

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

UNIVERSITY OF MONTANA  
UNIVERSITY FACULTY ASSOCIATION

AND THE

MONTANA UNIVERSITY SYSTEM

JULY 1, 2017 THROUGH JUNE 30, 2025

Updated April 2021

EXTENDED 21-25

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## **1.000 PREAMBLE**

This agreement is entered into by the Commissioner of Higher Education, hereinafter referred to as the "Commissioner," as agent for the Board of Regents of Higher Education, hereinafter referred to as "the Board," on behalf of The University of Montana, and the University Faculty Association, hereinafter referred to as the "UFA."

The purpose is to mutually establish the terms and conditions of employment and the rights of the parties to the agreement. Furthermore, it is the intent to engender a spirit of cooperation and establish an atmosphere conducive to the development of quality education, the maintenance of high standards of academic excellence, and to develop an effective and harmonious relationship between the parties.

The parties recognize that good faith collective bargaining is a means of achieving this purpose through a process which gives legitimate expression to the concerns of the faculty members as represented by the University Faculty Association and The University of Montana Administration and the Board of Regents as represented by the Commissioner of Higher Education.

## **2.000 CONTRACT MANAGEMENT**

### **2.100 SEVERABILITY**

It is understood and agreed by the parties to this agreement that any provision inconsistent with or contrary to law shall be considered as deleted from the agreement without harm to the remaining provisions of the agreement. If any article or section of this agreement or any addendum to it should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any article or section should be restrained by such tribunal, the remainder of this agreement and addenda shall not be affected thereby, and the parties shall enter into immediate negotiations for the purpose of arriving at a mutually satisfactory replacement for such article or section.

### **2.200 INDIVIDUAL EMPLOYMENT CONTRACTS**

Any individual employed in a position within the bargaining unit, or reappointed to a position within the bargaining unit, shall be given an individual contract. The total employment between the individual and the employer shall be comprised of this collective bargaining agreement, the individual contract, and any matters incorporated into either document by specific reference. No other terms or oral or written representation by whomever made shall modify or amend the

resulting total agreement. The individual contract shall be subject to the terms of the collective bargaining agreement, and no employee in the bargaining unit shall, as a result of any individual contract, be denied the benefit of terms of this agreement to which the employee would otherwise be entitled.

#### **2.210 AMENDMENT**

Should a mutually acceptable amendment to this agreement be negotiated by the parties, it shall be written and submitted for appropriate ratification procedures of the Board and UFA. At such time as it is ratified by both the Board and the members of the unit, it shall become a part of the agreement.

#### **2.220 PREVIOUS LETTERS OF AGREEMENT**

Previous letters of agreement, sidebar agreements, and letters of understanding between the Administration (including the Board of Regents and the Office of the Commissioner of Higher Education) and the UFA, prepared by the UFA-Administration Committee or other principals, executed prior to the start of this agreement that are not incorporated into this contract by specific reference or verbatim inclusion are null and void, in keeping with Section 2.500. This provision shall specifically exclude letters of offer extended to individual faculty, and grievance settlements.

#### **2.300 EFFECT BY PASSAGE OF LAW**

Any provision of this agreement which is contrary to law, but becomes legal during the life of this contract, shall take immediate effect upon the enactment of such legislation.

#### **2.400 DISTRIBUTION OF CONTRACT**

Upon final ratification and approval of this agreement, the employer shall have 100 equal quality copies of the agreement printed; 50 shall be provided to the UFA and the Administration shall provide to any member of the bargaining unit a copy upon request. The contract cover will include the seal of The University of Montana and the UFA insignia. The parties shall share equally the costs of printing. The official version of this contract shall exist in electronic form and be posted on a world-wide-web site. The Administration will publicize the address of the site so that all members of the bargaining unit will be informed of its presence and for download of the most recent official version of the CBA. The UFA-Administration Committee shall jointly publicize changes in the CBA.

**2.500 ENTIRE AGREEMENT**

It is mutually agreed that this collective bargaining agreement is the master agreement for all faculty members in the bargaining unit and that it constitutes the entire agreement between the parties on all bargainable matters. This agreement also terminates all prior contracts, agreements, and understandings with any employees in the bargaining unit and concludes all collective negotiations on any item whether contained herein or not during its term. It further supersedes any rules, regulations, or policies of the University or the Regents of Higher Education which are contrary to or inconsistent with its terms and is controlling over any individual contracts between the employer and any employee in the bargaining unit. In the instance of employment involving grants, contracts, or other sponsors or outside funding sources, special conditions which are in addition to or differ from the terms of this agreement may be specified on the face of an individual contract and shall be binding during the term of that agreement if approved by an authorized UFA President or designee.

**2.600 CONTRACT TERM**

This contract shall be in full force and effect from ten (10) working days after ratification or July 1, 2019, whichever is later, to and including June 30, 2025, and shall be considered as renewed from year to year thereafter unless either party notifies the other party in writing by December 1, prior to the date of expiration, of its desire to modify or terminate this agreement. Negotiations for the entire agreement for the period after July 1, 2025 will commence according to CBA 2.700.

**2.700 NEGOTIATION AND SUBMISSION OF PROPOSALS**

The parties shall meet no later than seven and one-half (7 ½) months prior to the expiration date of the contract to commence negotiations. At the initial meeting the parties agree to exchange proposals for negotiation ground rules and to set a date for the next meeting when parties will exchange lists of new items and of those existing articles they intend to modify, amend, delete, or otherwise change. The scope of bargaining during that round of negotiations shall be limited to provisions included on the exchange of lists. However, the parties may mutually agree to expand the list at any time.

The UFA and Board agree to commence negotiation within a mutually agreeable time after the lists have been exchanged, but no later than fifteen (15) calendar days after the exchange.

## **2.800 NON-DISCRIMINATION**

Faculty have the right to a professional, productive, and healthy workplace, the totality of which is subject to collective bargaining to define all of the terms and conditions of employment and the rights of the parties to the agreement. Therefore, neither the Board nor the UFA shall discriminate on the basis of race, color, sex, religion, sexual orientation, gender identity, creed, age, physical or mental disabilities, marital or familial status, national origin, political activity, or participation in labor organizations, and both agree to uphold citizenship rights and constitutional guarantees. The employer and the UFA are bound by the Vietnam Era Veterans Readjustment Assistance Act and applicable regulations there under, including CFR 60-250.4(a), which are incorporated as part of this agreement by reference. Neither the employer nor the UFA will discriminate against any employee or applicant for employment because he/she is a disabled veteran or veteran of the Vietnam era in regard to any position for which the employee or applicant for employment is qualified. Further, no faculty member shall suffer any form of discrimination or retaliation, nor loss of opportunity or loss of privileges resulting from the free exercise, discussion or any reference to any of the provisions in this collective bargaining agreement. Non-discrimination shall include workplace adjustments in faculty assigned duties (Sections 6.210, 6.220) using procedures similar to those under faculty modified duties (Section 11.200) for disabilities that qualify under the Americans with Disabilities Act.

In furtherance of these objectives, the Administration will provide information to faculty about discrimination and sexual harassment prevention.

## **2.900 NO STRIKE, NO LOCK-OUT**

The Board and the UFA agree not to engage in strikes, work stoppages, or lock-outs prior to the commencement of negotiations as defined in Article 2.700.

## **3.000 UNION RIGHTS**

### **3.100 RECOGNITION**

The Board of Regents (Board) recognizes the UFA as the exclusive bargaining representative for all persons in the bargaining unit. The bargaining unit includes faculty on academic or fiscal year appointment to the rank of instructor, lecturer, assistant professor, associate professor, and professor with appointments that are half-time or greater. In addition, † non-tenure track faculty who are half-time or greater (consistent with UM Policy 350; revised 10/13/2017) for two or more

successive semesters, excluding summer, shall be included in the bargaining unit concurrent with the second semester appointment. Any semester (excluding summer) without employment shall constitute a break in service for the purpose of determining consecutive employment. In addition, the bargaining unit shall include department chairpersons, program directors (of units listed in CBA 10.120), library faculty holding academic rank, replacement faculty, and otherwise eligible persons on terminal contract.

Nothing herein shall be construed either to permit or require UFA membership or apply to any other provisions of this agreement to any non-UFA member, except where otherwise noted.

Excluded from the bargaining unit are:

- the Reserve Officer Training Corps faculty;
- part-time academic appointments for any service less than or not equivalent to at least one-half or more of a full-time academic-year appointment;
- the faculty of the Missoula College;
- the faculty of the School of Law;
- the faculty of the Family Medical Residency of Western Montana;
- the faculty of the Defense Critical Languages and Cultures Program of the Mansfield Center;
- the Director and Associate Directors of the Bureau of Business and Economic Research;
- the Director of the Mansfield Center;
- the Director of the Flathead Lake Biological Station;
- the Director of the Applied Forest Management Program;
- all administrative personnel, including Deans, Associate Deans, and Assistant Deans (whose duties exceed one half or more time Administration);
- the President, Vice Presidents, and their administrative staff members.

Other directors of research units, centers and institutes (BOR 218.1) will be subject to scrutiny each fall semester by the UFA Administration Committee for the purpose of establishing their membership in the bargaining unit. While faculty of the School of Law may serve on the Faculty Senate (CBA 7.000) and committees as indicated in following sections, the compensation of Law School faculty is not covered by this contract.

The UFA-Administration Committee shall review all present academic appointments consistent with the above criteria and prepare and sign an agreed list of all persons within the bargaining unit and a list of all persons agreed to be outside the bargaining unit. This process shall be completed within the first forty-

five (45) working days of each semester. Thereafter, any new academic appointment or change in duties of a current appointee shall be reviewed by the Committee and be mutually agreed to be in the unit or out of the unit.

Monthly reports on the current FTE status of all faculty employment shall be provided to the UFA.

### **3.200 UNION SECURITY**

#### **\*AGENCY FEE WILL BE ADMINISTERED IN ACCORDANCE WITH CURRENT LAW – NOTATION ADDED APRIL 2021**

1. Faculty members covered by the terms of this agreement shall not be required to become members of the union but must, as a term and condition of employment, pay a representation fee or follow the procedures for non-association with a labor organization on religious grounds found at 39-31-204, MCA.

2. All faculty members covered by the terms of this agreement shall within thirty (30) days of the signing of this agreement, or within thirty (30) days of employment, whichever is later, pay dues or a representation fee to the union. Faculty members who fail to comply with this requirement shall be discharged by the employer within thirty (30) days after receipt of written notice of default by the union. The union may make written notice of default and demand for discharge after the thirty (30) day period specified above. The employer shall initiate appropriate discharge actions under this section to insure discharge of the affected faculty member(s) on the 30th day from receipt by the employer of the union's written notice of default and demand for discharge. The union agrees to provide documentation to the employer that its representation fee rate is established in accordance with law.

The UFA shall protect and hold harmless the MUS from any claims, demands, suits, or any costs or fees related thereto, by reason of the union's performance or enforcement of the provisions of this section.

### **3.300 INFORMATION AND DATA**

Upon request the Board agrees to furnish, within a reasonable time, the UFA and the University Mansfield Library with copies of: (1) budgets for the Board of Regents and for each institution in the MUS, (2) minutes of the Board meetings,

(3) general Policy statements, and (4) public information used in the preparation of budgets. Neither the Commissioner, the University Administration, nor the UFA shall be required, without an effective written waiver, to provide the other party with information that is privileged, confidential, or which would require the revelation of personal information of a private nature. Voluminous information shall be made available for inspection at its normal place of retention or, upon request, will be provided to the other party at reproduction cost. Any and all of this material may, at the discretion of the Administration, be placed on an appropriate world-wide-web site.

### **3.400 OFFICE SPACE AND MEETING ROOMS**

The University Administration shall provide office space at a central location for the UFA. The UFA shall have the right to meet in rooms of the University which are unscheduled for other use.

### **3.500 ADDRESSING THE BOARD**

Officers of the UFA shall have the right to address the Board on relevant topics, providing that the UFA notifies the Administration and the Commissioner in writing ten (10) working days in advance of any regularly scheduled Board of Regents meeting. Such notice shall contain a statement regarding the topic which shall be placed on the regular Board agenda.

### **3.600 REASSIGNMENTS – UFA**

Upon approval by the Administration, the UFA Executive Board may allocate up to six (6) course reassignments with no reduction in pay (each equal to or less than five (5) credit hours) or commensurate compensations per academic year. The Administration will grant these reassignments or compensations upon request of the UFA Executive Board in consultation with the appropriate department(s) and dean(s) based upon their need, judgment, and discretion. The UFA will submit to the Provosts' Office the plan that has been developed to cover the affected faculty for the following academic year prior to the end of spring semester or as soon as possible thereafter. The UFA and the Administration will provide the funds necessary to hire temporary faculty to teach the reassigned courses. The Administration will fund one-half of the cost of 6 reassignments per year with the remaining balance coming from the UFA. The funding will be based upon the salary floors and the request of the appropriate dean.

## **4.000 FACULTY RIGHTS AND WORKING CONDITIONS**

In addition to the rights delineated elsewhere in this agreement, the faculty members shall be entitled to the following rights and working conditions:

### **4.100 SAFETY**

The University shall provide a place of employment which does not endanger the health or safety of any member of the faculty. Faculty members shall notify the employer of any safety or health hazards observed incident to employment, and the employer shall investigate and institute appropriate remedial action.

In addition, a faculty member, based on a reasonable, good faith belief, shall have the rights to:

1. make a Behavioral Intervention Team (BIT, or similar entity should the name change) referral involving a student to the Dean of Students when the referring faculty member concludes a student's behavior could threaten the health and safety of the student or the campus community. Health and safety may include mental health concerns. Faculty can use the BIT Referral Form.

2. report a suspected Student Code of Conduct violation, including but not limited to disruptive classroom student behavior, to the Dean of Students.

3. make anonymous BIT referrals. If a BIT Referral Form is designated by person making referral as ANONYMOUS, the referral shall be considered anonymous by all parties and in all subsequent University proceedings to the full extent permissible by law. No inferences about the identity of the person making the referral shall be allowed in any subsequent or related proceedings except as required by law.

4. contact the Counseling and Psychological services professional on call if they believe a student to be suicidal or suffering from symptoms of serious mental illness. In such cases, a call to campus or local law enforcement authorities may also be warranted.

No faculty member shall be subjected to adverse University action or reprisal of any kind for making a BIT referral, or failing to make a BIT referral, or for doing any of the actions, or failing to do any of the actions, in #1-4 above. It is understood that BIT referrals and inclusive materials are kept confidential unless otherwise prescribed by law or released by mutual agreement.



## **4.200 PROFESSIONAL REQUIREMENTS**

### **4.210 OFFICE FACILITIES**

A private, enclosed office shall be provided each tenurable (tenured or tenure-line) faculty member unless he/she agrees that other office or working arrangements are more appropriate. Each office shall have a functional door lock and at least one desk, desk chair, file cabinet, and bookcase. Keys to access the office shall be made available upon payment of a one-time returnable key deposit.

A telephone shall be made available in each faculty office unless other arrangements agreeable to the faculty member have been made with the department or school.

All conference rooms shall be equally available for scheduling for departmental purposes, and availability of adequate conference rooms shall be considered in the course of campus modification and development.

Faculty may have free access to their offices at any time, provided appropriate notice has been given to campus security, and the energy conservation program and temperature is acceptable as is.

Faculty may retain personally owned items or property which are relevant to their employment in their office at their own risk of loss.

Offices and office equipment may be reassigned for other use during the time any faculty member is on sabbatical, leave without pay, or extended sick leave.

A faculty member going on leave may request storage for equipment, data, records, and materials acquired through sponsored programs.

### **4.220 FACULTY COMPUTING AND LABORATORY / ACADEMIC EQUIPMENT**

The funds reserved for faculty computing and laboratory and academic equipment will remain in the budget annually for their intended purposes. Faculty computing funds shall be allotted in their entirety for the purpose of providing information technology to faculty members. The replacement process for faculty computers will be managed by the Administration. All faculty members will be offered and receive new computers at least every 4 years, unless a faculty member agrees otherwise.

The Administration formally states its intention to improve financial

support for library acquisitions, information technology, and facilities and equipment to support academic excellence and quality of faculty teaching and research.

#### **4.230 TRAVEL EXPENSES**

Expenses incurred incident to authorized professional travel shall be reimbursed in accordance with state statutes. Authorized professional travel shall include, but not be limited to, attendance and/or participation in professional meetings, workshops, seminars, conferences, institutes, visitations, evaluations, inspections, and field trips for students. Time off campus for travel under this section should not interfere with or reduce the faculty member's contributions to the University and its operations.

#### **4.300 AMENITIES**

##### **4.310 PARKING**

Upon payment of the standard University parking fees, a faculty member may utilize the parking facilities of the University in accordance with established regulations. The Administration recognizes the need to provide access to adequate parking for employees, students, and campus visitors alike. Accordingly, the Administration will continue to support initiatives for alternative transportation and other plans to limit the need for additional on-campus parking and to free existing parking to meet the needs of all constituents.

#### **4.400 RIGHTS SPECIFIC TO FISCAL-YEAR FACULTY**

##### **4.410 CONTRACT OPTIONS**

Persons on a fiscal-year contract may request conversion to an academic year contract at the established conversion factor.

##### **4.500 PERSONNEL FILES**

Each faculty member shall have only one official personnel file which shall reside in the office of the Director of Human Resource Services and shall be under his/her direct control and supervision. Other repositories for information concerning a faculty member may exist, as in the office of the appropriate dean or chairperson, but no item of content may be construed by its presence in these additional repositories to belong to the official personnel file of a faculty member.

Each faculty member's personnel file shall be open to him/her, except for confidential correspondence connected with initial employment.

The opportunity to rebut, comment on, and/or clarify any unfavorable item in the file shall be guaranteed to the faculty member. Such rebuttal, commentary, and/or clarification shall be attached to the relevant item in the file.

The personnel file shall contain any mandatory evaluation results.

Copies of any item in his/her personnel file shall be provided to the faculty member upon request at his/her expense.

No anonymous material shall be placed in a personnel file.

## **5.000 MANAGEMENT RIGHTS**

As provided by Montana statute (39-31-303, MCA) except as modified by this agreement, the employer shall have the prerogative to operate and manage its affairs in such areas as, but not limited to:

1. direct employees;
2. hire, promote, transfer, assign, and retain employees;
3. relieve employees from duties because of lack of work or funds or under conditions where continuation of such work would be inefficient and nonproductive;
4. maintain the efficiency of government operations;
5. determine the methods, means, job classifications, and personnel by which government operations are to be conducted;
6. take whatever actions may be necessary to carry out the missions of the agency in situations of emergency;
7. establish the methods and processes by which work is performed.

## **5.100 PERFORMANCE BY DESIGNEE**

Any responsibility assigned to a specific representative of the Administration may be performed by either a designee or the specific representative. However, the specific representative remains responsible for the actions of such designee.

## **6.000 ACADEMIC FREEDOM AND RESPONSIBILITY**

### **6.100 ACADEMIC FREEDOM**

The University of Montana has had a long tradition of, and a deep commitment to, academic freedom. The welfare and strength of the University and of society at large depend upon the free search for truth and its free expression.

To this end, The University of Montana shall recognize and protect full freedom of inquiry, teaching, research, discussion, study, publication, and for artists, the creation and exhibition of works of art, without hindrance, restriction, equivocation, and/or board or Administration reprisal. This right extends to other facets of campus life to include the right of a faculty member to speak on general educational questions or about the Administration and operation of his/her own institution and the Montana University System. The right of academic freedom shall be the right of every faculty member whether tenured or untenured.

The parties to this agreement shall also recognize that each faculty member is a citizen and a member of a learned profession, as well as an employee of an educational institution. When he/she speaks or writes as a citizen, he/she shall be free from institutional censorship or discipline. When acting as a private citizen, the faculty member has an obligation to make it clear that he/she speaks, writes, and acts for himself/herself and is not acting as a representative of The University of Montana or the Montana University System.

## **6.200 ACADEMIC RESPONSIBILITY**

The concept of academic freedom must be accompanied by an equally demanding concept of academic responsibility. The concern of the University and its members for academic freedom safeguards must extend equally to requiring responsible service, consistent with the objective of the University. Every person in the bargaining unit is at one and the same time (1) a teacher, (2) a member of the faculty of the University, and (3) a scholar. By virtue of his/her position in the University, the individual shares all three of these functions, each of which is of great importance.

As a member of a faculty, each person is expected to relate in a professional manner with colleagues in the academic community. Similarly, each faculty member is expected to participate in the work of the unit and of the institution. The expectation of professionally respectful behavior by faculty shall, likewise, be reciprocal for UM Administrators whereby they relate to faculty in same manner. Faculty shall not be subject to abuse, threats, intimidation, bullying, discrimination (Section 2.800) or unprofessional behavior, nor shall they subject others to abuse, threats, intimidation, bullying, discrimination, or unprofessional behavior. The definition of a safe and healthy workplace (Section 4.100) shall include professionalism as defined (Section 6.200) and non-discrimination (Section 2.800).

As a teacher, every person in the bargaining unit is responsible for effective

instruction, including evaluation, of students at the University. In keeping with this, all faculty members shall prepare a syllabus for each course they teach. A current copy of each syllabus will be placed in an electronic data base for access by students. Each faculty member shall provide an electronic copy of their current syllabi within thirty (30) days of the start of the semester to their academic Dean (See Section 14.100 for Copyright Policy). Aspects of effective instruction include teaching classes in accordance with official descriptions and meeting classes in accordance with published schedules at on-campus locations, off-campus locations germane to the subject matter, or at other locations approved by the dean or his/her designee. No classes may be taught off-campus or at unscheduled locations during any concerted activity by any University employee without prior approval of the appropriate dean or his/her designee.

The faculty member shall have both a depth and breadth of knowledge in his/her chosen field and be able to communicate this knowledge to the students. The faculty member shall maintain an active interest in the advances and current thinking in his/her subject and be able to relate such information to his/her teaching in an organized manner through incorporation into course materials. Moreover, the faculty member shall maintain a critical attitude toward his/her teaching and should strive continuously to improve it. Obviously, the faculty member shall avoid persistent intrusion of totally unrelated material into classroom presentations. The effective teacher feels and exhibits enthusiasm for his/her subject and creates an environment that stimulates imaginative thinking.

Faculty members should have a deep interest in students' progress and welfare. This includes maintaining a responsible, professional relationship with students and it may involve assisting assigned advisees, or mentoring students more generally. Advising typically helps students to develop and follow a plan for navigating a particular curriculum. Mentoring usually involves individualized support for students around issues of personal motivation, individual strengths, and exploration of career choices. Wherever applicable and taking into account the many differences in how academic advising is assigned and handled across the University, the faculty member should follow consensus best practices for faculty advising. Such best practices include offering face to face meetings between advisor and advisee each semester. Mentoring activities may occur less regularly but still benefit from use of best practices. Both faculty member and advisee share responsibility for making the advising/mentoring relationship successful.

