

UNIVERSITY OF MAINE SYSTEM

Policies and Procedures For Supervising University Employees



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University of Maine System
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[Policies and Procedures for Supervising University Employees](#)

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INTRODUCTION

This manual was produced by the System Office of Human Resources for all those within the University of Maine System who have supervisory responsibilities. Before you read further, you may find the answers to the following questions helpful.

Why did I get this manual?

Regardless of the university where you work, or the specific nature of your job, all those who supervise share some common functions. You received this manual, and will continue to periodically receive new material for the manual, because your University position includes supervisory responsibilities. The information in this manual applies to all those who supervise at least one other employee.

How does this information relate to university policy and procedure?

Each university has unique policies and procedures in a number of very important areas. These are communicated to employees in a variety of ways, including manuals. This book contains **system-wide** policies and procedures. In some cases, these have served as the basis for more specific university guidelines. In other instances, the information covered in this manual is treated in an identical manner by each university. The policies included here have been approved by the University Board of Trustees, or have been issued by System administrators and therefore apply to all universities. *All Board policies in this handbook have been italicized in each section for ease of recognition.*

The policies included here are those that most directly affect supervisors. A separate manual, kept in the President's Office at each university, contains all **Board policies** approved since 1968, when the University of Maine System was formed. All Board policies are also available at [Policy Manual](#).

This manual includes most of the policies in the Human Resources and Labor Relations section of the Board manual as well as the policies on Patents and Copyrights, Free Speech and Assembly, and Advanced Degrees for Faculty. In several cases, where the original policy is quite lengthy, we have provided a summary instead of the entire policy.

The System Office of Human Resources has developed guidelines for the implementation of Board policies on equal opportunity and sexual harassment. These guidelines have been included in this section, immediately following the policy to which they relate.

Aren't there different policies for the academic and the non-academic areas?

Certainly, many University policies apply to specific functional areas. We have attempted here, to the maximum extent possible, to include policies that cut across those functions and apply to all those who supervise. Nevertheless, you will find some parts of this manual more relevant to the work that you do than other parts. Perhaps the best way to use the manual is to browse through it and become familiar with all the topics. Thoroughly read those sections that are most relevant to the work that you do. Then use the manual as a reference, looking up information as the need arises.

Does this manual contain all the policies and procedures I need to know as a supervisor?

Certainly not! In addition to university-specific policies and procedures that were referred to above, there are other resources that you should have. It is essential that you have copies of the **collective bargaining agreements and employee handbooks** that affect the staff you supervise. A list of these resources appears in Part One. Most of the specific questions that you will be asked as a supervisor can be answered by referring to the appropriate agreement or handbook.

There are also several **booklets that explain University benefit programs**. Although summaries of the benefits available to employees are included here, the lengthier documents provide more complete information. Each university Human Resources Office has copies of these booklets.

Administrative Practice Letters (APL's) are standards governing certain aspects of day-to-day operations of the University System. This Manual includes an index of all Administrative Practice Letters, as well as complete copies of some of the specific Letters that directly impact the work of many University supervisors. The Chief Financial Officer at each university has the APL Manual, which is published by the Office of Finance and Treasurer, University of Maine System. The text of all APL's is also available at the Office of Finance and Treasurer homepage at [Administrative Practice Letters](#).

There are **other publications** that are designed to inform employees about system-wide policies in areas such as conflict of interest, sexual harassment, and use of drugs and alcohol, or to educate employees about University compliance with federal and state laws, such as the Family Medical Leave Act and the Americans With Disabilities Act. We suggest that you keep those publications with this manual.

Changes to this Manual will be made periodically. The most up to date version is available at Policies and Procedures for Supervising University Employees on the University of Maine System Human Resources homepage. For more information about any of the policies or procedures in this manual, contact your university Human Resources Office.

UMS Supervisor Development Institute

Roles and Responsibilities of the UMS Supervisor

SUPERVISORY KNOWLEDGE

- Understand the mission and goals of the University and your department
- Understand University policies, procedures, and regulations
- Understand federal and state laws and regulations regarding employment
- Understand union regulations affecting the staff you supervise
- Know effective hiring practices/procedures
- Understand progressive discipline policy
- Efficiently use resources (human, financial) available to you
- Value the importance of establishing your credibility/role as a supervisor/leader

SUPERVISORY SKILLS

Communicating and Setting Expectations

- Share information on department goals and individual accountabilities with staff
- Clarify expectations with staff
- Make timely decisions and inform staff in a timely manner
- Seek buy-in from staff and obtain support from upper management before implementing changes
- Share information on changes with the staff and help staff adapt to change

Scheduling Work and Developing the Capabilities of the Staff

- Help schedule work so it is manageable and gets completed
- Delegate to staff to help them increase their capabilities
- Ensure employees have tools to get the job done
- Encourage personal and professional growth
- Provide needed training, coaching, and mentoring to build skills and knowledge of your staff

Creating a Positive Work Climate and Effective Team

- Encourage a positive work climate
- Create a cohesive team
- Recognize impact of your style on others
- Value people with styles and perspectives that are different from yours
- Address conflicts and problems as they arise
- Represent your area/advocate for your staff

Performance Management

- Establish goals with staff
- Provide feedback to staff on how they are performing compared with expectations
- Monitor performance in a constructive way that works well for your staff
- Conduct performance discussions with staff to review strengths and areas of needed improvement

- Evaluate performance of staff in written performance reviews
- Recognize positive contributions of your staff
- Address performance problems in a timely and constructive way
- Use progressive discipline process when needed

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COLLECTIVE BARGAINING AND EMPLOYEE RELATIONS

Collective Bargaining Contracts and Employee Handbooks

Employment policies for represented employees, which are found in the collective bargaining contract for each bargaining unit, are available at [Labor Relations](#). Employment policies for non-represented employees are found in employee handbooks available at [Employee Handbooks](#). Contracts and handbooks are also available from the university Human Resources Office.

Collective Bargaining Contracts

Associated C.O.L.T. Staff of the Universities of Maine, MEA/NEA - Clerical, Office, Laboratory and Technical Unit (ACSUM)

Associated Faculties of the University of Maine System, MEA/NEA – Faculty Unit (AFUM)

Maine Part-Time Faculty Association – American Federation of Teachers Local #4593 AFT-Maine, AFL-CIO –Part-Time Faculty Unit (PATFA)

Teamsters Union Local No. 340 – Police Unit

Teamsters Union Local No. 340 – Service and Maintenance Unit

Universities of Maine Professional Staff Association, MEA/NEA – Professional Unit (UMPSA)

Employee Handbooks

Handbook for Non-Represented Faculty, Professional and Administrative Staff

Handbook for University Supervisors and Confidential Employees

Employees' Rights to Representation: The Basics of "Weingarten Rights"

Section 963 of the Maine Labor Relations Act guarantees that, in meetings with their employer, public employees who reasonably believe that the meeting might result in disciplinary action have the right to the assistance of a union representative. (Teamsters Local Union No. 48 v. University of Maine, Me.L.R.B. June 29, 1979). The parameters of this protection were outlined by the United States Supreme Court in National Labor Relations Board v. J. **Weingarten**, Inc., (420 U.S. 251 (1975)) wherein the Court said that it is well-settled that an employer's denial of an employee's request that a union representative be present at a meeting which the employee reasonably believes might result in disciplinary action constitutes unlawful interference, restraint and coercion.

What Does This Mean in Practical Terms?

An employee has the right to have a union representative at a meeting when the employee reasonably believes disciplinary action may take place. The Employer is not obligated to inform the employee of this right; the employee must request the right. When the University schedules a pre-disciplinary or fact-finding meeting, it is the practice (not the obligation) of the University to inform the employee in the letter that the employee has this right.

"A meeting" would include any interaction between an employee and a supervisor where the supervisor questions the employee in an attempt to obtain information which could be used as the basis for discipline or asks an employee to defend his / her action. Discipline must be "probable" or "seriously considered" in order to trigger **Weingarten** protections. If the purpose of the interaction is supervisory rather than investigatory (e.g., giving instruction, training, correcting work techniques or imposing actual discipline), no right to union representation inheres.

An employee's fear of discipline may be removed upon delivery of assurances that no discipline will result, if the employee knows that the official making such assurances is empowered to make good on them. Should a supervisor give such assurances and the employee then proceeds to make statements that would normally lead to disciplinary action, the supervisor may be unable to take disciplinary action due to the assurances.

In a meeting where an employee has a reasonable belief that discipline may ensue and the employee requests that a union representative be present, the supervisor should stop questioning the employee until a union representative arrives.

The employee may request a particular union representative that s/he wants, but if that representative is not readily available (e.g., not at work, would create a time delay or operational hardship), the Employer may insist that the employee take whichever representative is available. The Employer does not have to postpone the meeting should the employee wish to consult an attorney.

When the union representative arrives, the representative should be apprised of the issue and be allowed a short, private, pre-meeting consultation with the employee if desired. The Employer has no duty to negotiate with the union representative at the meeting. The Employer may not require the representative to be a mere silent observer. The role of the representative is to assist the employee. However, if the representative repeatedly interrupts and advises the employee not to answer questions, the Employer may eject the representative. The representative is not entitled to insult management, pound the table, and/or shout obscenities.

Union Membership Solicitation

Solicitation

Solicitations of union membership by individuals who are not employees of the University of Maine System will be allowed on the University campuses in nonworking areas (for the purpose of this policy, classrooms and laboratories shall be considered to be working areas) during nonworking hours (nonworking times, where applicable), and with the understanding that coffee breaks are not considered as nonworking, of employees involved; provided that such solicitation is not disruptive.

Solicitation of union membership by employees of the University campuses will be allowed in nonworking areas (for the purpose of this policy, classrooms and laboratories shall be considered to be working areas) during nonworking hours (nonworking times, where applicable), with the understanding that coffee breaks are considered as nonworking; provided that such solicitation is not disruptive.

Distribution of Materials

General distribution of union materials on the University campuses will be allowed in nonworking areas during both working and nonworking hours (working and nonworking times, where applicable); provided that the same shall not be disruptive.

Posters and notices related to union activity or organizational efforts may be posted on bulletin boards, in accordance with existing university policy.

Meetings

Labor organizations may hold meetings whether for the purposes of organization, solicitation of membership or otherwise, provided that such meetings are held for no illegal purpose, in University facilities during non-working hours (non-working times, where applicable), provided that the use of such facilities shall be subject to the same terms and conditions as are applicable to the use of the University facilities by non-University related organizations; and, provided further, that such meetings shall be held in such manner, and at such times as not to interfere with the regularly scheduled working hours (working times, where applicable) or classroom schedules of the University or its employees.

August 4, 1976
Rev: January, 1994

EMPLOYMENT BENEFIT SUMMARIES

Overview

The University of Maine System provides a comprehensive package of benefits to its employees that includes: a choice of Indemnity Health Coverage or a Point of Service Plan, Employee Assistance Plans, Dental Insurance, Life Insurance, Sick and Annual Leave, Tuition Waivers, Retirement Programs, Short and Long Term Disability, and other programs.

Summaries of the employee benefit plans offered to Hourly Employees and University Supervisors, Full-time Represented and Non-Represented Employees, Full-time Salaried Employees and Law School Faculty, and Part-Time Regular/Temporary Employees and Faculty are available on the web at [UMS Employee Benefits Center](#). The benefits described in these summaries apply to full-time regular employees and those in shared appointments, partial/phased retirement, or with "benefits regular" status.

Part-time regular employees are eligible for certain benefits, but premium costs and benefit levels may be different from those described.

The benefits summaries are not intended to replace Summary Plan Descriptions and insurance contracts that provide specific details about eligibility and benefits. They are meant to provide a broad overview. For more information, specific offerings and applicable premiums, please contact the local University Office of Human Resources or the System Office of Human Resources.

OHR: 07/04

EMPLOYEE DEVELOPMENT

Orientation of New Employees

Several of the federal and state laws discussed in this manual require training or communication to new employees within a specified time period. New employee orientation has become increasingly important as an opportunity both to meet these mandates and also to insure a productive start to University employment. The following list of basic orientation activities is provided as a guideline for universities. Supervisors should make sure that new employees have received information on the following topics:

- The University of Maine at (institution): An Overview
- Who's Who at the University of Maine at (institution)
- New Hire Personnel Action Form
- Entering and Approving Time and Leave on PeopleSoft

Policies and Information

- Accessibility
- Campus Health & Safety Guides / Emergency Action Plan
- Campus Security
- Conflict of Interest
- Credit Union
- Employee Assistance Program
- Environmental and Safety Policy
- Equal Opportunity Complaint Procedure
- Family/Medical Leave
- Holidays
- Identification Card
- Parking Sticker
- Recycling
- Safety Procedures
- Sexual Harassment
- Smoking Policy
- Substance Abuse
- U.S. Savings Bonds
- University Vehicles

Applicable Contract or Handbook - available online

- Step Increases / Probation / Performance Appraisal
- Annual Leave / Disability Leave / Comp Time

Forms

- W-4
- I-9 (Employment Eligibility Verification)
- Direct Deposit
- Equal Opportunity Survey
- Individual Data Sheet

Training Videos & Supplements

- Chemical Hazard Communication
- Sexual Harassment
- VDT (Video Display Terminals)

Benefits

- Summary of Benefits

Employee Name: _____

Date: _____

SWS/OHR 12/15

Training and Communication Required by Law

Employee Training

Employee training on certain topics is mandated by law. On-going training is normally conducted by Human Resources or other appropriate offices at each institution. If you have questions regarding employee training, contact your university Human Resources Office.

Hazard Communication: The Maine Board of Occupational Safety and Health has adopted OSHA's Occupational Safety and Health Standard for Hazard Communication (29 CFR 1910.1200) for Maine's public sector employers such as the University. The Hazard Communication Standard requires employers to provide information and training to employees on hazardous chemicals they may be exposed to in the workplace. This is accomplished by means of a written Hazard Communication program, labels and other forms of warning, material safety data sheets (MSDS), hazard information, and hazard communication training.

The employee training component of the regulation requires employers to provide effective hazard information and training to employees at the time of their initial assignment, and whenever a new physical or health hazard on which the employees have not previously been trained is introduced into their work area. This may include physical or health hazards introduced by other parties including contractors or vendors.

Hazard information to be provided to employees includes:

- Requirements of the OSHA Hazard Communication Standard;
- List of operations in their work area where hazardous chemicals are present;
- List of hazardous chemicals present in their work area;
- Location and availability of the written hazard communication program; and,
- Location and availability of material safety data sheets (MSDS).

Employee training shall include:

- Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area;
- Physical and health hazards of the chemicals in the work area;
- Measures employees can take to protect themselves from these hazards; and
- Details of the hazard communication program, including an explanation of the labeling system and the material safety data sheet, and how employees can obtain and use the appropriate hazard information.

A list of employees who receive hazard communication training should be maintained by the University Human Resources Office. The records should include employee name, job title or classification, date of training, and method/provider of training. A record of the training content should also be maintained. Duplicate copies may be kept in departmental or local offices. Individual records may be kept in the personnel file. Records of training may be requested by inspectors associated with the Bureau of Labor Standards as part of their enforcement of safety and health standards in the public sector.

Sexual Harassment: In 1991, the Maine Legislature enacted a law requiring employers to implement sexual harassment education and training programs. In addition to required employee communication (discussed below), the law requires training of all new employees, as well as those employees newly promoted to supervisory positions. Such training must take place within one year of hire or promotion.

Sexual harassment training must include: a legal definition of sexual harassment and the fact that it is illegal; descriptions using examples; the internal complaint process; information about how to file a complaint with the Maine Human Rights Commission; and protection against retaliation. Supervisory training must include the additional responsibilities that these employees have regarding sexual harassment and the methods of taking corrective action to address complaints.

Video Display Terminals: In 1989, the Maine legislature passed an Act to Establish Occupational Health and Safety Standards for Operators of Video Display Terminals. The law requires training of all VDT operators, defined as employees whose **primary** job, for at least **half** of their typical workday (four consecutive hours, exclusive of breaks), involves work at a video display terminal. All new operators must receive training within one month of their employment. Annual refresher training is also required.

The training program must be provided both orally and in writing and shall include: notice of rights and duties under the law; an explanation of the proper use of terminals and protective measures to minimize health problems; and instruction related to proper posture (ergonomic workstation design).

Drug and Alcohol Testing For Commercial Drivers: The University trains supervisors of employees who hold commercial drivers licenses in compliance with the Omnibus Transportation Employee Testing Act of 1991. The two-hour training covers physical, behavioral, speech, and performance indicators of probable alcohol and drug misuse.

Employee Communication

Substance Abuse: There are two federal laws that require employee communication about drugs and that encourage employee training on this subject. The Drug Free Workplace Act of 1988 requires the University (as a recipient of federal grants and contracts in excess of \$25,000) to identify employees working in departments or programs that receive federal funds and to make sure that they understand the law and its requirements. One such requirement is that employees who are convicted of a workplace-related drug violation must report this to their supervisor within five days. In turn, supervisors or administrators must report any such violation to the contracting agency.

In 1989, the Drug Free Schools and Communities Act became law, again applying to the University because it receives federal funding. Under this law, the University is required to distribute in writing **annually** to each student and employee specific information on standards of conduct; University policy; University sanctions; legal sanctions; health risks; and available counseling, treatment or rehabilitation programs.

A third federal law on this subject targets those employees who must hold commercial drivers licenses as part of their job. Those employees receive written material explaining the Omnibus Transportation Employee Testing Act of 1991, as well as University policies, programs and procedures to comply with that law.

Sexual Harassment: In addition to the employee training requirement discussed above, the State of Maine law on sexual harassment requires the placement of workplace posters and the distribution of an **annual** employee notification. Universities have met this requirement by distributing the sexual harassment brochure prepared by the System Office.

Campus Security: As a result of the federal Student Right-To-Know and Campus Security Act (1990), the University informs students and employees about University security policies and University crime statistics; the University must also disclose completion or graduation rates to students. Each university is responsible for collecting data for an Annual Security Report to be distributed to all employees and students.

EMPLOYMENT

Conflict of Interest

Board Policy:

To ensure continued confidence of the people of Maine in the University and its personnel, individuals serving the University shall at all times act in a manner consistent with their public responsibilities to the University and shall exercise particular care that no real or perceived detriment to the University results from conflicts between personal interests and those of the University. Conflict of interest situations, or the appearance of conflicts of interests, have the potential to result in serious harm and direct losses to the University. The losses are often difficult to detect and include not only direct monetary losses and loss of confidence in the University, but also negative publicity and erosion of employee morale.

It is the policy of the University that its officers, faculty, staff and others acting on its behalf have the obligation to avoid ethical, legal, financial or other conflicts of interest and to ensure that their activities and interests do not conflict with their obligation to the University or to its welfare.

This policy applies to all University officers and employees. The policy also applies to persons affiliated or associated with the University, including members of advisory boards to the University. All provisions, except those relating to outside employment, apply to persons affiliated with the University. This policy does not apply to the Board of Trustees who are already covered by similar provisions in the Board's Financial Code of Ethics and State Law.

The policy is to be interpreted and applied in a manner that will best serve the interests of the University and that distinguishes between those minor and inconsequential conflicts which are unavoidable and those conflicts which are substantial and material. A conflict of interest may exist when an employee, a close relative, or a person or organization with whom the employee is associated has an existing or potential financial or other interest which involves the employee's University responsibilities.

The policy does not prohibit an employee from freely pursuing those teaching, research, and professional and public service activities which will not result in such a conflict, nor prohibit an employee from accepting pay, compensation, fees, honoraria, or reimbursement of expenses which may be offered in connection with such activities.

Procedures

Disclosure and Consultation: The following procedures apply except in situations where a procedure is otherwise provided by a collective bargaining agreement. Each university shall develop its procedure for disclosure and consultation within the following parameters.

If an employee believes that he or she may have a conflict of interest, the employee shall promptly and fully disclose the conflict to the appropriate administrator (Chancellor or President's designee) and shall refrain from participating in any way in the matter to which the conflict relates until the conflict question has been resolved.

1. When it appears that a material conflict may arise between the personal interest of an employee and his or her responsibilities to the University, the employee shall notify the appropriate administrator by submitting a written statement describing the nature of the possible conflict. If an apparent conflict comes to the attention of the administrator, that individual may request a written statement from the employee.

2. If an employee is in doubt as to whether he or she is confronted with a potential conflict of interest, the employee shall consult with the appropriate administrator to determine if the outside interests could conflict impermissibly with the employee's obligation to the University.
3. The appropriate administrator promptly shall notify the employee or associate in writing that: (a) there is no conflict and the employee may proceed; or (b) there may be a conflict and further consultation is necessary prior to reaching a determination; or (c) there is a conflict and the employee shall not proceed with his or her personal interest which results in the conflict. In some cases it may be determined that after full disclosure, the University's interests are best served by participation of the employee despite the conflict or appearance of conflict.
4. The employee may appeal the administrator's decision to the President (Chancellor for System Office employees).
5. The employee must report any significant changes in the outside interest that occur during the year and consult with the appropriate administrator if the undertaking of a new outside interest is considered.
6. Any significant violations of this policy shall be reported to the Chancellor for System Office employees and Presidents, to the President for university employees and to the Human Resources and Labor_Relations Committee of the Board of Trustees for the Chancellor.

