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## **8 SEPARATION**

### **8.1 TERMINATION**

(See University System Policy at 5.1, Section C, paragraphs 6-12 in this *Handbook*.)

### **8.2 TERMINATION OF FACULTY APPOINTMENTS**

(Approved by the Faculty Senate, May 16, 1989)

No appointment may be terminated because of the discontinuance of an academic department or program unless the unit discontinued is the unit specified in the appointee's letter of appointment. An academic department or program shall not be considered discontinued unless there is a lapse of six years or more before another department or program performs services substantially identical to those of the unit discontinued.

No faculty appointment may be terminated because of lack of appropriations or other funds with which to support the appointment unless the financial exigency can be shown to be beyond the control of the UMBC campus.

Examples of possible grounds for dismissal of faculty or administrators follow. The intent of these examples is to provide an understanding of the kinds of acts that might warrant investigation by a faculty committee as a possible cause for sanctions against faculty members or administrators. Not every instance of an action of these kinds would provide grounds for dismissal.

#### **8.2.1 Prima Facie Instances of Moral Turpitude**

Conviction of such felonies as embezzlement, arson, and sexual assault.

#### **8.2.2 Prima Facie Instances of Professional Misconduct**

Falsification or distortion of one's own or another's credentials with the intent to deceive. Adding to or removing from personnel files documents that could affect the evaluation of faculty members, with the intent to misrepresent the faculty member's credentials. Using grades to extort personal favors.

#### **8.2.3 Prima Facie Instances of Scholarly Misconduct**

Presenting the work of others as one's own, with the intent to deceive. Deliberate falsification of experimental data or source materials.

#### **8.2.4 Prima Facie Instance of Incompetency**

Inability, because of medically documented mental impairment, to teach one's assigned classes.

#### **8.2.5 Prima Facie Instances of Willful Neglect of Duty**

Habitual failure, absent compelling reasons, to meet an assigned class. Holding another full-time job.

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## 8.2.6 Circumstances that do not Warrant Sanction

Circumstances that do not warrant sanction include, but are not limited to, the following:

1. Falsification or distortion of credentials resulting from clerical error, vagueness, or misunderstanding.
2. Any grading dispute, however resolved, other than using grades to extort personal favors.
3. Delinquency in the performance of routine duties, such as timely submission of grades, attendance at faculty meetings, serving on faculty committees, and payment of fines for parking or library violations.
4. Failure to meet an assigned class due to illness, accident, or family emergency.
5. Acrimonious disputes that do not interfere with the conduct of a class.
6. Indictment for or allegations of felony or misdemeanor not supported by conviction, disturbing the peace, even if resulting in conviction.
7. Income tax offenses not involving deliberate fraud, even if resulting in conviction.
8. Any form of symbolic speech, even if resulting in conviction.

## 8.3 PROCEDURES FOR HEARINGS CONDUCTED BY THE FACULTY BOARD OF REVIEW IN TERMINATION CASES AT UMBC

## 8.3.1 Constitution of the Faculty Board of Review

1. Upon receipt by the President of the UMBC Faculty Senate of a request, through the Chair of the Board of Regents, from the faculty member for a Faculty Board of Review, a Board of Review shall be nominated by the Nominating Committee of the Faculty Senate.
2. The Faculty Senate shall, either at a regularly scheduled meeting or at one specially called for the purpose, select a Board of Review, either by accepting the slate presented to it by the Nominating Committee or by making its own independent selection. In any case, selection of a Board of Review shall be completed no later than 21 calendar days after receipt of the request for formation of the Board.
3. The Board of Review shall consist of five regular members plus first and second alternate members, who will sit with the committee but join in deliberations and votes only to replace one or more of the five regular members in the event they become unavailable.
4. All members of the Faculty Board of Review shall be tenured faculty at the University of Maryland Baltimore County.

5. No person with an appointment in the same Department or similar academic unit as the faculty member to be reviewed will be eligible to serve on the Board of Review.
6. No person who has been involved in any way in the recommendation for termination or in the matters specified in the charges will be eligible to serve on the Board of Review.
7. No person who has participated in any previous hearings connected with the case will be eligible to serve on the Board of Review.
8. The Board of Review will elect its own chair.
9. The Board of Review shall be provided, by the University with legal counsel who has had and will have no other connection with the termination.
10. Either of the parties may challenge a faculty member's participation on the Board of Review on grounds of partiality or conflict-of-interest. The challenge may be accompanied by supporting evidence, but its acceptance is not automatic. Procedures for responding to a challenge shall be as follows:

The Chair will read the challenge and ask whether the challenged member chooses to exclude himself or herself. An affirmative answer will be accepted. In the event of a negative answer, the committee will vote on the challenge and the challenged member shall be excluded if three members so vote. A member excluded by choice or vote shall be replaced by an alternate member.

