

I-7.01 - POLICY ON THE ROLE OF THE UNIVERSITY SYSTEM OF MARYLAND AS A PUBLIC CORPORATION

(Approved by the Board of Regents, December 2, 2011)

I. PURPOSE

The Board of Regents is committed to using the resources of the University System of Maryland (“USM”) as effectively as possible to advance Maryland’s economic growth and the well-being of its citizens. In 1999, the Maryland General Assembly established the University System of Maryland (“USM”) as a public corporation to enable the USM to serve the State as “an engine that drives economic growth” and a “key to competing successfully in the 21st century.” *Preamble, S.B. 682 (1999)*. The USM’s status as a public corporation is crucial to achieving economic development and other goals related to its mission and the needs of the State. This policy affirms the USM’s commitment to serve the State as a leading force in research, economic growth, and workforce development in Maryland, and sets out its statutory powers as a public corporation as conferred by the General Assembly.

II. PRINCIPLES

- A. The USM will meet its statutory charge to function as an effective public corporation, so that the USM can meet State expectations that it will:
 - 1. Attract ever-increasing research funding, activity and expertise to enhance Maryland’s stature as a center for the bio-sciences, homeland security and other key knowledge industry fields;
 - 2. Improve the health and wellbeing of Maryland’s citizens, based upon its scientific, medical and public health research;
 - 3. Be a driving force in State economic development as its research enterprise translates into technology transfer, innovation, and entrepreneurship that spurs new business development in Maryland;
 - 4. Meet the sophisticated workforce development needs of the State’s knowledge economy; and
 - 5. Perform all of these functions in an increasingly global community and marketplace.
- B. The USM’s ability to compete and thrive as a public corporation is critical to the State’s economic development and, in particular, in Maryland’s growth as a national and international leader in the knowledge economy.

- C. In establishing the USM as a public corporation, the General Assembly conferred upon the Board the powers of a Maryland corporation, as well as other statutory powers, which can be limited only by statutes that impose restrictions specifically on the USM.
- D. As it performs its functions as a public corporation, the USM is accountable to the executive and legislative branches of government through reporting and audit measures established by the General Assembly.

III. COMMITMENT TO CONTINUOUS IMPROVEMENT.

The Board is committed to the continuous improvement of its effectiveness as an engine of State economic growth, including:

- A. The enhancement and protection of the USM's function as a public corporation;
- B. Strong accountability to the State and the public; and
- C. Improved efficiency in the management of the USM to better meet this goal.

IV. IMPLEMENTATION

The Chancellor and the Presidents are responsible for the implementation of this policy.

APPENDIX TO THE POLICY ON THE ROLE OF THE
UNIVERSITY SYSTEM OF MARYLAND AS A PUBLIC CORPORATION:
KEY MARYLAND STATUTORY PROVISIONS

I. STATUTORY FOUNDATION

In establishing the USM as a “public corporation,” the General Assembly created a “corporation established for a specific public purpose by government, but with a large degree of financial and operational independence from the government authority that created it.” *American Heritage Dictionary of Business Terms (2010)*. The General Assembly specifically intended that the USM have the “management flexibility necessary to respond to the needs of the student, State and citizens in a changing economy.” *Preamble, S.B. 682 (1999)*.

- A. The General Assembly has conferred upon the Board all of the powers granted to a Maryland corporation under State corporation laws, as well as other powers set out in Title 12 of the Education Article. Educ. Section 12-104(b).
- B. Under Maryland law, these powers can be limited only by statutes that impose restrictions “by law by specific reference to the University System of Maryland,” or within the authority of the Maryland Higher Education Commission, or by “trust agreement[s] involving a pledge of property or money.” Educ. Section 12-104(a).
- C. In the absence of a clear statutory restriction, the USM “may not be superseded in its authority by any other State agency or office in managing the affairs of the [USM] or of any constituent institutions and centers under the Board’s jurisdiction.” Educ. Section 12-104(d).