Situations Which May Constitute A Conflict:

1. Personal Gain from University Position

- a. An employee may not use or attempt to use, in a manner contrary to the interests of the University, his or her position or University property or services, to gain or attempt to gain anything for the private benefit of the employee.
- b. An employee may not solicit or receive gifts or entertainment from suppliers of goods or services, or from persons associated with or seeking association with the University.
- c. An employee shall not use confidential information acquired in connection with University related activities for personal gain or for other unauthorized purposes.

2. Contracting and Leasing

- a. An employee may not enter into any contract or lease with the University if the employee is in a position to approve or influence, in his or her official capacity, the University's decision to enter into the contract or lease, unless such contract is deemed in the best interests of the University and has the approval of the appropriate administrator.
- b. If the employee is not in a position to approve or influence the University's decision, the employee may enter into a contract or lease, provided the employee makes prior written disclosure of the nature and extent of any relationship to the appropriate administrator and obtains written approval. The administrator shall approve an employee's interest in a lease or contract unless the administrator determines that the employee's personal interest in the agreement will conflict substantially and materially with the employee's discharge of his or her University responsibilities.
- c. An employee may not contract with the University to provide a service which is the same as or similar to the service that the employee provides as a University employee. Such

services may be provided only as a University employee in the course of University employment.

3. Outside Commitment

- a. Employees are permitted to engage in outside consulting activities and other outside activities provided the employee meets his/her obligation to the University and complies with any applicable provisions of a collective bargaining agreement concerning outside employment.
- b. An employee shall not accept any outside position that would impair the employee's ability to fulfill the employee's obligations to the university.
- c. An employee with faculty rank shall not take on a teaching assignment in another post-secondary educational institution during the academic year except after obtaining written approval of the appropriate administrator.
- d. An employee shall not engage in outside employment or activities which could be viewed as impairing the employee's judgment in the performance of University duties and responsibilities.

4. Use of University Name and Resources

- a. An employee shall not use the official title of the University or any of its parts, in whatever form that title may appear, except in connection with legitimate University purposes.
- b. The University's name, facilities, equipment, stationery, supplies, personnel and other resources are to be used only for the furtherance of the University's mission. An employee shall not make unauthorized use of any University resources, including the services of University employees, for the personal benefit of the employee.

5. Nepotism

- a. Close relatives may be employed in the same or different departments of the University. For purposes of this policy the term "close relative" shall include significant others in the household.
- b. The fact that an employee is a close relative of another employee in the same or different department shall not be used as a basis for denying to the employee the rights, privileges or benefits of regular appointment or regular job status. Alternative arrangements for supervisory decisions must be made before employment of a close relative.
- c. An employee shall not participate in institutional decisions involving a direct benefit to a close relative. Such decisions include, but shall not be limited to, initial appointment, retention, promotion, tenure, salary and leave of absence.
- d. An employee may not give preferential or favored treatment in the supervision or management of another University employee who is a close relative.
- e. The University reserves the right to reassign employees or duties when deemed a prudent business or management practice.
- f. A close family relationship shall not be used as a basis for denying a student the rights, privileges or benefits of access to academic resources.

- g. An employee shall not participate in institutional academic decisions involving a direct benefit to a close relative. Alternative arrangements for academic decisions must be made for close relatives.

Academic decisions include but are not limited to, acceptance to an academic program, evaluation of the honors, masters or doctoral thesis, and recommendation for awards or employment.

November, 1998

Employee Discipline: Guidelines for Supervisors

(See also Employees' Right to Representation: The Basic Weingarten Rights)

I. Introduction

The University of Maine System requires that employees maintain an acceptable standard of performance and conduct that contributes to the continuing excellence and orderly and efficient operation of the University. Employees are expected to consistently meet the established performance and conduct standards for their positions. These guidelines have been created to assist supervisors in addressing issues of unsatisfactory performance and misconduct by the employees whom they supervise.

"Misconduct" is conduct or behavior, whether by act or omission, that interferes with or adversely affects in any way the orderly or efficient operation of the University. It includes, but is not limited to, any violation of laws, rules, regulations or policies, whether written or unwritten; inappropriate or unprofessional interpersonal behavior; unsatisfactory work performance that is caused by other than lack of capacity or ability; and off-duty or off-premises behavior which adversely affects the employment relationship.

Nothing contained in these guidelines is intended to alter the at-will employment relationship between the University and its non-represented employees or to alter or affect the terms of any collective bargaining agreement. These guidelines are for guidance purposes only and do not create legally enforceable contractual rights. The University reserves the right to change or eliminate these guidelines at any time for any or no reason. Failure to follow these guidelines will not create claims based upon failure to meet standards of procedural due process beyond any that may be mandated by state or federal law.

Complaints regarding discrimination or discriminatory harassment are covered by the University's Equal Opportunity Complaint Procedure. If a supervisor becomes aware of a discrimination or discriminatory harassment concern regarding an employee's behavior, the supervisor should consult with the Equal Opportunity Officer. The Equal Opportunity Officer and the supervisor will discuss the situation and together decide how to proceed. Conduct that may violate other system-wide or university policies should be addressed through existing procedures as appropriate.

When these guidelines refer to consultation with the System Office of Human Resources, labor relations staff in the System Office, or University Counsel, the university Human Resources office is normally responsible for initiating the consultation.

II. Progressive Discipline

A. General

Before initiating progressive discipline, a supervisor should consider the following issues:

- Have an accurate, comprehensive job description, clearly identified performance expectations and adequate training been provided to the employee?
- Are the standards of performance and rules of conduct being applied fairly? How have other employees who have engaged in the same conduct been treated?
- Have you communicated with the employee regularly regarding performance expectations and conduct? Have written records been made and retained of any previous counseling or warnings?
- Does the university have a written rule or policy regarding the conduct? Has the employee been provided with a copy of the rule or policy? If no written rule or policy exists, is it conduct that any reasonable employee should know is inappropriate?

Disciplinary or corrective action for unsatisfactory job performance or misconduct is generally imposed on a progressive basis and in consultation with the university Human Resources office and labor relations staff in the System Office of Human Resources and, as needed, with University Counsel. The extent of disciplinary or corrective action will depend upon all of the facts and circumstances available, such as: the nature of the misconduct; any previous misconduct or performance issues by the employee; years of service; and previous discipline imposed. Steps in the progressive discipline process may be repeated or omitted if the facts and circumstances dictate. For instance, an oral or written warning may not be appropriate if the situation involves an incident of serious misconduct, even where there has been no previous misconduct or discipline.

B. Disability Issues

If an employee's job performance is unsatisfactory and the employee has disclosed or requested accommodations for a disability, a review should be conducted to determine whether the employee's disability may be affecting job performance. If the supervisor has reason to believe that a disability may be involved, the supervisor should ask the employee if an accommodation is needed. If no disability exists or if there is a disability but it is not affecting job performance, the university may proceed with the disciplinary process. If an employee's disability is affecting the performance of non-essential functions of the job, a reasonable accommodation should be made to enable the employee to perform these functions, or the functions should be eliminated from the job. If a disability makes an employee unable to perform essential functions of the job even after all possible accommodations have been considered, the university must reassign the employee to a vacant position if the employee is qualified for the job and the job is available within a reasonable amount of time; this may require an agreement with the appropriate collective bargaining agent. If no job is available for which the employee is qualified, the university may proceed with the termination or non-reappointment process.

It is essential to consult with the Equal Opportunity Officer if discipline of an employee with a disability is being contemplated.

C. Oral Warning

The initial step in the application of progressive discipline is usually the oral warning (depending on the severity of the misconduct or poor performance and whether the collective bargaining agreement requires that discipline begin with an oral warning). The supervisor must meet with the staff member to discuss the specific unsatisfactory performance or misconduct and outline the appropriate corrective action. If the employee requests representation at the meeting with the supervisor, the supervisor must suspend the meeting until a representative can be present. A non-represented employee may have another employee present; an employee whose position is covered by a collective bargaining agreement may bring a union representative. The supervisor should keep a written record that an oral warning has been given and what corrective action was discussed with the staff member. A copy of this document should be provided to the employee and forwarded to Human Resources to be placed in the official personnel file. A sample of how to document an oral warning is attached.

D. Written Warning

The next step in the disciplinary process after an oral warning is usually the written warning. The supervisor, in consultation with a representative of the university Human Resources office and System labor relations staff, initiates a written warning and a discussion with the employee. If the employee requests representation at the meeting with the supervisor, the supervisor must suspend the meeting until a representative can be present. A non-represented employee may have another employee present; an employee whose position is covered by a collective bargaining agreement may bring a union representative. The written warning document to the staff member specifies:

- The specific unsatisfactory performance or misconduct;
- The corrective action to be taken by the staff member. In the case of corrective disciplinary action for poor job performance, the supervisor should, in consultation with Human Resources, develop a remediation plan for the employee;
- Notice that continued unsatisfactory performance or misconduct may result in further disciplinary action, including termination of employment.

When the staff member is given the written warning, the supervisor should discuss the problem with the staff member. The written warning must indicate that a copy has been placed in the employee's personnel file, and the supervisor forwards a copy to the university Human Resources office for inclusion in the personnel file. Any additional steps required by the applicable collective bargaining agreement must be taken.

E. Suspension Without Pay

If unacceptable performance or misconduct continues or recurs, the supervisor, in consultation with the university office of Human Resources and the labor relations staff in the System Office, schedules and conducts a hearing (referred to as a due process, pre-disciplinary, or fact-finding hearing). The supervisor sends the employee a written advance notice of the hearing stating the general nature of the performance or conduct concerns to be addressed, the date the hearing will be held, and a represented employee's right to bring a union representative or a non-represented employee's right to be accompanied by another employee. The purpose of the hearing is to afford the employee an opportunity to hear the information gathered and to respond to that information.

After the hearing the supervisor considers any information provided by the employee. If, on consulting with the university Human Resources office, the supervisor determines that a suspension without pay is warranted, the supervisor should give the employee a letter which describes:

- The time period and terms of the suspension;
- The specific unsatisfactory performance or misconduct;
- The corrective action to be taken by the employee. In the case of corrective disciplinary action for poor job performance, the supervisor should, in consultation with Human Resources, develop a remediation plan for the employee;
- Notice that continued unsatisfactory performance or misconduct may result in termination of employment.

Note: The length of the suspension period should be determined in consultation with the university Human Resources office, labor relations staff in the System Office, and, as needed, University Counsel. The length of the suspension should be based on the severity of the misconduct, the length of suspensions imposed for similar misconduct,

and other relevant factors. Normally a suspension should not exceed five (5) days for classified employees. The maximum length of suspension for professional employees and faculty is decided on a case-by-case basis depending upon the severity of the performance or conduct problem.

When the employee is given the suspension letter, the supervisor should discuss the problem with the employee. The written notice must indicate that a copy has been placed in the employee's personnel file, and the supervisor forwards a copy to the university Human Resources office for inclusion in the personnel file.

F. Termination

Subsequent to the suspension, if the employee's performance or conduct is still unacceptable, the supervisor, in consultation with the university Human Resources office and labor relations staff in the System Office, schedules and conducts a hearing (referred to as a due process, pre-disciplinary, or fact-finding hearing). The supervisor sends the employee a written advance notice of the hearing stating the general nature of the performance or conduct concerns to be addressed, the date the hearing will be held, and a represented employee's right to bring a union representative or a non-represented employee's right to be accompanied by another employee. The purpose of the hearing is to afford the employee an opportunity to hear the information gathered and to respond to that information.

After the hearing the supervisor considers any information provided by the employee. The decision whether to terminate is based on a review of the facts and circumstances, the documentation, the employee's response, and whether University policy regarding progressive discipline has been followed. Upon review, if the decision is made to terminate, the supervisor should give the employee a letter outlining the reason for the termination and the effective date of the termination. The termination letter is prepared in consultation with the university Human Resources office and labor relations staff in the System Office and must be reviewed by University Counsel. The termination letter must indicate that a copy has been placed in the employee's personnel file, and the supervisor forwards a copy to the university Human Resources office for inclusion in the personnel file.

III. Special Circumstances

These guidelines do not apply to situations involving serious misconduct, including, but not limited to, physical violence, insubordination, misappropriation of funds, harassment, and discrimination. It is imperative that the supervisor contact the university Human Resources office in cases of serious misconduct. The university Human Resources office will consult with labor relations staff in the System Office and with University Counsel.

In addition, the university Human Resources office should contact the System Office of Human Resources and University Counsel in the event of any of the following:

- Upon receipt of a formal complaint that will be investigated;
- Before placing an employee on leave or suspension with or without pay prior to discipline or pending an investigation;
- If any party to an investigation engages an attorney;
- Once the investigation plan has been developed;
- Prior to interviewing the subject of the complaint; and

- When the investigator's draft report has been completed (but before the report is issued).

IV. Represented Employees

With regard to discipline of university employees who are covered by a collective bargaining agreement, supervisors must comply with any specific terms in the appropriate contract article.

OHR 8/05
Revised January 2006

University of Maine at _____
RECORD OF ORAL WARNING

Name _____ Department _____
Title _____ Date of Offense _____
Reason for Warning _____

Action Taken and Plan for Resolution of Problem _____

Consequences for Employee's Failure to Resolve Problem _____

Employee Comments _____

I have discussed this performance warning with my supervisor. I understand the reason for it and the consequences of my failure to resolve the problem discussed. I further understand that if I disagree with this warning, I have the right to file a formal grievance.

Employee's Signature _____ Date _____

Supervisor's Signature _____ Date _____

Department Head _____ Date _____

Human Resources Dept. _____ Date _____

If employee does not desire to sign this form, a witness must sign, in the employee's presence, confirming that the employee is aware of the warning and recommended action.

Employee Transfer

Board Policy:

An employee at one University System institution or unit who accepts a position at another University institution or unit will be considered to have transferred to the new unit if there is no break in service between the appointments. In the case of employee transfer the former employing institution or unit is responsible for any accumulated unused vacation and holidays. The new institution or unit is responsible for accumulated unused sick leave.

Accumulated unused annual leave, holidays and disability leave are carried forward to the new appointment. No payment for leave balances is made to the employee at the time of the transfer.

Rev. 10/05

Grievance Procedures for Non-Represented Employees

Board Policy Statement

Non-represented employees must be allowed to bring complaints concerning their employment to their supervisors for informal discussion and resolution without fear of reprisal. If an informal discussion does not resolve the problem, the employee must have an opportunity to present a formal written grievance to the supervisor. A formal grievance shall identify the University policy or procedure which is alleged to have been violated.

Retaliation Prohibited

Retaliation against an employee for filing a grievance is strictly prohibited, whether or not the employee prevails in the original grievance. No university agent may harass, coerce, intimidate, or discriminate against an individual who has filed a grievance or participated in the grievance process. An allegation of retaliation will be treated separately from the original grievance.

Procedures

The University System has developed this procedure for filing and responding to grievances of non-represented employees throughout the University of Maine System. The procedure provides reasonable time limits for an employee to present a grievance. If an employee does not meet the deadline for filing a grievance or appeal, the matter will be considered to be resolved. The University will make every attempt to respond to grievances within the timelines in this procedure, but may extend the timelines at any step in the process as needed.

Any complaint alleging a violation of the Equal Opportunity Policy must be filed using the Equal Opportunity complaint procedure. If a grievance alleges violation of the Equal Opportunity Policy and other policies, the portion relating to the Equal Opportunity policy will be investigated under the Equal Opportunity Complaint Procedure.

Informal Complaints

An employee may bring any complaint regarding his or her employment to the immediate supervisor for informal discussion and resolution. If the supervisor is the subject of the complaint, the employee may instead choose to discuss it informally with the next level appropriate administrator. If informal discussion does not resolve the problem, the employee may file a formal grievance.

Formal Grievance Procedure

An employee who files a grievance may be accompanied by another employee at any meeting held to discuss the grievance.

Step One: The employee (grievant) completes a Non-Represented Employee Grievance form (attached to this procedure) providing the details of the complaint and gives it to his/her department director, dean, or next level appropriate administrator. The grievance must be filed within twenty (20) working days of the act or omission that is the subject of the grievance, or the date on which the employee reasonably should have known of the act or omission if that date is later. The written grievance must identify the University policy or procedure that has allegedly been violated.

The department director, dean or next appropriate administrator will respond in writing to the grievance within 20 working days. The written decision will be provided to the grievant and the person whose action has been grieved.

Step Two: If the written response does not resolve the grievance, the grievant may appeal the grievance to Step Two by completing a Non-Represented Employee Grievance Appeal form (attached to this procedure). The Step Two appeal must be filed with the appropriate Vice President (if the grievant is employed at a university) or Senior Staff member (if the grievant is employed in the System Office) within 20 working days of the date the Step 1 response is received or due. The Vice President or Senior Staff member will respond in writing to the grievance within 20 working days. The written decision will be provided to the grievant and the person whose action has been grieved.

Step Three: If the preceding steps have not resolved the grievance, the grievant may appeal the grievance to Step 3. The Step 3 appeal must be filed with the President (if the grievant is employed at a university) or Chancellor (if the grievant is employed in the System Office) in writing within 20 working days of the date the Step 2 response is received or due.

Within 20 working days the President or Chancellor will designate in writing an individual who will serve as an impartial investigator of the issues surrounding the grievance. The investigator will:

- a. Review both sides of the grievance and investigate as needed in order to make findings of fact;
- b. Attempt to mediate the dispute if possible; and
- c. Issue an advisory report in writing to the President or Chancellor within 20 working days (or as soon thereafter as practicable) if a resolution has not been achieved and provide a copy of the report to the grievant and, where applicable, to the person whose action has been grieved.

If an administrative staff member with faculty rank who was acting in the capacity of a faculty member has not been reappointed and a violation of academic freedom is alleged, academic freedom applies only in the individual's capacity as a faculty member, not in his/her administrative capacity.

The burden of proof rests on the grievant except in cases of dismissal of tenured faculty members or of dismissal of a non-tenured faculty member or staff member

prior to the expiration of the term of appointment. In these cases, the University must prove just cause.

The President or Chancellor within 20 working days will accept the written report of the investigator as the final institutional decision or issue his or her own decision which shall be the final institutional decision. The President's or Chancellor's written decision will be provided to the grievant and the person whose action has been grieved.

The employee may appeal the President's decision to the Chancellor if: (1) the findings include relevant factual errors or omissions, (2) relevant procedural errors are alleged, or (3) relevant issues concerning interpretation of University policy are raised. The appeal must be filed within 20 working days of receipt of the President's decision and must include the reasons for the appeal. If the Chancellor or designee finds that the employee has been substantially prejudiced by a violation of procedure, the case may be remanded to the President for reconsideration. The Chancellor or designee will review the written record and may request additional information. The Chancellor or designee will issue the final University decision in writing within 30 working days to the grievant and President. The final decision on an appealed grievance rests with the Chancellor or his/her designee.

In a grievance filed by an employee of the System Office, the Chancellor's written decision shall be final.



Office filed in: _____
Date received: _____
Grievance number: _____

University of Maine System
Non-Represented Employee Grievance
Step 1

Instructions: Complete this form and deliver it to your Department Director (or Dean or next level appropriate administrator). Please be specific and concise.

To: _____
From: _____
Date: _____

I am filing a grievance in accordance with the Grievance Procedure for Non-Represented Employees.

1. Name of grievant(s) (if more than one grievant, list all and specify one to whom all correspondence will be sent): _____

2. Name(s) of individuals whose action or decision is being grieved: _____

3. Specify date, time, place, and other relevant circumstances surrounding the alleged violation: _____

4. Name(s) and contact information for witnesses if any: _____

5. University policy or procedure that has allegedly been violated: _____

Attach a separate sheet giving a clear statement of the grievance, including any applicable policies, procedures, or rules. Briefly describe actions previously taken to resolve this grievance.

Signature: _____

Copy to: Campus Grievance File
Grievant

OHR 8/05



Office filed in: _____
Date received: _____
Grievance number: _____

University of Maine System
Non Represented Employee Grievance Appeal

Check one: Step 2 ___ or Step 3 ___

Instructions: Complete this form and deliver it to your Vice President/Senior Staff member (if filed at Step 2) or President/Chancellor (if filed at Step 3). Please be specific and concise. Attach original grievance and all responses and appeals filed on this matter.