#### 8.3.2 Procedures to be Followed by the Faculty Board of Review

1. The Faculty Review Board shall begin to hear the case no earlier than 14 days and no later than 30 days from receipt of the request for formation of the Board.
2. The hearings shall be closed unless the faculty member recommended for termination requests open hearings.
3. Reasonable notice of the time and place of hearings will be provided both the faculty member and the President of the University.
4. Both the faculty member and the President may be represented by legal counsel.
5. The parties shall have opportunity to present evidence, examine and cross-examine witnesses, file objections, exceptions, and motions, provided however that where a party is represented by counsel, all such submission of evidence, examination, cross-examination, and filing objections, exceptions, and motions shall be done and presented solely by such counsel. The faculty member has the right to examine and use any part of his/her personnel file as may be permitted under the law in the furtherance of his/her case. Further, the faculty member has the right to call witnesses including members of the University staff in pursuance of his/her case.
6. Only evidence offered and made part of the record in the case shall be considered in the determination of the case. Documentary evidence may be received in the form of

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copies of excerpts or by incorporation by reference.

7. Depositions may be received in evidence when both parties have been given opportunities to appear and cross-examine the deponent.
8. The Board of Review, at its discretion, can set reasonable time limits for presentation of testimony.
9. The Board of Review cannot assure the presence of witnesses requested by either party. However, the Board will lend its weight to the request by either party that witnesses appear.
10. Upon the request of either party, all persons to be called as witnesses shall be sequestered until their testimony is completed; except that notwithstanding this rule, the President or the President's designee and no more than two members of his/her administration and his/her counsel and the faculty member and his/her counsel may at all times be present.
11. In case of serious delays caused by non-appearance of witnesses or other evidence, the Board of Review will rule on whether to continue without a delayed evidence. The Board of Review shall not grant continuances except for extraordinary circumstances.
12. A record of the hearing, including all testimony and evidence, shall be maintained. A copy shall be kept on file by the University and made available to both parties upon request. If the hearings are closed, the files will be confidential and available only to the parties, their representatives and counsel.
13. The entire proceeding shall be conducted in good faith by all persons.

### 8.3.3 Deliberations and Final Report of the Faculty Board of Review

1. After all evidence has been presented, the Faculty Board of Review will meet in closed sessions in order to prepare its report and recommendations to the Board of Regents.
2. Recommendations shall be determined by recorded majority votes. A recommendation to terminate the appointment of the faculty member must be supported by clear and convincing evidence.
3. The Board of Review will write a report that will be dated and that will include a list of the charges and specifications, a summary of the evidence presented, a summary of arguments of the parties, the specific findings of the Board with respect to the acts alleged as specification, and the recommendations of the Board with respect to each charge. The report shall be signed by all participating members. Dissenting opinions, if any, shall be attached.
4. The report, including recommendations, shall be submitted to the Chair of the Board of Regents within fourteen calendar days of the close of the hearings as determined by the Board of Review and - in the absence of an extension granted by the Chair of

the Board of Regents - no later than 60 days from receipt of the request for formation of the Board. A copy of the recommendations only shall be sent to the Senate.

5. Copies of the report, including recommendations, shall be sent to both parties.

#### 8.4 PROCEDURES FOR APPEALS TO THE UNIVERSITY SYSTEM OF MARYLAND (USM) BOARD OF REGENTS OF DECISIONS TO TERMINATE TENURED OR TENURE-TRACK FACULTY MEMBERS

([Board of Regents Policies and Procedures II-1.04](#); Approved by the Board of Regents, February 9, 2001)

1. A tenured or tenure-track faculty member whose faculty employment has been terminated for cause by the president of the employing institution pursuant to USM/ART §I.C.7(a) may appeal to the Board of Regents. All such appeals shall conform to these procedures.
2. An appeal may be requested only by filing a written notice of appeal. The notice of appeal must identify the faculty member and state that the faculty member wishes to appeal the termination of his/her employment to the Board of Regents. The notice must be filed within ten working days of the faculty's member's receipt of the letter communicating the president's decision to terminate. The notice of appeal is filed when it is received at the office of the president.
3. The president shall deliver the notice of appeal and the record (as defined herein) to the USM Vice Chancellor for Academic Affairs no later than ten working days after the receipt of the notice of appeal by the office of the president. The record shall include:
  - a. The statement of charges provided to the faculty member;
  - b. A tape recording, or written transcript, of the hearing provided pursuant to USM/ART §I.C.7(a). If no transcript of the hearing has been made, either party may request that a transcript be prepared. Such a request must be directed to the Vice Chancellor for Academic Affairs. If such a request is made, a transcript will be prepared and a copy provided to each party at the expense of the appointing institution;
  - c. Copies of all exhibits received by the hearing officer or faculty board of review;
  - d. The written recommendation of the hearing officer or faculty board of review;
  - e. Any additional material or information used by the President, if any;
  - f. The written decision of the President; and
  - g. A letter of transmittal from the President.

