

## MEMORANDUM

TO: President, Provost, Vice Presidents, Deans, Chairs, and Directors

FROM: Valerie A. Thomas  
Assistant Vice President for Human Resources

SUBJECT: Reemployment After Retirement

DATE: December 5, 2005

This memorandum contains important information about reemployment of retirees of the Maryland State Retirement and Pension System (MSRPS). Occasionally UMBC will hire individuals who have retired under MSRPS and are receiving a retirement/pension allowance, and it is important to recognize when such a hire can create problems for the University. The following information does not apply to retirees of the Optional Retirement Plan, only to those who have retired from a State retirement or pension plan.

State law now dictates that an individual may not be rehired by a unit of State government within **45 days** of the date of his/her MSRPS retirement *if* the individual's last employer before the individual commenced receiving a service retirement allowance was *also* a unit of State government. **The University System is considered to be part of State government for the purposes of applying this law. Therefore, UMBC cannot hire an individual who retired under MSRPS and was employed by any unit of State government (including the University System) within the previous 45 days.**

Furthermore, Internal Revenue Service regulations require that an employee have a "bona fide separation from service" before returning to work for the same employer. To have a "bona fide separation from service," in addition to the 45-day break now required by State law, the employer and the retiring employee should have no arrangement of reemployment at the time of the retirement. Therefore, the retiring employee should not have a pre-arranged agreement with any unit of State government (including the University System) to return to work after retirement.

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And finally, when the IRS is considering whether a “bona fide separation from service” has taken place, it is helpful that the reemployed individual’s duties are different from those he/she performed prior to retirement. The difference in duties is not *required*, but is helpful in proving that a bona fide separation took place.

In summary, hiring managers at UMBC should remember the following when considering candidates for employment:

- (1) If the candidate is retired under MSRPS, and the last employer prior to retirement was a unit of State government, then the candidate may not be employed at UMBC within the first 45 days after the retirement date;
- (2) No offers of reemployment should be made or discussed by the employer at the time of retirement; and
- (3) Extra care should be taken when the employee is returning to the same or a similar job. In such cases the longer the break in service beyond 45 days the better, and the more different the duties are the better.

Failure to comply with these requirements could put the State Retirement and Pension System in jeopardy of plan disqualification by the IRS. Thank you for your cooperation in adhering to these rules. If you have any questions, please contact me at x53142 or David Jordan of my staff at x53647.