To: _____

From: _____

Date: _____

Date of receipt of (check one) Step 1 ___ or Step 2 ___ response:

I am appealing the (check one) Step 1 ___ or Step 2 ___ response to the attached grievance for the following reasons (state specific reasons for the appeal, attach additional sheets if necessary):

Signature: _____

Copy to: Campus Grievance File
Grievant

Performance Evaluation

Annual performance assessments (evaluations) are required by University policy and collective bargaining agreements. They are also an integral part of good supervisory practice. Forms for the evaluation of salaried and hourly employees in the University are available from the Human Resources Office at your institution and are available at [Performance Management](#).

There are three major steps in the performance evaluation process:

Assessment

- Review performance since last meeting; compare with goals
- Review job description for accuracy
- Ask employee to do self-assessment (this is voluntary for employees in the ACSUM, Police and Service and Maintenance Units)
- Complete a draft of the assessment form
- Schedule the assessment meeting; give the employee at least one week's notice; allocate at least one hour

Communicate

Meet in a private place with no interruptions
Ask employee for input (self-assessment); listen carefully
Give feedback on performance
Discuss accuracy of job description (particularly for salaried employees)
Agree on new goals for upcoming year
Determine need for coaching, training, follow-up

Document

Complete final assessment forms
File signed assessment forms in employee's personnel file
Summarize and file any other notes from the meeting

Remember

Focus on future, not just past
Listen as much as you talk
Give feedback throughout the year so there are no surprises
Talk about behaviors, not attitudes and personality

Although agreement between supervisor and employee is helpful, it is not required. The employee's signature on the assessment form simply acknowledges that the employee has read the assessment.

Further information about conducting effective performance assessments is available at [Performance Management](#).

The evaluation of faculty is discussed in Article 10 of the Collective Bargaining Agreement between the University and the Associated Faculties of the University of Maine System (AFUM). Procedures for developing evaluation criteria and eliciting student and peer evaluation input are covered in Article 10.

Personnel Actions

Board Policy:

The Board of Trustees delegates to the Presidents final responsibility for personnel actions, except for those which the Board of Trustees has reserved to itself and/or delegated to the Chancellor. Each new appointee should receive written information which outlines the terms of employment. Each employee should receive an annual written evaluation by the employee's supervisor and a copy shall be retained in the employee's personnel file.

Guidelines: All personnel actions should conform to the following administrative guidelines and to any applicable collective bargaining agreements:

1. Each new appointee should receive written information regarding the terms of employment, which includes, at a minimum, such information as:
 - a. title of position and/or full academic rank (e.g., assistant professor of history)
 - b. general duties to be performed
 - c. beginning and ending dates of the appointment
 - d. terms of the appointment (probationary, temporary, etc.)
 - e. indication of amount, if any, of prior service to be counted toward probationary period.
2. Criteria for retention, reappointment, and promotion should be stated explicitly for each unit of the university, or for certain university-wide work groups. These criteria may vary among departments or units. The relevant criteria must be made known in writing to each new employee at the time of his/her initial employment. In addition, new employees should be advised in writing of the institution's grievance procedures.
3. Each employee should receive an annual written evaluation by the employee's supervisor and a copy shall be retained in the employee's file. A record should also be retained of any notification to an employee that the needs of the particular unit may not require the continued employment in the future of the individual.
4. A non-reappointment decision must be communicated in writing to the employee.
5. In the case of faculty members, each university shall establish procedures for peer evaluations to be considered in promotion and/or tenure decisions.

In addition, new employees should be advised in writing of the institution's grievance procedures.

Rev. 10/05

Political Activity

Board Policy:

It is the intent of the University of Maine System to encourage its employees to fulfill their obligations as citizens to participate in the political process at the local, state, and national level. Such participation may, at times, include the holding of elective or appointive positions. No employee shall be compensated by the University System for actual time which the employee devotes to seeking public office or to fulfilling responsibilities of public office.

Procedures:

1. Prior to deciding to run for elective office or to accept an appointment to public office, an employee shall apply for an adjustment in employment conditions that would make it possible to discharge the duties of the office. These adjustments may include, but shall not be limited to, leaves-of-absence without pay for the period of service or days off on a weekly or monthly basis with due regard for the needs of the unit.
2. The specific conditions and agreements for the adjustment of the employee's status with the University System shall be worked out by the employee with his or her immediate supervisor and shall be subject to the final approval of the President or of the Chancellor for staff members in System-wide Services.

Rev. 11/98

Reporting Workplace Wrongdoing (Excerpts from APL IV.J.)

The University of Maine System is committed to ensuring its operations are ethical, honest, and lawful. University employees are expected to support compliance with applicable University policies and procedures, as well as laws and regulations. Employees have a responsibility to report and to assist in investigations regarding:

- Illegal or fraudulent activity
- Financial misstatements, account, or auditing irregularities
- Conflicts of interests, dishonest, or unethical conduct
- Violations of the University's conflict of interest policies
- Violations of other laws, rules, or regulations

The University expects that all reports of such potential wrongdoing will be made in good faith and that employees will be cooperative and truthful during the course of any related investigations.

Employees should report allegations to their supervisor or the designated official at their university who is responsible for receiving reports of wrongdoing.

The University prohibits retaliation against anyone who in good faith reports or participates in an authorized investigation of an illegal act. An employee who believes that he or she has been subjected to retaliation may contact the university Human Resources office.

2/28/08

Retirement

An employee's departure from the University is not considered a retirement unless it meets one of the following requirements:

1. Separation from service at age 65 (the "normal" retirement age for related benefit plan purposes) or later;
2. Separation from service which meets the definition of the University retirement plan in which the employee participates, including
 - a. Vested participants in the University of Maine System Retirement Plan for Classified Staff (formerly the Non-Contributory Plan) for employees who retire at age 55 or later;
 - b. Eligible employees in the Basic TIAA/CREF Retirement Program who retire at age 55 or later, and have at least 10 years of continuous regular service immediately preceding retirement. Completed years of service means full-time equivalent.
 - c. Participants in the Maine State, Civil Service or Federal Employees retirement plans (MSRS, CSRS or FERS) who retire when they meet age and service requirements to be eligible to receive pension benefits;
3. Retirement of a former employee who is receiving benefits from the University's long-term disability plan, when the disability continues to the applicable retirement age.

An employee must choose to retire by indicating that intention to his or her supervisor and/or to the university Human Resources Office. University retirees may not return to full-time employment with the University of Maine System.

Specific retirement eligibility and benefits may be found in, and are governed by, applicable collective bargaining agreements and employee handbooks.

Partial/Phased Retirement Program

The Partial/Phased Retirement Program (PPRP) is available to University of Maine System employees who are

- full-time, represented faculty (AFUM unit)
- represented professional and administrative staff (UMPSA unit)
- non-represented faculty
- non-represented professional and administrative staff

A. Eligibility:

Employees in groups covered by this program are eligible to apply to participate in the Partial/Phased Retirement Program if either: (1) they are at least fifty-five (55) years of age and have at least ten continuous years of full-time regular University of Maine System service; or (2) their age in years and length of continuous full-time regular University of Maine System service in years totals seventy-three (73) or more years.

B. Application and Approval Procedures:

1. An employee who wishes to participate in the Partial/Phased Retirement program must submit a written, individual application in accordance with applicable campus procedures.

2. Such applications shall be reviewed by campus staff in accordance with campus administrative procedures. If it is not the president's recommendation that an application be approved, the application will in any event be forwarded to the Chancellor or designee(s) within CO/SWS for review. If it is the campus president's recommendation that an application should be approved, a proposed agreement for participation, including workload and salary reduction terms, and other details applicable to the individual, shall be prepared in writing and forwarded to the Chancellor or designee(s) within CO/SWS.
3. Such proposed agreements shall be reviewed by and subject to the approval of the Chancellor or designee(s).
4. An employee may request modification or withdrawal of his or her application at any time prior to final approval or disapproval of the proposed agreement.
5. After final approval of a proposed agreement, participation in the Partial/Phased Retirement Program shall be revocable only by mutual consent of the employee and the University.

C. Rights and Obligations of Program Participants:

1. The workload and salary reduction for each individual participant shall be specified in the individual's agreement for participation.
2. Employee benefits for participants shall be treated as follows:
 - a. Group term life insurance - Amount of insurance shall be based on the reduced salary. Allocation of premiums shall be unaffected by participation in the PPRP.
 - b. Group health insurance - Eligibility for coverage and allocation of premiums shall be unaffected by participation in the PPRP.
 - c. TIAA-CREF - Eligibility for participation shall be unaffected by participation in the PPRP. Percentage contributions by the University and employee shall be unaffected by participation in the PPRP and shall be based on the reduced salary.
 - d. MSRS or Federal Retirement - Participation and contributions shall be maintained and/or modified in accordance with applicable Federal and/or State laws and/or regulations.
 - e. Long-Term Disability Insurance - Eligibility for participation shall be unaffected by participation in the PPRP. Benefit levels shall be based on the reduced salary.
 - f. Employee and Dependent Tuition Waiver - Eligibility and benefits shall be unaffected by participation in the PPRP.
 - g. Disability leave and annual leave - the rate of accruals shall be based on the reduced workload.
 - h. Other paid and unpaid leaves - Eligibility and conditions shall be unaffected by participation in the PPRP. Pay, in the case of paid leaves, shall be based on the reduced salary.
 - i. Tax-sheltered annuities - Eligibility shall be unaffected by participation in the PPRP, subject to applicable IRS criteria.

3. Faculty who on the commencement of their participation in the PPRP, have tenure or continuing contract shall retain such appointment status while participating in the PPRP.
4. Eligibility for any future salary increases which may be granted shall be unaffected by participation in the PPRP.
5. Employees who participate in the PPRP may at their option elect to receive their annuity or pension from TIAA/CREF, MSRS or the Federal retirement system, whichever is applicable, subject to the following limitations:
 - a. Employees who elect to receive their Federal retirement system annuity shall receive salary and annuity amounts subject to applicable laws and/or regulations.
 - b. Employees who elect to receive their MSRS pension shall receive such amounts subject to applicable laws and/or regulations.
 - c. Former Maine State Retirement System participants who enroll in TIAA-CREF under the Partial/Phased Retirement Plan or current MSRS participants who are eligible for MSRS normal retirement benefits are eligible for the Partial/Phased Retirement Plan.

D. General Provisions:

1. The "normal retirement age" shall remain age 65 for other purposes.
2. The PPRP shall be independent of the current Incentive Retirement Plan (IRP). Eligibility to participate in the IRP shall be unaffected by participation in the PPRP. If an employee in the PPRP elects to participate in the IRP, computation of the incentive shall be based on the reduced salary at the time of early retirement increased on a proportionate basis to a full-time salary for the individual.
3. Participation in the PPRP may extend beyond the age of 65.

Incentive Retirement Program

All faculty and professional employees of the University of Maine System who are enrolled in the University of Maine System Retirement Plan for Faculty and Professional Employees may elect to retire at any age after 55. For represented faculty (AFUM), the Incentive Retirement Plan is available only to those employed before July 1, 1996.

The retiring employee must have at least 10 years of continuous regular service immediately prior to retirement. Completed years of service means full-time equivalent.

If the retirement application has been approved, upon retirement, a lump sum contribution will be made directly to the employee's basic TIAA or CREF account. This lump sum will be calculated at 1 ½% times completed years of service times the final annual base salary (maximum of 27 years). The lump sum may be tax-sheltered up to the maximum allowable under IRS provisions

Applications for retirement should be initiated as early as possible and not later than 90 days prior to the employee's proposed retirement date. The application may be obtained from the appropriate campus Benefits/Human Resources Office. The application should be completed by the retiring employee and presented to the immediate supervisor for appropriate completion. It should then go to the Office of the President/Chancellor for final approval.

Applications by faculty with teaching responsibilities, which would result in retirement during a semester, shall not normally be permitted.

For those employees with Benefits Regular (BR), Shared Appointments (SR), or who are participating in the University's Partial/Phased Retirement Program (PPRP), the actual annual base salary is converted to the full-time equivalent annual base salary for lump sum calculation purposes. Former classified employees who become professional are eligible for the Incentive Retirement Plan prior to completing 10 full years as a professional, provided the employee has at least 10 years of full-time University service. The lump sum payment will be calculated at 1 ½% times years of completed professional service times retiring annual base salary.

Review of Appointments

Board of Trustee policy requires that the Board approve all appointments at the level of Dean or equivalent or above. A position is considered at the level of Dean or equivalent if the position has administrative responsibility for a major organizational unit of the University. Board policy also requires approval of the Chancellor for all appointments with salaries, including any stipend which is part of the base salary, at or above a level to be determined by the Chancellor. As of July 2, 2007, that salary level is \$90,000 per year. The Chancellor is also authorized to approve acting or interim appointments of three months or less to positions which normally require approval by the Board.

All appointments to named professorships also require approval by the Chancellor

Contact your university Human Resources office for information about the review and approval process.

Shared Appointments

Board Policy:

In appropriate circumstances, two persons may be appointed to share a single full-time faculty position or a full-time non-represented faculty or professional and administrative staff position. A shared appointment involves a single, full-time regular appointment held by two people in the same department or academic grouping who divide full-time duties between them, each person being able to discharge all the duties of the position.

At the time an appointment is made to a shared position, the terms of the appointment shall be specified in a shared appointment agreement which shall be forwarded by the President for approval by the Chancellor.

Faculty

The duties of the position are the same as for a comparable full-time faculty member; each person assumes one-half of the duties of the position. The position shall have a least one vote in departmental affairs; each individual may be granted voting rights in accordance with departmental policies.

Procedures regarding reappointment, evaluation, promotion, and tenure outlined in the faculty collective bargaining agreement will be followed. Each faculty member will be evaluated separately; the shared appointment may continue with the individuals at different ranks if one is promoted. If the shared appointment ends because one party leaves for any reason, the

remaining party has the option of retaining the half-time position or leaving. The department **may** also offer the full-time position to the remaining employee.

The complete policy specifies benefits for shared appointments, such as sabbatical eligibility, retirement and health benefits, research support and travel, disability leave, and overload and summer salary.

Non-Represented Faculty, Professional and Administrative Staff

The shared appointment policy for this group is included in the [Handbook for Non-Represented Faculty, Professional and Administrative Staff](#). It is very similar to the Board of Trustees policy for faculty shared appointments, summarized above.

Detailed guidelines for Shared Appointments are available at [Policy Manual - Shared Appointments](#)

Rev. 5/20/85

Stipends and Additional Compensation for Salaried Employees (Excerpts)

The following guidelines describe the appropriate use of stipends and additional compensation for University of Maine System salaried employees. These forms of compensation may be appropriate for represented faculty, represented professional employees, and non-represented employees.

A stipend is a payment in addition to the base pay for an assignment which is not part of the employee's ongoing appointment, but which is part of the normal workload, i.e. within the assigned percent of full time. A stipend is used to separate the portion of compensation paid to an employee for the effort and responsibility related to a special assignment. If the special assignment ends, the salary may revert to the salary for the ongoing appointment.

When compensation is for additional effort, outside the work year or beyond the assigned percent full time, additional compensation (not in the form of a stipend) is appropriate (earnings code 210 for research and other non-teaching assignments or an appropriate earnings code for overload teaching).

Stipends

Temporary stipends (earnings code 680) are used for an assignment, which will last less than one full work year. For an employee with an academic year appointment, this means less than nine months. Temporary stipends are paid over the period of the assignment rather than being spread over twelve monthly installments. Temporary stipends are not included in the 'SALBASE', which is used for benefits calculations. Consequently, benefits which are based on salary, such as retirement, life insurance, and long-term disability, are not based on the stipend amount.

Regular stipends (earnings code 690, or for stipends for endowed/named chairs earnings code 691) are used for an assignment which will last one full work year or longer. The stipend is spread over twelve installments. The stipend is included in the calculation of 'SALBASE'. Benefits based on salary, such as retirement, life insurance, and long-term disability are based on the salary including the stipend.

Ranges for Stipends

The base salary of senior administrators holding academic rank may include a specifically identified administrative duty stipend. The amount of the stipend is limited to the following maximum amounts:

Vice President, Provost, or Dean: up to \$15,000

Associate or Assistant Dean or Executive Director: up to \$12,000

Director: up to \$9,000

Chairperson excluded from collective bargaining unit: up to \$9,000

Payment of the stipend unless otherwise stated, carries an obligation of service on a fiscal-year basis. Exceptions, where appropriate, may be recommended to the Chancellor by the President.

The President may approve an increase in the amount of a stipend during the term of appointment or upon appointment to a subsequent term, subject to approval by the Chancellor if the stipend will exceed the maximum for the range or if required for the level of the resulting salary. Stipends are not affected by across-the-board increases.

Payment of a stipend may also be appropriate for titles other than those identified above.

EXAMPLES of situations in which payment of a stipend is appropriate:

Appointment as Chair

A faculty member who serves a term as chair is paid a stipend in addition to the base salary as a faculty member. The stipend is compensation for the administrative duties. The stipend is normally in addition to a reduced teaching load. Stipends for chairs who are in the faculty unit are determined by Article 13 of the AFUM contract.

Some positions with titles other than chair operate in a similar fashion, as described below under "Positions which rotate."

Acting or interim appointment

An employee may be appointed to a position in an acting or interim capacity. If the appointment is for less than one work year, the stipend is a temporary one. If the appointment will continue for one work year or more, the stipend will be regular for the term of the appointment. Instead of compensating with a stipend, an acting appointment may carry a salary appropriate to the position being held. At the end of the appointment, the salary reverts to the previous salary, adjusted by generally applied increases which have occurred in the interim.

Positions which rotate

Some positions other than chair rotate on the basis of term appointments. For some positions as assistant or associate dean, faculty are appointed for a term of one or more years with the intention that the position will be filled with another faculty member at the end of the term. Compensation for the added duties in this situation should be in the form of a stipend, so that the amount is kept separate from the faculty salary.

University administrative policy states that a stipend is for the duties of the position year-round unless otherwise specified. This means that a stipend added to an academic year appointment carries fiscal-year administrative duties. If summer salary (earnings code 210) will also be paid for summer effort, that should be clearly stated at the time of the appointment in a letter of appointment and in any materials submitted for Chancellor or Board approval.

Other positions which rotate may have titles such as director (e.g. director of an interdisciplinary program or a research laboratory) or coordinator (e.g. graduate program coordinator within an academic unit).

Named professorships

The Board of Trustees has approved a number of named and endowed professorships, including the Libra professorships. Appointment to one of these professorships carries a stipend, which is paid from a restricted account specifically for support of the professorship. If an individual who is not a University employee is paid a salary for short-term service as a named professor, the pay should be considered regular, base pay. A stipend is appropriate when it is in addition to salary for a University employee. If an individual is paid an honorarium for limited service as a named professor, the campus should determine whether payment should be as an employee or independent contractor, using the standard criteria.

Additional duties for a fixed period of time

Occasionally an employee is assigned added duties for a fixed period of time. For example, an employee might be given some responsibilities of a vacant position without being appointed to the full position in an acting capacity. A stipend is appropriate in this situation. When the vacant position is filled, the stipend is discontinued. If the vacant position is not filled and the duties are

permanently assigned to the employee with the stipend, a salary adjustment should be considered to replace the stipend.

Upper level administrators, in titles such as Dean and Vice President, should not ordinarily be given stipends for this circumstance. The base salary for these positions is compensation for the position, including changes in assignment resulting from short-term needs or reorganization. If a major change in the level of responsibility occurs, a salary adjustment or stipend for a specified term may be considered.

Appointments as Dean, Director, or Vice President

The Handbook for Non-Represented Faculty, Administrative and Professional Staff states that "The base salary of senior administrators holding academic rank may include a specifically identified administrative duty stipend." The policy also states "Alternatively, senior administrators holding academic rank may be compensated in the administrative position by a salary without a stipend. When such an appointment is approved, the Chancellor and/or the appropriate campus President shall also identify in writing a salary amount which will serve as the basis for determining the individual's subsequent salary when leaving the administrative position and returning to a faculty or other position."

Universities have generally found that the salary without stipend is more appropriate for positions which may continue for a number of years -- when the appointment is for an indefinite period or the incumbent may be considered for reappointment to any number of terms. Stipends are not increased by across-the-board increases. This disadvantages an employee who is compensated by a stipend for a long time.

Additional compensation

Work outside the work year or outside the normal workload is not compensated with a stipend. Such additional effort should be compensated using earnings code 210 for additional compensation or the appropriate earnings code for overload teaching. Additional compensation is appropriate in situations including summer research work paid for by a grant, work for a department other than the employee's primary department, work outside the regular position, or teaching of a non-credit course outside of normal work hours. For example, an employee who works in an academic department may serve as a timekeeper for athletics events; an employee in an administrative office may agree to write or edit a manual for a different department outside of normal work hours; an employee may agree to teach a non-credit course related to a hobby or interest. Such work is generally sporadic or short term. If the work is for a department other than the primary department, approval of the primary department is required to ensure that there is no conflict between the regular position and the additional effort.