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4. Within 30 days of the filing of the notice of appeal, the faculty member shall file a memorandum in support of the appeal. The memorandum is filed when it is received in the office of the Vice Chancellor for Academic Affairs. The memorandum must be signed by the faculty member and by any attorney retained by the faculty member. It must identify the points in the President's written decision to which the appellant takes exception and a statement in each case of the reasons why. Factual allegations must include references to the record at the institutional level. New factual material not a part of that record will not be considered on appeal.
  5. The Vice Chancellor for Academic Affairs shall send a copy of the faculty member's memorandum to the president, who may file a written response with the Vice Chancellor for Academic Affairs no later than 30 days from the president's receipt of the faculty member's memorandum. A copy of the response must be sent to the faculty member or the faculty member's attorney or representative.
  6. Upon receipt of a notice of appeal, the Vice Chancellor for Academic Affairs shall send a copy to the Chair of the Board of Regents, who shall appoint three regents to hear the appeal (the "appeal panel") on the Board's behalf and name one of them to serve as chair. The appeal panel shall set a hearing date consistent with the above procedures and with the goal of achieving an expeditious conclusion.
  7. The hearing shall consist of oral argument on behalf of the faculty member and of the president. The panel chair shall specify in advance the time permitted for oral argument. No witness testimony will be allowed, and argument shall be limited to matters in the record.
  8. The appellant shall have the burden of showing that the President's decision was not supported by substantial evidence in the record and/or that the decision is premised upon an error of law, including procedural error.
  9. Either party may be represented by legal counsel at the hearing.
  10. The appeal hearing will be closed and will be recorded.
  11. Following the hearing, the appeal panel shall issue a recommendation to the full Board of Regents. The Panel may recommend affirmation of the President's decision, reversal of that decision, or remand to the institution for further action as specified. The Board shall consider and act on that recommendation in executive session no later than its next regularly scheduled Board meeting. The Board may concur in the Panel's decision or modify it. It shall communicate its decision in writing to the faculty member and the president within five working days of its decision. The Board's decision is final.
- 8.5 FACULTY RETRENCHMENT PROCEDURES -- FISCAL CRISIS, UNIVERSITY OF MARYLAND, BALTIMORE COUNTY (UMBC)

(Approved by the UMBC Faculty Affairs Committee, May 20, 1998; this policy was reviewed and approved by the Attorney General's Office, March 21, 2000. Section headings and paragraph style adapted to the format of this *Handbook*.)

### 8.5.1 General Principles

1. The November 29, 1990 University System of Maryland (USM) Board of Regents Policy on Faculty Retrenchment (II-8.00) defines "retrenchment" to mean the termination of a faculty appointment as authorized in the USM Policy on Faculty Retrenchment. When retrenchment occurs as a result of a lack of appropriation, then these procedures apply in their entirety.<sup>1</sup> For purposes of these procedures, a lack of appropriation exists when a fiscal crisis threatens or endangers UMBC's ability to carry out its mission as defined in the most recent mission statement approved by the Board of Regents, and the termination of faculty appointments including as necessary tenured or tenure-track faculty appointments will be substantially less detrimental to the institution's ability to fulfill its mission than other forms of budgetary curtailments available to the institution. Where the lack of appropriation is the basis for faculty retrenchment, the retrenchment plan may take into consideration such non-financial factors as institutional mission and long-range educational planning, and may call for program reductions or program eliminations.
2. Program review is a part of routine institution planning. While such reviews may be motivated in part by broad financial considerations, they normally occur as part of the ongoing management of the institution. Resulting program eliminations provide a basis for faculty terminations without the necessity of showing a lack of appropriations. Termination of faculty members resulting from program review will be governed by separate procedures developed in consultation with UMBC faculty.
3. It is the policy of UMBC, when faced with the prospect of faculty retrenchment, that faculty retrenchment shall be considered and implemented on a coherent, campus-wide basis, and that every reasonable effort shall be made to avoid the termination of the contracts of faculty and to fulfill the educational mission of UMBC. To this end, UMBC shall make every reasonable effort to utilize such alternatives to retrenchment as leaving unfilled faculty lines vacant, allowing for normal attrition, transferring faculty within UMBC to other positions for which they may be qualified, granting terminal leave, facilitating voluntary early retirement for those eligible, and using furloughs.
4. These retrenchment procedures are applicable only to all persons appointed to a rank identified or permitted under the USM Policy on the Appointment, Rank and Tenure of Faculty (II-1.00) of the USM By-Laws, Policies and Procedures of the Board of Regents.
5. The USM Retrenchment Policy and these retrenchment procedures are in addition to and not in limitation of other USM and UMBC policies and procedures concerning faculty appointments nor are they in limitation of any USM policies on academic program review.

