For evaluation purposes, this training may be credited through the annual Teaching Evaluation in the category of Professional Development and Achievement.

The question of whether to recruit outside the department will be considered if a faculty position is becoming available and if there is adequate justification for assigning or reassigning the vacated position to the Department. In such cases the procedure for making the decision on whether and how to undertake outside recruiting, as well as actual selection process, will follow the procedure outlined above with the exception that timelines for selection and appointment may vary.

### Tenure of Appointment

Department Chairs serve a three-year term with the opportunity to serve multiple terms. Although Chairs serve at the pleasure of the Provost, it is assumed that the term represents a commitment on the part of all parties: administration, department members, and Chairs themselves.

### Recall

The Dean is both an evaluator of and a mentor to the Department Chair. On occasion, the Dean may choose to meet with the Department Chair or department members to facilitate operation of the department. Should such informal mechanisms fail to resolve concerns within a department, recall of the Chair may be requested under the following guidelines.

Should a simple majority of the members of the department (tenured, tenure track, and full time non tenure track who have completed two years of service), the Dean, Provost and/or President believe that continued service by a Chair is detrimental to the interest of the department, college and/or University as a whole, the concerned party or parties must present their concerns to the Dean. The Dean will convene a meeting of the concerned parties and the Chair to discuss the problems and attempt to resolve them within ten working days of notification of a concern. Should concerns not be resolved, and if the recall effort began with a majority of the members of the department, the department members, by simple majority vote in secret ballot, may send a recommendation for removal of the Chair to the Dean. That recommendation along with the Dean's recommendation (whether for continuation or removal of the Chair) will be sent to the Provost. If the Provost agrees with the removal of the Chair, the Chair's term of service will be terminated on a date determined by the Provost. If the recall effort began with an administrator and if, after the review meeting, the Provost proceeds with the removal of the Chair, the Provost must promptly advise the department to select a new Chair. The decision of the Provost is final.

## Compensation of Chairs

Chairs' compensation, including stipends and reassigned time, shall be reviewed at least every five years by Institutional Priorities and Resources Committee (IPR) in consultation with University Chairs Council to determine if changes are warranted.

## ADMINISTRATIVE PERFORMANCE EVALUATION OF DEPARTMENT CHAIRS

### Purpose

The Administrative Performance Evaluation of Department Chairs provides a formal occasion for department members, relevant administrators, and the Chair involved to consider how well departmental efforts are being directed toward meeting institutional objectives through the programs and services for which the department has responsibility and to develop the means necessary for improvement. Procedures for the Administrative Performance Evaluation of Department Chairs shall be uniform campus-wide. All faculty members of the department, relevant administrators, and the appropriate Dean will have the opportunity for input into this administrative evaluation of the Chair.

This occasion is intended to ensure regular and substantial communication on the accomplishments and prospects of the department, including its needs and priorities. Evaluation is intended to encourage department members and relevant administrators to consider their own contributions to the work of the department and to the effectiveness of its Chair. Evaluation is intended to assure Chairs of a thorough review of departmental activities during their tenure and to afford them opportunity for calling attention to these and to the responsibilities of others in making the department function effectively.

As the Chairs continue to be primarily faculty members with additional administrative responsibilities, they shall continue to be evaluated also as faculty. Both evaluations, however, shall remain independent. For their performance as faculty members, Department Chairs will be evaluated in the same manner and with essentially the same procedures as for the rest of the faculty in their Faculty Evaluation.

### Method

The evaluation of the administrative performance of Department Chairs will be done annually according to procedures outlined below.

1. A procedure and/or instrument(s) for the evaluation of Chairs will be developed by the Academic Department Chairs Council in consultation with the faculty. This instrument will evaluate the performance of the Chairs according to the responsibilities outlined in Part I of this document.
2. Concurrently, the appropriate College Dean will meet separately with the Chair and other department members, individually or as a group, to discuss problems, accomplishments and prospects and will also seek the opinion of other administrators with whom the Chair is regularly in communication.

3. The Dean will share results of the evaluation, in summary form, with the Chair but will keep confidential the identity of individuals participating in the evaluation. By agreement of the Chair, Dean, and departmental faculty, any written responses or rating forms may be anonymous; in the absence of such an agreement, these are to be signed and sent to the Dean, who is not to divulge the identity of any respondent.
4. The results of the evaluation will be used by the Dean to assist both the Chair and the members of the department in the improvement of departmental efforts, programs and communication. In addition, the results of the evaluation will be used to determine whether or not the Chair's performance has been successful. If the Dean receives substantial negative feedback on the performance of the Chair, the Dean, after a discussion of the results of the evaluation with the Chair, the Dean should meet with the department members to determine whether the problems are sufficiently serious to warrant a change of Chair. If a simple majority of the faculty believes this to be the case, then the recall procedure will be followed.
5. If the current Chair seeks re-election, the results of the last two academic years' annual Administrative Performance Evaluations shall be provided to the department faculty in summary form at least thirty (30) days in advance of the election so that this information might be used as a basis for faculty consideration.

### **Equal Opportunity Policies**

Frostburg State University is an Equal Opportunity institution with respect to both education and employment. The University's policies, programs, and activities are committed to diversity and conform to pertinent federal and state non-discrimination laws and regulations. Following are non-discrimination/equal opportunity policies that appear in the Administrative Policy Manual.

#### **Policy on Diversity**

PN 1.006

The entire Frostburg State University community -- including the study body, the faculty and staff, the President of the University and its administration--affirms its commitment to a campus environment which values human diversity and respects individuals who represent that diversity. The community declares fostering diversity and respect for difference to be a fundamental goal of higher education, ranking among the highest priorities of this institution. Therefore, the University community takes the unequivocal position that racist practices, or any action, or institutional structure or process, that has for its purpose the subordination of a person or a group based on race, color, creed, disability, martial status, national origin, sex, age or sexual orientation, will not be tolerated.

#### **Non-Discrimination/Equal Opportunity**

PN 1.008

Frostburg State University affirms its commitment to a campus environment, which values human diversity and respects individuals who represent that diversity. Fostering diversity and respect for difference is a

fundamental goal of higher education, ranking among the highest priorities of this institution. In this spirit, Frostburg State University is committed to a policy of equal opportunity and to the elimination of discrimination in both education and employment on the basis of race, color, national origin, ethnic background, gender<sup>14</sup>, sexual orientation, age, creed, political or religious opinion or affiliation, disability, veteran's status or marital status, in conformity with all pertinent Federal and State laws on non-discrimination and equal opportunity.

This Policy shall apply to the campus community. The term "campus community" is limited to campus students, faculty, and staff; and to departments/Library, committees, offices and organizations under the supervision and control of the campus administration.

The University has comprehensive written procedures to investigate and resolve complaints of discrimination or sexual harassment. These procedures may be obtained from the Office of ADA/EEO Compliance.

Inquiries from students concerning an allegation of discrimination or sexual harassment against:

- 1) another student should be directed to the University Judicial Administrator, located in the Office of Student and Educational Services;
- 2) University employees should direct inquiries regarding an allegation of discrimination/harassment to the Director of ADA/EEO Compliance.

University employees should direct Inquiries an allegation of discrimination or sexual harassment to Human Resources or the Director of ADA/EEO Compliance.

## **Gender-Based Harassment and Violence Policy Statement**

PN 1.004

Frostburg State University (the "University") values diversity, mutual respect, integrity, and responsibility. To that end, the University is firmly committed to maintaining a learning and workplace environment free from Gender-Based Harassment, Sexual Misconduct, Relationship Violence, Stalking, Complicity, and Retaliation (collectively, "Prohibited Conduct"). Because Prohibited Conduct undermines the University's mission and jeopardizes the character and integrity of our community, Prohibited Conduct will not be tolerated and is expressly prohibited. This policy provides the expectations for maintaining a safe, inclusive, and nondiscriminatory environment and the process for reporting and resolving alleged violations of the policy. Students, faculty, and staff who violate this policy may face disciplinary action up to and including expulsion or termination from the University.

The University does not discriminate on the basis of sex or gender in employment or any of its programs or activities. Sexual harassment, sexual assault, and other categories of sexual misconduct are forms of sex discrimination that are not only prohibited under this policy but also under federal and state discrimination

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<sup>14</sup> The University maintains a separate policy on sexual harassment, which appears in appropriate campus publications (Administrative Policy No. 1.004). Procedures for initiating a complaint of sexual harassment are generally the same as for initiating any discrimination complaint.



laws. In accordance with Title IX of the Education Amendments of 1972 (“Title IX”), the federal law that prohibits discrimination on the basis of sex in federally funded educational programs and activities and the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (“Clery Act”), this policy is designed to provide for the prompt, equitable, and impartial investigation and resolution of incidents of Prohibited Conduct.

It is the responsibility of all members of the University community to create a safe and inclusive environment that is free from Gender-Based Harassment, Sexual Misconduct, Relationship Violence, and Stalking. Individuals who report violations of this policy in good-faith will be protected from Retaliation.

This policy applies to all reported incidents of Prohibited Conduct and supersedes and replaces the University’s Sexual Harassment Policy, PN 1.004.

For the entire Gender-Based Harassment and Violence Policy, including definitions, responsibilities, and procedures, please visit <https://www.frostburg.edu/titleix/policy>.

## **Equal Employment Opportunity**

PN 1.002

It is the policy of Frostburg State University to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, national origin, ethnic background, sex, sexual orientation, age, creed, political or religious opinion or affiliation, disability, veteran's status, or marital status, and to promote the full realization of equal employment opportunities through a continuing program. This policy shall be an integral part of every aspect of the employment process, including, but not limited to, the recruitment, selection, testing, training, promotional advancement, and treatment of employees.

### **Procedures for Pursuing Complaints of Discrimination or Sexual Harassment**

#### OVERVIEW

In conformance with federal and state law and university policy we are guided by the principle that there shall be no difference in the treatment of individuals because of race, color, creed, religion, national origin, sex, age, disability, veteran status, or sexual orientation. Equal opportunity and access to programs shall be available to all members of the university community, both students and employed personnel at every level, and to all units, facilities, and services of the university.

Frostburg State University has established an internal grievance procedure providing for prompt and equitable processing of complaints through informal and formal procedures. Members of the campus community may at any time discuss matters involving allegations of discrimination or harassment in an informal way with the Director of ADA/EEO Compliance, Hitchins Administration 307, (301) 687-4102, TDD (301) 687-7955.

Complaints directed against an employee of the University will be handled by the Director of ADA/EEO Compliance (“the Director”). Complaints by a student directed against another student of the University will be handled by the University’s Judicial Administrator. In both instances, the procedures described here will be followed.

PROCEDURES APPLICABLE TO BOTH INFORMAL AND FORMAL COMPLAINTS:

1. Parties Any member of the University community may bring a complaint of discrimination or sexual harassment pursuant to these procedures. Such a person is known as the Complainant. The person against whom the complaint is brought is known as the Respondent.
2. Timing of Complaints A complaint must be brought within sixty (60) calendar days of the Complainant having reasonable knowledge of the occurrence of the act(s) upon which the complaint is based. In the case of a student complaint against a faculty member, the complaint must be brought within sixty (60) calendar days after the last day of the semester in which the incident occurred.
3. Confidentiality To the extent permitted by law, the confidentiality of all persons involved in a discrimination or sexual harassment investigation or complaint will be observed, except insofar as information needs to be disclosed so that the University may effectively investigate the matter or take corrective measures. Confidentiality during and after the conclusion of an investigation is of utmost importance and is the responsibility of all involved persons. Unauthorized disclosures in violation of University policies may result in disciplinary action and/or other sanctions.
4. Retaliation Persons who complain about discrimination or sexual harassment, respond to a complaint, or cooperate in the University’s handling of reports or complaints shall not be subject to retaliation for doing so, whether or not the University finds that there was harassment or discrimination. If anyone believes that they are being subjected to such retaliation, they should immediately report it to the ADA/EEO Compliance Director.
5. Advisors Both the Complainant and the Respondent may elect to have an advisor of choice to assist in all phases of the formal complaint process. The advisor shall be selected from the University’s staff, faculty, or student body but cannot be a lawyer, nor can a party have legal counsel present during any stage of the complaint process. The Director will be available for consultation with advisors and to help a party obtain one, if necessary.
6. Conflicts Should the ADA/EEO Compliance Director or the President be a Complainant or Respondent in a complaint of discrimination or sexual harassment, a substitute will be duly appointed.
7. Choice of forum The University will not accept or consider a complaint from the same complainant, which is substantially the same as one being or previously considered by another University or governmental proceeding.