Collective bargaining agreements

For represented employees payments must be in accordance with the applicable collective bargaining agreement. In the AFUM unit, relevant provisions are in Article 13 (chair stipends) and Article 20 (overloads). In the UMPA unit, see Article 14, Section B.9.

Telecommuting

Telecommuting can benefit the University of Maine System, employees, and communities in many ways. It can increase productivity and job satisfaction; improve retention and recruitment; reduce commuting costs, congestion, and pollution; and offer employees greater flexibility.

The University of Maine System encourages voluntary telecommuting when consistent with the needs of the University and an employee's department. Telecommuting is a voluntary scheduled alternative work arrangement that permits an employee to work at home during part of the workweek using telecommunications technology. Decisions about requests to telecommute will be made consistent with the provisions of the appropriate collective bargaining agreement or employee handbook.

The university has guidelines, which are available at [Telecommuting Guidelines](#) to help supervisors develop and manage effective telecommuting arrangements with employees. The guidelines apply to continuing or recurring telecommuting arrangements (for example, every Wednesday). Temporary, brief, or occasional telecommuting – for example, to complete a short-term special project or when an employee needs to work from home to care for a sick family member – are not subject to the guidelines.

EQUAL OPPORTUNITY AND AFFIRMATIVE ACTION

Accommodating Employees and Job Applicants with Disabilities

Hiring and Supervising Employees with Disabilities

People with disabilities are entitled to ask for accommodations that will enable them to perform their job and are encouraged to talk directly with their supervisor. Supervisors are responsible for responding to accommodation requests.

The following University policies and procedures will help assure compliance with federal and state equal opportunity laws, including the Americans with Disabilities Act (ADA). They will help your department select the most qualified applicant for position vacancies, help the University achieve its goal of providing accessibility, and avoid potential challenges to your decisions.

The following terms are used in this section:

Person with a disability

Anyone who either has, used to have, or is regarded as having a physical or mental disability. A physical or mental disability is one that:

- Substantially limits a major life activity such as seeing, walking, or working; or
- Significantly impairs physical or mental health for six months or more; or
- Requires special education, vocational rehabilitation, or related services; or
- Is on a list of health conditions established by Maine law

Essential functions

the fundamental duties of a job

Non-essential functions

less important job duties that are part of the job but that are not absolutely necessary

Qualified

able to perform the essential functions of a job, with or without a reasonable accommodation

Reasonable accommodation

a change in the work environment or in the way the job is customarily done that enables someone with a disability to perform the job and have equal employment opportunities.

Filling a Vacancy; Identifying Essential Functions

The University will provide reasonable accommodations to enable a person with a disability to perform essential job functions. An employee or applicant who cannot perform the **essential functions** even with an accommodation is not considered to be qualified. In contrast, if a person with a disability is not able to perform **non-essential functions** of the job because of the disability, the University must either provide accommodations or reassign the duties. Consequently, it is necessary that we be able to distinguish between essential and non-essential functions. It is highly unlikely that all duties in current job descriptions would be considered essential functions.

The ADA defines essential functions as the fundamental duties of a job. A job function may be considered essential if: the position exists in order to perform that function; the function can be assigned only to a limited number of employees; or the function is highly specialized (the employee was hired because of the expertise to perform this function). In addition to these general criteria, any task that is performed at least 10% of an employee's time would probably be considered essential.

Once your department has identified the essential functions of a job, the job description for the position should be revised accordingly. The essential functions should be listed first and labeled as such, followed by the non-essential functions. This approach will replace the separation of major duties from secondary duties where that distinction currently exists. For hourly paid positions, this may mean preparing a job description identifying the specific duties of the position to supplement the generic system-wide job description for the classification.

Making the Application Process Accessible

People with disabilities are entitled to equal access to the job application process. This may require some modifications in the process itself or in the interview arrangements. All interviews must be scheduled in an accessible location (wheelchair accessible). In addition, an applicant with a hearing or visual impairment may need accommodation to participate in the application or interview process. You could become aware of the need for accommodation through the application or resume, or the applicant may have disclosed the information while making arrangements for the interview.

The applicant is responsible for requesting accommodations, but as an employer we must provide the opportunity for the applicant to make the request. For example, a hearing impaired applicant may arrive at the scheduled interview time with an interpreter, or may have requested in advance that you provide the interpreter; or a telephone interview may need to be done through a text telephone usable by people with hearing impairments. Contact your university ADA Coordinator if you have any questions regarding accommodations for applicants with disabilities.

Pre-employment Testing

If a pre-employment test is given to all applicants, an applicant with a disability may request a reasonable accommodation in the testing process or the test itself.

Interviewing

Assess the candidate's qualifications for the position without regard to the disability. It is impermissible to ask any questions about whether an applicant has a disability prior to the offer of employment. The question is whether the individual is otherwise qualified, with or without an accommodation. To determine this, the interview should focus on informing the applicant of the essential functions of the job and then determining whether the applicant meets the qualification standards (educational background, work experience, skills, etc.) that are applied to all applicants.

If a disability is apparent or if the applicant voluntarily discloses this information and you have concerns about the person's ability to perform the essential functions of the job, you may ask the applicant to describe or demonstrate how he or she would accomplish the job. Keep the following points in mind:

Do not assume that a person's disability will interfere with his or her ability to perform the job – now or in the future.

Describe the job responsibilities in terms of outcomes, rather than focusing on the way a duty is normally performed. There may be alternate ways that a person with a disability could accomplish the tasks that will meet your expectations about quantity and quality.

Do not let the disability be a barrier to your communication with the applicant. If you have discussed the qualifications for the position and think that the person closely matches those needed to perform the job, but you have concerns about the effect the disability may have on job performance, the applicant may be able to address your concerns by explaining how he or she performed similar tasks in other work or school experiences.

If the applicant requests an accommodation or if his or her response to the above questions reveals the need for special equipment or procedures, **do not** make assumptions that these accommodations would be too costly or difficult. Once the applicant has requested or described the necessary accommodations, you should determine whether he or she is still qualified – that is, can the person do the job. If you conclude that the applicant is qualified, contact your university ADA Coordinator or the Human Resources Office for assistance in determining whether the accommodations are reasonable.

If the applicant's disability is unrelated to performance of job duties – for example, someone who has an artificial leg applies for a job as a secretary – the person may only be asked to describe how he or she would perform the job if this is required of all applicants for the position.

Responding to Requests for Accommodation

An accident, illness, or ongoing medical condition may result in an employee with a disability needing an accommodation to perform the job or perhaps no longer being able to perform an essential function of the job. The significant investment that the University has made in training the employee and the legal obligations toward people with disabilities combine to create compelling reasons for working with the employee to explore how we can help him or her remain productive.

Supervisors should contact the appropriate campus ADA resource (see page 5) when a request to accommodate is received. An employee or job applicant may make such a request during the search process or at any time after hiring. All requests should be documented and processed as quickly as possible. It is essential to involve the individual with a disability in identifying and evaluating potential accommodations. Although final responsibility for selecting the most appropriate accommodation rests with the University, the preferences of the individual making the request should be considered.

The university ADA Coordinator must be consulted if a mutually acceptable accommodation cannot be found or if requested accommodations involve more than a minimal cost or affect the assignments of other employees. **A supervisor or faculty member must not deny an accommodation request without consulting with the Equal Opportunity Director and carefully following University procedure.** All requests for accommodation must be carefully documented.

If an accommodation is requested by someone whose disability is not apparent, the ADA Coordinator or Human Resource Office should request medical documentation.

Handling Job Performance Problems

Anytime that non-reappointment or other adverse action involving an employee is being considered, a review should be conducted to determine whether the employee may have a disability that is affecting job performance. If the supervisor has reason to believe that a disability may be involved, the supervisor should ask the employee if an accommodation is needed. If no disability exists or if it is not affecting job performance, the University may proceed with the disciplinary or non-reappointment process. If an employee's disability is affecting the performance of non-essential functions of the job, a reasonable accommodation should be made to enable the employee to perform these functions, or the functions should be eliminated from the job. If a disability makes an employee unable to perform essential functions of the job even after all possible accommodations have been considered, the University must reassign the employee to a vacant position if the employee is qualified for the job and the job is available within a reasonable amount of time. If no job is available for which the employee is qualified, the University may proceed with the termination or non-reappointment process.

Accommodating the Public

All programs or events which are open to the public must be held in accessible locations. Public events or programs include, for example, public meetings or hearings, non-credit courses, conferences, and workshops. Brochures, press releases, and posters announcing such programs should include a statement such as:

Any persons with disabilities who need accommodations for this program should contact (name and phone/TDD number of program staff member) to discuss their needs.

Registration forms may state:

If you are a person with a disability and will need any accommodation for this program, please check this box and a representative of the sponsoring department will contact you to discuss your accommodation needs.

Rev. 10/06

Disability Accommodation Resources

Please contact the office listed below for your university if you receive a request to accommodate an individual with a disability and if:

- you have questions or concerns about services for a person with a disability, means of accommodating someone with a disability, verification of a disability, or your responsibility for responding to the needs of individuals with disabilities; and/or
- you believe that accommodation would or might alter the essential functions of a job or the essential requirements of an academic course or program; and/or
- funding outside the departmental budget would be needed to pay for an accommodation; and/or
- you believe the request should be denied.

EMPLOYEE/JOB APPLICANT NEEDS (OTHER THAN PHYSICAL FACILITY MODIFICATIONS)	STUDENT/APPLICANT NEEDS (OTHER THAN PHYSICAL FACILITY MODIFICATIONS)	PHYSICAL FACILITY MODIFICATIONS
University of Maine Bonita Grindle, Assoc. Director Office of Equal Opportunity 581-1226 bgrindle@maine.edu	University of Maine Ann Smith Director of Disability Support Services 581-2319 ann_smith@umit.maine.edu	University of Maine Bonita Grindle, Assoc. Director Office of Equal Opportunity 581-1226 bgrindle@maine.edu
Univ. of Maine at Augusta Sheri Stevens Executive Director of Administrative Services 621-3110 sheri@maine.edu	Univ. of Maine at Augusta Don Osier Director of Learning Support Services 621-3066 donald.osier@maine.edu	Univ. of Maine at Augusta Sheri Stevens Executive Director of Administrative Services 621-3110 sheri@maine.edu
Univ. of Maine at Farmington Kathy Falco Dir. of Human Resources and Finance 778-7280 kathleen.falco@maine.edu	Univ. of Maine at Farmington Claire Nelson Director of Learning Assistance 778-7295 claire@maine.edu	Univ. of Maine at Farmington Stephen J. Martin Interim Director of Facilities Management 778-7006 Stephen.j.martin@maine.edu
Univ. of Maine at Fort Kent Michelle Beaulieu Human Resources Manager 834-7821 michelle.m.beaulieu@maine.edu	Univ. of Maine at Fort Kent Shawn Graham Counselor & Accessibility Coordinator 834-7532 Shawn.graham@maine.edu	Univ. of Maine at Fort Kent Michelle Beaulieu Human Resources Manager 834-7821 michelle.m.beaulieu@maine.edu
Univ. of Maine at Machias Kim Page Director of Human Resources 255-1220 kpage@maine.edu	Univ. of Maine at Machias Jo Ellen Scribner Coordinator of Career and Special Services 255-1470 jharvey@maine.edu	Univ. of Maine at Machias Robert Farris Director of Physical Facilities 255-1315 robert.farris@maine.edu

EMPLOYEE/JOB APPLICANT NEEDS (OTHER THAN PHYSICAL FACILITY MODIFICATIONS)	STUDENT/APPLICANT NEEDS (OTHER THAN PHYSICAL FACILITY MODIFICATIONS)	PHYSICAL FACILITY MODIFICATIONS
Univ. of Maine at Presque Isle Jennie Savage Human Resources Manager 768-9551 jennie.savage@maine.edu	Univ. of Maine at Presque Isle Mary Kate Barbosa Director of Student Support Services 768-9613 barbosam@umpi.maine.edu	Univ. of Maine at Presque Isle Marty Parsons Vice President for Administration and Finance 768-9550 marty.parsons@maine.edu
Univ. of Southern Maine Daryl McIlwain Director of Equity & Compliance 228-8304 darylmc@usm.maine.edu	Univ. of Southern Maine Joanne Benica Director of Academic Support for Students with Disabilities 780-4706 joanne.benica@maine.edu	Univ. of Southern Maine Daryl McIlwain Director of Equity & Compliance 228-8304 darylmc@usm.maine.edu
System Wide Services Sally Dobres Director of Equity & Diversity 973-3372 (VOICE) 973-3300 (TTY) sallyd@maine.edu	System Wide Services	System Wide Services Chip Gavin Director of Facilities Management & General Services 973-3335 (VOICE) or 973-3300 (TTY) chip.gavin@maine.edu

Consenting Relationship Guidelines

The Board of Trustees policy on sexual harassment clarifies its application to consenting romantic or sexual relationships between members of the University of Maine System community. These guidelines explain the policy, the responsibilities of faculty or staff who may become involved in a relationship of the type covered by the policy, and the responsibilities of university administrators, supervisors, and Equal Opportunity Officers once there is a reasonable basis to believe that a consenting relationship may exist.

Relevant Portion of the Sexual Harassment Policy

“Consenting relationships may constitute sexual harassment under this policy. When a professional power differential exists between members of the University of Maine System and a romantic or sexual relationship develops, there is a potential for abuse of that power, even in relationships of apparent mutual consent. Faculty and staff members are strongly advised not to engage in such relationships. Further, the University prohibits the abuse of power in romantic or sexual relationships.”

“To assure that power is not abused and to maintain an environment free of sexual harassment, a faculty or staff member must eliminate any current or potential conflict of interest by removing himself or herself from decisions affecting the other person in the relationship. Decisions affecting the other person include grading, evaluating, supervising, or otherwise influencing that person’s education, employment, housing, or participation in athletics or any other University System activity.”

Types of relationships covered:

To fall within the consenting relationship portion of the policy, a relationship must:

1. Appear to be consensual, and
2. Be romantic or sexual in nature, and
3. Develop between two individuals one of whom has power or authority over the other.

A consenting relationship is one between two adults, both of whom appear to freely choose to enter into and continue a romantic or sexual relationship. The policy strongly discourages consenting relationships when one of the participants has power or authority over the other, but does not prohibit them outright. The University discourages such consenting relationships because the power differential creates a strong possibility that the relationship may not be truly consensual, or if consensual may not permit a later decision by the person with less power to discontinue the relationship out of concern for the possible effect on his or her employment or educational status.

If one of the individuals involved does **not** welcome the relationship, it should be regarded as potential sexual harassment based on the unwelcome nature of the sexual conduct. Relationships which are not consensual are prohibited under other sections of the sexual harassment policy.

Consenting relationships that may result in complaints of sexual harassment or sexual favoritism and that create a conflict of interest include, for example, those between:

- A faculty member and student who is enrolled in the faculty member’s course, who is enrolled in a program for which a course taught by the faculty member is a requirement, who is an

advisee of the faculty member, or whose academic work is being supervised by the faculty member;

- A faculty or staff member and a student if the faculty or staff member is in a position to evaluate or otherwise influence the student's education, employment, housing, or participation in athletics or any other University activity (staff members include, for example, graduate assistants, administrators, coaches, advisors, program directors, counselors, health center staff, and residential life staff);
- A supervisor and an employee under that person's supervision; a department chair and a faculty member in the same department; an administrator and a faculty or staff member in a department under that administrator's direction;
- A tenured faculty member and an untenured faculty member if the tenured person participates in peer recommendations about the untenured person.

Consenting relationships between two co-workers, two faculty or staff members in different departments, two students, and a faculty or staff member and student between whom no professional power differential exists and which are welcomed by both parties involved are **not** subject to the sexual harassment policy.

Why consenting relationships are regulated:

Positive relationships between faculty and other staff and students, and between supervisors and their employees enrich the University environment and should be strongly encouraged. It is also natural that academic or employment-related interactions between some individuals may lead to personal friendships, which do not pose problems as long as they do not create a conflict of interest that could cloud academic or employment decisions. The policy on consenting relationships is in no way intended to chill the development of constructive relationships between individuals one of whom has power or authority over the other. However, romantic or sexual relationships are fundamentally different and raise serious concerns.

A consenting romantic or sexual relationship between a faculty or staff member and a subordinate student or employee may be exploitative in nature, leads to a conflict of interest for the person who is in the position of power, and can affect the environment for other students, faculty, or staff members, or the manner in which they are treated. The sexual or romantic relationship, per se, is not the problem; rather the problem is the conflict of interest and the potential discriminatory or damaging impact of the relationship when a power differential is involved.

Codes of ethics for most professional associations forbid professional-client sexual relationships. These codes offer guidance in the University setting. Student respect for and trust in faculty and other staff greatly restrict their actual freedom to reject sexual advances, and make them vulnerable to unintentional sexual exploitation. The power of faculty and other staff to give or withhold rewards such as praise, grades, and recommendations further limits the extent to which a sexual relationship between faculty or staff and student can be considered consensual. Even if a subordinate student or employee does not appear to object to participation in a sexual relationship, this does not mean that the individual welcomes the relationship. The student fearing adverse consequences from noncompliance may feel compelled to enter into or to continue an undesired intimate relationship with a faculty or other staff member. There are similar problems with an apparently consenting relationship between supervisor and employee.

Consenting relationships involving a power differential also pose serious liability for the University under the standards used by the courts in judging cases of **quid pro quo** sexual harassment. (In **quid pro quo** harassment, a supervisor or faculty member who makes

unwelcome sexual demands of a subordinate employee or student bases tangible job or educational rewards or penalties on whether the subordinate submits to the sexual request.) Additionally, a third party may claim that the participant in a consenting relationship received preferential treatment and may file a complaint of sex discrimination against the faculty member or supervisor.

Policy Implementation

Responsibilities of Faculty and Staff:

Faculty and staff are strongly encouraged to avoid any romantic or sexual relationship with a student or employee over whom they have any authority. If a faculty or staff member does become romantically or sexually involved with a subordinate student or employee, the faculty or staff member must remove himself or herself from any decisions affecting the other person as soon as practicable in order to avoid a conflict of interest and the potential for sexual harassment or sexual favoritism. The faculty or staff member may consult with the university Equal Opportunity Officer and should speak with his or her supervisor about appropriate ways to transfer such responsibilities. Even if the relationship is terminated, it may be necessary for the faculty or staff member to avoid any role in future decisions affecting the other person to avoid a perceived or actual conflict of interest or sexual harassment.

A faculty or staff member who fails to disclose his or her involvement in a consenting relationship with a subordinate student or employee to his or her supervisor, or who fails or refuses to remove himself or herself from decisions affecting the other person will be subject to disciplinary action.

Evidence of a pattern of consenting relationships between a faculty or staff member and subordinate students or employees may subject the faculty or staff member to disciplinary action.

Faculty and staff members are urged to be sensitive to the possibility that a consenting relationship which presently involves no power differential becomes problematic if they are unexpectedly placed in a position of responsibility for the student or employee with whom they have become involved.

Responsibilities of Administrators, Supervisors and Equal Opportunity Officers:

Universities should make reasonable efforts to ensure that all faculty and staff members receive a copy of the sexual harassment policy.

In each situation involving an apparent consenting relationship, a determination about what measures are appropriate should be made on a case-by-case basis from the facts of the particular situation. However, the following guidelines should normally be followed.

In general, the law holds the University responsible for sexual harassment about which it knew or should have known. Consequently, information about apparently consenting relationships that comes to the attention of a supervisor, administrator, or Equal Opportunity Officer must be investigated to protect the University from a potential charge that it knew or should have known about unwanted sexual conduct or a relationship which turned out to be nonconsensual. Although it is not necessary to explore every rumor alleging a consenting relationship, rumors which form a reasonable basis for believing that an alleged relationship exists that is subject to University policy should be investigated.

An administrator or supervisor who has a reasonable basis to believe that an alleged romantic or sexual consenting relationship is occurring that is covered by University policy must therefore immediately consult with the university Equal Opportunity Officer. The purpose of this consultation is to allow for a joint assessment of the situation and a decision about who will be responsible for reviewing it. If there is any indication that the alleged relationship may not be

welcome to either of the participants, the Equal Opportunity Officer should normally conduct the review to determine whether sexual harassment may have occurred. If the alleged relationship appears to be consenting but presents a conflict of interest for one of the participants, an appropriate supervisor, administrator, or Human Resources staff member should normally conduct the review to determine whether a conflict of interests exists. An appropriate university official should meet with the faculty or staff member to:

- a. Determine to the extent possible whether a romantic or sexual relationship exists, explore whether it appears to be consensual, and determine whether a conflict of interest exists,
- b. Inform the faculty or staff member of his or her responsibilities under University policy,
- c. Explore and assist with options for the appropriate transfer of responsibility for the subordinate student or employee,
- d. Encourage the faculty or staff member to terminate the current relationship, if appropriate, and/or to avoid such relationships in the future, and
- e. Follow-up to ensure that the transfer of responsibility occurs.