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<sup>1</sup>For the purpose of these procedures, "restricted funding" as used in the USM Policy on Faculty Retrenchment shall mean as applicable: (i) the lack of appropriations or other funds with which to support the appointment, as set forth in the USM Policy on Appointment, Rank, and Tenure of Faculty, section I.C.9, or (ii) such other meaning set forth in corresponding sections of earlier appointment agreements still in effect.



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6. Consistent with applicable law, deliberations about specific personnel decisions of any committee shall be confidential.

### 8.5.2 Retrenchment Advisory Committee

#### 8.5.2.1 President's Role

1. The President has the sole authority within UMBC, subject to the authority of the Board of Regents, to initiate retrenchment. The President shall initiate retrenchment when the President determines that retrenchment is necessary, consistent with the USM and UMBC policies on Appointment, Rank and Tenure, and the UMBC Faculty Retrenchment Policy. A president's determination that a fiscal crisis exists is subject to review by the Board of Regents. In the event the Board elects to review such a determination, the president shall provide documentation of his or her action. The Board may receive comments from the president, representatives of campus and faculty governance bodies, and other interested persons.
2. When the President of UMBC anticipates that the elimination of the position of one or more permanent, full-time faculty members is likely or imminent, he or she shall inform the President of the Faculty Senate, in writing, that the Retrenchment Advisory Committee (RAC) shall be formed. The President shall not take action to eliminate faculty positions without consultation with the RAC.

#### 8.5.2.2 Composition of the Committee

1. The RAC is an ad hoc committee composed of the Provost, the Dean of Arts and Sciences, the Dean of Engineering, the Associate Vice-President for Academic Affairs<sup>2</sup> (referred to collectively as the "members of the Administration" on the RAC), the President of the Faculty Senate, the Chair of the Academic Planning and Budget Committee, three past members of the University Faculty Review Committee appointed by the President, and five faculty members to be elected by the Faculty Senate. The five faculty members shall be chosen, at the next possible Senate meeting, in accordance with the procedures in the Faculty Senate By-Laws for the nomination and election of standing committees. They shall represent a balance in disciplinary areas, and no more than one person from a department shall sit on the RAC. Two members of the RAC shall be non-tenured, tenure-track assistant professors. One member of the RAC shall be a full-time Instructor or Lecturer with job security resulting from seven or more years of continuous service at UMBC. Two of the faculty members of the RAC shall be members of the Academic Planning and Budget Committee. When the Faculty Senate is not in session, the President of the Senate, in consultation with the Faculty Senate Executive Committee, will appoint the faculty members. These appointments shall be confirmed by vote of the Senate at its next meeting. The members of the administration who sit on the RAC shall have voice but no vote. The Committee shall choose its own chair from among the faculty members of the RAC.

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<sup>2</sup>As representative of those departments not otherwise represented by a dean or associate dean.

2. If the Faculty Senate declines to elect faculty member(s) in a timely manner or if the faculty decline to serve, the President shall appoint replacement faculty members to serve on the committee.

#### 8.5.2.3 Committee Procedure

1. The President of UMBC shall report to the RAC on the fiscal conditions causing the prospect of retrenchment and on the alternatives to retrenchment that have been considered. This report shall include full budgetary documentation of the crisis.
2. The RAC shall present and document the circumstances of the fiscal conditions and possible alternatives to retrenchment and receive oral and written testimony at an open hearing held within 14 calendar days of the President's report to the RAC. The RAC may conduct the hearing in such a way as to ensure order and to obtain pertinent information from the UMBC community.
3. Within 14 calendar days of the open hearing, the RAC shall write a "Fiscal Crisis Report." The report shall include a determination as to whether a) a bona fide fiscal crisis truly exists and b) no other viable alternative to retrenchment can be found. This report shall be submitted to the President who shall distribute it to all faculty members. If the RAC agrees that a bona fide fiscal crisis exists, the report must state the nature and extent of the fiscal crisis. If the RAC recommends retrenchment, the Report must state the justification for the retrenchment. This Report shall propose criteria to be used in formulating specific recommendations, but shall not specify the elimination of particular departments, programs, or positions. If the RAC recommends against retrenchment, the report shall identify alternatives to retrenchment for consideration by the President. If the President does not agree with the findings and recommendations of the Fiscal Crisis Report, he or she shall meet with the RAC within 7 calendar days to discuss the differences. Having considered this report, the President shall determine within 14 calendar days whether a bona-fide fiscal crisis exists and whether retrenchment is necessary and give notice to the RAC.
4. Within 10 days of the President's formal declaration of fiscal crisis requiring retrenchment, the RAC shall hold a faculty hearing on the Fiscal Crisis Report to obtain information necessary for the "Retrenchment Report," as required by 8.4-II.C.6.
5. For the purposes of this policy, the unit of retrenchment shall be a department or program. A program is defined as an academic unit which is not a department or within a department, to which faculty are appointed and in which faculty may hold tenure.
6. Within 60 calendar days of the faculty hearing described in 8.4-II.C.4, the RAC shall formulate and transmit to the President, a "Retrenchment Report" containing specific recommendations concerning the units in which individual faculty positions shall be considered for elimination. These recommendations shall take into account, among other factors, programmatic balance within the University, student demand, programmatic diversity, the academic mission, quality and professional integrity of the University, department(s), and/or program(s). Prior to formulating the