The faculty member will carefully ensure equal application of class standards

and requirements. Faculty shall preserve the records necessary to compute final grades for one academic term. For one full semester following the semester a student receives a grade, faculty will retain all academic course materials used as the basis for a student's semester grade (papers, tests and/or other written or printed materials) which are not returned to the student. Fall semester grade records and course materials will be kept until the end of the next spring semester; while spring semester and any summer course grade records and course materials will be kept until the end of the next fall semester. Each faculty member has obligations and responsibilities to assist in the proper Administration of University affairs. It is therefore to be expected that he/she will serve on committees, attend University functions, and render public service in the area of his/her professional competence.

As a scholar, the person is responsible to the University and to society to keep informed about advances in knowledge and to engage in an active program of research or creative activities as judged by peers. This part of his/her activity, though in general not formally scheduled, is nevertheless essential. In large measure the welfare of society depends on it. Although the artist faculty member may be a scholar, he/she should have the unqualified option of being a productive artist. Creative work in any field, such as literature, music, art, and drama, through its contributions to our cultural life, ranks equally with research and scholarly publications.

These functions and responsibilities shall not be thought of as mutually exclusive, but as overlapping and complementary. Thus, active participation in the work of learned societies is related to a person's work as both scholar and member of the faculty. Similarly, preparation of papers for publication, which is an example of a person's function as a scholar, may well grow out of his/her work as a teacher.

## **6.210 INSTRUCTIONAL WORKLOAD**

Deans are responsible for assigning faculty teaching workload, subject to the approval of the Provost, giving consideration to the recommendations of the department chair. The instructional portion of the workload shall be that deemed sufficient to meet programmatic needs as determined by the dean in consultation with unit faculty. While it is not expected that the teaching portion of workloads be identical within and among units, assignments must be made relative to the total activity of faculty (including research/scholarship/creative activity and service).

## **6.220 APPEAL OF WORKLOAD ASSIGNMENT**

Workload assignments described in section 6.210 may be appealed to a workload appeals committee composed of five tenure-line faculty members serving staggered four-year terms. The UFA shall appoint two members, the Administration shall appoint two members, and the foregoing four members shall select unanimously the fifth member. All Committee members must be members of the UFA bargaining unit. The procedural rules of the committee shall be as follows:

Both the dean, or chairperson, and faculty member shall make formal proposals concerning the assignment of workload to the committee. The committee will be charged with resolving the differences. Such a resolution may include selecting one of the formal proposals or a compromise assignment. In making its decision, the committee will attempt to balance the following standards:

1. Conformity of the assignment with Unit Standards and the CBA.
2. Demonstrated need for the assignment, according to departmental, college/school, or University demands, or in order to meet University-wide productivity guidelines.
3. Probability of the successful completion of the proposed assignments.
4. Conformity of the assignment with equitable distribution of teaching loads within the department.
5. Continuity of the professional development of the faculty member with regard to the management of the faculty member's progress in research/creative activity and service.

The committee shall submit its recommendation to the Provost. The Provost's decision shall focus solely on the committee's application of the above listed standards. The Provost's decision can be grieved pursuant to section 19.000 only if it is in conflict with a four-to-one or five-to-zero vote of the committee in favor of the faculty member.

## **7.000 ACADEMIC GOVERNANCE**

### **7.100 FACULTY SENATE**

The UFA, as the elected bargaining agent, retains exclusive right to negotiate and reach agreement on all matters pertaining to salaries, benefits, and terms and conditions of employment. Without waiving this right, the UFA and the Board recognize the desirability of a democratic governance system for faculty in areas

of academic concern. Such a governance system shall be implemented through a democratically elected and representative Faculty Senate. The parties to the CBA recognize the principles of shared governance for the purpose of both academic representation by Faculty Senate and contractual, workplace representation by the UFA.

The University President and/or his/her representatives may request and shall be granted invitations to meetings of the Senate and Senate Committees to present and discuss administrative proposals in the areas under Senate purview. Matters of academic concern may be initiated by the Senate or by the President or his/her representative. The matters which shall be reviewed and recommended by the Senate, in accordance with regulations of the Board, shall include:

1. specific curricular changes submitted by the faculties of the various departments, units, and schools through the appropriate University committee;
2. general requirements for various degrees, including honorary degrees, and nomination of candidates for graduation;
3. general requirements for admission and retention of students and guidelines for student recruitment;
4. development, curtailment, discontinuance, or reorganization of academic programs;
5. issues that pertain to the academic affairs of the University and matters of critical concern about the welfare and Administration of the University;
6. any substantive curricular consequences or changes that arise in conjunction with the ongoing administration and implementation of common course numbering, transferability, dual enrollment or distance learning;
7. establishment of committees and other bodies deemed necessary to carry out the responsibilities under this provision.

In accordance with Board Policy, faculty representatives shall have the right to address the Board at their meetings in support of Faculty Senate positions.

## **7.200 REASSIGNED TIME — FACULTY SENATE**

Upon approval by the Administration, the Executive Committee of the Senate (ECOS) may allocate up to four (4) course reassignments with no reduction in pay (each equal to or less than five (5) credit hours) per academic year. The Administration will grant these reassignments upon request of ECOS in consultation with the appropriate department(s) and dean(s) based upon their



need, judgment, and discretion. ECOS will submit to the Provost's Office the plan that has been developed to cover the affected faculty for the following academic year prior to the end of spring semester or as soon as possible thereafter. The Administration will provide minimal funds necessary to hire temporary faculty to teach the reassigned course. The funding will be based upon the salary floors and the request of the appropriate dean.

## **8.000 UFA RIGHTS TO UNIVERSITY COMMITTEE MEMBERSHIP**

### **8.100 UFA-ADMINISTRATION/CONTRACT-MAINTENANCE COMMITTEE**

A joint UFA-Administration/Contract Maintenance committee shall be established for the purpose of discussing mutual concerns pertinent to the maintenance of the CBA. The Committee shall normally meet monthly during the academic year, and special meetings may be called upon the joint recommendation of the President of the University and the President of the UFA. The committee shall consist of six (6) members, three (3) appointed by the President of the UFA, who may appoint himself/herself and three (3) appointed by the President of the University, who may appoint himself/herself. The President of ASUM, or his/her designee, shall be invited to participate in these meetings.

The President of the UFA and the President of the University shall be ex-officio members and may be a voting member if needed for a quorum. In no case shall more than three (3) members vote on each side. A quorum shall be two (2) representatives from each side.

Matters must be placed on the agenda by either of the parties one (1) week before the meetings, but this requirement may be waived by mutual consent.

### **8.200 UNIVERSITY OF MONTANA BUDGET COMMITTEE**

The UFA shall have an appointment to the University of Montana Budget Committee. The UFA appointee, or their designee, shall have full, permanent, voting membership. Should this committee change names or purposes the UFA shall have an equivalent appointment on the analogous University committee charged with similar purposes.

## **9.000 NON-TENURABLE, PROBATIONARY, AND TENURED APPOINTMENTS**

It is the intent of the Administration to increase the number of tenurable lines at the University. Nevertheless, from time to time, conditions may dictate that tenurable lines temporarily be used for non-tenurable faculty. These conditions

may include death, retirement or resignation of a tenure-track faculty member, and changes in enrollment in a discipline or sub-discipline. The Administration will report to the UFA, by the September Faculty Senate meeting each year, the number of tenurable lines occupied during the previous academic year.

At the time of appointment or reappointment, each faculty member shall be provided by the employer with a written agreement which specifies rank, salary, and other terms and conditions of employment. All full-time appointments shall be non-tenurable, probationary, or tenured.

#### **9.100 NON-TENURABLE APPOINTMENTS**

The categories of non-tenurable appointments are defined by UM Policy 350; revised 10/13/2017. This section applies to those holding non-tenurable appointments who are included in the bargaining unit as defined in Section 3.100.

Non-tenurable appointments include five types: lecturers, adjunct faculty at any rank, research faculty at any rank, clinical faculty at any rank, and visiting faculty at any rank.

#### **9.110 RIGHTS OF NON-TENURABLE APPOINTEES**

In addition to all of the rights and privileges defined in this contract and UM Policy 350; revised 10/13/2017, members of the bargaining unit holding non-tenurable appointments shall

1. hold an FTE assignment, which represents the actual proportion of full-time load as determined by the dean in consultation with the unit taking into consideration expectations of teaching, research, and service and their relationship to Unit Standards. In making workload assignments, deans may assign workload in the form of equivalent credit for duties beyond or in lieu of normal classroom teaching, including but not limited to advising, thesis direction, large classroom enrollment, writing-intensive courses, committee service, administrative duties, lab supervision, and research. A full-time semester assignment will be comprised of 15 credits and/or credit equivalencies as determined by the dean and approved by the Provost. In classes which are team taught, class credit will be prorated by degree of responsibility. Credit equivalencies are in addition to class credit.
2. be hired at no less than at the salary floors in the CBA (section 13.300) prorated by FTE.
3. Further, if members of the UFA bargaining unit holding non-tenurable

appointments have been employed for the previous academic year at .50 FTE or greater, they shall receive a normal increase to their base salary, prorated by assigned FTE.

Consistent with BOR Policy 702.1, for non-tenurable faculty on a one year appointment there is no expectation of reappointment or renewal of any non-tenurable faculty appointment. Non-tenurable contracts are term contracts which automatically expire (without notice) at the end of the contract term unless renewed prior to expiration. However, the Administration will attempt to inform non-tenurable faculty in a timely fashion if they are to be reappointed for the next semester. Non-tenurable faculty may be given a three (3) year contract at the discretion of the Administration in negotiation with the faculty member, the department and the dean of the school. The continuation of a multi-year, non-tenurable contract is dependent on continued funding for the position and satisfactory performance by the faculty member. Discharge for cause of all non-tenurable faculty is governed by the procedures outlined in section 18.400.

Non-tenurable faculty who are bargaining unit members shall be encouraged to apply for non-tenurable appointments comparable to those they have previously held and shall be guaranteed reasonable consideration according to their teaching experience at UM. Service in non-tenurable appointments does not count towards probationary service for tenure unless otherwise agreed to in writing by the dean and approved by the Provost. Any non-tenurable faculty member dismissed from a previous position for cause forfeits this reasonable consideration at the time of dismissal.

#### **9.120 APPOINTMENT FROM A NON-TENURABLE LINE TO A PROBATIONARY LINE**

Persons having held or holding, non-tenurable positions are eligible to compete for tenurable positions, and, if hired, prior service may be credited toward tenure (as indicated in 9.240). A shift from a non-tenurable appointment to a tenurable appointment requires a separate written agreement between the faculty member and the University. The new base salary for such a shift will be calculated in accord with Sections 13.100 and 13.410.

Consistent with UM Policy 350; revised 10/13/2017, the Administration will annually provide a written report to the Faculty Senate (during its September meeting), with a copy to the UFA concerning the use of non-tenurable faculty during the previous year.

### **9.200 RIGHTS OF PROBATIONARY APPOINTEES**

A probationary appointee has the right to serve the specified term of the appointment and may not be discharged without cause during that term. An appointee discharged for cause prior to the end of the specified term of the appointment shall be entitled to the same procedural protections afforded tenured faculty members discharged for cause.

### **9.210 REAPPOINTMENT**

Procedures for retention of probationary appointees shall be conducted according to Article 10.000, Unit Standards and Faculty Evaluation Procedures.

### **9.220 RANK AND APPOINTMENTS**

At the time of appointment or reappointment, each faculty member shall be provided by the employer with a written agreement which specifies rank, salary, and other terms and conditions of employment. All initial appointments at the rank of professor, associate professor, and assistant professor shall be probationary. An initial tenure-track appointment at the rank of instructor shall be probationary only with prior written approval by the Provost.

No probationary appointment may be made to a line which is not supported by at least 50% state appropriated funds or fully supported by a permanent endowment fund (as defined by UM procedure 11002, 8/4/04) where "state appropriated funds" is defined as funds derived from the General Funds/Salaries/Faculty University of Montana budget category and includes at least 50% of all costs of the contractual salary and benefits (see "written agreement" above). Should the endowment fail to cover the 50% of contractual costs then the University or the Board shall be responsible for and pay those costs from the same General Funds/Salaries/Faculty budget category. Exceptions may be considered by the UFA-Administration committee (Section 8.000) and approved by mutual agreement. Probationary faculty shall not be restricted from seeking outside funding to support their research scholarship/creative activities.

All full-time service at The University of Montana in the rank of assistant professor, associate professor, or professor shall count as probationary service toward tenure. Full-time service at The University of Montana at the rank of instructor shall count as probationary service toward tenure only with prior written approval by the Provost. Pro rata credit will be given for all full-time service for any academic term except summer session.

Specific exceptions regarding creditable probationary service toward tenure may be granted by the President in a written agreement separate from the employment contract.

### **9.230 NON-REAPPOINTMENT**

A probationary appointee has no right to reappointment, and a probationary appointment shall automatically expire at the end of the specified term in the absence of a written reappointment signed by the President. The President may request and review, but shall not be obligated to adhere to, recommendations from the unit, dean, and the Provost regarding questions of renewal of probationary appointments.

In cases of non-reappointment for financial or programmatic considerations the probationary appointee will be so notified in writing. Written notice of non-renewal of a probationary appointment shall be mailed or given by the President or his/her designee at least four (4) months prior to the expiration of the first appointment, seven (7) months prior to the expiration of the second appointment, and twelve (12) months prior to the expiration of the third or later appointment.

The employer shall make a good faith effort to provide a probationary appointee with the notice period required by this agreement, but failure to do so shall not result in automatic reappointment. The employer shall have the options of (1) providing additional employment of one semester for first-year appointees, two semesters for second-year appointees, and two semesters for appointees of three years or more, or (2) providing severance pay in lieu of any portion of the notice to which the employee is entitled. Severance pay shall be paid at twice the individual's monthly rate, or portion thereof, for the period by which the notice is deficient.

The notice provisions of this section shall not be applicable to non-tenurable unit employees paid from grants, contracts, or other sponsors or outside funding sources. The employer will honor the term of such an employee's individual contract for its complete term. However, when funding for such an employee is eliminated or reduced, the employer may reassign the employee appropriate to the employee's professional qualifications as the Administration sees fit for the remainder of the employee's contract term. Notwithstanding the foregoing, summer employees paid from grants, contracts, or other sponsors or outside funding sources are hired subject to the continued availability of funds, and in the event of reduction or elimination of such funds, the employer may terminate such employees prior to the designated terminal date of the individual's summer

contract.

#### **9.240 CREDIT FOR PROBATIONARY SERVICE**

Credit may be given each probationary appointee for up to three (3) years of full-time tenure-track service including full-time research, creative activity, and/or service at The University of Montana or in other accredited four-year institutions of higher education in the United States in the rank of assistant professor (or its equivalent) or higher. Time spent on summer-session appointments is excluded. Credit for research and/or creative activity or service at comparable foreign institutions of higher education at the rank of assistant professor (or its equivalent) or higher may be granted toward continuous tenure status by agreement among the faculty member, the academic chairperson, the dean, the Provost, and the President. Not more than three (3) years of service may be credited towards acquiring continuous tenure status. For the purpose of calculating prior service, as well as service at The University of Montana, commensurate credit may be given for any academic term of full-time service.

No credit for probationary service may be granted for any time on leave without pay for other than academic or professional reasons. Credit may be granted for leaves or extended service away from the campus with prior written approval by the Provost.

Credit for prior service must be determined in writing and signed by the Provost at the time of initial appointment or it will be presumed none was given.

#### **9.300 RIGHTS OF TENURED APPOINTEES**

Tenure is a right to annual renewal of each academic year appointment, and no tenured faculty member may be terminated during the term of the appointment or notified of non-renewal of appointment for the next academic year, except as otherwise provided by this agreement. The terms and conditions of each reappointment shall be specified in writing in the annual individual employment contract. In the absence of a written agreement prior to the commencement of the term of the reappointment, the terms and conditions of the previous appointment shall continue in effect until modified in writing.

Once tenure has been awarded it shall continue until the employment of the tenured individual is discontinued consistent with the terms of this agreement.

Tenure is with The University of Montana and not the Montana University System.

By an agreement signed by the Provost, the faculty member, the academic

chairperson, and the dean, a tenured faculty member may permanently reduce his/her tenured appointment from 1.00 FTE to not less than .50 FTE. Thereafter, the faculty member will have tenure over only the agreed portion of the reduced appointment.

### **9.310 ELIGIBILITY FOR TENURE APPLICATION**

A probationary appointee shall be eligible to make an application for tenure:

after the appointee has completed five (5) years of credited service toward tenure, that is: during the sixth (6) year of credited employment.

the applicant must have the appropriate terminal degree for the discipline and unit in which tenure is to be awarded, and

the applicant should hold the minimum academic rank of associate professor, although faculty may apply for tenure and promotion to associate professor simultaneously. If a faculty member seeking promotion to associate professor and tenure simultaneously is not promoted, tenure will be denied as well. Under no circumstances may tenure be granted to an assistant professor.

Tenure shall not be awarded in absence of application by the eligible faculty and approval of tenure by the employer. Application for tenure must be in accord with unit standards. No faculty member beginning employment at UM in fall 2018 or later may apply for tenure more than once, except in extraordinary circumstances, with the approval of the dean and the Provost. No faculty member, hired before or after fall 2018, may apply for tenure more than twice under any circumstance.

### **9.320 THE TENURE APPLICATION**

Procedures for the evaluation of tenure applications shall be conducted according to Article 10.000, Unit Standards and Faculty Evaluation Procedures. It shall be the responsibility of the eligible faculty member to initiate the application for tenure which shall include at least the following: (1) a statement of the teaching, research and/or creative activity, and public service performed by the applicant during the probationary period; (2) a vita of the applicant's publications and/or creative works; (3) evidence that the applicant has achieved or is in the process of achieving recognition in his/her field of competence beyond The University of Montana; and (4) any other information the applicant deems relevant to his/her professional development, competence, or performance. In keeping with the provisions of the CBA (15.220.1), no faculty member may apply for tenure while

on leave without pay from UM-M.

### **9.330 LIMITATIONS ON TENURE AWARDS**

Even though a faculty member may be otherwise eligible, tenure shall not be awarded to any faculty member who has made application in any of the following instances:

1. when the number of tenured positions in a unit would exceed the faculty FTE in the unit which are supported by current unrestricted funds (i.e., not supported by sources such as the contract or grants which are susceptible to discontinuance by parties other than the employer);
2. when the faculty member holds a non-tenurable position as defined in CBA 9.100 such as the rank or position of adjunct, acting or visiting appointment, lecturer, postdoctoral scholar or faculty affiliate;
3. as an automatic consequence of errors or omissions on the part of the employer.

Tenure may only be acquired by an affirmative award in response to an appropriate application by an eligible probationary appointee consistent with the terms of this agreement.

### **9.340 FAILURE TO ATTAIN TENURE**

Any probationary faculty member who has not attained tenure at The University of Montana by the completion of his/her seventh (7th) year of credited employment will be given notice and placed on a one-year non-renewable contract. In no case may a faculty member serve in a probationary position beyond the eighth (8th) year of creditable service. Exception shall be made for new faculty being credited with six (6) or more years of credited service, who shall, at his/her discretion, be entitled to up to two (2) full years of service at The University of Montana before applying for tenure, and will be given notice and placed on a non-renewable contract if he/she has not attained tenure within the three (3) year period stipulated.

### **9.400 TENURE CLOCK EXTENSIONS FOR FACULTY MODIFIED DUTIES**

A probationary faculty member may request an exemption for the year of creditable service toward tenure (CBA 9.310) during which they exercised the Faculty Modified Duties option (11.200). All such requests are subject to approval



by the Provost The election for an exemption for a year of creditable service under the Faculty Modified Duties program is only revocable when the faculty member submits their IPR for the academic year related to the year of exemption. At that time they may elect, in writing, as part of their IPR, to waive their exemption. Beyond that, no further changes to the faculty member's tenure clock may be requested or granted in relation to this section.

## **10.000 UNIT STANDARDS AND FACULTY EVALUATION PROCEDURES**

### **10.100 EVALUATION STANDARDS**

Any evaluation of faculty members for purposes of promotion, tenure, salary determination, or recommendation for retention shall involve consideration of appropriate UNIVERSITY STANDARDS as well as UNIT STANDARDS of the respective academic units. Distribution of approved University Standards and Unit Standards to appropriate faculty prior to initiating the evaluation process will be done by the appropriate dean or the dean's designee.

The Provost has the responsibility to identify any Unit Standards not in compliance with the University-wide standards contained in Section 10.110. The University Standards Committee shall work with units to bring the Unit Standards into compliance pursuant to Section 10.130 and following the guidelines in Section 10.120. Until those changes are made, the Unit Standards remain in force. Subsequent to the effective date of this contract, whenever University Standards as contained herein and Unit Standards conflict with each other, or are otherwise inconsistent with each other, in any aspect of this agreement, the University Standards shall control all interpretations and applications. University Standards shall be the minimum standards. Units may impose more stringent standards.

### **10.110 UNIVERSITY STANDARDS FOR FACULTY ADVANCEMENT**

The following University requirements must be met regarding each of the respective types of advancement or salary determination as indicated. (For purposes of determining years in rank, pro rata credit shall be given all full-time service for any academic term except summer session.)

#### **1. Promotion**

- a. To Assistant Professor: Requires possession of the appropriate terminal degree or its equivalent as defined by the unit standards of each discipline.

- b. To Associate Professor: Except in unusual circumstances, four (4) or more years of full-time service in rank as assistant professor are required prior to the date of promotion (application may be made during the fourth year in rank), and possession of the terminal degree in the appropriate discipline is required consistent with applicable unit standards. The character of the service in rank as assistant professor shall be such that there is a clear demonstration of professional growth and an increasingly valuable contribution to the University.
- c. To Professor: Except in unusual circumstances, five (5) or more years of full-time service in rank as an associate professor are required prior to the date of promotion (application may be made during the fifth year) and possession of the terminal degree in the appropriate discipline is required consistent with applicable unit standards. The character of the service in rank as associate professor shall be such that there is a clear demonstration of professional growth and an increasingly valuable contribution to the University. (See d. below.)
- d. In all applications for promotion, performance in teaching, community and University service, and scholarship are all important and essential as set forth in section 6.200. For promotion to full professor, a faculty member must have the level necessary as defined in the CBA and unit standards in teaching, scholarship/creative activity, and service. However, no faculty member may be promoted to full professor on the basis of teaching and service alone. Scholarship shall be demonstrated by scholarly publication, scholarship of teaching and learning, or appropriate public recognition for creative works.

## 2. Award of Tenure

- a. Eligibility for application for tenure is defined in Article 9.310, Eligibility for Tenure Application.
- b. Professional growth, activity, and prospects shall be demonstrated by scholarship or appropriate recognition for creative works; continuous improvement of pedagogical knowledge, skill, and impact; involvement in continuing education programs; participation in professional societies; receipt of grants, contracts, fellowships,

and other awards; and/or direction of student research.