A university official who is reviewing an alleged consenting relationship that poses a conflict of interest and who receives information that the relationship may not be welcome to one of the participants should immediately contact the Equal Opportunity Officer. If there is a reasonable basis to believe that the relationship is not consensual for one of the individuals, the Equal Opportunity Officer should meet with that person.

If a faculty or staff member fails to promptly disclose a relationship or fails or refuses to remove himself or herself from decisions affecting the other person as soon as practicable, the Equal Opportunity Officer, administrator, or supervisor will review whether disciplinary action may be necessary and will make his or her recommendation to the appropriate university administrator.

November, 1990

Equal Opportunity Policy

The University is committed to equal employment opportunity and affirmative action in every aspect of employment policy and practice, including selection, placement, training, and advancement of University employees. The Board of Trustees Equal Opportunity Policy states:

In complying with the letter and spirit of applicable laws and in pursuing its own goals of diversity, the University of Maine System shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, including transgender status or gender expression, national origin, citizenship status, age, disability, or veterans status in employment, education, and all other areas of the University System. The University provides reasonable accommodations to qualified individuals with disabilities upon request

The University will regard freedom from discrimination and discriminatory harassment as an individual employee and student right which will be safeguarded as a matter of policy. Any employee or student will be subject to disciplinary action for violation of this policy. Retaliation against anyone who makes a complaint of discrimination or harassment or who is involved in a complaint process will not be tolerated.

Procedures:

Affirmative action plans for the various institutions and organizational units of the University System must be approved by the chancellor prior to their implementation. A copy of the current institutional plan shall be filed in the Office of Human Resources.

A designated person at your university is responsible for Equal Employment Opportunity and Affirmative Action.

Rev. OHR 1/06

Guidelines for Implementation of the Revised Equal Opportunity Policy (Excerpts)

1. To implement the prohibition of discrimination based on **citizenship status**:
 - a. No interview questions may be asked of or assumptions made about the citizenship status of applicants for employment. Job offers and other employment decisions may not be based on an applicant's or employee's citizenship status. A U.S. citizen may be preferred over an equally qualified alien **only** if: (i) the alien is not authorized to work in the United States, or (ii) the preference is based on a nondiscriminatory reason other than citizenship status or national origin.
 - b. You should ask finalists if they are legally authorized to work in the United States and can produce the documents required to complete the I-9, but if the question is asked of one, it must be asked of all finalists (**avoid asking only applicants with an accent**).
 - c. To comply with the Immigration Reform and Control Act, it is still necessary to verify an individual's identity and authorization to work in the U.S. within three (3) days of hire (one day in the case of temporary employees). In practice, it is often advisable to verify this information before making an offer of employment to ensure that the preferred candidate is legally able to work.
 - d. Members of the campus community who have questions or complaints about discrimination based on citizenship status should be referred to the university Equal Opportunity Officer.
2. The following definitions and guidelines shall apply in implementing the prohibition of discrimination on the basis of **sexual orientation**.
 - a. Sexual orientation refers to an individual's sexual preference or sexual interest in another person. The prohibition against discrimination based on sexual orientation means that the University and its agents may not discriminate against anyone in employment, tenure, discharge, or similar actions based on that individual's sexual orientation, in the same way that a person may not be discriminated against based on sex, race, religion, age or other protected characteristic(s). In addition, the policy should be interpreted to prohibit physical and verbal assault, harassment, and intimidation based on an individual's sexual orientation.
 - b. Members of the university who have questions or complaints about discrimination based on sexual orientation should be referred to the university Equal Opportunity Officer.
3. As in the case of any other kind of discrimination, discriminatory acts by a faculty, staff member or student, based on another individual's citizenship status or sexual orientation, are a violation of University policy. The University is legally obligated to promptly and impartially investigate all complaints of discrimination. An employee or student who violates the equal

opportunity policy is subject to disciplinary action under applicable collective bargaining agreements, University regulations, or the Student Conduct Code.

OHR 2/88

Equal Opportunity Complaint Procedure for the University of Maine System

The University of Maine System is committed to maintaining a respectful, fair educational and work environment, free from discrimination or harassment. The goal of the University is to prevent discrimination or harassment from occurring and to provide a means of raising and resolving complaints. The Equal Opportunity Complaint Procedure may be used by any employee or student of the University of Maine System who believes that he or she has been discriminated against or harassed based on race, color, religion, sex, sexual orientation, including transgender status or gender expression, national origin or citizenship status, age, disability, or veterans status. Sex discrimination complaints alleging discrimination based on marital status, pregnancy, or parental status may also be raised through this procedure.

These procedures provide a mechanism for employees and students to file complaints and for investigation and resolution of such complaints. The University is responsible for providing an environment free of discrimination and harassment whether or not an employee or student chooses to file a complaint using these procedures. Nothing in this document should be construed to limit the University's ability to take corrective action when the University's Non-Discrimination policy is violated.

GENERAL INFORMATION

Who may file a complaint: Any employee or student with a concern about discrimination or harassment should contact the University Equal Opportunity Officer or other person designated by the university as soon as possible after the alleged incident. (In providing this procedure to the university community, each University shall specify the title(s), addresses, and telephone numbers of the persons designated. For the purposes of this System-wide procedure the title Equal Opportunity Officer will be used.) This contact information is available from the University Equal Opportunity Office. Any person may bring information or a concern about discrimination or harassment to the Equal Opportunity Officer. A complaint may be initiated by an employee or student who feels he or she has experienced discrimination or harassment or by anyone with knowledge of an incident. When the complainant is not the person who may have experienced discrimination or harassment, the University's ability to investigate and resolve the situation may depend on that person's willingness to participate in the investigation.

The Equal Opportunity Officer will provide information about University policy and relevant laws, suggest ways to handle the complaint either informally or formally, and provide referrals to counseling or other support services, as needed. In any situation in which the person accused of discrimination or harassment is a student and a formal complaint is filed, the investigation will be conducted by the Student Judicial Officer under the Student Conduct Code. In such cases the Equal Opportunity Officer may serve as a consultant.

Alternate investigator: The university shall also provide a qualified alternate investigator in certain circumstances. (In providing this procedure to the university community, each University shall specify the title(s), addresses, and telephone numbers of the persons designated as alternate investigators or of the office or individual to whom a request for an alternate investigator should be made.) Complaints may be made to the alternate investigator if the Equal Opportunity Officer is the subject of the complaint. A request that the alternate investigator handle a complaint may be made if there is a concern that the Equal Opportunity Officer has a substantial conflict of interest in connection to the complainant or the person accused. If the Equal Opportunity Officer files a complaint, it shall be investigated by the Investigations Coordinator in the System Office of Human Resources.

Confidentiality: Investigations will be conducted as confidentially as possible to protect the privacy and due process rights of both the complainant and the individual accused. Consultation

with and involvement of other employees, supervisors and others will be strictly limited to those who may have information about the alleged incident, who need to know that a complaint has been made, or whose job responsibilities include equal opportunity matters. All those involved in a complaint process are strongly encouraged not to discuss information about the complaint within the University in order to protect their privacy, the privacy of others, and the effectiveness of the process. The complainant and the person accused may discuss the matter with family and others outside the University as necessary for support and guidance and may obtain assistance from University counseling professionals.

Supervisor's responsibility: If a supervisor becomes aware of a discrimination or harassment concern regarding an employee's behavior, the supervisor should consult with the Equal Opportunity Officer. The Equal Opportunity Officer and the supervisor will discuss the situation and together decide how to proceed.

Time limits: The people responsible for this process will seriously attempt to meet all deadlines, but failure to do so will not prevent the process from continuing. Deadlines in this procedure are intended to serve as outside limits for actions to occur. In the interest of everyone concerned, all matters should be handled as expeditiously as possible. All deadlines refer to calendar days.

Retaliation: Retaliation against anyone who makes a complaint of discrimination or harassment, or who is involved in a complaint process is illegal and constitutes a serious violation of University policy. Retaliatory action will be regarded as a basis for a separate complaint under these procedures.

INFORMAL COMPLAINTS

The University's experience is that most complaints can be resolved through an informal process. By its nature an informal process is less procedurally detailed than a formal process. The informal process provides the maximum privacy and an opportunity for the earliest possible resolution for everyone concerned.

If the complainant wishes to explore an informal resolution of the problem, the Equal Opportunity Officer will provide assistance without fully investigating the allegation. The objective of the informal process is to seek a resolution to which all parties involved can agree. The Equal Opportunity Officer may suggest that the complainant speak directly to the accused person or may act as an intermediary. A complainant may request that the person accused not be informed of the complainant's identity if this is not essential to resolve the complaint informally. The Equal Opportunity Officer may also gather information from other sources in an effort to resolve the complaint.

If the person accused elects not to participate in an informal process, the non-participation will not be considered as damaging evidence. Failure of the accused person to participate does not change the University's responsibility to investigate and to make decisions based on available information.

Attempts to resolve an informal complaint will be completed within thirty (30) days from the date of the complaint. The complainant and the person accused will be informed of the outcome of the informal process. This notification may be oral. At the completion of the informal process if a formal complaint will not be filed, the complainant or person accused may request a letter from the Equal Opportunity Officer regarding the status of the complaint. If a complaint cannot be resolved informally, the complainant or the Equal Opportunity Officer may request a formal investigation.

FORMAL COMPLAINTS

Filing a complaint: An employee or student who wishes to file a formal complaint should contact the Equal Opportunity Officer. Investigation of a formal complaint will normally be conducted by the Investigations Coordinator in the System Office of Human Resources. The complaint should be filed as soon as possible after the alleged incident or unsuccessful efforts to resolve the situation informally. A formal complaint must be put in writing and signed by the complainant. The complaint shall specify the incidents giving rise to the complaint. When possible, dates and location of incidents and potential witnesses shall be identified.

The University will attempt to balance the wishes of a complainant who does not want to file a formal complaint with the University's responsibility to investigate serious allegations and take prompt corrective action. A complainant who decides not to proceed with a formal complaint may be asked to state that preference in writing.

Notifying the person accused: The person accused of discrimination or harassment in a formal complaint will be informed in writing by the Equal Opportunity Officer within seven (7) days of both the allegations and the complainant's identity.

Investigative process: The Investigations Coordinator will meet with the complainant and the person accused and may request to meet with them together. The Investigations Coordinator may also interview witnesses, supervisors, or other persons who have information about the alleged incident, and may review personnel or other records relevant to the complaint. Prior allegations, or findings about prior incidents of discrimination or harassment, shall not be considered in determining whether the present allegation has been substantiated.

Findings and remedies: The Investigations Coordinator will assess whether a violation of the University's non-discrimination or harassment policy has occurred and will submit findings in writing to the responsible administrator, the complainant, and the person accused within thirty (30) days of receiving the formal complaint. A copy of the findings will also be provided to the Equal Opportunity Officer. If the finding is that discrimination or harassment occurred, the Investigations Coordinator may discuss or provide information about appropriate remedies to the responsible administrator. The responsible administrator is the line administrator (for example, the dean, director, vice president, or president), who is responsible for acting on the findings and for making a decision regarding discipline of the person accused. Appropriate discipline may range from an oral reprimand up to and including termination, or any other appropriate remedial action.

In making a decision regarding discipline, the responsible administrator may consider properly established records of previous conduct and the seriousness of the violation. A complaint made more than twelve (12) months after the incident shall not be the basis for disciplining any person accused of discrimination or harassment. However, where there are allegations of discrimination or harassment made within the twelve (12) month period and a longer pattern or practice of discrimination or harassment exists, the responsible administrator shall consider the totality of events in determining appropriate discipline.

Before any disciplinary action is taken the responsible administrator shall discuss the findings and recommendations with the Investigations Coordinator, shall meet with the accused person, and shall offer to meet with the complainant. The responsible administrator may also interview other witnesses and review other relevant evidence. The accused person, the Investigation Coordinator, and the Equal Opportunity Officer will be notified of the decision of the responsible administrator in writing within fourteen (14) days. The complainant will be notified at the same time whether the allegations have been substantiated, what corrective action, if any, will be taken, and in general, whether any discipline will be imposed. An employee who is disciplined after a

complaint has been substantiated may grieve the discipline by filing a grievance according to the procedures in the appropriate collective bargaining agreement or non-represented employee's grievance procedure.

Appeals of formal complaints: Either the complainant or person accused may file an appeal if: (1) the findings include relevant factual errors or omit relevant facts, (2) relevant procedural errors are alleged, or (3) relevant issues or questions concerning interpretation of University policy are raised. An appeal must be made in writing to the Equal Opportunity Director for the University System within seven (7) days of being notified of the responsible administrator's decision. The appeal must state the reason(s) for the appeal. The Equal Opportunity Director will review the written record and may request additional information from the Investigations Coordinator, complainant, person accused, responsible administrator, or others with direct knowledge about the complaint. The Equal Opportunity Director's review will be completed within fourteen (14) days and will be reported in writing to the complainant, person accused, Investigations Coordinator, Equal Opportunity Officer, responsible campus administrator, and University President. The final decision on an appealed complaint rests with the University President. During an appeal, the University shall not impose any discipline on a respondent for the behavior which is the subject of the appeal.

At any point in the complaint process if the University believes that the accused person represents a danger to individuals or to operations of the University, the accused may be placed on a leave with pay.

Right to Representation:

General: The complainant and the person accused have the right to representation as specified below. **Any representative may attend any inquiry with the employee or student and may receive copies of documents, notice of proceedings, and copies of findings, but may not participate in the inquiry.**

Bargaining unit members: The University shall inform a bargaining unit member who is the subject of a complaint of the member's right to be accompanied by a grievance representative. An employee who files a complaint and who is a bargaining unit member may also be accompanied by a union representative.

Students and non-represented employees: A student or non-represented employee, as either complainant or accused, shall also have the right to be accompanied by another student or employee at the university or other person.

Attorneys: Either the complainant or the accused may be accompanied by legal counsel when a formal complaint has been made.

Written records: The kinds of written records relating to a charge of discrimination or harassment that may be placed in an accused employee's official personnel file include: any document that has been mutually agreed to by the University and the employee; a letter issued by the responsible administrator to the employee at the conclusion of a formal investigation, which notifies the employee about discipline to be imposed or other remedies; a settlement agreement between the parties. Inclusion of such information in the personnel file shall be in accordance with the relevant collective bargaining agreement.

Other written records of informal or formal complaint investigations will be marked "CONFIDENTIAL" and will be retained in a separate and secure (locked) confidential file by the Equal Opportunity Officer and Investigations Coordinator.

Alternative procedures: Employees are encouraged to use the Equal Opportunity Complaint Procedure to address any complaints of discrimination or harassment based on protected class

status. However, an employee may elect to file a grievance under the provisions of the applicable collective bargaining agreement or non-represented employee's grievance procedure, if the alleged incident is also in violation of the collective bargaining agreement or non-represented employees' handbook. This action may be in addition to, or in place of, the procedures described above. An employee who wishes to use the Equal Opportunity Complaint Procedure but also to preserve his or her right to file a grievance must ask for, and normally will be granted, an extension of the initial deadline for filing a grievance. Such a request shall be made in writing before the initial deadline for filing a grievance passes by the bargaining agent or other non-represented employee to the University administrator with authority to grant an extension.

Any complaint of discrimination or harassment filed under these procedures shall be processed even if the complainant also files a complaint or suit with an outside agency, including the Maine Human Rights Commission, U.S. Equal Employment Opportunity Commission, or U.S. Department of Education Office for Civil Rights.

Academic Freedom: Harassment based on sex, race, or other protected characteristics includes verbal conduct which has the purpose or effect of unreasonably interfering with an individual's work or academic performance or creating an intimidating, hostile, or offensive work or educational environment. However, harassment does not include verbal expression which is relevant to course subject matter, and University procedures for handling harassment complaints shall not abridge academic freedom.

Dissemination of Procedure: A summary of the Equal Opportunity Complaint Procedure will be provided to all employees and students. Periodic notices sent to students, employees, and supervisors about the University's equal opportunity and sexual harassment policies will include information about the complaint procedure and will refer individuals to the Equal Opportunity Officer for additional copies.

OHR 12/94

Non-Discrimination Notices

The University is required to include a non-discrimination notice in a wide variety of its publications to comply with federal regulations. Any department or unit that publishes and distributes newsletters, brochures, reports, catalogs, applications, or bulletins that are made available to students, employees, applicants, or program beneficiaries must put the non-discrimination notice in the publication. Following is the language for the notice.

Non-Discrimination Notice (Short Form)

(To be printed in brochures, application forms, newsletters, and other short publications.)

In complying with the letter and spirit of applicable laws and in pursuing its own goals of diversity, the University of Maine System shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, including transgender status and gender expression, national origin, citizenship status, age, disability, or veterans status in employment, education, and all other areas of the University System. The University provides reasonable accommodations to qualified individuals with disabilities upon request.

Questions and complaints about discrimination in any area of the University should be directed to (name, title, address, phone and TYY number of campus Equal Opportunity Director).

Rev. OHR 1/06

Non-Discrimination Notice (Long Form)

(To be printed in undergraduate and graduate catalogs, employee and student handbooks, and other lengthy publications.)

Non-Discrimination Notice

In complying with the letter and spirit of applicable laws and in pursuing its own goals of diversity, the University of Maine System shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, including transgender status or gender expression, national origin or citizenship status, age, disability, or veterans status in employment, education, and all other areas of the University. The University provides reasonable accommodations to qualified individuals with disabilities upon request.

Questions and complaints about discrimination in any area of the University should be directed to the university Equal Opportunity Director or to the Equal Opportunity Director for the University of Maine System, currently Sally Dobres, who can be reached at (207) 973-3372 (voice) or (207) 973-3300 TDD, 16 Central Street, Bangor, Maine 04401.

Inquiries or complaints about discrimination in employment or education may also be referred to the Maine Human Rights Commission. Inquiries or complaints about discrimination in employment may be referred to the U.S. Equal Employment Opportunity Commission.

Inquiries about the University's compliance with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, and national origin; Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability; Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex; and the Age Discrimination Act of 1975, which

prohibits discrimination on the basis of age, may also be referred to the U.S. Department of Education, Office for Civil Rights (OCR) 33 Arch Street Suite 900, Boston, MA 02110-1491, telephone (617) 289-0111. Facsimile: (617) 289-0150. Email: OCR.Boston@ed.gov. Generally, an individual may also file a complaint with OCR within 180 days of alleged discrimination.

Revised OHR 07/2

Sexual Harassment

The University of Maine System is committed to maintaining a positive, fair work and educational environment, free from sexual harassment. In addition to being illegal, sexual harassment interferes with morale and productivity. The University policy on Sexual Harassment adopted by the Board of Trustees is as follows:

Board Policy:

Sexual harassment of either employees or students is a violation of federal and state laws. It is the policy of the University of Maine System that no member of the University System community may sexually harass another. In accordance with its policy of complying with non-discrimination laws, the University System will regard freedom from sexual harassment as an individual employee and student right which will be safeguarded as a matter of policy. Any employee or student will be subject to disciplinary action for violation of this policy.

In conformance with this policy, the University of Maine System will ensure fair and impartial investigations that will protect the rights of the person(s) filing sexual harassment complaints, the person(s) complained against, and the institution or unit. Retaliation against anyone who makes a complaint of sexual harassment or who is involved in a complaint process will not be tolerated.

Consenting relationships may constitute sexual harassment under this policy. When a professional power differential exists between members of the University of Maine System and a romantic or sexual relationship develops, there is a potential for abuse of that power, even in relationships of apparent mutual consent. Faculty and staff members are strongly advised not to engage in such relationships. Further, the University System prohibits the abuse of power in romantic or sexual relationships.

To assure that power is not abused and to maintain an environment free of sexual harassment, a faculty or staff member must eliminate any current or potential conflict of interest by removing himself or herself from decisions affecting the other person in the relationship. Decisions affecting the other person include grading, evaluating, supervising, or otherwise influencing that person's education, employment, housing, or participation in athletics or any other University System activity.

Definitions:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- 1. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or education;*
- 2. submission to or rejection of such conduct by an individual is used as the basis for academic or employment decisions affecting that individual; or*
- 3. such conduct has the purpose or effect of interfering with an individual's academic or work performance or creating an intimidating, hostile or offensive employment, educational, or living environment.*

Procedures:

The Chancellor and Presidents are directed to take appropriate steps to distribute this policy statement, to educate the University community to recognize and assertively confront sexual harassment, and to inform students and employees of procedures for raising complaints.

Concerns about possible sexual harassment may be raised and are addressed through the Equal Opportunity Complaint Procedure.