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Retrenchment Report, the RAC Chair is responsible for identifying potential “conflicts of interest,” discussing them with the pertinent RAC member(s), and requesting that those RAC members with conflicts of interest withdraw from the Retrenchment Report deliberations as appropriate.

7.
  - a. Within 10 calendar days of receipt of the Retrenchment Report, the President shall notify the RAC of his or her response.
  - b. If the President approves the RAC's recommendations, he or she shall transmit them to the appropriate members of the Administration, and to all departments and programs.
  - c. If the President does not approve the RAC's recommendations, they shall be reconsidered by the RAC and amended recommendations may be made within 10 calendar days of receipt of the President's response. If the RAC's recommendations are still unacceptable, the President will meet with the committee within 10 calendar days of receipt of the revised recommendations to discuss the differences.
  - d. The President has final authority over any decision or determination under these retrenchment procedures. In addition to the advice of the committees established under retrenchment procedures, the President may seek the advice of any individual, group, or office within UMBC or outside the institution. The President may adopt recommendations from any committee identified in the retrenchment procedures, adopt them with modifications, or reject them and make substitutions for them. Based upon these discussions, the President will prepare a specific retrenchment directive which he or she shall transmit to the members of the Administration on the RAC and to all departments and programs.
  - e. The President shall have the right to adjust any schedule referenced in the retrenchment procedures except for those pertaining to the notice for termination and to the appeal process. The President shall give reasonable advance notice of any such adjustment to all parties. Failure to comply with schedules that may be modified, however, shall not be grounds for appeal under these retrenchment procedures.
8. Should the RAC fail to act within the allotted times, at any stage of the process described in 8.4-II.C.1 through 8.4-II.C.7, the President has the authority to move to the next step within the process.
9. Notwithstanding the provisions of Paragraph 8.4-II.C.7(e) above, a state of fiscal crisis shall not exist for longer than one year after the date of the President's declaration. If the President wishes to continue operating UMBC under the terms of the Retrenchment Policy, he or she must again declare a state of fiscal crisis and arrange for the convening of a new RAC.

### 8.5.3 Implementation

The appropriate dean(s) in consultation with the head(s) of the affected department(s) and/or program(s), shall be responsible for the implementation of the President's Retrenchment Directive. All actions shall be in conformity with the employment contracts between faculty members and UMBC and with the Board of Regents policies and consistent with §8.4-IV of these procedures. The dean(s) shall recommend to the Provost in writing the specific faculty members(s) whose positions are to be terminated. The Provost shall then make recommendation(s) to the President. Every reasonable effort shall be made to place the faculty member concerned in another suitable position within UMBC and to provide professional development necessary to perform newly assigned duties effectively. The President shall issue letters of termination in a manner consistent with the requirements of "notice" specified in Section 8.4-V.A of this document.

### 8.5.4 Order of Termination Within Departments or Programs

#### 8.5.4.1 Deviations from the Order of Termination

Deviations from the order of termination may be made only when the termination of the appointment of the faculty member would significantly impede the ability of the institution or retrenchment unit affected by retrenchment to fulfill its mission and goals, or to fulfill commitments under grants and contracts. The reason and basis for making a decision to deviate from the order of termination shall be adequately documented. In the case of joint appointments or interdisciplinary programs, the consultation shall be opened to the appropriate department chair or program director and deans.

#### 8.5.4.2 Order of Termination

Consistent with 8.4.4.1, the order of termination will be as follows:

1. Faculty members on temporary contracts (full-time or part-time appointments made for one year or less). The termination of employment of faculty in this category shall be consistent with the academic mission and professional integrity of UMBC, department(s), and/or program(s).
2. Part-time non-tenured faculty members who have contracts that extend beyond one year. The termination of employment of faculty in this category shall be consistent with the academic mission and professional integrity of UMBC, department(s), and/or programs.
3. Full-time Instructors or Lecturers with job security as the result of having completed seven or more years of continuous service as full-time Instructors or Lecturers at UMBC. The termination of employment of faculty in this category shall be consistent with the academic mission and professional integrity of UMBC, department(s), and/or program(s).
4. Non-tenured faculty in tenure-track positions. The termination of employment of faculty in this category shall be consistent with the academic mission and professional integrity of UMBC, department(s) and/or program(s). As a normal principle, retrenchment shall not be accomplished through the interruption of the normal tenure review process and the normal tenure review process shall continue.