3. Salary Determination

- a. Merit Award or Outstanding Performance Award: Above normal performance in at least two (2) of the three (3) areas: teaching, scholarship/creative activity, or public service; or outstanding performance or special recognition in at least one (1) of these areas, and normal performance in the remaining area or areas of assigned duties.
- b. Normal Increment: The performance of a majority of faculty members will generally be evaluated as "normal." They will be expected to grow in value to the institution and will be rewarded with a "normal" increment to their salary.
- c. Less-Than-Normal Increment: Poor performance of assigned responsibilities within the scope of employment may constitute grounds for a less-than-normal evaluation. It is understood that the absence of performance in any one or two of the areas of teaching, scholarship/creative activity, and public service does not justify a less-than-normal evaluation. Performance is to be evaluated consistent with workload assignment. Failure to submit an IPR for evaluation by a faculty member, when required (see CBA 10.210, 10.220), is grounds for a less-than-normal increment.

Incorporation of University Standards into Unit Standards: All University standards shall be incorporated into unit standards according to procedures specified in Section 10.130. The Provost may designate a list of unit standards to be reviewed during the term of this agreement.

**10.120 UNIT STANDARDS FOR FACULTY EVALUATION**

1. Units for Which Evaluation Standards are Required: The current academic units under the respective headings of The University of Montana for which unit standards for faculty evaluation are required are as follows:

Accounting and Finance	Counseling
Anthropology	Economics
Biological Sciences	Ecosystem and Conservation Sciences
Biomedical and Pharmaceutical	Educational Leadership

Sciences	
Chemistry and Biochemistry	English
Communication Studies	Environmental Studies
Computer Science	Forest Management
Geography	Physical Therapy and Rehabilitation Science
Geosciences	Physics and Astronomy
History	Political Science
Integrative Physiology and Athletic Training	Psychology
Journalism	Public Administration and Policy
Management Information Systems	Public and Community Health Sciences
Management and Marketing	Social Work
Mansfield Library	Society and Conservation
Mathematical Sciences	Sociology
Music	Speech, Language, Hearing, and Occupational Sciences
Native American Studies	Teaching and Learning
Pharmacy Practice	Theatre and Dance
Philosophy	Visual and Media Arts
	World Languages and Cultures

The above academic units are subject to addition, deletion, or change by the employer in accordance with provisions of Articles 7.100 and 8.000 of this agreement.

2. General Activities for Unit Standards: The following general activities shall be given consideration in any evaluation for purposes of promotion, award of tenure, determination of salary increment, or recommendation for retention:
  - a. teaching and learning;
  - b. student advising and/or mentoring as described in section 6.200;
  - c. scholarship or creative works;
  - d. participation in professional organizations or societies, receipt of awards in recognition of professional accomplishments, or speaking engagements related to one's professional field;

- e. professional service demonstrated by consulting and/or other outside work related to the profession/discipline for agencies, communities, schools, etc.; serving on advisory boards; and service on campus committees;
  - f. research efforts related to grants, contracts, direction of student research, or professional research efforts incident to publication;
  - g. student recruitment and retention activities;
  - h. leadership and participation in interdisciplinary activities;
  - i. activities that advance and support internationalization and global engagement.
3. Preparation and Approval of Unit Standards: Unit standards will be prepared and proposed by the tenured and tenurable (i.e. tenure track) faculty of each respective unit. The unit standards for each respective unit must:
- a. be consistent with University standards;
  - b. address the general activities;
  - c. address participation in general education activities;
  - d. address all academic appointments to the unit;
  - e. specify the documentation or other evidence required to support evaluation of teaching, scholarship/creative activity, and/or public service;
  - f. specify, where appropriate, special standards and special procedures for the evaluation of individuals on grants, contracts, or other work assignments outside the normal academic activities of the unit, including but not limited to adjunct research faculty;
  - g. guarantee peer review;
  - h. ensure consultation between faculty members and chairpersons or deans before each individual recommendation is made final;
  - i. specify the criteria that will be used to determine less than normal, normal, above normal, and outstanding performance in each major area of faculty work.
  - j. and be approved by the Unit Standards Committee, the appropriate dean, and the Provost prior to application for evaluation purposes.

If the Unit Standards Committee does not approve any specific set of unit standards within forty (40) working days of submission by the unit, those standards

shall be forwarded directly to the Provost for consideration. Within fifteen (15) working days upon receipt of the standards, the Provost must approve, reject, or request modifications of the unit standards thus submitted. Units may submit unit standards modified at the request of the Provost directly to the Provost's office without need to have approval from the Unit Standards Committee. In this latter event, the Provost shall so inform the Unit Standards Committee and subsequently provide the Unit Standards Committee with the final disposition of the issue.

#### **10.130 UNIT STANDARDS COMMITTEE**

The Faculty Senate shall appoint a Unit Standards Committee consisting of bargaining unit members that are proportionately representative of the professional schools in the unit and the college. The chairperson of the committee shall be elected from among the membership.

The Unit Standards Committee shall have the responsibility of reviewing the unit standards on a five-year cycle, taking a fifth of the unit standards each year. Recommendations for change of the unit standards may be submitted to the Unit Standards Committee by the unit faculty, the chairperson, the appropriate dean, or the Provost. The unit faculty, department chairperson, the Unit Standards Committee, the appropriate dean, and Provost must approve any proposed change. Any changes in unit standards resulting from this process shall not take effect until twelve (12) months after the decision, unless agreed otherwise by the unit faculty, the dean, and the Provost.

#### **10.200 PROCEDURES FOR FACULTY EVALUATION**

At each step in the evaluation process, all parties shall refer to Article 10.000 for compliance in the evaluation procedures being used. The evaluator's signature assures consistency with the CBA.

If Unit Standards are changed during an evaluation period for any faculty member, such faculty member will have the choice of using either the Unit Standards effective at the time of hire, or those currently effective, when applying for tenure and/or promotion to Associate Professor. However, after faculty members are tenured, only the Unit Standards in effect at the time of evaluation will be used.

If faculty members who have left their academic unit and the UFA bargaining unit to assume an administrative appointment subsequently return to their academic unit and the UFA bargaining unit, their IPRs may include teaching and scholarship/creative works that are typically eligible for inclusion in the evaluation

during the period of such administrative appointment.

#### **10.210 EVALUATION SCHEDULE FOR TENURED AND TENURE-TRACK FACULTY**

Tenured faculty members who have achieved the rank of full professor shall be reviewed every third year, and tenured faculty members who have achieved the rank of associate professor shall be reviewed every second year. This evaluation schedule is contingent upon the following conditions:

- The faculty member is seeking a normal increase;
- The faculty member has not received a less-than-normal recommendation in the past three (3) years; and
- The unit Faculty Evaluation Committee does not wish to initiate consideration for other than a normal recommendation.

The triennial evaluation of full professors shall be conducted in the following manner: surnames from A-H one year, I-Q the second year, and R-Z the third year. The biennial evaluation of associate professors shall be conducted in the following manner: Surnames from A-L one year and M-Z the next year. When full and associate professors are evaluated, they will prepare an Individual Performance Record (IPR, section 10.210) for the period since the last evaluation (normally three or two years) or, if seeking a merit increment, since the last merit or promotion. Full and associate professors on sabbatical assignment or leave without pay shall be exempted from evaluation if the three conditions listed above in this section are met. Faculty of any rank that are eligible for and exercise the Family Modified Duties (CBA 11.200) option may defer evaluation of assigned duties for one year if they so choose. Those exempted from evaluation will not normally be evaluated until their alphabetical group is required to undergo the evaluation process, except that the Provost, dean, and/or department chair agree to require a performance review during any year(s) of the cycle.

All other faculty will be evaluated annually. Any faculty member may request to be evaluated in any year.

#### **10.220 INDIVIDUAL'S PERFORMANCE RECORD - OCTOBER 15**

The documentation or evidence of performance required by the unit standards and applicable sections of this agreement, shall be prepared by every member of the bargaining unit in sequentially numbered pages which incorporate

exhibits by reference and are signed on the last page by the person to be evaluated. Exceptions to this requirement are limited to those members of the bargaining unit who are in their first year of service at The University of Montana or who are on a terminal year contract. These individuals are not required to prepare nor submit an IPR. The individual shall submit the documentation to the chairperson of the Faculty Evaluation Committee (FEC) and the department chairperson by October 15. The performance period shall consist of one or more academic year(s) of record each running from the first day of the academic year and including Fall Semester, Spring Semester and applicable winter and summer term(s). The IPR for that period should document performance for the respective types of advancement as follows:

1. **Promotion to Associate Professor:** All service in the current rank including prior service, if applicable, or the most recent seven (7) sequential years, whichever is less.
2. **Promotion to Full Professor:** All service since documentation was prepared for the last promotion, or the most recent seven (7) years, whichever is less.
3. **Tenure:** The entire probationary period including credited prior service.
4. **Merit:** The time since the documentation was prepared for the last granted merit or promotion, or the most recent seven (7) sequential years, whichever is less.
5. **Outstanding Performance Award:** The time since the documentation was prepared for the last granted award, or the most recent seven (7) sequential years, whichever is less.
6. **Normal and Less-Than-Normal:** The record of the previous year(s) as appropriate (see Section 10.340 for the evaluation schedule of tenured and tenure-track faculty).

Copies of the SEC, FEC, chair, dean and Provost's recommendations from all evaluations during the performance period must be included in the Individual Performance Record (IPR) before transmittal to the dean. The individual may not add to, alter, modify, delete or remove documents from his or her IPR once it has been submitted to the FEC except by:

1. Updating the status of material in support of tenure unknown at the time the IPR was submitted;
2. Responding to a reviewer request for additional materials;



3. And/or the regular appeals process identified in articles 10.240, 10.250 and 10.270

An individual on split assignment shall submit the documentation and evidence to the unit in which the greatest portion of the FTE is assigned; or if the FTE is equally split, to the unit in which first hired; or if not first hired in one unit, to the unit in which best qualified for full-time service. The chairperson of the Faculty Evaluation Committee, department chairperson and dean of the unit evaluating the split appointment shall obtain evaluations from their respective counterparts in the other units to which the individual was partially assigned.

The Faculty Evaluation Committee, the department chairperson, or the dean may request and consider any evidence from any source, including the faculty member to be evaluated, provided that any evidence relied upon for evaluation purposes shall be incorporated into the record and the faculty member shall be afforded an opportunity to respond to it. No individual to be evaluated may be sanctioned, suspended, disciplined, or discharged for failure to comply with a request to provide additional information.

Electronic records as document files (e.g. Microsoft Word or .PDF) may be used to transmit documents during the evaluation process. Faculty members should retain a complete version of original documents for reference and future use.

### **10.230 STUDENT EVALUATION COMMITTEE - OCTOBER 15**

Each Student Evaluation Committee (SEC) shall consist of at least three (3) but not more than seven (7) students who are majors and/or graduate students in the respective unit and shall include one (1) faculty observer who shall enjoy all rights of full participation and access to information except voting. The faculty observer shall be chosen from among the tenured or tenurable (i.e. tenure-track) members of the bargaining unit in the department or unit. The members shall be appointed by the department chairperson by September 15. The committee shall elect a chair from among its voting members.

The committee shall review the teaching effectiveness of the faculty members in the bargaining unit who are in the academic unit for which the student evaluation committee is appointed. The unit shall either use an existing course evaluation form, prepare and use its own course evaluation form, or use the form prepared by the UFA-Administration Committee and shall make all completed course evaluation forms available to the student evaluation committee by September 20. Each faculty member must have at least one course evaluated

each semester he/she teaches; however, Unit Standards may require more than one or all courses to be evaluated each semester. The results of all courses evaluated will be provided to the student evaluation committee. The committee shall review course evaluations and may seek or receive relevant evidence from students who have taken courses from or have been advisees of the faculty member being evaluated. The committee may refer to section 6.200 for guidance on expectations for faculty advising and/or mentoring of students. The committee shall prepare a written evaluation of the teaching and advising of each faculty member whose performance is reviewed. Each written evaluation shall be signed by the chairperson of the Student Evaluation Committee and the faculty member being evaluated by October 15. A faculty member may append a response to the SEC report.

The Student Evaluation Committee shall neither review the evidence of performance prepared by the faculty member nor have any responsibility for application of unit standards.

Neither error nor omission of student participation in any evaluation may constitute grounds for a grievance. The evaluation procedure may proceed without participation by a departmental Student Evaluation Committee.

#### **10.235 ABSENCE OF STUDENT EVALUATION COMMITTEE PARTICIPATION**

The absence of Student Evaluation Committee participation shall not be regarded as a defect in the evaluation process. The sole intent of this section is to allow the evaluation process to proceed in the event the SEC has not exercised its role in the process within the specified deadlines. Units and faculty members may not exempt themselves from the requirement to have student evaluation committee participation in the evaluation process. This section pertains only to those instances where a Student Evaluation Committee has failed to act within the stipulated deadlines.

#### **10.240 FACULTY EVALUATION COMMITTEE - NOVEMBER 15**

By election each unit shall annually establish an evaluation committee of at least three (3) members of the unit excluding the department chairperson, three of whom must be tenured or tenurable (i.e. tenure-track). If a unit does not have enough members to constitute an evaluation committee, the committee can be formed with members from related fields in units listed in section 10.120. Potential committee members will be identified by the unit subject to approval by the dean.

Only tenured or tenure-track faculty are able to vote on tenure and promotion decisions. The committee members shall elect their own chairperson from among the committee membership. One student observer with all rights, save voting, shall be appointed by the committee chairperson from among the majors and/or graduate students in the unit.

The Committee shall apply the unit standards to review the performance of each faculty member in the unit and make a written recommendation with justification signed by the committee chairperson which shall, where appropriate, specifically address: (1) retention, (2) salary increment, (3) promotion, and (4) tenure, and which shall be forwarded to the department chairperson and the dean by November 15. To ensure and encourage candid professional assessment of the individual faculty member performance, materials solicited by the FEC from non-tenure-track, probationary faculty, and students will be guaranteed anonymity. With the exception of solicited material from non-tenure-track, probationary faculty, and students, other persons submitting material to the FEC have no expectation of anonymity and all materials submitted to the FEC will be signed. Student materials submitted to the SEC will be guaranteed anonymity. Any material solicited at this, or subsequent steps, must be made available to the individual being evaluated within five (5) working days of its inclusion. The individual is given ten (10) working days to prepare a written response, which becomes part of the evaluation record. All subsequent deadlines will be postponed concomitantly. Notwithstanding the above, individual units may opt to solicit external peer review for the FEC to use to assist the FEC in decisions for promotion and tenure. It is left up to the individual units to specify in their unit standards how these letters will be used with respect to anonymity or confidentiality and who in the unit will solicit these letters.

At all times during the evaluation process, from the Faculty Evaluation Committee through the deliberation of the Provost, unsolicited materials may not be used as part of the evaluation unless they are signed. Signed materials thus submitted will be made available to the faculty member being evaluated in accord with the preceding paragraph. Unlike materials solicited by the FEC, unsolicited materials have no expectation of anonymity of the identity of their author.

The Faculty Evaluation Committee meetings in which the committee discusses individual faculty evaluations shall be closed to the faculty member being evaluated and to anyone else not a member of the committee, except for any individual whom the committee may wish to interview in connection with the evaluation of an individual faculty member. Upon request, a faculty member being

evaluated shall be permitted to personally address the committee regarding his/her evaluation. This does not preclude units from modifying unit standards to allow persons being evaluated to be present during the discussion of their own cases.

In addition to the individual recommendations, the Faculty Evaluation Committee shall prepare and append a summary of those who have been recommended by the committee for promotion, merit increase, or tenure respectively.

Within ten (10) working days of receipt of the recommendation from the Faculty Evaluation Committee, the faculty member may submit a written appeal to the Faculty Evaluation Committee regarding any aspect of the Faculty Evaluation Committee's recommendation or process. The appeal must state any matters which the Faculty Evaluation Committee is requested to consider as well as the remedial action desired. The appeal may present for consideration appropriate documentation that the faculty member omitted from his/her Individual Performance Record. Within ten (10) working days of receipt of the appeal, the Faculty Evaluation Committee shall either grant or deny the requested remedial action and shall so notify the faculty member and make the decision a part of the record.

#### **10.250 DEPT. CHAIRPERSON'S RECOMMENDATION- DECEMBER 15**

Based on the approved unit standards, on the CBA, and on consideration of the evidence submitted by the faculty member, the Student Evaluation Committee recommendation, the Faculty Evaluation Committee recommendation, and any additional evidence solicited or received and placed in the evaluation report, the department chairperson shall prepare and sign a written evaluation for each faculty member in the unit which, where appropriate, shall specifically address: (1) retention, (2) salary increment, (3) promotion, and (4) tenure. The chairperson may append a written statement of his/her professional opinion and recommendation regarding any matters which he/she may deem to be relevant to the performance or advancement of the individual evaluated. The faculty member shall be given the opportunity to respond in writing to this professional opinion. The chairperson shall prepare and append a summary list of those the chairperson has recommended for promotion, merit and outstanding performance increase, or tenure, respectively. The names on the list of recommendations for merit increase and outstanding performance will be ranked in order of priority by the chairperson, taking into account the chairperson's ratings (less than normal, normal, above normal, outstanding) across the three areas of evaluation. The department

chairperson shall make the record of each evaluation available to the respective faculty members to whom they pertain for his/her review and signature. The record shall include, if available: the Individual Performance Record submitted by the faculty member; the Student Evaluation Committee recommendation; the Faculty Evaluation Committee recommendation; the department chairperson's recommendation, and if submitted, the department chairperson's professional opinion with faculty member's response, and any other exhibits or evidence relied upon or incorporated by reference except course evaluation forms. Each recommendation shall be signed by the faculty member to attest that the faculty member has read it. The chairperson shall then forward a copy of the complete record to the dean by December 15.

Within ten (10) working days of receipt of the department chairperson's recommendation, the faculty member may submit a written appeal to the department chairperson regarding any aspect of the chairperson's recommendation or process. The appeal must state any matters which the chairperson is requested to consider as well as the remedial action desired. The appeal may present for consideration appropriate documentation that the faculty member omitted from his/her Individual Performance Record. Within ten (10) working days from receipt of the appeal, the chairperson shall either grant or deny the requested remedial action and shall so notify the faculty member and the Faculty Evaluation Committee and make the decision a part of the record.

#### **10.260 DEAN'S EVALUATION AND RECOMMENDATION – FEBRUARY 15**

Based on the CBA, unit standards, and the evaluation record, the dean shall prepare an individual written evaluation and recommendation for each faculty member regarding retention, salary increment, promotion, and tenure, where appropriate for the individual being considered. Any additional relevant evidence must be appended to the person's Individual Performance Record and pertain to the period under evaluation, that is, activity prior to September 1st. The dean shall inform the faculty member in writing that material is appended to the faculty member's IPR within five (5) working days of having appended the additional material to the record.

Should the dean's review of the evaluation record or a communication from other sources indicate an error or omission in procedure or the application of evaluation standards in an evaluation, the dean may remand the matter for appropriate remedial action and request it to be expedited back up through the evaluation process.

The dean may elect to append a written statement of his/her professional judgment regarding any other matters which he/she may deem to be relevant to the performance or advancement of the individual evaluated. Such judgment must be based on unit standards.

The dean shall also prepare and forward a summary list of those he/she has recommended for promotion, merit and outstanding performance, or tenure, respectively. The names of those recommended for merit and outstanding performance increase shall be listed in order of priority by the dean. On or before February 15, deans shall inform the faculty that merit and outstanding performance rankings are available and shall provide individual rankings to specific faculty members at the request of the faculty member. Faculty who do not ultimately receive merit or outstanding performance awards may appeal the dean's ranking if it can be demonstrated to have been in error based upon the criteria listed in 10.280.

The dean shall assure that the entire evaluation record, including the dean's evidence, evaluation, recommendation, professional opinion, and priority ranking shall be forwarded to the Provost and each respective member by February 15. A copy of the dean's evaluation shall be sent to the respective department chairpersons.

#### **10.270 APPEALS TO THE DEAN - MARCH 12**

Within ten (10) working days of February 15, any faculty member may submit a written appeal to the dean regarding any aspect of the evaluation record or process including the dean's professional opinion. The appeal must state any matters which the dean is requested to consider as well as the remedial action desired. The Dean shall notify the Provost that an appeal has been submitted and the Provost shall wait to review the evaluation record until a decision on the appeal has been reached.

By March 12 the dean shall either grant or deny the requested remedial action and shall so notify the faculty member, the department chairperson, and the Provost in writing.

#### **10.280 APPEALS TO THE APPEALS COMMITTEE - APRIL 4**

There shall be an Appeals Committee comprised of seven (7) members of the bargaining unit. Three (3) members shall be appointed by the Faculty Senate, three (3) shall be appointed by the President of the University, and one (1) shall be appointed by the President of the UFA. The seven appointed members shall

then elect a chairperson of the Appeals Committee.

The Appeals Committee may hear only those appeals which are based on one or more of the following grounds for complaint:

1. that a prejudicial procedural error, defect, or omission has been committed or has occurred;
2. that a recommendation is not supported by factual evidence or is lacking a rational basis;
3. that a recommendation was the result of personal prejudice or bias which adversely affected the substantive academic judgment of the decision maker;
4. that a recommendation was made for reasons which are clearly impermissible.

No error or omission may be appealed unless the error or omission was brought by the appellant to the attention of the person(s) responsible within ten (10) working days after the appellant knew or should have known of the error or omission. The Appeals Committee shall notify the Provost that an appeal has been submitted and the Provost shall wait to review the evaluation record until a decision on the appeal has been reached.

A written appeal must be served on the chairperson of the Appeals Committee within ten (10) working days of receipt of the dean's evaluation or his/her decision on an appeal, whichever is later. The appeal must set forth concisely the recommendation being appealed, the reason(s) why the appellant disagrees with the recommendation and shall specifically cite any procedural errors or omissions that were alleged to have occurred in the decision making process; identify witnesses and the point to be evidenced by the testimony of each; identify and indicate the purpose for each document or other evidence to be presented; state appellant's preference for an open or closed hearing; and state the name and address of any person who will represent the appellant at the hearing and whether they appear as legal counsel. No appeal shall be reviewed unless all of the information required by this section has been provided. If the faculty member is notified that he/she has not submitted all the information required by this section, and the faculty member has thereafter failed to submit all the information required by this section within ten (10) working days of being notified, the appeal shall be considered withdrawn.

The Committee shall set a hearing within ten (10) working days of receipt of

the appeal and notify the appellant and dean of the time and place and forward a copy of all materials filed by the appellant to the dean. The dean and the person(s) against whom the appeal has been brought shall be entitled to be present at the hearing. The University will be represented by legal counsel only if the appellant has elected to be represented by legal counsel.

The strict rules of evidence shall not apply, and the chairperson of the Committee shall make the final decision on the admissibility or order of presentation of evidence as well as procedural matters. Either party may present evidence and examine and cross-examine witnesses. Any member of the Committee may request additional witnesses or evidence of either party.

A written statement of findings based on the evidence and recommendations for appropriate action shall be prepared and a copy forwarded by the Committee, within ten (10) working days of the hearing, to the appellant, department chairperson, dean, and the Provost. The written statement shall respond specifically to each of the alleged complaint(s) that have been raised by the appellant. The Committee's function is not to act as a substantive decision maker regarding the academic merits of the decision appealed. The Committee therefore shall not substitute its academic judgment for that of others in the evaluation process.