## INFORMAL COMPLAINT PROCEDURE

1. Registering Complaints The Director of ADA/EEO Compliance is available for informal consultation and resolution when an individual feels that discrimination, including sexual harassment, has or may have occurred. Such consultation is normally the beginning step in resolving differences, which arise from alleged discriminatory practices. The Director will provide the Complainant with a copy of University procedures for pursuing complaints of discrimination or sexual harassment and will discuss these procedures to help the Complainant understand the process. The Complainant will also be instructed to complete the Discrimination Complaint Form.
2. Discussion The Director will discuss the issues with the Complainant to gain an understanding of the concern being registered. The Director may request that the alleged violation be further described in writing by the Complainant, or the Director may develop a written statement of the complaint for review and validation by the Complainant.
3. Resolution Negotiated resolution is a process by which the Director attempts to resolve complaints quickly and to the satisfaction of all parties without reaching formal findings. Generally, only the complainant and respondent are involved in the negotiated resolution process, except as needed to consult with appropriate University officials regarding University policies and procedures. It is expected that this process will not take more than 14 working days, except in unusual or unavoidable circumstances.

The Director will prepare a written summary of the complaint, the process used to explore it, and conclusions and recommendations. The summary will be provided to both the Complainant and the Respondent.

## FORMAL COMPLAINT PROCEDURE

If the informal process fails to resolve the dispute, or a complainant chooses not to use the informal process, the formal complaint procedure will be applied.

### 1. Initiation of Complaint

A formal complaint will be processed in two situations, as follows:

- (A) If either the Complainant or Respondent disagrees with any conclusion reached by the Director during the negotiated resolution process, the party may utilize the formal complaint process. They must indicate a desire to do so in writing within 15 days of the date of the Director's written summary, and must describe the conclusions that are disputed.
- (B) If the informal process was not used, the Complainant begins the process by conferring with the Director and completing the Discrimination Complaint Form. If necessary, additional written information may be requested by the Director.

- (C) The Respondent will be given a copy of the Complainant's written submission(s) ("the Complaint") by the Director and then shall submit a written response to the allegations to the Director. The response shall be provided within 10 days of the receipt of the Complaint.
- (D) The Director will decide if an investigation of the dispute should be undertaken or if the matter should proceed directly to a hearing.

## 2. Investigation

The Director shall conduct and conclude any investigation of the facts as promptly as possible. The Director will arrange meetings with the Complainant and Respondent as needed. The investigation may include review of relevant University records as well as interviews with witnesses.

At the conclusion of the investigation, the Director shall prepare a written decision setting forth (a) findings of fact concerning the alleged events; (b) a conclusion that a violation of the University policy did or did not occur, and (c) a recommendation as to any disciplinary sanctions that should be imposed. Recommended disciplinary sanctions may include, but are not limited to, a letter of reprimand, a letter of apology, counseling, demotion or suspension, termination of employment, or expulsion from the University. In preparing this decision, the Director shall consult fully with the University's attorney and any other appropriate University officials as necessary and required.

The written decision shall be forwarded within 10 days of the conclusion of the investigation to the Complainant and the Respondent. The Complainant and the Respondent will also be informed of their rights to accept the decision of the ADA/EEO Compliance Director or to request a formal hearing. If neither the Complainant nor the Respondent requests a formal hearing within the time stipulated below, the decision of the Director shall be implemented as the final decision of the University.

## 3. Hearing

If either the Complainant or Respondent disagrees with any conclusion reached by the Director, either may request a formal hearing. The request must be made in writing within 15 days of the date of the Director's written decision. The hearing request must identify the finding(s) that are disputed and the reason(s) for the disputes.

### (A) Pre-Hearing Procedures

1. The Director will promptly notify the Chair of the ADA/EEO Committee to convene a Hearing Panel consisting of five voting members of the ADA/EEO Committee. No member of the Hearing Panel may have served as an investigator, witness or party in connection with the complaint in question. The Director shall provide to the Chair a copy of the Complaint, the response, and the request for a hearing.
2. The Chair, in consultation with committee members will establish a hearing date and time. Every effort will be made to conduct the hearing within 15 days of the request. The Chair will notify the Complainant and Respondent of the date, time and place of the hearing in writing at least 10 working days prior to the hearing date.

3. The Chair also will notify the Complainant and Respondent of their right to produce witnesses and present documentation supporting their positions at the hearing. The Complainant and Respondent will be asked to submit the names of any witnesses to appear at the hearing at least 7 working days prior to the hearing date, but the parties are responsible for securing the attendance of their witnesses at the hearing.

(B) Hearing Procedures

1. General

- a. The Chair will focus the hearing so that it concerns solely those issues or aspects of the decision of the Director about which the parties disagree.
- b. The Complainant and the Respondent will be present throughout the hearing unless they voluntarily choose not to participate.
- c. Witnesses supporting the Complainant or Respondent will be present at the hearing only while making their own statements and responding to any questions from the Hearing Panel.
- d. Advisors may be present during the hearing. Both the Complainant and the Respondent may confer with their respective advisors, but may not participate in general discussion during the proceedings or ask questions of any persons appearing before the Hearing Panel.
- e. The Director will serve as a resource to the Hearing Panel and shall be in attendance during all proceedings.
- f. University counsel may be present to advise the Committee.
- g. During the hearing the Chair may exclude irrelevant or unduly repetitious testimony.
- h. The parties and the Hearing Panel may question the witnesses, including the parties. The Chair may decide that the parties may not directly question each other; instead, they may convey their questions to the Chair who then will ask them.
- i. The Hearing Panel may consider any other evidence that the Chair decides is relevant and helpful.

2. Order of Proceedings

- a. The Chair will ask the Complainant to begin the proceeding with an oral or written presentation of their complaint. The Complainant then may be questioned.
- b. The witnesses appearing on behalf of the Complainant will then present statements, and may be questioned.
- c. The Chair will ask the Respondent to give an oral or written presentation of their response to the Complaint. The Respondent then may be questioned.
- d. The witnesses appearing on behalf of the Respondent will then present statements, and may be questioned.
- e. The decision of the Director shall be introduced as evidence but is entitled to no presumption of correctness.

- f. The Complainant and then the Respondent may each present a summary statement at the conclusion of the hearing.
- g. The Chair may suspend the hearing and convene it later if additional evidence must be sought.

### 3. Resolution

- a. Within fifteen (15) days of the conclusion of the hearing, the Hearing Panel will submit a written report to the President containing its findings, conclusions and recommendations, and will send a copy to the Director. The Chair will forward a letter summarizing the findings of the Hearing Panel to the Complainant and Respondent.
- b. Within fifteen (15) days following the receipt of the report of the Hearing Panel, the President shall issue a final written decision, which may accept, reject, or modify the recommendations of the Panel. The final decision shall be mailed to the Complainant, the Respondent, the ADA/EEO Compliance Director and the members of the Hearing Panel.

### 4. Additional Options for Resolution

State law provides remedies for persons who claim to be victims of discrimination or sexual harassment, outside of the procedures described above.

- a. Employees may file an employment discrimination complaint with the President pursuant to Title 5, Subtitle 2 of the State Personnel and Pensions Article of the Annotated Code of Maryland.
- b. Nonexempt employees may bring discrimination or sexual harassment complaints in the form of a grievance under the procedures set forth in Title 13, Subtitle 2 of the Education Article of the Annotated Code of Maryland as set forth in the memorandum of Understanding between Frostburg State University and the American Federation of State, County and Municipal Employees, Article 17. Grievance procedure.
- c. Individuals may file a complaint with the federal Equal Employment Opportunity Commission, the Maryland Commission on Human Relations or the United States Department of Education. Should an individual wish to file a formal complaint with an external agency, additional information on the procedures can be obtained from the Office of Human Resources or from the Director. A person wishing to file a complaint with an external agency should promptly contact that agency to verify the time periods and other requirements for filing. In addition, it is important to note that filing an internal complaint under the University's own procedures or under the optional internal procedures referenced above, does not extend the time period for filing a complaint with any of the external agencies.

## **Policy on Jury Service for Faculty Members**

The purpose of this policy is to establish for faculty members at USM institutions a leave category called Jury Service which permits absence from duty without loss of any pay or charge to personal or accrued annual leave.

A faculty member who is selected for jury duty shall notify the appropriate academic administrator of this selection without delay. The faculty member shall be permitted to be absent without loss of pay or charge to any leave for the day(s) of jury service. Upon request, the employee shall be responsible for providing documentation, which verifies attendance. If, after reporting for jury duty, it is determined that the individual's services are not required and the individual is dismissed for the day, then the individual, time permitting, is required to return to the job.

## **Institutional Review Board Policy**

Effective November 6, 2015

### **I. Policy**

The University will maintain an Institutional Review Board (IRB) in compliance with the University System of Maryland (USM) Board of Regents policy on Human Subject Research (BOR 105.0 IV-2.10). Pursuant to USM policy, the University will conform to applicable federal, state, and local laws and regulations. Research using human subjects may not be conducted by University affiliates, or by agents of the University, until after IRB approval has been received or an exemption from human subjects review has been granted by the IRB.

### **II. Definitions**

#### **A. Administrative Assistant**

The Administrative Assistant is person assigned to perform the clerical and organizational work such as maintaining IRB records, responsibility for IRB emails, and coordinating with the IRB chair.

#### **B. Administrative Head**

The Administrative Head is the University officer in whom authority resides for oversight of the IRB. The Administrative Head of the IRB is the Provost.

#### **C. IRB Chair**

The IRB Chair is that IRB member charged with day-to-day management and leadership of the IRB.

#### **D. Scientific & Non-Scientific Areas**

1. Scientific Areas refer to expertise in human subject research using systematic procedures and biomedical research techniques. For example, medicine, nursing, etc. Scientific Areas can also refer to research training in areas using clinical practice, such as clinical psychology.

2. Non-Scientific Areas refer to expertise in human subjects research using systematic procedures in social scientific or similar research techniques. For example, sociology, education, or business. Non-Scientific Areas can also refer to research training in areas using empirical, field-based investigations such as interviews, focus groups, surveys, etc.

### III. Purpose

The purpose of this policy is to re-establish the foundation of the University's IRB and to specify the IRB's structure and responsibilities. The University strives to protect and respect the rights and welfare of people participating in research. The University expects research conducted to exhibit the highest principles of ethical research and to be upheld by all researchers. The University's IRB exists to oversee research activities that involve human subjects in order to ensure the protection of the participants through respect and concern for the well-being and autonomy of participants, as well as a strong sense of justice.

