

# DEPARTMENT OF HUMAN RESOURCES

## 2.2 POLICY ON AT-WILL EMPLOYMENT

### (a) Purpose and Scope

- (1) **Purpose.** The purpose of this policy is to identify positions in the Maryland Judicial Branch of Government that are at-will and to clarify the employment relationship of at-will employees.
- (2) **Scope**
  - (A) This policy applies to:
    - (i) employees who are paid through the Central Payroll Bureau of the Comptroller; and
    - (ii) employees of the State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.
  - (B) This policy does not apply to:
    - (i) locally funded employees in the Circuit Courts;
    - (ii) employees of the Attorney Grievance Commission and the Client Protection Fund;
    - (iii) employees of the Register of Wills or the Orphans' Court; and
    - (iv) judges.

### (b) Definitions

- (1) **Administrative Head:**
  - (A) For the Appellate Courts, the Clerk of the Court for all employees under the Clerk's supervision;
  - (B) For the Circuit Courts, the Clerk of the Court for all employees under the Clerk's supervision and the County Administrative Judge for all state employees under his or her supervision;
  - (C) For the District Court, the Chief Judge of the District Court, the Chief Clerk, or the Administrative Clerk for all employees under his or her supervision;
  - (D) For the Administrative Office of the Courts (AOC), the State Court Administrator;
  - (E) For any units, the head of the unit where the employee works; or,
  - (F) Any person who serves as the authorized designee, by express written designation, of any of the foregoing persons.
- (2) **At-Will Employee or Employment** – An employment relationship that can be terminated by the employer for any reason or no reason, with or without cause. The employee is free to end the employment relationship at any time.
- (3) **Flat Rate** – A fixed annual rate of pay assigned to a position.
- (4) **Judiciary Human Resources Department (JHRD)** – The department within the AOC that is responsible for, but not limited to, the following functions for State employees in the Maryland Judiciary: human resources policy development, administration, and interpretation; recruitment; employment and

orientation services; employee benefits; position classification and salary administration; and employer-employee relations.

- (5) Unit** – The State Board of Law Examiners, the Thurgood Marshall State Law Library, the Commission on Judicial Disabilities, and the Maryland Court of Appeals Standing Committee on Rules of Practice and Procedure.

### **(c) Policy Statement**

The Maryland Judicial Branch of Government has positions that are at-will as identified in Section (d). Employees who occupy at-will positions are not subject to the Judiciary’s Policy on Disciplinary Actions and the Policy on Grievances.

To protect the interests of all involved, the administrative head must consult with the JHRD before terminating the employment of an at-will employee. The termination will not be approved if the JHRD determines the termination is a violation of law or the at-will employee’s constitutional rights.

An at-will employee may file a complaint of discrimination or harassment with the Fair Practices Department pursuant to the Maryland Judicial Branch Policy on Anti-Discrimination, Harassment, and Retaliation.

### **(d) At-Will State Positions Within the Maryland Judiciary**

The following state positions, or employees within the Maryland Judiciary paid through the Central Payroll Bureau, are at-will. This list is not all inclusive, as other positions may be identified at any time as being at-will due to: changes in, or the interpretation of, statute, rule or policy; the creation of a position that is determined to be at-will; or for any other reason as determined by the Chief Judge of the Court of Appeals or the State Court Administrator. At-will employees belong to one or more of the categories listed below:

- (1)** Flat rate positions;
- (2)** Positions compensated on the Senior Management pay scale;
- (3)** Positions in former pay ranges T14, T15, T16, J15 and J16 (the JHRD can provide a list if needed);
- (4)** Division Chiefs and County Clerks of the District Court;
- (5)** Employees serving an initial probationary period;
- (6)** Contractual and temporary employees;
- (7)** Special Appointments, which include but may not be limited to the following:
  - (A) Chief Deputy Clerks of the Circuit Court;
  - (B) Clerk of the Court for the Court of Special Appeals;
  - (C) Clerk of the Court for the Court of Appeals;
  - (D) Magistrates;
  - (E) Deputy Administrative Clerks of the District Court;
  - (F) District Court Commissioners;
  - (G) Law Clerks;

- (H) Staff Attorneys; and,
- (I) Any other position for which the job announcement stated it would be a special appointment;
- (8)** Executive and Judicial Assistants of the appellate courts and the District Court;
- (9)** Executive Aides and Special Assistants to the State Court Administrator or Deputy State Court Administrator; and,
- (10)** Any position for which the job announcement stated the position is at-will.

### **(e) Resignation in Good Standing**

An at-will employee who wishes to resign in good standing shall submit to the administrative head a written resignation at least two weeks prior to its effective date. In lieu of a written resignation, the at-will employee may submit an oral resignation to be acknowledged in writing by the administrative head. An at-will employee who does not resign in good standing will not be eligible for rehire with the Maryland Judicial Branch. The JHRD may waive the two-week notice requirement in extraordinary circumstances.

- (f) Exceptions:** The Chief Judge of the Court of Appeals or the State Court Administrator may make exceptions to any provision of this policy.

- (g) Interpretive Authority:** The JHRD is responsible for the interpretation of this policy.

### **(h) Official Notice**

This policy shall serve as official notice to an employee that his or her position is at will, including for an employee in a position that formerly was not at-will but is now at-will pursuant to this policy.

- (i) Not a Contract:** This policy is not intended to, and does not, create contractual employer obligations with respect to any matter it covers. Nothing contained in this policy is intended to be a guarantee that employment or any other benefit will continue for any period of time. Furthermore, no representative of the Judiciary has the authority to provide such assurances, oral or written, to at-will employees.