March, 1990

FACULTY

Advanced Degrees for Faculty

Board Policy:

The responsibility for the determination of the requirements which students must meet to be eligible for an academic degree rests with the faculties of each of the several units of the University of Maine System.

Members of the University faculty at the Instructor level, or above, may become candidates for advanced degrees from any College or School of the University of Maine System, other than the University of Maine System College or School in which they hold faculty appointments.

January, 1985

Named Chairs and Professorships

Named Chairs are endowed positions that enable the University of Maine System to supplement its academic and research programs by attracting distinguished scholars to its Universities. The income from the endowment or the annual grant will be dedicated to support the Chair. Such arrangements are expected to cover the salary of the recipient of the Chair, and where appropriate, support services for the position. Establishment of Named Chairs and approval of criteria and procedures for appointment to the Chair must be recommended by the Chancellor and approved by the Board of Trustees.

Named Professorships are endowed positions that, through salary enhancement, enable the University of Maine System to recruit and retain outstanding teachers and scholars. The income from a Professorship will be added to the base salary of the person holding the Professorship. In some situations, a portion of the income may be allocated by the University to provide equipment, technical and clerical assistance, travel, and other auxiliary support for the Professorship. Establishment of Named Professorships and approval of criteria and procedures for appointment to the Professorship must be recommended by the Chancellor and approved by the Board of Trustees.

March, 2001

Patents and Copyrights

Board Policy:

I. INTRODUCTION

The University of Maine System is a public institution devoted to teaching, research, service and other scholarly activities. Its personnel, including faculty, staff, students, fellows, wage-payroll employees, and persons on “visiting” appointments, carry on research and other activities supported by the University System from their own resources and/or by contracts or grants with outside sponsors. This document defines and establishes the respective rights, equities and obligations of the University and its scholars and employees to any copyrightable or patentable materials, inventions or discoveries (hereinafter referred to as intellectual property), resulting from their work.

II. PURPOSE

Universities are major sources of knowledge. New knowledge enriches humankind and underlies new products and processes essential to economic competitiveness. In this context, facilitating the process whereby university creative and scholarly works may be put to public use and/or commercial application (i.e., “technology transfer”) is an important aspect of the service mission of the Universities that comprise the University of Maine System. In turn, the protection of concepts with commercial potential (inventions or creations) is an essential aspect of the technology transfer process. Without such protection, companies are unlikely to invest the funds required to commercialize new technology.

In recognition of this mission, the University of Maine System has developed the policy herein regarding Intellectual Property Rights. The purpose of this policy on intellectual property is to provide the necessary incentives and protections to encourage the discovery and development of new knowledge, and its application and transfer for the public benefit. In so doing, the University is guided by the following goals:

- (i) To enhance and protect the educational, research and service missions of the Universities that comprise the University of Maine System;*
- (ii) To protect the interests of the people of Maine and those of the University of Maine System;*
- (iii) To optimize the environment and incentives for research and scholarship, and for the creation of new knowledge within the University of Maine System;*
- (iv) To bring the fruits of scholarship into use for the benefit and enjoyment of society as quickly and effectively as possible; and*
- (v) To recognize and protect the interests of the public; of individual creators of novel concepts, inventions, and materials; of the University; and of sponsors of research and scholarship.*

The remaining sections of the property related documents containing the full Policy Governing Patents and Copyrights are available at [Patents and Copyrights](#):

- Definitions
- Applicability
- Agreements with Sponsoring Organizations
- Principles of Ownership
- Disposition of Income

Legal Affairs 2/22/02

Student Evaluation of Faculty

Board Policy:

The University of Maine System, like all institutions of higher education, aspires to faculty excellence. The realization of that aspiration depends in part on successful faculty evaluation and development programs; programs that are defined in their objectives, nonbiased in their administration, and multifaceted in scope. In an age of increased emphasis on systematic evaluation of faculty, it is critical that the goals of evaluation, and the methods employed to achieve those goals, be scrutinized.

Successful faculty evaluation, for the purposes of aiding in personnel decisions and faculty development, solicits information from across the academic community. A multidimensional picture of an instructor can only be drawn from the varied perspectives of students, administrators, faculty peers, and the instructor himself. The student observes the teaching ability of the instructor on a direct, daily basis. If one agrees that teaching is a vital ingredient of an instructor's performance, the importance of student evaluation is clear. Student evaluation should not be used, however, as the sole basis for administrative decisions regarding faculty.

Administrative Procedures for Student Evaluation of Faculty

Each university shall establish procedures for student evaluations of faculty. These procedures shall be in accordance with Board policy mandating such evaluations and, where applicable, in accordance with the current collective bargaining agreement.

Academic Affairs Rev. 11/98

Tenure

Board Policy:

Tenure . . . an arrangement under which faculty appointments are continued until retirement or disability, subject to dismissal for cause, termination due to financial reasons, and/or termination due to change in the University program offerings.

The decision to grant or not to grant tenure rests solely with the Board of Trustees. Nothing in the administrative procedures, or in the criteria developed under those procedures, or in the approval of the criteria, shall limit or restrict that discretionary authority of the Board.

Procedures for Awarding Tenure:

1. Each new appointee should receive a letter of appointment which includes, as a minimum, such data as:
 - a. academic rank and/or title of position;
 - b. general duties to be performed;
 - c. beginning and ending dates of appointment;

- d. type of appointment – probationary, temporary;
 - e. indication of amount, if any, of prior service to be counted toward probationary period;
 - f. salary.
2. The specific assignment of prior credit will be part of the letter received at the time of initial appointment. The time credited as probationary years with regard to service at other institutions of higher education, whether units of the University of Maine System or not, shall not exceed three years.
 4. A probationary appointment shall not exceed 6 consecutive academic years in a full-time position at a single university. A leave of absence, sabbatical or teacher improvement assignment shall not constitute a break in continuous service, nor shall it be included in the 6 year period without prior written agreement between the faculty member and the President at the time of the request.
 4. Individuals on probationary appointments shall normally complete the full term, i.e., the sixth year, before the Board awards tenure.
 5. At the time of initial appointment, exceptionally qualified individuals may be awarded tenure at the rank of full professor, with the approval of the appointment by the Trustees. In other cases, as the institutions deem appropriate, full professors may receive an initial appointment without tenure but, with Trustee approval at the time of their appointment, may be given the opportunity to apply for tenure during the second year of their appointment.
 6. Tenure shall not be awarded ordinarily below the associate professor level or its equivalent.
 7. Each institution shall develop its criteria for promotion and tenure, and once developed, a statement of such criteria shall be forwarded to the Chancellor and the Trustees for review and approval and thereafter be made available by the campus administration to all faculty members in the institution. These criteria shall include reference to teaching, public service, research and scholarship activities as are appropriate to the University System and university missions. Criteria may vary among units or departments, but shall be in accord with the over-all university criteria.
 8. Student input is a desirable and meaningful part of faculty evaluation, and the contribution students make to the evaluative process is essential to the improvement of instruction. Student evaluations are to be secured on a regular, systematic and equitable basis and made part of the official record.
 9. Evidence should be obtained from outside the institution and from outside the University of Maine System, as appropriate, regarding the scholarship and research of candidates for tenure.
 10. Tenured faculty, as well as non-tenured faculty, shall be reviewed on an annual basis. Each university shall develop its criteria for faculty evaluation, and once developed, a statement of such criteria shall be forwarded to the Chancellor and the Trustees for review and approval and thereafter be made available by the university administration to all faculty members in the institution.
 11. The tenure guidelines provide the policy framework for the process to be followed at each institution. Where exceptions are sought, it is necessary that the university present its request in detail, including the rationale for the exception, to the Chancellor and the Board of Trustees.

12. Tenure may be transferable among the institutions of the University of Maine System at the discretion of the Board of Trustees, consistent with the tenure policies of the institution to which transfer is sought.
13. Senior administrators shall not be awarded tenure as part of their administrative contracts. However, the Trustees will consider, on an exceptional basis, a nomination to tenure for an academic dean, when presented under these conditions:
 1. the nominee will have been accepted by an appropriate academic department and accorded faculty rank, at the time of appointment as academic dean;
 2. the nomination will have been duly evaluated through the university's tenure processes.
14. A chief academic officer or other university employee in a position at the level of vice president may be considered for tenure to be effective upon assuming a full-time faculty appointment after completion of service in the administrative position. The employee must have been accepted by an appropriate academic department and accorded faculty rank at the time of appointment to the administrative position. Evaluation for tenure will occur under the university's tenure process at the time of initial appointment, or, with approval of the President, during the final year of service in the administrative position. The final decision regarding the award of tenure is made by the Board of Trustees. If tenure is granted, it will not be effective until the date the employee assumes the full-time faculty position and the term in the administrative position ends.

July, 1990

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Administrative Practice Letters

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Cash Management Training (APL I.D.)

GENERAL

Management is responsible for establishing and maintaining an effective internal control structure to safeguard cash against loss. This APL defines the minimum training to be provided to employees whose duties involve the handling of cash.

REQUIREMENTS

1. Chief Financial Officers are responsible for insuring that periodic training sessions are conducted for all employees who handle cash.
2. Individuals assigned responsibility for cash must receive cash training prior to beginning their assignment and at least once each year.
3. Minimum training requirements include a review of:

- a. APL # 1-E. - PETTY CASH
 - b. APL # 1-F. - CASH COLLECTION PROCEDURES
 - c. Previous audits related to cash management
 - d. Discussion of employee questions and observations
4. Campuses shall maintain a record of all training sessions which includes the following:
- a. Date training session was held
 - b. Name(s) of the trainer(s)
 - c. Names of attendees and their departments/affiliations
 - d. Summary of material covered in training session

Campuses must designate a location of record and file three copies within two weeks of each training session. Campuses will maintain these records for a period of three years.

5. The Internal Audit Department is available to assist campuses in planning, and may be available to conduct, cash management training sessions

OFT 7/16/07

Cellular Telephone Acquisition and Use (Excerpts from APL VII.D)

General

Cellular telephones (cell phones) may be issued to university employees who have a frequent need for remote telephone access, or for use in the event of an emergency. University cell phones are provided for necessary, official university business purposes only.

Each university and the System Office should assign a central person or office the responsibility for coordination of cell phone acquisition and use. Each university and the System Office must have policies and procedures for ensuring cell phones are only issued to authorized users, use is appropriate, appropriate reimbursements are made, and cell phone users and their supervisors or other appropriate personnel are informed about the requirements of this APL. Such procedures may also address other issues, such as acquisition of phone equipment, provision of hands free devices where necessary, review and approval of billing statements, and instruction on what to do in case a phone is lost or stolen, or requires service.

Contract Authority

- A. Consistent with the requirements of the APL Section VII, A.2. Purchasing Policy and Procedures, the University will have one contract (to the extent possible and practical) for quality cell phone service throughout the System. The University of Maine System is able to obtain best pricing and service when contract negotiation is coordinated. When circumstances warrant, such as quality concerns, Universities may negotiate and authorize other contracts.
- B. Only the System Purchasing Agent, Chief Financial Officers, or their designees, are authorized to approve cell phone contracts on behalf of the University.

Use of Cell Phones

- A. As with all university resources, employees are expected to responsibly use cell phones. Irresponsible or other misuse of cell phones will result in revocation of the phones and possibly disciplinary action.
- B. University cell phones are provided for necessary, official university business purposes. The University, however, recognizes that because of the often unpredictable nature of university business, employees may need to occasionally phone family members or significant others. Such calls are considered business related and are allowable but employees should keep the length and number of such calls to a minimum.
- C. Each employee must review his or her monthly cell phone statement to determine whether charges are reasonable and to identify any charges requiring reimbursement to the University. The employee shall ensure reimbursements are made to the appropriate office (e.g., business office, cashier's office, etc.) within 30 calendar days of the statement date. Reimbursements should be posted to accounts which were charged the original cell phone expense.

Cell Phone Safety and Security Guidelines

Employees should safely use cellular phones following these guidelines whenever possible:

- Use of a cell phone while operating a motor vehicle is distracting and may impair proper operation of the vehicle. Where university business results in employee use of a cell phone while operating a motor vehicle, the employee should endeavor to acquire and use a hands free device or stop the vehicle to use the phone. In all cases, proper operation of the motor vehicle shall take precedence over use of the cell phone.
- Be aware that use of cell phones while operating a vehicle may be illegal in some states, cities, or other localities. Employees cited for illegal use of cell phones will be responsible for any resulting fines.
- Do not place the phone or equipment on the dash board or in any other dangerous position such as in the air bag deployment area, as serious injury or death may result.
- Cell phones should not be used when vehicles are being fueled or while performing dangerous activities.
- Be aware that cell phone conversations are not private or secure.
- Employees should take precautions to avoid acts of vandalism and/or theft, such as locking unattended vehicles and keeping cell phones out of view.
- Employees should be familiar with the operation of the cell phone and program frequently called and emergency numbers to minimize dialing.

Reimbursement for calls on Personal Cell Phones

- A. When employees make necessary university business calls from personal cell phones, reimbursement may be requested using a check request or other appropriate form specified by the particular university.
- B. Employees must identify the business expenses on the detailed cell phone bill and submit the original bill with the request for reimbursement. Where an employee also needs the original receipt for tax or other purposes, the supervisor may accept a copy.
- C. Each university and the System Office will use a reasonable method to calculate reimbursement of university calls made on personal cell phones.

Complete guidelines for the University policy on cellular telephones are included in the above APL and can be obtained at [APL Cellphone](#).

Delegation of Authority to Approve Financial Transactions (APL IV.E)

GENERAL

The employee, recorded at the Campus Business Office as the “person responsible” for the activity and control of an account, must personally approve all transactions in that account unless he/she has delegated in writing the approval function to another employee.

Currently the required approval of financial transactions is often indicated by rubber stamp signatures. This procedure raises the question as to whether the person whose name is on the stamp has actually seen and approved the transaction. Similarly, transactions are frequently approved in the name of someone other than the “person responsible” for the account.

The purpose of the Accounting Practice Letter is to ensure that proper controls are placed on the delegation of the function of approving financial transactions.

DELEGATION OF AUTHORITY

When the “person responsible” for an account wishes to delegate the authority and responsibility for approving transactions in that account to another employee, he/she should give written authorization to that employee to sign in his/her own name. A copy of this written authorization should be kept on file at the Campus Business Office together with the “Account Creation Form”.

FACSIMILE SIGNATURE STAMPS

Facsimile signature stamps may not be used to approve financial transactions. Transactions will not be processed or approved with a signature stamp.

5/3/07

Procurement Standards of Conduct (APL VII.B)

GENERAL

Federal Office of Management and Budget (OMB) Circular A-110 <http://www.whitehouse.gov/omb/circulars/a110/a110.html> requires recipients of federal funds to establish procedures for the procurement of supplies, equipment, construction and other services.

The following University of Maine System (UMS) standards of conduct are furnished to ensure that all materials and services, regardless of the source of funding, are obtained in a cost effective manner and in compliance with the applicable federal and state laws, executive orders, and generally accepted procurement standards. They do not relieve any campus or employee of their own contractual responsibilities arising under individual contracts. The University of Maine System Treasurer is the responsible authority, prior to recourse to the federal sponsoring agency regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into, for federal grants and all other agreements. This includes disputes, claims, protests of award, source evaluation or other matters of a legal nature. Unresolved matters concerning violation of law may be referred to such local, state or federal authority as may have proper jurisdiction after consultation with University Counsel.

MONITORING

Campus Presidents should insure that campus employees directly or indirectly responsible for procurement are made aware of, and comply with, these standards. Responsible employees will include, but are not limited to, Purchasing Officers, Business Officers, Vice Presidents, Research Office Contracting Officers, and Principal Investigators.

Each employee directly or indirectly responsible for procurement must complete the Acknowledgement form on page 4 of this APL. This will acknowledge familiarity with this APL and OMB Circular A-110. A file of completed forms must be maintained by each campus.

CONFLICT OF INTEREST

When University Trustees, officers of other employees, or members of their immediate families, have financial interests in, or consulting arrangements with, private business concerns, it is important to avoid actual or apparent conflicts of interest between their University obligations and their outside interests. Title 5 - §18 of the Maine Revised Statutes reads in part: An executive employee (defined to include employees of the University of Maine System) may not have any direct or indirect pecuniary interest in or receive or be eligible to receive, directly or indirectly, any benefit that may arise from any contract made on behalf of the State when the state entity that employs the executive employee is a party to the contract. Any contract made in violation of this section is void.

What constitutes a significant interest or a relationship that may give rise to an actual or apparent conflict of interest often must be judged on a case by case basis. If in doubt, the employee should consult the campus president, or his or her designee. University counsel may be consulted if the campus president, or his or her designee, deems it necessary.

1. Situations That Must Be Avoided

Certain situations must be avoided since even full disclosure would not satisfy legal requirements and approval of such actions could not be granted by the University. Examples of these situations include:

a. **Personal gain**--Transmitting to outsiders or otherwise using for personal gain University supported work products, results, materials, property records, or non-public information without the right to do so;

b. **Privileged information**--Using for personal gain, or other unauthorized purposes, non-public information acquired in connection with the individual's University-supported activities. This privileged or confidential information includes, but is not limited to, medical, personnel, or security records of individuals; anticipated material and equipment requirements or price actions; knowledge or possible new sites for University supported operations; and knowledge of forthcoming programs or of selections of contractor or subcontractors in advance of official announcements, confidential patent information and trade secrets;

c. **Contract negotiation**--Negotiating or giving final approval to contracts between the University and other organizations and individuals with which the employee has direct or indirect consulting or other significant relationships;

d. **Gratuities and special favors**--Accepting gratuities or special favors from individuals and organizations with which the University does or may conduct business, or extending gratuities or special favors to employees of any sponsoring government or other agency or entity, under circumstances which might reasonably be interpreted as having any possibility of influencing the recipients in the conduct of their duties. Acceptance of any gifts is strictly prohibited.

2. Situations Requiring Disclosure

The following situations may be undertaken only with full disclosure by the employee and approval from the campus president, or his or her designee, in consultation with University counsel, if necessary. The existence of such situations should be on the record and the reasons for approval documented in writing. Examples of situations requiring disclosure and approval in advance include:

e. **Outside Organization**--Undertaking, modifying, or orienting the employee's activities to serve the needs of an outside organization or individual;

f. **Purchases**--Recommending the purchase of equipment, instruments, materials, services, or other items from a private firm in which the individual has an interest, direct or indirect.

Acknowledgement
of
University of Maine System
Procurement Standards of Conduct

TO: _____

(Campus Authority)

This will acknowledge that I have received a copy and have read the University of Maine System Procurement Standards of Conduct (APL VII-B) and OMB Circular A-110, and agree to comply with them.

Signature Title

-

Name Campus

Date Department

8/14/06

Purchasing Cards (Excerpts from APLVII.C)

Purchasing cards are an efficient and convenient method for making many types of routine purchases. It is the intent of this practice letter to promote the use of Purchasing Cards while providing sufficient controls. The use of purchasing cards is subject to the requirements of all applicable Administrative Practice Letters, in particular Section's VII, A.2.,B., H and IV, B., C. Purchasing cards must only be used for University business and in accordance with the provisions of the respective university's purchasing card user manual (hereafter referred to as Manual), to be prepared by the Chief Financial Officer (CFO) at each university. Universities have much flexibility in structuring the paperwork flows in the various departments that will use the card, provided that the duties of purchasing and reconciliation are properly segregated. The practices establish the minimum level of controls necessary for the proper use of purchasing cards, and should be incorporated in each university Manual. The universities are free to adopt additional controls to regulate purchasing cards in their respective environments.

Procedures for issuing and employee use of purchasing cards are available at [Purchasing Cards](#). All supervisors should review with staff the regulations that are required to be followed when a Purchasing card has been issued to staff for University use.

OFT 8/01/06

FREE SPEECH AND ASSEMBLY

Board Policy:

Recognizing that many citizens have differing views on the matter of whom and which groups should have an opportunity to express opinions and meet on our University of Maine System Campuses, the Board of Trustees of the University of Maine System affirms its commitments to the rights of free speech and assembly.

To that principle, there shall be no restrictions, on any of the System institutions, placed on the fundamental rights of free speech and assembly, except those necessary to preserve the order for the University System to function as an institution of higher learning.

The administration of each university is responsible for establishing appropriate procedures for the implementation of this policy and for the protection of the rights of individuals through adequate review of alleged violations of the policy.

Rev. Legal Affairs 11/98

HEALTH AND SAFETY

Facilities Procedures (APL II.A)

A. THREATS TO UNIVERSITY PROPERTY

A reward of up to \$10,000 may be offered to any one who provides information leading to the arrest and conviction of any person who intentionally damages, or threatens to damage any University property by bomb, arson, vandalism, or other means. Each University shall maintain and upgrade as needed a set of guidelines for responding to any threats or acts (e.g. preventing panic, communication with local agencies, investigation and prosecution, responsible campus authority, training programs, campus and community notification and awareness).