### IV. Applicable Regulations and Guiding Documents

- A. USM BOR policy on Human Subjects Research, Section IV, 2.10.  
<http://www.usmh.usmd.edu/regents/bylaws/SectionIV/>
- B. Code of Maryland and Rules, Health - General, Title 13, subtitle 20.  
<http://www.lexisnexis.com/hottopics/mdcode/>  
<http://www.oag.state.md.us/Healthpol/humansubject.htm>
- C. Social Science Research
  1. "The Belmont Report," Ethical Principles and Guidelines for the Protection of Human Subjects of Research, 1979.  
<http://www.hhs.gov/ohrp/humansubjects/guidance/belmont.html>
  2. Department of Health and Human Services, Office for Human Research Protections, 45 CFR 46 – Protection of Human Subjects, 2009.  
<http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html>
- D. Biomedical Research
  1. World Medical Association Declaration of Helsinki.  
<http://www.wma.net/en/30publications/10policies/b3/>
  2. Food and Drug Administration, 21 CFR 50, & 56 (along with 21 CFR 312, 812, & 814).  
<http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/cfrsearch.cfm>



## **V. IRB Membership**

- A. IRB membership is based on Title 45 Code of Federal Regulations §46.107.
- B. The IRB has at least five members with varying backgrounds. Qualifications are based on expertise, experience, and diversity of background (including, for example, race, gender, cultural background, community attitudes).
- C. When the IRB regularly reviews research involving children, prisoners, pregnant women or disabled persons, then the IRB should attempt to include a member, or members, knowledgeable and experienced working with these groups.
- D. The IRB includes at least one member concerned with Scientific Areas and one member concerned with Non-Scientific Areas.
- E. The IRB includes at least one member not affiliated with the University and not in the immediate family of a University affiliate.
- F. The IRB maintains at least five members, though having more than five members is preferable.
- G. Members of the IRB are appointed to an initial four-year term with the option for one renewal.
- H. Terms of office shall be organized so that terms overlap and members rotate off the IRB at the rate of approximately one member per year.
- I. At the reconstitution of IRB, all current members may request to retain their seat on the IRB. All IRB positions will be filled by the Executive Committee of the University Faculty Senate.
- J. Vacancies on the IRB will be filled by the Executive Committee of the University Faculty Senate in consultation with the Administrative Head in compliance with 45 CFR §46.107
- K. Whenever possible, the IRB will have at least one member from each academic department granting (or preparing to grant) doctoral degrees and will look favorably on candidates from departments actively engaged in faculty or student research.

## **VI. Responsibilities of the IRB**

### **A. Administrative Head**

- 1. The Administrative Head of the IRB is the University Provost.
- 2. The Administrative Head has oversight of the IRB. The IRB chair will report periodically to the Administrative Head on the functioning of the IRB. Issues such as discussion of new

members, policy changes, regulation updates, and changes in standard operating procedures will be developed in consultation between the IRB chair and Administrative Head.

3. The Administrative Head, as the individual authorized to act for the University, bears ultimate responsibility for assurances that the IRB is in compliance with laws and regulations.
4. The Administrative Head is responsible for ensuring that the membership of the IRB includes individuals with the necessary expertise to understand and evaluate the breadth of research conducted at the University.

#### B. IRB Chair

1. The IRB Chair is responsible for:
  - a. Day-to-day management of the IRB;
  - b. Conducting monthly IRB meetings;
  - c. Reviewing, or arranging for review, submissions to the IRB;
  - d. Working with the administrative assistant;
  - e. Updating IRB policy related to any regulatory changes affecting the IRB;
  - f. Making sure that paperwork and procedures are followed;
  - g. Establishing and maintaining “expertise in ascertaining the acceptability of proposed research in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice’ (45 § 46.107 (a)).
2. The IRB Chair is responsible for reviewing submitted protocols all year.
  - a. The IRB Chair is the primary initial reviewer of all submissions during the academic year. Consequently, the IRB Chair’s workload includes one course release (3 credits).
  - b. The IRB Chair receives a stipend for service as the IRB member “on duty” during the summer in order to maintain year-round submission access.
  - c. IRB reviews will be available only during the spring and fall semesters. No reviews will take place between the end of the spring semester and the beginning of the fall semester.
3. The IRB Chair acts as an initial reviewer, or assigns an initial reviewer, for all submissions.
  - a. The IRB Chair determines the level of review to be applied for a given submission (Exempt, Expedited, or Full IRB Review), and will inform the administrative assistant of their determination.
  - b. After the appropriate level of review is established, the IRB Chair assigns reviewers or places the submission on the monthly calendar for full IRB Review.
  - c. For those reviews the IRB Chair completes as lead reviewer, the IRB Chair also reviews the submission, drafts a report either of approval or needed revisions to the submitter,

and signs and distributes copies of the approval to the submitter and the Administrative Assistant.

### C. IRB members

1. IRB members, including the IRB Chair, are responsible for:
  - a. Establishing and maintaining expertise in ascertaining the acceptability of proposed research in terms of institutional commitments regulations, applicable law, and standards of professional conduct and practice.
  - b. Attending 10 monthly meetings per year (August – May), and be prepared to evaluate the submissions under review at that meeting. Monthly meetings may be cancelled by the Chair if there are no submissions requiring full IRB review.
  - c. Reviewing all submissions assigned for the monthly meeting before the meeting in preparing a review with comments/feedback where necessary.
  - d. When assigned to be lead reviewer by the Chair, members' responsibilities are identical to those listed above (B.2.c).
  - e. When an IRB member is assigned to be a second reviewer, responsibilities include reviewing the submission, collaboratively making a final decision on the submission (Approved, Approved with Revisions, or remand to the Full Board) and, when necessary, working with the primary reviewer to prepare feedback to the submitter.

### D. Administrative Assistant

1. The Administrative Assistant is responsible for:
  - a. Maintaining IRB records;
  - b. Responding to IRB emails;
  - c. Coordinating day-to-day business with the IRB Chair;
  - d. Maintaining the calendar for monthly meetings;
  - e. Distributing submissions to be evaluated by the full IRB to members sufficiently in advance so that reviews can be prepared;
  - f. Taking, maintaining, and disseminating meeting notes;
  - g. Preparing documents with the official IRB stamp, arranging for signature and handling official distribution following an IRB decision of approval or disapproval regarding a submission;
  - h. Sending a submitter, the official Exempt notification when a submission is ruled Exempt.

# Intellectual Property Policy

PN 1.010

## I. Introduction

The primary mission of universities is to create, preserve, and disseminate knowledge. When that knowledge takes the form of intellectual property, a university must establish a clear and explicit policy that will protect the interests of both its creators and the university while ensuring that society benefits from the fair and full dissemination of that knowledge.

Through their teaching and research, faculty, staff and other members of the University community are encouraged to engage in meaningful activities to educate students, stimulate creative inquiry, inspire solutions to problems through the discovery of new knowledge, share the wealth of their understanding with their colleagues, students and the public at large and create an atmosphere that inspires exploration and discovery. In addition, the University recognizes that it has an obligation to serve those who look to it for expertise by providing the highest quality services and products it can offer from the richness of its resources and opportunities.

As the University strives to achieve these goals, valuable intellectual property inevitably will be created. The University has an interest in the intellectual property developed by its faculty and staff in the course of their work at the University. A primary aim of the University is to encourage those who work within the University community to engage in the kind of creative enterprise that is likely to generate new ideas and discoveries by recognizing and protecting the interests of those creators in and to such intellectual property. In order to balance the University's interest and the interest of the individual creators within the University community, this policy is hereby adopted.

## II. Effective Date

This policy will be effective on July 1, 2002 ("Effective Date"). It will apply to all intellectual property disclosed to the University on or after July 1, 2002. Intellectual property disclosed to the University prior to the Effective Date will remain subject to the UMS Policy on Patents effective May 31, 1990 or the UMS Policy on Copyrights effective May 31, 1990, unless otherwise agreed by the University and all creators of the intellectual property (or the heir or assignee of any creator's share of Revenue).

## III. Definitions

The terms defined in this section are given special meanings in this policy and appear capitalized throughout.

1. **Personnel.** All University employees, full-time and part-time, including Student Employees acting within their Scope of Employment, and non-employee consultants, visitors, and others using University resources.
2. **Resources Usually and Customarily Provided.** All resources provided unless specified otherwise, in advance and in writing, as a condition of using the resource.

3. Revenue. Consideration paid in cash or equity by a third party in exchange for specific intellectual property rights. Revenue does not include research support in any form (e.g., sponsored research agreements, restricted grants, unrestricted grants, or equity), tuition income, and contract income received by the University including contract income received in lieu of tuition.
4. Scope of Employment. All activities, related to the field or discipline of the faculty member's appointment, including the general obligation of a faculty member to teach, to do creative work, and to conduct research, or related to the employment responsibilities of non-faculty Personnel, and for which Personnel receive compensation from the University, where compensation is any consideration, monetary or otherwise, including but not limited to, title and the ability to use University resources.
5. Sponsored Research Agreements. Grants, contracts, cooperative agreements, and other agreements under which research or development activities will be carried out, or other agreements administered by the University that relate to intellectual property created under the agreement.
6. Students. Persons enrolled in a University, acting within the course of their academic work, including, but not limited to, undergraduates, graduate and professional students, non-degree students, and not-for-credit students.
7. Student Employee. A Student who is also a University employee, acting within the Scope of Employment.
8. Technology-Mediated Instruction. Educational and instructional programs offered by the University by means of electronic or digital transmissions of Technology-Mediated Instructional Materials to students and participants who participate in the program distant from the instructor.
9. Technology-Mediated Instructional Materials. Materials including but not limited to course syllabi; tests, quizzes, exams and assignments; lectures that are fixed in a print, audio-video, electronic, or digital form; reading lists; bibliographies and recommended readings; laboratory manuals; visual materials such as tables, charts, diagrams, transparencies, films and film strips, photographs and illustrations; video and/or audiotaped readings, performances, programs; computer programs and software; and multimedia materials and projects incorporating some or all of the above materials that are used in Technology-Mediated Instruction.
10. University. Frostburg State University at all of its locations, unless otherwise noted.

#### IV. General Provisions

1. Purpose. The purpose of this policy is to set forth the terms, conditions, and procedures whereby the University System of Maryland, Personnel, and Students establish and maintain their interests in intellectual property created by or used at USM institutions, taking into account intellectual property laws governing patents, copyrights, trademarks, and other forms of intellectual property. This policy governs the ownership and protection of such property at the University.

2. Scope of Application. All Personnel and Students shall comply with this policy, as amended from time to time. This Policy will be included in paper and electronic versions of Frostburg State University Policies and Procedures.
3. Protecting University Interests. Personnel and Students may not (1) sign agreements or take any action on behalf of the University unless they are authorized agents of the University, or (2) make unauthorized use of the name of the University. In cases where Personnel or Students take such actions, the University is not bound to honor those actions or agreements.
4. Acquisition. The University may acquire ownership or use of intellectual property by assignment, license, gift, bequest, or any other legal means. The University shall administer such intellectual property in accordance with this policy unless otherwise required by the terms of the acquisition.
5. Administration of Intellectual Property that is not University-owned. At the request of the owner, intellectual property not owned by the University may be administered by the University. In such cases this policy shall govern that administration unless the University agrees otherwise in writing.
6. Sponsored Research
  - a. Ownership. Sponsored research agreements shall provide that all intellectual property developed by Personnel or Students under such agreements shall belong to the University; however, the University, on a case-by-case basis (as circumstances warrant and consistent with applicable private use restrictions, e.g., under bond covenants), may agree to assign ownership or licensing rights to the sponsor, subject to the University's right to use and reproduce the intellectual property for research and educational purposes. The President or designee shall approve any such agreement.
  - b. Federal Sponsorship. Any research project that is funded, in whole or in part, by a federal agency is subject to specific federal statutes and regulations. Those regulations generally allow the University to elect title to any invention that is conceived of or first actually reduced to practice in the performance of federally-funded research with the purpose of commercializing the invention, subject to the government's rights which include reservation of a nonexclusive license to use the invention world-wide for government purposes.
7. Implementation Authority. The Chancellor shall have the authority and responsibility for implementation and coordination of this policy. The President shall have the authority and responsibility to implement and coordinate this policy within the University. Subject to the other provisions of this policy and applicable law, the President may enter into agreements with respect to ownership, licensure, disposition of intellectual property, disposition of royalty income, resolution of disputes, and other matters related to intellectual property in which the University has an interest under this policy, and may register intellectual property; seek protection under copyright, trademark, and/or patent laws; and enforce, defend, manage, and take any action relevant to the institution's intellectual property rights that is necessary for the proper administration of this policy.