II. THE USM’S CORPORATE POWERS

- A. General Grant of Corporate Powers. Educ. Section 12-104(b)(1) authorizes the Board to exercise all of the corporate powers granted to Maryland corporations under Maryland corporation law, *Ann. Code Md. Corp & Ass’n Art., §2-103*, unless constrained by other federal or state laws.
- B. Specific Corporate Powers. The Board’s powers, as granted by Maryland corporation law, Section 2-103, subject to the limitations expressly provided by State statute, include the powers to:
 - 1. Transact business, carry on operations and exercise its powers worldwide.
 - 2. Enter into contracts of any kind, execute instruments, incur liabilities and borrow money from any source for any corporate purpose;
 - 3. Sell, lease or otherwise dispose of any or all personal or real property assets;

4. Issue bonds, notes and other obligations and secure them by mortgages or deeds of trust;
 5. Acquire, own, use, improve and deal in any interest in real or personal property, wherever located;
 6. Acquire, own, hold , and dispose of stock and other interests in and obligations of other corporations, associations, partnerships and individuals;
 7. Invest its surplus funds and lend money to carry on operations or fulfill the purposes of its charter;
 8. Promote, partner, join or manage any partnership, joint venture, trust or other enterprise;
 9. Make gifts or contributions for the use of the United States, the State of Maryland or other State and political subdivisions thereof, and other organizations serving a governmental, educational or other public purpose;
 10. Elect officers and establish bylaws;
 11. Appoint employees and other agents and determine their duties, compensation and benefits;
 12. “Do every other act not inconsistent with law” to promote and attain the corporation’s purposes.
- C. Delegation of Authority. Maryland law permits the Board to delegate any of its corporate and other authorities to the Chancellor, Presidents or other bodies that the Board may create. 12-104(k).

III. MAJOR STATUTORY PARAMETERS.

Consistent with the above statutory principles and the corporate authorities, the General Assembly has granted the Board specific statutory powers and limitations on those powers. The major legislative parameters related to the USM’s function as a public corporation are as follows:

- A. Acquisition and Ownership of Real Property. The Board may acquire, own, use, and dispose of real property, subject to the following requirements:
1. Title to land acquired by the USM shall be in the State for the use of the USM.
 2. USM property is the property of the State.

3. Acquisition and exchange of real property and interests therein must be approved by the Board of Public Works. Educ. 12-104 (g) and (h) and 12-105(b).
- B. Management of Personnel. The Presidents have the authority to appoint, compensate, promote and terminate faculty and staff personnel, subject to policies established by the Board and the State's collective bargaining law. The USM is otherwise independent of requirements that govern the State Personnel System. Educ. 12-111 and 12-112.
- C. Procurement. The USM is exempt from Division II Of the State Finance and Procurement Article governing procurement of goods and services by state agencies, except that:
 1. The Board must adopt procurement policies that are approved by the Board of Public Works.
 2. Contracts for goods and services that exceed certain amounts must be approved by the Board of Public Works.
 3. Certain discrete provisions of Division II enumerated by the General Assembly continue to apply to the USM. Educ. Section 12-105 and St. Fin. and Proc. Section 11-203(e).

IV. USM ACCOUNTABILITY

In the exercise of its corporate powers, the USM is fully accountable to the legislative and executive branches of State government through statutory requirements that include:

- A. Regular Reporting Requirements. The USM must provide periodic reports regarding a full range of aspects of its academic, fiscal and administrative operations to various state government authorities, including, as appropriate, the Governor, the General Assembly, the Board of Public Works, the Maryland Higher Education Commission, and other state agencies and entities.
- B. Information upon Request. Under Educ. 12-105 (c), the USM must provide information on any phase of operation requested by the Board of Public Works or a member of the General Assembly.
- C. Audit. The USM and its institutions are subject to audit by the Legislative Auditor. 12-105(f).