B. USAGE OF UNIVERSITY FACILITIES

Each University will establish rules for use of facilities under its management. These rules will appear as Attachments to this APL and/or be available at each location. Each will include the name of the designated office responsible for establishing and enforcing those rules (see Attachment A - *Statement on Usage of Premises*).

ATTACHMENT A

University of Maine System Office Statement on Usage of Premises

As the statewide operations center for the University of Maine System (UMS), the facility at 16 Central Street, Bangor, is a limited-access building featuring individual offices, limited-capacity conference rooms for the transaction of UMS business and related functions. Given these limited purposes, functions and space, the UMS building does not serve as a public facility and is not intended as a public venue open to expressive conduct. Loud or excessive noise or boisterous conduct is not conducive to the purpose of the premises and is forbidden.

Carrying signage - whether hand-held or attached to a stick, pole or similar device - is not allowed due to the confined nature of the meeting and conference rooms, and the narrowness of the foyer, stairwells, hallways, waiting areas and elevator. Furthermore, parading, marching and demonstrating within the facility are prohibited in order to assure the health and safety of persons and property. Entrances and exits to the building, work areas or conference and meeting rooms may not be blocked or obstructed.

From time to time, the Board of Trustees of the UMS will conduct meetings which by law are open to the public in rooms specifically designated for the particular meeting in question, in order for the Board to preserve order and to conduct its public business, these meetings are governed by the rules of the Board, Section 212, Free Speech and Assembly and Section 202, Appearance Before Board of Trustees, and all pertinent state, federal and local laws or ordinances and Maine Labor Relations Board Arbitration decisions. The prohibitions contained above also govern such meetings.

Any questions regarding this policy should be directed to the Clerk of the Board of Trustees, 16 Central Street, Bangor, Maine 04401. Telephone 973-3211.

Dated: April 28, 2006

Safety and Environmental Management System (APL II.E)

Policy Statement:

The University of Maine System is committed to protecting the environment and the health and safety of all members of the University community in its operations and activities. We further recognize an obligation to demonstrate safety and environmental leadership by maintaining the highest standards and serving as an example to our students as well as the community at large.

Procedures

In working to meet this commitment, individual campuses, organizational units, and employees must ensure that sound environmental health and safety planning is integrated into every level of University System decision-making and must demonstrate leadership to meet the following:

Comply with all applicable federal and state environmental health and safety laws and regulations. In the absence of specific laws or regulations, consensus-based standards or best management practices should be adopted;

Develop, implement, and continuously improve environmental health and safety programs that eliminate safety hazards, encourage safe work practices and emphasize safety and environmental education;

Promote environmental health and safety responsibility among employees, students, and visitors through training and assessment.

Include environmental, health and safety factors as an integral part of each institution's planning and operational functions;

Design, construct and operate all facilities in a manner that encourages environmental responsibility and promotes sustainable development on campus properties and in local communities; and

Work cooperatively with government, industry and other organizations in developing reasonable and cost-effective environmental, health and safety legislation and regulations that protect the human health and the environment.

The Chancellor is directed to take actions necessary to assure that all units of the University of Maine System are in compliance with this policy and with all pertinent Federal and State regulations.

The Chancellor or a delegated representative is authorized to review plans developed by individual campuses or other organizational units to assure compliance with this policy.

Under APL II.E University supervisors are required to:

Communicate with employees, contractors, students and visitors that safety, health, and concern for the environment are high priorities for the University and everyone shares the obligation to work in a safe, healthy and environmentally protective manner.

Analyze work procedures to identify hazards and ensure measures are taken to eliminate or appropriately minimize those hazards.

Ensure campus safety and health responsibilities are carried out by everyone working under their supervision.

Ensure safety equipment is provided and required to be used.

Encourage prompt reporting of health and safety issues.

Stop work being carried out under their authority if they believe that continuation of the work poses an imminent danger to the safety or health of people or the environment. If the situation cannot be corrected immediately, the supervisor must notify the Chair or Director under whose responsibility the work is being performed.

Participate in environmental and safety training programs.

Ensure supervised employees are trained to identify and mitigate potential hazards. Additional training may need to be developed when a new process, material, or equipment are introduced.

Ensure that work is performed only by persons who have received the proper training.

Document all required training. A copy of the documentation shall be sent to the campus human resources coordinator or office for filing in the official personnel file for each University employee.

Review of employee compliance with safety and environmental policies during performance evaluations.

[APL Section II-E](#) provides procedures to assist the universities in complying with the Environmental and Safety Policy. All universities and administrative units within the University of Maine System are required to follow these procedures.

OFT Rev. 8/18/06

Smoking in the Workplace

Maine's Workplace Smoking Act of 1985 requires the University of Maine System to establish or negotiate through the collective bargaining process a written policy concerning smoking and nonsmoking by employees in all university facilities. The policy prohibits smoking except in designated smoking areas determined by each university, and requires the policy to be posted and available to employees upon request. An employee can also receive assistance in the cessation of smoking through various programs, and certain charges are covered through the University's Group Health Plan. Consult your Human Resources Office if you have any questions concerning this policy.

Background and Summary

This law requires that the University, as a covered employer must:

- establish, or negotiate through the collective bargaining process a written policy concerning smoking and nonsmoking by employees in the workplace;
- post the policy and provide a copy to any employee upon request; and
- supervise the implementation of the policy.

The policy to be developed must prohibit smoking except in designated smoking areas and may prohibit smoking throughout the University's facilities.

The law is not applicable to any facility where the employer and all employees have agreed upon policies concerning smoking.

Maine's law regarding smoking in public places was revised, effective January 1, 1994. The law restricts the kinds of areas in public places which may be designated as smoking areas. A public place is any place not open to the sky that the public is invited or allowed. Any designated smoking area in a public place must be an enclosed area (separated from other areas on all sides by walls, doors, windows, etc. that fill the space from floor to ceiling). A designated smoking area in a public place must be in an enclosed space where no services or public activities are conducted. The designated smoking area must be designated to minimize smoke escaping from the designated area into a public place. Smoking is prohibited in any rest room made available to the public.

Guidelines for Implementation

The authority for adoption of policies regarding smoking and nonsmoking at the facilities of each university shall reside in the President of the University, which policies shall be consistent with these guidelines. The President may delegate this authority as he or she deems appropriate. Authority for the determination of smoking policies applicable to employees who are located at a University but who report administratively at a different University or organizational unit shall reside in the President of the University in which facilities the employees are located, or that President's designee.

The details of a policy which are applicable to a particular University shall be developed with the opportunity for involvement of all employees who currently work at that University, and should reflect a consensus among employees whenever possible. For the purpose of policy formulation and development, the University may be subdivided into a number of smaller areas by the President or his/her designees but the principle of opportunity for involvement of employees who work within the areas thus identified shall continue.

Where consensus cannot be obtained among employees, consideration should be given to reordering the work environment to separate smokers from nonsmokers if feasible.

Where a policy must be established for a University or an area, which policy does not represent a consensus among all participating employees, the policy shall include a prohibition regarding smoking except in designated and specifically described portions of the University or area.

Smoking by employees shall be prohibited throughout the University in classrooms, laboratories, libraries, gymnasiums, auditoriums and other similar areas routinely used by and for the education of students.

Policies regarding smoking in other large, enclosed, common use areas on a campus, such as hallways, lobbies and dining areas, shall be developed with input from affected employees, including, where appropriate, a general opportunity for employees to comment.

Smoking in confined, general areas such as elevators shall be prohibited.

Smoking by employees on University property outside of enclosed structures is permitted, except to the extent that specific workplace rules are adopted for the protection of property or persons engaged in particular tasks where smoking may constitute an immediate safety hazard.

Smoking decisions by employees traveling together in a University vehicle shall be the responsibility of the travelers. If agreement cannot be reached, smoking in the vehicle shall be prohibited.

Where an employee who is represented by a bargaining agent desires that a representative of the bargaining agent participate in discussions regarding smoking policy, it shall be the responsibility of the employee to arrange for such participation in a timely manner.

Students and other non-employees who frequent a university or an area in which a smoking policy is being developed may also be invited to participate in policy formulation.

Smoking policies which are developed in accordance with these guidelines for a university or area shall be applicable to all current and future employees in the affected area. New employees shall be expected to comply with previously developed policies applicable to their university or area. Although inquiries about the intentions of a candidate for employment regarding compliance with smoking policies are permissible, selection decisions may not be based on an individual's choice regarding smoking or not smoking as long as smoking is limited in a manner permitted under applicable policy.

Smoking policies, once developed, shall remain in effect for an indefinite duration. A university President, or his or her designee, may initiate reconsideration of policies through the process described herein for a university or area(s) where in their judgment; circumstances have changed sufficiently to warrant such reconsideration.

Smoking policies may not provide for "smoke breaks" from work. Rest and meal periods shall be such periods as are described in applicable collective bargaining agreements or personnel policies. Those groups of staff who do not have designated rest and meal periods must not allow smoking to interfere with normal productivity.

Policies must be effectively communicated to all occupants of and visitors to facilities if they are to accomplish their purpose of limiting smoking to designated areas. Such communication should include distribution and posting of notices and posting and maintenance of signs to employees and other persons.

Initial responsibility rests with each individual faculty and staff member for his or her compliance with smoking policies. Where non-compliance occurs, affected individuals should attempt to work

out problems among themselves. When those attempts are unsuccessful, supervisory involvement should be sought. Enforcement of smoking policies shall be by counseling first, followed by discipline if necessary, consistent with the terms of applicable collective bargaining agreements or personnel policies.

Where resources permit, efforts should be made to provide to employees who smoke information about the dangers of the practice to themselves and others, and support if they wish to quit smoking.

Substance Abuse

Board Policy:

The University of Maine System Board of Trustees recognizes that substance abuse is a complex problem which is not easily resolvable solely by personal effort and may require professional assistance and/or treatment. Accordingly each University and System-wide Services shall designate an individual to assist employees who seek referral for assistance with a substance abuse problem. The universities shall take necessary steps to insure the confidentiality of all inquiries and referrals. All employees shall be informed periodically of the availability of help for substance abuse problems. Each University shall also make available to employees informational material regarding substance abuse.

Faculty and staff members with substance abuse problems are encouraged to take advantage of available diagnostic, referral, counseling, and prevention services. However, employees availing themselves of these services will not be granted special privileges and/or exemptions from standard personnel practices applicable to job performance requirements. The University will not excuse acts of misconduct committed by employees whose judgment is impaired due to substance abuse.

The possession, use, manufacture or distribution of illegal drugs as defined by federal, state, and local statutes is prohibited at any time on University property. Employees known to possess, use, manufacture or distribute illegal drugs are liable to public law enforcement sanctions and University disciplinary action. Use of alcoholic beverages on University property shall be in compliance with state laws and university regulations and procedures. Violation of such laws, regulations and procedures may result in disciplinary action, and, where applicable, criminal proceedings.

The University maintains a program for conducting alcohol and drug testing of employees in safety-sensitive positions in accordance with the 1991 Omnibus Transportation Employee Testing Act. Contact your university Human Resources Office for further information on the Drug and Alcohol Testing Policy.

In compliance with Federal law, the University distributes a publication annually to all employees and students explaining this policy, state and federal law, and the effects of substance abuse. Specific individuals who offer assistance at each university are listed.

January, 1989

Workers' Compensation

Workers' Compensation provides "no fault" insurance for employees who develop work-related injuries or illnesses. Maine law entitles employees to wage replacement benefits and medical coverage if they become injured or ill in the course of their employment, normally even if the employee contributed to the cause of the injury. In exchange, employees may not sue their employer for negligence. All University employees – regular, temporary, and student – are covered by the Workers' Compensation program

The goals of the University's program are to promptly report all work-related injuries and illnesses, help employees get appropriate medical treatment, and return the employee to productive work as soon as possible.

It is critical that supervisors immediately report any injury or illness that may be work-related to the appropriate campus office. There are significant legal and financial costs for failing to report an injury promptly. When in doubt about whether the injury is work-related, file an injury report. The University can later determine whether the claim is eligible for Workers' Compensation.

The University uses a third-party administrator, CCMSI, to administer its Workers' Compensation Program. The administrator's representative gathers information about the injury, provides information and assistance to the injured employee and supervisor, coordinates payment of medical expenses and wage replacement benefits for an employee who misses time from work due to a work-related injury, and manages the process for denying contested claims.

An employee on Workers' Compensation leave is entitled to return to the same job. If the leave lasts one year, the University may terminate employment.

Retaliation against an employee for filing a Workers' Compensation claim or receiving workers' compensation benefits from the University or a former employer is prohibited and is a violation of state law.

More information about Workers' Compensation and related forms are available at [Workers Compensation](#).

LEAVES AND WORK SCHEDULES

Family Leave Policies

The University of Maine System provides a variety of leave options to help employees balance their work and family responsibilities. Employees who need leave time for birth or adoption of a child, care of a sick family member, other family responsibilities or Military Family Leave may use disability leave, annual leave, compensatory time, or leave without pay as described below.

This is a summary of complex policies. For more complete information, refer to the applicable collective bargaining agreement or employee handbook and to Family and Medical Leave guidelines at [Family Medical Leave](#). Questions about leave policies or specific situations can be answered by the university Human Resources office.

Family and Medical Leave

An employee who requests leave for the employee's own serious illness (including a workers' compensation injury), the birth or adoption of a child, care for a sick family member who is eligible, or for Military Family Leave for a qualifying exigency under the federal Family and Medical Leave Act is entitled to up to twelve weeks of FMLA leave each year. Family and Medical Leave may not be denied. Eligible employees are those:

Who have worked for the University for at least twelve months,
Who have provided at least 1,250 hours of service during the prior twelve months, and
Whose medical condition (or family member's medical condition) qualifies as a serious medical condition under the FMLA.

The University places an eligible employee on FMLA leave when the absence from work is for two weeks or longer. Disability leave, annual leave, compensatory time, and leave without pay may be used during the period of FMLA leave as explained below and in accordance with applicable University policies.

An employee who does not qualify for FMLA leave may qualify for leave under the Maine Family Medical Leave Law. Under State law, an employee who has worked for the University for twelve consecutive months is eligible for up to ten work weeks of family medical leave during any two year period for the employee's own serious illness (including a workers' compensation injury); the birth or adoption of a child, including a domestic partner's * child; or the serious health condition of the employee's parent, spouse, sibling+, domestic partner, or child, including a domestic partner's child.

Disability leave, annual leave, compensatory time, and leave without pay may be used during the period of Maine Family Medical Leave as explained below and in accordance with applicable University policies.

Medical certification is normally required for leave under the FMLA both for an employee's illness and for the illness of a family member. However, no medical certification is needed for the first six weeks of a woman's absence due to childbirth, the first two weeks of a spouse's or domestic partner's leave upon the birth of a child, the care of a child in the first year after birth, or adoption or placement of a foster child.

Birth of a Child

Female employees who give birth

Leave requests up to twelve weeks for the birth of a child must be granted under FMLA if the employee meets the eligibility requirements. The leave may be taken anytime during the first year after the birth.

A woman who gives birth to a child may use accrued disability leave for the period of time during which she is medically unable to work before and/or after the birth. Use of disability leave will normally be approved for six weeks following a birth without requiring a doctor's certification. Longer use of disability leave is appropriate if the mother has a serious medical condition as defined by the FMLA; it requires a doctor's certification of medical necessity. If a woman does not have enough accrued disability leave to cover the period during which she is unable to work, she may use any accrued annual leave# or compensatory time, and/or request a leave without pay. Leave requests for more than twelve weeks require the supervisor's approval. In unusual circumstances where the woman is medically unable to work for more than six months, she should apply for long-term disability benefits.

If a woman would like leave to care for the infant beyond the period during which she is medically unable to work, she may use annual leave or compensatory time. When annual leave and compensatory time are exhausted, she may request leave without pay for up to one year (12 weeks for employees in the Police Unit). Extensions of unpaid leave beyond this limit may be approved under some leave policies.

For faculty members, time spent on leave without pay for personal reasons will not count toward the probationary period for tenure unless mutually agreed in writing by the university President and the faculty member.

Employees who are spouses or domestic partners

Leave requests up to twelve weeks for the birth of a child must be granted to a spouse under FMLA if the employee meets the eligibility requirements (the Family and Medical Leave Act does not cover domestic partners). The leave may be taken anytime during the first year after the birth.

Upon birth of a child, a spouse or domestic partner may use disability leave (within policy limitations), annual leave, compensatory time, and/or leave without pay.

The employee may use disability leave only for the time period during which the employee is needed to provide family care due to the birth mother's disability. An employee may use up to ten days of disability leave each year for absences resulting from the birth of a child to care for family members without being required to provide a doctor's certification. Longer use of disability leave – up to a total of 20 days annually for professional employees, and up to half the total of accrued disability leave for hourly employees – is permitted when the employee's presence is needed to care for the mother's serious medical condition. Such extended use of disability leave requires a doctor's certification of medical necessity. Faculty may use up to 30 days of disability leave annually to provide care for a newborn child. Disability leave may be supplemented by annual leave*, compensatory time, or leave without pay if approved.

Annual leave, compensatory time, or leave without pay may also be used beyond the period for which disability leave is appropriate, up to six months for Service & Maintenance and Police Unit employees and up to one year for all other employees.

Adoption

Either parent may request leave at the time of adoption of a child. The FMLA provides all employees with up to twelve weeks of leave following adoption or placement of a child; Maine FMLA provides employees whose domestic partner adopts a child up to ten weeks of leave following adoption or placement. Faculty may use up to 30 days of accrued disability leave for adoption, and salaried employees up to 20 days for an adoption that requires the employee's presence (such as foreign travel for an international adoption, or agency requirements that a parent remain home with a child after placement). All employees may use annual leave, compensatory time, and leave without pay during the adoption.

Placement of a foster child is treated like adoption for purposes of employee leave requests.

Illness of a Family Member

Disability leave may be used when an employee needs to care for an ill or injured family member in the following circumstances. Faculty may use up to 30 days and salaried employees up to 20 days of disability leave for this purpose each fiscal year. For hourly employees, up to half of accrued disability leave may be used for this purpose. Use of disability leave is appropriate when a family or household member requires care. For a child, even a minor illness or injury meets this standard because the child cannot be left unattended. When an adult family member is ill or injured, disability leave is appropriate only when the employee's presence is required to care for the disabled family member or other family members.

Each collective bargaining agreement and employee handbook defines the family members covered by this policy.

If time is needed beyond the maximum disability leave allowed or accrued, the employee may request permission to use annual leave, compensatory time, or leave without pay.

Leave up to 12 weeks per year must be granted if the family member's condition qualifies as a serious medical condition under the FMLA. When the leave is to care for a sibling, domestic partner or domestic partner's child, the leave is covered under the State FMLA and allows for up to ten weeks leave in a two year period.

Family Military Leave

Employees who are eligible for FMLA leave and who have a family member in the National Guard or Reserves who is called to active duty may use their 12-week entitlement for certain qualifying circumstances, such as attending military events, briefings, or counseling, arranging for alternative childcare, or making financial and legal arrangements. Certification of the qualifying exigency for military family leave may be required.

Eligible employees are entitled to up to 26 weeks in any one-year period to care for a family member who incurred a serious illness or injury in the line of duty in the Armed Services, including the National Guard or Reserves. Certification for the serious injury or illness of a covered service member may be required.

Under State law, when an employee's spouse, domestic partner, or child who is a Maine resident is deployed for military leave in a combat theater or an area where armed conflict is taking place for 180 days or longer, the employee may take up to 15 days of leave. The leave may be taken during the 15 days immediately before deployment, the 15 days immediately after deployment, or any combination.

Employees may use a combination of accrued annual leave and compensatory time during family military leave. An employee who exhausts all paid leave may request leave without pay and may continue benefits coverage at the employee's expense.

If the leave will last five or more consecutive work days, the employee must give at least fourteen days advance notice. An employee taking leave for fewer than five consecutive work days must provide advance notice as practicable. The maximum amount of FMLA leave that an employee may take for all FMLA-qualifying reasons in any 12-month period is 26 weeks.

Benefit Coverage During Leaves

While an employee is on any paid leave (including disability leave, annual leave, and compensatory time), benefit coverage continues with no additional cost to the employee. During an unpaid leave of absence that qualifies as FMLA leave, health insurance coverage (including dental coverage) continues on the same terms as during active employment, with the University and the employee each paying the customary share of premiums. If the employee is not eligible for FMLA leave or the employee continues to need unpaid leave after exhausting FMLA leave, the employee is responsible for costs of continued benefit coverage.

Medical Release to Return to Work

An employee who has been on leave for four weeks or longer due to his or her own medical condition is required to provide medical documentation of the employee's ability to return to work.