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during the period of fiscal crisis.

5. Tenured faculty, in a manner consistent with the academic mission and professional integrity of UMBC, department(s) and/or program(s).

#### 8.5.4.3 Seniority

1. Seniority shall be the controlling factor in the termination of tenured faculty members; however, in exceptional cases, a faculty member with less seniority may be retained over another with more seniority when the chair of the department or program and the appropriate dean agree that to do otherwise would jeopardize the professional integrity of the department or program or would otherwise significantly impede the ability of the institution or affected retrenchment unit to fulfill its mission and goals. In the case of joint appointments or interdisciplinary programs, the consultation shall be opened to the appropriate department chair or program director and deans.
2. Seniority shall be determined by the following criteria:
  - a. Seniority is based on length of continuous full-time service (including, but not limited to, approved fellowship leaves and sabbatical leaves) at UMBC since effective date of initial appointment in the tenure-track position at UMBC, not the date of tenure.
  - b. In the case of faculty members with equal lengths of service, the faculty member who attained tenure earliest shall be considered most senior.
  - c. In the case of faculty members with equal lengths of service and an equal number of years in tenure status, the faculty member who has the highest rank shall be considered the most senior.
  - d. In the case of faculty members with equal lengths of service, equal number of years in tenure status, and equal rank, the Dean, in consultation with the Chair, shall determine the order of termination consistent with the professional integrity of the unit and the mission and goals of the university.

#### 8.5.5 Notification of Termination

##### 8.5.5.1 Termination Notice Period

For the purpose of these retrenchment procedures, the applicable termination notice period is determined by the status of the faculty at the time the notice of termination is given. The period of notification of termination shall be determined as follows:

1. Non-tenure track faculty, as defined in the University System of Maryland Policy on Appointment, Rank and Tenure of Faculty, shall be given written notice of up to one year but not less than 30 days prior to the date of termination of appointment.
2. Full-time instructors or lecturers, with job security resulting from seven or more years of continuous service to the institution, commencing July 1, 1984, shall be

given written notice of termination of at least one year prior to the date of termination of appointment.

3. Non-tenured, tenure-track faculty shall be given notice of termination not less than one year prior to the date of termination of appointment.
4. Tenured faculty members shall be given notice as set forth in University System of Maryland Policy on Appointment, Rank and Tenure of Faculty, Section I. C. 9. or corresponding sections of earlier faculty appointment agreements still in effect, as applicable.

#### 8.5.5.2 Written Notification

The President shall give a written notice of termination to each faculty member whose appointment is to be terminated pursuant to these retrenchment procedures, indicating the reason for the necessary retrenchment and informing the faculty member of his or her right to a hearing before the Faculty Grievance Committee (FGC). Notice of termination shall be effective on the date the notice is mailed by U.S. certified or registered mail, return receipt requested to the last address that the terminated faculty member has on record with UMBC. The termination notice shall include:

1. Notification that the appointment is being terminated pursuant to these retrenchment procedures;
2. The reason(s) for termination;
3. A description of the process and data whereby the decision was made;
4. If applicable, a statement that deviation was made from the order of termination and the circumstances of the deviation;
5. The applicable notice period;
6. The effective date of termination;
7. Notification of the right of the faculty member to appeal the termination of appointment to the Faculty Grievance Committee and a copy of these retrenchment procedures;
8. A statement that System Administration shall send, for a period of one year, written notice of faculty openings within the System to the last address that the faculty member has on record with the institution;
9. Any other assistance available from the University to aid the affected faculty member in finding other employment.

#### 8.5.6 Retrenchment Appeals Procedure

##### 8.5.6.1 Retrenchment Appeals Committee

The President shall appoint the Faculty Grievance Committee to serve as the Retrenchment

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Appeals Committee. The Retrenchment Appeals Committee shall hear appeals in accordance only with the procedures outlined in this policy. No other appeal procedures within UMBC are available. No faculty member designated for termination as part of a retrenchment proposal may participate for the purpose of this appeals procedure as a member of the Retrenchment Appeals Committee.

