

**WILLIAM & MARY
REVISION OF EXECUTIVE EMPLOYMENT POLICY**

WHEREAS, pursuant to Exhibit K to William & Mary's Management Agreement with the Commonwealth, the Board of Visitors has authority to develop and adopt a human resource system for all university employees and may delegate that authority to the President as it deems appropriate;

WHEREAS, in 2011, the Board first adopted the Employment Policy for Executives, which outlined in detail a process for the evaluation of executives;

WHEREAS, there is a desire to have greater flexibility in the process used to evaluate executives, while still maintaining appropriate input from across the university; and

WHEREAS, updates to the policy are required to better align with other aspects of the university's human resource system;

THEREFORE, BE IT RESOLVED, that the Board of Visitors approves the proposed revisions to the Employment Policy for Executives.

**Clean version attached, redline sent as a pre-read.*

Title: Employment Policy for Executives	
Effective Date: February 4, 2011	Responsible Office: Provost
Revision Date: November 17, 2023	Page: 1 of 7

I. SCOPE

This policy applies to executive employees of William & Mary ("the university"), including the Virginia Institute of Marine Science. See the university's Classification Policy for definition of executive employees.

II. CONDITIONS OF EMPLOYMENT

Appointments

Appointment to executive positions, other than the president, are approved by the president or 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, unrestricted appointments, subject to termination as discussed under Section V 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 the president's designee makes decisions regarding continuation of appointments and salaries annually, as discussed under Section IV 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 V below, with the notice period being deemed to begin on the date the executive is notified of the intended reassignment.

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.

Title: Employment Policy for Executives	
Effective Date: February 4, 2011	Responsible Office: Provost
Revision Date: November 17, 2023	Page: 2 of 7

III. DEVELOPMENTAL REVIEW PROCESS

The provost, vice presidents and deans will participate in a developmental review with input from university stakeholders in the third year of employment and every fifth year thereafter. These reviews are initiated by the individual's supervisor who will engage a broader group of people than normally may be involved in the annual performance review with a focus on professional growth and development in the role. An external expert may be retained to coordinate the review process. The president or the provost may delay or accelerate a review when it is deemed in the best interest of the university.

Feedback will be obtained from stakeholders within the group of administrators with whom the individual works and from the constituency that the individual serves. Typically, students will be well-represented in the review of officers especially charged with student support and staff will be well-represented for those engaged in staff administration.

Materials associated with such surveys constitute employment records and must be kept strictly confidential. Results of the developmental review may be incorporated as part of an individual's performance evaluation.

Faculty Review

When a developmental review is performed for the provost, vice provosts, and deans, the supervisor shall also conduct a process with input gleaned from faculty-wide surveys within their schools or divisions. Such surveys will be conducted confidentially by senior faculty appointed by the president (usually members of the Faculty Assembly). Survey procedures will be approved by the president, to ensure consistency across reviews. Survey results will be shared confidentially with the executive's direct supervisor.

IV. 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.

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.

Title: Employment Policy for Executives	
Effective Date: February 4, 2011	Responsible Office: Provost
Revision Date: November 17, 2023	Page: 3 of 7

The president is reviewed by the Board of Visitors. The president evaluates the provost, vice presidents, Chief Operating Officer and other direct executive reports. The provost will make recommendations to the president regarding the deans and other executive employees reporting directly to the provost. 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.

Evaluation Schedule

Executive performance is formally evaluated at the end of each performance year. The typical performance year is from July 1 to June 30, but an alternate performance year may be established 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.

This schedule is designed for regular, unrestricted appointments and continuance and salary decisions related to the upcoming fiscal year. The president may call for a performance review of an executive at any time.

Final Disposition of Performance Evaluation

Performance evaluation documents are not shared or discussed with the individual until after the provost (or the president for the president's direct reports) has considered the evaluation. In those years when a university-wide evaluation is performed, the report in its entirety will be shared with the individual. The report or performance evaluation and recommendation are kept in the executive's personnel file.

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 e-report and administrative recommendation(s) to the president.

Title: Employment Policy for Executives	
Effective Date: February 4, 2011	Responsible Office: Provost
Revision Date: November 17, 2023	Page: 4 of 7

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.

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 e-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.

V. TERMINATION, SEVERANCE, NOTICE

Resignation

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

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:

- conduct or dishonesty, including falsification of credentials or records, and misappropriation or
- misuse of university funds or property;
- serious, knowing, or repeated violation of policy or law;
- malfeasance;
- serious or repeated insubordination;

Title: Employment Policy for Executives	
Effective Date: February 4, 2011	Responsible Office: Provost
Revision Date: November 17, 2023	Page: 5 of 7

- inappropriate behavior that adversely affects university 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 university's reputation, or of such a nature that retention of the executive would be negligent in light of the university'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 designee will send the executive written notice of the university'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 university's discretion. Executives terminated for cause are not entitled to severance or notice beyond that described in this paragraph.

Notice and Severance

- Employees with an executive appointment at the university 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
 - After three or more years of service, at least twelve months before the separation date
- Employees commencing an executive appointment at the university 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 factors. The total amount of notice and/or severance must be

Title: Employment Policy for Executives	
Effective Date: February 4, 2011	Responsible Office: Provost
Revision Date: November 17, 2023	Page: 6 of 7

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 university'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.

Negotiated Separations

Nothing in this policy precludes the university from negotiating individual severance or notice terms in an executive contract. William & Mary, 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.

VI. APPEAL AND GRIEVANCE PROCEDURES FOR EXECUTIVES

Discrimination

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

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.

Title: Employment Policy for Executives	
Effective Date: February 4, 2011	Responsible Office: Provost
Revision Date: November 17, 2023	Page: 7 of 7

VII. AUTHORITY, AMENDMENT & INTERPRETATION

- This policy is approved by the Board of Visitors. The president may make minor revisions to the policy.
- Minor revisions were made by the president in June 2020 to be consistent with editorial guidelines and other grammatical amendments.
- Substantive revisions were made in April 2022 to provide flexibility in the procedures used for conducting university-wide evaluations.