

VII – 2.30 – POLICY ON EMPLOYEE AND APPLICANT DISCLOSURE OF MISCONDUCT FOR NONEXEMPT AND EXEMPT STAFF EMPLOYEES AND APPLICANTS FOR USM STAFF POSITIONS

(Approved by the Board of Regents, December 13, 1996; Amended February 21, 2003; Amended October 9, 2015)

I. PURPOSE AND APPLICABILITY

The purpose of this policy is to set forth the University System of Maryland (USM) policy on employee and applicant disclosure of misconduct, and to protect employees and applicants from retaliation in the form of an adverse personnel action for disclosing what the employee or applicant believes evidences certain unlawful, wasteful or hazardous practices. This policy is applicable to all Nonexempt and Exempt Staff employees of the USM and to applicants for USM jobs in these categories

II. DEFINITIONS

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

“Applicant” - Means any USM or other state of Maryland employee or any external individual who is an applicant for a USM job.

“Adverse Personnel Action” - means any such actions as: a disciplinary suspension; a decision not to promote; a decision not to grant a salary increase; a decision not to hire; a termination; an involuntary demotion; rejection during probation; a performance evaluation in which the employee's performance is generally evaluated as unsatisfactory; an involuntary resignation; an involuntary retirement; an involuntary reassignment to a position with demonstrably less responsibility or status as the one held prior to the reassignment; or an unfavorable change in the general terms and conditions of employment.

III. STATEMENT OF POLICY

- A. It is the policy of the University System of Maryland that any Nonexempt or Exempt Staff employee or applicant may, without fear of retaliation, make known allegations of alleged misconduct existing within the USM that he/she reasonably believes evidences:
1. An abuse of authority, gross misconduct, or gross waste of money;
 2. A substantial and specific danger to public health or safety;

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3. A violation of law.
- B. A representative of the USM shall not take any adverse personnel action as retaliation against an employee or applicant who discloses information regarding misconduct under this policy or who, following such disclosure, seeks a remedy provided under this policy or any law or other USM policy.
- C. This policy does not apply to a disclosure that is specifically prohibited by law unless such disclosure is made in accordance with Section IV.E. of this policy.
- D. This policy does not prohibit a personnel action that would have been taken regardless of a disclosure of information.

IV. PROCESS FOR DISCLOSURE

- A. An employee or applicant who chooses to disclose information regarding misconduct, shall disclose all relevant information regarding misconduct, as described in Section III, to the President or designee of the applicable USM institution in a signed written document within one-year of the day on which he/she knew or reasonably should have known of the misconduct.
- B. In consultation with the Maryland Attorney General's Office, the President or designee shall consider the disclosure and take whatever action he/she determines to be appropriate under the law and circumstances of the disclosure.
- C. In the case of disclosure of misconduct involving the President of an USM institution, the disclosure shall be directed to the Chancellor of the University System of Maryland or designee. In consultation with the Maryland Attorney General's Office and the Board of Regents, the Chancellor or designee shall consider the disclosure and take whatever action he/she determines to be appropriate under the law and circumstances of the disclosure.
- D. In the case of disclosure of misconduct involving the Chancellor, the disclosure shall be directed to the Chair of the USM Board of Regents. In consultation with the Maryland Attorney General's Office, the Chair shall consider the disclosure and take whatever action he/she determines to be appropriate under the law and the circumstances of the disclosure.
- E. The disclosure of information, which is otherwise prohibited by law, shall be disclosed to the Assistant Attorney General designated by the Maryland Attorney General to receive such information.

V. COMPLAINTS OF RETALIATION AS A RESULT OF DISCLOSURE

- A. If an employee or applicant believes that he or she has been retaliated against in the form of an adverse personnel action for disclosing information regarding misconduct under this policy he/she may file a written complaint requesting an appropriate remedy.

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- B. The employee may choose to file the complaint either:
1. As a grievance filed with the institution and subject to the requirements and procedures of Title 13 of the Annotated Code of Maryland and USM Policy VII – 8.00 Policy on Grievances for Nonexempt and Exempt Staff Employees, or
 2. A complaint under the Maryland Whistleblower law, filed with the Secretary of the Department of Budget and Management and subject to the requirements and procedures of the State Personnel and Pensions Article, Title 5, Subtitle 3.

VI. DISCIPLINARY ACTION AGAINST THOSE RESPONSIBLE FOR THE RETALIATION

If it is determined that an employee or applicant has been retaliated against for his/her prior disclosure of misconduct, appropriate disciplinary action shall be initiated against those responsible for the retaliation.

IMPLEMENTATION PROCEDURE:

Each President shall identify his/her designee(s) as appropriate for this policy, develop procedures as necessary to implement this policy, communicate this policy and applicable procedures to his/her institutional community, and post it on its institutional website.

REFERENCES:

State Personnel and Pensions Article, Section 5-302 and 5-307, October 1, 2002.