If the Committee finds that the appellant has not established by a preponderance of evidence the grounds for complaint, it shall recommend that the appeal be dismissed. If the Committee finds that appellant has established by a preponderance of evidence that at least one of the grounds for a complaint permitted by this section exists, the committee will recommend remedial action in accordance with section 10.285.

#### **10.285 APPROPRIATE REMEDIAL ACTION**

The following recommendations for remedial action may be made by the Committee:

1. The normal remedy for any prejudicial errors, omissions, or defects in the process of evaluation of faculty for promotion and tenure shall be to remand and properly re-do the process to cure the defect. A remand by the Appeals Committee shall constitute return of the evaluation to the appropriate step in the process where the defect occurred with a specific, binding remedy that is consistent with the CBA. Following proper application of the Appeals Committee remedy and reevaluation at that step, the evaluation process shall continue forward as directed



in section 10.000 with the remedy in place. The faculty member retains the option to return to the Appeals Committee if the remedy from the original complaint was not properly applied or with a separate complaint if there is a new violation.

2. In appropriate cases, including those involving personal prejudice or bias, where previous remand has not resolved the matter, or where all levels of the process prior to the appeal are found to have been tainted by one or more of the grounds for complaint to the prejudice of the appellant, it shall recommend a direct cure by the Provost. In the event of such a recommendation, the Committee shall specify the reason for its decision not to recommend a remand. In no event may it recommend, as a direct cure, the granting of tenure, promotion, appointment, reappointment, or a specific salary determination. The Committee may recommend to the Provost as a direct cure that he/she appoint an ad hoc committee to review the faculty member's performance and make a recommendation in accordance with the standards set forth in Section 10.000. In the event that an ad hoc committee is to be appointed, it shall be composed of faculty members in units listed section 10.120 in the discipline or from disciplines or programs which have a close relationship to the discipline of the appellant. The Executive Committee of the Faculty Senate shall recommend five (5) names to the Provost from which he/she shall choose three (3) to serve on the Committee. The ad hoc committee shall review the faculty member's performance and make its recommendation to the Provost within thirty (30) working days from the date the Provost receives the recommendation of the Appeals Committee. The recommendation of the ad hoc committee shall be forwarded to the faculty member at the same time. The time period may be extended by mutual agreement. The faculty member retains the option to return to the Appeals Committee if the remedy from the original complaint was not properly applied or with a separate complaint.
3. If the recommendation of the ad hoc committee is appealed, the appeals committee can either dismiss the appeal, in accordance with section 10.280, or recommend a direct cure in the form of a de novo review by the Provost. The review shall consider the entire evaluation record including the decision(s) of the Appeals Committee.

Any member(s) of the Appeals Committee may forward a minority finding and

recommendation. All findings and recommendations of the Appeals Committee should be forwarded to the Provost by April 4.

Any delay incident to a remand or direct cure by the Provost shall be corrected by making any change in employment terms retroactive to the date the change would have become effective if the remand or cure had not been required.

Within ten (10) working days of the Provost's recommendation on an evaluation that has gone through the Appeals Committee, the Provost shall provide the members of the Appeals Committee with a copy of the recommendation.

#### **10.290 PROVOST'S RECOMMENDATION – APRIL 25**

The decision of the Provost shall be based on the total evaluation record, including findings and recommendations of the Appeals Committee, shall be consistent with his/her overall administrative responsibilities, and shall constitute the final institutional recommendation to the Board regarding matters of faculty retention, salary increment, promotion, and tenure. The recommendation shall be forwarded to each faculty member by April 25 provided all other recommendations have been timely forwarded and no matter is under appeal. The Provost, after consultation with the Vice President for Research and Creative Scholarship, will forward recommendations for research faculty on an identical timeline.

#### **10.300 RESTRAINTS ON EVALUATION AND APPEAL**

The evaluation of faculty members for advancement and the changes in individual terms and conditions of employment made as a result of the evaluation and recommendation process and procedure are subject to the conditions and restraints imposed by the following sections.

#### **10.310 CONFLICTS OF INTEREST**

No person shall participate in his/her own evaluation; or that of any other person to whom he/she has a relationship by blood or marriage, or cohabitation, or with whom he/she is engaged in adversarial litigation or proceedings. No person shall participate in the evaluation of any person with whom he/she has joined in a business relationship or nature which would reasonably be presumed to preclude objective application of professional judgment. Allegations of conflict of interest will be filed with the UFA-Administration Committee within ten (10) working days of discovering such a conflict. That committee will make a recommendation as to whether a conflict exists and a remedy to the Administration. The Administration will determine if a conflict of interest exists. The failure to timely file an allegation

of conflict of interest shall prevent the later allegation of a conflict of interest during the academic year.

### **10.320 GRIEVING THE EVALUATION PROCESS**

Faculty evaluations are non-grievable and non-arbitrable except in the following cases:

1. When all prior recommendations have been timely, failure of a dean or the Provost to meet the times specified for their actions shall constitute grounds for a grievance unless there are unusual circumstances justifying the delay which are made known to the faculty member. Any faculty member who prevails in a grievance for such delay shall be entitled to an award of one hundred dollars (\$100) for every five (5) working days delay endured.
2. When all prior tenure or promotion recommendations have been in agreement, a contrary decision by the Provost may constitute grounds for a grievance where it is alleged that the contrary decision is not supported by evidence or is lacking a rational basis, is the result of personal prejudice or bias which adversely affected academic judgment, or is made for reasons which are clearly impermissible.
3. A decision of the Provost not to follow the recommendation of the Appeals Committee or an ad hoc committee where one has been appointed may constitute grounds for a grievance where it is alleged that the Provost's decision is not supported by evidence or is lacking a rational basis, is the result of personal prejudice or bias which adversely affected judgment, or is made for reasons which are clearly impermissible.
4. In merit recommendations by the Provost where it is alleged that the recommendation is not supported by evidence, is lacking a rational basis, is the result of personal prejudice, or is made for reasons which are clearly impermissible.

## **11.000 FACULTY DEVELOPMENT, RECRUITMENT AND RETENTION**

The UFA, the University, and the Board mutually agree that faculty career development is inherent to the guarantee that all University of Montana students are provided a quality education on both the baccalaureate and post-baccalaureate levels. The parties to the CBA are, therefore, committed to developing a diverse faculty with the highest professional standards and capabilities. Based on the provisions of the CBA and by the exercise of them free

from reprisal, or discrimination (CBA 2.800; UM 406.4), all faculty shall have access to professional career development opportunities.

#### **11.010 FACULTY RELATIONS AND DIVERSITY**

The UFA, the University, and the Board are firmly committed to promoting faculty diversity in all ranks during consideration and adoption of all University and MUS policies and procedures (CBA 8.000; BOR 207.1). Faculty diversity may be recognized in the conducting of recruitment (UM 405.5.1), provision of employment contracts (CBA 2.200), professional development and advancement consistent with non-discrimination (CBA 2.800; UM 406.4) and equality policies (UM 401.1, 4/02). A diverse faculty reflects the characteristics of the local and national populations.

As a member of the faculty, each person is expected to interact with colleagues in a professional manner consistent with CBA section 6.200 and 2.800. Actions or activities inconsistent with professionalism (CBA 6.200, 2.800) may be considered a faculty-faculty conflict that shall be managed by the Office of the Provost consistent with all provisions of the CBA and inclusive of University policies (406.4, 4/02; 707, 5/15). Conflict resolution may include a faculty, UFA, or Administration request for mediation. Mediation shall be performed by a professionally trained mediator who is free from conflict of interest, familiar with the academic environment, and mutually acceptable to both parties. All parties in the conflict are urged to attempt resolution through mediation, but mediation does not preclude other actions available through the CBA or the law. Faculty declining mediation shall provide a written explanation. Following mediation, either party may request a finding of facts by the University Appeals Committee.

#### **11.100 SABBATICAL ASSIGNMENT**

Because of its duty to provide excellence in education, the Administration recognizes the need for and is committed to supporting as many sabbatical assignments as possible within the limits of available funding for this purpose to qualified faculty members for the purpose of encouraging scholarly and professional achievement and for the mutual benefit of the University and the grantee.

#### **11.110 ELIGIBILITY**

Only tenured faculty are eligible to apply for sabbatical assignment. Any faculty member who has been awarded tenure and completed six (6) years of

satisfactory service at The University of Montana prior to the year for which sabbatical assignment is requested shall be eligible to apply for such assignment and must apply for the sabbatical in the academic year prior to beginning the assignment. Credited prior service toward tenure, not at the University of Montana, does not count toward sabbatical eligibility unless it is written into the original offer letter for hire. The deadline for application (stated in 11.140) applies. A faculty member starting a sabbatical assignment shall have completed at least twelve (12) semesters or their equivalent of full-time service at The University of Montana since a prior sabbatical assignment. The elapsed academic terms need not be consecutive, but no more than two (2) semesters shall be counted for any one (1) fiscal year. Academic terms for which other types of leave were granted shall be excluded in determining academic terms of service.

#### **11.120 APPLICATION**

For sabbatical assignment to be granted, an eligible faculty member must formally request assignment. The application for sabbatical assignment shall include:

1. a definitive detailed plan for the scholarly or professional use of the sabbatical;
2. anticipated future values of completion of the program—for the applicant, for students, for the department, and for the University;
3. a complete vita including a record of all professional activities;
4. a listing of the specific whole semester(s) or portion of fiscal year for which assignment is requested;
5. a description of any fellowship or grant or other arrangement which would aid in financing or otherwise supporting the proposed project;
6. the applicant's signed agreement to return to full-time service with the University for a period equal to the length of the sabbatical following expiration of the assignment or to refund the compensation paid him/her by the University during such assignment unless this obligation is specifically waived by the President or his/her designee.

#### **11.130 LIMITATIONS AND CONDITIONS**

The rights of a faculty member on sabbatical assignment shall not be limited in any way, and he/she shall retain all rights to promotion, salary increments, insurance, retirement, and other benefits provided in this agreement.

Formal study for an advanced degree shall not be acceptable as a sabbatical assignment project.

Sabbatical assignments are granted only for the duration of stated whole semesters or portion of fiscal year and must be taken during the period for which application was made and approved.

All sabbatical assignments shall be for a period of not less than one (1) semester or more than an academic year for persons on academic year appointments, and not less than one-half (1/2) or more than one (1) fiscal year for persons on fiscal year appointment; however, a person may request a shorter assignment.

A sabbatical assignment may be granted for up to one-half (1/2) of the individual's regular contract period at full salary for the period on sabbatical, or for the full contract period at three-quarters (3/4) salary for the period on sabbatical, but the total salary paid during the sabbatical from funds budgeted for that position may not exceed three-quarters (3/4) of the total which would have been budgeted for that position for the full contract period in the absence of a sabbatical.

Special compensation arrangements involving funds from other than institutional sources must be agreed upon and approved in keeping with the following conditions:

1. Compensation paid during a sabbatical assignment may differ from that paid for regular assignment because it may involve funding from sources other than regular University funds such as fellowships, assistantship, or other sources of limited income including funds available from grants or contracts administered by the institution.
2. Before leaving on a sabbatical assignment, the faculty member must make arrangements with the Vice President for Administration and Finance regarding his/her financial commitments to the Teachers Retirement System.
3. Funds from other sources may be used to supplement institutional funds to increase the compensation up to, but not in excess of, that amount which the individual would have earned on regular assignment during the same period.
4. Compensation in excess of that which could have been earned on regular assignment may be approved only if all institutional funds have been replaced by funds from other sources.
5. Programs or projects which necessarily involve employment by an

employer other than the institution may not qualify for sabbatical assignment but may be approved as leave without pay.

6. A recipient of a sabbatical assignment will be expected to return to the University for a period equal to the length of the sabbatical assignment or to repay money received from the University while on sabbatical.
7. Persons on sabbatical assignment will continue to be eligible for employee benefits.
8. Extraordinary travel and living expenses which will be required to perform the sabbatical assignment as proposed may be approved in addition to regular compensation but must be requested, justified, and approved in advance.

#### **11.140 PROCEDURE**

Applications for sabbatical assignment shall be made by members of the bargaining unit on forms available from the Provost's office and shall be submitted to the dean no later than October 30 of the academic year prior to the year in which sabbatical assignment is desired.

The dean shall submit all applications with his/her comments and recommendations on each to the Committee on Sabbatical Assignments no later than November 20, with a statement indicating the effects each proposed sabbatical assignment would have on the academic functions of the department, as well as financial arrangements necessary to provide for the faculty member's absence.

The Committee on Sabbatical Assignments shall be composed of six (6) faculty members, three (3) from the College of Humanities and Sciences, and three (3) from the other colleges and schools, who have been awarded sabbatical assignments by the University in prior years, serving staggered terms of three (3) years. No faculty member shall serve more than three years out of any six years. Each year, the Provost shall appoint two (2) members, one from the College of Humanities and Sciences and one from the other colleges and schools, from a list of six (6) names provided by the Faculty Senate. The Provost, or a designee, shall constitute the seventh (7th) member of the Committee and will serve as its chairperson.

In evaluating proposals for sabbatical assignment, the Committee on Sabbatical Assignments shall be guided by the following criteria in order of priority:

1. the merit of the proposed program—values both for the applicant and for

- the University;
2. the applicant's teaching and research performance (quality and amount) especially over the immediately preceding six (6) years or twelve (12) semesters or an equivalent period of time comprised of semesters;
  3. the anticipated value of completion of the proposed program to the individual, to the department, and to the University;
  4. the applicant's length of service with the University (with some weight given to longer service).

The Committee on Sabbatical Assignments may require oral interviews of any number of the applicants to facilitate evaluation and ranking of the proposals. The chairperson of the Committee or his/her designee should provide an applicant with at least ten (10) calendar days notice of the time and place of the interview and shall determine the manner in which the interview is conducted. If any interviews are held, the Committee will afford all applicants the opportunity for an oral interview.

The Committee shall rank the proposals on the basis of the above criteria and make recommendations to the Provost no later than December 15. The Committee shall only consider proposed sabbatical assignments which pertain to a single fiscal year.

Following discussions with the appropriate deans, the Provost will submit recommendations based on the merit of the proposals and the availability of funds to the President. Final approval of all sabbatical assignments must be obtained from the Board of Regents.

For any sabbatical applications that are denied, the Provost shall provide a brief written explanation of the reasons for the denial to the applicant. The Administration shall report to the UFA, by the September Faculty Senate meeting each year, the number of sabbatical applications received and the number of sabbatical assignments awarded for that year.

Decisions on sabbatical assignment awards may not be grieved.

#### **11.150 FINAL REPORT**

No later than the end of the first (1st) semester following the completion of a sabbatical assignment, the faculty member shall submit a report summarizing activities and results of the sabbatical assignment project to the dean, the Provost, and the Committee on Sabbatical Assignments which recommended the assignment. The faculty members shall forward reprints of work performed on



sabbatical as they become available. The Committee shall review all reports on assignments made under its tenure and submit comments on these reports to the Provost for the record of the Committee.

#### **11.200 FACULTY MODIFIED DUTIES**

To minimize variations in classroom staffing and consistent with the goals of achieving faculty diversity, professional career development and career advancement: The University shall coordinate a Faculty Modified Duties (FMD) policy for eligible faculty. FMD is NOT defined as an employee benefit or leave as defined under the Family Medical Leave Act (FMLA). Furthermore, modification of duties under this policy does not preclude availability or use of other defined benefits; nor modification of duties mutually arranged by faculty and the Unit Dean without opting for FMD.

Regarding implementation and ongoing application of FMD: UM Human Resource Services (HRS) shall receive the faculty application, determine eligibility and apply FMD provisions (CBA 11.200). FMD implementation and applications shall be consistent with UM Policy 330, revised 2/28/2017, the provisions of which shall be subject to collective bargaining through the UFA/Admin committee (CBA 8.000).

#### **11.210 ELIGIBILITY FOR FACULTY MODIFIED DUTIES**

All full-time tenure-track/tenured faculty shall be eligible provided that they are:

1. The primary care giver due to the birth, adoption, or foster care placement of a child under six. A primary care giver shall be either parent, the legal guardian, a live-in partner or a spouse by marriage.
2. The primary care giver of an invalid or disabled primary family member including a spouse, parent, live-in partner or child who requires constant care by the primary care giver.

#### **11.220 MODIFICATION OF FACULTY DUTIES**

Faculty Modified Duty is based on the current, common practice of faculty duty modification as applied to teaching, scholarly activity or service. That practice and the FMD option are derived from the authority of the Unit Dean (CBA 6.210; 6.220) to fairly assign (CBA 2.800) teaching and other duties consistent with the provisions of the individual employee contract.

The FMD option shall allow eligible faculty up to one semester of modified duties in any academic year whereby elimination or reduction of any duty in exchange for enhancement of another duty constitutes an FMD accommodation. University HRS shall, on behalf of the eligible faculty member, arrange the terms of an FMD accommodation in consultation with the department Chair and Dean. The faculty member has the right to UFA counsel and representation throughout the entire FMD process. Consistent with all other provisions of the CBA, no faculty shall experience reprisal for exercising the FMD option.

The Administration shall be responsible for funding the faculty modified duties policy and each accommodation is subject to the review and final approval of the Provost.

Where and when possible, the funding will be applied so that FMD in any unit:

1. results in hiring of faculty to replace necessary teaching responsibilities;
2. does not result in cancellation of required classes;
3. does not result in an increased teaching load for any unit faculty, unless by volition;
4. allows an option for tenure clock extension (CBA 9.400 or 9.340);
5. allows an option for exemption or deferral from faculty evaluation (CBA 10.340);
6. allows interpretation of applicable UM and Board policies to provide enough flexibility in negotiations between the parties (eligible faculty, Chair, Dean and Provost) so as to reach a suitable FMD arrangement.

## **11.300 GRANTS AND CONTRACTS**

### **11.310 INVOLUNTARY TRANSFER OF GRANTS AND CONTRACTS**

Transfer of a grant or contract from one principal investigator to another mandated by the Administration without the consent of both parties shall:

1. be consistent with non-discrimination policies (2.800);
2. require the Administration to provide a written, detailed explanation for the necessity of the transfer to both parties;
3. be subject to the approval of the granting agency; and
4. be subject to grievance consistent with the principles of CBA section 19.00.

## **12.000 FACULTY CONTRACT OBLIGATIONS**

### **12.100 ACADEMIC YEAR CONTRACT OBLIGATIONS**

The obligations of the faculty members on an academic year contract shall start with the beginning day of fall orientation activities and shall extend until the completion of commencement ceremonies. It is presumed that The University of Montana has priority on the working time of a full-time faculty member. This does not imply a seven-day week commitment for a faculty member. Faculty members have an obligation to perform assigned academic duties as well as fulfill the responsibilities enumerated in Article 6.200, Academic Responsibilities.

Every day of the term of an academic or fiscal year contract is a regular day of employment except those for which there is legislative, regential, or employer authorization to be absent from University employment (viz: holidays, leave with or without pay, annual leave, sabbatical, sick leave, and weekends when not assigned or required for performance of the regular employment obligation).

### **12.200 PROFESSIONAL ACTIVITIES IN ADDITION TO REGULAR UNIVERSITY RESPONSIBILITIES**

#### **12.210 UNIVERSITY SPONSORED PROFESSIONAL SERVICES AND EXTRA COMPENSATION**

Before consideration is given to extra compensation for individual members of the bargaining unit for University sponsored services, department chairpersons and deans are urged to provide released time for the performance of these services. When this is not possible, it may be necessary to permit extra compensation during the academic year of up to 20% of an individual's base salary.

There are cases for which no extra compensation will be allowed. No employee of The University of Montana may accept additional compensation for providing to the same clientele the same services which are part of his/her assigned University duties. In particular, no faculty member may receive compensation for tutoring students of this University. Also, consultation with other faculty members is considered part of the normal activity of the faculty and should be done without extra compensation.

Except for continuing education credit courses to a maximum of the equivalent of four (4) credits per semester, no person on academic or fiscal year contract may earn compensation from the University for service in addition to regular salary during any day of regular employment during the term of the contract

unless there has been prior written approval by the Provost or the Vice President for Research and Creative Scholarship as appropriate. The Vice President for Research and Creative Scholarship shall approve extra compensation for research activities and the Provost shall approve all other activities for which extra compensation is requested (e.g. teaching extra to load, etc).

An employment contract identifying the terms of the extra compensation will be signed by the employee, the chair or program director, the dean and the appropriate executive officer for payroll purposes. Employees will be paid extra compensation with their regular monthly check. The Administration will provide a summary report each September to the Faculty Senate on all extra compensation approved during the prior academic year.

Prior to performance of any services for extra compensation to be paid by or through the University, both the rate and the aggregate amount thereof must be approved in writing by the Provost or the Vice President for Research and Creative Scholarship as appropriate. No compensation for services in addition to regular salary may be approved except on the recommendation of the department chairperson and dean.

A project director or principal investigator has the responsibility to perform the requirements and to remain within the approved budget for any sponsored program. If a project director or principal investigator fails to perform the requirements of a sponsored program or exceeds the approved budget, the matter shall be reviewed by the Administration. If the Administration determines that the failure resulted from the principal investigator's poor management or professional practices or his/her failure to adhere to University policies, the Administration may remove an individual as an authorized project director or principal investigator on any sponsored program and may refuse to permit any individual from serving in such a capacity on proposed sponsored programs.

#### **12.220 NON-UNIVERSITY SPONSORED PROFESSIONAL SERVICES**

The University and the faculty recognize the potential value of making available to the community the professional competence and technical knowledge of University faculty members through outside employment. Some professional activity, which may be remunerated by third parties, is essential to retaining and enhancing professional competence. Some continuing professional activity, which may or may not be compensated, is required by some external accrediting bodies.

Full-time employment by the University shall be considered the primary, but not exclusive, employment of the individual, and he/she shall limit other

compensated professional activity, such as consulting, so as not to impair his/her educational effectiveness or otherwise interfere with his/her professional responsibilities to the University. Outside activities shall not involve a conflict of interest or possible interference with objectivity in teaching or research. If the dean feels that such outside activities may be interfering with the scope or quality of the faculty member's performance or may constitute a conflict of interest, the dean shall consult with the faculty member to try to resolve the problem. Should the Provost or dean still believe the problem is unresolved he/she may, with the concurrence of the UFA- Administration/Contract Maintenance Committee, require submission by the faculty member of a report on outside compensated professional activities during the previous year. Submission of the report shall be considered the responsibility of a faculty member under Article 6.200. Based upon the provisions of the CBA, University Policy, and Regents Policy, the Committee will make a determination if the activity constitutes a conflict of interest or an interference in the objectivity of research or teaching. If such a conflict or interference is found, the Provost and dean will request that the faculty member cease the questioned activity. Failure to do so on the part of the faculty member may be grounds for action under Article 18.300.

In all private consulting engagements, the client must be informed in writing that the faculty member is acting as a private consultant; that The University of Montana is in no way a party to the contract or liable or responsible for the performance thereof; and that The University of Montana is not liable in any way for property of the client utilized for tests, observations, or otherwise in connection with the consulting engagement, nor for consequent damages. The name of the University shall not be used in advertising or in any other way without the express consent of the Provost and appropriate dean.

