

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE
Revised

Senate Bill 879

(Senator Kelley)

Finance

Appropriations

**State Personnel - Disciplinary Appeal and Grievance Procedure Documents -
Electronic Transmission**

This bill allows written appeal documents and all decisions rendered related to appeals of disciplinary actions by State employees to be transmitted electronically to the appropriate parties. The Secretary of Budget and Management must make related forms available on the Department of Budget and Management's (DBM) website. Also, a copy of an employee grievance and its disposition may be transmitted electronically.

Fiscal Summary

State Effect: None. The bill is procedural in nature and has no direct effect on governmental finance. However, DBM may experience operational efficiencies as a result of the bill.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law:

Appeals of Disciplinary Actions

Any employee in the State Personnel Management System (SPMS), except temporary employees, may be disciplined by an appointing authority. Discipline can take the form of:

- a written reprimand;
- forfeiture of up to 15 days of accrued leave;
- suspension without pay;
- denial of annual pay increases;
- demotion to a lower pay grade; or
- with prior approval of the agency head, termination or termination with prejudice for egregious actions.

Employees in the skilled service or professional service who are not special appointments, or their exclusive representative, may appeal a disciplinary action to the head of the principal unit. An appeal must be filed within 15 days of the employee's receipt of a notice of the employer's action. The head of the unit may confer with the employee before making a decision but must make a decision within 15 days of receiving the appeal. The head of the unit may uphold, rescind, or modify the action. An adverse decision by the head of the unit may be appealed by the employee or the employee's exclusive representative to the Secretary of Budget and Management within 10 days of the decision being issued. Within 30 days of receiving an appeal, the Secretary must mediate a settlement or refer the appeal to the Office of Administrative Hearings (OAH). Within 30 days of receiving an appeal, OAH must schedule a hearing; OAH must dispose of the case in accordance with State law governing contested cases. A final decision must be issued within 45 days of the hearing record being closed, and OAH's decision is the final administrative decision.

Employees in the management or executive service, as well as special appointments, may also appeal disciplinary actions to the head of a principal unit. The decision of the head of the unit is the final administrative decision.

Grievances

Subject to specified exemptions, any employee in SPMS may file a grievance. A grievance is a dispute between an employee and the employee's employer about the interpretation of and application to the employee of (1) a personnel policy or regulation adopted by the Secretary of Budget and Management or (2) any other policy or regulation over which management has control. Grievances are not disputes about pay grades, the timing or amount of statewide pay increases, or other specified items.

Similar to the procedures for the appeal of a disciplinary action and as further specified in statute, resolution of a grievance is a three-step process consisting of (1) initiation of the grievance; (2) an appeal to the head of the principal unit; and (3) an appeal to the Secretary of Budget and Management. If the Secretary does not resolve the grievance, it is referred to OAH for a final administrative decision.

Background: In fiscal 2013, there were 504 disciplinary action appeals forwarded to DBM and 163 grievances forwarded to DBM. Of those, 195 appeals and 73 grievances were forwarded to OAH; the rest were resolved by DBM.

Additional Information

Prior Introductions: None.

Cross File: HB 1040 (Delegate M. Washington, *et al.*) - Appropriations.

Information Source(s): Department of Budget and Finance, Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2014
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