

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Department of Budget and Management**
(DLS Control No. 14-277)

Overview and Legal and Fiscal Impact

These regulations implement Chapter 440 of 2014 by authorizing the electronic transmittal of appeal documents and decisions rendered related to appeals of disciplinary actions by State employees.

The regulations present no legal issue of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Department of Budget and Management:

Personnel Services and Benefits: Conferences, Hearings, and Appeals:
COMAR 17.04.07.02, .04, and .06

Legal Analysis

Background

Effective October 1, 2014, Chapter 440 of 2014 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. In addition, the Act provides that copies of an employee grievance and its disposition may be transmitted electronically.

COMAR 17.04.07 concerns conferences, hearings, and appeals conducted pursuant to State Personnel and Pensions Article, Titles 11 and 12.

Summary of Regulations

The regulations require that each employer maintain a designated e-mail address that may be used to file appeals and specifies that an appeal submitted by e-mail is considered properly filed only when received at the designated e-mail address of the proper employer at the appropriate state of the appeal process. The regulations further specify that each e-mail transmittal may only include one appeal unless the transmittal is a “group grievance.” The regulations specify required contents for the subject line and attachments of the email and require that the employer send a confirmation receipt to the sender. The regulations authorize the Office of Personnel Services and Benefits and an employer addressing an appeal to use the e-mail

address from which the appeal is filed to deliver any correspondence associated with the appeal to the party or representative filing the appeal.

The regulations require the Office of Personnel Services and Benefits to send a written notice of a settlement conference to the parties by mail or facsimile, or e-mail.

Finally, the regulations add the new definition of “Employer” as having the meaning stated in § 12–101 of the State Personnel and Pensions Article.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The department cites § 4-106 and Titles 11 and 12 of the State Personnel and Pensions Article as authority for the regulations. Section 4–106 authorizes the Secretary of Budget and Management to adopt regulations, policies, and guidelines concerning state personnel. Title 11 concerns disciplinary actions, layoffs, and employment terminations in the State Personnel Management System, generally. Title 12 concerns grievance procedures in the State Personnel Management System, generally. The cited authority is correct and complete. The regulations comply with the legislative intent of the law.

Technical Corrections and Special Notes

As submitted, paragraph .04B(1) provides that “[a]n appeal shall be considered properly filed only when received at the designated e-mail address of the proper Employer at the appropriate stage of the appeal process.” Due to concerns that the statement could be interpreted to eliminate traditional forms of document submission by writing or facsimile, the department indicated it will clarify the provision to only apply to appeals submitted by e-mail. This analysis reflects the department’s intent.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulations implement provisions of Chapter 440 of 2014 related to the filing of appeals of disciplinary actions by State employees. They are procedural in nature and have no fiscal effect. The Department of Legislative Services concurs.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The department advises that the regulations have minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: George H. Butler, Jr. – (410) 946/(301) 970-5350

Fiscal Analysis: Michael C. Rubenstein – (410) 946/(301) 970-5510