No employee may use University supplies, facilities, personnel, or services to earn compensation from non-University sources without prior determination of appropriate reimbursement and written approval by the Provost and the Vice President for Administration and Finance upon recommendations made by deans. Use of office, studio, or laboratory space provided for a faculty member's exclusive use for his/her professional activities as part of University employment to earn compensation from non-University sources must similarly be approved. In the case of externally funded research, these costs must be included in the indirect cost calculations for the proposal.

No full-time member of the bargaining unit may offer or provide services in competition with the University, or teach courses offered by other institutions

during the individual's contract period without written consent of the Provost and dean.

Several types of faculty activity, outside of regular University duties, are considered consulting for the purposes of this contract. The definition of consulting used by the Board of Regents is (all conditions must be met):

1. any additional activity beyond duties assigned by the institution;
2. professional in nature;
3. based in the appropriate discipline;
4. the individual receives additional compensation.

Moreover, the University also has a Policy on Consulting (UM Policy 320, revised 2/28/2017) to which faculty members are referred. The reporting of non-university sponsored professional activity is found in section 12.400.

Private citizen activities as described in section 6.100 of this agreement are not considered consulting.

### **12.300 CONFLICT OF INTEREST**

A conflict of interest is a conflict between public duty and private interest. According to UM Policy 703, revised 5/25/2017, faculty must file a written disclosure with the University of Montana indicating the absence or presence of a potential or actual conflict of interest on an annual basis. If a potential conflict arises during the academic year a new filing is required. For the purpose of this section, conflict of interest is defined by the Montana Legislature in Title 2, Chapter 2, Parts 1 and 2, MCA. This statute recognizes that there are certain actions which are conflicts per se and, as such, are prohibited. Other actions which may give the appearance of conflict or may raise legitimate questions concerning the possibility of a conflict, should be included in the annual disclosure.

A faculty member creates a potential conflict of interest when he/she profits financially from a course requirement that students buy either materials or a book that he/she has written, assembled, or edited. Because faculty members have the responsibility to uphold the highest standards of professional integrity, each faculty member must avoid conflicts of interest. To this end, each faculty member shall avoid even the appearance of conflicts of interest by either (1) donating all financial gain to some charitable entity, or (2) obtaining approval of the majority of the faculty in his or her academic unit for the adoption of the materials or book as a course requirement.

### **12.310 PROHIBITED ACTIVITIES**

No employee may undertake consulting or professional practice assignments which would result in a conflict of interest with his/her assigned University duties.

An employee may not assist any person for a fee or other compensation in obtaining a contract, claim, license, or other economic benefit from the Montana University System.

An employee may not perform an official act which directly and substantially benefits a business or other undertaking in which he/she either has a substantial financial interest or is engaged as counsel, consultant, representative, agent, director, or officer.

Nothing in this section shall be deemed to forbid an employee from proposing or participating in research programs appropriate to his/her employment which may involve cooperation with other persons or agencies and which may require the employer to seek and receive private or governmental grants for the furtherance of such programs provided the relationship of the employee to the University and to other agencies and persons involved is fully disclosed to both the employer and the granting agency.

### **12.320 ACTIVITIES REQUIRING DISCLOSURE**

Any employee who recommends or approves a purchase and who has any substantial financial interest in the firm involved in the purchase shall make this fact known at the time. Any employee who recommends or approves a personnel action and who has any financial interest or business association with the person who is the object of the action shall make this fact known at the time. This requirement does not include text book adoption where the employee is clearly identified as the author or editor of the book in question.

### **12.330 RESEARCH CONCLUSIONS**

Research, if sponsored by agencies of federal, state, or local government, or if unsponsored but supported by University funds for released time, supplies, or service, is in fact supported by taxpayers. The researcher must ensure that the findings from the University or government sponsored research are made public before utilizing such findings for personal gain on behalf of a private client as part of a consulting engagement or otherwise giving advantage to a particular party or firm. However, the above statement is not to be interpreted to mean that the public has a right to the field notes, raw data, research notebooks, or working papers of

a researcher. Neither is the above statement to be interpreted as a waiver or denial of existing regulations on the use and distribution of data, the premature release of which would jeopardize the public interest.

#### **12.400 REPORTING**

At the beginning of each academic year, each bargaining unit member will inform the appropriate dean of any outstanding contracts wherein the unit member receives compensation for services, as defined by Section 12.220. Within thirty (30) days of the end of each academic year, bargaining unit members will report in writing to their dean the number of hours of compensated consultation in which they engaged during the previous academic year. Members of the bargaining unit who are less than full-time employees may request exemption from the reporting provisions of the section for the duration of their part-time employment with the University unless their reportable activity changes.

### **SEE APPENDIX A: ARTICLE 13.000 COMPENSATION 21-23**

#### **13.000 COMPENSATION**

The following contract provision on compensation is entered into between the Board of Regents and The University of Montana Faculty Association (UFA) and sets forth the understandings of the parties in reference to the issue of compensation.

#### **13.100 INDIVIDUAL SALARY BASE**

The salary base for determining the salary increase for members of the bargaining unit currently employed shall be the unit member's preceding contract amount excluding any extra compensation increments. Upon initial hiring, the salary for the first contract period shall be the salary specified in the initial employment contract. For University employees not currently members of the bargaining unit who subsequently become members, the initial base salary shall be determined according to the contract conversion Section 13.410 of this agreement. For University employees who were previously employed as a non-tenurable appointee, the salary base shall be as specified in the new employment contract and they are therefore ineligible for any compensation adjustments within the first year of employment.



### **13.210 LESS-THAN-NORMAL INCREASE**

The dean may recommend that faculty members receiving less-than-normal evaluations based on the criteria in Section 10.110.3.C be provided a less-than-normal salary increase. The dean shall submit his/her written recommendations to the Provost and state the reasons for the less-than-normal adjustment. The faculty member affected shall be provided a copy of the dean's recommendation to the Provost. The Provost's decision is final.

### **13.220 NORMAL INCREASE**

#### Fiscal Year 2020 (2019-20 Academic Year)

The base salary shall increase by an annualized amount of \$780 (for 1.0 FTE faculty on an academic-year contract) or by 2%, whichever amount is greater, effective the first day of the pay period that includes January 1, 2020. For faculty on a fiscal-year (12-month) contract, the base salary shall increase by an annualized amount of \$1,040 or by 2%, whichever amount is greater, effective the first day of the pay period that includes January 1, 2020. The \$780 or \$1,040 option, if applicable, shall be prorated for faculty who are in positions of less than 1.0 FTE.

#### Fiscal Year 2021 (2020-21 Academic Year)

The base salary shall increase by an annualized amount of \$780 (for 1.0 FTE faculty on an academic-year contract) or by 2%, whichever amount is greater, effective the first day of the pay period that includes January 1, 2021. For faculty on a fiscal-year (12-month) contract, the base salary shall increase by an annualized amount of \$1,040 or by 2%, whichever amount is greater, effective the first day of the pay period that includes January 1, 2021. The \$780 or \$1,040 option, if applicable, shall be prorated for faculty who are in positions of less than 1.0 FTE.

In FY 2020 and 2021, new hires will not be eligible for the normal increase in the year that their employment becomes effective. The effective dates of the normal increases apply only to Fiscal Years 2020 and 2021 and at the time of the signing of this agreement, neither party to this agreement intends these effective dates to be or set a precedent for the effective dates of normal increases in future contracts.

### **13.230 PROMOTION**

2019-2020 – Faculty members promoted during the 2019-2020 academic year as a result of the 2018-19 academic year evaluation cycle to the rank of associate professor, consistent with the promotion procedures of this contract, shall have an amount equal to \$3,500 added to their base salary effective October 1, 2019. Faculty members promoted during the 2019-2020 academic year as a result of the 2018-19 academic year evaluation cycle to the rank of full professor, consistent with the promotion procedures of this contract, shall have an amount equal to \$6,500 added to their base salary effective October 1, 2019.

2020-2021 – Faculty members promoted during the 2020-2021 academic year as a result of the 2019-20 academic year evaluation cycle to the rank of associate professor, consistent with the promotion procedures of this contract, shall have an amount equal to \$3,500 added to their base salary effective October 1, 2020. Faculty members promoted during the 2020-2021 academic year as a result of the 2019-20 academic year evaluation cycle to the rank of full professor, consistent with the promotion procedures of this contract, shall have an amount equal to \$6,500 added to their base salary effective October 1, 2020.

For promotions taking effect in AY 2019-2020 and AY 2020-2021, faculty on fiscal year appointments will receive 1.22 times the promotion amounts stated in 1 and 2 above added to base salary; that is, \$4,270 for promotion to Associate Professor and \$7,930 for promotion to Full Professor. Effective dates of October 1, 2019, and October 1, 2020, respectively, are the same as for academic year faculty.

### **13.240 MERIT**

The following merit awards pool shall be allocated to recognize outstanding tenure-track faculty performance. Merit pay shall be in addition to other salary increments provided in this contract. No faculty member may earn a merit in the same year that a promotion is granted. The awarding of merit pay shall be consistent with the unit standards of the faculty evaluation procedures in this contract.

Tenure-track faculty members receiving a merit award as a result of the 2018-19 or 2019-2020 academic year evaluation cycle, consistent with the

procedures of this contract, shall have an amount equal to \$2,500 added to their base salary effective October 1, 2019 and an amount equal to \$2,500 added to their base salary effective October 1, 2020, respectively.

	Number of Merits	Value of Merits
2019-2020	80	\$2,500 each
2020-2021	80	\$2,500 each

The administration will publish the list of merit award recipients.

**13.245 OUTSTANDING PERFORMANCE AWARDS FOR NON-TENURABLE FACULTY**

The following awards pool shall be allocated to recognize outstanding non-tenurable faculty performance. Award pay shall be in addition to other salary increments provided in this contract. The awarding of outstanding performance pay shall be consistent with the unit standards of the faculty evaluation procedures in this contract.

Non-tenurable faculty members receiving an award as a result of the 2019-2020 academic year evaluation cycle shall have the choice of having an amount equal to \$2,500 added to their base salary effective October 1, 2020, or an amount of \$2500 paid on a one time basis in their June 1, 2020 paycheck.

Non-tenurable faculty members receiving an award as a result of the 2020-2021 academic year evaluation cycle shall have the choice of having an amount to be bargained during the next contract negotiations added to their base salary effective October 1, 2021, or an amount of \$2500 paid on a one time basis in their June 1, 2021 paycheck.

	Number of Awards	Value of Awards
2020-2021	10	\$2,500 each

The administration will publish the list of outstanding performance award recipients.

### **13.250 MARKET ADJUSTMENTS**

Market adjustments are authorized to adjust a base salary to reflect market conditions for tenured and tenure-track faculty members of the bargaining unit. To be eligible for a market adjustment a faculty member must have compelling evidence of their marketability. The chair will secure and document the endorsement of a majority of the tenured and tenure-track faculty in the academic unit. Before granting a market adjustment the UFA-Administration/Contract-Maintenance Committee must approve the request. The Provost will have the final approval on all market adjustments. A report of market adjustment awards will be provided to the UFA Executive Board each September for the previous year.

### **13.260 INVERSION AND COMPRESSION**

Inversion and compression adjustments are authorized to offer additional base compensation to tenured and tenure-track faculty members of the bargaining unit. Before granting an inversion or compression adjustment, the UFA-Administration Committee shall be consulted.

The terms inversion and compression shall refer to circumstances where individual base salary compensation for senior faculty does not keep pace with that of newly hired or junior faculty. Compression is the narrowing of salary differentials over time between junior and senior faculty within a unit resulting in a relatively small individual base salary difference between faculty regardless of skills, rank or experience. Inversion is an extreme form of compression that refers to a situation where a newer faculty is hired at an individual base salary that exceeds that of a senior faculty at the same or higher rank within the unit.

The Administration shall use individual base salary data to calculate inversions and compressions on an annual basis. All merit increments earned by a faculty member during their employment at UM that are subsequent to any market adjustment made for a faculty member shall be excluded from base salary for purposes of calculating inversion/compression adjustments. Based on magnitude, faculty experiencing inversion or compression shall be ranked on a funding priority list including all units. The highest ranked priority on the descending list shall be the most inverted to least inverted and then from most compressed to least compressed.

Effective October 1, 2019, the Administration shall implement \$100,000 (one hundred thousand) worth of inversion/compression base salary adjustments for members of the bargaining unit.

Effective October 1, 2020, the Administration shall implement \$100,000 (one hundred thousand) worth of inversion/compression base salary adjustments for members of the bargaining unit.

The maximum annual inversion/compression adjustment to any faculty member's base salary shall be \$1,000 (one thousand), unless the funding priority list identifies fewer than 100 (one hundred) faculty members as inverted and compressed in either year, in which case this annual maximum may be set higher.

### **13.300 SALARY FLOORS**

The minimum salary for instructors, assistant professors, associate professors, and professors on academic and fiscal year contracts shall be determined using the schedule of floors included in this section. The schedule of salary floors applies to full-time academic year faculty. Fiscal year faculty floors shall be 1.22 times the academic year salary floor. Salary floors shall be prorated for appointments of .50 FTE and above.

Professor	\$48,000
Associate Professor	\$40,000
Assistant Professor	\$36,000
Instructor	\$34,000

### **13.410 CONTRACT CONVERSION**

The only conversions governed by this section include conversions from and to the same type of base salary; i.e., state-appropriated to state-appropriated, or externally funded to externally funded. In no case shall these provisions be applicable to mixed conversions, such as state-appropriated to externally funded, or externally funded to state-appropriated. Any employee within the bargaining unit who is changed from an academic year appointment to a fiscal year appointment within the bargaining unit shall thereafter receive at least 1.22 times the academic year salary received at the time of the change and shall be entitled to accrue vacation leave as provided by Regents' Policy. Any employee within the bargaining unit who is changed from a fiscal year to an academic year appointment and any

employee who changes from a fiscal year appointment outside the unit to an academic year appointment within the unit shall be compensated at a salary determined by dividing the fiscal year salary, less any stipend for administrator or other special duties, by 1.22 and shall cease to be entitled to take or accrue annual leave, but shall be entitled to payment for any amount of annual leave previously accrued which is not in excess of twice the amount annually accruable; in no case shall any such employee's previous earned promotion and/or merit salary increments be reduced in value. Administrators, including deans, associate deans, assistant deans and administrators on Board of Regents' contracts, who cease to hold fiscal year contracts and enter the bargaining unit with an academic year contract shall be governed by this section except that their salary shall be made comparable to members of the bargaining unit with similar credentials and years of experience. When an employee is hired initially into an externally funded position and moves to a state-appropriated position, the Provost will establish a new base salary.

#### **13.420 SALARY PRORATION**

Compensation for regular academic or fiscal year contract services for part of a contract or pay period, and any compensation for services other than those incident to regular academic or fiscal year service shall be made on the basis of a daily rate determined by dividing the academic year salary by 190 or the fiscal year salary by 260. Any reduction from regular salary shall be at the daily rate, except that a faculty member working for one semester shall receive one half (1/2) of his/her annual salary.

#### **13.500 COMPENSATION OF DEPARTMENT CHAIRPERSONS**

Contingent upon the performance of duties described in Section 16.220, extra compensation for department chairpersons shall be provided according to the following general guidelines.

#### **13.510 DEPARTMENTS OF FEWER THAN EIGHT PERSONNEL**

For departments having fewer than eight (8) FTE personnel directly supervised by the chairperson: a minimum of one-fifth (1/5) release time and an academic year stipend of \$3,900 for 2019-2020 and \$4,100 for 2020-21 effective October 1, 2019, and October 1, 2020, respectively.

### **13.520 DEPARTMENTS FROM EIGHT TO SIXTEEN PERSONNEL**

For departments having eight (8) to sixteen (16) FTE personnel directly supervised by the chairperson: a minimum of one-fourth (1/4) release time and an academic year stipend of \$4,400 for 2019-2020 and \$4,600 for 2020-21, effective October 1, 2019, and October 1, 2020, respectively.

### **13.530 DEPARTMENTS HAVING MORE THAN SIXTEEN PERSONNEL**

For departments having more than sixteen (16) FTE personnel directly supervised by the chairperson: a minimum of one-fourth (1/4) release time and an academic year stipend of \$4,900 for 2019-2020 and \$5,100 for 2020-2021, effective October 1, 2019, and October 1, 2020, respectively.

### **13.540 ADDITIONAL COMPENSATION FOR CHAIRPERSONS**

At the discretion of the appropriate dean the performance and duties assigned to the department chairperson may be reviewed and additions to the general compensation guidelines may be recommended. All additions are subject to the Provost's approval.

### **13.600 SUMMER SESSION**

The rate of pay for summer session instructional activity shall be at the rate of two-ninths (2/9) of the prior academic year salary. The rate of pay shall be varied proportionately for less than full-time teaching. Full-time summer session teaching shall be defined as eight (8) credits. In the event that a summer course faces cancellation due to low enrollment, faculty members may negotiate to teach the course at a salary lower than two ninths of the prior academic year salary in order to avoid cancellation.

### **13.650 WINTER SESSION**

The rate of pay for winter session instructional activity shall be \$1,100 per credit.

### **13.710 GROUP INSURANCE**

Employer contributions for eligible employees of the Montana University System group insurance plan shall be equivalent to the amount provided by state statutes for the years of this agreement.

### **13.720 UNEMPLOYMENT INSURANCE**

The employer agrees that all employees covered under this agreement shall be covered by unemployment insurance as provided by the Employment Security Division of Montana, Sections 39-51-101, et seq., MCA.

### **13.730 WORKERS' COMPENSATION**

Workers' Compensation payments are for the purpose of offsetting the loss of income suffered by a faculty member. An employee's pay continues while on sick leave, and he/she is not entitled to both paid sick leave and Workers' Compensation payments. An employee who is injured on the job has the option of taking either sick leave or Workers' Compensation payments, and if sick leave runs out, may receive Workers' Compensation payments.

### **13.740 RETIREMENT SYSTEMS**

#### **13.741 MONTANA TEACHERS' RETIREMENT SYSTEM**

Faculty who participate in the teachers' retirement system are subject to retirement provisions as outlined in Section 19-4-101, et seq., MCA.

As provided by state law, any bargaining unit member who has at least five (5) full years of creditable service in the Teachers' Retirement System, whose last five (5) years of creditable service were in Montana, and has attained the age of 60 or has been credited with full-time or part-time service of 25 or more years may retire with full retirement benefits.

In accordance with state law, a bargaining unit member may elect early retirement (at reduced benefits) when the member has five (5) years of creditable service, the last five (5) years of creditable service in Montana, and has attained the age of 50.

#### **13.742 UNIVERSITY SYSTEM RETIREMENT PROGRAM (TIAA-CREF)**

Faculty who participate in the University System Retirement Program (TIAA-CREF) are subject to the retirement provisions appropriate to their individual contracts and elected options. Authority for participation in the Retirement Program is found in MCA 2001, Title 19, sec. 21.

#### **13.743 POST-RETIREMENT AGREEMENTS**

Post-retirement agreements are authorized under Regents' Policy (712.1). The terms of such agreements shall be governed by state statutes and be



consistent with Board of Regents' policies covering post-retirement employment.

### **13.750 EMPLOYMENT INDEMNITY**

Employees covered by this agreement are entitled to indemnification in accordance with the provisions of Section 2-9-305, MCA, for their actions taken within the course and scope of their employment.

### **13.800 BUDGET RESCISSIONS**

In the event The University of Montana has its appropriation reduced by the legislature or the Governor during the term of this agreement, those portions of this agreement which are contingent upon the availability of resources may be opened for negotiations by mutual agreement of the parties.

### **13.900 CONTINGENCY PROVISIONS**

In the event that general fund, millage revenue, and student incidental fee revenue is insufficient, in the judgment of the Administration, to fund the compensation provisions of this contract, the Administration retains full discretion to respond to the revenue shortfall by terminating the employment of faculty pursuant to Section 18.500 et seq., sections 9.200 and 9.230, and other applicable sections of the CBA.

## **14.000 INTELLECTUAL PROPERTY AND COMPUTER POLICIES**

### **14.100 COPYRIGHT POLICY**

1. Works which are produced by a faculty member in connection with an approved and sponsored research project are treated in accordance with the agreement negotiated with the sponsor. In the absence of such agreement or to the extent such agreements do not fully address ownership of works produced; such works shall be treated in accordance with sections 2 and 3 of this article.
2. When a faculty member is assigned work or responsibilities or uses University facilities, equipment, and/or assigned time outside of their normal teaching, scholarship/creative activity and/or service activities, for the specific purpose of developing visual aids, manuals, public relations material, or printed or recorded copyrightable works, developing computer programs, electronically deliverable courses, or other electronic/digital copyrightable works, then, the works produced pursuant thereto and all royalties therefrom shall be the property of the University.

Such assignment shall be indicated either on the individual employment contract or in a separate document countersigned by the employee. Should the University and the employee agree to a division of royalties such division must be included in the contract or in a separate document countersigned by the employee. If the University does not wish to copyright the work, the faculty member may obtain a written release from the Provost and may then copyright the work in his/her own name. Upon written request for release by the author, the University will respond within thirty (30) days.

3. When a faculty member develops copyrightable works other than those defined in paragraphs 1 or 2 above, he/she shall have sole right or ownership and disposition of such works. When such works are produced, developed, or authored through the use or with the aid of University facilities, personnel, or other resources, the University must be reimbursed for the fair market value of the use of any such facilities, personnel, or resources, except those considered part of the normal academic environment including library facilities. Manuscripts or works of art designed for publication in media where no remuneration is given the author(s) are exempt from this reimbursement requirement. This section applies to materials developed by members of the bargaining unit for "distance", and "distributed," "E"- learning and other electronically deliverable course materials including those intended to supplement and/or complement face-to-face courses. Further, except to the extent otherwise limited by applicable Board of Regents copyright policies and this section above, the member of the bargaining unit who develops such materials as the sole creator shall retain full editorial control over and intellectual property rights to the content and shall be the sole judge as to whether or not course materials over which he/she has such control and rights shall be offered electronically. In no case should it be understood or construed that individual faculty members have intellectual property rights to individual courses or to the curriculum as a whole, but only to the content.
4. If a faculty member develops a copyrightable work as governed in paragraph 3 (above), but the faculty member decides to assign the copyright to the University, and the University accepts the assignment, the royalties and other income from the copyright will be distributed in the same manner as from patents, as described in 14.250 2 (a) and 14.260.

5. Consistent with BOR Policy 406, electronic material created or developed by a faculty member subject to this article may not be used in conjunction with teaching on behalf of any entity other than the University of Montana unless prior written permission is granted by the Provost. Such permission shall not be unreasonably withheld. This limitation applies to the specific electronic format of the course and does not limit the faculty member's right to use facts, theories, opinions or other items of substantive course content in another setting. Similarly, copyrightable works as defined in paragraph 3 above may not be used by any other person or entity than the faculty member who developed them without prior written permission of that faculty member.