## 8. Administration of University Policy

- a. Initial Point of Contact. The President of Frostburg State University designates the Office of University Counsel as the initial point of contact for notification and disclosure of intellectual property issues and for any disputes concerning intellectual property.
- b. Disclosure by Personnel. It shall be the obligation of University Personnel to disclose, promptly and in a complete and timely manner, to the Office of University Counsel, all inventions, patents and University supported works, including work funded by grants. Such disclosure shall be in writing on such forms as may be required and must be acknowledged by the signature of the creator's department chair. Failure to make the required disclosure may result in disciplinary action.

## V. Copyrights

1. Ownership by Creator. Personnel and Students shall have all rights in copyrights of their work, subject to Section V.B. below, with the following exceptions.
  - a. Scope of Employment. The University owns all rights in copyright for work produced by non-faculty Personnel within the Scope of Employment.
  - b. Sponsored Research Agreements. The University owns all rights in copyright for work produced by Personnel or Students under Sponsored Research Agreements.
  - c. Signed agreements. The University owns all rights in copyright for all work as stated in written agreements.
  - d. Computer Programs and Software. Ownership of copyrighted software and computer programs is addressed in Section VII.
  - e. Technology-Mediated Instructional Materials. Ownership and use of technology-mediated instructional materials is addressed in Section VIII.
2. Right of Use
  - a. University rights. The University shall have the right to use and reproduce for research and educational purposes scholarly and original works, whether owned by the University, Personnel, or Students, for which it has provided resources.
  - b. Additional Rights. If the University wishes to secure additional rights in copyrighted work, it shall so specify in writing at the time it provides resources beyond Resources Usually and Customarily Provided or other consideration.
3. Responsibilities of Personnel and Students
  - a. Assignment. For work to which the University has or had right of ownership or use under this policy, Personnel and Students shall, upon request, execute all legal documents designed to

assist the University, or its assignees, in proving or benefiting from such rights, as deemed appropriate by the University.

- b. External Collaborations. See Section IV.C and the Policy on Professional Commitment of Faculty, BOR 41.0 II-3.10.
  - c. Use of Copyrighted Materials. All Personnel and Students are responsible for complying with University guidelines on the fair use of copyrighted material and for complying with the requirements of copyright law, including obtaining required permissions to use copyrighted material. Personnel and Students shall not exercise any rights under copyright law in works owned by others unless they have the prior written permission of the copyright holder, the work is in the public domain, or their use of the work qualifies as a fair use under copyright law. See Appendix A.
4. See Appendix A, attached to this Policy. The University will authorize certain individuals to assist in compliance with federal law, including, but not limited to:
- a. The Director of the Ort Library, or designee, with respect to fair use guidelines, photocopying and scanning of materials, and use of reserve materials;
  - b. The Director of the Office of Duplicating, or designee, with respect to photocopying of materials;
  - c. The University Webmaster, who may review web pages and other materials before permitting placement on University websites;
  - d. The Director of Research and Sponsored Programs, with respect to intellectual property issues arising from externally funded grants.
5. Responsibilities of the University
- a. Agreement Regarding Use of Resources Beyond Resources Usually and Customarily Provided. When the University authorizes or directs efforts to create a work or works using University resources beyond Resources Usually and Customarily Provided, it shall enter into a written agreement addressing the extent of use of resources, the schedule for the project (if appropriate), control over the work and its revisions, and ownership of the work. When the work done by Personnel routinely involves resources beyond Resources Usually and Customarily Provided, compliance with this section may be accomplished by including the required terms in an employment agreement.
  - b. Sharing of Revenue. The University shall remit to creators or their assignees or heirs, their share of Revenue from copyrights as specified in Section XI.A. of this policy.
  - c. Use of Copyrighted Materials. The University guidelines for copyright are attached as Appendix A.



## VI. Patents

### 1. Ownership

#### a. University Ownership

- 1) Within Scope of Employment. The University owns inventions created by Personnel within the Scope of Employment.
- 2) Use of University Resources. The University owns inventions created by personnel, graduate Students, or professional students with the use of University resources.
- 3) Signed Agreements. The University owns all inventions made by Personnel or Students under Sponsored Research Agreements and as stated in written agreements.

#### b. Creator Ownership

- 1) Outside Scope of Employment. Personnel, graduate students, and professional students own patent rights to inventions conceived and first reduced to practice outside the Scope of Employment and without the use of University resources and not subject to Sponsored Research Agreements or other written agreements.
- 2) Student Ownership. Undergraduate, non-degree, and not-for-credit students own inventions they create unless the invention is subject to another provision of this Section VI.

### 2. Responsibilities of Personnel and Students

- a. Disclosure. Personnel and Students shall disclose inventions which are subject to University ownership to University Counsel in a timely manner, fully, and in writing. When uncertain about the University's rights, Personnel and Students shall disclose.
- b. External Collaborations. In accord with Section IV.C., Personnel and Students may not: (a) sign patent agreements or other documents (e.g., invention reports, licenses, assignments, Material Transfer Agreements, or Confidential Disclosure Agreements) which abrogate the University's rights; (b) make unauthorized use of the name of the University; or (c) transfer material relating to intellectual property outside the University, except pursuant to a properly authorized Material Transfer Agreement. See also the Policy on Professional Commitment of Faculty, BOR II-3.10.
- c. Assignment. As to an invention in which the University has a right to ownership or use, the inventor, upon request, shall execute promptly all contracts, assignments, waivers or other legal documents necessary to vest in the University, or its assignees, any or all rights to the invention, including assignment of any patents or patent applications relating to the invention.

### 3. Responsibilities of University

- a. **Timely Evaluation.** The University shall evaluate inventions disclosed in accordance with Section VI.B.1) and shall do so with reasonable promptness and in good faith. The University shall decide whether to seek legal protection of its ownership rights, such as filing for patent protection; the scope of patent protection; and whether and how to pursue, limit or abandon commercialization. The University may at any time decide not to pursue or to abandon the pursuit of patenting and/or commercialization of any invention in which it has an interest.
- b. **Timely Information.** The University shall inform inventors in a timely manner about substantive decisions regarding protection, commercialization and/or disposition of inventions disclosed in accordance with Section VI.B.1). Terms of agreements which constitute proprietary business information may be treated as confidential by the University in accordance with applicable law. The University shall notify inventors promptly when it decides either not to pursue, or to abandon pursuit of, all efforts to commercialize an invention.
- c. **Commercialization by Inventors.** The University, at its discretion and consistent with the public interest, may license intellectual property to the inventors on an exclusive or non-exclusive basis. Inventors must demonstrate technical and business capability to commercialize the intellectual property. Agreements with inventors shall be subject to review and approval of conflict of interest issues in accordance with applicable University policy.
- d. **Assignment of Ownership.** The University may assign ownership to the inventors as allowed by law, subject to the rights of sponsors and to the retention by the University of a license which at a minimum shall grant the University the right to use intellectual property in its internally administered programs of teaching, research, and public service on a perpetual, royalty-free, non-exclusive basis. The University may retain more than the minimum license rights and assignment or license may be subject to additional terms and conditions, such as Revenue sharing with the University or reimbursement of the costs of legal protection. The University shall negotiate promptly, upon written request by the inventors, the transfer to the inventors of the University's interest in any invention that it has chosen not to protect or commercialize, subject to any legal obligation to offer its interest to a sponsor, licensee, or another institution with rights to the invention before it can agree to negotiate the transfer of the University's interest in an invention to the inventors.
- e. **Sharing of Revenue.** The University shall remit to the inventors or their assignees or heirs, their share of Revenue from inventions as specified in Section XI.B. of this policy.

## VII. Computer Programs and Software

### 1. Ownership

- a. University Ownership
- b. Within the Scope of Employment. The University owns computer programs and software created by Personnel within the Scope of Employment.
- c. Use of University Resources. The University owns computer programs and software created by Personnel, graduate Students, or professional Students with the use of University resources.
- d. Signed Agreements. The University owns all computer programs and software created or made by Personnel or Students under Sponsored Research Agreements and as stated in written agreements.

### 2. Personnel Ownership

- a. Outside Scope of Employment. Personnel, graduate Students and professional Students own software and computer programs conceived and first reduced to practice, and/or authored, outside the Scope of Employment and without the use of University resources and not subject to Sponsored Research Agreements or other written agreements.
- b. Student Ownership. Undergraduate, non-degree, and not-for-credit Students own computer programs and software they create unless the computer program or software is subject to another provision of this Section VII.

### 3. Responsibilities of Personnel and Students

- a. Disclosure. Personnel and Students shall disclose computer programs and software that are subject to University ownership to the Office of University Counsel in a timely manner, fully, and in writing. When uncertain about the University's rights, Personnel and Students shall disclose. Disclosure may include deposit of a digital-time-stamped copy of the software program, with appropriate annotations.
- b. External Collaborations. See Section IV.C. See also the Policy on Professional Commitment of Faculty, BOR II-3.10.
- c. Assignment. As to a computer program or software in which the University has a right to ownership or use, the creator, upon request, shall execute promptly all contracts, assignments, waivers or other legal documents necessary to vest in the University, or its assignees, any or all rights to the computer program or software, including assignment of any patents, copyrights, patent applications or copyright applications relating to the work.

#### 4. Responsibilities of University

- a. **Timely Evaluation.** The University shall evaluate computer programs and software disclosed in accordance with Section VII.B.1) and shall do so with reasonable promptness and in good faith. The University shall decide whether to seek legal protection of its ownership rights, such as filing for patent protection, the scope of patent protection, and whether and how to pursue, limit, or abandon commercialization. The University may at any time decide not to pursue or to abandon the pursuit of patenting and/or commercialization of any computer program or software in which it has an interest.
- b. **Timely Information.** The University shall inform creators in a timely manner about substantive decisions regarding protection, commercialization and/or disposition of computer programs or software disclosed in accordance with Section VII.B.1). Terms of agreements that constitute proprietary business information may be treated as confidential by the University in accordance with applicable law. The University shall notify creators promptly when it decides either not to pursue, or to abandon pursuit of, all efforts to commercialize computer programs or software.
- c. **Commercialization by Creators.** The University may, at its discretion and consistent with the public interest, license intellectual property to the creators on an exclusive or non-exclusive basis. Creators must demonstrate technical and business capability to commercialize the intellectual property. Agreements with creators shall be subject to review and approval of conflict of interest issues in accordance with applicable University policy.
- d. **Assignment of Ownership.** The University may assign ownership to the creators as allowed by law, subject to the rights of sponsors and to the retention by the University of a license which at a minimum shall grant the University the right to use intellectual property in its internally administered programs of teaching, research, and public service on a perpetual, royalty-free, non-exclusive basis. The University may retain more than the minimum license rights and assignment or license may be subject to additional terms and conditions, such as Revenue sharing with the University or reimbursement of the costs of legal protection. The University shall negotiate promptly, upon written request by the creators, the transfer to the creators of the University's interest in any computer program or software that it has chosen not to protect or commercialize, subject to any legal obligation to offer its interest to a sponsor, licensee, or another institution with rights to the intellectual property before it can agree to negotiate the transfer of the University's interest in intellectual property to the creators.
- e. **Sharing of Revenue.** The University shall remit to the creators or their assignees or heirs, their share of Revenue from computer programs or software as specified in Section XI.B. of this policy

## VIII. Technology-Mediated Instructional Materials

### 1. Ownership

- a. By Creator. Personnel and Students shall own original Technology-Mediated Instructional Materials that they create unless:
  - 1) Otherwise agreed to, in writing, with the University; or
  - 2) Technology-Mediated Instructional Materials are created pursuant to a Sponsored Research Agreement.
- b. By Written Agreement. The agreements referred to in Section VIII.A.1) shall address, at a minimum:
  - 1) Responsibility for payment of costs incurred to develop Technology-Mediated Instructional Materials; and
  - 2) Limitations and conditions on the right of the University, Personnel or Students to use Technology-Mediated Instructional Materials; and
  - 3) Authority to register copyright in, seek patent protection for, or otherwise protect Technology-Mediated Instructional Materials; and
  - 4) Compensation to and, under appropriate circumstances, Revenue sharing with Personnel or Students. Compensation to Personnel and Students shall not be based on enrollment without the prior written approval of the Provost; and
  - 5) Authority to evaluate and modify Technology-Mediated Instructional Materials; and
  - 6) Authority to select and selection of instructors for Technology-Mediated Instruction; and
  - 7) Compliance with copyright law.

