

USM Bylaws, Policies and Procedures of the Board of Regents

VII - 7.12 - POLICY ON LEAVE OF ABSENCE WITHOUT PAY FOR NONEXEMPT AND EXEMPT STAFF EMPLOYEES

(Approved by the Board of Regents, May 1, 1992; Amended November 12, 1993; Amended October 9, 2015)

I. PURPOSE AND APPLICABILITY

- A. This policy governs voluntary leaves of absence without pay (LWOP) for regular full-time and part-time Nonexempt and Exempt employees of the University System of Maryland.
- B. Emergency military leave, temporary military leave, and indefinite military leave shall be granted to eligible employees in accordance with applicable state and federal law, and shall be governed by the Policy on Military Leave With Pay for Nonexempt and Exempt Staff Employees on Regular Status (BOR VII-7.23).
- C. Leaves for family and medical reasons shall be granted to eligible employees in accordance with applicable state and federal law, and shall be governed by the USM Policy on Family and Medical Leave For Nonexempt and Exempt Staff Employees (BOR VII-7.50).

II. ELIGIBILITY

- A. Granting of requests for a leave of absence without pay shall be at the discretion of the President or designee after consideration and determination of the following:
 - 1. The employee shall:
 - a. hold a regular full-time or regular part-time (50% or more) position, and
 - b. have completed a total of at least twelve (12) months of service at the USM institution from which the employee wishes to take leave, and
 - c. have a satisfactory record of work performance, and
 - d. not have a record of abuse of accrued leave usage.
 - 2. Granting of the request shall:

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- a. not disrupt or interfere with the operations or work schedules of the institution or institutional unit.

III. DURATION OF LEAVE

All regular employees may request a full or partial leave of absence without pay up to a maximum of a two-year (24 month) period in accordance with the provisions of this policy.

IV. REASONS FOR LEAVE

- A. A leave of absence without pay may be requested by an eligible employee for reasons such as:
 1. loan of an employee to another governmental agency, higher education institution or related organization;
 2. outside employment that would lessen the impact of a potential layoff or a layoff;
 3. professional activities related to academic research, advanced study, career development, or other professional activities that are determined by the institution's President or designee to be of benefit to the University System of Maryland or system institution;
 4. anticipated low demand for the employee's services during slow periods in the institution's or unit's operations (seasonal leave), or
 5. other activities as determined to be appropriate by the President.

V. JOB PROTECTION

- A. Unless otherwise agreed to by the employee and the President or designee, a leave of absence without pay granted within the provisions of this policy assures the employee a right to return to the same position or to another equivalent position within the same department having the same pay, benefits, other terms and conditions of employment, status and responsibilities as the former position upon expiration of the leave.

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- B. If during the leave the President or designee determines that the position cannot be held available, the employee shall be provided written notification of the decision and shall be provided information regarding the equivalent position to which the employee will be returned upon expiration of the leave. The employee shall have the right to return to work within fifteen (15) working days from receipt of such notice in order to keep the position from which the leave taken.
- C. If there are reductions in the work force while the employee is on leave and the employee would have lost the position had leave not been taken, then except as provided under BOR VII-1.30 Policy on Layoff for Nonexempt Staff Employees or BOR VII-1.32 Policy on Layoff and Recall of Regular Exempt Staff Employees and BOR VII-9.61 Policy on Reemployment and Reinstatement for Regular Nonexempt and Exempt Staff Employees, an employee has no rights under this policy to be returned to the former or to an equivalent position.
- D. If there are increases or decreases in pay, benefits, or other terms and conditions of employment while the employee is on leave that would have affected the employee had leave not been taken, then except as provided under applicable USM policy, the employee shall be returned to employment consistent with current applicable, appropriate pay, benefits and other terms and conditions of employment.
- E. An employee on leave of absence without pay shall not return from leave prior to the agreed upon expiration of the leave without written approval of the President or designee.

VI. STATUS OF BENEFITS WHILE ON LEAVE

- A. All benefits, including health care and service credit for retirement and other purposes, shall be suspended for the period of the leave of absence without pay. However, an employee on leave of absence without pay for more than thirty (30) days may elect to continue health care and other benefits, as permitted by law or regulation, by paying the full cost of the benefits, including the share ordinarily paid by the employer.
- B. An employee who elects to discontinue health benefits may not re-enroll in the State of Maryland health benefits program within the same benefit year without certification that the employee has been enrolled in another health plan during the period of leave.
- C. Under exceptional circumstances and on a case by case basis, the President or designee may approve the continuation of the employer's subsidy for health care

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benefits if the reason for the leave is determined by the President or designee to be of benefit to the USM institution. Employer costs of any payments made to maintain the employee's health benefit coverage while on a leave of absence without pay shall be recovered if the employee fails to return from leave.

VII. COMPENSATION DURING LEAVE

This policy governs unpaid leaves of absence; however, depending upon the reason for the leave request, the President or designee, may require that accrued sick leave, annual leave, personal leave, holiday leave or compensatory leave (in the case of non-exempt employees) be used prior to granting LWOP.

VIII. PROVIDING INFORMATION ABOUT LEAVE

The employee shall provide complete, accurate and timely information related to the request for, continuation of, modification(s) to, and return from leave.

IX. FAILURE TO RETURN FROM LEAVE

An employee who will not be returning to the institution at the conclusion of a leave shall notify the President or designee in writing as soon as practicable. In the absence of written notification, failure to return from leave shall be interpreted as a resignation.

X. MISCELLANEOUS

- A. Upon request of the President or designee, an employee granted a leave of absence without pay shall provide progress reports and/or verification that the conditions of the leave are being/were met.
- B. Service credit shall not be granted to an employee on a leave of absence without pay.
- C. An employee may elect to purchase service credit at the time of retirement for prior leaves without pay that are qualified by the Maryland State Retirement and Pension Systems. Upon approval of a leave without pay, an employee shall follow the institution procedure to assure that this option may be exercised.
- D. When LWOP is approved for employees who are on probation status, the probation period shall be adjusted upon the return of the employee by the length of time used for LWOP.

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IMPLEMENTATION PROCEDURES

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.