#### **14.200 PATENT POLICY**

All employees in the bargaining unit shall adhere to the following procedures with respect to patentable inventions or discoveries. The purpose of these procedures is to define the relationships among the inventor, the University, and outside sponsors of research.

#### **14.210 OWNERSHIP OF INVENTIONS OR DISCOVERIES**

All patentable inventions made by employees in the bargaining unit in connection with their assigned duties and/or by the use of the University's facilities shall be considered the property of the University under the following circumstances:

1. wholly the property of the University if the person or persons responsible for the invention was employed by the University specifically for that purpose. His/her contract of employment shall so indicate;
2. to the extent specified in the contract of employment or a separate agreement between the University and employee relating to a specific work assignment;
3. to the extent recommended by the University Patent Officer and approved by the President if research or endeavors directly resulting in the discovery or development of the invention or marketable product involved use of University time, materials, property, or facilities. For the purposes of this paragraph, University time, materials, property, or facilities includes time, material, property, or facilities paid for from funds administered by the University;

4. Under all other circumstances individual employees are free to secure, under the patent laws of the United States, the exclusive right to their inventions.

#### **14.220 LIMITATIONS**

1. This Policy shall not include copyrights.
2. Provision of normal academic environment, including library facilities, does not constitute grounds for equity by the University in a discovery or invention.

#### **14.230 INVENTORS' RIGHTS AND DUTIES**

Employees in the bargaining unit retain the right and responsibility for recognizing in their work inventions that may reasonably be marketable; and in every case, complete academic freedom including publication in both time and scope shall be maintained (Board policy 302, 9/2004); CBA 6.100), unless agreements with outside sponsors provide otherwise as indicated below. Investigators will participate in work under such outside agreements only after they have informed themselves of such provisions and have accepted these provisions. Any employee to whom the conditions are set forth in Section 14.210, 1, 2, and 3 above applies, who either alone or in association with others makes an invention shall promptly disclose in writing to the University Patent Officer in a format acceptable to the University such invention, and as to any such invention shall, upon request, promptly execute all contracts, agreements, waivers, or other legal documents necessary to invest the University or, if applicable, the federal government, other outside sponsors, or the University's assignees and any and all rights to the invention, including complete assignment or any patent applications for the invention.

With the exception of those inventions developed under agreements with outside sponsors, the Patent Officer shall inform the inventor(s) in writing whether the University plans to secure the patent or release the discovery to the inventor(s). In the case of the release of the discovery, or in the case of failure by the Patent Officer to communicate in writing within twelve (12) months, the inventor(s) is free to secure the patent, pay all fees, and receive all benefits therefrom. If a dispute arises concerning the origin of an invention or patentable discovery or any aspect of patent Policy, the dispute shall be presented to the System Invention Committee for final disposition.

#### **14.240 SUBMISSION OF PATENTABLE INVENTIONS OR DISCOVERIES TO PATENT OFFICERS**

1. Invention Outside the University: If an invention is made and/or developed without University support of a significant degree, all rights remain with the inventor. Such inventions may be voluntarily submitted for consideration by the University, but the inventor is under no obligation to do so. Provision of a salary or desk to an inventor by the University does not, in itself, constitute significant support. However, any invention by an employee related to an area in which he/she participates in research under University auspices must be reported to the University so that the question of whether the University has provided significant support can be decided by the University Patent Officer. This decision may be appealed to the System Invention Committee.
2. Invention With University Support: If an invention is made and/or developed with University support of a significant degree in the time, money, materials, or facilities, the inventor must submit a full disclosure of the invention to the University Patent Officer. Additionally, a copy of any manuscript submitted for publication shall simultaneously be submitted to the University Patent Officer if the author considers that it may contain marketable inventions. The University Patent Officer may advise, but not require, deferral of publication in order to protect the patent rights of the University and the inventor.

#### **14.250 PROSECUTION OF PATENTS**

1. Time Limits: In the event that the University deems that a patent should be prosecuted, the prosecution shall be carried out diligently and without expense of any kind to the inventor. The parties to this agreement recognize the need to file the patent application and develop the patent as fast as possible with no abridgement of academic freedom (Board policy 302, 9/2004; CBA 6.100). The time limits expressed herein represent the maximum time allowed, but every effort should be made to complete the process faster than the time limits specified. The inventor must assign to the University any interest in the patent equivalent to the property interest which the Patent Officer determines to belong to the University or which is required by Section 14.210, 1 and 2. The preliminary patent search must be started within six (6) months from the date the matter is presented to the University or the University forfeits all

rights to the invention. If no patent application is filed within a total elapsed time of fifteen (15) months following disclosure, all patent rights revert to the inventor(s).

2. Options Available to the University: The inventor has an obligation to offer the University the opportunity to develop the invention for commercial use if the invention was made with University support as defined in Section 14.210, 1, 2, or 3. The President, following recommendation by the University Patent Officer may:
  - a. Elect to acquire title to the invention by assignment and in this case will undertake (unless inappropriate) the timely filing of patent application, patent prosecution, development, and marketing of the invention and shall bear all related costs. If the University desires to accept such an assignment the inventor shall be obligated to make such an assignment. The inventor shall, in this instance, receive on an annual basis fifty percent (50%) of all net income, defined as gross royalties or other payments, including any recovery of damages obtained by the University, but less external costs incurred by the University in obtaining and protecting the patent rights and less any direct costs of development; or
  - b. Cause the invention to be assigned to some patent management organization, such as Research Corporation or the University's Foundation. The domestic patent rights, foreign patent rights, or both, may be assigned to a patent management organization. The inventor shall receive on an annual basis fifty percent (50%) of all net royalties and other income received by the University from said patent management organization; or
  - c. Decline to accept any rights to the invention by assignment or otherwise, in which case all rights revert to the inventor.
3. Invention Developed Under Agreement With Outside Sponsor: If the invention was made or developed under an agreement with an outside sponsor, the rights with respect to the invention shall be governed by provisions of that agreement. If not provided otherwise by the sponsoring agreement, the inventor's share of royalty or other income received from an outside sponsor shall be limited to the share he/she would have received had the University supported the research entirely. If the sponsor determines that invention rights are left with the University, the

University may elect to pursue one (1) of the three (3) options listed in Section 14.250,2.

#### **14.260 DISTRIBUTION OF UNIVERSITY RELATED INVENTION AND COPYRIGHT RELATED INCOME**

In order to provide invention and copyright incentive and capability to University personnel, the University's share of invention and copyright income will be distributed as follows. Of the University's retained share of net royalty or other income for any given invention, defined as gross receipts, less external expenditures for that invention and less the inventor's personal share, two-thirds (2/3) for the first \$30,000 per year, one-half (1/2) of the next \$30,000 per year, and one-third (1/3) of the remainder will be designated through the University's budget or financial office to support the work of the inventor while employed by the University and/or to promote discoveries at the University. The rest will be distributed to a designated fund and will be used to support patent development and expand research at the University. Such distribution to support the inventor's work, derived from any given invention, will terminate after eight (8) years from the first sale of products embodying that invention, and any earned monies after this date will go to a designated fund.

#### **14.270 DEVELOPMENT OF INVENTIONS**

If the inventor becomes dissatisfied with the development of the invention as carried out by the University, or with the University's delay in reaching a decision, an appeal may be made to the System Invention Committee, in which the inventor may urge that specific changes in the proposed course of action be undertaken by the University or if the unit has been assigned rights to the invention, may ask that the invention rights be reassigned to a patent management organization such as Research Corporation or all rights be reserved to the inventor.

If after a period of three (3) years from the acquisition of the issued patent by the University the invention has not been marketed, all rights revert to the inventor, unless an agreement with any outside sponsor precludes such reversion.

#### **14.280 DEFINITIONS**

1. University Patent Officer: The University Patent Officer shall be the person designated by the President to serve in that capacity.
2. System Invention Committee: The System Invention Committee will be selected by the Commissioner of Higher Education in accordance with

procedures for appointments of inter-unit committees.

#### **14.300 COMPUTER AND NETWORK USAGE**

The use of computing and networking resources at the University of Montana is for purposes related to the administration of the University system and the institution's mission of teaching, research, creative activity, and service.

#### **14.310 SECURITY AND PRIVACY**

The union and faculty recognize that the Administration has a legal responsibility to ensure that the computers and networks it operates are used appropriately and consistent with BOR Policy 1303.1 (effective May 24, 2002). In order to meet its obligations, the Administration may monitor activity on its computers and network consistent with BOR Policy 1302 (effective May 24, 2002). The Administration recognizes that faculty have an expectation for a reasonable degree of privacy in the use of the employer's computers and network. Except for the identification, investigation, and prevention of misconduct, the Administration will not divulge personally identifiable information or other personal information obtained through monitoring.

#### **14.320 DISCIPLINE**

Faculty may be disciplined for violations of the Board of Regents' computer usage policies. The employer will be required to provide substantial documentation for any such discipline.

#### **14.330 OWNERSHIP**

In accordance with Regents' Policy, information contained on the employer's computers and transmitted on networks maintained by the employer are presumed to be the employer's property unless otherwise limited by law or contract, but the employer does not thereby gain intellectual property rights to the stored information.

#### **14.340 MAINTENANCE AND MONITORING**

The UFA recognizes that maintenance and monitoring of the computer system must be performed. In the process of maintaining and monitoring the system all areas of the system may have to be accessed.



## **15.000 LEAVE OF ABSENCE AND FACULTY EXCHANGE**

### **15.100 COMPENSATED LEAVES**

#### **15.110 MAINTENANCE OF RIGHTS**

A tenurable (tenured or tenure-line) faculty member returning from compensated leave shall return to the same position, and compensated leave time shall be regarded as regular employment time.

#### **15.120 PROFESSIONAL LEAVE AND TRAVEL**

Tenurable (tenured or tenure-line) faculty members may be permitted sufficient time away from their regular assignments to attend scheduled professional meetings or conferences or otherwise to further their research or professional interests through a short term period of travel upon recommendation by the unit chairperson and approval by the dean. Subject to the availability of funds for travel in the unit, college or school such faculty member shall be entitled to apply in advance for reimbursement for travel and other authorized expenses incurred in attendance of such meeting or trips for other professional purposes. Travel funds may be granted for the following appropriate purposes:

1. delivery of a research paper at a national or regional meeting;
2. a brief research trip to collect data, test proposals, confer with experts in the field, etc.;
3. serving as a program chairperson at a national or regional meeting;
4. serving as a critic on a scholarly paper at a national or regional meeting or serving as a panel discussant at such meeting;
5. participation in state meetings of University System committees, research organizations, Commissioner's Office business, etc.;
6. other similar interests determined by the dean to be appropriate.

#### **15.130 SICK LEAVE - DEFINITIONS AND REGULATIONS**

1. Sick leave is the necessary absence from duty caused when a faculty member or a member of his/her immediate family has suffered illness, injury, pregnancy, or pregnancy related illness, exposure to contagious disease which requires quarantine or the necessary absence from duty to receive medical or dental examination or treatment.
2. Sick leave credits shall be earned at the rate of one (1) working day for each month of service. Prorated leave benefits will be granted those

employees .50 FTE or more. The contract year for the teaching faculty at The University of Montana shall be a period of nine (9) months; four (4) hours credit for August, eight (8) hours credit for September through April, and four (4) credit hours in May.

3. Faculty are entitled to take sick leave after they have been continuously employed for ninety (90) days. Upon completion of the qualifying period, the employee is entitled to total sick leave credits earned.
4. Sick leave credits may not be accrued during a continuous leave of absence without pay which exceeds fifteen (15) calendar days, except while serving on jury duty.
5. Sick leave credits earned at the University shall remain credited to the faculty member's sick leave account. Sick leave charges in excess of earned sick leave credits may be charged to leave without pay. Sick leave charges and credits shall be charged to the nearest full hour.
6. It is the responsibility of the faculty member to ensure proper reporting of the use of sick leave for record keeping purposes. Any illness, medical appointment, or emergency which necessitates use of sick leave shall be reported by the faculty member to the appropriate immediate supervisor as soon as possible. Supervisors in coordination with the dean's office shall report the sick leave to the Human Resource Office each month.
7. A physician's certificate or other evidence to substantiate a sick leave charge may be required by the dean in case of a lengthy absence or if a question of abuse exists.
8. Disabilities caused by or attributed to pregnancy, miscarriage, abortion, childbirth, and recovery therefrom, for all job related purposes, are temporary disabilities and should be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment.
9. Abuse of sick leave is cause for dismissal. Abuse occurs when there is misrepresentation of the actual reason for charging an absence to sick leave, when an employee uses sick leave for unauthorized purposes or when an employee neglects to report sick leave.
10. Any statutory holidays that fall during a period that an employee is on sick leave will be charged as a holiday and not taken off the total accumulated sick leave.
11. Advancing sick leave credits after an employee's earned sick leave credits have been expended is expressly prohibited.

12. A faculty member who terminates employment with the University is entitled to a lump sum payment equal to one fourth (1/4) of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave shall be computed on the basis of the faculty member's salary at the time he/she terminates employment with the University. Accrual of sick leave credits for calculating the lump sum payment begins July 1, 1971. However, no faculty member forfeits any sick leave rights accrued prior to July 1, 1971.
13. A faculty member who is selected for employment by another institution of the Montana University System and who accepts such employment without a break in service will be credited by the hiring institution with that amount of accumulated sick leave which he/she had to his/her credit on his/her last day of service with the University System.

#### **15.140 EMERGENCY LEAVE**

A faculty member shall be given leave with pay for (a) the death of a member of the immediate family of the faculty member and attendance at the funeral, and (b) necessary presence at home due to illness, pregnancy or childbirth of a member of the immediate family of the faculty member.

The faculty member's immediate family shall consist of spouse, children, parents, brothers, sisters, relatives of the faculty member's spouse in like degree and household dependents.

Emergency leave shall be charged against a faculty member's sick leave credits and shall not exceed a total of five (5) working days per year for illness in the immediate family and a total of (5) working days per year for each death in the family.

#### **15.150 PERSONAL LEAVE**

Compensated personal leave up to five (5) working days per contract year may be granted to members of the bargaining unit by the dean or chairperson upon written request of the bargaining unit member. Personal leave is not chargeable against any other leave credits, is not cumulative or compensable, and may not be approved for vacation, recreation purposes, or boycott activity or absences from work in sympathy for concerted activity.

#### **15.160 MILITARY LEAVE**

Any faculty member who is a member of the organized National Guard of the

State of Montana or who is a member of the organized or unorganized reserve corps or the military forces of the United States and who has been a faculty member of The University of Montana for a period of at least six (6) months shall be given a leave of absence with pay for a period of time not to exceed fifteen (15) working days in a calendar year for attending regular encampments, training cruises, and similar training programs under official military orders. Such absence shall not be charged against any other leave credit earned by the employee

#### **15.170 VACATION TIME**

Full-time faculty members on fiscal year twelve (12) month contracts shall earn annual vacation leave from the first month of employment at the rate of 1.75 days per month (21 days per year), but are not entitled to any vacation leave with pay until they have been continuously employed for a period of six calendar months. Permanent part-time (less than 1.0 FTE) faculty members are entitled to prorated vacation leave if appointed for .50 FTE or more and they have worked the qualifying period. A faculty member who has worked the qualifying period for use of annual vacation leave does not have to repeat that period upon return to work from an approved leave of absence.

Vacation leave shall not accrue during a leave of absence without pay the duration of which exceeds fifteen (15) days. Absence by reason of legal holidays may not be charged against annual vacation leave, and absence by reason of illness or pregnancy or childbirth may not be charged against vacation leave unless approved by the employee.

The dates vacation leave shall be granted shall be determined by agreement between the faculty member and the supervisor with regard to the best interest of the state as well as the faculty member.

Annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the last day of the calendar year. Excess vacation time is not forfeited if taken within ninety days from the last day of the calendar year in which the excess was accrued.

Upon termination not reflecting discredit on the faculty member he/she shall be entitled to cash compensation for unused vacation leave unless transferring to other employment by the State of Montana.

#### **15.180 FACULTY EXCHANGE**

Faculty members participating in a Faculty Exchange program shall continue to be considered faculty of The University of Montana and shall continue to receive

and accrue all rights and benefits.

#### **15.190 FAMILY LEAVE**

Faculty members may use accumulated sick, personal, and annual leave for the care of newly born or adopted children or for the care of members of the employee's immediate family with serious health conditions, consistent with sections 15.130, 15.150, and 15.170. In addition, faculty members may request and shall be granted extraordinary uncompensated leave to care for members of the employee's immediate family with serious health conditions, consistent with Sections 15.210 and 15.220,2. Immediate family is defined in Section 15.140.

#### **15.200 UNCOMPENSATED LEAVES**

##### **15.210 APPLICATION FOR LEAVE AND APPROVAL**

The faculty member shall submit the request for leave to the department chairperson, where available, and the dean in writing, stating the reasons for the leave, the proposed period of absence, and the date of return. The department chairperson, dean, and the Provost must approve the leave before it will be granted and forwarded to the Board.

##### **15.220 REASONS FOR UNCOMPENSATED LEAVES**

1. Professional Uncompensated Leave: Leaves of absence without pay may be granted for a period normally not to exceed one (1) academic year. However, tenurable (tenured or tenure-track-line) faculty members, with the approval of the chairperson, dean, and Provost, may take uncompensated professional leave for a period of up to two (2) academic years. While on leave, the faculty member shall be subject to the provisions of the regular faculty evaluation procedures (in Section 10.000 of this contract) for purposes of salary and promotion. Upon return, the faculty member shall assume the rank and salary as determined by the regular evaluation procedure. A faculty member cannot be evaluated for tenure while on leave without pay from UM-M. A faculty member shall provide the chairperson of the department or dean of the unit with two (2) months notice of his/her intent to take such leave. Subject to availability of funds and institutional priorities, the Administration shall, for the duration of the leave, replace the services of the faculty member on leave.
2. Extraordinary Uncompensated Leaves: Leaves may be granted for such

reasons as continuing poor health or disability, maternity and child care, accepting public office for limited time, or other personal reasons. Extraordinary leaves shall not be counted toward the years of service (probationary or tenured) of the faculty member or for purposes of salary or promotion. No extraordinary uncompensated leave may exceed one (1) calendar year.

3. Public Service Leave: Faculty members elected or appointed to public office may request and the University shall provide uncompensated leaves for periods of one semester per year.
4. Leave for Jury Duty and Subpoena: Any faculty member summoned as a juror or subpoenaed as a witness may elect to take uncompensated leave and retain all fees and allowances paid for such services, or not to take leave and forward all fees paid for such services to the Business Services Office of the University to be applied toward the salary due from the University for the period of service.
5. A faculty member is not required to remit to the Business Services Office any expense or mileage allowances paid by the court.

## **16.000 DEANS AND CHAIRPERSONS**

### **16.100 DEANS**

The responsibilities of the dean are established by the Provost and President of the University, to whom they report. The responsibilities listed here are only those which relate to the Administration of the CBA and should not be understood as exhaustive.

Deans are responsible for assigning faculty teaching workload, subject to the approval of the Provost, giving consideration to the recommendations of the department chair (Section 6.210). The dean shall take an active role in faculty evaluation, as outlined in Section 10.000, in faculty development, and other areas as stipulated.

In the dean's position as a faculty member in a unit, an application for promotion or tenure shall be initiated by him/her. The recommendations of the unit Faculty Evaluation Committee shall be based on the standards and procedures developed by the unit applicable to other faculty members. These recommendations shall be transmitted to the Provost. The procedure for further recommendation and appeal shall be the same as that prescribed for other faculty.

In the process of the Provost's evaluation of deans in their administrative roles, he/she shall consult with a representative group of the faculty members

affected by the dean's performance.

#### **16.200 DEPARTMENTAL CHAIRPERSONS**

Bargaining Unit members who are appointed as chairperson or director of the units listed in CBA 10.120 shall be considered chairpersons for the purpose of this contract. As members of the bargaining unit, chairpersons are represented by the UFA. Chair-faculty conflict shall be treated as faculty-faculty conflict and addressed as described in CBA 11.010 unless the conflict relates to a chair's administrative duties (CBA 10.240 and 16.220) or to a grievance (CBA 19.400). All units listed in section 10.120 shall have a chairperson (regardless of specific title) who fulfills the chairperson's role described in CBA 16.220 and 10.000 of this contract.

#### **16.210 APPOINTMENTS**

The department chairperson is appointed by the Provost of the University upon recommendation of the dean and approved by the President. The dean shall consult with the appropriate unit faculty prior to making a recommendation. The chairperson may hold academic tenure as a faculty member but not as a chairperson.

#### **16.220 DUTIES OF CHAIRPERSONS**

A chairperson shall represent the interests of individual faculty members and the unit to the dean as well as accurately present the positions and requirements of the Administration to the faculty within the unit. Subject to the authority of the dean, the chairperson shall have the responsibility to schedule classes, arrange teaching hours and assignments, meet student needs in graduate and undergraduate programs within University policies and procedures as well as standards of the unit, serve as the first line of appeal for complaints or disputes concerning the department, submit budget proposals, administer the approved budget, make recommendations regarding curricula, programs, personnel matters, and departmental concerns, administer operation of the unit office, and handle routine business of the department, and perform other responsibilities as assigned by the dean.

#### **16.230 COMPENSATION**

The department chairperson carrying out the responsibilities listed above shall be granted a stipend and the reassigned time as designated in Section 13.500.

#### **16.240 EVALUATION OF DEPARTMENT CHAIRPERSONS**

1. The evaluation of the departmental chairperson as a faculty member will occur in accordance with Section 10.000. The procedure for further recommendations and appeal will be the same as that prescribed for other faculty.
2. The administrative performance of departmental chairpersons is subject to review at any time by the dean. The results of any such evaluation of the administrative role of each chairperson will be included in the next normal faculty evaluation according to the procedures of Section 10.000. The evaluation will focus on the chairperson's leadership in meeting the goals of the unit and fulfilling the duties outlined in the CBA Section 16.220.

#### **17.000 REVIEW OF TENURED FACULTY**

Tenure review will be initiated when a tenured faculty member has received a less-than-normal salary increment for three (3) successive years.

#### **17.100 PROCEDURES**

Tenure reviews shall be a special responsibility of the Faculty Evaluation Committee in each unit. The committee shall evaluate the continuing performance record of the faculty member in the areas of teaching, research/creative activity and service against the criteria for excellence and continued growth established for original award of tenure—both University wide and in the standards for that unit. The committee shall recommend to the unit one (1) of two (2) courses of action:

1. Continuation of tenure for a year with re-evaluation at the end of that year with an accompanying letter stating the reasons for the probationary period, or
2. discontinuation of tenure for a minimum period of one (1) year with re-evaluation each year until tenure is reinstated or until the faculty member's employment is terminated.
3. The reasons for each recommendation shall accompany same.

The entire faculty of the unit shall vote on each committee recommendation and the results of this vote, together with the report of the committee and the appropriate documentation of the faculty member's performance record, shall be



forwarded to the dean. The dean shall review each case and shall make a decision. This decision shall be sent in writing to the faculty member concerned, to the unit chairperson, and to the Provost. In the event of lack of concurrence between the recommendation of the unit and the dean's decision, the dean shall append to his/her decision the reasons for such lack of concurrence and for his/her decision.