2. University Rights of Use. The University shall have a right and license to use Technology-Mediated Instructional Materials and Technology-Mediated Instruction that it does not own pursuant to Section VIII but for which is has provided, pursuant to a written agreement, resources beyond Resources Usually and Customarily Provided. The University's use shall be solely in connection with University-offered programs of instruction and education.

### 3. Commercialization of Technology-Mediated Instructional Materials

- a. Authority to Sell Technology-Mediated Instructional Materials. Personnel and Students shall not license, sell or otherwise grant third parties a right to use Technology-Mediated Instructional Materials or Technology-Mediated Instruction that they have created and own,

and which include the name of the University, any University trademarks, service marks or symbols, or any intellectual property of any kind that is owned by the University without the prior approval of the President or designee.

- b. Revenue Sharing. The allocation, distribution and use of net Revenue obtained from the commercialization of Technology-Mediated Instructional Materials shall be agreed upon by the parties in writing on a case-by-case basis.

## IX. Other Types of Intellectual Property

1. Tangible Research Property. The principles in Section VI. that apply to inventions and patents also apply to tangible research property.
2. Mask Works. The principles in Section VI. that apply to inventions and patents also apply to mask works.
3. Plant Varieties. The University owns and may protect or commercialize plant varieties according to the principles of Section VI.
4. Trademarks, Service Marks, and Trade Dress. Trademarks, service marks, and trade dress may be created in association with an underlying license for another form of intellectual property, such as a patent or a plant variety (“associated with other intellectual property”), or independently, such as a university logo or symbol (“independently created”).
  - a. Associated with Other Intellectual Property. The University owns a trademark, service mark or trade dress if it is associated with other intellectual property owned by the University.
  - b. Independently Created. The University owns trademarks, service marks, and trade dress that are independently created by Personnel within the Scope of Employment unless the University agrees otherwise in writing.
  - c. Commercialization. The University may commercialize or license its trademarks, service marks, and trade dress.
  - d. Registration. The president or designee shall approve registration of trademarks or service marks, at the state or federal level.

## X. Interinstitutional Agreements

In this Section X only, “University” shall mean one of the following: a constituent institution of the University System of Maryland, the University of Maryland Biotechnology Institute, the University of Maryland Center for Environmental Science, or the University System of Maryland Office.

1. Joint Appointments and Affiliations. This section applies when an individual has an appointment in and receives support for research or creative work from two or more Universities and when a Student or Student Employee is earning a degree in one University but doing research or creative work in another.
  - a. Ownership. When more than one University can claim ownership to intellectual property under this policy, they own it jointly.
  - b. Management Agreements. Universities that are or may become joint owners of intellectual property shall enter into agreements stating which University will be responsible for management of the intellectual property. Universities are encouraged to negotiate standard agreements whenever possible.
    - 1) Terms to be Addressed. The agreements shall state which institution will be responsible for prosecution of patent applications or other forms of intellectual property protection, which institution will license the intellectual property, how expenses and deductions from Revenue will be allocated, and how institutional net revenue will be shared. The distribution of each University's share of Net Revenue, Project Specific Costs, and General Costs shall be addressed in the management agreement.
    - 2) Student Requirements. With regard to Students and Student Employees, agreements shall specify whether the degree-granting University or the supporting University will be responsible for managing intellectual property they create when that property is subject to University ownership.
  - c. Responsibilities of Managing University. The University managing intellectual property under an agreement shall promptly inform the other University or Universities about steps taken with regard to ownership. Such information shall include at minimum copies of the invention disclosure form, documents associated with filing for statutory protection, assignment of rights, and license agreements. If the managing University decides not to proceed, the other owning University or Universities shall have the right to assume responsibility as the managing University.
  - d. Distribution of Revenue. The managing University shall distribute Revenue to the creators and share net revenue in all cases according to Section XI.
  - e. Disputes. The President may ask the Chancellor to intercede if the Universities are unable to reach agreement or differ in their interpretation of an agreement. The Chancellor's decision shall be final and binding on all parties.

2. Joint Creators. This section applies when Personnel or Students from two or more Universities collaborate.
  - a. Early Notification. As soon as collaborators from different Universities recognize that their efforts have resulted in, or are likely to result in, the creation of intellectual property subject to this policy, they shall inform their respective Universities that an agreement is needed.
  - b. Agreements Govern. Signed agreements between Universities shall determine ownership of intellectual property, responsibility for managing it, and distribution of expenses and Revenue resulting from its development. Universities whose Personnel or Students are engaged in frequent collaboration are encouraged to negotiate standard agreements within the framework of this policy.
  - c. Disputes. The President may ask the Chancellor to intercede if the Universities are unable to reach agreement or differ in their interpretation of the agreement. The Chancellor's decision shall be final and binding on all parties.

## XI. Revenue Sharing

Unless otherwise agreed to in writing by the creators of a work or inventors of an invention, each named creator or inventor shall receive equal shares of net Revenue.

1. Copyrights. The University shall share with creators Revenue it receives from copyrights of their work, subject to certain exceptions.
  - a. Exceptions.
    - 1) Scope of Employment. Revenue generated from work produced by non-faculty Personnel within the Scope of Employment is excluded from sharing. However, the University may elect, by written agreement or University policy, to pay up to fifty percent of net Revenue to such non-faculty Personnel.
    - 2) Contract. When a third party contract dictates apportionment of Revenue different from that specified in this policy, the terms of the contract govern.
    - 3) Equity. Equity shall be distributed in accord with Section XI.G.
    - 4) Technologically-Mediated Instructional Materials. The University, Personnel, Students involved shall agree on a case-by-case basis, in writing, on the allocation, distribution, and use of net Revenue pursuant to Section VIII.
  - b. Deductions from Revenue. The University shall make the following deductions from Revenue before distributing net Revenue (Section XI.A.3).
    - 1) Creators' Share. First, ten percent of Revenue shall be distributed among the creators of the work until the cumulative total reaches the limit set pursuant to this paragraph



that was in effect during the fiscal year in which the University first received Revenue. The limit in FY2003 is \$10,000 to be shared among the inventors. The Chancellor shall establish a new limit for each succeeding fiscal year by adjusting the previous year's limit by an amount reflecting the change in the Consumer Price Index during the last calendar year completed, rounded to the nearest \$100.

- 2) General Costs. Second, the University will deduct 30% of Revenue to cover the general cost of developing, obtaining, managing, and defending creative works, unless otherwise agreed to by the University and creators, in writing.
  - 3) Project Specific Costs. Third, the remaining 60% of the Revenue received from a work shall be applied to reimburse any specific, incremental expenses incurred by the University in obtaining and maintaining the copyright, and in developing, marketing, licensing, and defending the work. After reimbursement of the University's expenses, Revenue may be used to reimburse costs incurred by creators on behalf of their own works but only if the University had authorized such expenses in advance in writing.
  - 4) Residual Creators' Share. Fourth, after project specific costs have been paid in full, any remaining Revenue shall go to the creators until the threshold dollar amount has been paid, as specified above in Section XI.A.2)a).
- c. Distribution of Net Revenue. Net Revenue is the revenue remaining after deductions under XI.A.2.
- 1) Creators' Share. The University shall distribute among the creators fifty percent (50%) of the net Revenue it receives from their creative work unless applicable laws, regulations, provisions of grants or contracts, or signed agreements with creators provide otherwise.
  - 2) University's Share. The University shall receive fifty percent (50%) of the net Revenue. Eighty-five percent (85%) of the University's share of the net Revenue received on account of a particular copyrightable work shall be dedicated to the creation of original copyrightable works and scholarship in the department or analogous unit of the creator of each particular copyrightable work, up to \$100,000 per fiscal year per department or analogous unit when practicable. The remaining fifteen percent (15%) of the University's share of net Revenue shall be used to support the creation of original copyrightable work and scholarship in other departments and units of the University. When it is not practicable to allocate \$100,000 per fiscal year to a particular department/Library or the amount exceeds \$100,000 in a particular fiscal year for a particular copyrightable work, the President or designee may allocate the funds for use within another department or Library of Frostburg State University.
- d. Timely Distribution. The University shall distribute accrued Revenue due creators under this policy at least annually unless funds are withheld to assure that all applicable licensing and

related expenses have been accounted for. Distribution will be made along with a statement of related income and expenses.

2. Patents and Computer Programs and Software. The University shall share with inventors or creators Revenue that it receives from their inventions or creations as provided in this section.

a. Exceptions.

1) Contract. When a third party contract dictates apportionment of Revenue different from that specified in this policy, the terms of the agreement govern.

2) Equity. Equity shall be distributed in accord with Section XI.G.

b. Deduction from Revenue. The University shall make the following deductions from Revenue before distributing net Revenue (Section XI.B.3).

1) Creator's or Inventors' Share. First, ten percent of Revenue shall be distributed among the creators or inventors until the cumulative total reaches the limit set pursuant to this paragraph that was in effect during the fiscal year in which the University first received Revenue. The limit in FY2003 is \$10,000 to be shared among the inventors or creators. The Chancellor shall establish a new limit for each succeeding fiscal year by adjusting the previous year's limit by an amount reflecting the change in the Consumer Price Index during the last calendar year completed, rounded to the nearest \$100.

2) General Costs. Second, the University shall deduct 30% of Revenue to cover the general cost of developing, obtaining, managing and defending inventions or creative work, unless otherwise agreed to by inventors or creators and the University, in writing.

3) Project Specific Costs. Third, the remaining 60% of Revenue received from a creative work, patent or invention shall be applied to reimburse any specific, incremental expenses incurred by the University in obtaining and maintaining the patent and in developing, marketing, licensing, and defending the patent or licensable invention or creative work. After reimbursement of the University's expenses, Revenue may be used to reimburse costs incurred by inventors or creators on behalf of their own works but only if the University had authorized such expenses in advance in writing.

4) Residual Creators' Share. Fourth, after project specific costs have been paid in full, any remaining Revenue shall go to the creators until the threshold dollar amount has been paid, as specified in Section XI.B.2)a).