#### 8.5.6.2 Appeals

Each faculty member whose employment is to be terminated may file an appeal, setting forth in writing the grounds thereof. A request for appeal must be filed with the President of UMBC and the President of the Faculty Senate within 10 working days<sup>3</sup> after effective mailing date of the notice of termination.<sup>4</sup> The filing of an appeal shall not postpone the effective date of termination, but if the appeal is successful, all due back pay and employment benefits shall be paid to the appellant. The grounds for appeal shall be limited to:

1. An error in the application of the order of termination of appointment;
2. Procedural error;
3. Insufficiency of notice of termination;
4. Whether any deviation from the order of termination was made without reasonable grounds; or
5. The termination was otherwise unlawful, including allegations of violations of principles of academic freedom or nondiscrimination, or of arbitrary and capricious decisions.

#### 8.5.6.3 Convening of the Retrenchment Appeals Committee

Within 3 working days of receipt of a faculty appeal, the President of UMBC will notify the chair of the Faculty Grievance Committee of the need to convene as the Retrenchment Appeals Committee. The committee must schedule a hearing to occur no earlier than 30 nor later than 45 calendar days after the President has notified the committee of the appeal. The committee shall inform the faculty member of the date, time, and place of the hearing no later than 10 working days after the President has notified the committee of the need to convene.

#### 8.5.6.4 Provision of Materials to the Retrenchment Appeals Committee

The faculty member must provide the committee a statement of facts on which the appeal is based and a list of witnesses and documents to be introduced at the hearing no later than five working days prior to the date of the hearing.

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<sup>3</sup>Working days are defined as Monday through Friday, inclusive, exclusive of holidays recognized by the institution.

<sup>4</sup>In the event that the Committee finds that a faculty member whose employment is to be terminated could not be reasonably expected to have filed a request for appeal within 10 working days after effective mailing date of the nature of termination, the Committee shall grant an extension.

#### 8.5.6.5 Retrenchment Appeals Committee Recommendation

The committee shall send its written recommendation, by U.S. certified or registered mail, return receipt requested, to the President of UMBC, to the President of the Faculty Senate and to the appellant, no later than 10 working days after the date of the conclusion of the hearing.

#### 8.5.6.6 President's Decision

Within 10 working days after receipt of the Committee's report, the President shall issue a final decision and mail a copy to the faculty member, the FGC Committee chair, and the President of the Faculty Senate by U.S. certified or registered mail, return receipt requested. In the event that the President does not accept the Committee's decision, the President's final decision shall contain the reasons for not doing so.

#### 8.5.6.7 Conduct of the Hearing

1. The institution will be represented by the Office of the Attorney General or its designee.
2. The faculty member may be represented by legal counsel throughout the appeal proceedings at the faculty member's expense.
3. The hearing shall be audiotaped and a copy of the tape shall be provided to the faculty member, if requested.
4. The faculty member and the institution each may call witnesses and present documentary evidence at the hearing. Each member of the committee may call and question witnesses and request the presentation of documentary evidence. Legal representatives may provide counsel, but may not address the committee or examine witnesses during the hearing.
5. The formal rules of evidence and of judicial procedure shall not apply to the appeal hearing; however, the committee may exclude irrelevant or repetitious testimony.
6. The faculty member's failure to appear at the hearing without good cause shall be deemed a voluntary dismissal of the appeal.
7. The appeal committee must make the decision based on the record.
8. Postponement of the hearing may be granted at the discretion of the committee upon the written request of the faculty member.

#### 8.5.6.8 Alternate Retrenchment Appeals Committee

In the event that the Faculty Grievance Committee is not available to hear the appeal, the President, in consultation with the Faculty Senate President and the Chair of the Faculty Grievance Committee, or their designees, shall appoint a Retrenchment Appeals Committee. The Retrenchment Appeals Committee shall consist of 7 members who are Associate Professors or Professors with tenure, and 2 members who are Assistant Professors without tenure. The Retrenchment Appeals Committee shall conduct its hearings in accordance with these policies and procedures.



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## 8.5.7 Re-employment Procedure Following Retrenchment

### 8.5.7.1 Maintenance of Faculty Files

Following a termination of appointment of a faculty member owing to retrenchment, the Provost of UMBC shall direct a member of his or her staff to maintain a file for 3 years on each former faculty member containing his or her resume, permanent mailing address, and phone number. A copy of each file will also be maintained by UMBC's chief personnel officer.

### 8.5.7.2 Notification of Vacancies

The President or designee shall be responsible for informing the presidents of other institutions in the University System of Maryland concerning the disciplines and areas of specialization of the faculty who have had their positions terminated. If, during the 3 years following the faculty member's termination under these procedures, the Provost becomes aware of vacancies in the faculty member's discipline or area within the University System of Maryland, the Provost shall make his or her best effort to inform the former faculty member of them.

### 8.5.7.3 Documentation of the Nature of Termination

A faculty member who has been given notice of termination, under these procedures, at the end of his or her employment shall be given a letter from the President that states that termination does not imply a negative judgment about the faculty member's performance, but was caused by fiscal crisis.