The decision of the dean may be appealed by the faculty member to the Provost. The UFA may grieve omissions or abuses of procedures by the employer. The remedy for any procedural defect grieved shall be limited to a curing of the procedural defect.

## **18.000 SANCTIONS, SUSPENSIONS, AND TERMINATIONS**

### **18.100 SANCTIONS**

Any employee in the bargaining unit may be subject to disciplinary sanctions. Disciplinary sanctions shall be limited to warning letters and formal reprimands. Warning letters and formal reprimands may become part of the faculty member's personnel file and may be used in conjunction with subsequent personnel considerations for a period of three (3) years following the date of the sanction.

### **18.200 SUSPENSION**

Any employee may be reassigned or suspended with pay when, in the judgment of the Provost, it would be in the best interest of the employee, the students, or the University. Any employee may be suspended without pay upon conviction of a felony or when the employee is absent without authorization or justification for a period in excess of five (5) class or regular work days.

### **18.300 CAUSES FOR DISCIPLINE OR DISCHARGE**

The employer may discipline or discharge employees for the following causes:

1. conviction of a felony or of a crime involving moral turpitude during the period of employment at the institution or the willful concealment of such crime in making application for employment;
2. conviction of theft of University property or property in the custody of the University;
3. fraud or deliberate misrepresentation of professional preparation, accomplishment or experience in connection with initial hiring or in the submission of materials for evaluation for promotion, tenure or salary adjustment purposes;

4. plagiarism in professional papers or reports, or deliberate falsification of University records;
5. deliberate failure by the faculty member engaged in private consulting to inform his/her client that the faculty member is acting as a private consultant and not as a representative of The University of Montana;
6. violation of the conflict of interest provisions of this contract;
7. exploiting or abusing students or employees, including sexual harassment as defined by the UM Policy in effect at the time of this agreement (UM Policy 707, revised 5/1/2017);
8. failure to carry out the responsibilities of a faculty member as defined in Article 6.200;
9. violation of University policies "Drug-Free Workplace" (UM Policy 710, revised 7/27/2016), or "Responsible Conduct of Research" (UM Policy 400, revised 10/13/2017) required by federal law as a condition of receiving federal funding.

Faculty members accused of violating sections 3, 4, 5, 6, and 8, but not subject to any prior judicial or other legally conclusive adverse finding, shall be accorded a presumption of innocence and receive due process provided below in section 18.400 and the full protection of the terms of this contract prior to being discharged for the alleged violations.

Faculty members accused of violating sections 7 or 9 shall be accorded a presumption of innocence and receive due process as afforded by the policies stated in these sections, in addition to the due process provided below in section 18.400 and the full protection of the terms of this contract prior to being discharged for the alleged violations.

Faculty members who hold tenure and return rights to an academic department, but are serving the University in an administrative capacity outside the bargaining unit, shall automatically forfeit their tenure and return rights if terminated from the Administration for causes 1 through 7 or 9 listed in this article.

#### **18.400 DISCIPLINE OR DISCHARGE FOR CAUSE PROCEDURE**

The following procedures will be observed in all cases of discipline or discharge of non-tenurable, probationary or tenured appointees for cause:

1. **Determination to Discipline:** If the dean determines that disciplinary action for cause should occur, the dean shall prepare a formal statement

of the charges which shall be served on the employee. The employee will be accorded an opportunity to rebut the charges. Both a copy of the charges and of the rebuttal shall be placed in the employee's personnel file and may be used according to the guidelines in section 18.100. If the faculty member believes that this action was in violation of the terms of this contract, the faculty member has the right to grieve this action in accordance with Section 19.000.

2. **Determination to Bring Charges:** If the dean is informed of any information regarding grounds for cause or any request that charges be brought, the dean or the dean's designee(s) shall conduct an investigation and determine the action to be taken. If the dean determines that termination for cause proceedings should be initiated, he/she shall prepare a formal statement of charges which shall be served on the employee.
3. **Request for Hearing:** Within twenty (20) days of the service of the statement of charges, the employee shall indicate to the Provost in writing whether a formal hearing is desired. If no response is received within the time specified, the right to a hearing is waived.
4. **Committee on Service:** If a formal hearing is requested, it shall be scheduled and conducted by the Committee on Service. The Committee on Service will consist of one (1) faculty member on continuous tenure appointed by the Board of Regents, one (1) faculty member on continuous tenure appointed by the President, and one (1) faculty member on continuous tenure elected by the Faculty Senate. The committee members shall serve a twelve-month (12) term, to commence on September 1. Whenever a vacancy occurs, a successor shall be appointed by the appropriate body or individual to fill the unexpired term. A member of the committee will remove himself/herself from the case, either at the request of a party or on his/her own initiative, if he/she deems himself/herself disqualified for bias or interest. Any member so disqualified shall be replaced for purposes of the hearing by a temporary member appointed by the original appointing authority. Each party to a hearing will have one (1) peremptory challenge
5. **Notice of Hearing:** Notice of the time and place of the hearing and the names of the Committee on Service shall be mailed to the employee charged at least twenty (20) days prior to its scheduled date. The notice shall contain the dates, times, places, and persons involved in the acts or

omissions upon which the charges are based; a concise statement of the relevant facts which will be placed in evidence; the names of any persons who will testify and the substance of their testimony; and copies of any documents which will be submitted in support of the charges alleged.

6. **Employee's Answer:** At least ten (10) days prior to the scheduled hearing, the faculty member shall deliver to the Provost a written answer to the charges which shall include: the names of any witnesses who will be called to testify for the faculty member and the substance of the testimony of each; copies of any documents which will be submitted into evidence by the employee; and a concise statement of the substantive points of the employee's defense. The answer shall also indicate whether the employee prefers an open or closed hearing.
7. **Hearing Procedure:** The Committee on Service, in consultation with the President and the affected employee, will exercise its judgment as to whether the hearing should be public. However, the employee's request that the hearing be private shall be binding on the Committee on Service. The employee shall have the right to representation of his/her choice, a verbatim record of the hearing available at cost, and assistance from the employer in obtaining evidence or cooperation of witnesses.

The employer shall have the burden of going forward with the evidence and the burden of proof shall be a preponderance of the evidence. The strict rules of evidence need not be applied. Witnesses and documents in addition to those specified in the notice and answer may be presented at the hearing. However, either party shall have the right to request postponement in the event of valid surprise. Both parties shall have the right to cross-examine witnesses and to make both opening and closing remarks. Any member of the bargaining unit may be requested by either party to testify or present evidence. Giving testimony or presenting evidence when so requested shall be an academic responsibility to assist in the proper Administration of University affairs within the meaning of Section 6.200.

Upon conclusion of the presentation of all evidence and argument by both parties, the Committee on Service shall repair to executive session. Within ten (10) days of the date of the hearing, the Committee on Service shall have voted for discharge or retention.

8. **Transmittal of Recommendation:** The chairperson of the Committee on Service shall mail the written recommendation of the Committee on

Service to the employee and the President within fifteen (15) days of the date of hearing.

9. **Right of Appeal:** Within fifteen (15) days of receipt of the written recommendation of the Committee on Service, the employee may notify the President of his/her intent to appeal the recommendation.
10. **Appeal Hearing:** The President or designee shall schedule a meeting with the employee and hear the appeal within fifteen (15) days of receipt of the notice of intent to appeal.
11. **Final Disposition:** The employee shall be notified of the President's decision in writing within fifteen (15) days following the recommendation of the Committee on Service, or if an appeal hearing was conducted, fifteen (15) days following such hearing. This notification shall include specification of cause(s) for discharge as stated in this contract. The decision shall constitute the final administrative action and may be grieved as to procedural matters only. The remedy on grievance shall be limited to correcting the procedural defect by remanding the matter for remedial action, but may not reverse a substantive decision or academic judgment.

#### **18.500 RETRENCHMENT**

Retrenchment is the termination of tenured faculty members for financial or programmatic reasons.

The necessity for retrenchment shall be determined by the Board of Regents, based upon recommendations by the President of the University, a Review Committee, and the Commissioner of Higher Education in accordance with the procedures detailed in this section.

In determining whether retrenchment is necessary and in selecting the areas where the terminations will occur, consideration shall be given to the University's responsibility to offer an appropriate range of courses and programs and to maintain a balanced institutional effort that is responsive to the needs of the students and the state.

#### **18.510 CURTAILMENT**

The necessity for retrenchment may be determined to exist in any one or any combination of the following instances:

1. When the total number of faculty FTE employed and funded from the

current unrestricted operating budget for personal services exceeds the number of faculty FTE positions generated by the formula within the appropriation for the next period by at least twenty (20) faculty FTE. The number of tenured faculty terminated under this provision shall not exceed the number specified. Before the terminations of tenured faculty can occur, a serious effort must be made to achieve these reductions through attrition.

2. When the student/faculty ratio in any discipline, program or department of instruction has a sustained decline to an aggregate of at least twenty percent (20%) within the previous six (6) years beginning in 1975–76 and the student/faculty ratio is less than 19:1.
3. Upon recommendation of the President of the University, the Review Committee, and the Commissioner of Higher Education in accordance with the procedures detailed in Section 18.530.

#### **18.520 DISCONTINUANCE**

The Board of Regents may initiate discontinuance through the Commissioner of Higher Education consistent with the procedures of this section.

The necessity for retrenchment in the form of discontinuance of any discipline, program, degree, option, area of concentration, or department of instruction may be determined to exist in any one or any combination of the following instances:

1. When the total number of the faculty FTE employed and funded from the current unrestricted operating budget for personal services exceeds the number of faculty FTE positions generated by the formula within the appropriation for the next period by at least fifteen (15) faculty FTE.
2. When the Commissioner of Higher Education recommends discontinuance based upon findings and conclusions resulting from the process of system-wide review of the particular discipline, program, degree, option, or department of instruction. In this instance, the Commissioner, in lieu of the President, will take the initiative and responsibility of drafting the plan. Retrenchment would then proceed in accordance with the procedures detailed below in Section 18.530.
3. Upon recommendation of the President of the University, the Review Committee, and the Commissioner of Higher Education in accordance with the procedures in 18.530.

### **18.530 RETRENCHMENT PROCEDURES**

The President shall draft a retrenchment plan which documents the need for retrenchment, the number of faculty members to be terminated by department, discipline, program, degree, option or area of concentration, and any relevant supporting information. Documentation will include, but not be limited to, references to duplication, quality and productivity.

The President shall submit the retrenchment plan to a Review Committee at least two (2) months before the matter is taken to the Board. The Review Committee shall consist of three (3) faculty members selected by the Executive Committee of the Faculty Senate, three (3) faculty members selected by the UFA, three (3) faculty members selected by the President, and three (3) students appointed by the President of ASUM. No member shall be from any unit affected by the President's retrenchment plan.

Within forty-five (45) days after receiving the retrenchment plan from the President the Review Committee shall prepare a report, with supporting documents and rationale, concurring or disagreeing with the President's recommendation. The President and the committee shall attempt to agree upon a single recommendation for the Commissioner of Higher Education. If they cannot agree, the President and the committee shall present separate reports to the Commissioner. The Commissioner shall formulate his/her own recommendation and shall submit it along with the recommendations of the President and committee to the Board of Regents.

The Board shall make the final decision on whether retrenchment is necessary and the number of faculty members to be terminated by department, discipline, program, degree, option or area of concentration, and any relevant supporting information. After the Board's decision, the President shall report to the Faculty Senate on the implementation of the retrenchment plan for each of the three (3) years after the retrenchment plan has been adopted.

In all cases of retrenchment, faculty members will have the following rights:

1. Terminations shall be in reverse order of seniority by the department, discipline, program, degree, option or area of concentration which has been identified for retrenchment, unless an exception to the order of seniority is necessary to assure that the qualifications of the remaining appointees meet the requirements of the programs to be retained or to

take into account the Affirmative Action Plan. Seniority is measured by the faculty member's full-time equivalent service at the institution. Between faculty members of equal length of service, the member with the higher rank shall have retention priority. The academic year shall be deemed to be a year of service and no additional seniority shall be accrued for any assignment beyond the academic year.

2. No tenured faculty member shall be terminated if non-tenured faculty members are retained in the same discipline to teach courses the tenured faculty member is qualified and capable of teaching.
3. A faculty member may apply for reassignment rather than be terminated if the faculty member satisfies the qualifications for a position in a unit (department, school, program) in which there is an approved available position opening for which recruitment has been authorized. The faculty member shall retain his/her former salary, rank and tenure status.
4. Any tenured faculty member selected for termination shall have the right to apply for any existing open non-academic positions at the institution, and in the absence of a candidate with clearly superior qualifications, the faculty member shall be given employment preference. In this situation the faculty member shall receive the salary established for the new position and shall lose academic rank and tenure.
5. The position of any tenured faculty member terminated because of retrenchment shall not be filled for a period of two (2) years unless the terminated faculty member has been offered reinstatement at previous rank, tenure and salary level. The faculty member shall have thirty (30) days in which to accept or decline.
6. Each tenured faculty member selected for termination shall be so informed a minimum of twelve (12) months prior to the date of termination.

The UFA may institute a grievance on behalf of a faculty member selected for termination only on the basis that the procedure outlined in this section was not followed. The Board's decision that retrenchment is necessary is not grievable.

#### **18.600 DISABILITY**

In the event that an employee becomes incapable of performing the regular responsibilities incident to employment and sick leave, annual leave, and a maximum of one (1) year of leave without pay have been exhausted without correction of the disability, then the employer will discontinue the employment



permanently and recruit a permanent replacement for the position. The employer shall assist the employee in pursuit of rights under workers' compensation or long-term disability insurance and, where feasible, shall seek to re-employ the employee in any other position for which the employee is qualified and capable of performing.

#### **18.700 RESIGNATIONS**

A member of the bargaining unit who wishes to resign from the University normally shall give notice thirty (30) days after receiving notice of terms of appointment for the succeeding academic year, or April 15, whichever is later. Resignations should be dated, signed, the reasons stated for resigning, the date upon which the resignation is to be effective, and should be given to the dean.

#### **18.800 RETIREMENT**

Retirement shall be governed by applicable state and federal statutes.

Retirement benefits shall be granted in accordance with the provisions of Title 19, Chapter 20, Montana Code Annotated.

#### **18.900 NON-RENEWAL**

Employment may be discontinued in the event the employer elects not to renew a probationary appointment for an additional term consistent with the provisions of this agreement.

### **19.000 GRIEVANCE PROCEDURE AND ARBITRATION**

#### **19.100 PURPOSE**

The parties agree that all problems should be resolved, whenever possible, before the filing of a grievance, and they encourage open communication between administrators and members of the bargaining unit so that resorting to the formal grievance procedure will not normally be necessary. There is an expectation that the parties will meet informally in an attempt to resolve the issue(s) before the filing of a formal grievance. The faculty member may wish to involve the UFA grievance officer in these attempts. The purpose of this Article is to promote prompt and efficient procedures for investigating and resolving grievances. These procedures shall be the only means for resolving grievances.

#### **19.200 RESORTING TO OTHER PROCEDURES**

If a bargaining unit member seeks formal resolution of a grievance matter in

any forum or set of procedures other than those established in this Article, whether administrative or judicial, the employer shall have no obligation to entertain or proceed further with the matter.

### **19.300 REPRESENTATION**

UFA shall have the exclusive right to represent any bargaining unit member who files a grievance.

### **19.400 DEFINITION**

A grievance is defined as any dispute which arises regarding the misapplication and/or misrepresentation or other violation of a provision of this agreement by the Administration including department chairpersons acting in a managerial capacity as alleged by the UFA on behalf of a bargaining unit member and/or group of bargaining unit members and/or by the UFA on its own behalf.

The grievance and arbitration procedures provided for herein will not include (1) any complaints relating to or arising out of the faculty evaluation process except as provided in Section 10.330 of this agreement and (2) any other matter specifically excluded elsewhere in this agreement from the grievance and arbitration procedures.

### **19.500 GRIEVANCE REPRESENTATIVES**

Designated UFA representatives shall have the right to investigate, consult, and prepare grievance presentations and attend grievance hearings and meetings. Should any hearings or meetings with the President, Board, or their representatives necessitate rescheduling of assigned duties, the representatives may, with the approval of the appropriate administrator, arrange for having duties rescheduled or covered by colleagues. Such approval shall not be unreasonably withheld.

### **19.600 SUBMISSION OF THE GRIEVANCE**

Grievances must be submitted to the President or his/her designee on the grievance form as set forth in 19.610.

### **19.610 GRIEVANCE FORM**

1. Name of employee grievant:
2. Date(s) alleged grievance occurred:
3. Name(s) of administrator(s) involved in violation of contract on which

grievance is based:

4. Sections of contract which were violated (quote specific language):
5. Summary and explanation of grievance:
6. Witnesses:
7. Documents (identify here and attach):
8. Remedy requested:

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature of Employee Grievant

Signature of UFA Representative

### **19.700 FORMAL GRIEVANCE PROCEDURE**

Filing. All grievances must be filed within twenty-five (25) working days following the act or omission giving rise thereto or within twenty-five (25) working days after the grievant knew or should have reasonably known of the act or omission giving rise to the grievance. When the written grievance is filed, the UFA or the Administration may request the postponement of any action in processing the grievance formally for a period of up to twenty (20) working days, during which period efforts to resolve the grievance informally should be made. The initial extension and additional fifteen (15) working day extensions will be subject to mutual agreement. No award shall be increased and no additional rights shall be acquired as a result of granting an extension. Either the UFA or the Administration may at any time terminate the postponement period by giving written notice to the President or his/her designee, in the case of the UFA, or to the UFA Grievance Officer, in the case of the Administration, that the other party wishes to proceed with the Step 1 meeting provided below. If the postponement period, or any extension thereof expires, the grievance will automatically proceed to Step 1 (below).

1. Step 1. The President or his/her designee shall conduct a closed conference with the grievant, the UFA Grievance Officer and the defendant designated by the UFA as most centrally involved. This conference shall occur no later than ten (10) working days following: (1) receipt of the grievance if no postponement is granted; or (2) expiration of any postponement or extension. If the designated defendant or grievant is on University leave or travel status on University business, a ten (10) working day extension will be granted for this conference. If either is still on leave or such travel status at the end of this first extension, two

additional ten (10) working day extensions may be granted. At the conference, the UFA shall present witnesses and other evidence and arguments in support of the grievance and representatives of the Administration shall present evidence and arguments in response. The President or his/her designee shall issue a written decision within ten (10) working days following the conclusion of the conference.

If the grievance is based on an action by the Commissioner or Board, then the Step 1 conference will take place between the Commissioner, the grievant, and the UFA representative, in accordance with the above procedures except the Commissioner shall issue a decision within twenty (20) days.

2. Step 2. In the event the grievance has not been resolved at Step I, the UFA may proceed to arbitration by filing a written notice of intent to do so. Notice of intent to proceed to arbitration must be filed with the President and the Commissioner within ten (10) working days after receipt of the Step I decision and shall be signed by the President of UFA or representative. Only those acts or omissions and sections of the agreement identified at Step I may be considered at arbitration. The grievance may be withdrawn by the grievant or by the UFA at any point prior to the scheduling of the arbitration hearing.

## **19.800 ARBITRATION**

### **19.810 SELECTION OF AN ARBITRATOR**

When the UFA submits a timely written notice for arbitration of an unresolved grievance, within ten (10) working days the UFA and Administration shall jointly request the Federal Mediation and Conciliation Service (FMCS) to furnish a list of seven (7) arbitrators from which the arbitrator shall be selected. Such selection shall be accomplished within (10) working days of receipt of the list, UFA and the employer each striking one (1) name from the list alternately until only one (1) name remains.

Except as modified by this agreement, arbitration proceedings shall be conducted in accordance with applicable rules and procedures of the Federal Mediation and Conciliation Service (FMCS).

### **19.820 AUTHORITY OF THE ARBITRATOR**

The arbitrator shall neither add to, delete from, or modify the terms of this agreement or of any individual contract of employment. Either party may appeal to an appropriate court of law a decision that was rendered by the arbitrator acting outside of or beyond the arbitrator's jurisdiction. The arbitrator shall not have any authority to order any remedy which directly or indirectly grants tenure nor may the arbitrator order promotion as a remedy in any case except where the recommendation of the dean and the Faculty Evaluation Committee or the ad hoc committee (see: 10.280) was for promotion. The remedy for any procedural defect resulting from actions of department chairpersons or other administrators outside the bargaining unit shall be limited to curing the procedural defect and/or awarding compensatory damages. Within twenty (20) working days of receipt of the arbitrator's written award either the UFA or employer shall have the right to initiate an action in the District Court of the Fourth Judicial District for a declaratory judgment precluding enforcement of any arbitration award in the event of the existence of any of the following circumstances:

The arbitrator has exceeded his/her authority as circumscribed by this contract.

The arbitrator has assumed jurisdiction of matters not arbitrable.

The award is contrary to the substantive law, or the terms of this agreement.

### **19.830 ARBITRABILITY**

In any proceeding, the first matter to be decided is the arbitrator's jurisdiction to act, which decision the arbitrator shall announce. Upon concluding that he/she has no such power, the arbitrator shall make no decision or recommendation as to the merits of the grievance. Upon concluding that the issue is arbitrable, the arbitrator shall normally proceed with the hearing at that time. Either party may seek judicial review of the arbitrator's decision as to jurisdiction and have the hearing on the merits of the grievance delayed until such review is completed.

### **19.840 CONDUCT OF HEARING**

The arbitrator shall hold the hearing in the city where the grievant is employed, unless otherwise agreed by the parties. The hearing shall commence within twenty-one (21) working days of the arbitrator's acceptance of being selected, or as soon thereafter as is practicable. The arbitrator shall issue the decision within thirty (30) working days of the close of the hearing, unless additional time is agreed to by the parties. The decision shall be in writing and shall

set forth findings of fact, reasoning, and conclusions of the issues submitted, including a statement of the specific issue or issues decided and the specific contract sections, if any, found to be violated and state the remedy ordered.

**19.850 EFFECT OF DECISION**

The decision or award of the arbitrator shall be final and binding upon the employer, the UFA and the grievant, provided that either party may appeal to an appropriate court of law a decision that was rendered by the arbitrator acting outside of or beyond the arbitrator's jurisdiction.

**19.860 FEES AND EXPENSES**

All fees and expenses of the arbitrator shall be divided equally between the parties. Each party shall bear the cost of preparing and presenting its own case. The cost of any transcripts required by the arbitrator shall be divided equally between the parties. If either party orders a transcript it shall allow the other party to copy the transcript by paying half of the cost of the transcript plus copying costs.

**19.870 TIME LIMITS**

All time limits contained in this Section may be extended by mutual agreement of the parties. Upon failure of the employer or its representatives to provide a decision within the time limits provided in this Section, the grievant through the UFA may appeal to the next stage. Upon failure of the grievant or UFA to file an appeal within the time limits provided in this Section, the grievance shall be deemed to have been resolved by the decision of the prior stage.