- c. Distribution of Net Revenue. Net Revenue is the Revenue remaining after the deductions in Section XIB.2.
- 1) Creator's Share. The University shall distribute among the inventors or creators fifty percent (50%) of the net Revenue it receives from their inventions or creations unless applicable laws, regulations, provisions of grants or contracts, or signed agreements with inventors or creators provide otherwise.
  - 2) University's Share. The University shall receive fifty percent (50%) of the net Revenue. Twenty-five percent (25%) of the University's share of the net Revenue received on account of an invention shall be dedicated to research and the promotion of patenting and patents. If practicable, seventy-five percent (75%) of the University's share of net Revenue from each invention will be designated as follows: 30% to general University programs, 15% to the inventor's department, 15% to the inventor's college or Library and 15% to departmental scholarships. When it is not practicable to allocate the University's share of net Revenue as described herein, the President or designee may allocate funds for similar use within other departments or Library of the University.
  - 3) Timely Distribution. The University shall distribute accrued Revenue due creators under this policy at least annually unless funds are withheld to assure that all applicable licensing and related expenses have been accounted for. Distribution will be made along with a statement of related income and expenses.
3. Tangible Research Property, Mask Works, and Plant Varieties. When tangible research property, mask works, or plant varieties are licensed, Revenue shall be distributed in the same manner that Revenue is distributed under Section XI.B.
4. Trademarks, Service Marks, and Trade Dress.
- a. Creators' Share
    - 1) Associated with Other Intellectual Property. Revenue received from commercialization of a trademark, service mark, or trade dress that is related to an intellectual property license shall be shared with creators of the trademark, service mark, or trade dress, as specified in Section XI.B.
    - 2) Independently-Created Trademark, Service Mark, or Trade Dress. Except as provided herein or unless subject to prior written agreement between the creators and the University, the University will not share the Revenue from commercialization of a trademark, service mark, or trade dress with the individuals who created the trademark, service mark, or trade dress

- b. University Ownership. Revenue received from commercialization of a trademark, service mark, or trade dress licensed independently and not directly related to another form of intellectual property license shall not be shared and shall belong to the University.
- 5. Joint Appointment. In situations covered by section X., the University's share of net Revenue shall be divided equally among the Universities unless otherwise provided by written agreement.
- 6. Joint Creators. If joint creators are from different Universities, the University's share of net Revenue shall be divided equally unless determined by signed agreements as provided in Section X.B.2.
- 7. Equity.
  - a. Issuance of Shares. Equity may be issued separately to the University and the inventors or creators.
  - b. Distribution of Shares. Equity in a commercial venture received as consideration for intellectual property rights shall be shared equally between the University and the creators, unless a different distribution is negotiated in an agreement signed by the University and the creators of the relevant intellectual property.
  - c. Timely Distribution. When the University receives all shares directly, as soon as practicable after the University receives equity, and subject to the creators receiving any conflict of interest exemptions that must be granted and complying with any conditions for those exemptions, the University shall transfer equity shares to the creators. The University and creators shall have independence in their exercise of equity holder privileges within the constraints of law, policy, specific exemption under Maryland law from the State Ethics Law, and contractual agreements.
  - d. Unqualified Persons. Personnel or Students not qualified to hold the equity under applicable law shall designate a qualified person to receive the equity. If no designee is named within thirty days of a written request by the University to do so, the right to a share of the equity shall be forfeited to the University.

## XII. ADMINISTRATION

- 1. University Implementation. The University has provided the Chancellor with a copy of this Policy for approval prior to initial adoption. Revisions to this Policy shall not be effective until approved by the Chancellor in writing.
- 2. Authority to Subcontract. The University may enter into contracts with third parties in connection with the development, administration, and protection of its intellectual property.
- 3. Special Cases.
  - a. Issues not addressed. The Board of Regents recognizes that special cases will arise that are not specifically covered by this policy. In such cases, the President may make a decision on

how to proceed and report that decision to the Chancellor. Alternatively, the President may submit such cases to the Chancellor or designee for resolution. All decisions on such cases shall be reported to the Intellectual Property Committee, which will take them into account in its annual review of this policy.

- b. Policy waivers. Only the Chancellor may waive any provision of the USM IP Policy or of any University's approved policy on intellectual property. All decisions concerning waiver shall be reported to the Intellectual Property Committee and to the Board of Regents.

#### 4. USM Intellectual Property Committee.

At the request of the Chancellor, the President shall submit nominations of persons to serve on the USM Intellectual Property Committee.

#### 5. University Intellectual Property Committee.

- a. Membership. The President shall appoint a Committee on Intellectual Property to review intellectual property issues and/or determine University interest in claiming ownership of intellectual property. The President will assure that faculty members constitute a significant proportion of the membership.
- b. Responsibilities. The Committee shall advise the President on intellectual property matters. It shall convene at least once each academic year to review the University's Intellectual Property policy and procedures and recommend revisions to it. The Committee shall also meet at the call of the President. The President may refer to the Committee for its recommendations on matters relating to the policy and procedures, including relevant matters not addressed by the policy and procedures, and suggestions for revisions. The President may ask the Committee for advice on the resolution of disputes over intellectual property.
- c. Creator's Right to Participate. Whenever the Committee considers the application of the policy and/or procedures in making a decision about a specific work, Personnel or Students who created the work or a representative may make a written presentation and an oral presentation to the Committee.

### XIII. REPORTING

The President shall report annually to the Chancellor and the Board of Regents on intellectual property activity at the University. The report, in a format to be determined by the Chancellor, shall include data for the preceding year on disclosures, patent applications, patent awards, licenses, and start-up companies, distinguishing when appropriate between Maryland-based companies and those outside of the State. The report shall also include data on revenue and expenditures associated with the University's technology transfer function.

## Appendix A Guidelines for the Use of Materials Protected by Copyright

*Note: This Appendix is provided for information and clarification, however, these Guidelines are not a part of the FSU Intellectual Property Policy.*

The purpose of copyright is to further knowledge for the public good by providing authors and/or creators with an economic incentive to publish their works. While the intent of the United States Copyright Law (Title 17, United States Code, Sect. 101, *et seq.*) (“Copyright Law”) is to protect the rights of creators and producers of intellectual property, certain exemptions have been made to facilitate the use of information in academic environments. These exemptions are generally referred to as “fair use” exceptions. Fair use and other exceptions to the law have proven to be open to various interpretations and a number of common myths exist regarding copyright and fair use, often resulting in confusion as to what constitutes the educational fair use of copyrighted materials. The full text of the Copyright Law and its legislative history, plus analysis and commentary, are available in the Lewis J. Ort Library. Faculty, students, staff members and others with questions about the use of copyrighted materials should contact the Ort Library for guidance on their use. Additional information on copyright use is available from the University’s Office of Duplicating, the Office of Research and Sponsored Programs and the University Webmaster.

The University expects that the highest ethical standards as well as compliance with public laws and regulations will prevail in the conduct of its activities. It is the University's policy that all members of the University community will adhere to the provisions of the Copyright Law, the University System of Maryland Policy on Intellectual Property and the University’s Policy on Intellectual Property. Members of the University community who willfully disregard the Copyright Law, the University System of Maryland Policy on Intellectual Property or the University’s Policy on Intellectual Property do so at their own risk and assume all liability.

May 1, 2002 - Ref. BOR IV – 3.20

### **Thesis and Dissertation Printing**

PN 3.065

Authors' requests for the printing of student theses and/or faculty dissertations will be offered by Duplicating Services at cost to the requester and as time allows. The cost incurred for such printing will be the responsibility of the individual and not the University or the Academic Department.

### **Key Distribution Policies**

Faculty members may request a key for appropriate access to an office, classroom, or lab from their department chair. Upon submission of a request by the department chair, keys are issued through the Physical Plant Department, whose personnel will notify the faculty member when the keys are available. Keys may be picked up from the University Police at the Department of Public Safety Building and must be returned to University Police at the end of a faculty member’s contract. Lost keys should be reported to University Police and to the appropriate department chair.

## **Lost and Found Procedures**

PN 4.026

The following procedures apply to the accountability and safekeeping of currency and tangible personal property lost or abandoned on property owned, leased, or operated by or under the control of Frostburg State University.

All lost or abandoned property can be turned into the following areas: Student and Educational Services Office, Hitchins Administration Building room 120; the Lane University Center Information Desk; the Lewis J. Ort Library main desk; the Office of Public Safety, and the Stangle Building. Lost or abandoned currency will be deposited in the Business Office.

Each lost and found area will keep in a separate bound ledger an accurate record to include a brief description of the item, the date it was turned in and the identity of the person turning it in, as well as a record of its final disposition. In place of a bound ledger, the Public Safety Department may use a Maryland State Police Form 63 to record found property. Any lost or abandoned tangible item will be held for a period of one year during which time the owner must file a claim for recovery. The individual who found the abandoned or lost item(s) then has the next priority to claim, which must be done within 30 days after the one year holding period expires. If neither occurs, currency is deposited into the general fund, and other items may be sold, donated to a charitable organization or disposed of.

The coordinator of lost or abandoned property shall be the Director of Public Safety or their designee. All responsibilities of coordinating recordkeeping and the eventual disposition of such property will rest with that person.

### **Media Services**

#### **Advertising for Employment**

PN 3.037

1. The Director of Human Resources or designee will assure best use of position advertisements in relevant publications at the least cost practicable.
2. Consistent with the University's commitment to equal employment opportunity, position advertisements will include the name of an Office of Human Resources contact person, with telephone number, to assist applicants who request reasonable accommodation in the employment process. Position advertisements will also identify the Search Chair for faculty positions and may identify the Search Chair for other vacancies.
3. All applications will be received in the Office of Human Resources.
4. The Office of Human Resources will assure minority publication advertising for all faculty and unclassified vacancies.
5. The Director of Human Resources or designee will assure that minimum qualifications, primary duties

and salary range identified for reference by a job description, a Position Information Questionnaire (PIQ), the Appointment, Retention and Tenure (ART) document and other information provided by the department/Library are consistent with classification/compensation standards for the position to be advertised.

6. All positions will be advertised or posted for at least 30 days to comply with advertising and posting requirements of the Immigration Act of 1990.
5. Advertisements for employment under emergency conditions will be reviewed by the Director of Human Resources and must be approved by the President prior initiation.

## **Press Releases**

The Office of News and Media Services is responsible for maintaining and enhancing the University's working relationships with local, regional and national media through news releases, interviews and scheduled personal contacts.

### **Getting the Word Out**

In order to best serve your needs, please keep the following information in mind the more advance notice the media is given, the better chance your event will be publicized. Also, the Office of News and Media Services cannot guarantee publicity. We can create the stories and send them out, but it is up to the discretion of news directors and editors to decide whether the story will run.

When a news release lands on our desk, the normal procedure is to double check information and/or gather additional information, retype on FSU news release letterhead, make copies for local media outlets, then mail out.

### *To request a news release:*

- information should be turned in at least one month in advance. Requests received after this time period will be honored as staff availability allows.
- information should be double-spaced, typed (lower and upper case) and include all the particulars such as who is sponsoring the event, location, time and the reason
- include whether the event is free and open to the public.
- include a contact person and telephone number of someone who can be reached during regular office hours. This is extremely important in case something is omitted in the submitted copy.
- try to include all the information in a manner that will be easily translated into a release. The fewer alternations, the faster the word will get out.

Send information to the Office of News and Media Services, 228 Hitchins Administration Building.



## Publications Guidelines

### Introduction

University publications represent the university to its many and varied audiences. They must present university programs accurately, provide clear and correct information about institutional policies, as well as present the university in a visually appealing and professional form.

The Publications Office is responsible for the visual image of the university communicated to its various publics. All publications (including electronic publications such as the FSU Web Site) that carry the Frostburg State University name and logo, that are produced with university funds, and communicate with prospective students or other outside audiences are considered university publications and must be produced or reviewed by the publications staff for the purpose of maintaining a consistent institutional image.

### Definitions

- A "university publication" is anything set in type or composed electronically which represents the university to a broad and largely off-campus audience (including alumni).
- "University funds" means any funds, which must be handled through the university accounting system.
- "Publications services" includes design, production, and print specification work for university publications. Editorial and photographic services are also coordinated with the Media Relations Office.
- "Informational publications" describe university programs and policies, "promotional publications" invite participation in university events or encourage requests for university services.