### 8.5.7.4 Offer of Reinstatement

In all cases of termination of appointment because of fiscal crisis, the position of the faculty member concerned shall not be filled by a replacement within a period of 3 years, unless the released faculty member has been offered reinstatement and a reasonable amount of time in which to accept or decline it.

### 8.5.7.5 New Appointments and Positions

If the University, because of fiscal crisis, terminates appointments within a department or program, it shall not make new appointments or create new positions with duties and responsibilities equivalent to those eliminated within that department or program, or its successor, within a period of 3 years, unless the released faculty member has been offered reinstatement and a reasonable amount of time in which to accept or decline it. This applies to tenured and tenure-track faculty, and full-time instructors or lecturers with job security resulting from 7 or more years of continuous service at UMBC.

## 8.6 POLICY ON THE REVIEW AND ABOLITION OF EXISTING ACADEMIC PROGRAMS

([Board of Regents Policies and Procedures III-7.02](#); Approved by the Board of Regents, October 27, 2000)

1. This policy applies to all proposals for the abolition of existing academic programs, whether they originate as a result of periodic program review, in response to the identification of such programs as "low productivity," or as part of an overall

institutional restructuring.

2. In accordance with Section 11-206.1(A)(1) of the Annotated Code of Maryland, a President who proposes to abolish an existing academic program shall provide the Board of Regents with evidence that the action is consistent with the adopted mission of the institution and can be implemented within the existing program resources of the institution. The Committee on Education Policy of the Board of Regents shall review each proposal for the abolition of an existing academic program and provide a report to the full Board of Regents.
3. The President shall provide the Board of Regents with information on the following:
  - a. proposed date after which no new students will be admitted into the program;
  - b. accommodation of currently enrolled students in the realization of their degree objectives;
  - c. treatment of all tenured and non-tenured faculty and other staff in the affected program;
  - d. reallocation of funds from the budget of the affected program; and
  - e. existence at other state public institutions of programs to which to redirect students who might have enrolled in the program proposed for abolition.

## 8.7 UMBC PROCEDURES FOR EMERITUS APPOINTMENTS

(Adopted by the Faculty Senate on May 8, 1984; Updated in March, 1992; May 14, 1996; Amended April 10, 2007; Amended May 11, 2010. Section headings and paragraph adapted to the format of this *Handbook*.)

### 8.7.1 Criteria for Appointment to Emeritus Status

An emeritus appointment is based on meritorious performance over a number of years, consistent with the performance expected of senior members of the faculty. Tenured associate professors, professors, and librarians are eligible for nomination to emeritus status. Individuals will hold the title Emeritus Associate Professor or Emeritus Professor or Emeritus Librarian depending on the rank held at retirement from UMBC. Non-tenure track, both part-time and full-time, faculty are eligible for nomination to emeritus status after 10 years of consistent and meritorious service to UMBC. They will hold the title Emeritus Faculty on separation from UMBC.

### 8.7.2 Procedure for Appointment of Emeritus Faculty

An emeritus appointment is not automatic but requires a recommendation supported by a majority vote of the tenured faculty of the department or unit from which the faculty member is retiring.

Department chairs/program directors will forward their and the tenured faculty's recommendations along with an updated curriculum vitae of the retiring faculty member to the appropriate dean or supervisory officer.

Deans/supervisory officers will submit departmental requests along with their recommendations to the Provost who will make a recommendation to the President.

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### 8.7.3. Rights and Privileges

A faculty member may request determination of eligibility for an emeritus appointment at any time following the date one year prior to eligibility for retirement from the University until two years following retirement. The departmental recommendation shall be forthcoming not longer than eight weeks following such a request (or eight weeks into the academic year, in the event the request is made during the summer), and the President's decision shall be made not longer than eight weeks following the departmental recommendation.

All retired faculty shall be allowed, as university and departmental resources permit:

- The same access to and use of the library and athletic facilities as accorded to regular faculty
- To maintain their email and computer accounts
- To receive free parking permits to ungated lots .

*Emeritus* faculty shall be allowed, as university and departmental resources permit:

- The same access to and use of the library and athletic facilities as accorded to regular faculty
- To maintain their email and computer accounts
- To receive free parking permits to ungated lots or have the option of purchasing a gate card, if they have an assigned space in such a lot
- The use of office space with appropriate support services. The amount and type of office space and support services will be negotiated with the chair of the department based on available space and the ongoing research and teaching involvement and needs of the emeritus faculty member.
- To serve on and chair university and department committees that do not limit members to full-time or tenured faculty.

All retirees will be listed in the UMBC Directory at their option. All retirees will be informed by mail of selected campus activities and will include faculty discounts where applicable.

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