**19.880 NOTIFICATION**

All grievance requests for review, notices, and decisions shall be transmitted in person or by certified or registered mail, restricted mail, restricted delivery, return receipt requested. The date of receipt shall be the official date in the event of a question as to the timeliness of any grievance, request for review, notice, or decision.

**19.890 RETROACTIVITY**

An arbitrator's award may or may not be retroactive as the equities of each case may demand, but in no case shall an award be retroactive to a date earlier than thirty (30) days before the date the grievance was initially filed in accordance with this Section or the date on which the act or omission occurred, whichever is

later.

#### **19.895 REPRISAL**

No reprisal of any kind will be made by either party against any grievant, any witness, any UFA representative, or any other participant in the grievance procedure by reason of such participation.

#### **19.900 PRECEDENT**

No complaint informally resolved or grievance resolved at Stage 1 shall constitute a precedent for any purpose, unless agreed to in writing by the President or representative or Commissioner and the UFA acting through its President or representative.

#### **19.950 RECORDS**

All written materials pertinent to a grievance shall be filed separately from the personnel file of the grievant or witnesses.

### **20.000 STUDENT PARTICIPATION**

The Board and the UFA recognize the necessity and desirability of student participation at all levels of academic decision making in accordance with the following guidelines:

1. All parties shall support and work cooperatively with the elected student government of the Associated Students of The University of Montana (ASUM).
2. Students shall have the right and responsibility of participation in all academic unit meetings and in all unit committees in accordance with the terms of this agreement. Student representation on committees, including search committees, in academic units, shall consist of at least one (1) student member unless the committee is larger than five (5), in which case there must be at least two (2) students. Student representatives shall have full participatory rights except as otherwise provided in this agreement. Student representatives may be excluded from any unit decision which directly affects academic evaluation and standing of individual students. Unit chairpersons or deans shall meet and confer with ASUM to determine the appropriate process for the selection of student representatives.

- a. Students shall have the right and responsibility of participation in all faculty and/or Administration committees, both standing and ad hoc. The number of faculty representatives on any committee shall not be reduced to achieve the specified level of student representation. Student representation on faculty and/or administrative committees, both standing and ad hoc, shall be as follows:
- b. Students shall not participate in the Executive Committee of the Senate, the Committee on Service, the Appeals Committee, the University Grievance Committee, the Institutional Review Board, or the Animal Research Committee.
- c. Student participation in the Faculty Senate, the Graduate Council and the University Research Committee shall be determined by the Senate but (1) the Senate shall include at least two students as non-voting members and (2) both the Graduate Council and the University Research Committee shall include at least three graduate students.
- d. Student participation in committees: search committees for campus administrative positions shall consist of at least two (2) members.
- e. Student participation on the following standing committees shall be as follows:
  - Committee for Campus and Facilities  
3 members
  - Campus Recreation and Sports Committee  
4 members
  - Library and Archives Committee  
3 members
  - University Athletic Committee  
2 members
  - Building Fee Advisory Committee  
2 members
  - Information Technology Advisory Committee  
2 members
  - Pantzer Award Committee  
1 member
  - University Court



3 members

University Discrimination Grievance Committee

2 members

Academic Standards and Curriculum Review

Committee 6 members

Student Complaint Committees

3 members

3. For any committees not listed above, student representation shall be at least two (2) members. Except as otherwise specifically provided in this contract (i.e., appointment to academic unit committees, the Retrenchment Review Committee and the Student Complaint Committee), student representatives shall be appointed as follows: prior to appointment, the President of ASUM or his/her designee shall consult informally with the President of the University or his/her designee as to potential appointees. Where agreement is achieved as a result of this informal consultation, the President of ASUM or his/her designee shall proceed to make the appointment. Where no agreement is achieved the remaining student representatives to committees shall be appointed by the President of the University from a slate of nominees submitted by the President of ASUM or his/her designee. A slate shall consist of twice the number of positions to be filled. In case of student representation on a Presidential Search Committee, the appointment shall be by the Board of Regents from a slate of nominees forwarded to the Commissioner of Higher Education by the ASUM President or his/her designee.
4. Students and the Vice President for ASUM shall be given the same notice of meetings as other committee members. In the event ASUM elects to refrain from participation or fails to exercise their prerogative to participate within a reasonable time, the meeting or committee may proceed without student participation and the process shall not be flawed by the absence of student participation.

## **21.000 STUDENT COMPLAINT PROCEDURE**

### **21.100 PURPOSE**

The purpose of this Article is to promote the just, prompt, and efficient resolution of a student complaint containing allegations regarding the assigned academic duties in Section 6.210 against a member of the UFA bargaining unit (hereafter

faculty respondent) based upon the criteria in Section 21.300.

Whenever possible the parties must make every effort to resolve problems that might ultimately become grounds for a complaint prior to resorting to this procedure. NOTE: All time sequences in this Article are subject to Section 21.600.

### **21.200 RESORTING TO OTHER PROCEDURES**

If a student complainant seeks resolution of a complaint in any non-University forum, whether administrative or judicial, the parties to a complaint subject to this Article are not obligated to proceed further under the provisions of this Article.

It is understood, however, that the procedure subject to this Article is the only appropriate University procedure for a student to dispute a decision solely involving academic assessment by a faculty member based upon the definitions in Section 21.300.

If a student files an identical or substantially similar complaint or if a student pursues more than one University proceeding, representatives from the University Faculty Association (UFA), the Administration, and ASUM shall confer to determine whether to defer any action brought pursuant to this Article upon the conclusion of the action in the other proceeding; or alternatively, to defer the other proceeding in order to proceed first with the action brought pursuant to this Article.

### **21.300 DEFINITION OF COMPLAINT**

The term "complaint" means only a claim or allegation by a student who is a real party in interest against any members of the bargaining unit that:

1. The faculty respondent(s) significantly failed to carry out academic responsibilities as defined in Section 6.210 whereby the specific actions of a faculty member had a material adverse effect on the academic performance or academic record of a student; and/or
2. The faculty respondent(s) failed to maintain a responsible, professional relationship with the complainant(s), using the teaching/learning context as a means to extract inappropriate personal advantage or in any other way using professional authority for other than appropriate purposes that had a material adverse effect on the academic performance or academic record of a student.
3. A valid complaint brought pursuant to this Article must demonstrate a material adverse effect on a complainant's academic performance or record.

Student complaints not meeting these Sections 21.300.1-3 criteria, immediately above, may be subject to summary decision by the appropriate Student Complaint Committee as constituted pursuant to Section 21.410 based on a request from the UFA (and/or the faculty respondent), or from the Student Resolution Officer (SRO) (and/or the student complainant) pursuant to Section 21.400. A summary decision must be made by at least five (5) of the seven (7) voting committee members. The student complaint procedure cannot be used for complaints or allegations regarding:

1. Student complaints about employment relations or other campus activities or policies extending beyond the immediate teaching/learning context unless the complaint falls under the provisions of Section 21.300.2. These are subject to other University policies and procedures including but not limited to conduct constituting a violation of the University Conflict of Interest and Scientific Misconduct policies.
2. Student complaints alleging unlawful discrimination not intrinsically related to the academic process. These should be filed with the University EEO/AA Officer.
3. Complaints regarding the general quality of a faculty member's teaching or the course/program curriculum. Complaints of this nature are to be addressed through the faculty evaluation process set forth in Article 10.000, and especially Section 10.220 regarding the Student Evaluation Committee.

Student complaints meeting these Sections 21.300.1-3 criteria, immediately above, may be subject to summary decision by the appropriate Student Complaint Committee (Section 21.410) based on a request from the UFA (and/or the faculty respondent), or from the SRO (and/or the student complainant).

#### **21.400 STUDENT RESOLUTION OFFICER**

The President of ASUM must appoint a Student Resolution Officer (SRO). The President of ASUM or SRO must then appoint an alternate or designee to act in case the SRO fails to act. The ASUM President must approve the appointment of an alternate SRO when that appointment is made by the permanent SRO.

The SRO or designee may represent any student and/or group of students with a complaint.

At the beginning of each academic year, the President of the University, or the President's designee, must schedule a meeting with the Provost's designee as non-voting Chair of the Student Complaint Committees, the ASUM SRO, the UM

Legal Counsel and the UFA Student Complaint Officer. The purpose of the meeting is to review the student complaint procedures (including the time lines) pertaining to the student complaint procedure, as well as the responsibilities of all parties.

Whenever the first student complaint hearing in any academic year is scheduled, the appropriate committee (graduate or undergraduate) must first meet as a whole, with the ASUM SRO and the UFA Student Complaint Officer present, to review the procedures outlined herein in Article 21.000. The student complaint hearing shall not be held until this preliminary meeting has occurred.

Pursuant to relevant ASUM bylaws for the year in which the complaint arises, the ASUM may refuse to represent a student in a complaint that in the judgment of the SRO is frivolous or lacks merit or fails to comply with the provisions of Section 21.300, after which the student may proceed with a complaint by self-representation.

#### **21.410 STUDENT COMPLAINT COMMITTEES**

There will be two (2) Student Complaint Committees, each consisting of seven (7) members.

1. One Committee will hear student complaints involving undergraduate student(s) and the other Committee will hear complaints involving graduate student(s).
2. The Chair of Faculty Senate must appoint four (4) members of the UFA bargaining unit who will serve on both the Undergraduate and the Graduate Student Complaint Committees.
3. At least two (2) of the four (4) faculty members of the Graduate Student Complaint Committee must have substantial experience teaching at the graduate level and in directing theses and dissertations.

The Provost or the Provost's designee will serve as a non-voting chair of the two Committees and the President of ASUM will appoint three (3) graduate students to serve on the graduate Student Complaint Committee and three (3) students, undergraduate or graduate, to serve on the Undergraduate Student Complaint Committee.

Both the ASUM President and the Faculty Senate Chair will also appoint two (2) alternates to serve on the appropriate committees with the same qualifications as other members.

Under no circumstances may any of the seven (7) members of the Graduate or Undergraduate Student Complaint Committee hearing the complaint be from

the same academic unit as any party to the complaint.

Each party to the complaint may exercise one peremptory challenge of a committee member to hear the complaint.

Student Complaint Committees have the authority to issue a summary decision of a student complaint, without the need for a full hearing, based on criteria listed in Section 21.300 and/or criteria established by the Committee and approved by the UFA and the SRO in preliminary meetings according to Section 21.500.

1. The UFA (and/or faculty respondent), or the SRO (and/or student complainant) may petition the student complaint committee for a summary decision at any point in the student complaint procedure.
2. A summary decision must be agreed to by at least five (5) of the seven (7) voting committee members.
3. Summary decisions are especially appropriate when the faculty respondent can demonstrate that the faculty member has provided the remedy listed in the student complaint form set forth in Section 21.510.

#### **21.500 FORMAL COMPLAINT PROCEDURE**

Step 1: Within thirty (30) working days after the date of the act or omission that caused the complaint, or after the date that the student knew or reasonably should have known of such an act or omission, the student must bring the matter to the SRO or designee.

1. The SRO must then inform the UFA of the complaint and the parties must agree upon an Initiation Date, which date shall in no case be prior to the Step 1 meeting.
2. The student must within the thirty (30) day limit confer with the faculty respondents(s), and the student complainant or the SRO must identify this meeting as a Step 1 meeting to the faculty respondent.
3. The SRO and UFA may agree to designate a meeting between the complainant and a faculty respondent as a Step 1 meeting, regardless of whether the complainant and/or the faculty respondent considered the meeting to be a Step 1 meeting.
4. Parties to the complaint must make an effort to resolve the complaint during this meeting.
5. Any party to the complaint may bring a witness to this meeting.
6. The SRO (or designee), and/or UFA representative (or designee) may serve as an advocate for each one's respective parties.

Step 2: If the student complainant considers the matter unresolved after the Step 1 meeting, and the SRO or designee agrees to proceed with the complaint, the SRO or designee must, within fifteen (15) working days of the Initiation Date, schedule a non-binding mediation session.

1. The non-binding mediation must be held in some neutral place for the purpose of resolving the matter in lieu of filing a formal complaint and requesting a Step 3 hearing.
2. The mediation sessions must be facilitated by volunteer School of Law students or Department of Communication Studies students who have successfully completed the mediation phase of their training and have agreed to mediate such disputes for ASUM, supervised by the appropriate faculty member in Law or Communication Studies.
3. This Step 2 mediation session can only involve the student complainant, the faculty respondent, and the mediator. A determined effort will be made to resolve the complaint in the Step 2 mediation session.
4. If the requested mediation session cannot be arranged within fifteen (15) days of the Initiation Date, then the complainant(s) may proceed to Step 3. This deadline may be postponed by mutual consent of the parties.
5. Any party who has compelling reasons why a Step 2 mediation session should not be held may request that the Provost schedule a Step 3 hearing. The Provost will review the request for a Step 3 hearing and may schedule a meeting for any valid complaint as defined in Section 21.300.

Step 3: If the Step 2 mediation session could not be scheduled within fifteen (15) working days of the Initiation Date the SRO may, within twenty (20) working days of the Initiation Date, submit a formal written complaint, as specified in Section 21.510, to the Provost, requesting a hearing before the appropriate Student Complaint Committee.

1. If a Step 2 mediation session occurred and the student(s) and the SRO or designee believe the matter is unresolved, the SRO may, within five (5) working days submit a formal written complaint, as specified in Section 21.510, to the Provost, requesting a Step 3 hearing before the appropriate Student Complaint Committee.
2. In either of the above cases, the Provost must, upon receipt of the formal written complaint, send a copy to the UFA Student Complaint Officer.
3. Should the SRO choose not to move to Step 3, the student complainant

may elect to file for a Step 3 hearing, subject to the same filing requirements and deadlines. The student complainant filing the complaint must include the reason(s) the SRO would not proceed with the complaint.

4. Within fifteen (15) working days of filing a request for a Step 3 meeting, the Student Complaint Committee must hold a hearing for all parties to a complaint.

5. The hearing must be conducted pursuant to procedures to be developed in a preliminary meeting attended by, and where said procedures are subject to mutual agreement by, the Committee Chair, the SRO, the UFA Student Complaint Officer, and, if requested by these attendees, the University Legal Counsel.

6. The purpose of the hearing is to determine findings of fact and recommend either dismissal of the complaint, and/or a specific remedy limited to curing the act or omission for which the complaint was filed, or discipline subject to Article 18.000.

7. Except for Section 21.500.C.8 below, no information from a Step 2 mediation session may be presented, used, or considered in the Step 3 hearing.

8. A party's refusal to participate in a mediation is admissible at a Step 3 hearing. Nothing from the mediation itself is admissible, but the fact that a student complainant or faculty respondent refused to participate in mediation can be communicated by any party to the Step 3 Committee.

9. During the course of its deliberation, the Committee may confer with the parties to the complaint and may confer with other individuals at the Committee's discretion.

10. The Committee must make its decision by majority vote within fifteen (15) working days of completion of the hearing.

11. The decision of the Committee, and minority report, if any, must be forwarded to the University President.

12. The University President may or may not accept the Committee's or the minority's report.

13. The University President must, within five (5) working days of receipt of the recommendations, either approve them or remand them to the Committee together with objections and a suggested alternative resolution.

14. The Committee must, within five (5) working days of receipt of the President's suggested alternative resolution, either accept it or forward its own suggested alternative resolution to the University President.

15. The President may accept or reject the Committee's suggested alternative resolution. Implementation of a specific remedy rests with the University President, whose decision is the final campus disposition of the complaint.

16. The President must provide the Committee with a rationale for the final disposition, should it differ from that suggested by the Committee.

17. Upon issuance of the final decision, the President must send copies to all parties involved.

18. Upon receipt of the President's decision, any party may exercise appeal rights set forth in Section 21.750.

### **21.510 COMPLAINT FORM**

The following complaint form must be completed by the student as a request for a Step 2 meeting.

1. Copies of the completed form must immediately be provided to the Student Resolution Officer, the UFA, and the Administration.

2. If the complaint proceeds to a Step 3 level, the SRO must complete the form as a request for a Step 3 hearing, summarizing the results of the Step 2 mediation under letter "e" below (Summary and Explanation of the Complaint). The explanation must include whether mediation did not occur and reasons the mediation did not occur. The complaint must also identify and address any changes to the information provided on the Step 2 complaint form.

a. Name of student complainant(s):

b. Date(s) the act or omission that caused the complaint occurred:

c. Name(s) of UFA bargaining unit member(s) involved in complaint:

d. Sections of contract on which complaint is based:

e. Summary and explanation of complaint:

f. Potential Witnesses:

g. Documents (identify here and attach):

h. Remedy Request:

i. Dated this \_\_\_\_ day of \_\_\_\_\_, 20

Signature of Complainant \_\_\_\_\_

When a complaint proceeds to Step 3, any information that either party intends to present at the Step 3 hearing must be disclosed at the request of the opposing party. A student's authorization of a Step 3 complaint with a signed, dated



signature operates as express permission to allow the SRO access to the student's academic and/or non-academic records for the purposes of resolving the Article 21.000 complaint. A disclaimer indicating this must be included in the Section 21.510 complaint form that is presented by the SRO to the student.

### **21.520 EXPEDITED PROCEDURE**

A student may elect to use this expedited procedure only to dispute a final course grade for spring semester, dismissal from an academic program, or decision preventing graduation.

The Formal Complaint Procedure, described in Section 21.510, is modified as follows:

1. The student may proceed without the SRO at Step 2 if the SRO, alternate, or designee fails to contact the student complainant within three (3) working days of the student's contacting the ASUM Student Resolution Office.
2. If the student does not receive a response from the SRO within three (3) days of initial contact, the student must make a request for use of the expedited procedure in writing, hand-delivered to the ASUM Offices.
3. The SRO must immediately upon receipt of the request contact the complaining student and arrange the Step 2 mediation session as soon as possible.
4. A request for a Step 2 meeting must be labeled prominently as a request for Step 2 under this expedited procedure.
5. Any party who has compelling reasons why a Step 2 mediation session should not be held may request that the Provost schedule a Step 3 hearing. The Provost will review the request for a Step 3 hearing and may schedule a meeting for any valid complaint as defined in Section 21.300.

Should the respondent faculty member be unavailable for the CBA Section 21.520 process, the UFA Representative shall serve in the faculty member's absence.

Should a student complainant or the SRO find the respondent faculty member unavailable after a good faith effort to make contact, then the UFA Representative must serve in the respondent faculty member's place.

The request for an expedited Step 2 mediation session must be granted by the SRO or designee within five (5) days.

Should the matter remain unresolved after the Step 2 mediation session, the

SRO or student complainant may submit immediately a request to the University Provost to convene a Student Complaint Committee pursuant to Section 21.410 to conduct a hearing pursuant to Section 21.500 and recommend a decision to the President within ten (10) working days.

The President may accept or reject the committee's decision, and the procedures from this point on must be according to an identical to the procedures outlined in 21.500.13-17. Implementation of a specific remedy rests with the University President whose decision must be the final campus disposition of the complaint. Upon receipt of the President's decision, any party may exercise appeal rights set forth in Section 21.750.

### **21.600 TIME LIMITS**

Time limits and sequences stipulated in this procedure shall extend from the mutually agreed upon Initiation Date set forth in Section 21.500 and exclude all weekends, scheduled breaks, holidays, intersession and summer break or periods when AY faculty subject to Section 12.100 are not working under their employment contract as set forth in Section 2.200.

Time limits may only be extended by mutual written agreement between the parties to the complaint; or by the Committee, subject to a simple majority vote, when extension of a time limit is deemed to be in the best interest of the University and serves the interest of a just outcome.

Resolution of the complaint may extend into summer break by mutual written agreement by the parties to the complaint or in the case of an expedited procedure as put forth in Section 21.520; in either case all defined time limits shall continue to apply.

Failure to comply with the time limits by either party in the absence of such written agreement shall be deemed acceptance of the decision at the previous step.

1. Failure to comply with the time limits may also subject the complaint to summary decision by the appropriate Student Complaint Committee based on a request from the UFA or the SRO.
2. If a faculty respondent fails to comply with time limits stipulated in this procedure, the student complainant or SRO may proceed immediately to the next step. When the parties agree to postponing any request, meeting, mediation or hearing, the timeline shifts forward from the Initiation Date by the agreed-upon number of days.

### **21.700 RECORDS**

The final decision of the President must be placed in the affected employee's faculty personnel file(s) subject to Section 18.000. In addition, a summary decision favoring any faculty member complained against pursuant to this Article may, at the faculty member's option only, be placed in the faculty member's personnel file.

### **21.750 APPLICATION OF PRESIDENT'S DECISION**

No Presidential decision may be implemented before the party adversely affected by the decision has had the opportunity to exercise any rights to appeal or grieve the decision pursuant to applicable Board of Regents policies or the Collective Bargaining Agreement.

### **21.800 RETALIATION**

For the purposes of Article 21.000, retaliation is defined as punitive behavior towards anyone who participates in an Article 21.000 proceeding because of such participation.

No retaliation of any kind arising by reason of participation in the complaint procedures of Article 21.000, by any University employee or University student against any University employee or University student, is allowed. This does not limit any party's rights to legal redress, to Equal Opportunity Complaints, to making Crisis Intervention Referral Team (CIRT) referrals, or addressing other safety concerns through University policies. Any retaliation complaints that may arise against any faculty member of the UFA bargaining unit by reason of the faculty member's participation in the complaint procedures of Article 21.000 shall be subsequently addressed through the complaint procedures provided for in this Article (in regard to such retaliation complaints that may arise against faculty members, see also Section 4.100). Any retaliation complaints that may arise against any University student by reason of the student's participation in the complaint procedures of Article 21.000 shall be subsequently addressed through the application of the appropriate areas of the Student Conduct Code; and any retaliation complaint that may arise against a University employee not in the UFA bargaining unit shall be filed pursuant to the employee disciplinary procedure applicable to the employee.

### **21.900 COMPLAINT DISSOLUTION**

The decision made to dissolve a complaint at any step cannot modify or subvert this agreement or the intent of this agreement.

## **22.000 DEPENDENT PARTIAL TUITION WAIVER**

Permanent employees must be employed at least  $\frac{3}{4}$  time for five or more consecutive years before being eligible for a dependent tuition waiver benefit. Employees who utilize the faculty and staff tuition waiver are not eligible for a dependent tuition waiver during the same academic term. Only one dependent may utilize the dependent tuition waiver in an academic term. A dependent includes the employee's spouse, and financially dependent children as defined by the Internal Revenue Code who are unmarried and under age 24.

The tuition waiver benefit for dependents shall be for 50 percent of the residential tuition. In no case may registration, course fees or any other mandatory or miscellaneous fees be waived. Dependents may utilize the tuition waiver benefit to take courses at a college of technology or in any other two-year or certificate programs and to obtain a first baccalaureate degree at any unit of the university system. Dependents may not use the tuition waiver benefit to attend law school or obtain a graduate degree. The tuition waiver does not apply to non-credit, continuing education or other self-supporting courses.

Dated this 11<sup>th</sup> day of May 2021

FOR THE BOARD OF REGENTS:

FOR THE UFA:



Clayton T. Christian  
Commissioner of Higher Education



Megan Stark  
President, UFA  
The University of Montana