### Guidelines

- Accuracy of content in university publications is essential. It is expected that departments and Library will make the necessary effort to ensure that the information they convey *about their program, etc.* is correct and up-to-date. The Office of Publications, working in concert with the appropriate university official(s)/offices, has the responsibility to ensure the accuracy of information they contain *concerning the university as a whole*. Individuals must secure the approval of information from their respective dean or director prior to submission to publications/web site coordinator. Copy submitted on disks must be spell checked.
- The university logo in its proper form is used on all official university publications. The university logo is the only symbol used to represent FSU. Electronic and printed copies of the logo are available. Departments/Library should not use scanned or re-created versions of this logo.

- The university seal is used only for diplomas, official documents, and publications representing the president.
- Publications promoting programs, events, services, and/or activities must include the Americans with Disabilities Act statement as follows:

FSU is committed to making all of its programs, services and activities accessible to persons with disabilities. You may request accommodations through the ADA/EEO Compliance Office.

- You may not publicize programs of study, majors, minors, courses etc. that have not been approved through the appropriate channels.

### **Public Information**

All press releases pertaining to the University and its activities are to be issued through the Office of University Advancement. This office serves to coordinate programs, both internally and externally, designated to create understanding and support of the University's objectives. Faculty members engaging in professional meetings, research, publication, civic activities, and other newsworthy activities are urged to notify the Director of Media Relations and Publications for preparation of appropriate news releases. When representing the University in an official capacity, members of the faculty and administrative staff are encouraged to use the name of the University and University stationery for official correspondence.

The University does not wish to be involved in projects with which it has no official association. Members of the faculty and administration are urged not to use the University name involving personal or unofficial activity, if such use in any way can be construed as implying University endorsement of any project, product, or service. There is no objection to the practice of faculty members publicly using the University affiliation for the purpose of identification. Where doubt exists concerning the propriety of using the University name, the individual concerned should consult with the Vice President for University Advancement.

### **Personal Property**

The General Assembly has made no appropriation to the State Insurance Trust Fund for damage or loss to any personal property owned by a state employee while stored or used on state property. This includes motor vehicles.

### **Risk Management**

PN 3.023

Frostburg State University considers its personnel to be among its most important and valuable assets and realizes that the health and well-being of its employees, as well as the protection of its physical resources, are as important as the work activities being performed. Frostburg State University seeks to protect human

and physical resources by: reducing or eliminating, where possible, potential health and physical hazards; increasing employee awareness of hazards that cannot be easily eliminated; and encouraging the use of common sense in conducting work activities safely.

Frostburg State University recognizes its responsibility for providing its employees with a safe and healthful work environment and is committed to meeting its obligations under federal and state requirements, national safety standards and all applicable building and fire codes. It is also committed to meeting standards of national consensus such as those published by the National Safety Council, National Fire Protection Association, and the American National Standards Institute.

In recognition of these obligations, the University is implementing and actively supporting the provisions of the Maryland State Employee Risk Management Program in accordance with Executive Order 01.01.1989.15. The campus coordinator of this program is the Director of Public Safety.

Safety cannot be the responsibility of any one person or department. All supervisors will implement progressive discipline for repeated safety violations. Supervisors will be held responsible for safety conditions and proper training of safety standards within their areas of responsibility. Therefore, each employee is required to comply with the Employee Risk Management Program. Accidental injuries will be thoroughly investigated, and preventive measures will be implemented to guard against their recurrence.

## **Accident Investigations**

PN 3.050

Accident investigations are conducted to identify causative factors, trends and patterns and for establishing the facts surrounding an accident. Near misses are investigated as thoroughly as actual accidents because they are an indication that an unsafe condition may exist.

All accidents and near misses are to be reported immediately to the next level of supervision. The first concern will be for the employee's physical well-being. As soon as possible thereafter, an investigation will officially begin with the completion of the Employee's First Report of Injury and the Supervisor's Report of Employee's injury. An Accident Investigation report will be completed by the Supervisor. The Assistant to the Director of Public Safety will train and assist supervisors in the accident investigation process. Accident Investigation Reports are essential to the Risk Management Program because they help to identify causes and contributory causes of accidents and may be used to recommend corrective actions. It is important that all key facts about an accident be obtained so that the accident reports will be accurate. In order to determine the cause of the accident it is important to answer the key questions of who, what, when, where, why and how.

For serious accidents, the immediate area in which the accident occurred will be secured and inspected by the Public Safety Department. Physical evidence will be collected, diagrams will be drawn or photographs taken as necessary. Witnesses will be interviewed and their written statement will be prepared as soon as possible.

The Health and Safety Committee will review accident investigations at its monthly meetings, identifying frequent victims, determining if sufficient information is gathered and whether the procedures for planned accident investigations are being carried out correctly and completely. Recommendations for specific, practical and effective corrective actions will be generated, evaluated, and submitted to the appropriate authorities for approval and implementation. If fraud is suspected at any time during an accident investigation, the Claims Department of the injured Workers' Insurance Fund will be notified.

## **AIDS**

PN 1.003

No student, faculty or staff member shall be denied access to academic, social, or employment opportunities offered by Frostburg State University solely because they have AIDS or test positive for the HIV (Human Immunodeficiency Virus) antibody. Each case will be handled on an individual basis in consideration of the rights and needs of the individual and university community. Decisions will be based upon latest information provided by the State of Maryland Department of Health and Mental Hygiene (DHMH); the American College Health Association, American Council of Education; the State of Maryland Board of Regents and appropriate medical authorities.

The University will provide information and programs regarding prevention and transmission of AIDS. The President of the University has appointed the Dean of Student Development in the Department of Student and Educational Services to advise them regarding AIDS cases and to implement other aspects of this policy.

## **Employee Health and Safety Training**

PN 3.060

Frostburg State University will provide appropriate education and training to its employees to give them the necessary information to perform their duties in a safe manner.

Employees may request education and training programs related to health and safety issues by contacting the Health and Safety Committee, either in writing or through a committee member.

The Human Resources Office will include safety training that has general application in its staff development and training schedule. Appropriate safety literature will be included in each new employee's orientation packet.

The Public Safety Department will conduct a monthly safety training session that is designed for the safety concerns of Physical Plant Personnel.

Driver Improvement Training will be presented by the Public Safety Department at a level consistent with USM or other public policy.

The Residence Life Office will train student employees in safety matters, especially fire safety and crisis resolution.

Training records will include training date, topics covered and the names of employees in attendance.

If appropriate, supervisors may require employees to demonstrate the procedures taught. Supervisors may refer employees for additional training when necessary.

Health and safety training will be evaluated in accordance with Risk Management Evaluation Program procedures.

### **Fire Alarm Procedures for Faculty**

1. The individual instructor should be familiar with a primary and alternate evacuation route from each area in which they teach. Evacuation route information (including instruction not to use elevators) should be shared with students during the first meeting of each class and each time a fire alarm sounds. Faculty members are encouraged to distribute "Fire Alarm Procedures for Students" with the course syllabus. A copy of these procedures can be found in the Administrative Services Policy Manual, which can be obtained from each department chair.
2. When an alarm sounds, the instructor should immediately release the class, telling students to proceed in a safe and orderly fashion to the nearest clear exit. The instructor shall evacuate also.
3. The instructor should assist any mobility impaired individuals out of the building or to an enclosed stair tower where they will be protected from flames, smoke and gasses. If a mobility impaired person is left in a stair tower, fire personnel must be notified.
4. If, in the instructor's personal judgment, conditions permit, heat generating appliances should be turned off in the exit process. Doors and windows should be shut.
5. Faculty should assist in preventing students from congregating near building exits.
6. The building should not be reentered until an "all-clear" is given by University Police.

### **Fire/Safety/Health Procedural Information**

PN 3.062

The primary document for conveying fire, safety and health procedures is the publication, Employee Safety Programs at Frostburg State University. A copy of this publication shall be revised and re-issued to every employee on a two-year cycle. The most current version will be issued to every new employee within ten days of initial employment. Until revised versions are distributed, the Department of Public Safety will announce changes to procedures or new regulatory requirements in State Lines and supplemental safety bulletins.

Fire alarm procedures are included in the employee safety manual and the residence hall guide. They are also sent as an individual mailer at the start of each academic year.

Laboratory safety procedures are separately described in the Frostburg State University chemical hygiene plan.

Procedures for those with potential occupational exposure to blood or other human bodily fluids are described in the Frostburg State University blood borne pathogen plan.

Additional procedures may be developed and promulgated as needs or regulations dictate. Current procedures are subject to revision as specified by regulation, or upon the recommendation of the Health and Safety Committee and/or the Public Safety Department.

### **Medical/Health Management Services**

PN 3.061

Frostburg State University will establish medical and health services to help assure that employees incapacitated by work related illnesses and injuries are able to safely return to work as quickly as possible. The university will contract with a medical provider for initial evaluation of workplace injuries. The medical provider will also offer treatment to the injured employee.

Light or modified duty work assignments and activities will be used to bring injured employees back to work before they are medically certified to assume their usual job responsibilities. Light or modified duty assignments will be made under the authority of, and consistent with, University System of Maryland policy.

When time loss exceeds reasonable expectation or there is reasonable cause to believe the employee is misusing leave or worker's compensation benefits, a second medical opinion by a physician selected by Frostburg State University or the Injured Worker's Insurance Fund will be required.

Supervisors will maintain contact with the injured employee to demonstrate the University's sincere interest in the employee's recovery needs. Such contact will be made at least once per pay period.

Medical monitoring will be provided for Level II Asbestos Workers according to the schedule set by the Maryland Asbestos Program. Medical monitoring will also be provided as specified in the Frostburg State University Chemical Hygiene Plan and Bloodborne Pathogen Plan.

### **Health and Safety Inspections**

PN 3.047

Health and safety inspections focus on two areas of accident prevention concern: the condition of the physical facilities and the work behaviors of the employees.

Public Safety Officers will conduct a formal inspection of each campus building on a quarterly basis. Public and common areas will be inspected for fire safety, proper lighting, safe use of electricity, trip and fall hazards, occupational safety devices and condition, housekeeping, and personal protection in the workplace. A written report of each inspection will be submitted to the Assistant to the Director of Public Safety, who will coordinate any necessary corrective action and make a follow-up inspection.

Student residence hall rooms will be inspected by the Department of Residence Life for general maintenance purposes each time a student moves in or moves out of a room. Fire safety inspections of student rooms will occur at least once each semester.

Fire alarm systems will be tested and inspected under the terms of a contract let by the Physical Plant Department.

The Health and Safety Committee may make inspections as it deems necessary. The Director of Public Safety and the Assistant to the Director of Public Safety may inspect facilities and work practices and are authorized to intervene in any situation which poses an imminent danger of injury or physical harm to any employee.

Supervisors and employees alike are to be diligent concerning safety conditions in their immediate work areas and the safe condition of all equipment before starting a job task. Employees shall report any unsafe conditions or defective equipment to their supervisor or to the Department of Public Safety. Supervisors are to monitor work practices and behaviors to ensure compliance with all safety rules and regulations, including personal protective equipment and procedures.

### **Employee Assistance Program**

PN 3.045

Many problems that impact health and safety on the job originate outside the work environment. Personal problems may result in poor work performance, absenteeism and accidents.

The Employee Assistance Program (EAP) is designed to provide a confidential, experienced source of help for employees whose personal problems are affecting their lives and job performance.

Frostburg State University supports the State EAP program by advising employees of the existence of the program and the availability of its services and encouraging supervisors to make referrals to the program.

The Employee Assistance Program is coordinated by the Office of Human Resources.

### **Program Evaluation Policy**

PN 3.049

In order to provide an effective evaluation of the University's Risk Management Program and to comply with the requirements of the state's SERMA program, the following shall be achieved:

1. The University's Health and Safety Committee will review the following information:
  - A. All accident reports will be analyzed monthly. The Committee will discuss all accidents and statistics to determine if sufficient information is available to identify trends, suggest ways of preventing accidents, identify repeat victims, and suggest corrective actions such as education and training, reassignment of duties, etc. In the event correctable accident areas are identified,

the Committee will generate a work order and/or appropriate notification to correct such problems. Follow-up procedures or reports may be required by the Committee until it is satisfied that all aspects of such changes have been implemented and are producing the desired results.

