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I. SCOPE

This policy applies to executive employees of the College of William and Mary, including the Virginia Institute of Marine Science. See College Classification Policy for definition of executive employees.

The category principally includes senior-level positions such as the President, Provost, Vice Presidents, and the Dean of the Faculty of Arts and Sciences and the Schools, and certain of their direct reports.

II. CONDITIONS OF EMPLOYMENT

A. Appointments

Appointment to executive positions, other than the President, is made by the Board of Visitors upon recommendation of the President, and is confirmed by written contract. Such contracts specify, among other provisions, the title of the position and the compensation. Executive appointments typically are regular, continuing appointments, subject to termination as discussed under Section IV below. Restricted appointments, such as appointments limited to a one-year term, may also be made. All appointments are contingent upon availability of funds, including appropriation of funds by the General Assembly.

The President or the Provost as his designee makes decisions regarding continuation of appointments and salaries annually, as discussed under Section III below.

It is within the President's authority to reassign, at any time, administrative duties and titles as deemed necessary or desirable, and to adjust compensation accordingly. Any reduction in salary will be effective no earlier than 90 days after notice is made to the executive. If a reassignment constitutes a demotion or results in salary reduction, the executive may decline to accept the reassignment. If the executive declines, he or she shall be entitled to notice or severance as set forth in Section IV below, with the notice period being deemed to begin on the date the executive is notified of the intended reassignment.

B. Tenure and Academic Rank

Executives do not have tenure or academic rank by virtue of their status as executives. Individual executives also may have an academic appointment. Any tenure or other rights associated with such academic appointment will be governed by the terms of such appointment and the policies and procedures contained in the Faculty Handbook.

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III. PERFORMANCE EVALUATION

Executive employees are subject to an annual performance evaluation, which is considered in deciding whether to continue appointments and in making salary decisions.

A. Procedures

A performance evaluation and a recommendation regarding continuance of an individual in an executive position are to be made every year by the person's immediate supervisor. The recommendation will either be for continuance of appointment, reassignment to another position, or termination of employment. It may include a salary recommendation.

The President is reviewed by the Board of Visitors. The President evaluates the Provost, Vice Presidents and other executive employees reporting directly to him. The Provost will make recommendations to the President regarding the Deans and other executive employees reporting directly to him. The Vice Presidents and Deans will make recommendations to the Provost, as the President's delegate, for those executive employees reporting to them. The President may accept the recommendation or take other action.

The reviewer has discretion in selecting the method used in evaluating the employee's annual performance. Written documentation of any performance discussions and of the annual review is advisable.

Additionally, the Provost, Vice Presidents and Deans are subject to a College-wide evaluation in the third and seventh year of employment and in every fifth year thereafter. The President or the Provost may delay a review when it is deemed in the best interest of the university. With the exception of the Provost him/herself, these reviews are conducted under the auspices of the Provost who approves an advisory committee as described under B, below, to engage a broader group of people than normally may be involved in the annual performance review. The advisory committee submits to the Provost (or to the President, if the review is of the Provost) a committee report on the executive being reviewed, who then makes a recommendation and submits that recommendation, along with the committee report, to the President. The President may accept the recommendation or take other action.

B. Advisory Committee

Advisory committees for executive performance reviews are appointed by the Provost or, in the case of a review of the Provost, the President. The individual's supervisor recommends advisory committee members. Committees ordinarily have three or four members, and no more than seven. Each committee will elect its own chair.

Committee members will include representatives of the group of administrators with whom the individual works and from the constituency which the individual serves. The exact degree and number of such representation may vary from one committee to another. Typically, students will be well-represented in the evaluation of student affairs personnel and the Instructional Faculty will be well-represented in the review of officers especially charged with academic administration. Where appropriate, an individual who is not a member of the university community may be appointed when that individual possesses competency in an area related to the administrative duties under evaluation.

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In all instances at least one member of the instructional faculty will serve on the committee. The Executive Committee of the Faculty Assembly will be consulted for advice on the selection of faculty members serving on advisory committees. The Assembly shall make every effort to recommend faculty members with experience or interest relevant to the position being evaluated.

C. Evaluation Schedule

Executive performance is formally evaluated at the end of each performance year as directed by the Provost. The typical performance year is from July 1 to June 30, but the Provost may establish an alternate performance year if it is more suitable to the nature of the position. Salary notification letters typically are provided in April or May. Employees who began work after March 1 of a performance year will not receive a formal performance evaluation until the end of the following performance year.

The evaluations involving advisory committees include the following steps and must be completed in time for the individual to be notified of any employment action to be taken by the President before the conclusion of the academic year.

This schedule is designed for regular, continuing appointments and continuance and salary decisions related to the fiscal year. The President may call for a performance review of an executive, with or without the involvement of an advisory committee, at any time.