*The employee and domestic partner must complete an Affidavit of Domestic Partnership available from the Human Resource office or at 222.maine.edu/pdf/DPForm.pdf.

+Under State law, an employee is eligible for family medical leave to care for a sibling if the employee and sibling are jointly responsible for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements.

#Faculty with academic year appointments and salaried employees whose appointments do not require work during periods when the university student population is absent do not accrue annual leave.

Rev. 2/09

Family or Medical Leave Notice of Rights and Responsibilities

All Universities of the University of Maine System are covered under the federal Family and Medical Leave Act (FMLA) and the Maine Family Medical Leave Act (which are together referred to as the FMLA)

Your Rights under Federal Law

The federal FMLA provides unpaid, job-protected leave and continuing health insurance to employees who have worked for the University for at least 12 months and worked at least 1,250 hours in the last 12 months. Eligible employees are entitled to up to 12 weeks of leave in any one-year period for the birth or adoption of a child, or for the serious health condition of the employee or an immediate family member. Eligible employees with a family member in the National Guard or Reserves who is on or called to active duty may use their 12-week entitlement for certain qualifying circumstances, such as attending military events, briefings, or counseling, arranging for alternative childcare, or making financial and legal arrangements. Eligible employees are entitled to up to 26 weeks of leave in any one-year period to care for a family member who incurred a serious illness or injury in the line of duty in the Armed Services, including the National Guard or Reserves. Employees are entitled to a maximum of 26 weeks of leave for all FMLA qualifying reasons in the one-year period. The one-year period begins when a family/medical leave begins. After 12 months, employees are eligible for another 12 weeks of leave.

Under federal regulations, full-time faculty with academic year or less than twelve-month appointments are considered to have met the 1,250 hours of service test. The University System policy allows these faculty to split their FMLA leave, if necessary, due to the summer months. For example, a faculty member with an academic year appointment who starts an FMLA leave three weeks before the academic year ends for the summer has available the remaining nine weeks when the academic year begins in the fall. The faculty member does not need to use those nine weeks during the summer, a time that is outside the academic work year.

The law defines a serious health condition as one involving hospitalization or other institutionalization or continuing treatment by a health care provider. The immediate family includes spouse, child (under 18, or incapable of self-care if over 18; step and foster children and other legal wards are included) or parent (including a person who has acted as a parent, such as a grandparent). A serious illness or injury for military caregiver leave is one that makes the servicemember unfit for duty.

When the leave is for a serious health condition or a qualifying circumstance related to military service, it does not have to be taken in one block of time. The leave may be taken intermittently or in the form of reduced hours, if that is medically necessary. When the leave is for birth or adoption, the University does not have to approve intermittent leave or reduced hours. If intermittent leave or reduced hours are approved, you may be transferred to a different position with equivalent pay and benefits which will better accommodate the leave.

Leaves due to birth or adoption must be during the first 12 months following the event. Placement of a foster child is treated like adoption.

Your Rights under State Law

Employees who have worked for the University for at least 12 consecutive months are eligible for leave under the Maine FMLA. The University must approved up to ten weeks of leave in any two-year period. Under the Maine FMLA (but not under federal law), immediate family member

includes an employee's sibling, domestic partner and children of a domestic partner. An employee is eligible for family medical leave to care for a sibling only if the employee and the sibling are jointly responsible for each other's common welfare as evidenced by joint living arrangements and joint financial arrangements or the sibling is a member of the Armed Forces, including the National Guard and Reserves, and incurs a serious health condition or dies while on active duty. An employee who requests leave to care for a sibling will be asked to provide documentation of joint living and financial arrangements. An employee who requests leave to care for a domestic partner or child of a domestic partner must complete an Affidavit of Domestic Partnership.

More about Your Rights

When a leave is covered by both federal and state laws, you may not take separate leaves under each law in order to extend the 12-week period. However, if a leave is covered solely by the state law, you remain eligible for federal FMLA leave.

Available, accrued paid leave (both disability leave and annual leave) must be used before you may take an unpaid family/medical leave, except that you may reserve up to one week of annual leave and may use, but are not required to use, accrued leave if you are receiving Short-Term Disability benefits. The use of paid disability leave, whether for your own illness or for family illness, is still subject to University policy and contract provisions. At the end of the leave, you must be allowed to return to your former job or to an equivalent position. The entire leave, including any paid leave as well as unpaid leave, is considered family/medical leave and is counted toward the 12 or 26 week entitlement.

During an approved family/medical leave, you continue in the group health and dental plans on the same terms as for similar employees on active status. You are also able to continue using the Health Care Flexible Spending Account. Health coverage during any unpaid leave that extends beyond FMLA limits (federal: 12 or 26 weeks; state: 10 weeks) is at your expense. Only health and dental coverage are provided during an unpaid family/medical leave; all other benefits are covered by University policies regarding leave without pay.

If both you and your spouse work for the University, the two of you together are entitled by federal law to up to 12 weeks of leave for birth or adoption, or a qualifying military circumstances, and up to 26 weeks of leave for military caregiving. If your domestic partner is also an employee, the employee who is the birth parent qualifies for 12 weeks of federal FMLA leave. Under Maine law the other parent may qualify for a separate leave of up to ten weeks.

If you are not eligible for FMLA leave, the University will notify you of the reason.

Under the FMLA, an employer cannot retaliate against an employee for requesting or using FMLA leave. An employee who believes he or she has been improperly denied FMLA leave or experienced retaliation may file a complaint with the U.S. Department of Labor or may file a private lawsuit.

Your Responsibilities

When a leave can be foreseen or planned (as in the case of childbirth or scheduled surgery), employees must provide at least 30 days notice. The University may delay the leave if such notice is not given. In medical emergencies the 30-day notice is not required, but an employee should request the leave as early as possible. The law requires employees to make a reasonable effort to schedule leave so as not to unduly disrupt University operations.

The University requires employees to provide certification of the medical necessity of the FMLA leave and may require (and will pay for) a second opinion. Certification forms are also required

for military exigency leave and military caregiver leave. Employees may also be required to provide evidence of birth, adoption, or foster care placement. Certification forms are available from the university Human Resources office. Completed certification forms are treated as confidential medical records. For pregnancy, chronic, or long-term medical conditions, the University may request recertification, with some limitations.

You will also be asked to provide medical certification that you are able to return to work when a leave for your own medical condition lasts 20 work days or more, or when there is any objective reason to believe you cannot safely perform the essential functions of your job. However, when a leave is for a woman's disability due to childbirth, a medical certification will not be required to return to work unless the disability leave exceeds six weeks following the birth.

A Request for Family or Medical Leave form is available from the University's Human Resources office. You must complete a form if you wish to take unpaid or paid leave for a reason covered by law. The University may designate a leave as Family or Medical Leave whether or not you specifically request a leave under the law, so long as the leave is for reasons covered by the law. Any use of disability leave for two weeks or more or for intermittent leave lasting at least 80 hours requires completion of the FMLA Request Form.

NOTE: Any leave beyond 12 weeks (26 weeks for military caregiver leave) in a one-year period is at the University's discretion and is governed by the appropriate collective bargaining agreement or employee handbook.

Further Information

This is a summary of a complex law. For further information on Family Medical Leave contact your University Human Resources/Personnel Office.

Rev. 2/09

Reduction in Work Schedule

Under two programs, eligible full-time regular University employees may request a reduction in their work schedule but retain full-time benefits.

Mutual Agreement for Temporary Reduction in Work Schedule

When there is mutual agreement between an employee and the University that a reduced work schedule, not to be less than one-half time, would be mutually beneficial for a temporary period, the work schedule may be reduced for a period not to exceed one-third of the employee's work year without loss of employee benefits. The policy is not intended for employees already on a leave to extend benefits eligibility. An employee on disability leave cannot use a mutually agreed reduction to receive disability leave half-time and continue full-time employee benefits.

If the mutual agreement is for a period in excess of one-third of the employee's work year, the employee's status will change to part-time regular with a corresponding change in employee benefits. The Mutual Agreement for Reduction of Hours Form is available from university Human Resource Offices or it is available at www.maine.edu/personnel.html.

OHR 10/05

Benefits Regular Status

Part-time regular employees (other than faculty) who have at least five years of continuous, regular, full-time equivalent University service are eligible for the same benefits and premiums available to full-time regular employees, with benefits based on their part-time salary. This includes employees who were full-time but through mutual agreement, have reduced to part-time status under the Voluntary Schedule Reduction policy. It also includes employees who have always worked in a part-time regular capacity or whose positions are reduced to part-time for budget or program reasons. To be eligible for benefits, an employee must have a minimum regularly scheduled work week of 20 hours (50% of full-time).

RECORD RETENTION PRACTICES (APL IV.D)

BACKGROUND:

Records retention and disposition practices at the University are vital for the following reasons:

In the absence of practices for record retention, maintenance and destruction, a university may find itself storing records that are duplicates, obsolete or simply unnecessary. Indiscriminate records retention can result in significant unnecessary storage costs, misfiled records, inefficiency in wading through obsolete or irrelevant information, or increased exposure to litigation costs, lawsuits or damages;

Internal and external auditors require adequate records to fulfill audit requirements;

The universities require different types of information in order to develop institutional policies, to formulate strategic plans, and to manage day-to-day operations;

Various federal and state laws require that certain records be generated and kept for specific periods of time.

SCOPE

This policy applies to all public and confidential records generated in the course of the universities' operations, including both original documents and reproductions. It also applies to records stored on computer and microfiche as well as paper records.

Included is any written, printed, graphic, mechanical, or electronic data that has been received or prepared for use in connection with the transaction of university business.

LEGAL CONSIDERATIONS

For some record categories, the minimum length of time information is to be retained is defined by federal and state law. For example, federal student aid regulations dictate the type of information that must be obtained for each student and the length of time these records must be stored. Records of wages and salaries are required by the Internal Revenue Service, Department of Labor, Equal Employment Opportunity Commission, and by state revenue departments and employment commissions. Frequently, the same data is required by more than one governmental agency, each with different retention periods. In these cases, the records should be retained for the longest period to ensure that all laws have been complied with.

A systematic record retention and destruction program will reduce litigation costs and reduce exposure to liability. Since all records kept by an institution can be scrutinized when a lawsuit is threatened or has begun, a university that has not routinely destroyed obsolete records may be required to produce these as well, which may significantly increase legal costs. If old documents contain damaging information or are taken out of context, a university may be needlessly exposed to liability. When documents are destroyed according to an established policy, the courts will not assume that the records contained incriminating information as long as there is no anticipated or pending lawsuit.

EMPLOYMENT RECORDS

Employment records, including official personnel files, must be maintained and retained in accordance with collective bargaining contracts, University policies, and legal requirements. Supervisors should be cautious in creating unofficial records, such as notes in a supervisor's file, because such records may be used to the detriment of the University. Supervisors should consult with the Human Resources office for guidance about employee performance and discipline issues.

STUDENT RECORDS

The Family Educational Rights and Privacy Act of 1974 (FERPA), known as the Buckley Amendment, governs the access to, disclosure and retention of some student records for institutions that receive Federal funding. The Act guarantees student access by requiring that current and formerly enrolled students be given the right to inspect and challenge certain records kept by an education institution. The Act also places restrictions on the disclosure of student records to third parties. The Act specifies the retention periods for recommendation letters, pass/fail requests, and student waivers of the right to see recommendation letters, and other documents.

E-MAIL

The candidness of e-mail messages has hurt more than one institution faced with a lawsuit, because the conduct of public business thru e-mail is a public record. To minimize the potential risk and cost associated with e-mail, e-mail should be used in a professional manner. Users should not use derogatory comments or obscenity and should keep in mind that the personal privacy of e-mail is not guaranteed.

If the content of an e-mail file falls within a document retention category, then the email record should be retained in either paper or electronic form for the period defined for that category.

ADMINISTRATION

The Office of Finance & Treasurer will periodically revisit the record retention practices and solicit input from the universities regarding the modification of this APL.

The chart of Record Retention Guidelines is available at [Record Retention](#) in the Administrative Practice Letter Notebooks at each university.

6/26/00

INFORMATION SECURITY (APL VI-C)

General Information Security is the protection of information against unauthorized disclosure, transfer, modification, or destruction, whether accidental or intentional; although Information Security often involves electronic data, hard copy (written or printed) and verbally transmitted information require appropriate safeguards. This APL covers general information regarding security practices and responsibilities, as well as guidelines for identifying and reporting breaches in security, unauthorized acquisition and disclosure of personal information and identity theft. A separate APL exists for strong passwords.

RESPONSIBILITIES Information Security is the responsibility of each individual in the UMS community. Each individual needs to understand and protect Covered Data, and must promptly report any suspected incidents. Supervisors and Department Heads are responsible for ensuring all employees they supervise, who are responsible for or come in contact with Covered Data, are aware of this APL and for complying with all procedures for protecting University collected and preserved data. All employees who use a personal or portable device for University work need to understand the security risks with their usage (see Appendix A for checklist). Campus and System Information Technology departments and the Controller's Office will assist departments in identifying risks and provide information for educating personnel on issues of Information Security.

APL VI-C in its entirety with the guidelines can be found at [Employee Protection of Data](#) to assist universities in complying with Information Security documents and information. All universities and staff within the University of Maine System are required to follow these procedures.

TRAVEL

Motor Vehicle Administration and Guidelines (Excerpts from APL II.B)

GENERAL

Motor vehicles are an accepted part of everyday life and essential to the accomplishment of the goals of the University of Maine System (University). However, by their very nature, vehicles on and off University locations pose a significant safety risk to University faculty, administration, staff, students, visitors, and the general public. In response to this risk, the University has developed Administrative Practice Letter II-B (APL II.-B) outlining the University's motor vehicle administration and required guidelines.

The vehicle procedures outlined in [APL II-B](#) apply Systemwide. However, APL Section II.-B represents the minimum policy guidelines or requirements of the University. Each university (henceforth "campus") can elect to incorporate additional restrictions or requirements to serve the best interest of the individual campus or its employees.

The System Office reserves the right to audit compliance to this APL and to change either System or campus procedures when necessary to respond to an ever changing safety and insurance environment.

TABLE OF CONTENTS

- I. General
- II. University Vehicles and Administration Defined
- III. Vehicle Acquisition and Registration; Rentals and Private Vehicles
- IV. University Approved Drivers
- V. Vehicle Use Guidelines
- VI. Accidents, Violations, and Misuse of Vehicles
- VII. Vehicle Safety Maintenance and Inspection
- VIII. Regulations for Vehicles on University Property
- Attachment I: Motor Vehicle Record Criteria for Drivers
- Attachment II: Vehicle Insurance
- Attachment III: Vehicle Information Resources
- Attachment IV: Incident Report: Motor Vehicle Accident
- Attachment V: Vehicle Information Resources

1/10/08

Moving Expenses (APL IV.H)

INTRODUCTION

The University of Maine System (System) is required to account for and report on moving expenses in accordance with rules and regulations prescribed in the Internal Revenue Code. The purpose of this administrative practice letter is to establish System guidelines to ensure compliance.

CLASSIFICATION OF MOVING EXPENSES

When the System, as an employer, reimburses moving expenses, it must determine how to treat such amounts for W-2 reporting purposes. Proper reporting of moving expenses is dependent on the classification assigned to each expense. Moving expenses can be classified as either qualified or unqualified, thereby affecting the taxability of such expenses. Qualified expenses are fringe benefits excludable from employee taxable wages. Unqualified expenses are included in employee taxable wages. Following is a list of common qualified and unqualified moving expenses:

QUALIFIED MOVING EXPENSES:

Qualified employee moving expenses are limited to:

- the "reasonable" costs of moving household goods and personal effects from the former residence to the new residence via the shortest available route,
- travel costs, including lodging, incurred during the period of travel from the former residence to the new residence, and
- actual vehicle expenses, such as gas and oil, incurred during the move or a standard mileage reimbursement of 27 cents a mile effective 7/1/08

UNQUALIFIED MOVING EXPENSES:

Unqualified employee moving expenses include, but are not limited to, the following:

- *pre-move house hunting* expenses,
- temporary living expenses,
- standard mileage reimbursement in excess of 27 cents, meal expenses,
- storage charges, except those incurred in transit, and

- amounts not fully and adequately accounted for by receipts or other appropriate supporting documentation.
-

In addition, treatment as a Qualified Expense is available ONLY if the distance between the employee's new work place and old residence is AT LEAST 50 miles further than the distance between the employee's old workplace and old residence.

REPORTING OF QUALIFIED AND UNQUALIFIED MOVING EXPENSES

All requests for Moving Expense reimbursements for each campus and the system office must be forwarded to the University of Maine System's Payroll Office. These requests should contain all necessary campus or system office approvals before being sent to the System Payroll Office. The request should be accompanied by the employee's contractual Moving Expense agreement.

All **employee** Moving Expense reimbursements for each campus and the system office will be paid through the University of Maine System's Payroll Office. All **third party** Moving Expense reimbursements for each campus and the system office will be forwarded from the System Payroll Office to the System Accounts Payable staff for payment. Pcards should not be used to pay for Moving Expenses.

The above methodology will result in the proper tax reporting of Moving Expenses and will result in expenses being assigned to the appropriate ChartFields.

Moving Expense reimbursements to both employees and vendors will be reported and paid in a timely manner. The UMS's Payroll Office will sign off on all vendor invoices related to Moving Expenses prior to input by the UMS's Accounts Payable staff.

An off-cycle payroll check process will be generated to meet any requests of an urgent need. Otherwise, employee reimbursements will be generated during the standard monthly check processing. Vendors will be paid immediately in the next bi-weekly A/P check run.

REPORTING OF QUALIFIED MOVING EXPENSES

Qualified moving expenses that are reimbursed directly to the employee must be reported on the employee's W-2, in Box 12, designated with the letter "P". Qualified Moving Expenses reimbursed through the payroll system should be paid using earnings code 213.

REPORTING OF UNQUALIFIED MOVING EXPENSES

Unqualified moving expenses reimbursed through the payroll system must be paid using earnings code 215. Any amounts paid with this code will be subject to withholding and included in the employee's taxable wages.

Unqualified moving expenses paid to a third party, are also taxable. The UMS Payroll Office will report the total of unqualified moving expenses paid to a third party vendor in payroll system using earnings code 814. The amount of payment will be taxable and reported accordingly on the employee's Form W-2.

CONCLUDING REMARK

When uncertainty exists regarding the classification or reporting of employee Moving Expenses, reference should be made to IRS Publication 521, Moving Expenses or individuals should contact the UMS Payroll office.

Effective: 9/08/08

Travel and Expense Reporting (Excerpts from APL IV.B)

All employees are required to follow University procedures for Travel and Expense Reporting. The Table of Contents and excerpts from are available on the Office of Finance and Treasurer's appear below and are available in their entirety at [Travel and Expense Procedures](#)

Procedures TABLE OF CONTENTS

- I. General
- II. Approval of Travel
- III. Guidelines
 - A. Travel Services
 - B. Use or Purchasing Cards
 - C. Administration/Compliance

IV. Specific Procedures

- Travel Reimbursement
- Per Diems
- Meals
- Lodging
- Air Travel
- Ground Transportation

- 1. General
- 2. Use of University Cars
- 3. Car Rentals
- 4. Other Modes of Transportation
- 5. Use of Personal Car
- 6. Accident Reporting
- G. Phone Use
- H. Travel Advances
- I. Expense Accounting
- Attachment I** - Rental Vehicle Insurance Summary

Note: Links to forms mentioned throughout this APL are found under related documents on page 15.

I. GENERAL

University employees, job applicants, student recruits and students are, from time to time, required to travel on university business. Reimbursement for such official travel will be based on actual expenses and/or per diem, as authorized. It is the traveler's responsibility to document expenditures in accordance with the following procedures. Travelers are expected to minimize travel related expenses by making selections that result in the least expense to the University, providing this does not result in ineffective use of the individual's time or excessive inconvenience. By minimizing travel costs for the University, travelers can help to ensure that university funds are used effectively, and provide additional travel funds for others.

These procedures apply to employees and qualified individuals when they incur travel related expenses while conducting authorized university business. Travelers should take advantage of any significant savings opportunities that may not be explicitly spelled out by these procedures.

If federal funds are used for travel and federal requirements are more restrictive than the University's, the federal requirements will control. Universities may also use their own forms rather than the ones provided as attachments to this APL. Travelers should consult their university Business or Travel Office with questions about their particular university's procedures or requirements.

II. APPROVAL OF TRAVEL

A supervisor's/approving authority's knowledge that an employee is traveling on business is essential for insurance purposes, as well as to assure proper financial control. An individual must have the approval of their supervisor or other appropriate approving authority (e.g., project director on a grant) for all travel. For out-of-state trips, this approval must be written. Approval may be by means of the Travel Request/Advance Form or some other written appropriate mechanism.

The above written authorization process is not necessary for employees who travel frequently and the travel is of a routine nature.