- B. The Committee will review the statistics provided by SERMA on injuries/accidents (numbers, type, time loss, associated costs, and trends) on a quarterly basis.

Upon reviewing the above-mentioned information, the Health and Safety Committee will submit policy recommendations and/or procedural changes to the Risk Management Committee for review and action. This information will be discussed at the Health and Safety Committee meetings, and recommendations will be forwarded for appropriate action to the Risk Management Committee.

- 2. On an annual basis, the University's Risk Management Coordinator will participate and assist in the completion of the SERMA's program evaluation audit. This report will be presented to the University's Health and Safety Committee for their review and comments before being forwarded to the Risk Management Committee.
- 3. In addition, the Risk Management Coordinator will provide copies of SERMA Risk Assessment Survey and Rap Notes to the Health and Safety Committee. The Health and Safety Committee will meet to analyze these records and make recommendations on increasing efficiencies of the program. All such recommendations will be presented to the Risk Management Committee for review and approval. Any such changes will be communicated in writing to all employees
- 4. All information produced in the program evaluation will be available for review by the SERMA Program Evaluator and employees for Frostburg State University. Based on this review and the additions and/or modifications will be recommended to be implemented as necessary.

### **Signature Stamp Policy**

PN 3.064

An authorized signature provides key internal control, providing the official signature means the supervisor has examined and approved a transaction. In all instances of authorization of funds or compensation (i.e., employee travel reimbursement, purchase approval, timesheets, etc.) the use of signature stamps will not be permitted to replace a manual signature of an employee.

### **Smoking**

PN 3.064

#### **I. PURPOSE**

The University seeks to promote a healthy, substance-free environment for students and employees. In recognition of tobacco smoke health risks, the University will provide a smoke free environment for its faculty, staff, students, and visitors.



## II. DEFINITIONS

- A. "University property" is any property owned, leased or otherwise controlled or operated by Frostburg State University. This includes, but is not limited to, the University campus located in Frostburg, the Sustainable Energy Research Facility, the Lyric Building, and Mountain City Traditional Arts. This policy does not include the USM Hagerstown Center or One Technology Drive in Frostburg.
- B. "Smoking" includes carrying or smoking a lighted tobacco product or the burning of any material to be in any way inhaled including, but not limited to, cigarettes of any type, cigars, cigarillos, hookahs, and pipes.

## III. POLICY

- A. Pursuant to Maryland law, smoking is not be permitted in any University building, including academic buildings, residence halls, administrative buildings, enclosed facilities, or vehicles, except as indicated in Section III(E) below.
- B. Smoking is prohibited on all University grounds and property owned, leased or otherwise operated by the University, including campus walkways, parking lots, and recreational and athletic areas, except as indicated in Section III(E) below.
- C. When renting or leasing off-campus facilities for University functions, preference should be given to smoke-free environments.
- D. The sale of tobacco and tobacco-related products is prohibited on University grounds and any property owned or leased by the University.
- E. Smoking in University facilities will be permitted for controlled research, educational, theatrical or religious ceremonial purposes, with prior approval of the Office of the President. Other requests for exceptions to the Policy shall be considered by the University's Executive Committee, whose decision is final.
- F. All University students, faculty, staff, food service employees, vendors, agents, guests and visitors are subject to this policy.

## IV. IMPLEMENTATION

- A. The success of the Policy is dependent upon the thoughtfulness, consideration and cooperation of smokers and non-smokers alike. All faculty, staff, students and visitors share the responsibility for adhering to the Policy. This Policy should be communicated and continually reinforced to all faculty, staff, vendors, guests and visitors in a respectful manner. Questions and concerns should be brought to the attention of the Coordinator for University Wellness.
- B. Assistance with smoking cessation for students, faculty, and staff shall be available through the Office of Human Resources and the Office of the Coordinator for University Wellness. Regular and

ongoing opportunities to participate in smoking cessation classes and/or seminars, and smoking cessation materials and products shall be made available to students, faculty and staff.

- C. Signage shall be posted around the perimeter of the campus and at the entrance to all University property, including residence halls, Edgewood Commons, campus walkways, parking areas, and other highly trafficked areas. Signage shall communicate that all University facilities, buildings, and grounds are smoke-free zones.
- D. Digital marquees will include a notice informing the public of the Policy.
- E. Informational brochures created by the University, including, but not limited to those developed for recruiting students, alumni relations, and for public information purposes will include information about the Policy.
- F. University properties shall have no exterior smoking receptacles including, but not limited to, ashtrays or trashcans with ashtrays attached.
- G. Interior signs and notices will be posted in all University properties as needed to inform guests, visitors, vendors, and other members of the public of the Policy.
- H. Signage will refer questions or concerns to the Coordinator for University Wellness.
- I. The University shall work with University neighbors to prohibit trespassing of smokers upon non-public properties and promote a litter-free message.
- J. For individuals seeking to smoke off-campus, signage shall be placed on University property in areas that may be of risk to pedestrians due to vehicular traffic.
- K. The Office of the President shall establish a committee responsible for managing periodic evaluation of this Policy, responding to issues raised by members of the community, determining appropriate education and training, and collaborating with relevant parties.

## **Travel Policy**

PN 3.029

The following are the revised University System of Maryland travel reimbursement rates for FY2020 as approved by the Board of Regents (BOR). These rates are in effect July 1, 2019, through June 30, 2020. These rates may be revised at any time by the BOR without notice.

## 1. Rates for Hotels

Cost of hotel accommodations is reimbursed on the basis of receipts for single-room rate. Use of an FSU Visa procurement card is recommended, when possible.

## 2. Rates for Meal Expenses

General note: To qualify for any meals employees must be in travel status a minimum of four (4) hours and all out-of-state travel must have a pre-approved travel request form. Meals may not be claimed if your hotel has a free breakfast plan or a meal is provided as part of a conference or meeting. A copy of all conference and meeting agendas must be attached. If being reimbursed on a receipt basis, please note meal tips are limited to a maximum of twenty (20) percent.

The total including tax may not exceed the per diem amount. The current version of Travel and other Accounts Payable forms may be obtained at <http://www.frostburg.edu/admin/ap/forms.htm>.

Domestic Travel (includes the United States and its territories):

Will be reimbursed at the following standard per diem rates with no receipts required for an individual. For group travel, reimbursement will be made based on itemized receipts not exceeding per diem limits per person. These rates include tax and tips.

Breakfast	\$13.00	(the travel starting time to qualify for breakfast is 6:00 a.m.)
Lunch	\$15.00	(to qualify for lunch employees must either be on overnight travel or qualify for both breakfast and dinner.)
Dinner	\$28.00	(to qualify for dinner employees must return no earlier than 6:30 p.m.)
Total	\$56.00	=====

Foreign Travel:

Will be reimbursed at the applicable U.S. Department of State Meal and Incidental Rate without receipts for an individual, or actual cost with receipts not to exceed the State Department Rates. For group travel, reimbursement will be made based on itemized receipts not exceeding the per diem limits per person including tax and tip. Meal tips are limited to a maximum of twenty (20) percent. You may go to the following link to see the U.S. Department of State's current rates:

[http://aoprals.state.gov/content.asp?content\\_id=184&menu\\_id=78](http://aoprals.state.gov/content.asp?content_id=184&menu_id=78)

Foreign meal reimbursements use the same travel requirements as domestic travel. A partial day's per diem will be calculated based on the total M&IE rate as follows: Breakfast=15%, Lunch=25%, and

Dinner=60%. Travelers should clearly identify, on their Travel Expense Statement, the foreign locale visited. Reimbursement rates are based on the rates in effect at the time of travel.

### 3. Rates for Mileage Expenses

Employees will be reimbursed at the rate of 57.5 cents per mile when no state vehicle is available. Please attach a screen print from the vehicle reservation system to your expense form that shows no state vehicle was available.

Employees will be reimbursed at the rate of 29 cents per mile when a state car is available, or when availability was not checked prior to the trip. If an employee is deemed ineligible to drive a state vehicle, or hasn't applied for authorization to drive a state vehicle, will only be reimbursed at the 29 cent per mile rate.

University employees using their privately owned vehicles and claiming reimbursement on a Travel Expense form must deduct their normal commute mileage from the total miles driven when the trip begins from or ends at home. Commute miles are defined as the round-trip mileage normally driven from home to the regularly assigned work site and home again.

Any questions about travel or the working fund should be directed to Accounts Payable at 301.687.4324 or [accountspayable@frostburg.edu](mailto:accountspayable@frostburg.edu).

## University Vehicles

University vehicles are available for faculty engaged in University business. Reservations for University vehicles must be made through the online State Vehicle Reservation System <https://www.frostburg.edu/about-frostburg/Administrative-Offices/facilities-management/state-vehicles.php> at least one week prior to use and according to FSU policies and procedures. Generally, priority in assignment of state vehicles (cars and vans) will be given to use beyond the Frostburg/Cumberland area on a first-come, first-serve basis. However, the following stipulations apply:

1. Upon at least one week's notice, the Admissions Department will be given priority consideration for two cars;
2. Upon at least one week's notice, the Educational Professions Department will be given priority for one car;
3. Upon at least one week's notice, priority will be given for two cars for instruction beyond the Frostburg, Cumberland area;
4. Upon at least one week's notice, the Biology Department will be given priority for one van;

5. The buses will be assigned only to groups of 15 or more. A Commercial Driver's license is required to operate the bus.

6. Reservations for any vehicle may not be made more than six months in advance. Reservations are subject to cancellation, in view of the priorities detailed above.
7. Exceptions to this policy may be made only by the President or the President's designee.

### **Alcoholic Beverages Policy**

(PN 3.059)

Alcoholic beverages may not be consumed or possessed in any vehicle that is owned, rented or leased by Frostburg State University without the specific approval of the President or the President's designee.

### **Moving Violations**

(PN 3.054)

Drivers who receive moving violation citations while operating Frostburg State University vehicles are required to report the citations to the Department of Public Safety when returning the vehicle to the motor pool.

The Director of Public Safety will review each citation and determine 1) if further information is required from the issuing agency, and 2) if the apparent violation is of such magnitude as to result in immediate loss of privilege to operate university vehicles. Examples of citations that could result in loss of privilege include, but are not limited to, failure to stop at scene of an accident, speeding in excess of twenty miles over the speed limit, driving while intoxicated, driving while under the influence of alcohol, and reckless driving. The decision of the Director of Public Safety may be appealed to the Vice President for Administrative Services.

This policy applies to all drivers of University vehicles, including student and volunteer drivers. This policy does not replace any other University or USM vehicles policies.

### **Travel Limits on State Vehicles**

(PN 3.055)

To be in a more favorable position to respond to breakdowns or emergencies, and to extend the service life of fleet vehicles, the University places the following restriction on the use of state vehicles for travel purposes. State vehicles may be used for University travel only within the State of Maryland or within a 400 mile radius of Frostburg. Travel beyond these parameters is to be accomplished by commercial carrier or private vehicle, reimbursable by department/Library budgets, or written approval to use state vehicles currently with the Director of Public Safety within a minimum of two weeks of travel time. All other travel regulations and policies remain in effect. Intercollegiate team travel is exempt from this policy. Other exceptions may be made only by the president's designee.

## **Faculty Traveling with Student Groups**

Faculty members traveling with students must provide the Department of Public Safety with the following information:

1. The names of all students in the party;
2. The location of the final destination;
3. The list of all stops along the way. Only students registered with the FSU Department of Public Safety are allowed to drive state vehicles.