D. Final Disposition of Performance Evaluation

Performance evaluation documents are not shared or discussed with the individual until after the Provost (or the President for his direct reports) has considered the evaluation. In those years when a College-wide evaluation is performed, the committee report in its entirety will be shared with the individual. The immediate supervisor will also notify the advisory committee, if relevant. The report or performance evaluation and recommendation are kept on file in the Provost's Office.

E. Right to Respond

In the case of a recommendation of termination of employment or demotion resulting from a performance evaluation, the immediate supervisor will notify the individual in writing of the evaluation and will include a copy of the recommendation and any supporting documentation. The individual will be given ten (10) business days to respond; the response will be transmitted with any committee report and administrative recommendation(s) to the President.

Nothing herein, however, infringes upon the President's authority to terminate the appointment of any executive for any legitimate, non-discriminatory reason; even an exceptional performance evaluation does not guarantee continuance of employment.

IV. TERMINATIONS, SEVERANCE AND NOTICE

A. Resignation

An executive is asked to provide written notice at least 90 days before the effective date of resignation.

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B. Termination

1. At-Will Employment. It is the President's prerogative to terminate the employment of an executive employee at any time for any legitimate, non-discriminatory reason subject only to the requirement of appropriate notice or severance as described under C below.
2. Removal for Cause. Executives are also subject to removal for cause, at any time. Removal for cause is termination for serious, willful, or repeated misconduct such as:
 - unethical conduct or dishonesty, including falsification of credentials or records, and misappropriation or misuse of College funds or property;
 - serious, knowing, or repeated violation of policy or law;
 - malfeasance;
 - serious or repeated insubordination;
 - inappropriate behavior that adversely affects College operations;
 - convicted criminal conduct occurring (i) on the job, or (ii) off the job, if plainly related to or affecting job performance, detrimental to the College's reputation, or of such a nature that retention of the executive would be negligent in light of the College's duties to itself, the public, students, or other employees; or
 - inability, unwillingness, or refusal to perform functions of the job, including job abandonment.

An executive may be discharged for cause at any time. The President or his designee will send the executive written notice of the College's intent to terminate. The executive will have an opportunity to respond, in person or in writing, by explaining why the planned action should not occur. The termination notice will specify the deadline for the executive's response, which must be at least five working days after the date of the notice. The executive may be placed on administrative (paid) leave pending the termination date, at the College's discretion. Executives terminated for cause are not entitled to severance or notice beyond that described in this paragraph.

C. Notice and Severance

1. Employees with an executive appointment at the College as of February 4, 2011: An executive in this category who is terminated other than for cause is entitled to notice, not severance. Except for removal for cause, written notice that an executive employee's appointment is being terminated will be given in advance of the effective separation date as follows:
 - In the first or second year of service, at least three months before the separation date,
 - In the third year of service, at least six months before the separation date, or
 - After three or more years of service, at least twelve months before the separation date.
2. Employees commencing an executive appointment at the College after February 4, 2011: An executive in this category who is terminated other than for cause is entitled to either notice or severance, or a combination thereof, in the discretion of his or her supervisor subject to the following terms. In determining the amount of severance and/or notice, the supervisor will consider the executive's length of service and contributions to the university, among other

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factors. The total amount of notice and/or severance must be at least equivalent to three months' salary and may not exceed the equivalent of twelve months' salary

In determining whether to provide notice, severance or a combination thereof, or how much notice will be provided rather than severance, the supervisor will consider whether it is feasible and in the College's interest for the individual to continue their service. The preference is for notice rather than severance.

Exceptions to these limits may be made only with the approval of the President, which will be granted only in unusual circumstances.

D. Negotiated Separations

Nothing in this policy precludes the College from negotiating individual severance or notice terms in an executive contract. The College, at its discretion and as an alternative to other methods of termination, also may negotiate separation agreements with executives. Such agreements must be approved by the President.

V. APPEAL AND GRIEVANCE PROCEDURES FOR EXECUTIVES

A. Discrimination

If an executive employee alleges that an adverse performance review or termination or other employment action was based upon considerations violative of the College's discrimination policy, the employee's allegations will be investigated in accordance with Equal Opportunity procedures.

B. Other Grievances

An executive may grieve any matter or administrative action that has an adverse effect on them directly or personally. Petition for redress of grievance must be submitted to the executive's supervisor in writing within 30 business days after the event or action that is the basis for the grievance. The supervisor will have 30 business days to respond. The executive may appeal to the President if necessary within 90 days of the original petition. The President is delegated the final authority in such matters by the Bylaws of the Board of Visitors.

VI. AUTHORITY

This policy is approved by the Board of Visitors. The President may make minor revisions to the policy.